Special Education Formal Complaint Decisions 2025-2026

Each decision has been redacted to remove any personally identifiable information of the student or the student's parents. The initial file number represents the fiscal year in which the case was filed and the letters immediately following the initial file number represent the kind of hearing held. Accordingly, 26FC001 signifies a Formal Complaint filed in the 2026 state fiscal year (July 1, 2025 to June 30, 2026). The case citation of 26FC002 signifies the decision of the state appeal committee for case number 26FC002. All files are PDF.

26FC001	Appeal Review
26FC002	
26FC003	Appeal Review
26FC004	
26FC005	Appeal Review
26FC006	Appeal Review
26FC007	
26FC008	Appeal Review
26FC009	
26FC010	
26FC011	
26FC012	
26FC013	Appeal Review
26FC014	Appeal Review
26FC015	
26FC016	
26FC017	Appeal Review
26FC018	Appeal Review
26FC019	
26FC020	Appeal Review
26FC021	Appeal Review
26FC022	
26FC023	Appeal Review
26FC023-01	Appeal Review
26FC024	
26FC025	
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26FC027	Appeal Review
26FC028	
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26FC033	Appeal Review
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26FC042	Appeal Review
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26FC046	
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26FC055	Appeal Review
26FC056	
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26FC064	
26FC065	Appeal Review

26FC066 (Not posted)	
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26FC069	Appeal Review
26FC070	
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26FC072	
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26FC075	Appeal Review
26FC076	
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26FC079	Appeal Review
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26FC099	AppealReview
26FC100	
26FC101	AppealReviewa
	AppealReviewb
26FC102	Spanish
26FC103	
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26FC107	AppealReview
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26FC112	AppealReview
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26FC116	AppealReview
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26FC120	
26FC121	AppealReview
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26FC123	
26FC124	
26FC125	AppealReview
26FC126	AppealReview
26FC127	AppealReview
26FC128	
26FC129	
26FC130	Systemic
26FC131	

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #402 AUGUSTA PUBLIC SCHOOLS
ON JULY 15, 2025

DATE OF REPORT: AUGUST 6, 2025

This report is in response to a systemic complaint filed with the Kansas State Department of Education against USD #402 Augusta Public Schools on behalf of Augusta Middle School students with IEPs by a parent in the district, -------. In the remainder of this report, the Augusta Middle School students will be referred to as "the students." ------- will be referred to as "the Complainant."

The complaint is against USD #402 Augusta Public Schools. It is noted that Butler County Special Education Interlocal #638 provides special education services for USD #402 Augusta Public Schools. In the remainder of the report, USD #402 will be referred to as "the District", "the local education agency (LEA)", or "the school". The USD #638 will be referred to as "the Interlocal." While the District contracts with the Interlocal for some of their special education services it is recognized that USD #402 is ultimately the responsible party for this complaint.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on July 15, 2025, and the 30-day timeline ends on August 14, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator, Gwen Beegle, reviewed all evidence and documentation, which was provided by both the district and the complainant. To clarify the complaint, the Investigator contacted the Complainant on July 21, 2025 and the District on July 18, 2025. The District made the following persons available for interviews, on the dates noted: April Hilyard (Director, Butler County Special Education Interlocal) on July 29, 2025, Jessica Carey (Principal, Augusta Middle School) on July 29, 2025, and Matt Ward (Superintendent, Augusta Public Schools) on July 18, 2025. In addition to the interviews, the following documentation and information were used in consideration of the issues:

1. Memo from Matt Ward (Superintendent) to the Augusta Board of Education dated July 14, 2025, including scheduling table and attachment "What is AVID Schoolwide"
2. Video of the July 14, 2025 Board of Education Meeting
3. Butler County Special Education Interlocal #638 Special Education Process Handbook
4. Butler County Special Education Interlocal #638 website

5. The District's response, dated July 23, 2025, including sections (a) explanatory information on AVID, (b) demographic information, (c) administrative information on academic teams and curriculum, (d) table of educator team assignment with licensures, and (e) availability of continuum of services.

Background Information

The Complainant became aware of the District Middle School's scheduling of students with IEPs into one of two general education core instruction teams when the Complainant's child was found eligible for special education services at mid-year of the 2023-24 school year. Because it would require the Complainant's child to change academic teams and teachers, the Complainant declined the District's offer of special education services for the child. At that time, according to the Complainant, the (previous) Middle School Principal stated that scheduling was done for administrative convenience. Upon listening to and reviewing the materials at the July 14, 2025 District Board meeting, the Complainant reported that the District made public statements providing evidence for the allegations in this complaint regarding placements of students with IEPs at the District Middle School.

Two issues were investigated, as follows:

Issues Investigated

1. ISSUE ONE: Did the District fail to follow IDEA procedures according to 34 C.F.R. 300.116 and K.S.A. 72-3420 when assigning students with IEPs to an academic core instruction team at the middle school? (page 3-9)
2. ISSUE TWO: Did the District offer a continuum of services for middle school students according to 34 C.F.R.300.115? (page 9-11)

Issue One

Did the District fail to follow IDEA procedures according to 34 C.F.R. 300.116 and K.S.A. 72-3420 when assigning students with IEPs to an academic core instruction team at the middle school?

Applicable Law

Special education services may be provided in a variety of placements, as defined in statute and regulation. Clearly stated in K.A.R. 91-40-21(b)(1)(2) these placements must include instruction in regular classes, special classes, and special schools; instruction in a child's home; and instruction in hospitals and other institutions, and LEAs must also make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement. Therefore, the definition of educational placement as the instructional environment in which special education services are provided (K.A.R.91-40-1) is understood in the context of special education placement thus described.

According to K.S.A. 72-3420, "Each school district shall be required, to the maximum extent appropriate, to educate children with disabilities with children who are not disabled, and to provide special classes, separate schooling, or for the removal of children with disabilities from the regular environment only when the nature or severity of the disability is such that education regular classes with supplementary aids and services cannot be achieved satisfactorily," and the removal of children from general education is governed by statutes and regulations stating that the placement decision for each child is made by a group of persons, including the parents and others knowledgeable about the child, along with other provisions (34 C.F.R.300.116(a)(1)).

Analysis: Findings of Fact

The Complainant's position, as stated in the written complaint is that "the district is engaging in systemic violations of the Individuals with Disabilities Education Act (IDEA) and Kansas special education regulations. . . [by] Predetermining placement for students with IEPs based on administrative convenience rather than individual needs." The Complainant summarized three concerns upon review of materials considered at the July 14, 2025 Board of Education meeting: (a) the students with IEPs are being grouped into one academic team based on [every other year] scheduling cycles not individual needs, (b) placement is driven by convenience and staffing considerations such as logistical challenges not student-centered planning, and (c) placement of the students with IEPs into one team provides consistent pacing, which is important but IDEA requires placement to be made based on individual needs. According to an interview with the Complainant, the context for the concerns was the statement by a prior principal at the time of the Complainant's own child's evaluation and qualification for special education services, that is, that the general education class placements were scheduled for administrative convenience rather than by the IEP team.

The District responded to the allegations: "It is the district's position that there is no violation of IDEA and no failure either individually or systematically to provide appropriate special education services for students with disabilities. The district has the right of assignment for general education classes. There is no obligation on the part of the district to guarantee a specific general education teacher of assignment. The district and building administration have the right of assignment for both general education and special education staff." The District further asserted that both academic teams provide the same general education environment through general instruction by appropriately certified educators and grade level curriculum as determined by the administration. One team also includes "special education staff who provide specialized instruction to students in both the general education classroom setting as well as the special education classroom settings."

The District responded: "In order to implement a proposed IEP, a student would be assigned to a specific team in order to have access to the special education support required by the proposed IEP. Since the general education instruction would still be provided in a general

education environment, albeit with a specific group of general education teachers, the student's placement would be determined based on the amount of special education support services determined by the IEP team."

Finding of Facts

According to the District, "[The District] provides general education services and placement for all students through both a White Team and Blue Team at Augusta Middle School. Thus, both the White Team and the Blue Team provide the same general education instructional environment. The district's practice is to provide any required special education support services to students by assigning the identified student to Blue Team, which is comprised of an existing team of general education teachers and special education staff who were trained and experienced in providing a variety of appropriate strategies for providing special education instructional support in the general education setting."

According to the District, students with IEPs who also need core academic support (special education services or minutes) in general education, as determined by their IEP teams, are scheduled into the Blue Team (one of the two available academic teams) that also includes special education teachers and paraprofessionals who will provide in classroom support and collaborative planning with general education core instructional staff on that team. According to the Interlocal Special Education Director, the Middle School projected about 16% incidence of students with disabilities based on current numbers, which may change with final enrollments, or about 73 of 449 students, all of whom will participate in general education classrooms based on their IEPs. According to a general estimate by the Principal, about 20 of 80 students per grade level in the Blue Team have IEPs, and these students do not all have the same core instructional needs so support in general education courses varies. According to the District, not all students with disabilities are in the same courses at the same time, but they are distributed across 4-5 possible classes (core classes of ELA, Math, Science, Social Studies plus elective) within the Blue Team.

For students without IEPs, academic team assignments are made by the Middle School counseling staff upon entry. Students who have academic needs, have behavior problems, or have 504 plans can be placed on either academic team by the counselor, the District reported. The Principal and the Assistant Principal meet with the School Psychologist in the Middle Schools General Education Intervention (GEI) process and the administrators attend the IEP meetings of students who are identified as students with exceptionalities.

According to the District (interviews and document sources), the special education staff is assigned to the Blue Team or the White Team on alternate years. The rationale for this practice is to maintain the capacities of all staff to provide best instructional practices, effectively collaborate with special education, improve communication and attention to each student's needs and progress, and to balance work load including IEP meeting attendance across a two

year cycle. All teachers attend yearly training provided by the Interlocal regardless of team assignments.

The District provided a chart listing the teachers assigned to each core team and their licensures, which showed that the Middle School teams are comprised of appropriately and similarly certified educators. According to the Principal, the Middle School teachers meet weekly with their grade-level content partners to ensure similar pacing across classrooms and to discuss effective teaching methods; this ensures a similar pace (within a day or a few days) in the same curriculum across both teams. According to the District, teachers are expected to provide the District curriculum that is aligned with the Kansas State Standards, along with the District approved resources and curriculum guides to ensure consistency across classrooms.

Documents provided by the parent from the July 14, 2025 Board of Education meeting concerned the academic team assignment of students with IEPs and students who are involved in Advancement Via Individual Determination (AVID), which is a course elective designed for students in the "academic middle" who may attend college but face obstacles. In addition to offering the AVID course as an elective, the District encouraged all teachers to use the academic, organizational, and critical thinking teaching strategies associated with AVID. Any student who wants to take AVID can apply to take the course as an elective and the course information is disseminated to all parents and students.

With regard to scheduling, the District reported that the AVID educator is assigned to only one core academic team at each grade level. According to the Superintendent, students with disabilities may sign up for AVID as a course elective and go through the interview process in the same way that other students do. The interviews serve to inform the student of the work involved in the AVID course. According to the Principal, two students with disabilities were in the AVID course last year. These students were on the team which included special educators rather than the team with the AVID educator due to the alternate year rotation. The AVID teacher adjusted as needed if pacing variations occurred across class sections, due to their academic team assignment. These students were on the team which included special educators rather than the team with the AVID educator due to the alternate year rotation.

The Interlocal's Special Education Process Handbook provides guidance for special education placement decisions, stating: "Least Restrictive Environment: It is the belief and policy of the [Interlocal], pursuant to state and federal rules and regulations, as well as the Kansas State Board of Education's policy on least restrictive environment, that students with disabilities are to receive their education in a chronologically age appropriate, general education environment to the maximum extent appropriate unless a placement of this type is determined to be inappropriate even with the provision of supplemental aids and services. The determination of appropriate special education programs and services and the extent to which the student will participate in the general education programs shall be determined by the participants of the individualized educational planning meeting and be based on the student's individual needs"

(page 56, Interlocal Special Education Process Handbook, emphasis added). A decision tree (found on p. 57, Interlocal Special Education Process Handbook), provides guidance through questions to be answered by the IEP team before removing a child from the general education environment.

Conclusion

In this case, the Complainant raised concerns over the District's annual practice of assigning students with disabilities to a specific general education team where special education staff were also assigned. Information on AVID as discussed at the District Board Meeting was included in the complaint evidence because it referenced the academic team assignment of students with IEPs rather than because AVID affects placements. The AVID course elective does not affect special education placement, nor does special education placement affect the AVID course elective.

The Complainant raised logical concerns, if, according to IDEA, "placement" were a specific general education class assignment. However, the IEP team determines special education placement based on K.A.R. 91-40-21(b)(1)(2): placements as instruction in regular classes, special classes, and special schools; instruction in a child's home; and instruction in hospitals and other institutions, as well as make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement.

As explained in the Letter to Trigg (2007), OSEP stated: "Historically, we have referred to "placement" as points along the continuum of placement options available for a child with a disability and "location" as the physical surrounding, such as the classroom, in which a child with a disability receives special education and related services. Public agencies are strongly encouraged to place a child with a disability in the school and classroom the child would attend if the child did not have a disability. However, a public agency may have two or more equally appropriate locations that meet the child's special education and related services needs and school administrators should have the flexibility to assign the child to a particular school or classroom, provided that determination is consistent with the decision of the group determining placement." In other words, OSEP determined that a district can place a child in a particular classroom, but it cannot allow the availability of special education services to dictate the child's placement on the LRE continuum as this would violate 34 C.F.R.300.116.

Federal regulations at 34 C.F.R. 300.116(a)(b) require that placement decisions are made by a group including the parents and others knowledgeable about the child, made in conformity with LRE provisions, and determined at least annually based on the child's IEP. The District's policy document on placements by IEP teams, called the Interlocal Special Education Process Handbook, correctly instructs IEP teams to determine special education placements. The District demonstrated that IEP teams are directed to make placement decisions at the time of the IEP meetings, and therefore there is no violation of IDEA's placement provisions.

There is no violation of IDEA by the District's practice of scheduling students with IEPs which require special education services into the academic team and core classrooms where special education staff are also assigned, nor is there a violation in the District's practice of rotating special education staff (and therefore services and students) on a biannual basis between the two available core academic teams.

Based on the foregoing, ***it is not substantiated*** that the District failed to follow IDEA procedures according to 34 C.F.R. 300.116 and K.S.A. 72-3420 when assigning students with IEPs to an academic core instruction team at the middle school.

Issue Two

Did the District offer a continuum of services for middle school students according to 34 C.F.R.300.115?

Applicable Law

Federal regulations at 34 C.F.R.300.115 state that each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services, to include those listed in 34 C.F.R. 300.39: instruction in regular classes, special classes, special schools, home instruction, and hospital/institution instruction, and make provision for supplementary aids and services such as resource room or itinerant instruction in conjunction with regular class placement.

Analysis: Findings of Fact

The Complainant alleged that the District failed to publicly clarify and implement a full continuum of placement options as required under IDEA.

The District responded: "It is the district's position that there is no violation of IDEA and no failure either individually or systematically to provide appropriate special education services for students with disabilities." The District further responded that a continuum of services is offered.

Findings of Fact

The District reported in interviews that the majority of students receive the majority of their programs in general education environments in order to make the best progress possible. The District reported that a continuum of services is available for the District's Middle School students from least to most restrictive in the following locations: (a) general education classrooms, (b) special education services in the general education classes, including inclusion, co teaching, and class within a class, (c) special education services in a special education classroom (resource) for partial days, (d) combinations of a, b, and c, (e) special education services in a special education classroom for most or all of the day (self contained, structured learning, categorical programs), (f) combinations of a, b, c, and e, (g) special day school partial

day combined with a, b, c, or e, (g) special day school all day, (h) homebound, incarcerated students, hospitals, and other off campus locations.

The Special Education Interlocal's website provides resources for parents, including websites for Families Together and two other parent or disability resource organizations. The Interlocal's website also provides a copy of the Parent's Rights in Special Education (Procedural Safeguards) published by KSDE and revised in 2020, links to the US Department of Education's IDEA website and to the KSDE resources for families website. The Special Education Interlocal's website includes descriptions of the Interlocal's Vocational, Transition, Coachability, and Learning Center Special Day School programs. This website also provides access to the special education newsletter, which provides information on programs, services, compliance, and other information pertaining to special education in the District and Interlocal.

The District reported in interviews that parents are informed in IEP meetings of the specific elements of the continuum of services that apply to that student's needs, as identified by the IEP team after consideration of the student's present levels of performance, needs for accommodations, modifications and services, considerations of more restrictive environments including limitation of interactions with students without disabilities and descriptions of more restrictive possibilities.

Conclusion

Requirements in IDEA state that each District must make available a continuum of services and that associated placements must be instruction in regular classes, special classes, special schools, home instruction, and hospital/institution instruction, and make provision for supplementary aids and services such as resource room or itinerant instruction in conjunction with regular class placement (34 CFR 300.116 and 34 CFR 300.39).

It is found that the District maintains a continuum of services available to meet the needs of students and that there is no violation in the District's practice to inform parents of students with disabilities of these options through an individualized IEP process, based on the student's potential needs and placement considerations by the team. Information on IDEA, including the required information on parent's rights is publicly available on the website, along with many other national, state, and local resources. Based on the foregoing, ***it is not substantiated*** that the District failed to offer a continuum of services for middle school students according to 34 C.F.R.300.115.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 C.F.R. 300.116, K.S.A. 72-3420, and K.A.R. 91-40-21(b)(1)(2) was not found, based on the facts listed above. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R.300.115 and 34 C.F.R. 300.39 was not found, based on facts listed above. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 402
Augusta Public Schools: 26FC402-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on July 15, 2025, by ------ on behalf of middle-school students with IEPs in the district. In the remainder of this decision, ------ will be referred to as "the complainant." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegation, was issued on August 6, 2025. That Complaint Report concluded that there was no violation of special education statutes and regulations

Thereafter, the complainant filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the complainant, the Complaint Report, and the complainant's notice of appeal. The district did not submit a response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified two issues:

Issue 1 is that the district failed to follow IDEA procedures when assigning students with IEPs to an academic core instruction team at the middle school.

Issue 2 is that the district did not offer a continuum of services for middle school students.

Although unstated in the appeal, the complainant's appeal appears to challenge the conclusion of the investigator that there is no violation of law related to both Issue 1 and Issue 2. Accordingly, the Appeal Committee accepts this appeal as an appeal of the conclusion in both Issue 1 and Issue 2.

Issue One

Did the District fail to follow IDEA procedures according to 34 C.F.R. 300.116 and K.S.A. 72-3420 when assigning students with IEPs to an academic core instruction team at the middle school?

The state statute and federal regulation cited in this issue are identical and so do not need separate analysis. The Appeal Committee will refer to the requirements in the federal regulation, only because there is more guidance from the United States Department of Education and courts on the federal requirement

In her appeal, the complainant cites the following:

1. A public statement by the district superintendent that middle school children with disabilities are assigned to the same instructional team to enhance continuity of instruction between their core teachers and special education staff;
2. A district memo confirming that special education students are consistently assigned to alternating teams of instructional staff members based on predetermined administrative and logistical factors and not on student needs;
3. An admission by the district that the assignment of special education students to an instructional team is made by the district and not made by an IEP Team; and
4. The statement in the report that "The district demonstrated that IEP teams are directed to make placement decisions…" is contradicted by the above evidence.

The facts of this complaint are undisputed. As pointed out in the appeal filed by the complainant, neither party appears to disagree with the finding of facts of the investigator. Rather, the complainant argues that the uncontested facts stated in the report support a different conclusion. The conclusion supported by the complainant on these facts is that that the district is making predetermined placement decisions administratively instead of going through the IEP team, and those decisions are based on administrative and logistical factors instead of the individual needs of the special education students.

The process used by the district includes a number of variables which were described in detail in the report over four complete pages. The parties are aware of the process and there is no disagreement regarding the processes so the Appeal Committee will not repeat them here. In short, special education students at the middle school are assigned in alternative years to either a

White Team or a Blue Team. Both the White Team and the Blue Team provide the same general education instructional environment. The district's practice is to provide any required special education support services to students by assigning the identified students to the Team that is currently comprised of both general education teachers and special education staff who were trained and experienced in providing appropriate strategies for providing special education support in the general education setting (Report, p. 5).

According to a general estimate by the Principal, about 20 of 80 students per grade level on the selected team (White Team currently) have IEPs, and these students do not all have the same core instructional needs so support in general education courses varies. According to the District, not all students with disabilities are in the same courses at the same time, but they are distributed across 4-5 possible classes (core classes of ELA, Math, Science, Social Studies plus elective) within the assigned team. Current numbers show that 73 of 449 students (16%) are in special education and participate in general education classrooms to the extent specified by their IEPs. (Report, p. 5).

On page 8 of the report, the investigator cited Federal regulations at 34 C.F.R. 300.116(a)(b), which requires that placement decisions are to be made by a group, including the parents and others knowledgeable about the child, made in conformity with LRE provisions, and determined at least annually based on the child's IEP (emphasis added). The decision to assign special education students to either a White Team or a Blue Team is clearly made by administration and not by "the parents and others knowledgeable about the child." Whether making that kind of assignment is a violation of 34 C.F.R. 300.116 depends on whether that decision to assign special education students to the White team or Blue team is a "placement" decision.

The word "placement" is used in both the federal and state regulations, but is defined in neither. Accordingly, we must seek authoritative guidance on what is meant by the term "placement" in these regulations. The investigator did this on page 8 of the report, citing guidance from the Office of Special Education Programs (OSEP). OSEP is the office in the United States Department of Education that both writes and enforces the federal special education regulations. Accordingly, it's guidance, regarding how its own regulations apply is considered highly reliable and courts have given it substantial deference to its interpretation of federal requirements. That includes the regulation at issue here: 34 C.F.R. 300.116, which requires that placement decisions be made by a group of people including the parent. On page 8 of the report, the investigator said:

> *As explained in the Letter to Trigg (2007), OSEP stated: "Historically, we have referred to "placement" as points along the continuum of placement options available for a child with a disability and "location" as the physical surrounding, such as the classroom, in which a child with a disability receives special education and related services…However, a public agency may have two or more equally appropriate locations that meet the child's special education and related services needs and school administrators should have the flexibility to assign the child to a particular school or*

> *classroom, provided that determination is consistent with the decision of the group determining placement." In other words, OSEP determined that a district can place a child in a particular classroom, but it cannot allow the availability of special education services to dictate the child's placement on the LRE continuum as this would violate 34 C.F.R.300.116.*

When OSEP said in this guidance letter: "Historically, we have referred to "placement" as points along the continuum of placement options available for a child with a disability…" it was referring to the Least Restrictive Environment (LRE) requirement in 34 C.F.R. 115, which states:

Sec. 300.115 Continuum of alternative placements.

(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must--

(1) Include the alternative placements listed in the definition of special education under Sec. 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions);

In Wilson v. Fairfax County Sch. Bd., 104 LRP 30556 (4th Cir. 2004), the United States Circuit Court of Appeals explained the term "educational placement" as:

> *"'Educational placement' is not the physical location to which the student is assigned but rather* ***the environment*** *in which educational services are provided."* ***Placement options****, such as regular classes, special classes, special schools and home instruction* ***differ from each other by the extent to which they depart from a "mainstream" assignment*** *(emphasis added)."*

Accordingly, the term "placement" refers to the educational environment in which a child is educated, and the extent to which that environment is with non-disabled students. Therefore, a school changes a child's placement when it moves a child from a regular education classroom environment to a special education classroom environment or to any other educational environment that is along the continuum of alternative placements listed in the regulations. Moving a child to other educational environments, that are not along the continuum of alternative placements listed in the regulations, such as assigning a student to a particular classroom or to specific staff members is not a change in placement, and does not require action by an IEP team..

For the reasons stated above, the Appeal Committee agrees with the investigator's conclusion that assigning special education students to a Blue Team or a White Team in alternative school years for general education instruction in a general education environment does not change the educational environment of such student's. All of these students remain in regular education classrooms to the extent specified in their IEPs. and so the assignment to a White Team or a Blue

Team, both of which operate as regular education settings, is not a change in placement that requires IEP team approval.

The Appeal Committee finds that the conclusion of the investigator on this issue should be sustained.

Issue Two

The district failed to offer a continuum of service environments for middle school students.

The investigator found no evidence to support this allegation, and the complainant provided no information in her appeal that supports this allegation. On page 10 of her report, under the title "Findings of Fact" the investigator says:

> *The District reported that a continuum of services is available for the District's Middle School students from least to most restrictive in the following locations: (a) general education classrooms, (b) special education services in the general education classes, including inclusion, co teaching, and class within a class, (c) special education services in a special education classroom (resource) for partial days, (d) combinations of a, b, and c, (e) special education services in a special education classroom for most or all of the day (self-contained, structured learning, categorical programs), (f) combinations of a, b, c, and e, (g) special day school partial day combined with a, b, c, or e, (g) special day school all day, (h) homebound, incarcerated students, hospitals, and other off campus locations.*

Without any evidence or even argument in this appeal indicating any error in the investigator's analysis, the Appeal Committee finds that sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 14th day of August, 2025.

Appeal Committee

Crista Grimwood, Brian Dempsey, Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #501
ON JULY 18, 2025

DATE OF REPORT: AUGUST 21, 2025

This report is in response to a complaint filed with our office by ----- on behalf of her son, -----. For the remainder of this report ----- will be referred to as "the student." ----- will be referred to as "the parent." USD #501 will be referred to as "the district."

Investigation of Complaint

On July 24, 2025, the complaint investigator spoke via telephone with the Interim Executive Director of Special Education and Special Services for the district and with the Counsel for the district. The investigator spoke by telephone with the parent on July 28, 2025. On August 18, 2025, the investigator met via Google Meet with the Interim Director, with Counsel for the district, with the district social worker who served the student during the 2024-25 school year, with the speech/language pathologist who served the student, and with the student's special education teacher.

In completing this investigation, the complaint investigator reviewed the following materials:

- Functional Behavior Assessment dated October 30, 2024
- IEP for the student dated November 6, 2024
- Evaluation Report dated April 10, 2025
- Prior Written Notice for Evaluation or Reevaluation and Request for Consent dated April 11, 2025 requesting consent to complete a Functional Behavioral Assessment
- Notice of Meeting dated May 1, 2025
- Meeting Notes dated May 7, 2025
- Functional Behavior Assessment dated May 9, 2025
- Notes from meeting of May 9, 2025
- Letter to the parent regarding a second ESI on May 14, 2025
- BIP Meeting notes dated May 16, 2025
- Attendance record for the student covering the period of November 5, 2024 through the end of the school year on May 29, 2025
- Daily schedule for the student for the month of May 2025
- Daily behaviors sheets for ten days during the period of April 21 through May 15, 2025
- IEP Progress Reports covering the period of January 6 through May 23, 2025

- Speech/Language services record covering the period of November 14, 2024 through May 21, 2025
- Grade cards for the student for the 2024-25 school year
- Email dated July 24, 2025 from the consulting teacher for the JAG program to the building principal
- Prior Written Notice for Identification Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated August 11, 2025
- Material submitted by the parent when filing her complaint including the following:
    - A list of 66 ESIs (Emergency Safety Interventions) covering the period of November 14, 2024 through May 14, 2025
    - Letter to the parent regarding an ESI on November 6, 2024
    - Letter to the parent regarding an ESI on November 14, 2024
    - Letter to the parent regarding a second ESI on November 14, 2024
    - Letter to the parent regarding a third ESI on November 14, 2024
    - Letter to the parent regarding a fourth ESI on November 14, 2024
    - Letter to the parent regarding an ESI on December 5, 2024
    - Letter to the parent regarding a second ESI on December 5, 2024
    - Letter to the parent regarding a third ESI on December 5, 2024
    - Letter to the parent regarding an ESI on December 9, 2024
    - Letter to the parent regarding an ESI on December 13, 2024
    - Letter to the parent regarding a second ESI on December 13, 2024
    - Letter to the parent regarding a third ESI on December 13, 2024
    - Letter to the parent regarding an ESI on January 13, 2025
    - Letter to the parent regarding an ESI on January 16, 2025
    - Letter to the parent regarding a second ESI on January 16, 2025
    - Letter to the parent regarding an ESI on January 17, 2025
    - Letter to the parent regarding a second ESI on January 17. 2025
    - Letter to the parent regarding a third ESI on January 17, 2025
    - Letter to the parent regarding an ESI on January 24, 2025
    - Individualized Education Program Amendment dated January 27, 2025
    - Letter to the parent regarding an ESI on January 31, 2025
    - Letter to the parent regarding a second ESI on January 31, 2025
    - Letter to the parent regarding an ESI on February 4, 2025
    - Letter to the parent regarding an ESI on February 6, 2025
    - Letter to the parent regarding an ESI on February 7, 2025
    - Letter to the parent regarding an ESI on February 10, 2025
    - Letter to the parent regarding a second ESI on February 10, 2025

- Letter to the parent regarding a third ESI on February 10, 2025
- Letter to the parent regarding a fourth ESI on February 10, 2025
- Letter to the parent regarding a fifth ESI on February 10, 2025
- Letter to the parent regarding a sixth ESI on February 10, 2025
- Letter to the parent regarding an ESI on February 11, 2025
- Letter to the parent regarding an ESI on February 14, 2025
- Letter to the parent regarding a second ESI on February 14, 2025
- Letter to the parent regarding an ESI on March 10, 2025
- Letter to the parent regarding a second ESI on March 10, 2025
- Letter to the parent regarding a third ESI on March 10, 2025
- Letter to the parent regarding an ESI on March 12, 2025
- Letter to the parent regarding a second ESI on March 12, 2025
- Letter to the parent regarding a third ESI on March 12, 2025
- Letter to the parent regarding a fourth ESI on March 12, 2025
- Letter to the parent regarding a fifth ESI on March 12, 2025
- Letter to the parent regarding an ESI on March 26, 2025
- Letter to the parent regarding a second ESI on March 26, 2025
- Letter to the parent regarding an ESI on March 27, 2025
- Letter to the parent regarding an ESI on April 1, 2025
- Letter to the parent regarding an ESI on April 2, 2025
- Letter to the parent regarding a second ESI on April 2, 2025
- Letter to the parent regarding a third ESI on April 2, 2025
- Letter to the parent regarding an ESI on April 7, 2025
- Letter to the parent regarding a second ESI on April 7, 2025
- Letter to the parent regarding an ESI on April 9, 2025
- Letter to the parent regarding a second ESI on April 9, 2025
- Letter to the parent regarding a third ESI on April 9, 2025
- Letter to the parent regarding a fourth ESI on April 9, 2025
- Letter to the parent regarding an ESI on April 10, 2025
- Letter to the parent regarding an ESI on April 15, 2025
- Letter to the parent regarding an ESI on April 16, 2025
- Letter to the parent regarding a second ESI on April 16, 2025
- Letter to the parent regarding a third ESI on April 16, 2025
- Email dated April 17, 2025 from the parent to the General Director of Special Education and Special Services
- Letter to the parent regarding an ESI on April 21, 2025

- Letter to the parent regarding a second ESI on April 21, 2025
- Letter to the parent regarding a third ESI on April 21, 2025
- Email exchanges dated April 21 and 22, 2025 between the parent and the Grant Coordinator for the district
- Letter to the parent regarding an ESI on April 23, 2025
- Letter to the parent regarding a second ESI on April 23, 2025
- Letter to the parent regarding a third ESI on April 23, 2025
- Letter to the parent regarding a fourth ESI on April 23, 2025
- Emergency Safety Interventions (ESI) & Strategy Review dated April 25, 2025
- Letter to the parent regarding an ESI on April 29, 2025
- Letter to the parent regarding an ESI on May 5, 2025
- Letter to the parent regarding a second ESI on May 5, 2025
- Letter to the parent regarding a third ESI on May 5, 2025
- Letter to the parent regarding a fourth ESI on May 5, 2025
- Photos of the student dated May 5, 2025
- Email dated May 5, 2025 from Program Coordinator/Consulting Teacher to the parent and building principal
- Email dated May 6, 2025 from the parent to the Grant Coordinator for the district
- Letter to the parent regarding an ESI on May 8, 2025
- Email exchange dated May 6-9, 2025 from the parent to the building principal
- Letter to the parent regarding an ESI on May 14, 2025
- Email exchange dated May 14-15, 2025 between the parent and the building principal
- IEP for the student dated May 16, 2025
- Formal Complaint Emergency Safety Interventions (ESI) dated May 21, 2025
- Formal Complaint Emergency Safety Intervention (ESI) dated June 19, 2025

Background Information

This investigation involves an 8-year-old boy who has completed the second grade. He has received special education services since the preschool level and has been determined eligible to receive these services under the categorical designation of Other Health Impaired.

The parent reports that the student has multiple diagnoses including Autism, ADHD, PTSD, and anxiety.

According to the district and the parent, the student first received services from the district in 2018 through 2022 under an IFSP (Individual Family Service Plan) developed by the local "TARC" program. During that time period, the student participated in a community preschool/day care program where he was supported by a child development specialist.

A military transfer moved the family to California. The student was enrolled in a general education Kindergarten for the 2023-24 school year. He was determined to be eligible for and in need of special education services, and an IEP was developed for the student on October 25, 2023. Under that IEP, the student received speech and occupational therapy (OT) services. The IEP also included a Behavior Intervention Plan (BIP). The out-of-state IEP was amended in March 2024.

According to the parent, a situation arose while the student was attending school in California. The parent reports that, following a behavioral incident, the student was told that he had missed the bus to go home and wouldn't be able to come back to school. The parent states that the management of the student's behavior during this incident was abusive and traumatizing for the student.

The family subsequently returned to the district for the 2024-25 school year. The student was initially enrolled in his neighborhood school on August 12, 2024. Following his enrollment, an IEP team for the student reviewed records provided by the previous district and adopted the IEP developed by that district.

According to the district, the parent had reported that she did not agree with elements of the previous district's IEP, but it was not until several weeks after the start of the school year (October 21, 2024) that a new IEP was written. Goals were developed to address needs in the area of writing, math computation, articulation, and social/emotional development – specifically anger management. Social work services were included in the student's IEP to assist the student in the development of anger management strategies.

The student had struggled to succeed in the general education classroom environment, and, in November 2024, the district proposed a change of educational placement. The IEP team, which included the parent, proposed that the student be moved to a more restrictive placement – the Jaguar Academy (or JAG) program at a different elementary school. JAG is an alternative program run by the district available to students in Kindergarten through fifth grade.

The JAG program is designed to provide the district's most intensive special education services to address student behaviors. By report of the district, the program was established as an alternative setting for students who have emotional and behavioral challenges in relating to peers and authority figures which significantly interfere with success in a general education setting to a degree that the most restrictive environment in the neighborhood school cannot accommodate the student's needs. With the written consent of the parent, the move to the new school was initiated on November 5, 2024. In the new placement, the student was in a classroom with one other student, a classroom teacher, and a paraeducator.

The student's October 2024 IEP was amended on January 27, 2025. A triennial re-evaluation was completed on April 10, 2025. The IEP team – including the parent – met throughout April and May to review and revise the student's IEP and BIP. The district proposed a new IEP on

May 16, 2025. That new IEP included a revised BIP which was to be implemented beginning on May 19, 2025, but the parent opted to remove the student from school as of May 15, 2025 and has not agreed to the district's proposed May 2025 IEP.

The district has offered to participate in mediation regarding the parent's concerns, but the parent declined.

On July 31, 2025, the parent toured a district program which the district felt could meet the needs of the student. The IEP team for the student conducted a meeting on August 8, 2025, amended the student's IEP, and recommended a change in educational placement and services. The parent provided her written consent for those changes on August 12, 2025. The student started school in the new program (Project Plus) on August 13, 2025.

Issues

At K.A.R. 91-40-51, Kansas regulations state that, when filing a formal complaint, the complainant must allege that a violation of federal or state special education laws or regulations has occurred during the 12-month period preceding the date the complaint is received and filed with the commissioner of education.

In her complaint, the parent asserts a number of issues related to the implementation of ESIs (Emergency Safety Interventions). An ESI involves the use of a physical restraint or seclusion when a student presents an immediate danger to themselves or others. ESIs should be considered as a "last resort" after less restrictive interventions have been attempted and deemed ineffective. ESIs are not to be used for punishment or convenience.

The authority to investigate issues related to the implementation of ESIs fall outside the purview of a special education complaint investigator. Beginning at 91-42-1, Kansas Administrative Regulations address ESIs. At 91-42-3, regulations require districts to develop and implement written policies to govern the use of ESIs including the development of written policies to govern procedures for a parent to file a complaint with the local school board if a parent believes an ESI has been used in violation of state regulations. Regulations require districts to develop policies regarding a parent's right to request an administrative review by the state board as specified in K.A.R. 91-42-5.

If a parent believes that an emergency safety intervention has been used with the parent's child in violation of the State Board's emergency safety intervention regulations or the district's emergency safety intervention policy, the parent may file a complaint with the local board. The complaint must be filed within 30 days of the date on which the parent was informed of the use of that emergency safety intervention. The local board's final decision must be in writing and include findings of fact and any corrective action required by the district if the local board deems these actions necessary. The local board's final decision must be mailed to the parent and KSDE within 30 days of the local board's receipt of the complaint.

Any parent who filed a written complaint with their local board of education regarding the use of emergency safety intervention and is either not satisfied with the local board's final decision, or did not receive a final decision within 30 days, may request an administrative review by the Kansas State Board of Education.

While the investigation of the specific circumstances regarding the implementation of an ESI is the responsibility of a district's school board, investigation of allegations regarding the provision of a free and appropriate public education (FAPE) falls under the purview of a special education complaint investigator. FAPE ensures that children with disabilities receive specially designed instruction and related services that enable the student to make appropriate progress in light of the student's circumstances.

In this complaint, the parent has raised a number of issues related to the impact that the implementation of ESIs has had on the provision of a FAPE to her son. The parent asserts that the district failed to implement the student's IEP and his BIP, failed to provide appropriate behavioral supports, and did not provide a safe and supportive educational environment "free from unlawful, traumatic, and harmful interventions."

Specifically, the parent's concerns include the following:

Issue One

The district failed to provide the student with a FAPE through inappropriate behavior management and systematic misuse of ESI (Emergency Safety Interventions).

Position of the Parent

The parent asserts that the district repeatedly and excessively used seclusion and physical restraint, often as a first response for minor, non-dangerous behaviors or as a punitive measure. It is the position of the parent that the overuse of ESIs rather than positive behavioral interventions has created a hostile learning environment and resulted in missed speech services, a loss of educational time, emotional regression and speech regression, and has hindered the student's progress.

When asked by the investigator during their July 28, 2025 telephone call to describe the speech regression she had observed in the student, the parent stated that her son's speech had become less intelligible, that he was speaking too quickly and running his sentences/words together. When asked to describe his emotional regression, the parent stated that the student – who had always spent weekends with his grandparents – was unwilling to do so. Further, the parent described the student as "not trusting" his parents as much as he had in the past.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the

state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

If a school consistently relies on the use of ESIs without adequately exploring or implementing less restrictive alternatives, it could be argued that the school is failing to provide an appropriate education as outlined in a student's IEP. If the implementation of ESIs significantly impacts a student's ability to participate in their educational program and make progress toward their IEP goals, it could indicate that the IEP is not effectively meeting their needs and thereby constitutes a denial of FAPE. Similarly, if special education and related services are not being provided because of the implementation of ESIs, this too could be considered a denial of FAPE.

Investigative Finding Regarding Loss of Educational Time

Regarding the student's aggressive behaviors, records provided by the district state that

> *"Even when topic is in the interest areas, but not to his specific regulations he will escalate to aggression. Aggression will be an escalation of avoiding work and due to his aggression including hitting, spitting, kicking, scratching, biting, throwing objects towards people, students/staff can be given space and he will still go to them and be physically aggressive. This can be property damage (purposeful and towards high dollar items such as computers, smart board, and anything within reach), knock over desks, throw computers, self-harm."*

According to the IEP proposed by the district on May 16, 2025, the student has, since November 2024 when he entered the JAG program, demonstrated at least 1,296 incidents of physically aggressive behavior toward adults and 46 incidents of physical aggression towards peers. In response to these incidents, the district documented the implementation of 66 ESIs between November 14, 2024 and May 14, 2025. (The BIP states that these numbers could underestimate the actual total because "data collection of incidents within a 30-minute time period 'max out' at 10 incidents."). Using 1,296 as the number of aggressive acts, the district implemented an ESI in response to approximately 5% of the student's aggressive acts.

There were 119 school days between the time the student entered the JAG program on November 5, 2024 and the end of the 2024-25 school year. School was cancelled on 5 days during this period because of snow. Over the 119 school days, the student was absent for 13 full days; he was absent for a quarter of the school day on 5 days, and was absent 2 additional half days. Because she did not feel the student was safe in the JAG program, the parent opted not to send him to school for the last days of the school year.

According to ESI letters sent to the parent by the district and submitted by the parent in her complaint, the student spent 418 minutes (approximately seven hours) in ESI – equivalent to approximately one 420-minute school day. ESIs ranged in length from 1 minute to 24 minutes.

Forty-seven of the ESIs were 5 minutes or less in length. Sixteen incidents lasted between 6 and 10 minutes. Six incidents were 11 to 15 minutes in length. Four incidents lasted longer than 15 minutes (16, 20, 22, and 24 minutes). The student spent a total of 7 minutes in an ESI in November, 35 minutes in December, 53 minutes in January, 66 minutes in February, 62 minutes in March, 146 minutes in April, and 51 minutes in May.

While additional time following some of these ESIs was needed to allow the student to regulate his behavior to baseline levels, the 1-to-1 ratio of staff to student in this program facilitated opportunities for instruction/reinstruction of curricular content being covered at the time the ESI was implemented.

Summary and Conclusions Regarding Loss of Instructional Time

The student lost slightly more than 400 minutes of educational time between November 14, 2024 and the end of the 2024-25 school year as the result of an emergency safety intervention – roughly the equivalent of one school day. During that same period, the parent opted not to send the student to school for 9 days because she did not feel the student was safe in the JAG program. The student was absent for all or part of 11 other days during the November through May time period. In the opinion of the investigator, having missed all or part of 20 days of school due to absences between November 14, 2024 and the end of the 2024-25 school year would have a far greater impact on student progress than having missed 400 minutes of educational time during that same period. It is also important to note that because the student's instruction was delivered one-on-one, ample opportunities were available for the student to reengage with any curricular content he might have missed as a result of ESIs. A violation of special education statutes and regulations is not substantiated on this aspect of this issue.

Investigative Findings Regarding Speech Regression

According to the "Communication" portion of the "Summary of Present Levels of Academic Achievement and Functional Performance" section of the student's October 21, 2024 IEP,

> *"[The student] has been working on producing /s/, /l/ and /r/ in sound isolation, words and sentences. [He] is able to independently produce /l/ and /s/ accurately in sentences without any cues. Although [the student] can accurately produce /s/ in sentences, he does intermittently use an interdental /s/ in conversation. Although a specific goal for /s/ won't be written, it will be indirectly monitored through therapy to ensure accurate carryover skills.*
>
> *Currently, [the student] produces /r/ in words with an average of 45% accuracy. Additionally, [the student] demonstrates sound errors with /sh/, /r-blends/ and /th/ in words. A new IEP goal will be written to reflect the progress [the student] has made, but also shed light on other sounds that need remediation in order to improve [his] overall level of intelligibility."*

The IEP team – which included the parent – developed the following annual goal to address the student's communication needs

> *"By October 20th, 2025, during speech and language activities, [the student] will be able to produce /r, r-blends, sh/ and /th/ in words and phrases when provided with verbal cues and models and visual cues with at least 70% accuracy as measured by the SLP quarterly.*
>
> *Score:*
> */r/ in words: 40%*
> */r-blends/ in words: 20%*
> */sh/ in words: 25%*
> */th/ in words: 20%"*

The district's proposed May 16, 2025 IEP contained the following statements regarding the student's communication skills:

> *"[The student] demonstrates age-appropriate vocal quality, fluency of speech, expressive-receptive language skills, and social/pragmatic language skills. He actively participates in speech-language therapy sessions, and is willing to communicate with peers and adults.*
>
> *[The student] needs direct speech therapy to assist with improving his articulation skills. When compared to his peers, [his] articulation skills are below average. Over the course of the last IEP year, he has been working on a variety of sounds in words, including /r/, r-blends, "th" and "sh". He has made the most progress with "th"; other target sounds have also improved but require more effort to sound accurate. [The student's] "ch" sound is also still developing. [He] is frequently reluctant to participate in speech therapy, but once he engages he usually does nice work. He frequently loses focus after 5-15 minutes of speech therapy, and would likely benefit from shorter sessions that are more productive. [The student] would continue to benefit from speech-language services at this time.*

The IEP Progress Report regarding the student's October 2024 speech goal shows that the student made progress toward attainment of the goal at monitoring points in January, March and May 2025. His May 23, 2025 report states:

> *"[The student] usually tries his best in speech, and his efforts are paying off. He can achieve very high levels of accuracy when he is focused, and his /r/ sound is becoming less effortful…"*

Production of the /th/ sound in spontaneous sentences was at the 100% level (up from a baseline level of 20%). He had improved in the production of /r/ at a baseline level of 40% to 64% in modeled words (up from 64% in March). He was producing /sh/ in words at the 77% level, up from a baseline level of 25%, with a March level of 77% in modeled words.

The student's October 2024 IEP states that he was to receive direct speech/language services twice a week for 20 minutes. According to service records provided by the Speech/Language Pathologist, the student did not receive services on two days when ESIs were implemented –

December 5, 2024 and March 26, 2025. Speech services were not missed on December 5, 2024 because of an ESI. Rather, service notes for December 5, 2024 show that the "student [was] sleeping after emotional episode." The ESI was implemented around 12:30 PM on December 5, 2024, well after the student's scheduled speech time.

Service notes for March 26, 2025 show that the "student refused" to come to speech on that date. The student was scheduled to be seen for speech during the morning; the ESIs that were implemented on March 26, 2025 occurred in the afternoon and would not have led to the student missing his speech service.

During a video conference call with the investigator on August 18, 2025, the speech/language pathologist who served the student during the 2024-25 school year stated that she did not believe the student regressed during that period as evidenced by progress on his speech goal. She also reported that she did not observe any loss of speech intelligibility during that period.

Investigative Findings Regarding Emotional Regression

The "Social/Emotional" portion of the "Summary of Present Levels of Academic Achievement and Functional Performance" section of the student's October 21, 2024 IEP states,

> *"At the beginning of the year, [the student] was not able to tolerate the social emotional lessons during his time with the social worker. Currently he can participate in planned lessons while building with legos. He will communicate with his words when he no longer wants to participate. Current performance in the classroom and special education setting are more accurately described in the FBA/BIP.*
>
> *Student Social-Emotional Skills Assessment: (Special Education Classroom)*
> *Behavior with Adults: 30%*
> *Behavior with Peers: 55%*
> *Emotion Regulation: 37%*
> *Engagement: 44%*
> *Social Skills: 73%"*

The IEP team – including the parent – developed the following annual goal to address the student's Social/Emotional needs:

> *"By October 2025, [the student] will express his anger without resorting to inappropriate verbal or physical means 45% of the time as measured by teacher observation.*

At the time this goal was developed, the student was able to express his feeling appropriately 37% of the time. Progress toward attainment of this goal was monitored three times during the remainder of the 2024-25 school year. At the time of the first monitoring period In January 2025, the student was working toward a target of appropriate expression of anger of 39%. By January 6, 2025 when progress was monitored, the student earned a score of "2 – Progress has been made towards the goal, but the goal may not be met by the annual IEP. Goal,

instructional strategies and student supports may need to be reviewed." According to the progress report,

> *"[The student] is currently meeting his social emotional goal approximately 23% of the time. He just came to us in November and has been adjusting much better, overall, as of late. Staff have implemented several strategies, some of which are newer, and may see benefits over time."*

By the time the student's progress was again monitored on March 31, 2025, the student's progress had declined, and he was meeting his target (set at 41% for this period) only 20% of the time. According to the progress report

> *"…20% of the time…is a slight decrease since the last reporting period. Factors that may have influenced this include having several snow days, days off from school, new interventions in place and getting used to them, etc. His current goal is likely too high and will likely need adjustments at his IEP [in April]."*

At the time of the second monitoring period, the student earned a "1 – Progress is not sufficient to meet this goal by the annual IEP. Goal, instructional strategies and/or student supports need to be reviewed."

In April 2025, the district proposed a new IEP goal to address the student's social/emotional needs. However, because the parent did not consent to changes proposed by the district, the student's October 2024 social/emotional goal remained unchanged.

By the third monitoring period on May 23, 2025, the student's performance level was showing some growth and he again earned a 2 for progress. While his overall performance level for the period was at 32% (below the target level of 43%), the report states

> *"[The student] was showing progress in the last few weeks of attending school. (achieving 45%-75% averages for the weeks). Prior to these weeks, he was averaging about 25% or below on progress toward social emotional goal.*

Summary and Conclusions Regarding Emotional and Speech Regression

While the parent reported regressive changes in the student's behavior in the home setting, regression was not observed in the educational setting. Further, evidence shows that the student made consistent progress in the development of his targeted articulation skills. His speech remained intelligible throughout the time he participated in the JAG program.

While the student did not achieve his social/emotional goal during the 2024-25 school year and while he did display a spike in aggressive behaviors which resulted in ESIs during April 2025, the occurrence of these behaviors diminished during May 2025, and the student was showing progress by the May monitoring of his social/emotional goal. Because evidence does not support the parent's contention that the student suffered regression of social/emotional or

speech skills because of the use of ESIs, a violation of special education statutes and regulations *is not substantiated* on this aspect of this issue.

Issue Two

The district failed to implement the student's IEP/BIP and failed to provide required services.

Position of the Parent

It is the position of the parent that the district failed to utilize trauma-informed practices and positive behavioral interventions essential for FAPE. The parent contends that by escalating situations through physical interventions and unnecessary ESIs, the student lost instructional time and further traumatized the student despite having knowledge of the "abuse" the student experienced in his previous school district.

Applicable Statutes and Regulations

If a student's IEP outlines specific interventions, and other behavioral supports to address challenging behaviors and ESIs are being implemented in place of the IEP interventions or supports, this could be considered a denial of FAPE.

Investigative Findings

In her formal complaint, the parent included copies of letters sent to her by the district which described each of the ESIs that were implemented with the student between November 14, 2025 and the end of the 2024-25 school year. The parent also attached to her complaint a table showing the majority of the documented ESIs. In total, the parent provided letters from the district documenting 71 ESIs (although the parent asserts that not all ESIs were reported). While the majority of these ESIs involved seclusion, 4 involved restraint.

The investigator reviewed each of the ESI letters when considering this issue – including the ESI of November 6, 2024. The first four ESIs are described below. The investigator reviewed the letters for each of the remaining 67 ESIs looking for evidence as to whether or not the BIP was followed. A summative table of that review is included in this report below the descriptors of the first four incidents.

The November 6, 2024 ESI involved a 2-minute restraint of the student who was outside of the school building on the football field with peers and staff. The student became frustrated with peers who did not want to play soccer and then wanted a ball being used by another student.

A properly constituted IEP team for the student – which included the parent – initially met on October 21, 2024 to develop a new IEP for the student. That IEP was finalized on November 6, 2024. This IEP – which included a BIP – was in place at the time of this ESI. "Escalations" of target behaviors listed in the plan included "throwing things at people" and "kicking." The BIP included a number of "responses" to be utilized when the student demonstrated these target behaviors. Among those responses was the following:

> *"Meaningful distraction is also an effective strategy to engage [the student] in during these periods of dysregulation…If [the student] is being unsafe towards self and/or others, ensure that everyone including [the student] are safe…Staff can work together to have [the student] go to a safer space if necessary."*

According to the November 6, 2024 ESI letter,

> *"Staff attempted to distract [the student] and refocus his attention to other activities, as well as provide proximity but was unsuccessful…staff were able to step in between them and the other student went to a different area. [The student] walked with [the consulting teacher] to another area as well and talked with her for awhile about other things."*

When the student walked back toward the peer, "adults were able to stand in between them." After the student threw another ball at that peer and kicked the other student,

> *"…[the consulting teacher] escorted [the student] away from the other students and told everyone to head inside to maintain space before transitioning [the student] inside. [The consulting teacher and the school social worker] used body positioning and verbal de-escalation techniques in order to create time for the other students to leave the area, but [the student]…kicked [the social worker…so [the consulting teacher] used a 1 arm hold in order to allow time for the others to get off the field. …Once the other students were a safe space away and off the field, [the student] was released and walked inside of the school."*

The second ESI was a 1-minute restraint implemented on November 14, 2024.

> *"[The student] became agitated when asked to clean up the mess he made in the classroom. However, he was willing to do so at first, with staff help, but quickly re-escalated when expected to pick up tickets that belonged to peer in the classroom. This turned into throwing things in the classroom, hitting/kicking items. This continued to escalate into hitting/kicking/scratching and attempting to bite staff repeatedly. A restraint was initiated when [the student] was repeatedly hitting [a staff member], even as [that staff member] was trying to step back from him.*
>
> *Worked on de-escalating in a separate room, where he was able to lie down and rested his body…*

The third ESI also occurred on November 14, 2024 and began with the student demonstrating another behavior targeted in the student's November 5, 2024 BIP: elopement.

According to the BIP, if the student demonstrated elopement behavior, staff was to

> *"Offer replacement behavior. Restate and provide him the appropriate language to use when he is dysregulated or escalated. Calmly guide him back to a safe space for a brief period, if necessary. Once regulated, engage the student in a brief reflection about what triggered the behavior and what strategies could help in the future."*

As stated in the ESI letter regarding this incident provided by the parent in her complaint, the student had asked to use the restroom. Staff had "talked through a safety plan to transition there and back, do a check in with mom, and return to class for the afternoon." However, upon leaving the restroom, the student attempted to elope the area. In response,

> *"[The classroom teacher] and [two other staff members] used body positioning to prevent elopement and return to the hallway. Once in the hallway, [the student] became physically aggressive towards [the teacher and another staff member] (hitting, pinching, scratching, kicking.). [The teacher] called [the parent] as we were to do a check in anyways, and she was able to help with de-escalating. During the phone call, [the student] was able to walk back into the empty classroom we had been working in and continue to de-escalate with [the teacher and parent] with grounding and distraction techniques. A plan was made with mom, [the student, the teacher, and the other staff member] to start over for the afternoon and he was looking forward to going to Papa's after school. As soon as the call was disconnected, [the student] re-escalated and began throwing objects at [staff] (cups, large blocks, and other items from the room) and hitting and pinching. [The teacher] asked [the other staff member] to step into the hallway and [the teacher] stayed in the room and reminded [the student] that his afternoon was starting over and that he was looking forward to a visit to Papa's. This was not successful, and [the student] continued to kick, hit, pinch, and throw objects at [the teacher who] said [to the student] I need you to [be] safe and I need to be safe and this is hurting me. [Another staff member] had arrived in the hallway…[The teacher] told [the student] that she needed to step into the hall because she was being hurt. [The teacher] stepped into the hallway, and closed the door just enough to be a barrier so she could not be hit or kicked, but [all three staff members] continued to talk to [the student] and say, 'we love you, we aren't leaving you but we all need to be safe. [The student] walked away from the door so [the teacher] re-entered the room after less than 1 minute."*

The fourth ESI also occurred on November 14, 2024. According to the ESI letter,

> *"[The consulting teacher] stepped out of the hallway again due to physical aggression. Again, the door to the classroom was not fully closed and [the special education teacher, the social worker, and the consulting teacher] continued to say, we're in the hallway because we need to be safe and you need to be safe but we are not leaving you. [The consulting teacher] attempted to re-enter the classroom multiple times, but that was not successful due to chairs getting shoved at her, objects continued to be thrown, etc. [The student] was also crying. Staff continued to be supportive as much as possible reminding [the student] they were not leaving that he was loved, and that the team would get whatever he needed (offered ice, etc.). After several attempts to go back into the room by [the consulting teacher] being unsuccessful, [the student] then came to the door and was able to verbalize that he didn't feel safe, so the door was opened fully. [The student] came into the hallway and was no longer aggressive, and*

staff was able to work with [the student] to make a plan about where/what he needed to feel safe and follow through…

[The student] was able to verbalize that he wanted to go to the Jungle area, so everyone agreed to let [the special education teacher and the social worker] go out first to stand by the doors because of the attempted elopement, and that [the consulting teacher and the student would go out next then he would have the whole area to walk around and have quiet time. [The student] sat down (which usually indicates he is ready and safe) and everyone followed through on the plan. [The student] was able to take some time in the Jungle to walk around, [the consulting teacher] sat at a table nearby and started doing some origami an then eventually talked about animals which developed into a distraction/de-escalation conversation. We then got the building therapy dog to come for a visit and he and [the social worker] were able to debrief during that visit, and then [the student] was able to return to class and finish his day…"

ESI #	Date	Type	Duration in Minutes	Evidence of Application of BIP
#1	11/6/24	Restraint	2	See above
#2	11/14/24	Restraint	1	See above
#3	11/14/24	Seclusion	1	See above
#4	11/14/24	Seclusion	3	See above
#5	12/5/24	Restraint	2	Options, distractions
#6	12/5/24	Restraint	1	Options
#7	12/5/24	Seclusion	6	Calm down space options, replacement behavior, calming techniques
#8	12/9/24	Seclusion	2	Work options, de-escalation strategies
#9	12/13/24	Seclusion	4	Calming space, time for processing, calming techniques
#10	12/13/24	Seclusion	8	Calming techniques
#11	12/13/24	Seclusion	12	Allowing time to regulate
#12	1/13/25	Seclusion	2	Talking with student about what had upset him
#13	1/16/25	Seclusion	3	Distraction, offering options
#14	1/16/25	Seclusion	2	Offering replacement behavior, giving space
#15	1/17/25	Seclusion	8	Fidget
#16	1/17/25	Seclusion	6	Reminder of choices
#17	1/17/25	Seclusion	5	Processing behavior
#18	1/24/25	Seclusion	8	Distraction
#19	1/31/25	Seclusion	14	Processing behavior, calming techniques
#20	1/31/25	Seclusion	5	Distraction
#21	2/4/25	Seclusion	1	Processing of behavior
#22	2/6/25	Seclusion	2	Debriefing after escalation
#23	2/7/25	Seclusion	10	Reinforcement for appropriate behavior, processing regarding behavior
#24	2/10/25	Seclusion	4	Encouragement to problem solve, offering safe space, offering options for de-escalation, giving space
#25	2/10/25	Seclusion	3	Reminders regarding effective strategies, snacks
#26	2/10/25	Seclusion	2	Debriefing, distraction (water), reviewing expectations

ESI #	Date	Type	Duration in Minutes	Evidence of Application of BIP
#27	2/10/25	Seclusion	5	Establishing expectations for transition, offering choices
#28	2/10/25	Seclusion	4	Allowing space
#29	2/10/25	Seclusion	3	Allowing time for de-escalation
#30	2/10/25	Seclusion	2	
#31	2/11/25	Seclusion	3	Allowing time for de-escalation
#32	2/14/25	Seclusion	11	Reminders RE: choices and strategies, calming space
#33	2/14/25	Seclusion	16	Allowing time for de-escalation
#34	3/10/25	Seclusion	5	Reminders of appropriate behavior choices, space and time to de-escalate
#35	3/10/25	Seclusion	11	Preparation for change, prompts for appropriate behavior
#36	3/10/25	Seclusion	7	Redirection, provision of an easily accomplished task
#37	3/12/25	Seclusion	3	Offers of coping strategies, practicing coping techniques
#38	3/12/25	Seclusion	3	
#39	3/12/25	Seclusion	8	Using fewer words, utilizing coping strategies
#40	3/12/25	Seclusion	9	Processing of behavior
#41	3/12/25	Seclusion	9	Processing after de-escalation
#42	3/26/25	Seclusion	2	Gave space
#43	3/26/25	Seclusion	2	Distraction - snack
#44	3/27/25	Seclusion	1	Offering de-escalation strategies
#45	4/1/25	Seclusion	3	Coping strategy - breathing
#46	4/2/25	Seclusion	15	
#47	4/2/25	Seclusion	5	Distraction - snack
#48	4/2/25	Seclusion	4	Debriefing
#49	4/7/25	Seclusion	2	Calm down space; discussing cause of dysregulation
#50	4/7/25	Seclusion	3	Allowing space
#51	4/9/25	Seclusion	4	Coping strategy - breathing
#52	4/9/25	Seclusion	22	Space and options
#53	4/9/25	Seclusion	2	Option to move to a safe space
#54	4/9/25	Seclusion	20	Preparing for transition
#55	4/10/25	Seclusion	3	
#56	4/15/25	Seclusion	6	Distraction – snack and debriefing
#57	4/16/25	Seclusion	5	Debriefing
#58	4/16/25	Seclusion	3	Modelling coping strategy
#59	4/16/25	Seclusion	4	Timer, prompted choice
#60	4/21/25	Seclusion	15	Option for work space
#61	4/21/35	Seclusion	6	Headphones; alternate work space
#62	4/23/25	Seclusion	6	Preparing for change/transition; options for work space
#63	4/23/25	Seclusion	9	
#64	4/23/25	Seclusion	1	
#65	4/23/25	Seclusion	5	Preparation for change/choice
#66	4/29/25	Seclusion	3	Offering space; distraction
#67	5/5/25	Seclusion	5	
#68	5/5/25	Seclusion	8	
#69	5/5/25	Seclusion	2	
#70	5/8/25	Seclusion	8	Timer
#71	5/14/25	Seclusion	24	Positive praise

As a part of this investigation, the investigator asked the district to provide information regarding positive interventions that had been implemented with the student. In an email to the building principal dated July 24, 2025, the consulting teacher for the JAG program responded to that request and outlined a number of positive interventions that have been used with the student in an effort to create a supportive educational environment. Included in that email were the following:

- Increasing instructional choices: offering multiple options of activities from which the student could choose;
- first/then: complete academic task (of choice) followed by preferred activity/task;
- reduction of academic rigor to promote self-confidence whereby the student could expect success when presented with the task/activity;
- modification of instruction to allow for more hands-on or game-based instruction;
- using timers;
- scheduling non-contingent breaks with or without peers around anticipated periods of stress;
- choice of working locations for 1-to-1 instruction;
- precorrection (reminders of what was next, expectations, etc.) ahead of transitions;
- frequent review of visual schedule with the teacher; and
- tickets/tokens for positive behavior, engagement, etc.

Emphasized elements in the above list are directly correlated with elements of the student's BIP or with accommodations/modifications listed in the student's October 2024 IEP or its January 2025 amendment.

The school social worker for the JAG program provided another list of interventions that were used with the student. That list included the following:

- School-wide tickets (earned and used to exchange for items in the school store)
- Going to the school store
- Participating in game time
- "WHOAH" Board Submissions (earning awards for going above and beyond expectations)
- "Puzzle Piece Egg Hunting" (helping staff develop and implement a school-wide game)
- Classroom Sticker chart
- Earning time to be a staff member's lunch buddy helper
- Holiday & Monthly Celebrations
- Additional preferred peer time added toward the end of the year
- Classroom reward menu (with input from the student as to what was on the menu)
- Non-contingent time with a preferred staff member daily

- Non-contingent breaks (two at 10 to 15 minutes each) throughout each day (According to the social worker, the student took many more than 2 breaks each day.)
- Use of a designated "safe spot" to go to in the classroom (peace corner)
- Use of a designated "safe room"
- Use of a "safe house" inside a constructed cardboard box (designed to resemble a house)
- Teaching and practicing various coping skills: deep breathing, yoga/meditation, fidgets, asking for help/break/walk, utilizing the punching bag, music, etc.
- Choice in academics
- Work-Break structure of school day (Breaks were related to the student's choices - i.e. Osmos, games, etc.)
- Choice offered in numerous contexts
- Earning Prodigy time toward the end of the school day
- Music (he would bring his own music player and headphones to school)
- Sensory fidgets and activities
- Noise-canceling headphones
- Modified work/curriculum
- Timer/verbal cues when/before transitioning to a new task
- Visual schedule/Checklist of the Day

Again, highlighted items in this list are directly correlated with elements of the student's BIP or with accommodations/modifications listed in the student's October 2024 IEP and/or its January 2025 amendment.

Summary and Conclusions Regarding the District's Alleged Failure to Follow the BIP

Multiple examples have been provided by the district to demonstrate compliance with the student's October 2024 IEP and the BIP and the accommodations/modifications included therein. The majority of ESI reports which were included in the parent's formal complaint show that staff utilized strategies and accommodations prior to and/or during ESI incidents. Evidence does not support the parent's contention that the district has failed to follow the student's IEP. A violation of special education statutes and regulations *is not substantiated* on this issue.

Issue Three

The district failed to proactively provide appropriate behavioral supports and services.

Position of the Parent

The parent asserts that the district failed to proactively update the student's BIP or to complete a new Functional Behavioral Assessment (FBA) without prompting from the parent. It is the position of the parent that this omission directly impeded the student's ability to benefit from his education.

Applicable Statutes and Regulations

A child's IEP (including a BIP if included in the IEP) is to be reviewed at least once every 12 months, to determine whether the annual goals for the child are being achieved and to revise the IEP as appropriate. The review and revision of the IEP is to address: (a) any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate; (b) the results of any reevaluation conducted; (c) information about the child provided by the parents; (d) the child's anticipated needs; or (e) other matters. The IEP team is to consider any of the special factors related to the child's IEP (see Section D.1. of this Chapter; K.S.A. 72-3429(f)).

Although the school is responsible for determining when it is necessary to conduct an IEP meeting, the parents of a child with an exceptionality have the right to request an IEP meeting at any time. The child's teacher or other school staff may also propose an IEP meeting at any time they feel the IEP has become inappropriate for the child and revision should be considered (K.S.A. 72-3429(f)).

An evaluation that is conducted for a child currently identified with an exceptionality is considered a reevaluation. Schools must ensure that a reevaluation of each child with an exceptionality is conducted if conditions warrant a reevaluation, or if the child's parents or teacher requests a reevaluation, but at least once every three years. Reevaluations may not occur more than once a year, unless the parent and the school agree otherwise. New requirements also allow the parent and the school to agree that a three year reevaluation is not necessary (K.S.A. 72-3428(h)(2)(B); 34 C.F.R. 300.303(b)(2)).

Investigative Findings

In October 2024, the student's IEP team – which included the parent – determined that a more restrictive placement was needed in order to best address the student's needs. A Functional Behavioral Assessment (FBA) was completed on October 30, 2024 and a new IEP was developed which included a BIP.

The student's October 2024 IEP was amended on January 29, 2025. Meeting Notes from that date show that there was extensive discussion with the parent about the BIP which was revised through the amendment process.

After seeing the academic progress that the student had been making, the special education teacher felt that it would be appropriate to reevaluate the student and develop a new IEP even though the student was not due for reevaluation until October 2025. The parent believed that a new FBA should be conducted, and on April 11, 2025, the district requested and obtained the parent's written consent to complete a new FBA. Over the months of April and May 2025, the IEP team – which included the parent – met to discuss and develop a new IEP which included an updated BIP based upon an FBA completed on May 9, 2025. An additional IEP meeting was conducted in August 2025. The parent gave her written consent for the changes to the IEP proposed by the district on August 12, 2025

Summary and Conclusions

The district developed an IEP for the student on October 21, 2024 with the participation and consent of the parent. Special education statutes and regulations allow a parent to ask for a review of their child's IEP (including a BIP) in less than 12 months which this parent did. The district complied with that request, but the fact that the review was not initiated by the district does not constitute a violation of special education statutes and regulations.

The special education teacher initiated a reevaluation of the student well ahead of the October 2025 triennial review date. As a part of that process, the parent requested a new FBA – though one had just been completed in October 2024. The district complied with the parent's request, and obtained the written consent of the parent for the new FBA. Again, the fact that the parent initiated the development of a new FBA does not place the district in violation of special education statutes and regulations.

Under the circumstances described above, a violation of special education statutes and regulations *is not substantiated* on this issue.

Issue Four

The student has suffered a significant loss of instructional time and academic regression due to the district's actions.

Position of the Parent

The parent contends that the lack of instructional time during 400 + minutes (approximately six- and one-half hours) of ESIs and subsequent losses of instructional time during periods required for the student to de-escalate following those ESIs has resulted in the student being half a grade level or more behind in reading and writing thereby limiting his ability to make meaningful educational progress. According to the parent, the progress that the student has

made in math and reading has been the result of the parent's work with the student at home and the outside tutoring he has received at parent expense.

Position of the District

It is the position of the district that the student has been provided a FAPE. The district contends that when ESIs have been implemented, teachers have retaught and/or reviewed any missed lessons. The district asserts that academic evaluation results from April 2025 show that the student has made progress in his academic skills.

Applicable Statutes and Regulations

Endrew F. v. Douglas County School District is a landmark Supreme Court case concerning the educational rights of students with disabilities under the Individuals with Disabilities Education Act (IDEA). The case clarified the standard for what constitutes a FAPE for students with disabilities, requiring that Individualized Education Programs (IEPs) be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances".

Investigative Findings Regarding Loss of Instructional Time

There were 119 school days between the time the student entered the JAG program on November 5, 2024 and the end of the 2024-25 school year. School was cancelled on 7 days during this period because of snow. Over the 119 school days, the student was absent for 13 full days; he was absent for a quarter of the school day on 5 days, and was absent 2 additional half days.

Based upon ESI-related letters sent by the district to the parent, the student spent 418 minutes (approximately 7 hours) in ESI – about one school day. ESIs ranged in length from 1 minute to 24 minutes. Forty-seven of the ESIs were 5 minutes or less in length. Sixteen incidents lasted between 6 and 10 minutes. Six incidents were 11 to 15 minutes in length. Four incidents lasted longer than 15 minutes (16, 20, 22, and 24). The student spent a total of 7 minutes in an ESI in November, 35 minutes in December, 53 minutes in January, 66 minutes in February, 62 minutes in March, 146 minutes in April, and 51 minutes in May.

During the month of November 2024, the student spent 7 minutes in ESI (representing 0.1% of the minutes the student was in attendance). There were ESIs during 0.6% of the minutes the student attended school during the month of December 2024. In January 2025, the student was in an ESI 1.2% of the minutes he was in attendance. ESIs were implemented for 1% of the student's minutes of attendance during February 2025. In March 2025, he was in an ESI for 1.3% of the minutes the student was in attendance. ESIs reached a peak of 2% of the student's minutes of attendance during April 2025. Nearly one third (30%) of the total number of ESIs for the school year were implemented during April, but the student attended school for significantly more days/minutes in April than any other month. (The student spent 30% more time at school in April 2025 than the next highest month.) The percentage of ESI minutes

dropped back to 1.3% during May 2025. In May, an ESI resulted in bruising of the student, and the parent opted to keep the student home for the remainder of the school year.

Investigative Findings Regarding Academic Regression

Reading:

The "Summary of Present Levels of Academic Achievement and Functional Performance" section of the student's October 2024 IEP included the following statements regarding the student's reading skills:

> *"[The student] struggles to engage with grade-level material due to behaviors during dysregulation preventing him from participating in academics...*
>
> *...[The student] recognizes CVC words (87%)..*
>
> *...[The student] needs staff to read aloud passages in order to access grade-level comprehension of questions...*
>
> *...[The student] needs to see words in isolation; color coding consonants and vowels helps...*
>
> *...FastBridge: Fall 2024 (August 28th 2024)*
>
> *94% accuracy – sounds*
>
> *23% accuracy – words*
>
> *Words – 7 correct per minute*
>
> *Nonsense words 12 correct per minute..."*

Meeting notes for the October 21, 2024 IEP meeting reflect that the parent understood that emphasis would be placed on "behavior before academics...If he could just read anything at the end of the year, that would be amazing."

The district's proposed IEP dated May 16, 2025 provided the following information regarding the student's reading skills:

> *"[The student] is currently reading sight words regularly in class...is reading short stories with 10-17 short vowel words and with 8-14 sight words each. [He] can spell simple cvc words and some blends when given the words verbally and enjoys doing this on the interactive whiteboard. [The student] can segment syllables in given words as well.*
>
> *[The student] is reading 1-2 grades below grade level. He needs to have grade level materials read aloud to him. ----- needs explicit phonics instruction in order to improve reading skills. He needs to work on reading cvcc words and blending.*
>
> *MAP-*
>
> *Winter 2024 score- 161*
>
> *Growth- n/a*

Achievement- 9th %ile

QPA- modified assessment for behavior (each skill level half of established set) Skill CVC 13/16

Skill common consonant digraphs 7/9

[The student] has recently found an interest in reading.

He has increased his attempts at sounding out unfamiliar words.

He is willing to read short stories that are in the classroom [and] has grown in his confidence when reading and will attempt to read an unfamiliar or unknown word 2-3 times before asking a staff member what a word is. [He] gets overwhelmed when presented with grade level reading materials. [His] behaviors (inability to regulate emotions, maintain appropriate behaviors, avoidance of academic work) significantly impede his ability to make progress in the area of reading without special education supports and specially designed instruction."

The student's October 21, 2024 IEP contained the following annual goal to address the student's reading needs:

"By October 20, 2025, when given a single syllable word orally, [the student] will isolate and produce the initial, medial vowel, and final sounds CVC words and words containing digraphs with 95% accuracy, as measured by teacher made probes and/or assessments."

At the time this goal was developed, the student was demonstrating a baseline level of performance as follows:

"[The student] can isolate and produce the initial, medial vowel, and final sounds of single-syllable CVC words with 75% accuracy."

The student's progress toward attainment of this goal was monitored three times during the remainder of the 2024-25 school year. When progress was monitored on January 6, 2025, the student earned a score of "3 – Progress has been made towards reaching the goal by the annual IEP." According to the progress report, the target accuracy level for this period was to be 80% accuracy. The report stated

"[The student] has made progress towards his reading goal but behaviors have impacted this academic area. He is able to correctly sound each letter sound in the alphabet and we have turned it into a challenge to see how fast he can complete all the sounds. The current record time is 35 seconds. In the most recent collection of data he was able to spell cvc words correctly isolating each of the initial, medial, and final sounds. He was able to spell 10 words correctly and 2 with an incorrect vowel. He has also been able to read several of the sight words that are presented in our morning meeting. We have worked on this goal in a variety of ways including on the smart board, pinch fingers, and pop it fidget. Behaviors have interfered including refusal when presented with materials and triggering more escalated behaviors. He has still made tremendous progress and we will continue in the next

quarter…Correctly isolate and produce the initial, medial vowel, and final sound with 83% accuracy."

By the time the student's progress toward attainment of his reading goal was monitored on March 31, 2025, the student was able to earn a score of "4 - . According to the progress report,

"[The student had] prided himself on being able to read through short stories that include sight words and short vowel words. He has been able to read through a variety of these short stories a minimum of 14 times. When he approaches a word that he does not know he will appropriately sound it out or ask a staff member what the word is. There is an IEP scheduled in April 2025 where future goals will be addressed due to the current reading goal being met…[The student] has exceeded his [short term objective of 85% accuracy] being able to isolate and produce sounds of single syllable words with 90% accuracy."

When the student's reading goal progress was monitored again on May 23, 2025, he again earned a score of 4 and demonstrated the goal-target accuracy level of 90%.

The student's grade card for the fourth quarter of the 2024-25 school year shows that he was performing at an advanced ("consistently exceeds the academic standard") or proficient ("regularly meets the academic standard") level for reading standards on 3 of the 4 areas assessed.

Math:

With regard to math skills, the student's October 21, 2024 IEP reflects the following:

…[The student] can do single digit addition and subtraction.

[The student] can count money in bills up to 200 by 10s.

Fall 2024 MAP Score – 160

Achievement 12th %ile

[The student] adds within 25 with 80% accuracy

…adds by 10s with 90% accuracy

…subtracts within 20 with 60% accuracy…

…writes numbers with 72% accuracy…

The student's October 2024 IEP contained the following goal to address student needs in the area of math:

"By October 20, 2025, when presented with five addition and five subtraction problems within 100, [the student] will be able to solve the equations using manipulatives and a hundreds chart with 90% accuracy 4 out of 5 trials as measured by assignments and assessments."

The baseline level of performance for this skill at the time the IEP was developed was as follows:

> *"[The student] adds 3 equations within 25 with 80% accuracy and subtracts 3 equations within 20 with 60% accuracy. He adds by 10s with 90% accuracy."*

According to the IEP Progress Report for this goal, the student's progress toward attainment of this goal was monitored three times during the remaining portion of the 2024-25 school year. When progress toward attainment of the goal was monitored on January 6, 2025, he earned a ranking of "4 - Performance is at or above what is required. The goal has been met." At that time, the student had exceeded the benchmark target of 65%. The report noted that

> *"He achieved an average of 75% accuracy when presented with addition and subtraction problems within 100...[The student] has worked hard in math. He continues to favor this subject area over other academics. For his winter math goal he exceeded the first benchmark. He achieved an average of 75% accuracy when presented with addition and subtraction problems within 100. He is always offered the opportunity to use manipulatives and hundreds chart but he prefers to count on his fingers and complete math problems using mental math. Verbalizing answers or being able to type answers in a quiz format is also a preferred method of conveying his knowledge over writing with a pencil and paper..."*

When progress toward attainment of his math goal was monitored on March 31, 2025, the student demonstrated an accuracy level of 90% (with a target accuracy level of 75%) and again earned a score of 4. According to the report

> *"[The student] has exceeded his math goal this quarter. He continues to prefer using mental math but has welcomed additional math strategies during lessons. He continues to refuse completing the classwork when it is presented but recent strategies have increased his completion of classwork. The classwork he does complete demonstrates his knowledge. There is an IEP scheduled in April 2025 where future goals will be addressed due to the current math goal being met...[The student] has met his math goal with 10/10 trials having 90% accuracy of addition and subtraction problems with 100 or above."*

When progress was monitored again on May 23, 2025, the report notes that the student had earned a score of 4 and demonstrated 90% accuracy.

The district's proposed IEP dated May 16, 2025 contained the following information regarding the student's math skills:

> *"[The student] is currently keeping pace with 2nd grade math skills.*
>
> *[He] is quick to complete math facts using mental math. He can do up to three-digit addition and subtraction with ease and is good as math problem solving. [The student] benefits from using manipulatives, tangible objects, and hundreds charts to support his math leaning. He needs accommodations in order to be successful in math class to support engagement.*

MAP-

Winter 2024 score-172 Growth- 62nd %ile Achievement- 18th %ile

[The student] has been completing 2nd grade math lessons with his stated accommodations specifically scribe, read aloud, shortened assignments, and verbal answers. He is able to add and subtract from 3-digit numbers shown through his math quizzes with a 10/10 score and through math lessons and is picking up quickly on multiplication concepts. On most recent academic testing for re-evaluation, [the student] is performing above same age peers in math skills (between 3-4th grade level).

Math has been one of [the student's] favorite subject areas. [He] is more willing to engage in math activities and lessons than reading, but does display behaviors and will refuse math tasks at times. No specially designed instruction is needed in this area at this time."

The student's grade card for the fourth quarter of the 2024-25 school year shows that he was performing at the advanced or proficient level in 6 of the 8 areas that were assessed regarding math standards.

Summary and Conclusions

It is important to remember that the student was – between November 5, 2024 and the end of the 2024-25 school year – enrolled in a day school program in the district designed specifically to address the needs of students whose behavior significantly interferes with their learning and the learning of others. This student's behavioral needs were so significant as to warrant placement in a setting that afforded him one-on-one instruction in a highly structured environment.

The student missed some 400+ minutes of instruction because of ESIs, and no doubt missed additional instructional time while dysregulated and demonstrating behaviors that were not addressed through an ESI. However, perhaps because of the 1-to-1 nature of his instruction, evidence shows that the student nonetheless made academic progress. A violation of special education statutes and regulations *is not substantiated* on this issue.

Issue Five

The district has failed to provide the student with a safe and appropriate educational environment conducive to the provision of a FAPE.

Position of the Parent

The parent states that the actions of the district have rendered the student's educational environment unsafe, thereby preventing him from accessing and benefiting from his education.

Investigative Findings and Conclusions

Investigation of ESIs – including those specified by the parent in her complaint – falls outside of the authority of this investigator. The parent has filed two complaints regarding ESIs with the district's Board of Education, and the investigations of those complaints have proceeded through appropriate channels.

As noted above under Issue One and Issue Four, evidence shows that the student was accessing and benefitting from the educational opportunities provided by the district until May 15, 2025 when the parent decided to pull the student from school. The student attended school for 8 more days after the May 5, 2025 ESI that resulted in a physical injury to the student. Between May 5 and 15, 2025, the student had only two more ESIs – one 8 minutes in length and one lasting 24 minutes – a significant reduction in ESIs from the month of April when 11 ESIs had been implemented during the first 15 days of the month.

It is important to note that prior to and following an incident on May 5, 2025, there is no evidence to show that any of the ESIs resulted in any physical injury to the student, and the parent continued to allow the student to participate in the district's JAG program until May 15, 2025.

There is no objective evidence available to the investigator that either confirms or rejects the parent's contention that the student has been harmed by the district's implementation of ESIs in response to the student's behavior. There is, as noted above, evidence to show that the student accessed and benefitted from the educational opportunities provided by the district. The parent's contention that the student has been denied a FAPE because of the learning environment afforded by the district has not been demonstrated. Under these circumstances, a violation of special education statutes and regulations *is not substantiated* on this issue.

Issue Six

The district has failed to respond to parental concerns and complaints.

Position of the Parent

It is the position of the parent that the district's internal investigations and responses to her complaints have been inadequate, mischaracterized events, omitted critical facts, and failed to offer sufficient corrective actions or compensatory services. The parent asserts that had the district acted in an appropriately proactive manner, the student would have been afforded a FAPE sooner.

Applicable Statutes and Regulations

To address the requirement to strengthen the role of parents in the special education process, Congress mandated that schools afford parents the opportunity to be members of any decision-making team for their child, including eligibility, initial evaluation and reevaluation, and

development of an IEP for the provision of a FAPE. Schools are to ensure that parents have the opportunity to be members of the IEP team that makes decisions on the educational placement of their child. (See K.A.R. 91-40-17.)

Investigative Findings

The district received information from the student's previous district on July 26, 2024. A case review meeting with the parent was conducted at the student's neighborhood school on August 8, 2024. At that meeting, the parent shared information about the student's previous school and told the team that she did not agree with the previous school IEP or FBA/BIP. According to the district, the team stressed that the student would have a fresh start at his new school. The team determined that the district would need to rewrite the IEP but wanted to first get to know the student in order to better address his individual needs and supports. The student and the parent toured the building on August 12, 2024 and met staff.

The district states that beginning on the first day of school on August 13, 2024, there were daily texts and emails between the parent and school staff about how the student's days had gone, including when he was struggling and when he had successes.

The district behavior specialist was contacted on August 14, 2024 with a request that she observe the student and provide strategies/ideas to help the school team best support the student. The specialist conducted that observation on August 16, 2024, and a meeting was held with the parent that same date to discuss the student's first few days of school and to share information about what the behavior specialist had seen in her observation. During the meeting there was preliminary discussion of the JAG program.

The behavior specialist conducted a second observation of the student on August 19, 2024. At that time, according to the district, the student appeared to be making some progress in settling into his new school. By September 5, 2024, staff was seeing a lessened need for "crisis calls." The student was in a general education classroom with resource support, but the student began wanting to spend more time in the resource setting.

The district reports that by September 26, 2024, the student began to demonstrate a need for more structure in the resource room. Staff from the neighborhood elementary reached out to the JAG team and the then director of special education and by October 10, 2024 arrangements had been made to have observations conducted by the JAG team. Because the parent had previously expressed to the team that she did not agree with a diagnosis of Autism that the student had been given, the district did not consider involving staff from a district program serving students with Autism. JAG team members conducted their observation of the student on October 11, 2024.

On October 16, 2024, the parent was given notice of an IEP team meeting, and a draft IEP was sent home for the parent to review. JAG team members conducted two more observations of the student on October 17 and 18, 2024.

A three-hour IEP team meeting was held on October 21, 2024. On October 22, 2024, the student was suspended for physically harming staff and another student. Meeting Notes from the October 21, 2024 IEP meeting for the student show that the parent was actively involved in the team discussion, asking for and sharing information. For example, the team made a change in the OT schedule for the student based on input from the parent and adjusted the amount and type of OT services to be provided. Additionally, the parent actively provided input regarding the development of the BIP.

On October 23, 2024, when the parent came to the school to pick up paperwork related to the suspension, she told staff that she would like to schedule a meeting with JAG staff in attendance. The principal told the parent that it had been the desire of her team to give the student a "fresh start," but that based on data collected and behaviors observed since the start of the school year, it appeared that JAG should be discussed.

A meeting with the parent was held on October 30, 2024. While the team was prepared to discuss the results of the recently completed FBA and related behavioral data, the primary focus of the meeting became the transition to the JAG program. A formal referral for JAG was made that day.

The student and parent toured JAG on November 1, 2024, and the student entered the program on November 5, 2024. The FBA had not yet been shared with the parent at that time. Staff from the neighborhood school went to JAG to support the transition of the student. By report of staff, check-ins with the parent occurred daily via calls, texts, and emails for the purpose of sharing successes and struggles and to "problem-solve" with the parent.

The school social worker and the consulting teacher for the JAG program met with the parent on November 7, 2024 to review the FBA that had been completed by staff at the neighborhood school, to brainstorm strategies to address behaviors seen during the transition period. Both parents came to JAG on November 15, 2024 to discuss the student's behavior with staff.

Winter break began on December 23, 2024. School was scheduled to resume on January 6, 2025 but 5 snow days were called that week. The district scheduled a meeting with the parent on Jan 27, 2025 for the purpose of amending the student's IEP. Changes were made to the student's October 21, 2024 BIP. Additional changes were made to address service minutes, social/emotional strengths, present level of performance statements, and the LRE section of the student's IEP. Meeting notes from that date reflect the active participation of the parent in the discussion.

According to the student's special education teacher, she had seen significant gains in the student's skills that prompted her to recommend a reevaluation of the student. During parent/teacher conferences on February 13, 2025, she discussed the issue with the parent and obtained written consent for the district to conduct a reevaluation – even though a triennial reevaluation was not due until October 2025.

The number of incidents of aggressive behavior in the student began to escalate. Toward the end of March 2025, the JAG team adjusted the student's schedule to decrease transitions and hopefully reduce stressors for the student.

On April 1, 2025, the consulting teacher for the JAG program reached out to the parent to request a meeting to work on new BIP together for upcoming IEP. The consulting teacher offered to do a Zoom instead of in person meeting but the parent declined.

The first of a series of reevaluation/IEP meetings was held on April 10, 2025. At that meeting, the parent requested that the team conduct a new FBA. Written consent for that FBA was given by the parent on April 11, 2025.

On April 17, 2025, the parent sent an email to the then director of special education expressing her concerns about the use of ESIs with the student and asserting that interventions were not being appropriately implemented when the student's behavior escalated. In that email, the parent requested "an immediate meeting to discuss proactive, trauma-informed changes to [the student's] BIP" and training for staff.

The director responded via email on April 21, 2025 asking the parent to provide possible meeting times. On April 22, 2025, a meeting was confirmed for April 25, 2025.

On April 25, 2025, the then director of special education met with the parent to discuss the parent's ESI concerns. A second scheduled reevaluation/IEP meeting had also been scheduled for that day but was cancelled. The parent requested a meeting with staff to go over the FBA prior to the next IEP meeting. That meeting was held on May 1, 2025. A planning meeting was conducted on May 7, 2025 prior to another meeting with the parent on May 9, 2025 to discuss the FBA. That meeting was attended by the school psychologist, building principal and the school social worker. A draft revision of the student's BIP was sent to the parent on May 13, 2025, and another IEP team meeting was held on May 16, 2025.

The parent filed a complaint with the district's Board of Education regarding ESIs on May 21, 2025. A second ESI complaint was filed on June 19, 2025. The district completed an investigation of the May complaint and provided the parent with a report of the findings of that investigation. The parent then requested an administrative review of findings of that report through the Kansas State Department of Education. The district has also completed its investigation of the June ESI complaint and has sent a report to the parent.

Summary and Conclusions

Evidence reviewed during the course of this investigation shows that the district has actively engaged the parent in discussions and decision-making related to the student.

It is not unreasonable for the district to have considered an FBA conducted in the Fall of the 2024-25 school year to be current since the function of behaviors generally could remain constant over time even if the student's placement has changed. When, in April 2025, the

parent requested that a new FBA be completed, the district promptly obtained the parent's consent for that update and began the process of completing a new assessment.

Similarly, it is not unreasonable for the district to consider that a BIP developed in October 2024 would still be current in January 2025, particularly in view of the many calendar (and school) days during that period that the student was not in school. The team met with the parent in November 2024 to discuss the student's behavioral needs and revised the student's BIP in January 2025.

At the suggestion of the special education teacher, the district proposed a reevaluation of the student even though the triennial review of the student was not required until October 2025.

The district has worked with the parent to finalize a new IEP for the student, meeting several times during the period of April and May 2025 and again in August 2025. A new placement has been offered by the district and accepted by the parent.

The district has also responded to the parent's complaints regarding ESIs, conducting investigations of those complaints as required.

For the above reasons, a violation of special education statutes and regulations ***is not substantiated*** on this issue.

Corrective Action

Information gathered in the course of this investigation ***has not substantiated*** noncompliance with special education statutes and regulations on issues presented in this complaint. Therefore, no corrective actions are ordered.

Diana Durkin

Diana Durkin
Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233, OLATHE PUBLIC SCHOOLS
ON JULY 28, 2025

DATE OF REPORT: SEPTEMBER 2, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #233 (Olathe Public Schools) on behalf of --------- by his mother ---------. In the remainder of the report, --------- will be referred to as "the student" and --------- as "the parent" or "the complainant."

The complaint is against USD #233 (Olathe Public Schools). In the remainder of the report, USD #233 will be referred to as "the district". For the 2024-2025 school year the student attended 6th grade at Prairie Trail Middle School which will be referred to as "the school" in the remainder of the report. School and district staff will be referred to In the remainder of this report as follows:

- Ashley Niedzwiecki, assistant director of special services
- Sheri Krug, deaf and hard of hearing teacher
- Heidi Schneider, special services coordinator
- Angie Sublet, audiologist
- Spencer Nolan, autism specialist
- Erin Elwood, reading teacher
- Jennifer Stoskopf, assistant principal, middle school
- Julie Anselmi, nurse
- Heather Lambing, occupational therapist
- Annette Johnson, retired deaf and hard of hearing teacher
- Bruce Milford, school psychologist
- Saige Kovaleski, social worker
- Jo Taylor, special education teacher (case manager)
- Melanie Burris, speech language pathologist
- Vanessa Guzman-Suarez, contracted transportation company senior student router/dispatcher specialist
- Michelle Pirie, contracted transportation company project specialist
- Daniel Perez, School Psychologist, school associated with residential facility
- Michael McGuire, Principal, school associated with residential facility
- John Lafoon, chief clinical program officer, residential facility

- Megan Smith, care coordinator, residential facility
- Ashley Barr, psychiatric mental health nurse practitioner, residential facility

Between October 29, 2025 through December 2, 2025 the student was medically, placed in the Psychiatric Residential Treatment Facility (PFTF) at kidsTLC and as a consequence of this residential placement attended the residential facility's school, Claire Learning Center. Claire Learning Center is the educational day school provided by Olathe Public Schools for children receiving treatment through KidsTLC. In the remainder of the report kidsTLC will be referred to as the residential facility and the Claire Learning Center will be referred to as the school associated with the residential facility.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on July 28, 2025. While the report was due on August 27, 2025 the investigator requested and was granted a week extension to complete the report for the investigation.

Evidence Reviewed

The investigator interviewed the assistant director of special services for USD #233 on August 14 , 2025 as part of this investigation. Additional evidence was requested and provided following the interview.

Nancy Thomas was originally assigned to investigate this case, but due to a personal obligation at the last minute she was not able to conduct the originally scheduled interview, and it was terminated. As a result, the complainant requested a different investigator on August 12, 2025. It is noted that the complainant made additional allegations while providing evidence to the previous investigator on August 3 and 5, 2025 following the August 1, 2025 letter of allegations being provided to the parent and district. These allegations are related to the IEP team developing an appropriate service for the child in the IEP and the assistant director of special services not disclosing being an attorney and attending IEP meetings without being an IEP team member. These issues are not addressed in this report, and the complainant may file a complaint with these allegations if desired.

During the investigation, the reassigned Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the district and the parent. Additionally, the complaint investigator contacted the parent on August 12, 13, 14, 15, 18, 19, 20, 21, 25 and 27, 2025 by email to arrange an interview to clarify evidence and documentation. During the time Donna Wickham was the investigator the parent did not have a working phone, and a phone interview could not be arranged.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and district. Although additional documentation was provided and

reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. KSA scores from 2021-2022 school year through 2023-2024 school year; MAP scores from 2021-2022 school year (review for context) and FastBridge scores from December 13, 2023 – May 16, 2025
2. Individualized Education Program amendment dated May 16, 2024
3. Evaluation report dated May 16, 2024
4. Thirteen pages of student work samples dated August 16, 2024, August 19, 2024, August 26, 2024
5. Individualized Education Program meeting notes dated September 9, 2024
6. Prior Written Notice and Request for Consent, Identification, Initial Services, Placement or Change in Services dated September 26, 2024 and signed by parent September 27, 2024
7. Individualized Education Program amendment dated September 27, 2024
8. Functional Listening Evaluation Report dated October 3, 2024
9. Progress Report for October 10, 2024, December 20, 2024, March 14, 2025, and May 1, 2025
10. Individualized Education Program amendment dated November 12, 2024
11. Notice of Meeting dated November 22, 2024 for December 6, 2024 IEP meeting
12. Individualized Education Program amendment dated December 12, 2024
13. Prior Written Notice and Request for Consent dated December 12, 2024 and signed by parent February 28, 2025
14. Attendance dated between January 9, 2025 and March 5, 2025
15. Data sheets for February 3 -February 28, 2025
16. Special education bus transportation request dated February 21, 2025 with start date of February 26, 2025 through May 22, 2025
17. ESY Progress Report dated June 24, 2025
18. District response dated August 11, 2025
19. Eleven pages of student work samples undated

Emails:

1. Email exchange between mother and project specialist from contracted transportation company dated August 5, 2024 between 9:12 a.m. and 10:08 a.m.
2. Email from assistant principal to mother dated August 7, 2025 at 3:41 p.m.
3. Email exchange among mother, parent advocate and school IEP team including special education teacher, occupational therapist, now retired deaf and hard of hearing teacher, speech and language pathologist, nurse, social worker, reading teacher, autism

specialist, audiologist, special service coordinator, parent advocate dated between August 29, 2024 at 11:50 a.m. and September 16, 2024 at 12:23 a.m.

4. Email from school psychologist to mother dated September 10, 2024 at 4:37 p.m.
5. Email from school psychologist to mother dated September 20, 2024 at 1:51 p.m.
6. Email exchange between mother and school psychologist dated September 12, 2024 between 9:01 a.m. and 2:08 p.m.
7. Email exchange between mother and special service coordinator dated between September 12, 2024 at 4:53 p.m. and September 14, 2024 at 5:11 p.m.
8. Email from reading teacher to parent dated September 21, 2025 at 7:26 p.m.
9. Email exchange among mother, special service coordinator and school psychologist dated between September 23, 2024 at 10:41 a.m. and September 26, 2024 at 8:46 a.m.
10. Email exchange between mother and outside school, school psychologist dated between November 20, 2024 at 2:02 p.m. and November 22, 2024 at 1:150 p.m.
11. Email exchange among mother, principal associated with residential facility, chief clinical program officer for residential facility, care coordinator for residential facility, and psychiatric mental health nurse practitioner for the residential facility.
12. Email exchange between mother and reading teacher dated between February 11, 2025 at 8:59 a.m. and February 13, 2025 at 8:53 a.m., forwarded to parent advocate on February 13, 2025 at 7:25 p.m.
13. Email from senior student router/dispatcher specialist from contracted transportation company to mother dated February 25, 2025 at 2:35 p.m.
14. Email exchange between mother and deaf and hard of hearing teacher dated between February 26, 2025 at 7:09 p.m. and February 27, 2025 at 4:28 p.m.
15. Email from special services coordinator to mother dated February 28, 2025 at 11:44 a.m.
16. Email from deaf and hard of hearing teacher to mother dated March 3, 2025 at 2:15 p.m.
17. Email from deaf and hard of hearing teacher to mother dated March 10, 2025 at 1:07 p.m.
18. Email from deaf and hard of hearing teacher to mother dated March 11, 2025 at 3:35 p.m.
19. Email from parent to reading teacher dated April 14, 2025 a t 7:47 p.m.
20. Email between parent and reading teacher, deaf/hard of hearing teacher, special education teacher (case manager), and middle school principal, dated May 8, 2025 between 2:34 p.m. and May 9, 2025 9:07 a.m.
21. Email from the assistant director of special services to the investigator dated August 25, 2025, at 10:29 a.m.

Background Information

The subject of this complaint was an 6th-grade student during the 2024-2025 school year who lives at home with their mother. As noted in the May 16, 2024, evaluation report the student was found eligible for special education services with the exceptionalities of autism and hearing impairment. The student additionally has medical diagnoses of KBG Syndrome, autism, ADHD, and anxiety. Between October 29, 2024 and December 2, 2024, the student was medically placed in a residential program and consequently the student's education was provided by a school associated with the residential facility. When the student returned to the district middle school the student began using special education transportation through a contracted transportation company beginning February 26, 2025. When the 2025-2026 school year commenced the student's transportation was provided by the contracted bus service.

For the duration of the 2024-2025 school year three IEPs were in effect, dated May 16, 2024 and amended on September 27, 2024 and December 12, 2024. As a part of the three IEPs the student received nursing, audiologist, direct and indirect special education services through deaf and hard of hearing, speech, language pathology, social work, and transportation services. The student additionally had learning and hearing accommodations for testing and academics.

Issues Investigated

Issue One

USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parent with access to educational records, specifically the IEP goal progress data, during the 2024-25 school year.

Applicable Law

Federal regulations at 34 CFR §300.613(a)(b)(1) state, "Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 or §§300.530 through 300.532, or resolution session pursuant to §300.510, and in no case more than 45 days after the request has been made. (b) The right to inspect and review education records under this section includes— (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records.

Parent Position

The child complaint stated that on April 14, 2025 the mother emailed her child's reading teacher, deaf and hard of hearing teacher, special education teacher, and principal that in

Parent Vue her child's reading score was and "F". As a result, she wanted to review the data collected for the most recent IEP goals reported on March 14, 2025. She reiterated this request on May 9, 2025.

District Position

The district response dated August 11, 2025 reported that they provided quarterly progress monitoring data during the 2024-2025 school year as specified in the student's IEP on October 10, 2024, December 20, 2024, March 14, 2025 , May 15, 2025, and June 24, 2025. The district responded that they provided the raw data requested by the parent with the May 15, 2025 progress report. They reported that the raw data was provided to the parent 31 days after the request was made on April 14, 2025, within the 45 day period in which to provide educational records.

Analysis: Findings of Fact

1. The student's IEPs in effect during the 2024-2025 school year (May 16, 2024, September 27, 2024, and December 12, 2024) state that the student's progress will be reported quarterly for each of the goals and a report of progress for each goal was dated October 10, 2024, December 20, 2024, March 14, 2025 , May 15, 2025 and June 24, 2025.
2. An April 14, 2025 email at 7:47 p.m. showed that the parent contacted the reading teacher stating, "I see [student] has a F in reading. As [student] is not making progress in reading and continues declining I want to review the data collected for the most recent IEP goal, 3/14/2025."
3. The email from the reading teacher to the mother dated April 15, 2025 at 5:30 p.m. described that the student has only three assignments during the quarter and does not hold him accountable for any work outside of reading. The reading teacher went on to explain that the score of "F" was primarily due to not turning in school work (earning 0/30 points) from March 31, 2025 through April 4. The teacher explained that if the work were turned in the score would be 38/50 points which would change the score to a mid C.
4. The email from the reading teacher to the mother at 2:24 p.m. on May 8, 2025, in response to the mother's request again for data collection at 9:48 a.m. clarified, "I update the gradebook at the end of each week, and I believe the assignments that were skewing [student's] grade from your last request were both updated in ParentVue by April 21. It has been a few weeks and more assignments, so I'll share that as of today, [Student's] 4th quarter grade is a solid C at 76%."
5. The mother replied to the reading teacher on May 8, 2025 at 5:40 p.m. inquiring specifically about the raw data, "..but I am still inquiring on viewing the raw data used for the last IEP goal. Should I request this thru another entity, if so please advise. The Special Education Dept can only provide me IEP progress reports, not the data collected & used to measure the goals the IEP updates throughout the school year."

6. On May 9, 2025 at 9:07 a.m. in response to the mother's request for raw data she received this email from the middle school principal, "Once providers record data it is destroyed, as data has been recorded and documentation is complete. [IEP team members] have comprehensive performance data to share with the team and will share the draft IEP with you by Tuesday of next week. We can certainly talk through data collection in person with you in our IEP meeting. Currently, [student] is reading at the 4th grade level and has reached 5th grade level math standards."
7. The assistant director of special services emailed the investigator on August 25, 205 at 10:29 a.m. stating, "At the time of the records request, the raw data had already been summarized in the progress report and was no longer available. However, the team was also preparing for an upcoming IEP team meeting and {middle school principal] explained that [student's] IEP team members would be able to further discuss general progress and data collection with [parent] at that time."

Conclusion

IDEA required that the district must comply with the parent's request for the student data no more than 45 days after the request was made. The initial request for raw data for quarter 3 IEP goals was made on April 14, 2025. That request was made to the reading teacher instead of the special education staff resulting in confusion on behalf of the reading teacher who clarified how reading progress was reported. After additional requests in May the district responded by email on May 9, 2025, saying that the data had been destroyed and was not available to provide to the parent.

This May 9 response was well within the 45 day timeline. It was the only response the district could possibly make because the request data no longer existed in the "raw" form requested by the parent. The district is not required to maintain raw data for any length of time, unless there is an existing parent request for such data. The evidence presented shows that when the parent requested the raw data on April 14, the raw data had already been recorded and then destroyed, pursuant to the district's ordinary procedures

Based on the foregoing, it is found that the district did respond to the parent's request for the raw data by informing the parent that it no longer existed. Therefore, the ***district is IN of compliance***, and no corrective action is required.

Issue Two

USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate procedures when the student failed to make progress towards meeting IEP goals during the 2024-25 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.324(b)(ii)(A) and Kansas state statutes at K.S.A. 72-3429(f)(2)(A) states that the IEP should be reviewed and revision considered for any lack of expected progress toward the annual goals.

Parent Position

The complaint alleged that the student's reading progress, per the IEP is based on being read to, not an ability to read. The ability to read has not improved and the student lacks the basic skills to read street signs, restaurant menus and it is causing safety and life skill issues. Listening to passages is impacting the student's ability to spell and write, furthering dysgraphia which is continually ignored by the district and per the reading instruction learning and grades. Meaningful progress is not being made. The parent further stated that the occupational therapist has repeatedly refused occupational therapy and medical necessity for dysgraphia.

District Position

During the 2024-2025 school year the IEP team met numerous times to discuss parent concerns and review and revise the student's IEP.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference.

1. On Sunday, September 8, 2024, at 9:00 PM, the parent sent an email about the upcoming September 9, 2024 planned IEP meeting, expressing several concerns and requested service logs and minutes from related service providers.
2. Meeting Notes dated September 9, 2024, summarize the IEP team's discussion regarding reading (Power Up) and changes to the speech/language goal..
3. To ensure the IEP team addressed all parent concerns, the IEP team also met on September 17, 2025. Meeting notes dated September 17, 2024, summarize staff involved in modifying the student's curriculum, adding consultative resource minutes, and cognitive abilities. The mother's email did not expressly request the team review the student's progress toward goals. Regardless, the IEP team did review progress as documented in the IEP team meeting notes dated September 9, 2024, and September 17, 2024. Meeting notes detail the Student's progress in reading from the 1st to the 10th percentile, how the student had tested into level one for grammar and word study and that the student tested out for comprehension, starting at level seven. At the time, the student was at a 3rd grade instructional level. The progress monitoring method for the student's speech/language goal was adjusted from a rubric to a percentage to allow for a simpler and clearer method of measuring growth.
4. On December 12, 2024, the IEP team met again and discussed the student's progress toward goals. At that meeting the IEP team proposed to update the student's math goal based on the student's improved math skills. The IEP team determined the student's

goal should be advanced, introducing new and more challenging skills. The team also updated the reading comprehension goal and continued the social goal.

5. Progress Monitoring reports for the 2024-2025 regular school year show the student made progress on the language goal for Quarters 1, 2, 3, and 4 going from a 2nd-4th grade reading level to a 4th grade reading level. The student also made overall gains on the social skills goal and math goal. Following the adjustment made in December 2024, the student progressed in the reading goal, moving from the 3rd to the 4th grade reading level. Listening comprehension continued to be monitored though the student's language goal.

Conclusion

IDEA requires that the student's IEP should be reviewed and revised for any lack of expected progress toward the annual goals. In this case gains in reading grade levels were reported. As well, the progress reports showed gains for IEP goals. It is further found that the IEP team met several times during the school year to review progress, and some changes were made based on student changes in learning.

Based on the foregoing, it is found that the district met with the mother several times during the school year to review student progress and discuss changes. It was further found that the student was making progress on the IEP goals as written and had no obligation to meet the IEP due to lack of progress. Therefore, the ***district is IN compliance***, and no corrective action is required.

Issue Three

USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parent with appropriate prior written notice, specifically when making changes to the student's transportation as a related service for the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. §§300.503(a)(1)(2) and Kansas statutes at K.S.A. 72-3430(b)(2)(A)(B) states that written notice must be given to the parents of a child with a disability a reasonable time before the district proposes or refused to initiate or change the educational placement of the child or the provision of FAPE to the child.

Parent Position

The parent complaint stated that the district changed the student's transportation from a contracted company with a 1:1 aide, door to door pick up and drop up to a school bus between the 2024-2025 and 2025-2026 school year without addressing it in the March 14, 2025 IEP draft or providing a prior written notice describing and justifying the change. When the parent contacted the contracted transportation service to arrange transportation for the

2025-2026 school year the parent learned that this contracted transportation company would not be providing the service, and the student would not be receiving a 1:1 aid or door to door transportation this year.

District Position

The District did not provide the student's mother with a PWN discussing transportation because transportation was already listed on the student's IEP. When the parent reached out to the district in July to arrange transportation for the 2025-2026 school year the mother did not request the IEP team meet to discuss a specific mode of transportation only the transportation service. Both the contracted company and the district transportation meet the IEP transportation service specified in the IEP. Even if the parent had requested a meeting, the mode of transportation or company providing the IEP transportation service is at the discretion of the district.

Analysis: Findings of Fact

The findings of previous issues are incorporated herein by reference.

1. An April 19, 2024, 8:55 p.m. email to the district outlining IEP concerns for the upcoming IEP meeting in May 2024 indicated that the student needs bus transportation for middle school.
2. The three IEPs in effect during the 2024-2025 school year dated May 16, 2024 and amended on September 27, 2024 and December 12, 2024 state that the student is eligible to receive transportation each day that school is in session (including ESY), on a special education vehicle, from the time the student boards the vehicle from the departure point until arrival at the destination and from the time the student boards the vehicle until arrival at the returning destination. Further, the student has significant needs in the area of deaf/hard of hearing and needs a bus monitor.
3. On February 21, 2026, a transportation request was made for the student to receive special education transportation to and from school in response to the mother's request. It started on February 26, 2025 and continued for the duration of the 2024-2025 school year. It was provided by a contracted transportation company.
4. On July 17, 2025 in an email from the special services coordinator to the mother at 9:24 p.m. following a parent request to meet about the change in mode of transportation the district explained, "I reached out to our Transportation Department to determine why the contracted transportation company was used last year rather than a bus as I know [student] is eligible for transportation to and from school. Transportation let me know that we did not have a SPED bus route at [middle school] due to lack of need at the beginning of the school year. Two SPED students began utilizing in late October/early November and we established a route with [contracted transportation company] at that time. When [student] began the transition from [outside school] to [middle school], we utilized [contracted transportation company] due to resource availability. As of now, we have four students requesting SPED transportation to [middle school] not including

[student], and anticipate a yellow SPED bus to be utilized. The bus will provide curb to curb service just like [contracted transportation company] did last year. The bus is not a general education bus that all students can ride to school. It is a bus specifically for students that require transportation as indicated on their IEP. The bus will have a driver and a monitor."

5. In an email from the special services coordinator to the mother on July 23, 2025 at 2:33 p.m. it was stated that "there is no communication in [student's] paperwork to indicate a change to transportation was made. [Student's] IEP states [student] is eligible for transportation due to being deaf/hard of hearing and a bus monitor should be on the bus. I have read through [student's] IEPs from August 2015 forward to the current draft and see no documentation stating [student] needs individual transportation with a 1:1 aide." This email was in response to the parent requesting a signed PWN for the change of mode of transportation.
6. The assistant director of special services stated during the August 14, 2025 interview that assignment to the student's mode of transportation, as long as it meets the IEP requirements is at the discretion of the district. She stated that the student accessed IEP transportation services specified in the IEP through a contracted transportation company last school year due to the student transferring from the outside school to the district school mid-year. As the student was enrolled at the beginning of the 2025-2026 school year the bus schedule could be arranged with the student's transportation needs.

Conclusion

Prior Written Notice is provided to the parent when the school initiates or changes the educational placement of the child, or to make a change to the provision of special education and related services (FAPE) to the child (K.S.A. 72-3430(b)(2); 34 C.F.R. 300.503(a)(2)). According to IDEA, transportation is a nonacademic service (34 C.F.R. 300.117) and any change to the transportation service from a less to more restrictive setting would require a PWN. If the change is a material change in services the district would need to obtain consent from the parent.

In this case each of the student's IEPs included the nonacademic service of transportation. The transportation service was listed in each IEP as a special education vehicle with a bus monitor, from the time the student boards the vehicle from the departure point until arrival at the destination and from the time the student boards the vehicle until arrival at the returning destination. During the 2024-2025 school year that nonacademic service of transportation was met with a contracted transportation company and during the 2025-2026 school year the district will provide that nonacademic service with a district bus service. The district has discretion of how transportation is provided as long as the IEP transportation related service is implemented.

It is found that the district implemented the transportation related service of the IEP and ***is IN compliance***. As such a prior written notice was not required since a change in transportation

service was not made by the district between the 2024-2025 school year to the 2025-2026 school year.

Issue Four

USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide a free appropriate public education (FAPE) for the student, specifically by not providing access to hearing aids and glasses at the Claire Learning Center during the 2024-25 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.17 states that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. Further, 34 C.F.R. § 300.17 defines FAPE as special education and related services that: 1) Are provided at public expense, under public supervision, and without charge; 2) Meet the standards of the state education agency (SEA), including IDEA requirements; 3) Include appropriate preschool, elementary, or secondary education; and 4) Are provided in conformity with an Individualized Education Program (IEP).

Federal regulations at 34 C.F.R. §300.325 and K.A.R. 91-40-22 describe that in the case when a public school places a child with a disability in, or refers a child to, a private school or facility as a means of providing FAPE to the child, the agency even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA.

Parent Position

The parent stated that the student was denied hearing aids and eyeglasses for the duration of time at the residential facility and school the student attended while at the residential facility. The mother stated that the denial of the hearing aids and glasses absolutely impacted learning and progress.

District Position

The District stated they did not deny the student access to the required hearing aids or glasses while attending the middle school within the district and that during the time the student was at the residential facility and school associated with the residential facility they were not charged with implementing the IEP. They stated that the student was unilaterally placed there between October 29, 2024 through December 2, 2024. They state that while at this school the district attempted to meet with the staff at the residential facility to share their strategies, however the mother withdrew the student from the residential facility and reenrolled the student at the middles school before the meeting could occur.

Analysis: Findings of Fact

The findings of previous issues are incorporated herein by reference.

1. The meeting notes from September 9, 2025 state that the student leaves hearing aids at home and that an incentive system was created to help the student remember to bring them to school.
2. The special considerations section of the September 26, 2024 IEP amendment (in effect at the time the student attended the residential school) states, the student wears glasses full-time and has a history of multiple eye surgeries related to amblyopia, astigmatism, anisometropia, and nasolacrimal duct obstruction. Further the mother reports that without glasses the student is legally blind in the right eye. In regard to hearing, the student has a mild conductive hearing loss in both ears, with hearing thresholds stable. The student wears bilateral hearing aids and has an FM system for the classroom. The student has a history of frequent ear infections and tympanostomy tubes. The student has IHP related to the hearing loss. The Assistive Technology section indicates "hearing assistance technology (HAT/FM System) and Closed Captioning."
3. The September 27, 2024 IEP amendment includes the following accommodations related to hearing and vision stating, 1) An incentive system will be utilized to encourage consistent hearing aid usage." The rationale states that the student struggles to consistently wear hearing aids to school and an incentive will be provided daily until the student consistently wears his hearing aids daily; 2) device(s) must remain at school, and in a set location for student to pick up hearing device and iPad or student computer; 3) Monitoring of hearing aid and HAT using Ling 6 sounds2022 in the nurse's office to verify functionality of hearing aid/HAT for appropriate auditory input.
4. The September 26, 2024 Prior Written Notice documented the addition of the incentive program for hearing aid use to the IEP. It was later signed by the mother on September 27, 2024.
5. The October 3, 2024 Functional Listening Evaluation outlined the student's necessity for hearing aids. The report also recommended the following accommodations/ modifications within classroom and other instructional contexts to include: 1) continued and consistent use of personal amplification; 2) continued and consistent use of remote microphone technology; 3) proximal seating with line of sight to speaker; 4) verbal prompting to remind the student to listen and watch the speaker; 5) front loading of information, including vocabulary, to increase familiarity of material prior to instruction; and frequent checks of understanding using open-ended questions.
6. Emails exchanged between the parent and principal at the middle school document excused absences due to addressing the issues that led to the medical placement of the student at the residential school.
7. On October 29, 2024, the advocate for the family emailed the parent stating, "…[Student's] IEP will be served by residential facility's school, once [student] settled in at residential facility. [Student] admission is scheduled on October 31st." The parent then emailed the middle school principal stating, "Attached is the letter for medical

necessity absences as we transition to [residential facility] admission tomorrow morning. [Residential facility] has been provided all school information and will be reaching out. I will be by Monday to pick up all work samples, art projects etc.....for [student]. Please be advised I will have limited email access this week as we are focusing on our transition and appointments prior to admission."

8. The parent and district agree the student attended the school affiliated with the residential school between October 29, 2025 through December 2, 2025.
9. On November 20, 2024, the school psychologist with the residential facility's school emailed the parent about an amendment for the student's move to the residential facility's school.
10. On November 21, 2024, the mother requested an IEP meeting with the residential facility's school expressing concern about the student not wearing hearing aids or glasses, stating, "I have been continually requesting nursing & unit staff to provide [student] with access to [student's] glasses & hearing aids. Per the unit staff and therapist [residential facility] does not want the liability for [student's] glasses or hearing aids, both of which are medically necessary. There are provisions in [student's] IEP for the necessity of both medical devices, documentation without them [student's] intellectual disability significantly increases, along with [student's] social maturity level deceasing, all impacting [student's] ability to receive appropriate education & [student's] safety."
11. On November 22, 2024, the parent rights and the notice of meeting form confirming Friday, December 6th at 2:30pm for the IEP amendment meeting was sent by the school psychologist from the school associated with the residential facility.
12. On December 5, 2024 at 8:52 a.m. the mother contacted the district to request an IEP meeting to discuss and determine appropriate placement for the student.
13. The website for the residential facility links to the school associated with the residential facility and states, "[school associated with residential facility] is the educational day school provided by [district] for children receiving treatment through [residential facility]."
14. The email address for the school psychologist coordinating the IEP in November 2025 identifies with the district email.
15. Interview with the assistant director of special services clarified the relationship among the district, residential facility and school associated with the residential facility. They are all located in the same city. The residential facility is a medical decision and the assistant director of special services said that placement in a residential facility is not an IEP team decision. The practice with the residential facility is that when a school aged student is in the residential facility the educational and special educational services are provided by the school associated with the residential facility. In the situation in which a child is placed at the residential facility the student is considered unilaterally placed at the school associated with the residential facility and is responsible for implementing the IEP.

Conclusion

Kansas defines elementary schools as follows: (1) "elementary school" means any nonprofit institutional day or residential school that offers instruction in any or all of the grades kindergarten through nine. In this case the student was medically placed in a residential facility located in the county and city the student attended public school. Following the residential placement, the student's education was provided by the school associated with the residential school, but operated by the district through a contractual arrangement. The website for the residential facility links to the school associated with the residential facility and states, it is the educational day school provided by district for children receiving treatment through the residential facility. Therefore, although the student was medically placed in the residential facility and the student's educational placement was changed as a result of the medical placement, the relationship between the district and the school associated with the district obligate the district to continue to assume the education of the student and ensure the special education services are provided to the student. It is established that the student's services addressed the medical necessity for hearing aids and glasses and therefore the district did fail to provide a free appropriate public education (FAPE) for the student, specifically by not providing access to hearing aids and glasses for the 18 days the student was attending the school associated with the residential facility during the 2024-25 school year.

There appears to be some argument about who is responsible for providing the hearing aids and glasses this student needs in order to be successful in school. The Office of Special Education Programs (OSEP) offered guidance in its comments to the 2006 federal regulations, saying:

As a general matter, public agencies are not responsible for providing personal devices, such as eyeglasses or hearing aids that a child with a disability requires, regardless of whether the child is attending school. However, it is not a surgically implanted device and a child's IEP Team determines that the child requires a personal device (e.g., eyeglasses) in order to receive FAPE, the public agency must ensure that the device is provided at no cost to the child's parents. Federal Register: August 14, 2006, p. 46581

When a public school agrees to, and is, providing education for a child with a disability under contract, or otherwise, it assumes the FAPE responsibility owed to the children it is serving. Allowing this student to attend school for an extended time without the assistive devices the student clearly needs in order to be successful, for whatever reason, is a failure to meet the FAPE responsibility the district assumed when it agreed to provide the educational services to the children at the school associated with the residential facility.

Therefore, the ***district is OUT of compliance***, and corrective action is required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §300.613(a)(b)(1) was not found. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. §300.324(b)(ii)(A) and Kansas state statutes at K.S.A. 72-3429(f)(2)(A) was not found. Corrective action is not required.
3. ISSUE THREE: A violation of 34 C.F.R. §§300.503(a)(1)(2) and Kansas statutes at K.S.A. 72-3430(b)(2)(A)(B) was not found. Corrective action is not required.
4. ISSUE FOUR: A violation of 34 C.F.R. §34 C.F.R. §300.17 was found. Corrective action is as follows:.
    a. Submit to Special Education and Title Services (SETS) by no later than November 1, 2025, a written statement of assurance stating that it will comply with 34 CFR §34 C.F.R. §300.17 by accepting responsibility for the student IEPs of students who attend the school associated the residential facility where students are medically placed.
    b. USD #233 shall reconvene the student's IEP team and offer a maximum of 18 days of the special education services as outlined in the September 26, 2024 IEP as compensatory services for failing to implement the student's IEP between October 29, 2025 through December 2, 2025 while attending the district school associated with the residential facility during the 2024-2025 school year. USD #233 shall provide SETS with a copy of the written plan for providing the compensatory services offered and the parents' decision on whether to accept the offer, in whole or in part, no later than 10 days from the date of the IEP team meeting.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 233
Olathe Public Schools: 26FC233-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on July 28, 2025, by -------, on behalf of her son, ------- (student). An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education and Title Services team at the Kansas State Department of Education (KSDE). Following the investigation, a Complaint Report addressing the allegations was issued on September 2, 2025. That Complaint Report concluded that there was a substantiated violation of special education statutes and regulations.

Thereafter, the school district filed an appeal of the Complaint Report. Upon receipt of the appeal, an Appeal Committee was appointed, and it reviewed the parent's original complaint, the Complaint Report, the notice of appeal, and the response to the district's notice of appeal submitted by the parent. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this Appeal Decision.

Preliminary Matters

The Appeal Committee limits its inquiry to the issues presented in the appeal. No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report issued on September 2, 2025. The Appeal Committee does not conduct a separate investigation. The Appeal Committee's function is to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The Complaint Report dated September 2, 2025 addressed four issues, and the investigator found no violations of special education laws for issues one through three. For issue four, the investigator found a violation of special education laws and stated appropriate corrective action. On appeal, the district disputes the findings and conclusion in the Complaint Report (Notice of Appeal, p.1) for issue four. The Appeal Committee will address only those findings and conclusion the district disputes, the findings not in dispute are sustained.

Issue Four

Did USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education ACT (IDEA), fail to provide a free appropriate public education (FAPE) for the student, specifically by not providing access to hearing aids and glasses as the Claire Learning Center during the 2024-25 school year?

All children with disabilities have available a Free Appropriate Public Education (FAPE) that emphasizes special education and related services designed to meet their unique needs. 34 C.F.R. 300.1(a). FAPE means special education services and related services that: (a) are provided at public expense; (b) meet the standards of the state education agency (SEA); (c) include an appropriate preschool, elementary school, or secondary school education; and (d) are provided in conformity with an individualized education program (IEP). 34 C.F.R. 300.17; K.A.R. 91-40-1(z).

Each public agency must ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as part of the child's special education, related services, or supplementary aids and services. 34 C.F.R. 300.105. An assistive technology device means any item, piece of equipment, or product system that is used to increase, maintain, or improve the functional capabilities of a child with a disability. 34 C.F.R. 300.5. The decision of whether a hearing aid or eyeglasses is an assistive technology device is a determination that is made by the child's IEP Team. The IEP team is required to consider whether the child needs assistive technology devices and services. 34 C.F.R. 300.324. A public agency is responsible for the provision of the assistive technology device as part of FAPE only if the IEP Team determines that a hearing device is an assistive technology device and the device is required as part of the child's special education, related services, or supplementary aids and services. Assistive Technology, 71 Fed. Reg. 46581 (Aug. 14, 2006).

Generally, public agencies are not responsible for providing personal devices, such as eyeglasses or hearing aids that a child with a disability requires, regardless of whether the child is attending school. Id. However, if the device is not a surgically implanted device, such as a hearing aid or eyeglasses, and a child's IEP Team determines that the child requires a personal device (e.g., hearing aid, eyeglasses) to receive FAPE, the public agency must ensure that the device is provided at no cost to the child's parents. Id.

This case is unique. Here, the complainant voluntarily placed the student in a residential facility. Further, the student's IEP did not include a hearing aid or eyeglasses as assistive technology. On October 3, 2024, a Functional Learning Evaluation was performed. The evaluation report stated the student's necessity for hearing aids. Further, the report recommended the following accommodations and modifications to classroom instruction: (1) continued and consistent use of personal amplification; (2) continued and consistent use of remote microphone technology; (3) proximal seating with line of sight to the speaker; (4) verbal prompting to remind student to listen and watch the speaker; and (5) front loading of information Report, p. 17). Following the report, the

student's IEP was not amended to reflect the student's need for hearing aids and eyeglasses, nor was an IEP Team meeting held even though one was scheduled for December 6, 2024 to discuss amending the student's IEP to allow for assistive technology, such as a hearing aid and eyeglasses.

The Appeal Committee agrees with the investigator's analysis that, "although the student was medically placed in the residential facility and the student's educational placement was changed as a result of the medical placement, the relationship between the district and the school associated with the district obligate the district to continue to assume the education of the student and ensure the special education services are provided to the student (Report, p. 19)." The Appeal Committee disagrees with the investigator's conclusion that "Allowing this student to attend school for an extended time without the assistive devices the student clearly needs in order to be successful, for whatever reason, is a failure to meet the FAPE responsibility the district assumed when it agreed to provide the educational services to the children at the school associated with the residential facility (Report, p. 19)."

As stated previously, this case is unique. The complainant/parent made the unilateral decision to place the student in a residential facility. The student resided at the facility from October 29, 2024 to December 2, 2024 (Report, p. 17). That residence consisted of 18 school days. The residential facility refused to allow the student to take his eye glasses and hearing aids to school (Report, p. 18). On November 22, 2024, the district delivered a Notice of Meeting to the parent proposing an IEP meeting for December 6, 2024 to address the student's need for eye glasses and hearing aids (Report, p. 18).

In short, this was not an "extended" delay. The parents initiated this process when they made the difficult decision to place their child in a residential facility. That decision resulted in removing the student's access to personal devices that the student had previously possessed. Because the student had, at all previous times, possessed these devices at school, there was no previous need for the IEP team to add them to the IEP or even consider whether they should be added to the IEP. Adding provisions to an IEP has its own set of processes. An IEP meeting is scheduled and advance notice of the meeting is provided to parents. The school district is permitted a reasonable time to comply with these procedural requirements anytime there is a proposed change to an IEP. Considering the unique facts of this situation, the Appeal Committee finds that there was no undue delay in the district's procedures to plan and hold an IEP team meeting to consider the changing needs of this student. The meeting did not occur only because the student exited the residential facility.

Since the student's IEP did not include a hearing aid or eyeglasses as assistive technology, and the student returned to school with his hearing aids and eyeglasses before a planned IEP Team meeting occurred, the public agency was not responsible for the provision of the assistive technology as part of FAPE.

Conclusion

For the reasons stated above, the Appeal Committee overturns the investigator's conclusion in issue four, specifically that the district violated the IDEA by failing to provide access to hearing aids and glasses at the Claire Learning Center during the 2024-25 school year.

Since there were no other corrective actions ordered by the Complaint Report, the school district is no longer required to take any corrective action.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 17th day of September, 2025.

Appeal Committee

Brian Dempsey

Dr. Crista Grimwood

Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #259, WICHITA PUBLIC SCHOOLS
ON AUGUST 6, 2025

DATE OF REPORT: SEPTEMBER 12, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #259 (Wichita Public Schools) on behalf of --------- by her mother ---------. In the remainder of the report, --------- will be referred to as "the student" and --------- as "the parent" or "the complainant". --------- is ---------'s grandmother and will be referred to as "the grandparent" in the remainder of the report. --------- is the family's advocate and will be referred to as "the advocate" in the remainder of the report.

The complaint is against USD #259 (Wichita Public Schools). In the remainder of the report, USD #259 will be referred to as "the district". For the 2024-2025 school year the student attended 8th grade at Christa McAuliffe Middle School which will be referred to as "the school" in the remainder of the report. School and district staff will be referred to In the remainder of this report as follows:

- Dr. Erica Shores, mediation/due process supervisor
- Loren Hatfield, assistant superintendent
- Jacob Johnston, principal
- Deana McMillan, counselor
- Dawn Olson, data analyst
- Mr. Leidholt, science teacher
- Lacey Pease, case manager (no longer at the district)
- Angela Cho, district student support services administrative liaison

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on August 6, 2025. On September 5, 2025 a one week extension was requested and granted by KSDE.

Evidence Reviewed

USD #259 made the following staff available for interviews on August 21 and 22, 2025 as part of this investigation.

- Mediation/due process supervisor
- Principal

- Counselor

During the investigation, the Complaint Investigator, Nikki Crawford, reviewed all evidence and documentation provided by the district and the parent. Additionally, the complaint investigator contacted the parent, grandparent, advocate, mediation/due process supervisor and counselor on August 7, 8, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 28, 29 and September 3, 4, 5 and 11, 2025 by phone and email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and district. Please note, although a good deal of additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. Initial evaluation report dated May 16, 2023
2. Student's class schedule for the 2024-2025 school year, no date
3. 8th grade accommodations documentation for the 2024-2025 school year, no date
4. IEP final dated May 7, 2024
5. IEP meeting minute notes dated May 7, 2024
6. Signed PWN consenting the May 7, 2024 IEP
7. Report cards for the first, second, third and fourth quarters for the 2024-2025 school year
8. Attendance by course for the 2024-2025 school year
9. Special education parent contact log reflecting 18 contacts (phone, email or face-to-face), dates range from August 12, 2024-May 6, 2025
10. Teacher Notes from the Synergy Contact Log which note interactions with the student from August 14, 2024-May 21, 2025, 135 entries. Multiple examples of the student utilizing accommodations and struggling with social/emotional behaviors
11. General education parent contact log reflecting 97 contacts (phone, email or face-to-face), dates range from August 15, 2024-May 14, 2025
12. Accommodation documentation completed by teachers August 25, 2024-May 15, 2025. There are 235 entries across classrooms/subjects
13. Emails from the student support services liaison to the principal reporting on 16 meetings with the student to focus on social emotional skills, homework completion and grades between August 27, 2024 and April 17, 2025
14. Student discipline profile, dates range from August 28, 2024-May 1, 2025
15. Sign in record for student's use of the "Zen Zone" (a designated room used for self-regulation and ISS), dates range from August 29, 2024-May 16, 2025
16. Hall pass history October 9, 2024 to May 21, 2025 with 50 entries primarily noting the student leaving the classroom to use the restroom

17. Approximately 15 emails from the parent to school and district staff with concerns about the student's services, dates range from October 26, 2024 to June 16, 2025
18. Student's In School Suspension (ISS) record documenting instances of ISS dated November 1, 2024-April 30, 2025
19. Notice of meeting for the January 16, 2025 IEP dated December 16, 2024
20. Truancy letter, student attendance record and resolution December 20, 2024 through March 21, 2025
21. Truancy letter and resolution dated January 13, 2025
22. The parent's IEP amendment meeting agenda with handwritten notes dated January 16, 2025
23. IEP amendment meeting minutes dated January 16, 2025
24. Progress reports for the first, second, and third quarters, dated March 10, 2025
25. PWN for the January 16, 2025 IEP amendment dated February 13, 2025 is signed by the parent as both consenting and not consenting to the proposed amendments on March 11, 2025
26. Email on March 12, 2025 from the data analyst to the case manager noting the discrepancy in the signed PWN for the January 16, 2025 IEP amendment
27. Email reply on March 12, 2025 from the case manager to the data analyst, the case manager stating the they had a hard copy of a correctly signed PWN
28. Truancy letter sent by the District Attorney dated March 19, 2025
29. Notice of Meeting sent March 31, 2025
30. IEP Teacher Report Page completed by the 8th grade science teacher for the April 16, 2025 IEP meeting, no date
31. IEP draft dated April 15, 2025 which includes incorrect tardy and absence information submitted by the 8th grade science teacher
32. IEP dated April 16, 2025
33. IEP meeting notes dated April 16, 2025
34. IEP PWN dated April 16, 2025 shared by the parent
35. Email exchange between the parent and case manager dated April 25, 2025 with the case manager's confirmation of removal of the incorrect tardy and attendance data from the drafted IEP dated April 15, 2025
36. Email from the case manager to the parent with the final April 16, 2025 IEP sent April 30, 2025
37. Email exchange between the parent and case manager dated May 6, 2025 related to the parent's further request that all information from particular teachers be removed from the IEP
38. PWN refusal to remove additional information dated May 23, 2025
39. Progress reports for fourth quarter dated May 16, 2025

40. Email from the parent to the case manager, principal and copied to the assistant superintendent requesting documents and stating that the May 23, 2025 PWN did not include a reason for refusal, dated June 16, 2025
41. Reply from the principal to the parent dated June 19, 2025
42. Email response from the principal to the parent in response to FERPA request, dated July 29, 2025
43. Email from the principal to the investigator comparing the student's social/emotional behavior across 2023-2024 and 2024-2025 school years sent August 22, 2025
44. An email exchange between the principal, mediation/due process supervisor and investigator clarified why specific records were not shared with the parent on September 11, 2025

Background Information

The subject of this complaint was an 8th-grade student during the 2024-2025 school year who lives at home with their parent and siblings. According to an email exchange with the parent on September 4, 2025, the student is not yet enrolled in 9th grade for the 2025-2026 school year. The parent is currently in mediation with the district to determine where the student will attend school this fall in addition to other issues raised in an Office of Civil Rights complaint.

The student is eligible for special education services with the exceptionality of Specific Learning Disability. Prior to qualifying for special education services, the student was determined to be eligible for accommodations under Section 504 in December 2022.

The student's initial/most current evaluation dated May 16, 2023 includes the following summary statement:

[The student] is eligible for special education services with the exceptionality of Specific Learning Disability. For [the student, their] cognitive deficits include the ability to reason with language and recall meaning; use information to quickly complete thoughts, words, and tasks; and reason non-verbally with shapes and patterns. Academic skills that are impacted by these deficits include reading comprehension, math facts fluency, and applied math requiring adequate processing speed to complete multistep problems. All core academic areas are affected by these ability and skill deficits including math, science, English language arts, and social studies. [The student] will benefit from instructional supports and accommodations to progress in the grade level curriculum and function in the general education setting. Frustration in the general education setting as a result of cognitive and academic skills deficits can result in verbal and physical aggression, conduct problems, emotional dysregulation, and loss of focus in the classroom setting for [the student]. Absences resulting in a loss of socialization has resulted in relational difficulties with both peers and staff in the classroom and in informal areas of playground, hallways, and lunch. [The student] exhibits some adaptive skills weaknesses in transitions, social skills, functional communication, leadership, and study

skills. Diagnoses of Adjustment Disorder, anxiety, PTSD, and depression contribute to emotional and behavioral difficulties for [the student].

The student had two IEPs during the 2024-2025 school year and both were reviewed and included as evidence for this investigation.

1. The May 7 2024 IEP included a study skills and a reading (comprehension) goal, as well as two social goals (self-regulation and self-advocacy). The IEP also included 23 accommodations, a state assessment accommodation and transportation.
2. The April 16, 2025 IEP includes a study skills and reading (fluency) goal, two social goals (self-regulation and impulse control). The IEP also includes 23 accommodations, a state assessment accommodation and transportation. The IEP team added counseling services 2 times per week, 30 minutes per session in order to address needs related to the student's social goals. Also included in the April 16, 2025 IEP are transition assessment results as required by K.S.A 75-53,101.

Accommodations and Modifications in both the May 7, 2024 and April 16, 2025 IEPs include:

1. Read aloud.
2. School Staff refraining from using negative words when addressing [the student] nor reference to previous events, as well as 3 positive interactions to 1 negative interaction.
3. Visuals to support instruction (math facts, formula sheets, word banks, charts/graphs, graphic organizers).
4. Daily check-in and check-out system to process assignments, missing assignments, and upcoming due dates.
5. Noise cancelling headphones or ear plugs during known loud experiences: assemblies, passing periods, music concerts, known fire drill, (not to be used during teacher instruction).
6. Teacher notes/study guides/ PowerPoints, etc.
7. Color-coded dots - yellow for restroom, so [they do] not have to ask to go to the restroom in front of peers. If [the student] asks verbally, [the student] will still be allowed to go.
8. A red dot to see the support staff member, when [the student] needs to leave the classroom for regulation. [The student] will have a blue dot to see the nurse. If [they] ask verbally, [they] will still be allowed to go. Added to this accommodation in the April 16, 2025 IEP, "To reduce unexcused absences, the adult will communicate with the classroom teacher to inform them that [the student] is using [their] accommodation".
9. Student will not be called on unless a hand is raised (no cold calling).
10. Use of agenda and/or checklist to track assignments due.
11. Frequent check-ins for understanding in each class (at least twice).
12. Use of fidget or calming tools when needing self-regulation.
13. Assignments to be given in manageable chunks.

14. Lights will be dimmed or filtered.
15. Allowing [the student] to stand up or walk in back of the classroom when [they] feel the need to move.
16. The option to sit out of performance-based activities that cause high anxiety. In such activities, [they] will be provided an alternative assignment for this anxiety-provoking activity.
17. Longer processing time with oral responses (up to one minute).
18. In order to lessen [the student]'s anxiety, if other students are involved, other students will be corrected first when appropriate.
19. Use of calculator and other math manipulatives (number line, multiplication charts, etc.)
20. When [the student] is absent, teachers will email the assignments one at a time. Upon returning to school, [they] will have 4 days to turn in the assignments once an assigned person has assisted with processing the assignments. These assignments will be reduced to focus on important content. Added to this accommodation in the April 16, 2025 IEP, "[the student] will have assignments reduced when [they are] absent from class".
21. [The student] will communicate with a trusted teacher/staff member if there is an issue with another student where a change of seating will help lessen anxiety.
22. [The student] will be given a choice of two or more appropriate activities when [they] feel uncomfortable or agitated.
23. School Staff will talk to [the student] calmly and discretely (1:1), without threats, when being individually redirected.

Issues Investigated

Based on the written complaint and an interview with the complainant, five concerns which fall under IDEA regulations were identified and investigated.

Issue One

Did USD #259 develop an appropriate IEP based on the student's social/emotional needs as required by 34 CFR §300.320(a)?

Applicable Law

Federal regulations at 34 CFR §300.320(a)(1-7) state an IEP must include: (1) A statement of the child's present levels of academic achievement and functional performance; (2) Measurable annual goals to meet the student's needs, including academic and functional goals related to the student's exceptionality; (3) A description of how progress will be measured and schedule of reports shared; (4) Special education and related services to support the student to make progress in the general education curriculum; (5) Explanation if the student will not participate

with nondisabled children in the regular class; (6) Accommodations for state and district assessments if needed; (7) Date for beginning of services.

Parent Position

The child complaint stated that the IEP content and services were not adequate to meet the student's needs, "the IEP fails to comprehensively address [the student's] needs in the areas of academics, social-emotional development, communication, behavior, and executive functioning". The complaint also asserted that the, "Present levels do not reflect actual functioning, attendance, or accommodation usage" and that the IEP contains inaccurate information in the PLAAFPs, particularly regarding social-emotional functioning, absences, tardies, and accommodation usage."

District Position

The district response states, "It is the position of USD #259 that the district developed an appropriate IEP based on the student's social/emotional needs as required by 34 CFR §300.320(a)".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The student's evaluation results summary, IEP goals and accommodations are noted in the Background Information section of this report beginning on page 5 for reference.

"The IEP fails to comprehensively address [the student's] needs in the areas of academics, social-emotional development, communication, behavior, and executive functioning."

1. In an interview with the advocate and grandparent on August 14, 2025 the advocated stressed that the family is concerned that the current IEP does not include sufficient information to convey the impact of the student's difficulties with executive functioning including, "lack of ability to plan, coping strategies, social, conversation skills, and understanding of social norms, leading to what they [teachers] observe as behavior".
2. For the May 7, 2024 IEP, the district response noted, "The student's IEP Team, including the parent and the student, developed the 5/1/24 IEP (in effect one year prior to the date of the formal complaint), based on the most recent information regarding the student's unique needs in light of [their] circumstances to confer educational benefit and afford [them] Free Appropriate Public Education (FAPE). The student is receiving special education for a specific learning disability (SLD)…".
3. For the April 16, 2025 IEP, the district response noted, "A new, annual IEP was developed by the IEP Team, including the parent, on 4/16/25, identifying the student's present levels of academic achievement and functional performance, identified [the student's] needs, and included goals (including two social goals, one for breaks and another to improve impulse control), special education and related services, including

counseling services, and accommodations (including one about positive reinforcement, which the parent had even indicated worked for her at home during the 5/16/23 Evaluation), to meet the student's identified needs in light of [the student's] circumstances".

4. The district response also addresses the PLAAFPs in both IEPs, "The PLAAFPs contain information – strengths and needs as they affect [the student's] learning – from the parent, teacher/provider reports, health and medical information, behavioral needs, and the team also considered the results of the initial or most recent evaluation of the student".
5. A review of both the 2024 and 2025 IEPs include all required content as required by 34 CFR §300.320(a)(1-7).
    a. A statement of the child's present levels of academic achievement and functional performance- The PLAAFP sections include how the student's exceptionality affects progress in the general education curriculum including; strengths and needs of the student based on evaluation data including teacher input on current classroom performance and grades as well as the student's organizational skills, processing time and impulse control, all of which are related to executive functioning. Behavioral concerns are noted as impeding the student's learning and are addressed through the use of accommodations and are also mentioned in teacher comments. The PLAAFP sections also include results of the initial/most recent evaluation which are taken verbatim from the summary statement in the May 16, 2023 evaluation report.
    b. Measurable annual goals to meet the student's needs, including academic and functional goals related to the student's exceptionality- IEP goals include baseline, are measurable and appropriate based on the most recent evaluation as well as parent and teacher input.
    c. A description of how progress will be measured and reports shared- Progress is measured and when reports will be shared is noted.
    d. Special education and related services to support the student to make progress in the general education curriculum- Included are in-class support, transportation and 23 classroom accommodations. The 2025 IEP also includes weekly counseling as a related service.
    e. Explanation if the student will not participate with nondisabled children in the regular class- The student receives instruction in the general education setting.
    f. Accommodations for state and district assessments if needed- The student has access to "read aloud" for state and district assessments.
    g. Date for beginning of services- Start dates are included.
6. The May 7, 2024 IEP included a study skills and a reading goal (comprehension). The student also had two social goals including a self-regulation and self-advocacy goal.
7. The April 16, 2025 IEP includes a study skills and reading goal (fluency). The student also has two social goals including self-regulation and impulse control as well as

counseling services 2 times per week, 30 minutes per session in order to address the needs related to social goals.

8. Both IEPs include accommodations to support behaviors and multiple accommodations to support executive functioning, (visuals to support instruction, longer processing time, use of agenda, daily check-in/check-out system to process assignments, missing assignments, and upcoming due dates, copies of teacher notes/study guides or PowerPoints, and, only calling on the student when their hand is raised), are some examples.
9. During the January 16, 2025 IEP amendment meeting the team considered a behavioral goal which was ultimately not agreed to by the parent as the parent wanted to reconsider during the April 16, 2025 IEP meeting.
10. At the April 16, 2025 IEP meeting the team discussed and agreed on the addition of counseling support for the student twice a week for 30 minutes a session.
11. The April 16, 2025 IEP also addressed organizational skills as reflected in the PWN, "[The student] struggles to keep up with assignments and complete them in a timely manner when [they are] absent from class. The team tried out reducing assignments for [the student] when [they are] absent, and we found that this is helpful for getting [the student] caught up".

Incorrect information related to the student's absences and tardies in the IEP.

1. The parent complaint asserted, "Although [the student] has fewer than eight actual unexcused absences, the district has recorded approximately 320 absences and 116 tardies, many of which are the result of using accommodations outlined in the IEP (e.g., taking short breaks or utilizing safe spaces)".
2. The IEP draft dated April 15, 2025 includes the following information under the heading "Other", on page 8, "[The student] has a total of 320 individual classroom absences in all classes combined, and 116 tardies. This data does not include the times [the student] decided to go to [their] alternative setting room after letting the teacher know. [Science teacher]"
3. A review of emails and the Special Education Student Contact log confirm the district's following response:
    a. "The district's student information system reflects that the student was absent from 253 class periods – Parent has access to and has the ability to view these in Parent Vue.
    b. A 4/20/25 [Special Education] Student Contact Log entry and 4/25/25 follow-up email show that the [case manager] emailed the parent that [they] removed specific numbers of absences out of the PLAAFPs in the IEP per [the parent's] request.
    c. A 4/30/25 email shows that the teacher sent the parent a new copy of the IEP after the specific class period absences had been removed per parent request.

The Teacher Report Pages (TRPs) remain in the student's file, however, and do reflect the numbers they reported (see TRPs)".

4. A review of the April 16, 2025 IEP shared with the investigator by the parent confirms that the specific tardy and absence numbers were removed from the April 16, 2025 IEP by the district.

Conclusion

Federal regulations at 34 CFR §300.320(a)(1-7) state an IEP must include: (1) A statement of the child's present levels of academic achievement and functional performance; (2) Measurable annual goals to meet the student's needs, including academic and functional goals related to the student's exceptionality; (3) A description of how progress will be measured and schedule of reports shared; (4) Special education and related services to support the student to make progress in the general education curriculum; (5) Explanation if the student will not participate with nondisabled children in the regular class; (6) Accommodations for state and district assessments if needed; (7) Date for beginning of services.

In this case, the IEP teams for both of the 2024 and 2025 IEPs addressed all of the content required by IDEA including the PLAAFP sections which were noted as a concern of the parent. Additionally, the IEP goals, accommodations and services appear to be appropriate based on the evaluation, teacher input, student's current academic/behavior functioning, and the parent's input. If the parent feels the IEP is not meeting the student's needs it is within their right to raise these issues, including a reevaluation with the IEP team.

Based on the foregoing, it is found that the IEP did include the required information and did not include incorrect information. The *district is IN compliance* and no corrective actions are required.

Issue Two

Did USD #259 implement the student's IEP specifically related to accommodations and social/emotional goals as required by 34 CFR §300.323(c)(2)?

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) requires school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The complaint listed, "Failure to implement the IEP as written- Supports, services, and accommodations are not being consistently or appropriately provided."

District Position

The district response states, "It is the position of USD #259 that the district implemented the student's IEP specifically related to accommodations and social/emotional goals as required by 34 CFR §300.323(c)(2)".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of Issue One are incorporated herein by reference. Note: For specific information about the student's IEP goals, accommodations and services for both of the student's IEPs during the 2024-2025 school year please refer to the Background Information section beginning on page 5 of this report.

IEP goal implementation

1. The parent shared 15 emails sent to the school or district between October 26, 2024, and June 16, 2025. In these messages, they raised concerns about how the IEP was being carried out, specifically the consistent and appropriate use of accommodations, supports, and disciplinary actions.
2. As noted in the IEP Progress Report for the last quarter of the 2023-2024 school year and the first three quarters of the 2024-2025 school year, the student made progress on study skills and reading comprehension, slight progress for self-regulation (use of the dot system) and no progress in self-advocacy.
3. As noted in the IEP Progress Report for the last quarter of 2025, the student made progress on study skills, slight progress on reading fluency, slight progress for self-regulation (use of the dot system) and no progress on the new goal of impulse control which had only been implemented for a month.
4. A Student Support Services Liaison met with the student 16 times between August 27, 2024 and April 17, 2025 to support the student with IEP goals including self-regulation and study skills as evidenced by emails from the provider to the principal.
5. The district response states, "The counselor met with the student two times per week to work on her social/emotional goals and recorded notes in [the counselor's] agenda during their sessions before transferring the information in aggregate form to the IEP progress reports for the corresponding social/emotional goals each quarter".
6. In an interview on August 21, 2025 the counselor confirmed the district's statement and additionally shared that there were many weeks when the student and counselor met more frequently.
7. Teacher input in the student's IEPs specifically in the PLAAFP sections reflected that the teachers felt the student generally did well in class and could be more successful if the student was in class more often.

Accommodations

8. In the parent interview on August 11, 2025 and the grandparent interview on August 12, both stated they felt the student was not making progress on IEP goals due to the lack of accommodations offered by the teachers.
9. In the August 12, 2025 interview with the grandparent, they stated that the student's IEPs PLAAFP sections reflect examples of when accommodations were not followed by teachers noting that one of the teachers asked the student to try to complete an assignment prior to shortening it. The grandparent added, "we have a whole bunch of assignments that don't look like they are chunked".
10. The grandparent shared in the August 12, 2025 interview that the January 16, 2025 IEP amendment meeting was called because the student was failing, accommodations were not followed, the student had been suspended and removed from class excessively primarily for talking out and associating with peers.
11. In the grandparent interview on August 12, 2025 they stated that the parent asked for the student to be removed from music due to an issue with para who didn't follow the accommodations.
12. The district report shares, "Teacher Report Pages (see TRPs) include data each teacher collected throughout the year and used for IEP updates. The science teacher included in his report accommodations provided and available to the student in his classroom, including but not limited to: Visual Aids; extra time to respond out loud; headphones available for [the student] to use on request (and they often do); a 3 to 1 ratio (of positive to negative interactions) is used as often as possible when addressing negative interactions; color coded dots to take breaks; speaking with trusted adults; a designated space to move around in the classroom when [the student] feels the need to; notes are printed out for [the student]; large assignments are broken down into manageable chunks; teacher always speaks calmly when redirecting, as well as others from [the] IEP. The Math teacher's TRP states that the student regularly used the accommodations of check-ins, passes as needed, breaks as needed, shortened assignments, folder for math located in the classroom, and took [their] classwork with [them] to work on in the Zen Zone when [the student] accessed that alternative setting". A review of the IEP PLAAFP sections confirms this information.
13. The district response states that the Accommodations Documentation record tracks accommodations offered to the student and include "restroom breaks, noise cancelling ear buds and headphones, and many remarks noted about not counting the student absent or tardy when accessing her accommodations". A review of this record confirms the district's assertion.
14. The district response shared, "there are many records of when the student sought out one of her trusted adults in Teacher Notes, emails, and records of her going to the Zen Zone included in the supporting documentation folders". A review of this folder confirms the district's assertion.

15. According to district records, the student used the Zen Zone for the IEP accommodation of self-regulation for 49 full or partial class periods over 44 days in the 2024-2025 school year.
16. The hall pass record reflects 50 instances of the student asking to use the restroom which is an IEP accommodation.
17. The district response also states, "The school has identified that, with the number of accommodations in this student's IEP, this 24-25 8th Grade Accommodations Documentation system used to track them being offered and utilized seemed cumbersome and was not used consistently, so there are data, but not for 100% of the opportunities needed or afforded, and the school is working on a new system to keep such records".

Discipline

18. The parent complaint stated, "Disciplinary actions taken against [the student] have not been consistently documented, tracked, or addressed in accordance with the IEP and applicable procedural safeguards".
19. The district response states, "The student's Discipline Profile shows instances of different disruptive behaviors that were addressed through conferences and/or the use of restorative practices".
20. The student's IEPs do not include a goal focused on reducing office referrals, but do include several accommodations to support the student's self-regulation behaviors.
21. There were discussions about the student's behaviors and a potential goal at the January 16, 2025 IEP amendment meeting but ultimately was not agreed to by the parent who wanted to wait for the April IEP meeting to discuss further.
22. The April 16, 2025 IEP team added a goal to address impulse control.
23. In an email from the principal to the investigator, the principal shared that during the 2024-2025 school year there were only 7 Tier 2/Tier 3 referrals contrasted by 13 during the 2024-2023 school year which reflects progress.

Conclusion

IDEA 34 C.F.R. §300.323(c)(2) requires school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

In this case, it is clear that there were many instances of concern related to the implementation of the IEP, accommodations and discipline raised by the parent.

IEP goal implementation: The student has made progress on all of their IEP goals as reflected in the progress reports with the expectation of the self-regulation goal. This lack of progress is concerning due to the student's accommodations for self-regulation resulting in the student being absent from the general education classroom.

Accommodations: The parent offered convincing evidence of missed opportunities for accommodation. The district also shared evidence that demonstrated the school's appropriate response to the parent's concerns and documentation that accommodations, services and appropriate disciplinary interventions were understood and followed by the staff. It is noted that with the number of accommodations required by the IEP, it is unlikely that a school would be able to document that accommodations were offered at every opportunity throughout the school year. Additionally, the district noted in their response that the tracking system used by the teachers to document accommodations was cumbersome and so they can not be confident that, "100% for the opportunities needed or afforded and the school is working on a new system to keep such records". The investigator strongly urges the student's IEP team to grapple with how to support the student in a more coherent manner which meets the student's need and also makes it possible for staff to follow and document implementation of the IEP accommodations.

Discipline: The student received six days of ISS in the 2024-2025 school year, but the principal reports this is progress from the 2023-2024 school year. Due to the lack of a behavior intervention plan it is appropriate for the school to deal with the student's social/emotional behaviors through the use of IEP accommodations as well as the responses the school would use for any student, as long as these responses do not trigger IDEA 34. §300.530(e), a manifestation determination must occur within 10 days of any decision to change the child's placement because of a violation of a code of student conduct.

Although there is some evidence of IEP implementation and appropriate disciplinary practices, the district's admission of the school's inability to confidently track use of accommodations does not meet the requirements of IDEA for IEP implementation.

Based on the foregoing, it is found that the district failed to implement the IEP. The ***district is OUT of compliance*** and corrective actions are required.

Issue Three

Did USD #259 ensure the student received instruction while in alternative school settings as required by 34 CFR §300.114(a) during the 2024-2025 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.114(a)(2)(i)(ii) states, "(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily".

Parent Position

The parent complaint noted, "Failure to provide access to the Least Restrictive Environment (LRE)- [The student] is being placed in alternative settings without justification, and without documentation of staff or instructional services provided".

District Position

The district response states, "It is the position of USD #259 that the district ensured the student received instruction while in alternative school settings as required by 34 CFR §300.114(a) during the 2024-2025 school year".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of previous issues are incorporated herein by reference.

1. The district provided documentation that reflected the dates and amount of time the student was sent to the Zen Zone for ISS as well as the amount of time the student chose to go to the Zen Zone for self-regulation.
2. The district shared evidence and included in their response, "The student was assigned six In-School Suspensions, for which the ISS Supervisor kept a log and the student was able to continue to participate in the general education curriculum (although in another setting) as well as progress toward meeting the goals in [the] IEP; the ISS form shows the curriculum [the student] worked on and access to [their] accommodations, and 11/1/24, 1/22 -1/23/25, 5/5/25 emails show communication between staff and also from the principal regarding homework being provided for the student's time in ISS and Zen Zone".
3. A review of the ISS sign-in sheet reflects that IEP accommodations were offered and the student reportedly worked on academics for each of the ISS sessions other than one session where the student slept.
4. According to district records, the student used the Zen Zone for the IEP accommodation of self-regulation for 49 full or partial class periods over 44 days in the 2024-2025 school year. It is noted that there is no time limit on how long the student may elect to be out of the classroom and the duration varied from several minutes up to two class periods.
5. The student also elected to leave the classroom to meet with the counselor (an IEP goal and accommodation), visit the nurse and the restroom, both of which are IEP medical accommodations.
6. IDEA 34 C.F.R.300.530(d)(3) states, "A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed".

Conclusion

After review of the evidence for this case it was determined that the issues were not directly tied to Federal regulations at 34 C.F.R. §300.114(a)(2)(i)(ii), but rather, IDEA 34 C.F.R.300.530(d)(3), "A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed".

The Kansas Special Education Handbook offers additional clarity, "The IDEA allows traditional disciplinary methods such as restriction of privileges. School officials may also use in-school or out-of-school suspension so long as it does not constitute a change of placement. The law does not set an absolute limit on the number of cumulative school days needed to constitute a change of placement, but requires a case-by-case examination of specific factors and requires that services be provided after the 10th school day of suspension in a school year" (pg. 192). The Kansas Special Education Handbook defines change of placement as: "Change in Placement for Disciplinary Reasons (long-term removal) means that school officials or a special education due process hearing officer has ordered any of the following changes in placement of a child with a disability: 1. The child is suspended or expelled from school for more than 10 consecutive school days. 2. The child is subjected to a series of short-term suspensions that constitute a pattern because all of the following have occurred: a. they cumulate to more than 10 school days in a school year; b. each incident of misconduct involves substantially the same behavior; and c. because of other factors such as the length of each suspension, the total amount of time the child is suspended, and the proximity of the suspensions. 3. The child is placed in an interim alternative educational setting. (K.A.R. 91-40-33(a)(1))", (pg. 194).

In this case, the student removed themselves from the general education classroom for 49 full or partial class periods over 44 days in the 2024-2025 school year. The school removed from the general education setting in ISS for six school days during the 2024-2025 school year, short of the 10 days noted in IDEA. Because the student had less than 10 days of ISS in the school year, the school was not required to ensure delivery of IEP services although the district did share evidence that there was instruction and the offer of IEP accommodation occurred during ISS.

Based on the foregoing, it is found that the district, although not required by IDEA to provide instruction and IEP services while the student was in ISS, did provide documentation to demonstrate delivery. The ***district is IN compliance*** and no corrective actions are required.

Issue Four

Did USD #259 issue timely and complete Prior Written Notices as required by 34 CFR §300.503(a)(2) during the 2024-2025 school year?

Applicable Law

Federal regulations at 34 C.F.R. 300.503(a)(2) states that prior written notice needs to be provided to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

Parent Position

The complaint included, "Failure to issue Prior Written Notice (PWN) – The district has not provided timely, written notification of refusals or decisions regarding services, accommodations, or placement."

District Position

The district response states, "It is the position of USD #259 that the district issued timely and complete Prior Written Notices as required by 34 CFR §300.503(a)(2) during the 2024-2025 school year".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of previous issues are incorporated herein by reference.

1. In an email from the parent to the case manager, principal and assistant superintendent on June 16, 2025, the parent stated, "I previously requested a revision to [the student's] IEP due to inaccurate statements made by the teacher regarding absences. While I did receive a Prior Written Notice (PWN) in response, it did not include a specific reason for refusing my request, as required."
2. An investigator review of the May 23, 2025 PWN referenced above by the parent included the required information including a specific reason for the refusal, "The district considered removing the content regarding the information shared from the science teacher, but rejected this action as it would not allow for the strengths and weaknesses of [the student] to be examined by the IEP team to determine [if the student] received [their] Free Appropriate Public Education".
3. The district response states that even though they noticed the parent properly for a January 16, 2025 IEP amendment they are not able to locate the signed [paper copy of the] PWN where it is believed the parent signed "Do Not Give Consent."
4. On the January 16, 2025 amendment PWN, the parent checked both the consent and no-consent boxes, and included an electronic signature for consent on March 11, 2025.

5. In an email on March 12, 2025 the data analyst noted the discrepancy in the signed PWN for the January 16, 2025 IEP amendment meeting and notified the case manager.
6. In an email reply on March 12, 2025 from the case manager to the data analyst, the case manager wrote, "Good news! I had sent home a paper copy last week and it turns out [the parent] did sign that one correctly. I have it now".
7. The district reports that the case manager is no longer at the school and was not available to be interviewed.
8. The district response states that, "The school plans to review its practices regarding Noticing parents and ensuring that all records are filed properly."
9. In a September 3, 2025 email exchange, the investigator notified the mediation/due process supervisor that the investigation of 34 CFR §300.613(a) was being added to Issue Four and that the district had an opportunity to respond.
10. The mediation/due process supervisor replied with an offer to provide any needed additional information.
11. The investigator noted that the April 16, 2025 PWN shared by the parent stated that changes in the IEP were considered material and thus parent consent was required. The district also shared an April 16, 2025 PWN however it noted that the changes in service did not require parental consent for changes.
12. When asked in an email to clarify this discrepancy on September 5, 2025, the mediation/due process supervisor also noted the differences in the two PWNs and could not account for these differences.

Conclusion

IDEA 34 C.F.R. 300.503(a)(2) requires that PWN "needs to be provided to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child."

In this case, a review of the May 23, 2025 PWN showed that required information was included in this PWN. However, as noted in the district response the school is not able to locate a signed PWN from the January 16, 2025 IEP amendment meeting and there are two conflicting versions of the April 16, 2025 PWNs. This inability to maintain records of the signed PWN as well as two different versions of the same PWN calls into question 34 CFR §300.613(a) "Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part". The parent's right to review records clearly implies the district's responsibility to keep accurate records.

Please note, IDEA places a clear responsibility on state departments of education to make sure schools are following the law. Specifically, 34 C.F.R. § 300.600(d) assigns states a "general supervision" duty to monitor compliance. A state department of education can't overlook evidence of a district's failure to comply with law. If, during the course of an investigation, an

investigator uncovers a violation, even if it wasn't originally raised in the complaint the state can't ignore it. The investigator must either address that violation directly in the report or notify the state department of education so it can be addressed another way.

When an investigator finds an apparent violation that was not included in the original complaint that will be addressed in the investigation, the investigator should notify the school district of the additional issue. That provides the district with the opportunity to respond to the new allegation, as required by 34 C.F.R. 300.152(a)(3)."

Based on the foregoing, it is found that the district provided timely, written notification of refusals or decisions regarding services, accommodations, or placement and is *IN compliance* for 34 CFR §300.503(a)(2). However, the district failed to maintain accurate educational records and *OUT of compliance* for 34 CFR §300.613(a) and corrective actions are required.

Issue Five

Did USD #259 provide requested educational records as required under 34 CFR §300.613 during the 2024-2025 school year?

Applicable Law

Federal regulations at 34 CFR §300.613(a)(b)(1) state, "Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 or §§300.530 through 300.532, or resolution session pursuant to §300.510, and in no case more than 45 days after the request has been made. (b) The right to inspect and review education records under this section includes— (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

Parent Position

The parent complaint included, "Failure to Provide Access to Educational Records as required under 34 CFR §300.613 (IDEA) and 34 CFR Part 99 (FERPA), including records related to IEP implementation, disciplinary data, accommodation logs, staff supervision during alternate settings, and service delivery during periods marked as absences or tardies".

District Position

The district response states, "It is the position of USD #259 that the district provided requested educational records as required under 34 CFR §300.613 during the 2024-2025 school year."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of previous issues are incorporated herein by reference.

1. In an email from the parent to the case manager, principal and copied to the assistant superintendent dated June 16, 2025, the parent requested the following records:
    a. "All data referenced in the IEP used to support the claim of 320 class absences and 116 tardies.
    b. Documentation of [the student's] location for each instance [they were] marked absent while present in the building.
    c. Details on how [the student's] time in alternative settings such as the Zen Zone or Student Center is tracked and documented.
    d. Identification of the staff responsible for supervision in these alternative settings.
    e. All documentation or communication logs regarding alleged dress code violations, as well as records of any instances where [the student] was reportedly in the hallways or walking during class."
2. The principal replied in an email dated June 19, 2025 stating that a district administrator or the principal will respond to the parent's request on or before July 31st.
3. A July 29, 2025 email from the principal to the parent, in response to the parent's request for records, shared the following clarification of what the district is compelled to share and what they are not, "First, while FERPA does allow parents to inspect education records, I think it is important for me to inform you that not every document that the school district or one of its staff members creates or possesses is an 'education record'. 'Education record' is a defined term that refers to documents containing information directly related to your student and which are systematically maintained by the school district, usually in some central repository, such as a registrar. This includes items like grade cards and other key documents, but doesn't typically include emails, notes, or general correspondence. I want you to be aware of this in case you are expecting to see those sorts of documents".
4. The principal also addressed each of the parent's requests and included educational records as noted below:
    a. Parent request. "All data referenced in the IEP used to support the claim of 320 class absences and 116 tardies."
    b. Principal response. The IEP does not currently reflect that [the student] was absent from class 320 courses and tardy for class 116 courses. [The science teacher's] IEP Teacher Report Page does reflect this statement, which is [their] record from [their] notes. We are producing documents showing [the student's] attendance by hour for the 2024-25 school year, which reflects [the student] being absent from class for a total of 253 classes. I also believe that you had a

conversation with [the case manager] on April 25, 2025 regarding this discrepancy in numbers that were included in the IEP; at that time it was removed, and an updated copy of the IEP was provided to you with the numerical values removed. We are producing documents denominated '[Student] TRP Science [grade] and '[Student] Attendance By Course 24-25'".

c. Parent request. "Documentation of [the student's] location for each instance [they were] marked absent while present in the building."

d. Principal response. "We believe that this information may be recorded in staff notes or documents in staff's possession. Those are not education records under FERPA, but we will inquire about the existence of those records when our staff return from the summer break. We will furnish an update on this subject as soon as we are able; however, because the beginning of the school year is a busy time, that may not occur until sometime in the middle of August."

e. Parent request. "Details on how [the student's] time in alternative settings such as the Zone or Student Center is tracked and documented."

f. Principal response. "We are producing documents denominated '[Student] Zen Zone sign in_Redacted' and 'CMA ISS Form 2024-2025 - [Student] Redacted'. These documents have been redacted to exclude information not relevant to [the student]."

g. Parent request. "Identification of the staff responsible for supervision in these alternative settings."

h. Principal response. "During the 24-25 school year, the Zen Zone was staffed by the Zen Zone Supervisor who is typically a building substitute. During the 24-25 school year, the Student Center was staffed by a school counselor and an administrative assistant. Other staff may also supervise these settings due to unforeseen circumstances such as staff absences."

i. Parent request. "All documentation or communication logs regarding alleged dress code violations, as well as records of any instances where [the student] was reportedly in the hallways or walking during class."

j. Principal response. "Office staff maintain a 'dress code log' to record dress code violations that require clothing to be brought to school or clothing to be changed in order to achieve conformity with school policy. For the 2024-25 school year, [the student] did not have dress code violations that warranted being recorded in the log; rather, [the student's] dress code violations in 2024-25 involved conditions, such as an open zipper or a shirt tied up to reveal [their] midriff, that could be remedied without a change of clothes. [The science teacher's] IEP Teacher Report Page indicated [the student] 'often has to speak with administrators and/or office staff about dress code violations, and is often in the hallway or walking into other classrooms during class.' In these instances, these conversations were regarding minor dress code violations that were corrected immediately. Because of this, there was no need for documentation. Per [the student's] IEP, there are appropriate times [the student] is to be out of

the classroom to be provided services (such as the Zen Zone, restroom, preferred adult, etc.). The Synergy Contact Log provided has several relevant entries regarding communication between the school and you regarding times [the student] was in the halls or walking during class (see attached). We are producing documents denominated '[Student] General_Ed_Student_Contact 24-25' and '[Student] Special_Ed_Student_Contact 24-25'. (school/parent communication).

5. In an email exchange between the principal, mediation/due process supervisor and investigator on September 11, 2025 the principal clarified that the appropriate records were shared with the parent in the July 29, 2025 email and included documents indicating where the student was in the building when marked absent.
6. The principal further stated in the September 11, 2025 email, "I did tell the parent that education records do not include 'staff notes or other documents in staff's possession'. I intended this as a reference to 'personal notes' and 'sole possession records' which I understand are generally not considered education records under FERPA. However, as I also said at that time, we didn't know whether any such records existed".

Conclusion

34 CFR §300.613(a)(b)(1) "Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to § 300.507 or §§ 300.530 through 300.532, or resolution session pursuant to § 300.510, and in no case more than 45 days after the request has been made."

It is noted that the parent's complaint included a FERPA citation as well as an IDEA citation. Although FERPA is not a special education law, IDEA adopts the definition of educational records from FERPA which states, 20 USC § 1232g(a)(4)(A)(i-ii), "For the purposes of this section, the term 'education records' means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which— (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution. Please note that some documents are not considered educational records and thereby not required to be shared with parents upon request as defined by FERPA 20 USC § 1232g(a)(4)(B)(i), "The term 'education records' does not include—(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;"

In this case, the parent requested documents by email on June 16, 2025 and the district responded with educational records on July 29, 2025, which was 43 calendar days after the request, within the timeline required by IDEA. The information not yet shared by the district

consists of individual teacher notes designed for personal use; these documents do not meet the definition of "educational records" in IDEA and thus sharing is not required.

Based on the foregoing, it is found that the district did provide all of the educational records requested by the parent. The ***district is IN compliance*** and corrective actions are not required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §300.320(a)(1-7) was not found based on the complete and accurate information in the IEP. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. §300.323(c)(2) was found based on the district's inability to ensure implementation of the student's IEP accommodations.
    a. The district shall immediately, within 21 school days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at 34 C.F.R. §300.323(c)(2) to implement the IEP.
    b. Note: The district's response included the admission of a tracking system that was difficult to use and stated that the school is working on a new system to keep such records.
    c. The district shall submit evidence of the new accommodations tracking system to SETS by November 3, 2025.
3. ISSUE THREE: A violation of 34 C.F.R.300.530(d)(3) was not found. Corrective action is not required.
4. ISSUE FOUR: A violation of 34 CFR 300.503(a)(2) was not found, however a violation of 34 CFR 300.613(a) was found.
    a. The district shall immediately, within 21 school days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at 34 CFR 300.613(a) to maintain accurate educational records.
    b. The district response included the following, "The school plans to review its practices regarding Noticing parents and ensuring that all records are filed properly." Additionally, the district shall review practices related to ensuring consistency of document versions.
    c. The district shall submit evidence of these reviews with SETS by November 3, 2025.
5. ISSUE FIVE: A violation of 34 CFR 300.613 was not found based on the district's sharing of all records that met the definition of "educational records."

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT 26FC383-001
FILED AGAINST
UNIFIED SCHOOL DISTRICT #383 MANHATTAN OGDEN PUBLIC SCHOOLS
ON AUGUST 13, 2025 AND ON SEPTEMBER 3, 2025

DATE OF REPORT: SEPTEMBER 19, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ------ by his mother, ------. In the remainder of the report, ------ will be referred to as "the Student." ------ will be referred to as "the Complainant" or "the Parent". ------ is ------'s father and will be referred to as "the Father." Together, ------ and ------ will be referred to as "the Parents."

The complaint is against USD #383 Manhattan Ogden Public Schools. In the remainder of the report, USD #383 will be referred to as "the local education agency (LEA)". The Student attends Manhattan Catholic School, and in the remainder of the report, Manhattan Catholic School will be referred to as "the Private School."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on August 13, 2025, and the 30-day timeline ends on September 12, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator, Gwen Beegle, reviewed all evidence and documentation that was provided by both the LEA and the Complainant. The Parent was contacted on August 16, 2025, to clarify the concerns and the issues of the complaint, and re-interviewed on September 12, 2025 upon the submission of a second complaint to KSDE. KSDE granted a 7-day extension to complete the investigative report with one additional issue (Issue Six).

Three persons were interviewed at the Parent's request: Kris Lyons (Friend, Kansas Child Care Training Opportunities) on August 22, 2025, Cristine Weixelman (the Student's Aunt) on August

19, 2024, and Shandi Schropp (the Student's IDD Waiver Case Manager) on August 20, 2025. Emails were exchanged between the Parent and the Complaint Investigator from August 15, 2025, to September 10, 2025. Dr. Jessical Nelson, Special Education Director for the LEA was contacted on August 18, 2025. The LEA made available Jessica Nelson (Director of Special Education), Felicity Post (Assistant Director of Special Education), Caroline Holt (Special Education Coordinator and Sarah Myers (Special Education Teacher) for a group interview on August 26, 2025. Follow up questions were sent via email to these persons, and replies were received on September 3, 2025, and September 8, 2025. Finally, when the additional complaint was included into this investigative report, the LEA was invited to respond, which it did on September 16, 2025. Emails were exchanged with the LEA through September 16, 2025. In addition, the following documentation and information were used in consideration of the issues

Documentation provided by the Parent.

1. Notice of Meeting dated April 25, 2024 for an IEP meeting on May 7, 2024
2. The Student's IEP dated May 7, 2024
3. Prior Written Notice dated May 7, 2024 for material change of service, substantial change of placement, and other changes to the IEP, with Father's signature giving consent dated May 16, 2024
4. Email from the Assistant Special Education Director, co-signed with the Special Education Director to the Parents dated August 9, 2024 at 3:26 p.m. and the Parent's reply copied to the Father, the Private School Kindergarten Teacher, and the Student's IDD Waiver Case Manager dated August 12, 2024 at 8:14 a.m.
5. Email from the Parent to the Student's IDD Waiver Case Manager dated August 13, 2024 at 4:59 p.m.
6. Notice of Meeting dated August 14, 2024 for an IEP meeting dated August 15, 2024, with parent signature consenting to waive 10 day notice
7. Email from the Special Education Teacher to the Parents dated August 14, 2024, at 9:19 a.m.
8. Email from the Parent to the Special Education Teacher dated August 14, 2024 at 1:55 p.m.
9. Letter from the Special Education Director to the Parents dated August 15, 2024
10. Email from the Special Education Director to the parent dated August 16, 2024, at 8:32 a.m. with August 15, 2025 letter (above) attached
11. Email from the Parent to the Special Education Director, Assistant Special Education Director, Special Education Teacher, the Special Education Coordinator, and the Student's IDD Waiver Case Manager dated August 16, 2024 at 3:30 p.m.
12. Email from the Parent to Disability Rights Center representative dated August 17, 2024 at 3:50 p.m.
13. Email from the Parent to the Special Education Director, Assistant Special Education Director, Special Education Teacher, the Special Education Coordinator, and the

Student's IDD Waiver Case Manager dated August 19, 2024 at 7:47 a.m. and the Special Education Director's reply to same dated August 20, 2024 at 3:09 p.m.

14. Email from the Parent to Families Together representative dated August 19, 2024 at 9:55 a.m.
15. Email from the Parent to the Special Education Director, the Assistant Special Education Director, the Special Education Teacher, the Student's IDD Waiver Case Manager, the Special Education Coordinator), the Private School Kindergarten Teacher, the Private School Principal and the Father dated August 20, 2024 at 10:15 p.m.
16. Email from the Special Education Director to the Parents, the Assistant Special Education Director, the Special Education Teacher, the Special Education Coordinator, and the Student's IDD Waiver Case Manager dated August 20, 2024 at 3:09 p.m.
17. Email from the Special Education Director to the Parents, the Assistant Special Education Director, the Special Education Teacher, the Special Education Coordinator, and the Student's IDD Waiver Case Manager on August 20, 2024 at 3:38 p.m.
18. Email from the Parent to Jessica Nelson dated August 22, 2024 at 8:11 p.m.
19. Email from the Special Education Director to the Parent dated August 23, 2024 at 2:13 p.m., the Parent's reply dated August 23, 2024 at 2:42 p.m. and the Special Education Director's reply dated Aug 23, 2024, at 4:11 p.m.
20. Email from the Parent to the Special Education Director dated August 29, 2024 at 12:40 p.m., the Special Education Director's reply on the same date at 4:55 p.m. and the Parent's reply on the same date at 6:49 p.m.
21. Personal notes dated September 3, 2024 by the Student's Aunt
22. Email from the Special Education Director to the Parents dated September 6, 2024 at 5:06 p.m.
23. Undated kindergarten class schedule spreadsheet
24. Timeline of events dated August 17, 2025

Additional documentation provided by the LEA (*starred items also provided by Parent)

25. Notice of Meeting dated August 14, 2024 for an IEP meeting dated August 15, 2024, unsigned by Parent
26. Notice of Meeting dated August 23, 2024 for an IEP meeting dated September 3, 2024, with acknowledging signature by Parent
27. Prior Written Notice dated August 23, 2024 for a meeting on August 23, 2024 to discuss special education needed and possible changes to the IEP including a material change in services to add transportation including a request for consent emailed to and unsigned by Parents
28. Email from the Assistant Special Education Director, co-signed with the Special Education Director to the Parents dated August 9, 2024 at 3:26 p.m. and the Parent's reply copied to the Father, the Private School Kindergarten Teacher and the Student's IDD Waiver Case Manager dated August 12, 2024 at 8:14 a.m.*

29. Email from the Special Education Teacher to the Parents dated August 14, 2024, at 9:19 a.m.*
30. Email from the Special Education Teacher to the Parents dated August 14, 2024 at 12:55 p.m.
31. Email from the Parent to the Special Education Teacher dated August 14, 2024 at 1:55 p.m.*
32. Email from the Special Education Teacher to the Parents dated August 14, 2024 at 2:39 p.m.
33. Letter from the Special Education Director to the Parents dated August 15, 2024*
34. Email from the Special Education Director to the parent dated August 16, 2024, at 8:32 a.m. with August 15, 2025 letter attached*
35. Email from the Special Education Teacher to the Special Education Director dated August 19, 2024 at 12:49 p.m.
36. Email from the Special Education Teacher to the Special Education Director dated August 19, 2024 at 12:56 p.m.
37. Email from the Special Education Director to the Parents, the Assistant Special Education Director, the Special Education Teacher, the Special Education Coordinator and the Student's IDD Waiver Case Manager) dated August 20, 2024 at 3:09 p.m.*
38. Email from the Special Education Director to the Parents, the Assistant Special Education Director, the Special Education Teacher, the Special Education Coordinator and the Student's IDD Waiver Case Manager on August 20, 2024 at 3:38 p.m.*
39. Email from the Special Education Director to the Parent dated August 23, 2024 at 2:13 p.m., the Parent's reply dated August 23, 2024 at 2:42 p.m. and the Special Education Director's reply dated Aug 23, 2024, at 4:11 p.m.*
40. Email from the Parent to the Special Education Director dated August 29, 2024 at 12:40 p.m., the Special Education Director's reply on the same date at 4:55 p.m. and the Parent's reply on the same date at 6:49 p.m.*
41. Speech language contact log, dated August 13, 2024 through May 23, 2025
42. District response to the complaint, dated August 22, 2025
43. District response to investigators questions, dated September 3, 2025
44. District response to the additional allegation, dated September 16, 2025

Background Information

The Student is described as a happy, social and interactive child, with a history of heart surgery as an infant and smaller than average size for his age, who uses assistive technology and some sign language to communicate. The IEP stated that the Student has Down Syndrome with global delays limiting the ability to fully participate in classroom activities. In the IEP dated May 7, 2024, the Student's needs included assistance to engage in play, pureed foods, and support for toileting. The Student has a history of significant health problems, including hyperthyroidism, a heart attack and pneumonia. Developmental delays established the Student's need for special education, including occupational, physical, and speech therapies.

At the time pertaining to this complaint, the Student was transitioning to Kindergarten at a Private School where the other children in the family attend. The Parent reported that at the time of the IEP meeting on May 7, 2024, no discussion of public-school attendance occurred. The Parent reported that the Student's IEP was written for full time support and therapies to occur at the Private school, and the Parent received a notice from the LEA on Friday afternoon, August 9, 2024, that the occupational and physical therapies would be provided at a nearby elementary school rather than the Private school. In response, the Parent contacted the LEA that day and the following Monday, August 12, 2024 to question and clarify the meaning of the LEA's email as it pertained to the Student's IEP services and to request an IEP Meeting. The 12-month period for investigation began August 13, 2024, and the Parent's complaint concerns the events that occurred at the beginning of the 2024-25 school year.

Issues Investigated

1. ISSUE ONE: Did the LEA provide an opportunity for the parent to provide informed consent on the notice of meeting waiver dated August 14, 2024 for an IEP meeting on August 15, 2024? (p 6)
2. ISSUE TWO: Did the LEA provide appropriate notices of meetings? (p 9)
3. ISSUE THREE: Did the LEA afford parental participation by providing appropriate prior written notice? (p 12)
4. ISSUE FOUR: Did the LEA implement the student's IEP during the 2024-25 school year? (p 19)
5. ISSUE FIVE: Did the LEA respond to the parent's request for an IEP meeting after the meeting dated August 15, 2024 through September 30, 2024? (p.22)
6. ISSUE SIX (Additional Issue): Did the LEA consider the information brought forward by the parents during the IEP meetings on August 15, 2024 and September 3, 2024? (p. 26)

Issue One

Did the LEA provide an opportunity for the Parent to provide informed consent on the notice of meeting waiver dated August 14, 2024 for an IEP meeting on August 15, 2024?

Applicable Law

Federal/State statutes and regulations at 34 C.F.R. 300.9 state "Consent means that (a) the parent has been fully informed of all information relevant to the activity for which consent is sought in his or her native language or through another mode of communication; (b) the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes the activity and lists the records (if any) that will be released." Further, while granting consent is voluntary and can be revoked, revocation is not retroactive in that it does not negate an action that has occurred after the consent was given and before the consent was revoked

Analysis: Findings of Fact

The Parent alleged that while in the school drop off line on August 15, 2024, the Special Education Teacher asked her to sign the notice of meeting , stating that it was required in order to meet with the Special Education Teacher on August 15, 2025. The Parent stated that she did not know what she was signing and so she was unaware that the subsequent meeting on August 15, 2024 would be the entire team for an IEP meeting rather than what she expected, a meeting with the Special Education Teacher to share information about the Student for the upcoming school year. The Parent alleged that she understood that she had to sign the paper in order to meet with the Special Education Teacher.

The LEA responded: "USD 383 complied with all requirements under the Individuals with Disabilities Education Act ("IDEA") and the Kansas Special Education Process Handbook. Pursuant to the Handbook, Chapter 4 (Parent and Student Participation), parents must receive written notice of an IEP team meeting early enough to ensure the opportunity to attend, but the law expressly permits the parent to waive the ten (10) calendar day notice requirement if the parent so chooses. On August 13, 2024, [the Special Education Teacher] met with [the Parents] in person and explicitly explained that if the IEP meeting was to occur the following day, they would need to waive the ten-day notice requirement. Both parents verbally agreed, affirming their desire to convene the IEP team without delay. This conversation was documented by [the Special Education Teacher] in an email to [the Special Education Director] on August 19, 2024. On August 14, 2024, at 12:55 p.m., USD 383 provided [the Parent] an email with the formal Notice of Meeting along with the Procedural Safeguards. On August 15, 2024, prior to the IEP meeting, [the Parent] signed the Notice of Meeting, affirmatively waiving the ten-day notice requirement, and [the Special Education Teacher] again explained the purpose of the signature. This procedure satisfied all IDEA and Kansas Process Handbook requirements by providing the parents with informed consent."

Findings of Fact

The following findings are based upon a review of documentation and interviews with the individuals listed in Evidence.

In an email dated August 13, 2024 at 4:59 p.m., the Parent explained to the IDD Waiver Case Manager that she had contacted the LEA, stating, "[The Assistant Special Education Director] did call me this morning, to say they received my email and voice message. She told me that someone would contact me today about his para and no one has. School starts tomorrow [August 14, 2024]"

The LEA and the Parent agreed that the Father met briefly with the Special Education Teacher to organize a meeting. In a record of the timeline of events, the Parent reported that the Father met the Special Education Teacher at 8 a.m. on August 14, 2024, asked if the Special Education Teacher wanted to meet to review the Student's schedule and share things about

the Student's needs, and confirmed to meet at 2:00 pm that afternoon. The Parent reported that the Special Education Teacher later asked to move the meeting to Thursday, because she was with the Student on August 14, 2024.

In an email to the Parent on August 14, 2024 at 9:19 a.m., the Special Education Teacher stated, "It was nice meeting you both this morning. I am still waiting on my supervisor to give me a time [when] available to meet for [the Student]'s IEP meeting. I will let you know when she gives me a day and time. Meanwhile, will [the Student] be at MCS all day, what will his daily schedule look like?" The Parent replied to this email on the same day, giving the Special Education Teacher the times when the Student would be attending an outside agency for therapy.

In an email dated August 14, 2024 at 12:55 p.m., the Special Education Teacher sent an email which stated that the Notice of Meeting for the (NOM) meeting was attached and later sent a second email asking if it had been received at 2:39 p.m. on the same day. There is no record of the Parent replying to this email.

The LEA and the Parent agreed that the Parents attended the meeting scheduled for 2:00 on August 15, 2024.

In an email dated August 16, 2024, the Parent requested a copy of the paperwork she signed the previous day. On August 19, 2024, the Parent wrote in an email to the Special Education Director, "The morning of the scheduled meeting with [the Special Education Teacher], I was given a legal document to sign [that] I did not understand what was presented or signed, nor did I receive a copy."

In an email to the Parent dated August 20, 2024 at 3:38 p.m., the Special Education attached a copy of the Notice of Meeting dated August 14, 2024 for a meeting on August 15, 2024, with the parent's signature, consenting to waive 10 day notice

Conclusion

In this case, the Parent anticipated that the Parents would meet with the Special Education Teacher to discuss the Student's services and schedule, and signed the Notice of Meeting with that understanding. It is understandable that the Parent felt rushed when signing the Notice of Meeting dated August 14, 2024. However, the LEA demonstrated that it had provided written and verbal explanation prior to asking for the signature to consent to waive of the 10 day notice for an IEP meeting, in modes typically used by the Parent to communicate with the School.

Based on the foregoing, ***it is not substantiated*** that the LEA failed to provide the opportunity for the parent to provide informed consent on the Notice of Meeting dated August 14, 2024.

Issue Two

Did the LEA provide appropriate notices of meetings?

Applicable Law

Federal and state statutes and regulations at 34 C.F.R. 300.322(a) and (b) and K.A.R. 91-49-25(b) require that that each public agency must take steps to ensure parental participation at each IEP meeting or afforded the opportunity to participate by notifying parents of the meeting early enough to ensure they have the opportunity to attend and scheduling the meeting at a mutually convenient time. Information provided to the parent on the notice of meeting indicates the purpose, time, and location of the meeting and who will be in attendance; and inform the parents of the provisions in § 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), if relevant.

Analysis: Findings of Fact

The Parent alleges that the Notice of Meeting dated August 14, 2024 for the August 15, 2024 meeting did not have an accurate statement regarding the purpose of the meeting, and that the Parents were blindsided by the LEA's action at the meeting, which was to remove all services from the Private School immediately. The Parent stressed that the Parents believed that the meeting was to share information with the Special Education Teacher about the child and to discuss transportation to and from related services at another location.

The LEA responded, "USD 383 provided all required notices consistent with the Kansas Process Handbook. For the August 15, 2024 IEP meeting, parents signed the Notice of Meeting and explicitly waived the ten-day notice requirement. For the September 3, 2024, IEP meeting, USD 383 issued and the parents signed a Notice of Meeting more than ten days prior to the meeting date. Thus, the LEA complied with its obligation to provide appropriate and timely notice."

Findings of Fact

The findings of Issue One are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the individuals listed in Evidence.

The Notice of Meeting dated August 14, 2024 for an IEP meeting on August 15, 2024 at 2:00 at the Private School, under the heading "Meeting to Develop the IEP" stated: "As the parent of an exceptional child, you are entitled to a 10-day prior written notice of any meeting to discuss the needs of your child and develop an Individualized education program (IEP). You may consent to hold the meeting with less than 10-days written notice." Below this statement, "Other" was checked, and "Related Services" was written beside "Other."

Invited participants were listed by role: a general education teacher, a special education teacher or special education provider, a school representative, a person who can interpret instructional implications of evaluation results, along with the Special Education Director, and the Assistant Special Education Director.

According to the LEA's report, participants at the meeting included the Parents, the Special Education Director (LEA), the Private School Principal (General Education Teacher), the Special Education Teacher, the Physical Therapist, the Speech Language Pathologist, the Occupational Therapist, the Special Education Coordinator and the Assistant Director of Special Education.

The LEA and the Parent agree that the Parent signed the Notice of Meeting and checked the box by the waiver of the 10-day notice, dated August 15, 2024. The LEA and the Parent agree that the Parent attended the IEP meeting on August 15, 2024.

The LEA provided a Notice of Meeting August 23, 2024 for an IEP meeting dated September 3, 2024, at 2:00 at the Private School with acknowledging signature by the Parent. Under the heading "Meeting to Develop the IEP" the item "Discuss possible changes to your child's IEP" was checked.

Participants were listed by role: a general education teacher of your child, a special education teacher of your child or special education provider of your child, a school representative, a person who can interpret instructional implications of evaluation results, the Special Education Director, the Special Education Coordinator, and the Assistant Special Education Director.

According to staffing notes, the participants at the September 3, 2024 meeting were: the Parents, the Special Education Director, the Special Education Coordinator, and the Assistant Special Education Director, the Special Education Teacher, Occupational Therapist, Physical Therapist, Speech Language Pathologist, the Student's Aunt, General Education Teacher, Families Together Representative, Case Manager, and School Social Worker. Personal handwritten notes taken by the Student's Aunt showed an additional individual attended as a friend of the family.

Conclusion

In this case, the parent alleged that the LEA knew, or should have known, that the purpose of the August 15, 2024, meeting changed to remove all services from the Private School and that the LEA did not accurately inform the Parent of the meeting's purpose. The parent attended the meeting, waiving the 10-day notice in good faith, anticipating that the meeting would pertain to the transportation needs of the child given the August 9, 2024, email and the purpose statement included in the Notice of Meeting ("Related Services"). The meeting had substantial and immediate implications for the child and family when the LEA presented the August 15, 2024 "ready willing and able" statement to remove all the Student's services from the Private School and the Parents were required to decide immediately to accept or refuse services at the Public School.

The Notice of Meeting requirement in 34 C.F.R.300.322 requires the LEA to provide notice of the "purpose" of the meeting and does not specify any other criteria as to what the purpose must include. This requires districts to provide a general statement of the purposes of the meeting, not a detailed statement, and the LEA's notice sufficiently indicates a general purpose of the meeting.

It is noted and regrettable that the LEA did not provide more information to the Parents prior to an important IEP meeting. However, there is no violation. Based on the foregoing, ***it is not substantiated*** that USD 383 failed to give appropriate notice of meeting in this instance.

Issue Three

Did the LEA afford parental participation by providing appropriate prior written notice?

Applicable Law

Federal statute and regulations at 34 C.F.R. 300.503(a) and (b) requires that written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE; the content of the notice must include a description of the action proposed or refused, an explanation of why the agency proposes or refuses to take the action, a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action, a statement that the parents of a child with a disability have protection under procedural safeguards and the means by which a copy of a description of the procedural safeguards can be obtained, sources for the parents to contact to obtain assistance in understanding, a description of other options that the IEP team considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal.

Analysis: Findings of Fact

The Parent alleged that the LEA did not provide prior written notice of its actions when the LEA changed the Student's services from the Private School to the Public School immediately on the second day of school. The Parent alleged that the LEA's communication regarding its actions prevented effective parental participation in the IEP process at two meetings occurring at the beginning of the 2024-25 school year.

The LEA responded: "USD 383 provided Prior Written Notice ("PWN") as required by 34 C.F.R. § 300.503 and the Kansas Process Handbook. For the August 15, 2024, IEP meeting, the parents checked the box acknowledging their waiver of the ten-day notice, and email documentation further confirms their agreement. For the September 3, 2024 meeting, the Notice of Meeting was issued with more than ten days' notice. The LEA also continued to maintain communication with the family beyond these meetings. Documentation includes: The August

15, 2024, signed notice of meeting with the 10-day notice waived. The September 3, 2024, Notice of Meeting, signed and confirmed by email. . . . Additionally, the LEA provided a PWN and amendment approving transportation services so the student could be transported to a public school site, and sent the required "Ready, Willing, and Able" letter to the parents . . . These actions reflect the LEA's consistent commitment to ensuring meaningful parental participation."

Findings of Fact

The findings of Issue One and Issue Two are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the individuals listed in Evidence.

The Student's IEP being discussed in this complaint was created by the IEP team that met on May 7, 2024 to plan for the Student's transition to kindergarten during the 2024-25 school year. According to that IEP, the services to be in place, beginning August 14, 2024 through May 6, 2025 were:

1) Attendant care - special education direct service in a general education setting (daily, 40 minutes)
2) Nursing services - indirect (10 minutes, weekly)
3) Special education services - special education direct services in general education classroom (305 minutes, two days a week)
4) Special education services - special education direct services in general education classroom (310 minutes, three days a week)
5) Special education services - special education direct services outside general education settings (60 minutes, daily)
6) Occupational therapy - special education direct service outside general education setting (25 minutes, one day per week)
7) Physical therapy - special education direct service outside general education setting (25 minutes, one day per week)
8) Physical therapy - indirect (15 minutes, monthly)
9) Speech language therapy - special education direct service outside general education setting (20 minutes, two times a week).
10) Speech language therapy - special education direct service in general education setting (20 minutes, one time a week).
11) Teacher consultation (10 minutes, one day per week)

In addition, the IEP dated May 7, 2024 included accommodations and supplementary aids and services to be provided: adequate response time, preferential seating, repeated review and drill, positive / concrete reinforcers, and visual supports.

The LEA and the Parent agree that two IEP meetings were held on August 15, 2024 and on September 3, 2024 and that the location of services was a topic at each meeting.

When asked to provide notes of the August 15, 2024 IEP meeting to the Invesigator, the LEA provided an email to the Parents dated August 20, 2024 at 3:09 p.m., which the LEA stated served as staffing notes. The LEA's notes include four points regarding the IEP meeting on August 15, 2024: (a) the attendees at the meeting, (b) the Student's services would be provided at the Public School, (c) the Student's services as listed in the IEP dated May 7, 2024 would not be changed by the LEA but transportation to the Public School would be added, and (d) the LEA was ready willing and able to implement the IEP at the Public School.

In an email dated August 20, 2024, asking for assistance, the Parent forwarded these notes to Families Together and added that the details were incorrect because the discussion stated that the Student would be in the Life Skills Program at the Public School.

In an excerpt from an email to the Special Education Director on August 19, 2024 at 7:47 a.m., the Parent requested an IEP meeting and requested alternative OT and PT services to be delivered to the Private School, specifically

". . . we make the following requests: 1) OT – Peer classroom modeling in the classroom, least restrictive environment to assist [the Student] most appropriate during daily activities, 2) PT – Direct during PE/Recess with the PE teacher and recess supervisor in the least Restrictive Environment during the most active part of the day with his peers. Alternatively, instead of losing valuable instruction time while being transported to & from on the bus, we'd prefer: 3) OT - we would like to have a consult with the classroom teacher to communicate the most appropriate ways to assist [the Student] within the classroom daily during learning activities alongside his peers, 4) PT- For an Indirect Service consultation to the PE/Recess with the PE teacher and Recess supervisor providing alternative equipment or modifications to accommodate [the Student]'s needs. Either way, we believe these changes would require IEP amendments prior to agreeing to or signing any such amendments we are requesting"

On August 20, 2024 at 3:09 p.m., the Special Education Director sent an email to the Parents acknowledging the request for a meeting, recounting a timeline of events relating to scheduling the August 15, 2024 meeting, and stating,

"We are not proposing to change current services on [the Student]'s current IEP. Based on the need outlined in his IEP (305 minutes two days per week, 310 minutes three days per week for daily living and social skills, recess, and academic support from a paraeducator, occupational therapy, physical therapy, speech language therapy, attendant care, and school nursing services). USD 383 will provide transportation to [the Public School] where all of these services can be accessed. We have received your request for an IEP team meeting. . . . Until we can schedule an IEP team meeting, USD 383 is ready, willing, and able to serve [the Student"s IEP as written at [the Public School]."

The LEA provided a PWN dated August 23, 2024 along with a proposed IEP amendment to add transportation services to the Public School to the Student's IEP.

The Investigator interviewed and surveyed four District employees, interviewed three persons suggested by the Parent, reviewed two sets of meeting notes, and read subsequent emailed conversations to ascertain the content of the IEP meeting on September 3, 2024.

- The Parent and the LEA agree that information about the proposed Public School program and transportation was requested and the LEA subsequently emailed information in response to the Parent's questions.
- The LEA supplied staffing notes and summarized the meeting topics: "the discussion focused exclusively on logistical matters related to potential placement at [Public] School. Topics included the structure of the classroom, bus transportation times, kindergarten information, and the amount of resource time available. No changes to the IEP itself or requests for different services were raised."
- Interviewees and the Parent added that the following topics were discussed at the September 3, 2024 meeting: para support, least restrictive environment concerns, the Student's safety, the Student's home school, and the LEA's declination to allow the Parents to personally view the proposed Public School classrooms or to identify the proposed teacher. Personal handwritten notes taken by the Student's Aunt at the September 3, 2024 meeting also included the following topics: student safety, transportation, the nature of the proposed Public School program including class sizes, age limit of students in Life Skills, questions regarding service provision options, concern about negative effect on the Student and the Student's progress due to the move, and speech language therapy offered at the Private School.
- Personal handwritten notes taken by the Student's Aunt at the September 3, 2024 meeting show that the Parent asked if it was possible to amend the IEP for speech language and para services to be maintained at the Private School and move only the OT and PT services, and the LEA refused without a new evaluation. A participant invited by the parent asked if the Student's services could be provided at the Student's home school, and the LEA stated that the decision had to be an IEP team decision based on data and that the present IEP team had no authority to make that decision. The Parent asked if it had been a unilateral decision to move the Student's services by the LEA without consultation of Parents or Private School. The Parent asked how the decision to move the Student's services was made.
- The personal handwritten notes taken by the Student's Aunt at the IEP meeting dated September 3, 2024 state: "Does the IEP need to be re-written to include SLP at [the Private School? Is it possible to edit the IEP to do SPL and para and do at [the Private School] [without] OT/PT if para was hired/paid by [the Private School?] [Special Education Director's initials] Would need evaluation." In an interview, the Assistant Special Education Director stated that to change the IEP to such a degree would require more information such as an evaluation and an additional team meeting after collecting data.

- The LEA's staffing notes for the September 3, 2024, meeting stated that the Student's home school "case loads are full" and the student would be bussed to the Public School; later, the same notes stated that the home school "could be taken into consideration." According to the personal handwritten notes taken by the Student's Aunt, the LEA stated that the student's home school may be considered and that Speech Language Therapy may be provided at the Private School.
- The LEA's staffing notes for the September 3, 2024 meeting stated: "Mom: how do we accommodate for [the Student] to attend [the Private School]? How can we have a true conversation for what is best for [the Student]? The IEP that was written last school year is for what services [the Student] needs."

The Parent and the LEA agree that Speech Language Therapy was provided at the Private school during the 2024-25 school year.

In an interview, the LEA reported that it provided PWN to add transportation only, stating that there was no change in the LEA's offer of FAPE and therefore no PWN was required for specific requests. Documentation supported that PWN was provided to add transportation to the Student's IEP dated May 7, 2024 through a proposed IEP amendment.

Conclusion

In this case, whether the LEA had the authority to offer the Student's IEP at the Public School is not questioned or investigated. Rather, this issue concerns whether the LEA was obliged to provide PWN based on the evidence available regarding the events of August and September, 2024.

Communication at the IEP meetings, as investigated now, was not clear among the parties. Prior written notice can be clarifying to the parties, and it is required when the LEA either proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE. In this case, the LEA communicated its decision to provide the Student's IEP services at the Public School rather than the Private School through its "ready willing and able" letter dated August 15, 2024.

However, the Parent requested that the LEA's offer of FAPE be altered, documented in the investigation in at least three instances. First, in an email on August 19, 2024, after receiving the LEA's letter, the Parent specifically requested OT and PT services be changed and that these changes be discussed at the upcoming meeting. The LEA received the email and responded to other elements of this email by scheduling a meeting on September 3, 2024. Second, at that meeting, the Parent asked that some or all the Student's services be continued at the Private School. Third, the LEA agreed to provide the Student's speech language therapy at the Private School rather than at the Public school.

When the Parents attended the September 3, 2024 IEP meeting and requested changes to the IEP, the LEA IEP team denied this request, thereby maintaining their previous offer of FAPE

through the "ready willing and able" letter dated August 15, 2024. Although the LEA maintained its offer of FAPE, it did so by refusing to make the changes being requested by the Parents. At that point, the LEA was required to give the Parents written notice of that refusal and an explanation of why it was refusing the parents requests, with a PWN. Further, the LEA altered its own offer of FAPE at the Public School by providing the Speech Language services at the Private School during the 2024-25 school year and failed to provide PWN to allow the parent to accept this service while refusing the other services, in this case due to the location determined by the LEA.

Therefore, it is found that the LEA was required by 34 C.F.R. 300.503(a) and (b) to provide a PWN to refuse the change proposed by the Parent. The LEA's "ready willing and able letter" does not relieve the LEA of the requirement to provide PWN when the parent asks for a change to the IEP or there is an alteration of the IEP services offered by the LEA.

Based on the foregoing, ***it is substantiated*** that USD 383 failed to provide proper prior written notice.

Issue Four

Did the LEA implement the student's IEP during the 2024-25 school year?

Applicable Law

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. Each special education service on the IEP is required to be accompanied by the projected date for the beginning of the service and the anticipated frequency, location, and duration of the service (34 C.F.R. § 300.320(a)(7)).

According to K.S.A. 72-3462: "Every school district shall provide special education services for exceptional children who reside in the school district and attend a private, nonprofit elementary or secondary school, whether such school is located within or outside the school district upon request of a parent or guardian of any such child for the provision of such services. . . . Special education services, which are provided under this section for exceptional children who attend a private, nonprofit elementary or secondary school which is located in the school district may be provided in the private, nonprofit elementary or secondary school or in the public schools of the school district. The site for the provision of special education services under this section for an exceptional child shall be determined by the school district in consultation with the parent or guardian of the child and with officials of the private, nonprofit elementary or secondary school," subject to requirements specified in the statute.

The (Kansas Special Education Process Handbook (p. 217) explains: "The state law relating to children voluntarily enrolled in private schools by their parents significantly adds to federal requirements. State law requires that when a parent requests services, the school district of

residence will make available all services and will provide any or all of the special education and related services that are identified by an IEP team for any child with an exceptionality, to which the parent provides consent. . . Parents may refuse to accept some or all of the offered services. In this case, the public school should have documentation that the parents refused to accept some or all of the services recommended by the IEP team. One way this could be documented is by providing Prior Written Notice for all of the services identified on the IEP and the parent would consent to only the services they are accepting"

According to KAR 91-40-27 (h), "An agency shall not use a parent's refusal to consent to an activity or service to deny the parent or child other activities or services offered by the agency."

Analysis: Findings of Fact

The Parent alleges that the LEA did not implement the Student's IEP services, specifically the Student's Speech Services, until the Parent notified them after the IEP meeting on September 3, 2024.

The LEA responded: "At the August 15, 2024, IEP meeting, the IEP team confirmed that all services would be provided at the public-school site, with transportation furnished by the LEA. A PWN and IEP amendment documenting this addition were provided to the parents."

Findings of Fact

The findings of Issue One, Issue Two and Issue Three are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the individuals listed in Evidence.

In a response dated September 3, 2025 to the Investigator's follow up questions, the LEA replied: "Under IDEA and the Kansas Process Handbook, districts must provide a free appropriate public education (FAPE) to students in public schools, but for parentally-placed private school students, the LEA is not required to replicate the full IEP in the private setting. Instead, services are made available in accordance with equitable services provisions (34 C.F.R. §§ 300.137- 300.138). In this case, the May 7, 2024, signed Prior Written Notice (PWN) and IEP authorized speech language services. Because the LEA had a speech-language pathologist on site at [the Private School] during the 2024-25 school year, the LEA lawfully continued providing that service at [the Private School]".

The Student's IEP dated May 7, 2024 included the following speech language services: "speech language therapy - special education direct service outside general education setting (20 minutes, two times a week) and speech language therapy - special education direct service in general education setting (20 minutes, one time a week)."

According to the personal handwritten notes of the IEP meeting dated September 3, 2024, the LEA stated that speech language services would be provided at the Private School. In an

interview follow-up email, the LEA reported that it received an email notifying them that the Student was not receiving the speech language service at the Private School.

The LEA provided a log that showed that direct speech language services in a special education setting were provided to the Student beginning September 19, 2024, two times a week, through the 2024-25 school year.

No PWN was offered by the LEA regarding speech language services offered at the Private School, as found in Issue Three.

Conclusion

In this case, the LEA agreed to provide the student's speech language service at the Private School as of September 3, 2024, and those services began on September 19, 2024. While no PWN exists to clearly delineate the specific services and the beginning and ending date of those services, from the evidence provided, four, twenty-minute sessions were missed. Based on the foregoing, *it is substantiated t*hat USD383 failed to provide the Student's speech language services as required by the Student's IEP dated May 7, 2024 during the 2024-25 school year.

Issue Five

Did the LEA respond to the parent's request for an IEP meeting after the meeting dated August 15, 2024 through September 30, 2024?

Applicable Law

Federal and state statutes and regulations at CFR 300.324(b)(1)(ii)(C) and KSA 72-3429(f) require that the IEP team meets at least annually and that it revises the IEP as appropriate to respond to a parent's request for an IEP meeting to address a lack of progress, evaluation, the child's anticipated needs, information provided to or by the parents, or other matters. In Kansas, a reasonable time to respond to parental requests such as the request for an evaluation or for an IEP meeting is three weeks, or 15 school days.

The Kansas Special Education Process Handbook (p. 88) states: "Although the school is responsible for determining when it is necessary to conduct an IEP meeting, the parents of a child with an exceptionality have the right to request an IEP meeting at any time. The child's teacher or other school staff may also propose an IEP meeting at any time they feel the IEP has become inappropriate for the child and revision should be considered (K.S.A. 72-3429(f))."

Analysis: Findings of Fact

The Parent alleges that the Parent requested an IEP meeting to discuss the change to the location of the child's services, which the LEA responded to by scheduling a meeting on September 3, 2024. However at that meeting, the Parent alleges that the District repeatedly said that the meeting was not an IEP meeting but only a team meeting which was informational

about the change of location. This obstructed the Parents' participation and advocacy for changes in the Student's IEP at the September 3, 2024 IEP meeting.

The LEA responded: "On August 23, 2024, the LEA confirmed via email a Notice of Meeting scheduling the requested IEP meeting. This meeting was held on September 3, 2024, with the parents and the full IEP team in attendance. The LEA therefore responded promptly and appropriately to the parental request within the relevant timeframe."

Findings of Fact

The findings of Issue One, Issue Two, Issue Three and Issue Four are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the individuals listed in Evidence.

In an excerpt from an email to the Special Education Director on August 19, 2024 at 7:47 a.m., the Parent stated,

"At the meeting as referenced on 8/15/2024 the entire team was not present. I understood this to be a meeting, by which I requested, with the Special Education teacher [Name omitted] to prepare for this academic semester. . . If [the Student's] IEP is not going to be followed as written, we need a new IEP prefaced with a full team meeting and the required notice."

In an email dated August 23, 2024 to the Parents, the Special Education Director stated,

"Attached to this email you will find an amendment to add transportation services to [the Student's] IEP as well as a prior written notice (PWN) for the addition of transportation services. We, of course, would be happy to sign these or discuss this addition in person at an IEP meeting as well. We received your request for an IEP team meeting. Without parents waiving the 10-day notice, we would be looking at September 3, 2024. Does this date work for you, [Parents names omitted], with the time being sometime in the afternoon? If not, we can look at the afternoon of September 5, 2024, as well. Until we can schedule an IEP team meeting, USD 383 is ready, willing, and able to serve [the Student's] IEP as written at [the Public School]."

The NOM dated August 23, 2024 for a meeting on September 3, 2024 was attached to an email from the Special Education Director to the Parents dated August 23, 2024 at 4:11 p.m. and the Parent replied affirming the time and date of the meeting.

Personal handwritten notes taken by the Student's Aunt at the September 3, 2024 IEP meeting showed that the Assistant Director stated that the participants were here to discuss the IEP but not make changes to the IEP, that the Director stated that they could discuss the addition of transportation only, and that the Director stated that "this isn't an IEP meeting, no decisions are being made." Interviewees stated that the LEA administrators attending the September 3, 2024 meeting stated that the meeting was not an IEP meeting. In an interview with the LEA administrators, the administrators stated that they conveyed that no changes to the IEP were

being offered by the LEA at the September 3, 2024 meeting and that the meeting was intended by them to be informational about the LEA's offer to provide the Student's IEP services at the Public School.

Conclusion

In this issue, the LEA's communication with the Parent and others invited by the Parent to the IEP meeting conveyed a message that the meeting on September 3, 2024 was not an IEP meeting, although the written Notice of Meeting dated August 23, 2024 was for an IEP meeting on September 3, 2024. This confused the Parents and the parentally invited IEP participants, who were veteran IEP attendees. It is noted that the LEA administrators attempted to semantically differentiate the meaning of an IEP team meeting to clarify that the LEA's offer of FAPE was not being changed. However, the LEA assembled an IEP team, offered a notice of meeting for an IEP meeting and held a meeting at the predetermined time and place. Therefore, regardless of whether the offer of FAPE was changed by the LEA, based on the evidence in the written communication through emails and the NOM provided, the LEA received and responded to the Parent's request for an IEP meeting, and no violation occurred.

Based on the foregoing, ***it is not substantiated*** that USD 383 failed to respond to the Parent's request to schedule an IEP meeting.

Issue Six (Additional Issue)

Did the LEA consider the information brought forward by the parents during the IEP meetings on August 15, 2024 and September 3, 2024?

Applicable Law

Federal statute and regulation at 34 C.F.R. 300.324(a)(1)(ii) require that in developing each child's IEP, the IEP Team must consider—The strengths of the child; the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child.

Analysis: Findings of Fact

The parent alleged that the LEA "did not meaningfully consider or document our parental concerns, which limited our participation in the IEP process and did not meet requirements under Kansas special education regulations and IDEA. Concern #1 - Consideration of Parent Concerns At the September 3, 2024 IEP meeting, we raised specific concerns regarding our child's educational placement, loss of instructional time due to transportation, and the need for paraeducator support. These concerns were not reflected in meeting notes or prior written notices, and no documentation was provided showing how they were considered by the IEP team. The process did not demonstrate a focus on what was most appropriate for our child. Violations: Kansas Special Education Handbook, Section 9.2 (parent participation); IDEA 34 CFR

300.322 (parent involvement in IEP meetings); IDEA 34 CFR 300.324(a)(1)(ii) (IEP team must consider the concerns of the parents)."

The LEA responded by reiterating its authority to offer the Student's IEP at the Public School, noting that it had provided it's "ready willing and able" letter to the parents, who declined to take up its offer and voluntarily placed the Student at the Private School. The LEA stated that due to the voluntary placement at the Private School, the LEA is not required to offer all the services on the IEP to the Student. The LEA responded that staffing notes are not legally required, and the notes taken at the meeting by the Student's Aunt had previously been provided for the complaint investigation. The District asserted that no parental requests were made at the meeting that required PWN, that the content of the meeting was fact finding.

The LEA opined that repeated complaints "does not impose upon the district an obligation to alter its legally compliant practices or to extend services beyond what the law requires. The district has already offered FAPE in the least restrictive environment (LRE) as evidenced by: -The Prior Written Notice (Kansas Process Handbook, Ch. 3, § C), which proposed an additional service, transportation, the parents refused to sign. -The Ready, Willing, and Able letter provided on August 15, 2024 (Kansas Process Handbook, Ch. 14, § A), documenting the district's ongoing readiness to implement the IEP in the public setting; and -The district's consistent efforts to provide services in good faith within the limits permitted by IDEA and Kansas law, despite the parents' refusal to consent to or accept those services. The parents' decision to reject those lawful offers does not create additional obligations on the district (34 C.F.R. §§ 300.137–300.138)."

Findings of Fact

The findings of Issue One, Issue Two, Issue Three, Issue Four and Issue Five are incorporated herein by reference.

In an email to the investigator, the parent reported that the following concerns had been raised at the August 15, 2024 and September 3, 2024 meetings: class size and attention to the Student's needs, the building size and transitions, the school schedule, siblings and peers in the same school, playground accessibility needed for the Student's health and size, and predictable routines, reduced transitions, and accessibility as offered by the Private School. The Parent reported that the LEA did not display an "openness to have a conversation" and the outcome of the meetings appeared to be predetermined "without regard for our concerns."

In an email to the parents dated September 6, 2024, the LEA provided the following information on the Public School program, describing this as information requested at the IEP meeting: class sizes and number of classes at the Public School, details on the offered transportation by bus for the Student, and the Public School class schedule.

In an interview, the Assistant Special Education Director stated that the communication with the Parents in the September 3, 2024 IEP meeting was like a "broken record" technique, to

deliver the ready willing and able message repeatedly to the Parents who wanted services to continue at the Private School.

Conclusion

This issue, like the previous issues investigated, does not take up the question of the proper placement of the Student nor the authority of the LEA to offer the Student's IEP services at a Public School rather than the Private School. Instead, the question is whether, in providing its offer of FAPE at the Public School at two IEP meetings, the LEA considered the parental concerns in those discussions.

As the LEA responded, "fact finding" regarding the proposed Public School location occurred at the IEP meetings, according to the evidence. In this instance, the Parent believes that the concerns raised regarding the nature of the location and its suitability for the Student were not considered seriously by the LEA, when the LEA was delivering the conclusive message conveyed by its "ready willing and able" letter and statements at the IEP meetings.

In this case, the Parent was afforded the opportunity to attend and participate in the IEP meetings. Findings in Issue Four show that parental concerns were raised at the September 3, 2024 IEP meeting. The LEA's response shows that its communication focused on providing information about the Public School program and not on making any changes to the IEP or location of services. While this may have been perceived as failing to consider the Parents concern for the Student's health in the new location, this investigation cannot authoritatively state that the LEA was not in compliance when considering the parental concerns raised during the period of the investigation.

Therefore, it is found that the *LEA is in compliance* and no violation can be substantiated.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 C.F.R. 300.9 was not found, based on facts above. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. 300.322(a) and (b) and K.A.R. 91-49-25(b) was not found, based on facts above. Corrective action is not required.
3. ISSUE THREE: A violation of 34 C.F.R. 300.503(a) and (b) was found, based on facts above. Corrective action is required (as follows):
    a. CORRECTIVE ACTION:
        i. USD #383 shall, within 60 days of this report (November 11, 2025) submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal regulations at 34 C.F.R. 300.503(a) and (b) which require that the parents are provided prior written notice each time a district proposes or refuses the actions specified in the regulation.
        ii. The LEA shall, within 60 days of this report (November 11, 2025) provide Prior Written Notice to the Parents meeting the requirements of 34 C.F.R.

300.503(a) and (b) based on the finding of this report that the LEA did refuse parental requests to amend the Student's IEP and the LEA did provide some but not all services at the Private School during the 2024-25 school year. The LEA shall provide a copy of the Prior Written Notice(s) to SETS by November 11, 2025.

iii. The LEA shall, within 60 days of this report (November 11, 2025) review the provisions of 34 C.F.R. 300.503(a) and (b) with Special Education administrators, review and correct (if needed) District policy documents on providing Prior Written Notice under the circumstances of this report relating to students in private schools, and provide current information to all District employees who are responsible for providing Prior Written Notice to parents.

4. ISSUE FOUR: A violation of 34 C.F.R. 300.323(c)(2) was found, based on facts above. Corrective action is required (as follows):

   a. CORRECTIVE ACTION:

      i. USD #383 shall, within 60 days of this report (November 11, 2025) submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal regulations at 34 C.F.R. 300.323(c)(2) which require IEPs to be in effect after development, and K.S.A. 72-3462 regarding provision of services to students in private schools.

      ii. USD #383 shall, within 60 days of this report (November 6, 2025) offer the Parents four, 20 minute speech language sessions to the Student. The LEA shall determine and propose a location for the services to occur, and the LEA shall schedule the sessions at a time mutually agreeable with the Parents. The Parents may accept some, all or none of the proposed services. The LEA shall submit a copy of the proposal to SETS by November 11, 2025 and notify SETS by January 5, 2026 that the scheduled sessions, if accepted by the Parents, have been completed.

      iii. The LEA shall, within 60 days of this report (November 11, 2025) review the provisions of 34 C.F.R. 300.323(c)(2) in light of K.S.A. 72-3462 with Special Education administrators, review and correct (if needed) District policy documents on implementing IEP services under the circumstances of this report relating to students in private schools, and provide current information to all District employees who are responsible for coordinating or providing services to students in private schools.

5. ISSUE FIVE: A violation of CFR 300.324(b)(1)(ii)(C) and K.S.A. 72-3429(f)) and was not found, based on facts above. Corrective action is not required:

6. ISSUE SIX: A violation of 34 C.F.R. 300.324(a)(1)(ii) was not found, based on the facts above. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 383,
Manhattan Ogden Public Schools: 26FC383-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on August 15, 2025, by ------ on behalf of her child------. In the remainder of this decision, ------ will be referred to as "the parent," and ------ will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on September 19, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations with regard to Issue Three and Issue Four.

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the district's notice of appeal. The parent did not send a response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report concluded that a violation occurred with regard to two issues.

1. ISSUE THREE: Did the LEA afford parental participation by providing appropriate prior written notice? (p 12)

2. ISSUE FOUR: Did the LEA implement the student's IEP during the 2024-25 school year? (p 19)

Sufficient evidence exists to support the findings and conclusions in the Complaint Report for both issues.

1. ISSUE THREE: Did the LEA afford parental participation by providing appropriate prior written notice? (p 12)

In its appeal, the district asserts that a "*Parents' refusal to sign the transportation amendment and to accept public-site services cannot convert the district's lawful offer into a violation" and "Any additional PWN obligation attached to parents' counter-requests (e.g., selective delivery at the private site) is, at most, a procedural question, not causally connected to a denial of FAPE where FAPE was available and declined*."

The prior written notice "PWN" requirement is both procedural and substantive. The purpose of the PWN is to inform parents not only of decisions made by an IEP team or school administration but also to provide an explanation of why the decision was made and what data was used as a basis for the decision. That information is important in order to inform parents of information necessary to make informed decisions about how to proceed.

On the transportation issue, the investigator said there was no question that the district had the authority to offer services at the public school rather than the private school and so did not investigate that issue (Report, p. 19). The Appeal Committee agrees the district has the authority to offer services at the public school but disagrees that the district has no obligation to respond to a parent's request for reconsideration of the decision to provide services at the public school with a PWN. The Appeal Committee will not address this part of the investigator's decision only because it is not addressed in the complaint report and so may not be addressed on appeal.

The report correctly states that a PWN must be provided to parents before a public agency "proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE (Report, p. 13)." FAPE is defined, in part, as the special education and related services in an IEP (see 34 C.F.R. 300.17). Importantly, this PWN requirement also arises whenever a district "refuses" a request involving the provision of FAPE (special education and related services in an IEP). The Appeal Committee finds nothing in chapter 14 of the Kansas Special Education Process Handbook indicating that this PWN requirement does not apply to how districts must respond to parent requests involving students attending a private school.

In her conclusion, on page 19 of the report, the investigator cites three examples where the district was required to provide a PWN and did not do so, as follows:

> *However, the Parent requested that the LEA's offer of FAPE be altered, documented in the investigation in at least three instances. First, in an email on August 19, 2024, after*

receiving the LEA's letter, the Parent specifically requested OT and PT services be changed and that these changes be discussed at the upcoming meeting. The LEA received the email and responded to other elements of this email by scheduling a meeting on September 3, 2024. Second, at that meeting, the Parent asked that some or all the Student's services be continued at the Private School. Third, the LEA agreed to provide the Student's speech language therapy at the Private School rather than at the Public school.

When the Parents attended the September 3, 2024 IEP meeting and requested changes to the IEP, the IEP team denied these requests, thereby maintaining their previous offer of FAPE through the "ready willing and able" letter dated August 15, 2024. Although the LEA maintained its offer of FAPE, it did so by refusing to make the changes being requested by the Parents. At that point, the LEA was required to give the Parents written notice of that refusal and an explanation of why it was refusing the parents requests and a description of the data that supported the refusal, with a PWN. Further, the LEA altered its own offer of FAPE at the Public School by providing the Speech Language services at the Private School during the 2024-25 school year and failed to provide PWN to allow the parent to accept this service while refusing the other services, in this case due to the location determined by the LEA.

The Appeal Committee agrees with these conclusions. A "ready, willing and able" letter has merit and can be an effective method to inform a parent who has rejected services in an IEP when those services remain available. A "ready, willing and able letter is not sufficient when it is the opposite situation, where it is the district that is rejecting services or other proposals that are being requested by a parent.

As for the district's argument on appeal that the failure to provide a PWN was "at most technical and harmless," the Appeal Committee recognizes that courts have held that a failure to provide a PWN can be harmless if it does not "result in a loss of educational opportunity or significantly restrict parental participation (See, K.D. v. Dept. of Education Hawaii, 665 F.3d 1110 (9th Cir. 2011). This is a narrow exception to an important right of parents of a child with a disability. The Appeal Committee finds that the exception does not apply to the facts of this case. In this case, the parents requested that OT and PT services be changed and that services be continued at the private school. The district held an IEP meeting on September 3, 2024 and denied these requests without providing written notice explaining why the requests were denied, what information provided the basis for the denial, what other options were considered, or what procedural safeguards were available. This is not a situation where a district delivered a defective PWN. Rather, the district delivered no written notice or explanation for its decision to deny the parent's requests.

Instead, the district relied on a "ready, willing and able letter" that also failed to provide this required information. Even after receiving the complaint investigator's cogent analysis the district

continues to argue on appeal that the Kansas Special Education Handbook "explicitly directs districts to inform families that the district stands ready, willing and able to provide FAPE." As stated earlier in this decision, a Ready, Willing and Able letter can be an effective method to inform a parent who has rejected services in an IEP that those services remain available, but a Ready, Willing and Able letter is not sufficient when it is the opposite situation, where it is the district that is rejecting additional services that are being requested by a parent. Nothing in the Kansas Special Education Process Handbook can reasonably be interpreted otherwise. This basic misunderstanding of the PWN requirement, along with the failure to provide a PWN when required, constitutes a significant restriction of the parent's right to participate in the IEP process and requires corrective action.

The decision of the investigator on this issue is affirmed.

2. ISSUE FOUR: Did the LEA implement the student's IEP during the 2024-25 school year? (p 19)

The investigator found that the evidence substantiated that the student missed four twenty-minute sessions of speech-language services. The investigator found:

> According to the personal handwritten notes of the IEP meeting dated September 3, 2024, the LEA stated that speech language services would be provided at the Private School. In an interview follow-up email, the LEA reported that it received an email notifying them that the Student was not receiving the speech language service at the Private School.
>
> The LEA provided a log that showed that direct speech language services in a special education setting were provided to the Student beginning September 19, 2024, two times a week, through the 2024-25 school year.

(Report p. 22 – 23)

The district argues on appeal that; "the brief gap identified in the report (four sessions between 8/14 and 9/19) did not impede progress." The Appeal Committee agrees that this gap in services was brief, especially considering that this complaint was filed on August 13, 2025, almost a year after the gap in services occurred. Over the span of one school year, these four 20-minute sessions totaled one hour and twenty minutes of missed speech services.

The Office of Special Education Programs (OSEP), is the office in the United States Department of Education that writes the federal special education regulations. For that reason, its guidance on federal special education law is highly persuasive. In Letter to Clarke, 48 IDELR 77 (OSEP 2007), OSEP said the law does not directly address the issue of missed services. Nevertheless, OSEP provided guidance specific to missed services, as follows:

Whether a missed service needs to be made up is a matter of FAPE and must be addressed on a case by case basis with emphasis on the impact of the missed service on the child's ability to continue to progress and meet the annual goals in the IEP.

Accordingly, to find a violation of law for missed services, there must be some analysis of the impact of the missed services on a child's progress in the general curriculum and progress toward meeting annual IEP goals. That analysis is missing in this report. Without that analysis, and taking into account the small amount of services missed over the past year, the Appeal Committee finds that the investigator's conclusion on this issue should be and is, reversed.

The three corrective actions on pages 29 and 30 of the report, including a written statement of assurance, compensatory speech services and review of district policies on implementing services to exceptional children attending a private school are removed. The corrective actions required for issue 3 remain in force.

Conclusion

For the reasons stated herein, the Complaint Report is sustained with regard to Issue 3 and reversed with regard to Issue 4.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 9th day of October, 2025.

Appeal Committee

Crista Grimwood

Brian Dempsey

Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512
ON SEPTEMBER 2, 2025

DATE OF REPORT: SEPTEMBER 30, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of four students with disabilities enrolled at Mill Creek Elementary School in USD #512 during the 2025-26 school year. The complaint was made by ----- who was the special education teacher of the four students. In the remainder of the report ----- will be referred to as the "complainant".

This is a systemic complaint since it involves multiple students. It is noted that the complainant is not the parent or legal guardian of any of these students and is no longer employed as the special education teacher for any of these students. For these reasons, the complainant will be informed when this investigation is completed but will not be provided a copy of the report.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the complaint is against USD #512 (Shawnee Mission Public Schools) which employs its own staff to meet the requirements of the IDEA. In the remainder of the report, this responsible public agency will be referred to as "the local education agency (LEA)".

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on September 2, 2025 and assigned the case for investigation on September 3, 2025.

Evidence Reviewed

Both parties were contacted via telephone during the investigation to gather and clarify information. The complainant was interviewed by telephone on September 22, 2025. The Associate Superintendent of Special Education for USD #512, Sherry Dumolein, was also interviewed by telephone on September 22, 2025.

The LEA and the complainant provided the following written documentation which was used in consideration of the issue:

1. Formal Complaint Request Form dated September 2, 2025 written by the complainant
2. LEA Response to the Allegation dated September 10, 2025 written by the Associate Superintendent of Special Education for USD #512
3. The Kansas Department of Education 2025-26 Licensed Personnel Guide
4. Copy of the Kansas Board of Education Teaching License for the complainant
5. The Kansas Special Education Reimbursement Guide for State Categorical Aid (revised 6/2/25)
6. Personnel Categorical Aid (PCA) Current Payment Report for the complainant dated September 5, 2025
7. Student 1 IEP dated March 28, 2025
8. Student 2 IEP dated October 10, 2024 and amended on May 19, 2025
9. Student 3 IEP dated September 27, 2024 and amended on March 7, 2025
10. Student 4 IEP dated October 1, 2024 and amended on April 18, 2025
11. Copy of the complainant's daily teacher schedule for the 2025-26 school year
12. Email dated September 22, 2025 written by Bert Moore, Director of Special Education and Title Services (SETS) for the Kansas State Department of Education (KSDE) to the Investigator
13. LEA response to clarification questions dated September 25, 2025written by the Associate Superintendent of Special Education for USD #512

Background Information

The complainant was employed by USD #512 to provide special education services for students with IEPs enrolled at Mill Creek Elementary School during the 2025-26 school year. The complainant provided direct specialized instruction to a total of 12 students who had IEPs in kindergarten through sixth grade between August 11 and August 15, 2025. The complainant and LEA both acknowledge that the complainant is no longer an employee of the district.

Issues Investigated

Based on the written complaint, one issue was identified and investigated.

Issue One

USD 512, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to employ a qualified special education teacher to provide special education instruction to four students with significant disabilities taught by the complainant at Mill Creek Elementary School during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.156(a) require that each state education authority (SEA) must establish and maintain qualifications to ensure that personnel necessary to provide special education services are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

State regulations at K.A.R. 91-31-34 describe the requirements for LEAs to follow in order to provide appropriately qualified staff for teaching assignments in Kansas school districts as follows:

1. Each education system shall employ persons who hold licenses or certificates with specific endorsements for the positions held
2. If a teacher holding an appropriate license or certificate is not available, the education system shall use a teacher holding a valid Kansas teacher license or certificate at any level or in any field or subject for not more than 140 days in the same assignment.
3. If a teacher holding a valid Kansas teacher license or certificate is not available, the education system will use a substitute teacher holding a valid Kansas substitute teacher license or certificate for no more than 90 days in the same assignment.
4. If a substitute teacher holding a valid Kansas substitute teacher license is not available, the education system will use a person who holds a baccalaureate degree and an emergency substitute teaching license or certificate for no more than 45 days in the same assignment.
5. If a person holding a baccalaureate degree and an emergency substitute teaching license is not available, the education system shall use a person who has been licensed or certified by the state board as an emergency substitute teacher for no more than 25 days in the same assignment or more than 75 days in semester.
6. If an education system documents that there is an insufficient supply of substitute teachers, the education system may appeal to the commissioner of education for authority to allow individuals holding an emergency substitute teaching license or certificate to continue to teach for an additional length of time. (Please refer to K.A.R. 91-31-34(b)(5)(B) and the explanation below in the Special Education Reimbursement Guide).

The 2025-26 *Special Education Reimbursement Guide for State Categorical Aid* describes the requirements for school districts to receive reimbursement for providing special education services to students with disabilities. This documents uses the following definitions for “qualified personnel”, “special education teacher”, “High Incidence”, and “Low Incidence”:

- Personnel: "personnel who have met SEA-approved or SEA-recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing special education or related services" (based on C.F.R. 34 CFR 300.23).

- Qualified: "qualified means being certified, licensed, registered or otherwise authorized by the state to render services in a particular profession or occupation" (based on KAR 91-40-1(zz))
- Special teacher: "a person, employed by or under contract with a school district or a state institution to provide special education or related services, who is: (1) Qualified to provide special education or related services to exceptional children as determined pursuant to standards established by the state board (based on K.S.A. 72-3404(j))
- High Incidence (BD/IR/LD): Teachers of students with a range of mild-moderate disabilities that impact learning who are able to participate in general education curriculum with additional support.
- Low Incidence (ID/SM): Teachers of students with significant intellectual disability and students with multiple disabilities who are less able to participate in general education curriculum.

Appendix B: KSDE Special Education Teacher Endorsements for Reimbursement includes a chart showing that teachers holding a Kansas Teaching License with a High incidence Endorsement are appropriately certificated to teach students with high incidence disabilities in the following areas: Integration Specialist (IS), Personnel Development (PD), Interrelated (IR), Learning Disability (LD), and Early Childhood Special Education (EC).

An email dated September 22, 2025 written by Bert Moore, Director of Special Education and Title Services (SETS) for the Kansas State Department of Education (KSDE) provided guidance to differentiate the teacher licensure requirements to teach and appropriately meet the unique needs of students with high and low incidence disabilities by stating:

> *It is the teacher's license that is in question regardless of how the district lists the classroom. Some Interrelated Resource Rooms have a teacher licensed as high incidence and holds a low incidence license too. Most Interrelated Resource Rooms are composed of "high incidence" students such as learning disabled, emotionally disabled, other health impaired and indicates that the teacher is primarily working on grade level content with students that are expected to have access to the general education curriculum for the majority of the school day, whether in a resource room and/or general education environments / classrooms.*
>
> *Low incidence disabilities require more functional support for daily living skills, social and communication interaction, access to a curriculum that is grade level but often adapted or modified based on the level of the child's disability such as Intellectual Disability, Multiple Disabilities, or severe Autism. By the way, not all low incidence students are selected to take the Dynamic Learning Maps (DLM) which is a modified grade level assessment using the Essential Elements curriculum, and it is reserved for the "most significantly cognitive disabled students." The federal government requires that statewide, no more than 1% of students with the most significant cognitive disabilities take the DLM for ELA, Math, and/or Science.*

KSDE licensure requires any student with significant low incidence disabilities to be taught by a teacher holding a "low incidence" license. Students that participate in the general education grade level curriculum appropriate for the child's age are taught by high incidence licensed teachers.

Someone with a low incidence license needs to be a member of the IEP team if a district is not using a low incidence licensed teacher to lead a child's IEP if the student is identified with a low incidence disabling condition. The bottom line is that the student's special education supports and services need to be designed by a teacher holding a low incidence license. Due to teacher shortages, some agencies assign an appropriately licensed itinerant teacher to be a team member for any student needing low incidence supports and services. A high incidence teacher could be implementing that IEP if mentored by the low incidence licensed teacher.

It is complicated, pure and simple but we want to ensure that students with disabilities are receiving appropriate services designed by a properly licensed teacher who regularly monitors the student's IEP from initial evaluation, to developing an IEP, implementation of the IEP, and progress monitoring of goals/objectives.

There are currently NO low incidence programs being offered in Kansas; however, Fort Hays State plans to implement a program soon . . .

I would ask the agency these questions:

- *How do you ensure that a low incidence licensed teacher is a member of the IEP team or staffing team?*
- *If yes, how does this individual assist in the development of the low incidence child's IEP?*
- *Does this individual assist in ensuring that progress monitoring is taking place at required intervals, including recommending any changes to a child's IEP based on changes in the student's present level of performance?*
- *If a low incidence teacher is not employed by your agency, where can you locate a properly licensed low incidence teacher, licensed with a "Low Incidence" teaching license at this student's grade level, to assist in the development of special education supports and services for this low incidence student? [Footnote: The agency could find someone by contacting the regional Service Center, or Special Education program at a local or regional College/University? Also, could work with the Kansas Association of Special Education Administrators (KASEA) to solicit a properly licensed consultant.]*

With the number of teacher vacancies in Kansas for appropriately licensed special education teachers, the agency needs to show evidence that they are trying to find a properly low incidence licensed teacher to support this child's low incidence needs. ALL students with disabilities should be "included" in grade level activities. Inclusion alone does not circumvent appropriate licensure.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

The complainant reported that she holds a Master's degree in Special Education and was issued a Kansas teaching license with a high incidence endorsement. The complainant indicated that she has taught special education for five years through a program for paraeducators to become licensed special education teachers and was hired as a special education teacher by USD #512 to teach a resource classroom of students with high incidence disabilities. However, USD #512 assigned and expected her to work with students with low incidence disabilities even though she was not qualified to teach this type of student. The complainant stated,

> *The students on my caseload and others that I would work with had significant intellectual disabilities, severe autism, and adaptive needs. For example – 2 students were non-verbal, 1 student had toileting needs (4th grade). I am not trained or licensed to work with low-incidence students.*

The complainant believes this situation is unfair to all the students she is expected to teach because the time needed to meet the needs of students with low incidence disabilities significantly impacts the time she is able to devote to providing the direct instruction that the students with high incidence disabilities need and deserve.

Documentation provided by both the LEA and the complainant show the complainant was issued a Kansas Teaching License with a High-Incidence Special Education Endorsement for students in grades kindergarten – 6th grade on May 16, 2023 with an expiration date of October 31, 2028.

The LEA indicated that the complainant was assigned to Mill Creek Elementary School as a special education teacher with a caseload that included students with a range of exceptionalities whose IEP teams had determined would receive special education in both the general education and special education settings.

The LEA reported and the complainant confirmed she participated in training provided by USD #512 prior to the beginning of the 2025-26 school year. This training included

the special education boot camp, a two-day professional development series offered to all new certified special education staff within USD #512, in July 2025. The complainant reported this training focused on the IEP process and IEP system used by the LEA.

The complainant also attended New Team Member Academy, the required training for all new certified employees in USD #512, on July 31, August 1, and August 4, 2025.

Between August 5th and 8th, the complainant, as well as all USD #512 staff, were provided with a combination of professional development opportunities and staff worktime. The complainant reported this training mostly focused on the district's new math curriculum.

The LEA reported that the complainant started working with students on August 11, 2025 and stopped reporting to work reporting to work on August 15, 2025, indicating that she did not believe her job duties would involve working with any students with low incidence disabilities. The Associate Superintendent of Special Education stated,

> *Because [the complainant] breached her teaching contract, the SMSD [USD #512] Board of Education adopted a resolution of intent to terminate her contract due to job abandonment at its August 25th meeting . . .The Board voted on a final resolution to terminate [the complainant's] contract at its September 8th meeting.*

The complainant reported there were four students on her caseload that she was inappropriately licensed to teach. However, the LEA reported that all four of the students assigned to the complainant were accessing grade-level standards within the general education setting with the use of modifications and accommodations. The LEA stated:

> *The teacher was appropriately licensed and qualified to teach each of the students assigned to her and to implement the IEP for each of the students assigned to her. It is appropriate and in accordance with KSDE licensure requirements for a student requiring modified or alternative standards—but who continues to participate in grade-level curriculum—to receive instruction from a high-incidence certified special education teacher. High-incidence teachers are trained and licensed to support students with disabilities who access the general education curriculum, even when instruction must be adapted or modified. Their expertise lies in adjusting grade-level content, providing scaffolds, and ensuring students remain engaged with learning expectations, while collaborating with IEP teams to address additional individual needs.*

The following is a summary of each of the four student's IEP in effect at the beginning of the 2025-26 school year:

Student 1- [xxxxxxx]: This student is enrolled in kindergarten and receives special education and related services under the exceptionality category of Developmental Delay. The March 28, 2025 IEP includes pre-academic goals related to letters, numbers, writing, and group participation and the student spends the majority of the school day in the general education classroom with same-grade peers receiving special education and related services support. This IEP describes the regular education participation and education placement as follows:

> *As [Student 1] transitions to kindergarten for the 2025-26 school year, [Student 1] will receive 15 mins 2/wk [two times per week] speech language therapy in the general education classroom, and 15 mins 1/wk speech language therapy in a special education setting. The student will receive occupational therapy 15 min 1/wk in the general education classroom and 15 mins 1/wk in the special education setting. [Student 1] will receive physical therapy 15 mins 2/month in the special education setting. There will be physical therapy consultation*

once a month for 15 minutes. [Student 1] will receive specially designed instruction daily (5x/wk) for 250 minutes in the general education classroom and [Student 1] will be receiving 60 minutes of specially designed instruction in the special education setting to help with social emotional development and academic skills. [Student 1] will also receive 80 minutes 5/week of attendant care to help with lunch, bathroom, and recess.

Student 2 – [xxxxxxxx]: This student is enrolled in fourth grade and receives special education and related services under the exceptionality category of Intellectual Disability. The May 19, 2025 amendment to the October 10, 2024 IEP describes the student as exhibiting emerging skills in most academic areas. The Present Level of the IEP indicates the student confuses letter names and letter sounds, is able to write his name, recognizes numbers to 20, and uses a number line to do addition / subtraction problems. The classroom teacher reported the student learns best with one-to-one instruction with immediate feedback and redirection. The IEP calls for the student to participate in the state-wide alternate assessment designed for approximately 1% of Kansas students working to meet the essential elements of grade-level standards. The IEP reflects that the student spends more than three hours per day (1025 minutes per week) in the special education setting away from peers. This IEP describes the regular education participation and education placement as follows:

[Student 2] will receive the following services throughout the duration of the IEP: Occupational Therapy for 20 minutes 2 days per week in the resource room; Speech and Language Therapy 20 minutes 3 days per week in the resource room; Attendant care for 110 minutes 5 days per week in the general education setting for support in recess, lunch, and specials; Special Education services for 110 minutes 5 days per week in the general education setting to attend morning meeting and other academic areas with peers; Special Education services 185 minutes 5 days per week in the resource room to work on reading, writing, math, behavior, and pre-academic goals.

The team has considered [Student 2's] least restrictive environment throughout the school day. We considered providing all services in the general education classroom with supplementary aids and services but we rejected that due to data supported [Student 2] needs intensive instruction in the special education classroom. [Student 2's] curriculum is modified from the general education curriculum to better suit Student 2's educational and behavioral needs.

Student 3 – [xxxxxxx]: This student is enrolled in first grade and receives special education and related services under the exceptionality category of Developmental Delay. The March 7, 2025 amendment to the September 27, 2024 IEP notes the student has a medical diagnosis of Autism – level 3. The IEP indicates the student is working on emerging academic skills, communication, and participating appropriately in small and large group activities. She spends about two hours and twenty minutes per day in the special

education setting away from her same-grade peers and about two hours and thirty minutes per day with special education instruction / support in the general education classroom. The Present Level of the IEP notes the student is working on recognizing or matching letters and numbers and can trace upper case letters. This IEP describes the regular education participation and education placement as follows:

[Student 3] will receive 125 minutes daily of attendant care during general education activities (Recess, Lunch, Specials). [Student 3] will receive 150 minutes 1x per week, 120 minutes 1x per week, and 130 minutes 3x per week, of direct special education services in the resource room to support [the] in progress towards IEP goals. [Student 3] will receive 145 minutes daily of special education collaboration support in the general education classroom. [Student 3] will receive two 20-minute speech sessions and one 30-minute occupational therapy session per week during time [Student 3] is in the special education resource room.

[Student 3] is away from the general education peers when receiving instruction within the special education setting as defined in [the] IEP. The IEP team prioritizes [Student 3] to be with [the] peers in general education, however, [Student 3] is requiring additional support beyond those available though general education in social/emotional communication, academics and occupational therapy at this time. Reteaching previous skills in these areas is required in smaller group setting, beyond the general classroom in order to progress in the general education curriculum.

Student 4 – [xxxxxxxx]: This student is enrolled in second grade and receives special education and related services under the exceptionality category of Autism. The April 18, 2025 amendment to the October 1, 2024 IEP notes the student's district-wide assessment score for English/Language Arts (ELA) falls at the 27th percentile and falls at the 34th percentile for Math with typical scores falling between the 25th and 74th percentiles. This IEP describes the regular education participation and education placement as follows:

[Student 4] will receive special education services in the resource room for 120 minutes three times per week and 100 minutes two times per week. [The student] will receive Attendant Care services 30 minutes daily during recess. In the general education setting, [the student] will receive 255 minutes of special education collab support daily. [Student 4] will receive direct speech language services in the special education setting for one 20-minute session weekly and in the general education setting for one 20-minute session weekly . . .

The Personnel Categorical Aid Current Payment Report for the complainant dated September 5, 2025 shows the complainant was listed as teaching an Interrelated (IR) resource special education classroom designed for students with High Incidence disabilities and matches the complainant's teaching licensure.

Conclusion

In this case, the complainant was hired as a special education teacher at Mill Creek Elementary School to teach students with a range of exceptionalities in both the special education and general education settings. The LEA considered and reported to KSDE that the complainant was teaching an interrelated (IR) resource special education classroom. The complainant holds a current Kansas Teaching License with an endorsement for High Incidence Special Education and, according to the 2025-26 *Special Education Reimbursement Guide for State Categorical Aid* and *Appendix B: KSDE Special Education Teacher Endorsements for Reimbursement*, the complainant is appropriately licensed to teach students with a range of mild-moderate disabilities that impact learning and who are able to participate in general education curriculum with additional support through the IR resource classroom setting.

The complainant alleges there were four students on her caseload that should have been considered as students with low incidence disabilities because their curriculums were significantly modified from what was being taught to their same-grade peers and, as such, the complainant was not appropriately licensed to teach these four students through her IR resource classroom.

According to guidance provided by the Director of Special Education and Title Services (SETS) for the Kansas State Department of Education (KSDE) dated September 22, 2025:

> *Most Interrelated Resource Rooms are composed of "high incidence" students such as learning disabled, emotionally disabled, other health impaired and indicates that the teacher is primarily working on grade level content with students that are expected to have access to the general education curriculum for the majority of the school day, whether in a resource room and/or general education environments / classrooms.*
>
> *Low incidence disabilities require more functional support for daily living skills, social and communication interaction, access to a curriculum that is grade level but often adapted or modified based on the level of the child's disability such as Intellectual Disability, Multiple Disabilities, or severe Autism.*

Based on interviews and documentation, it appears that Student 1, who is in kindergarten, and Student 3, who is in first grade, are working on skills in both the general and special education settings that at least some of their same-grade peers are also learning. The same is true for Student 4 whose district-wide assessments show that the student is demonstrating ELA and Math skills that fall within the average range as compared to same-grade peers. The IEPs for these three students indicate they spend most of their school day with same-grade peers.

These three students appear to meet the definition of "High Incidence" because these students display a range of mild-to-moderate disabilities which impacts learning but these students are still able to participate in the general education curriculum with additional special education support.

However, Student 2's IEP states, "*[Student 2] needs intensive instruction in the special education classroom. [Student 2's] curriculum is modified from the general education curriculum to better suit Student 2's educational and behavioral needs*". The IEP calls for the student to participate in the state-wide alternate assessment designed for the 1% of students working to meet the essential elements of the grade-level standards. The IEP describes the student's academic skills as emerging and significantly below those of same-grade peers who are now reading to learn new material, writing multiple paragraph responses, and learning multiplication / division. The student's IEP indicates more than three hours per day of special education instruction is provided in the special education setting away from same-grade peers focusing on core academics as well as over three hours per day of special education instruction and attendant care is provided in the general education classroom with the classroom teacher noting the student needing one-to-one instruction with immediate feedback and redirection.

This student appears to meet the definition of "Low Incidence" because the student displays an intellectual disability that has more significantly impacted the student's rate of learning as compared to peers and is less able to participate in the same-grade general education curriculum. According to *Appendix B: KSDE Special Education Teacher Endorsements for Reimbursement*, the special education teacher working with Student 2 should hold a Kansas Teaching License with an endorsement to teach students with Low Incidence disabilities.

It is noted that the LEA believes that, because the Student 2's IEP includes goals that are addressed in both the general and special education settings, the student should be considered as "High Incidence" and thus the complainant is appropriately licensed to teach this Student 2. However, the guidance provided by the Director of Special Education and Title Services (SETS) for the Kansas State Department of Education (KSDE) dated September 22, 2025 provides this clarification, "*ALL students with disabilities should be "included" in grade level activities. Inclusion alone does not circumvent appropriate licensure.*"

There is evidence to support a finding that the LEA failed to provide Student 2 with a special education teacher licensed to teach students with Low Incidence disabilities at Mill Creek Elementary School during the 2025-26 school year. Based on the foregoing, the district is determined to be OUT of compliance with state regulations at K.A.R. 91-31-34 which describe the requirements for LEAs to follow in order to provide appropriately qualified staff for teaching assignments in Kansas school districts.

Corrective Action

1. No later than 15 days from the date of this report, USD #512 will provide SETS with an assurance statement that it will comply with state regulations at K.A.R. 91-31-34 and will ensure appropriately licensed special education teachers are employed to teach and support students with Low Incidence disabilities.

2. USD #512 will review the guidance provided by the Director of Special Education and Title Services (SETS) for the Kansas State Department of Education (KSDE) dated September 22, 2025 and develop a plan for providing Student 2 with access to a special education teacher who holds licensure for Low Incidence Disabilities within 15 school days from the date of this report and implement this plan no later than first day of the second quarter. The LEA will provide SETS with a written copy of the plan no later than October 30, 2025.
3. USD #512 will notify the parents of Student 2 in writing of the noncompliance and of the plan to provide the student with access to an appropriately licensed special education teacher beginning no later than the beginning of the second quarter of the 2025-26 school year.
4. USD #512 will review Student 2's IEP Goal Progress Report for the first quarter of the 2025-26 school year to determine if the student is making adequate progress towards achieving the IEP goals. If yes, the LEA will provide SETS with a copy of these IEP Goal Progress Reports. If no, the LEA will reconvene the student's IEP Team with the Low Incidence licensed special education teacher as a team member no later than 20 days from the date of the start of the second quarter to review and revise the IEP to address the lack of progress. At the end of the meeting, the LEA will provide the parents with appropriate PWN no later than two days following the date of the IEP Team Meeting. The LEA will provide KSDE with copies of the IEP Team Meeting notes and a copy of the PWN as documentation for correction of the individual noncompliance.
5. Using the guidance provided by the Director of Special Education and Title Services (SETS) for the Kansas State Department of Education (KSDE) dated September 22, 2025, USD #512 will develop a plan to identify any other students with Low Incidence disabilities who do not have access to an appropriately licensed teacher. This plan must include parent notification and a review of IEP Goal Progress Reports to determine if the noncompliance negatively impacted progress towards achieving IEP goals for these students. If lack of progress is identified, the plan must include a requirement to reconvene the identified student's IEP team to review and revise the IEP with a special education teacher licensed to teach students with Low Incidence as an IEP team member. The LEA will provide SETS with a list of identified students and the outcome of of the review for each student by the first day of the second semester of the 2025-26 school year.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 512,
Shawnee Mission Public Schools: 26FC512-002

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on 9/2/2025 by ---- on behalf of four students. In the remainder of this decision, ----, who is not a parent of any of the students in this complaint, will be referred to as "the complainant." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on September 30 , 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the district's notice of appeal, and the complainant's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

In complaint 26FC512-002, the investigator found no violation with regard to students #1, #3 and #4. The investigator did find a violation of law with regard to student #2 because the district used a special education teacher with an endorsement for High Incidence Special Education to educate student #2 instead of a teacher with a Low Incidence endorsement.. The district has appealed. We have never addressed this issue in a complaint previously, and so is a matter of first impression.

1. First, we start with the law:

   Federal regulations, at 34 C.F.R. 300.156(a) state that:

   > The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

   The Kansas State Department of education establishes and maintains personnel qualifications through its Teacher Licensure process and it provides official guidance regarding special education teachers and providers through its Reimbursement Guide.

   The term "High Incidence" is defined in the Reimbursement Guide on page 22 to mean:

> High Incidence (was Adaptive) (BD/IR/LD) Teachers of students with a range of mild-moderate disabilities that impact learning who are able to participate in general education curriculum with additional support. See Appendix A for endorsements

The term "Low Incidence" is defined on page 22 of the Reimbursement Guide to mean:

> Low Incidence (was Functional) (ID/SM) Teachers of students with significant intellectual disability and students with multiple disabilities who are less able to participate in general education curriculum. See Appendix A for endorsements

The chart in Appendix B of the Reimbursement Guide indicates that:

The Licensed Personnel Report area of High Incidence allows multiple endorsements and correlates to the reimbursement categories of Behavior Disorder, Interrelated, and Learning Disability.

The Licensed Personnel Report area of Low Incidence allows multiple endorsements and correlates to the reimbursement categories of SM (severe multiply disabled), and ID (Intellectual Disability).

These are areas of service and appropriate endorsements according to the Teacher Licensure team at the Kansas State Department of Education.

2. Next, we interpret the law.

The teacher qualification portion of the Reimbursement Guide was built to be a "guide" for establishing teacher qualifications for both high and low incidence. It is just that and does not dictate determining how IEP teams determine what services are required. There are no specific cutoffs in the Reimbursement Guide which a child must meet to be considered "high" or "low" incidence", the descriptions are a guide for clerks reporting the data for reimbursement.

For example, the definition of the term "low incident" includes "*students with significant intellectual disability and students with multiple disabilities who are* ***less able to participate in general education curriculum***" (Emphasis added). By definition then, students with a, "*significant intellectual disability and students with multiple disabilities*" are only to be considered "low incidence" when they are "less able to participate in general education curriculum."

This lack of specificity is necessary because children with disabilities cannot be lumped into educational environments based solely on their category of disability or their degree of disability. The educational program for these children is called an IEP, or Individualized Education Program. The IEP, then, is built to serve children, based on their unique and individual needs.

In Endrew F. v. Douglas County School District, 117 LRP 9767, 137 S.Ct. 988 (2017), the United States Supreme Court defined the term "free appropriate public education" (FAPE) to mean

that "a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." Thus, FAPE is not conditioned on category of disability, but is judged by the extent to which a student makes progress that is appropriate in light of the child's circumstances.

An additional consideration in this analysis is that children with disabilities must be educated in the least restrictive environment (LRE), in accordance with 34 C.F.R. 300.114. Courts have said that educational environments "differ from each other by the extent to which they depart from a "mainstream" assignment." Wilson v. Fairfax County Sch. Bd., 104 LRP 30556 (4th Cir. 2004). That means that each movement of a child that is farther away from a regular education classroom is a change of placement. The Appeal Committee makes no finding with regard to whether a child who is taught by a low incidence teacher rather than a high incidence teacher is necessarily in a more restrictive environment than if taught by a high incidence teacher, in a high incidence environment. The Appeal Committee only notes that a low incident environment could be considered a more restrictive environment. See, for example A.A. v. Northside Independent School District, 951 F.3d 678, 76 IDELR 61 (5th Cir. 2020) where a child was transferred from a behavior management classroom to an applied learning environment classroom. The court said it must look at the functions of the two classrooms to see if those functions were "substantially dissimilar."

In short, whether a child is appropriately served by a low incidence licensed teacher or a high incidence licensed teacher cannot be determined by using a specified formula. That decision involves judgements based on the unique needs of each individual child, the extent to which a child is educated in the least restrictive environment, and the extent to which an individual child is able to achieve IEP goals in a particular environment. That is the kind of decision that is better left to educators, or better yet, to IEP teams, unless the decision is clearly unreasonable.

3. Next we consider the individual child.

   In the report student 2 was described as follows:

   > *"[Student 2] needs intensive instruction in the special education classroom. [Student 2's] curriculum is modified from the general education curriculum to better suit Student 2's educational and behavioral needs". The IEP calls for the student to participate in the state-wide alternate assessment designed for the 1% of students working to meet the essential elements of the grade-level standards. The IEP describes the student's academic skills as emerging and significantly below those of same-grade peers who are now reading to learn new material, writing multiple paragraph responses, and learning multiplication / division. The student's IEP indicates more than three hours per day of special education instruction is provided in the special education setting away from same-grade peers focusing on core academics as well as over three hours per day of special education instruction and*

> *attendant care is provided in the general education classroom with the classroom teacher noting the student needing one-to-one instruction with immediate feedback and redirection.* Report, p. 14.

4. Next we examine the complaint investigator's report.

   The investigator found a violation saying:

   > *This student appears to meet the definition of "Low Incidence" because the student displays an intellectual disability that has more significantly impacted the student's rate of learning as compared to peers and is less able to participate in the same-grade general education curriculum. According to Appendix B: KSDE Special Education Teacher Endorsements for Reimbursement, the special education teacher working with Student 2 should hold a Kansas Teaching License with an endorsement to teach students with Low Incidence disabilities.* Report, p. 14.

   The investigator concluded:

   > *It is noted that the LEA believes that, because the Student 2's IEP includes goals that are addressed in both the general and special education settings, the student should be considered as "High Incidence" and thus the complainant is appropriately licensed to teach this Student 2. However, the guidance provided by the Director of Special Education and Title Services (SETS) for the Kansas State Department of Education (KSDE) dated September 22, 2025 provides this clarification, "ALL students with disabilities should be "included" in grade level activities. Inclusion alone does not circumvent appropriate licensure."*
   >
   > *There is evidence to support a finding that the LEA failed to provide Student 2 with a special education teacher licensed to teach students with Low Incidence disabilities at Mill Creek Elementary School during the 2025-26 school year. Based on the foregoing, the district is determined to be OUT of compliance with state regulations at K.A.R. 91-31-34 which describe the requirements for LEAs to follow in order to provide appropriately qualified staff for teaching assignments in Kansas school districts.* Report, p. 14-15.

5. Finally, we review the district's appeal.

   The district's appeal makes the following points:

   - KSDE recognizes high incidence as appropriate for an Interrelated Resource Room (IRR) assignment.
   - The district employed a properly licensed and qualified special education teacher consistent with the KSDE standards
   - The placement decision for this student was made by the student's IEP team.

Conclusion

This student is entitled to a free appropriate public education (FAPE) in the least restrictive environment (LRE) by way of an IEP. A student's IEP team serves the vital role as decision maker in the development of an IEP that offers a FAPE in the LRE. While a state education agency has a legal obligation to establish and maintain qualifications to ensure that special education personnel are appropriately and adequately prepared and trained, that obligation does not diminish an IEP team's authority, and duty, to make "individualized" determinations about how and where a child with a disability will be educated.

This individual student has significant needs and could be served by a teacher licensed as "low incidence." That, however, is not the issue here. The issue in this complaint appeal is whether this student could also be served by a teacher holding a "high incidence" license. The fact that the original decision on that issue, to place this student with a high incidence teacher: (a) was made by the student's IEP team, (b) likely resulted in a less restrictive environment for the student, and (3) was reasonable because there was no substantial evidence in this complaint indicating that this student was not making appropriate progress on his IEP goals in the high incidence environment, all support the district's appeal.

The Appeal Committee agrees with the district's analysis of this novel issue, and finds that whether a student should be assigned to a high or low incidence teacher is not solely determined by a category of disability or the severity of a disability, but should be determined by an IEP team, based on the unique circumstances of each individual student's ability to make appropriate progress on IEP goals and to make appropriate progress in the general curriculum.

For the reasons stated above, the Appeal Committee reverses the conclusion in the complaint report and withdraws all corrective actions.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 15th day of October, 2025.

Appeal Committee

Crista Grimwood

Brian Dempsey

Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #375
ON SEPTEMBER 3, 2025

DATE OF REPORT: OCTOBER 3, 2025

This report is in response to a complaint filed with our office on behalf of a student, -------, by the complainant, -------. In the remainder of the report, the student will be referred to as "the Student" and the complainant as "the Complainant."

The Complaint is against USD # 375, Circle Public Schools. In the remainder of the report, the "School" and the "local education agency (LEA)" shall refer to USD #375.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on September 3, 2025, and the 30-day timeline ended on October 3, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #375, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), unilaterally placed the Student in a solo classroom without ensuring the placement determination was made by a group of persons, including the Parent and other persons knowledgeable about the Student. K.S.A. 72-3420(a), K.A.R. 91-40-21, K.S.A. 72-3433, K.S.A. 72-3429 (4)(A)(B); 34 §§ C.F.R. 300.116, 300.530, 300.531

ISSUE TWO: Whether USD #375, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the Student's IEP prior to using alternative strategies that were not part of the behavior plan. K.A.R. 91-40-16(a); 34 § C.F.R. 300.323(a)(c)(d).

Investigation of Complaint

The Investigator interviewed the Complainant by telephone on November 17, 2022. The LEA staff were interviewed on December 5, 2022.

In completing this investigation, the Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Functional Behavior Assessment, 12/17/24
2. Emails dated: 03/13/25, 10/03/24, 12/18/24, 09/03/25-09/04/25
3. Individualized Education Program (IEP), 01/30/25
4. Manifestation Determination Review, 04/24/25
5. Notice of Special Education Meeting, 12/13/[24]
6. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Placement, and/or Request for Consent (PWN), 08/20/24
7. IEP Amendment Between Annual IEP Meetings, 08/20/24, and 12/17/24
8. Out of School Suspension Letter, 12/18/24
9. Emergency Safety Intervention, 10/03/24, and 03/13/25

Background Information

This investigation involved an eighth-grade student enrolled at the Day School in USD #375 who qualifies for special education services under the disability category of autism. The Student is kind, loving, and has a great sense of humor.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant and staff in the LEA.

1. On October 3, 2024, the Principal attached an Emergency Safety Intervention (ESI) document to an email to the Complainant and shared, "We did not have to restrain [the Student] when [the Student] ran as [the Student] willingly returned to the school when law enforcement and school personnel arrived at [After School Care]."
2. On October 3, 2024, an ESI document described the Student's behaviors that led to one restraint and three seclusions.
    a. The Student became verbally aggressive when they were told they missed snack time.
    b. The room was cleared when the Student targeted smaller students.
    c. Staff blocked and redirected the Student until the room was cleared.

d. The [School Resource Officer] SRO entered the classroom, and the Student became combative and was escorted to the seclusion room by the SRO and the Principal. The restraint lasted 1 minute.

e. The Student willingly agreed to enter the seclusion room after the SRO and the principal spoke with them.

f. Once in the seclusion room, the Student began yelling and came towards the staff with the threat of harming them. The seclusion room door was shut for the safety of the staff. The seclusion lasted six minutes.

g. The Student was directed to go to the wall with a calm body. The Student complied, and the staff opened the door.

h. The Student asked to use the bathroom and was accompanied there by staff.

i. While in the calm room discussing the rest of their day, the Student yelled and charged at the staff. The door was closed for safety. The seclusion lasted six minutes.

j. Once the Student showed a calm body, the door was opened.

k. The Student was agitated about their report home, and while the staff member tried to de-escalate the Student, they threatened to punch the staff member.

l. The Student pushed past the staff member and hit them with the door. The staff blocked the Student's exit and shut the door. The seclusion lasted four minutes.

m. The Student was told to show a calm body to have the door opened, which they did. The Student's transportation was there, and the Student walked calmly to the van.

n. The Student took off running, and staff, Sheriff's officers, and the transportation department looked for them. The Student was located at a convenience store about a half mile away.

3. On November 14, 2024, the Legal Decision Maker "agreed" to an IEP amendment between annual meetings that listed an amendment date of August 20, 2024. The amendment indicated "[The Student] is attending [the Day School] … for 100% of [the Student's] school day and will receive 100% of [their] special education services there. [The Student] will receive services at [the Day School] for 465 minutes, 4 days a week since [the Day School] is a 4[-]day[-]a[-]week school. This is a change from receiving services 5 days a week at [the Student's] last school." The undated PWN that accompanied this amendment described a "material change in services" and indicated the Student was placed at the Day School due to behaviors at their previous school. Data was reviewed, and the option of not placing the Student at the Day School was rejected. "Consent" was provided via checkmark and signature by one of the Legal Education Decision Makers (LEDMs).

4. On December 13, 2024, a Notice of Special Education Meeting was created for an IEP meeting on January 30, 2025, to discuss the Student's eligibility for special education, changes to the IEP, to conduct an annual review, and discuss post-secondary goals. The Parent was listed as the LEDM.
5. On December 17, 2024, a Functional Behavior Assessment (FBA) was conducted and indicated the following:
    a. The Student was "disruptive in the class around 40% of the time."
    b. The Student's instructional, environmental, and learner-specific antecedents to challenging behaviors were noted. The consequences and functions of the behaviors were described.
    c. Hypotheses were described, and it was noted the IEP team determined a Behavior Intervention Plan (BIP) was a required part of the Student's IEP.
6. On December 18, 2024, the Principal emailed the Complainant regarding the Student's behavior. According to the Principal, "[The Student] got very aggressive this afternoon and punched a para[professional] pretty hard. After that escalation, [the Student] was hard to calm and continued to threaten and aggress towards staff. [Foster Parent 2] talked to [the Student] at one point, but [the Student] escalated again after. [The SRO] was very close to arresting [the Student] due to the severity of [the Student's] aggression. Due to this level of aggression, [the Student] will be suspended tomorrow. … I worry because [the physical aggression] is increasing in frequency and severity."
7. On December 18, 2024, a notice of suspension was created, which stated the Student had been suspended for December 19, 2024, due to "significant aggression towards staff and verbal threats to staff."
8. On December 20, 2024, the Parent "agreed" to an IEP amendment between annual meetings that listed an amendment date of December 17, 2024. The amendment described, "The team is going to amend the IEP to add a BIP." The Parent agreed via checkmark and signature to amend the Student's IEP without convening a meeting. The accompanying PWN dated December 17, 2024, indicated the team met to review the evaluation data and discuss changes to the IEP, which included adding a BIP. An explanation, options, relevant factors, and a description of the data used to propose the BIP were noted. "Consent" was provided via checkmark and electronic signature by the Parent.
9. The January 30, 2025, IEP indicated the following:
    a. The Student's reevaluation was completed on December 17, 2024.
    b. Participants included the Parent, the Special Education Teacher, the Principal in the role of LEA Representative, and the School Counselor.
    c. The Student's "Impact of Exceptionality" described, "[The Student] will need structure and consistent behavioral interventions (as outlined in [the Student's] behavior intervention plan) in all environments throughout the school … in order to gain educational benefit."

d. The Student's present levels of academic and functional performance were described. It was noted the Student's behavior impeded their learning and that of others, and the Student required special education and related services.

e. The IEP included goals for coping strategies, elopement, math, reading, and writing.

f. The following special education and related services were described for the dates of January 30, 2025 through January 29, 2026:

   i. Special education service at the Special Day School for 465 minutes, three days per week.

   ii. Special education service at the Special Day School for 435 minutes one day per week.

   iii. Counseling at the Special Day School for 30 minutes weekly.

   iv. Accommodations/Modifications/Supplementary Support were listed and scheduled to begin on January 30, 2025, and end on January 29, 2026.

   v. The Student "… will not be with any non-identified peers at the Dayschool setting [sic]" and will "… utilize a curriculum that is modified to fit [the Student's] instructional needs."

   vi. vi. The following BIP was described:

      1. Elopement, aggression, and property destruction in all settings, multiple times per day, caused the Student to miss instruction.

         a. Functions included escape/avoidance, gaining access to a reinforcer, inability to regulate emotion, and power/control.

         b. The replacement behavior indicated when the Student was "becoming frustrated or upset [the Student] will be ask[ed] to go talk with the SRO or the counselor … or talk to staff calmly in the safe space in the hallway."

         c. Positive behavior supports included:

            i. "Catch [the Student] being good. Ignore what can be ignored. Multiple positives noted through out [sic]."

            ii. "If a visual frustration or upset is started it must be noted and ahead of that give [the Student] an out to help [them] move on with not outburst [sic]."

            iii. "Do remind [the Student] to follow [their] plan, before [the Student] explodes. Then reward when [the Student] does. Remind [them] [the Student] needs a 'reset'."

iv. "[The Student] will have a token system to earn breaks and music listening time. 2 activities to a song, or [a] 5[-]minute break."

d. Staff responses were listed:

i. "Staff will not engage with [the Student] when escalated. They will give any expectation in a calm tone and regulated slower speed."

ii. "There will not be multiple people covering or hovering around [the Student] when [the Student] is elevated. 1-2 if possible, 3 if needed for escort."

iii. "Staff will not keep talking to/at [the Student] when [the Student] is elevated. If there is a request a soft, gentle reminder such as walk threw [sic] the door or let's share with SRO first. This will get [the Student] where it is safest for [the Student] and others."

iv. "Do not press hard on moving onto work again, missed work does not add up. There is no make[-]up work."

v. "Staff will not bribe with preferred activities to move on or give in to demands which will both reward, and intensify demands in the long run."

vi. "Staff will allow [the Student] to settle and calm before moving on. [The Student] will be allowed to lay [sic] down after an incident as it overwhelms and wipes out [the Student's] energy and thoughts."

vii. "Staff will always meet the students [sic] need where they are, emotional regulation before academics."

e. Special Considerations indicated "[The Student's] staff will be [Crisis Prevention Institute] CPI certified in case of outburst and danger is presented. The team considered the harmful effects of continuing placement at the day school. The team determined that the benefits continue to outweigh the harmful effects."

f. Meeting notes indicated the Parent was present and had the opportunity to provide input, and the harmful effects of the placement were discussed.

10. On March 13, 2025, the Principal emailed documentation to the Complainant regarding an incident that occurred. The Principal shared that the Student struggled at times

during the day. The Principal wrote, "I was SOOO proud of [the Student] for eventually walking with us and having an incredible conversation with us afterwards where [the Student] took accountability and ownership over [their] response. [The Student] was not the aggressor in this situation. [The Student] just reacted."

11. On March 13, 2025, an ESI Documentation Form described the Student's behaviors that led to one restraint:
    a. A peer flipped off and kicked the Student.
    b. The Student tried to fight the peer, but staff intervened and transported the Student to the calming room. The restraint lasted one minute.
    c. The Student dropped to the floor, and after they were de-escalated, the Student walked unassisted to the SRO's office.
12. On April 24, 2025, a Manifestation Determination Review (MDR) was conducted. According to the MDR, "The Student has engaged in multiple incidents of physical aggression, property destruction, and elopement from school property. [The Student] has broken three windows within our building, destroyed a gate on a doorway and has hurt 4 staff with [the Student's] physically aggressive behavior." The IEP was reviewed, and interventions were listed. It was noted the Student's conduct was caused by or had a direct and substantial relationship to their disability and was not a result of the Day School's failure to implement the IEP. The team, including the Parent, determined the Student's conduct was a manifestation of their disability and it was noted, in the form of a checkmark, that the Student "… will be returned to the placement specified in [their] IEP, unless … the school and the parent(s)/LEDM(s) agree to a change of placement through the IEP process, or … the student is assigned to an alternative educational setting for possession of a weapon or illegal drugs or for infliction of serious bodily injury on another person." The remaining language regarding conducting an FBA (unless one has already been conducted), implementing the BIP, or reviewing and modifying the BIP remained unchecked on the MDR document. The Parent and the Parents were listed as participants in the meeting.
13. On September 3, 2025, the Principal emailed the Liaison and wrote, "I have reported to [a parent] that we are running out of intervention ideas as [the Student] has not responded to many interventions that have been tried." Additionally, the Principal wrote, "[The Student] is currently in a separate classroom without access to peers as they frequently trigger [the Student] and it is in [the Student's] best interest not to have access to all peers throughout the day. [The Student] does have time embedded into [their] day for peer interaction that is guided and supported by staff." The Principal indicated that outside agencies provided consultation and training regarding the Student's behaviors.

Principal Interview

14. In an interview with the Investigator, the Principal stated they were the Principal at the Special Day School in the District. They described knowing the Student since August 2024 because the Student attended the day school program.

15. The Principal stated the Complainant was a caseworker at the foster care organization that the Student was in custody through.
16. The Principal was able to describe the staff responses to the Students' behavior at different levels of escalation.
    a. The least intensive behaviors looked like refusal to comply and verbal aggression.
        i. Staff responses were redirection and stating the positive and negative consequences.
    b. More intensive behaviors looked like property destruction, the Student hitting things, and breaking things.
        i. Staff responses were to disengage with the Student, and/or block the Student from access to staff or peers.
    c. Most intensive behaviors looked like hitting, kicking, biting, throwing, and using things as weapons.
        i. Staff responses included backing away, "running with dignity," and the use of non-violent crisis intervention, if necessary.
        ii. The Principal described the term "run with dignity" as a method for disengaging with a student by backing up both physically and verbally to avoid a power struggle and to position themselves in a place of safety from the escalated student.
17. The Principal stated there is no reason a staff member would not use one of the strategies listed on the Student's Behavior Intervention Plan (BIP).
18. The Principal stated they think the Complainant was concerned because the LEA "didn't put in the [BIP] that [the Student is] receiving one-on-one support and that [the Student] doesn't have access to all of [their] peers throughout the day." The Principal stated they are unsure if the one-on-one support is listed in the Student's IEP because when the IEP was written, "it wasn't something that was always available to [the Student]." They stated the one-on-one adult assistance was discussed in April 2025 after the Student's MDR meeting. The Principal confirmed the Student has always required one-on-one adult support for some part of their day, especially during academic instruction.
19. The Principal stated the Student did have access to one-on-one adult support, and added they had support to two-on-one, depending on the Student's request. The Principal stated the adult support was documented through a schedule that was also shared with the [Parent].
20. The Principal confirmed all students in the day school have supervision for the entirety of their school day and added, "none of them walk unaccompanied anywhere in the building."
21. The Principal explained the MDR meeting that took place in April 2025. The team consisted of District staff, including the Principal, the Parents and Guardians, and workers from community support programs associated with the Student. They stated it

occurred following a suspension on April 23, 2025. The Student had broken a window for the second time. The Principal stated they worked with the Parents during this meeting to develop a plan for the Student, which consisted of placing the Student in a separate environment "where [they are] not surrounded by kids that are cussing and flipping [the Student] off and just trying to antagonize [them] all day." The plan included only allowing the Student to engage with regulated peers who were "being positive influences."

22. The Principal stated recent data shows "we've had an extreme decrease in that maladaptive behavior, especially the physical aggression."

Complainant Interview

23. On September 30, 2025, in an interview with the Investigator, the Complainant stated they were the Student's foster care case manager. They affirmed they are the legal guardian of the Student and are required to see the student once a month and help coordinate services for the home. The Complainant disclosed they don't have educational rights and therefore work with the Parent to ensure the Student was "getting [their] rightful education that the school can provide to [them]."
24. The Complainant stated that after the MDR meeting on April 24, 2025, they were having a check-in meeting via Zoom when the Principal notified the Complainant they felt the Student would be better served in a solo classroom. The Complainant added they agreed to the change if a written agreement was completed and the Parent was notified. The Complainant stated, "one was not made for it." The Complainant noted at this meeting, the team had mentioned they had tried having the Student in a modified classroom with success. The Complainant stated the attendees of the meeting included themselves, the Principal, and Foster Parent 1.
25. The Complainant stated they had not directly seen anything happen regarding the LEA not using strategies from the behavior plan before the team changed the IEP, but had been told the team told the Student they loved [them] and called them "pet names" which caused the Student to go into "defense mode" due to past abuse. The Complainant stated the team used food as an incentive. They added the Student needed to feel "like everything is equal to [them], and got upset if they felt "like [they are] not being treated fairly." The Complainant added they were not sure if specific strategies were listed in the behavior plan, stating they were not allowed to view it, but stated Foster Parent 1 provided strategies to the LEA to try. The Complainant stated the LEA tried the strategies for less than a month and then stated they weren't working. The Complainant noted the team was striving for consistency but added, "we have to go through that rough patch to get that consistency."
26. The Complainant stated, "when [the Student] gets dysregulated, [they] will fight and destroy property." This led to the Student getting involved with the legal system because people pressed charges. The Complainant stated that when the team isolated the Student in a classroom, the Student destroyed property. The Complainant added the courts are asking to have additional services placed in the home, even though the

Student was not having issues at home. They stated they were "getting this roundabout way that's not actually helping us get services into the school. It's all being placed on placement."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #375, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), unilaterally placed the Student in a solo classroom without ensuring the placement determination was made by a group of persons, including the Parent and other persons knowledgeable about the Student. K.S.A. 72-3420(a), K.A.R. 91-40-21, K.S.A. 72-3433, K.S.A. 72-3429 (4)(A)(B); 34 §§ C.F.R. 300.116, 300.530, 300.531

According to K.S.A. 72-3420(a), each school district shall be required, to the extent appropriate, to educate children with disabilities with children who are not disabled, and to provide special classes, separate schooling or for the removal of children with disabilities from the regular education environment only when the nature or severity of the disability of the child is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily.

According to K.A.R. 91-40-21, each agency shall ensure that the children with disabilities served by the agency are educated in the Least Restrictive Environment (LRE). Each agency shall ensure that a continuum of alternative educational placements is available to meet the needs of children with disabilities. These alternative educational placements shall meet the following criteria: include instruction in regular classes, special classes, and special schools; instruction in a child's home; and instruction in hospitals and other institutions; and make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement.

In determining the educational placement of a child with a disability, including a preschool child with a disability, each agency shall ensure that the placement decision meets the following requirements. The decision shall be made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options. The decision shall be made in conformity with the requirement of providing services in the LRE.

Each agency shall give notice to the parents of any meeting to discuss the educational placement of their child. The notice shall meet the requirements of K.A.R. 91-40-17. If a parent cannot participate in person at a meeting relating to the educational placement of the child, the agency shall offer to use other methods to allow the parent to participate, including conference calls and video conferencing. An agency may conduct a meeting to determine the

appropriate educational placement of a child with a disability without the participation of a parent if the agency, despite repeated attempts, has been unable to contact the parent or to convince the parent to participate. If an agency conducts a meeting to determine the appropriate educational placement of a child without the participation of a parent, the agency shall have a record of the attempts that the agency made to contact the parent. An agency shall take action to ensure that parents understand, and are able to participate in, any discussions concerning the educational placement of their children, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

Each agency shall ensure that each exceptional child's placement meets the following criteria, which are determined at least annually, are based on the child's IEP, and, for a child with a disability, are as close as possible to the child's home. Unless the IEP of a child with a disability requires some other arrangement, the agency shall ensure that the child is educated in the school that the child would attend if nondisabled. In selecting the LRE for a child with a disability, the persons making the educational placement decision shall give consideration to any potential harmful effect on the child or on the quality of services that the child needs.

An agency shall not remove a child with a disability from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum. In providing, or arranging for the provision of, nonacademic and extracurricular services and activities, including meals, recess periods, and other nonacademic services and activities, each agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child. Each agency shall ensure that each child with a disability receives the supplementary aids and services specified in the child's IEP as being appropriate and necessary for the child to participate in nonacademic settings. If it is determined that the placement in a specialized public or private school or facility is necessary to provide FAPE to a child with a disability in accordance with the child's IEP, the agency shall provide for the placement, including nonmedical care and room and board, at no cost to the parent or parents of the child.

Each agency that operates any separate facility for the education of children with disabilities shall ensure that the facility meets the following requirements: each facility shall be comparable to those operated for nonexceptional children, and each facility shall be appropriate to the chronological ages of the students and the instructional program being provided.

According to K.S.A. 72-3429 (4)(A)(B), after the annual IEP meeting for a school year, the parent of an exceptional child and an appropriate representative of the agency providing services to the child may agree to develop a written document amending or modifying the child's current IEP, without convening an IEP meeting. If the parent and agency representative develop a written document amending or modifying a child's current IEP, the document shall be dated

and signed by the parent and the agency representative. The parent and the agency shall be provided a copy of the document.

According to K.S.A. 72-3433, school personnel may order a change in placement of a child with disability to an alternative setting as disciplinary action for certain behavior. The duties of the IEP team and hearing officer, behavioral assessment and intervention plan, and the determination and review procedure must be taken into consideration. School personnel may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting or other setting, or the short-term suspension of the child. School personnel may order a change to an appropriate interim alternative educational placement for not more than 186 school days if it is determined that the conduct of the child violated the code of student conduct and was not a manifestation of the child's disability. If the relevant disciplinary procedures applicable to children without disabilities are applied in the same manner and the discipline is for the same duration as would be applied to a child without disabilities, except that services must continue to be provided to the child during the period of disciplinary action.

Any child with a disability whose placement is changed shall continue to receive educational services to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP and receive, as appropriate, a functional behavioral assessment, behavioral intervention services, and modifications that are designed to address the inappropriate behavior so that it does not recur. The alternative educational setting shall be determined by the IEP team. If a disciplinary action is contemplated not later than the date on which the decision to take that action is made, the agency shall notify the parents of that decision and of all procedural safeguards and amendments thereto, and within 10 school days of the date on which the decision to take disciplinary action is made. A review shall be conducted to determine the relationship between the child's disability and the conduct that is subject to disciplinary action.

The review shall be conducted by the agency, the parent, and relevant members of the child's IEP team as determined by the parent and the agency. In carrying out the review, that group shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parent. Based upon its review of all the relevant information, the group shall determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability or was the direct result of the agency's failure to implement the child's IEP. If it is determined that the conduct of the student was caused by or had a direct and substantial relationship to the child’s disability or was the direct result of the LEA failing to implement the child’s IEP, then the conduct shall be determined to be a manifestation of the child's disability. If it is determined that the conduct of a child was a manifestation of the child's disability, the IEP team shall conduct an FBA and

implement a BIP for such child. Provided that the agency has not conducted such an assessment prior to the behavior that resulted in a change in placement.

If the child already had a BIP, review and modify it, as necessary, to address the behavior and return the child to the placement from which the child was removed, unless the parent and the agency agree to a change of placement as part of the modification of the behavioral intervention plan.

The Complainant alleged the Student was placed in a solo classroom setting with no IEP amendment to support the change of placement.

In their response, the LEA shared that "moving a student from one classroom to another within the same program does not constitute a change of placement under the IDEA." The LEA indicated a classroom move did not alter the Student's access to non-disabled peers or the LRE. Additionally, the LEA indicated the Parents consented to the classroom adjustment.

Based on the foregoing, according to IDEA and Kansas special education regulations, it is unsubstantiated that the LEA did not ensure the placement determination for the initial material change on November 14, 2024, was made by a group of persons, including the Parent and other knowledgeable persons, as required by K.A.R. 91-40-21 and K.R.S. 72-3429 (4)(A)(B), as the change was agreed to through a signed IEP amendment by the Parents.

Issue Two

Whether USD #375, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the Student's IEP prior to using alternative strategies that were not part of the behavior plan. K.A.R. 91-40-16(a)(b)(3)

According to K.A.R. 91-40-16(a), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. According to K.A.R. 91-40-16(b)(3), at the beginning of each school year, each agency must have in effect an IEP for each child with a disability within its jurisdiction. Each agency must ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. Each teacher and provider must be informed of their specific responsibility related to implementing the child's IEP and specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Complainant alleged that although a behavior plan was in place, staff stated the plan was not effective and the staff had begun implementing alternative strategies without documentation or revision of the behavior plan.

The LEA indicated in their Response that the IEP team "… did not implement interventions or strategies that were not identified in the student's BIP. All interventions implemented were consistent with the Student's IEP/BIP or were discussed and documented with IEP team

members who hold decision-making authority." Additionally, the LEA indicated they had the authority to implement appropriate general classroom management and safety strategies, even if they were not included in the Student's IEP or BIP, as long as the strategies did not contradict the Student's plans. This included using CPI-approved emergency safety interventions when the Student was at imminent risk of harm to self or others.

Based on the foregoing, according to IDEA and Kansas special education regulations, it is unsubstantiated that the LEA significantly changed the Student's placement and least restrictive environment when they used a "separate classroom without access to peers." The LEA maintained the authority to implement appropriate general classroom management and safety strategies, even if not explicitly in the IEP, so long as the strategies did not contradict the Student's plans. The change in the Student's services did not impact their access to the least restrictive environment because the Student already lacked access to general education peers in their placement. This means there was no change to their placement and least restrictive environment as defined by K.A.R. 91-40-16(a) and 34 C.F.R. § 300.323..

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233. OLATHE PUBLIC SCHOOLS
ON SEPTEMBER 8, 2025

DATE OF REPORT: OCTOBER 8, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #233 (Olathe Public Schools) on behalf of ------- by his mother -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the parent" or "the complainant."

The complaint is against USD #233 (Olathe Public Schools). In the remainder of the report, USD #233 will be referred to as "the Local Education Agency". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." Local Education Agency staff will be referred to In the remainder of this report as follows:

- Ashley Niedzwiecki, Assistant Director of Special Services
- Heidi Schneider, Special Services Coordinator

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on September 8, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent. The investigator interviewed the parent by phone on September 26, 2025 and the Assistant Director of Special Services and Special Services Coordinator for USD #233 on September 25, 2025 as part of this investigation. Finally, the parent's advocate provided responses to investigator questions via email on September 24, 2025 at 8:15 a.m.

The following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. District Response dated September 22, 2025
2. Notice of Meeting, dated September 17, 2024
3. IEP meeting minutes dated September 17, 2024
4. IEP amendment dated September 27, 2024
5. Resolution Acceptance Letter for 25FC233-002 dated September 16, 2024
6. Audio recording of IEP meeting from September 17, 2024 1 hour 24 minutes
7. Notice of Meeting, dated December 12, 2024
8. Screen shot of the LEA Special Education/Contact Special Education page, retrieved from the Complainant on September 15, 2025 at 9:52 a.m. and by the LEA on September 22, 2025 at 3:48 p.m.
9. Job posting for Assistant Director of Special Education Legal Services, retrieved from the LEA website on September 15, 2025 at 10:10 a.m. The position is marked as closed
10. Overview of Disability Law retrieved from the LEA website on September 15, 2025 at 9:50 a.m.

Emails:

1. Email exchange among parent, advocate, and IEP team between August 29, 2024 at 11:50 a.m. and September 16, 2024 at 12:23 p.m.
2. Email exchange among parent, advocate and special education coordinator dated between September 12, 2024 at 4:53 p.m. and September 14, 2024 at 5:11 p.m.
3. Email from parent to IEP team dated September 16, 2024 at 2:23 p.m.
4. Email from assistant director of special services to investigator dated September 22, 2024 at 5:22 p.m.
5. Email from parent to investigator dated September 10, 2025 at 12:15 p.m.
6. Email from parent to Investigator dated September 15, 2025 at 10:57 a.m.
7. Email exchange between parent's advocate and investigation dated between September 23, 2025 at 8:55 a.m. and September 24, 2025 at 8:41 a.m.

Background Information

The subject of this complaint was a sixth-grade student during the 2024-2025 school year who lives at home with their mother. As noted in the May 16, 2024, evaluation report the student was found eligible for special education services with the exceptionalities of autism and hearing impairment. The student additionally has medical diagnoses of KBG Syndrome, autism, ADHD, and anxiety. This complaint follows up 26FC233-001 regarding procedural issues and LEA procedures and practices.

Issues Investigated

Issue One

Did USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to disclose that the assistant director of special services is a currently licensed attorney in the state of Kansas at the September 27, 2024 or December 12, 2024 IEP meeting?

It is noted that the date of September 27, 2024 represents the date the parent signed the Prior Written Notice for the IEP amendment. Two meetings, held on September 9, 2024 and September 17, 2024 IEP occurred to discuss and come to agreement for the September 27, 2024 IEP amendment.

Applicable Law

Federal regulations at 34 CFR §300.321(a)(6) allows for parents or the agency to invite other individuals who have knowledge or special expertise regarding the child.

Parent Position

The child complaint stated that the Assistant Director of Special Services was a participant at the September and the December 2024 IEP meetings for her child. At none of the meetings did this staff person disclose being an active attorney licensed in Kansas. The Complainant had questioned the Investigator at the conclusion of 26FC233-001 whether the Assistant Director of Special Services for the LEA, who is a licensed attorney, had to disclose this professional training. The Investigator replied that it was not required. The Complainant disagreed with the Investigator's statement and requested an investigation.

Local Education Agency Position

The Local Education Agency responded that the Assistant Director of Special Services is not representing the LEA as an attorney. This staff person was hired in the position of Assistant Director of Special Services and in that role will occasionally attend IEP team meetings when possessing special knowledge or expertise about the student or services on behalf of a student. This is well within the scope and expectation of the Assistant Director of Special Services job duties and as a discretionary member of a students' IEP team the Assistant Director of Special Services executes duties in the same manner and capacity as other District Directors of Special Services.

The LEA staff is listed on IEP paperwork as the Assistant Director of Special Services and has introduced self as the Assistant Director of Special Services at all IEP team meetings for the student's IEP meetings and other IEPs attended. Attending as the Assistant Director of Special Services this LEA staff contributes a general understanding of District Policies, a general

understanding of the IEP process, and participates in discussions related specifically to a student's needs based on specialized knowledge.

Analysis: Findings of Fact

1. The Parent and LEA agree that the Assistant Director of Special Services attended the September 9, 2024 and December 12, 2024 IEP meetings for the student.
2. The parent and advocate reported that the Assistant Director of Special Services attended the September 17, 2024 IEP meeting but arrived late. The Assistant Director of Special Services reported that according to their calendar they were conducting a presentation with Assistant Principal during that time.
3. The Assistant Director of Special Services and parent agree that the Assistant Director of Special Services did not disclose being an active attorney in Kansas at any of the student's IEP meetings. The staff member introduced as Assistant Director of Special Services.
4. The Assistant Director of Special Services stated that attendance at the September 9, 2024 IEP meetings was in response to an email from the Complainant with a list of questions and concerns about district services the day before the meeting. The LEA determined that the Assistant Director of Special Services was most knowledgeable to respond to these questions. Attendance at the December 12, 2024 meeting was based on the student's return to district services following a medically based placement.
5. The Complainant provided a job description that lists a position titled, "Assistant Director of Special Education Legal Services." The Complainant stated during interview that this position was closed about the time the Assistant Director of Special Services was hired and concluded that the Assistant Director of Special Services was hired in as an attorney. The LEA stated that this is the position that resulted in the hiring of the current Assistant Director of Special Services. The Executive Director of Special Services for the LEA stated that the position lists a preference for a juris doctor (JD) degree, but it is not required and the person who was previously in the current Executive Director of Special Services position held a JD as well. Finally, the Executive Director of Special Services for the LEA stated that the position of Assistant Director of Special Services is in the Special Education Department in Academics of the LEA organizational chart, not in the Staff Counsel department.
6. The LEA webpage lists the staff person as Assistant Director of Special Services on the Special Education webpage under, "Contact Special Education"

Conclusion

The LEA response dated September 22, 2025 articulated the explanation for the investigator's conclusion.

The [LEA] asserts that this staff person is the Assistant Director of Special Services, not an attorney representing the [LEA]. According to the Kansas Special Education Process Handbook, pg. 64, the district may include "others as appropriate", at a student's IEP meeting. Additionally,

"The determination of who has knowledge or special expertise regarding the child is made by the party (parents or school) who invited the individual to be a member of the IEP team. Therefore, the other party may not bring into question the expertise of an individual invited to be a member of the IEP team and may not exclude another team member's expertise based on the amount or quality of their expertise." (K.A.R. 91-40-17(j); 34 C.F.R. 300.321(c))

OSEP guidance has clearly stated that the disclosure of an invited IEP team member's specific knowledge is not required, stating:

Section 614(d)(1)(B)(vi) of the Act allows other individuals who have knowledge or special expertise regarding the child to be included on the child's IEP team. Section 300.321(c) provides that the determination of the knowledge or special expertise of those individuals must be made by the party (parent of public agency) who invited the individual to be a member of the IEP team. We continue to believe that this determination is best left to parents and the public agency. We also believe that it would be inappropriate to regulate on the specific knowledge and expertise that an individuals must have to be included on an IEP Team because it would be burdensome for both parents and public agencies." (Fed. Register, Vol. 71, No. 156, pg. 46670 (August 14, 2006)) Here, the District had determined this staff member has special expertise, as an Assistant Director, and invited this staff member to join the IEP team as a discretionary member.

Finally, the federal regulation requiring a public agency to notify parents of upcoming IEP meetings is 34 C.F.R. 300.322(b). That regulation requires the public agency to provide notice of "the purpose, time and location of the meeting and who will be in attendance." It does not require the public agency to provide more. Specifically, there is nothing in the law that requires notifying a parent that a person invited to attend the meeting is an attorney.

Based on the foregoing, it is found that the Local Education Agency did not have an obligation to disclose that the Assistant Director of Special Services is a currently licensed attorney in the state of Kansas at the September 9, 2024, September 17, 2024 or December 12, 2024 IEP meetings and *is IN compliance*, and no corrective action is required.

Issue Two

Did USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to include the assistant special education director as an IEP team member on the Notices of Meeting for the September 27, 2024 and December 12, 2024 IEP meetings?

Applicable Law

Federal regulations at 34 C.F.R. §300.322(b)(1)(i) require that the notice of meeting list "who will be in attendance" . 34 C.F.R. §300.321(a)(1-6) states the public agency must ensure that the IEP Team for each child with a disability include the parents of the child; at least one regular

education teacher of the child (if applicable); at least one special education teacher/provider of the child; a representative of the public agency; an individual who can interpret evaluation results; others with knowledge/special expertise at the discretion of the parent or agency; and the child, when appropriate.

Parent Position

The complaint alleged that the assistant special education director was an active participant at the September meetings and December 2024 IEPs meetings for her student and was not listed on the Notices of Meeting for either IEP.

Local Education Agency Position

The LEA responded in the September 22, 2025 response that the Assistant Director of Special Services was not listed on the Notice of Meeting for the September 17, 2024 meeting but was not in attendance at that meeting. The LEA responded that the Assistant Director of Special Services was listed on December 12, 2024 Notice of Meeting.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference.

1. It is noted that the Notice of Meeting for the September 9, 2024 meeting was sent on August 29, 2024 which exceeds the 12 month period of investigation and therefore not included in consideration of the finding.
2. The September 17, 2024 Notice of Meeting listed the following LEA staff as "Other(s) who can help explain the evaluation results or who have knowledge or special expertise regarding your child or services that may be needed." Autism Specialist, School Social Worker, Autism Specialist, Speech Language Pathologist, DHH Consultant, SPED Coordinator, Audiologist, Nurse School, and Psychologist. Based on documentation and interview with the complainant, advocate, and LEA it was not determined if the Assistant Director of Special Services attended this meeting in part or at all.
3. The December 12, 2024 Notice of Meeting listed the following LEA staff as "Other(s) who can help explain the evaluation results or who have knowledge or special expertise regarding your child or services that may be needed." Special Services Coordinator, Assistant Director of Special Services, School Nurse, Behavior Coach, School Social Worker, Speech Language Pathologist, and Autism Specialist.
4. The IEPs dated September 27, 2024 and December 12, 2024 does not show the Assistant Director of Special Services listed as an IEP team meeting attendee.

Conclusion

The IDEA specifies who must attend an IEP meeting and the Notice of Meeting further specifies that the parent receive notice of the potential attendees prior to the meeting. It is found that the Notice of meeting for the September 9, 2025 meeting, September 17, 2025 IEP meeting do

not include the Assistant Director of Special Services, but the Assistant Director of Special Services is listed on the December 12, IEP meeting.

Although not listed specifically in the issue, the Investigator reviewed the IEP participant list for the September 27, 2024 and December 12, 2024 IEP amendments to gain clarity on whether the Assistant Director of Special Services had attended the September 17, 2024 IEP meeting in part or whole to compare how it was documented for December 12, 2024. It was known that the Assistant Director of Special Services was listed on the Notice of Meeting for the December 12, 2024 IEP meeting and attended this IEP meeting. It was discovered that the Assistant Director of Special Services was not listed as in attendance at the IEP meeting. Therefore, ***the Local Education Agency is OUT of compliance,*** and corrective action is required.

Issue Three

Did USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to name the district staff on the Notice of Meetings for the September 27, 2024 and December 12, 2024 IEPs with job titles from the district website or with enough detail/accuracy so as to meet regulation for providing the complainant with proper notice of who was attending the student's IEP?

Applicable Law

Federal regulations at 34 C.F.R. §300.322(b)(1)(i) require that the notice of meeting list "who will be in attendance" . 34 C.F.R. §300.321(a)(1-6) states that the public agency must ensure that the IEP Team for each child with a disability include the parents of the child; at least one regular education teacher of the child (if applicable); at least one special education teacher/provider of the child; a representative of the public agency; an individual who can interpret evaluation results; others with knowledge/special expertise at the discretion of the parent or agency; and the child, when appropriate.

Parent Position

The parent complaint stated that the roles of the meeting attendees on the September and December 2024 Notice of Meetings do not match the job titles from the district website or provide enough detail or accuracy that the parent can determine who is attending the student's IEP. This lack of specificity and/accuracy does not meet the regulation for providing the complainant with proper notice of who will be attending the student's IEP.

Local Education Agency Position

The Local Education Agency states that neither federal nor state regulations require the Notice of Meeting to identify the district's meeting attendees by name, so long as the notice identifies those individuals by position.

Analysis: Findings of Fact

The findings of Issues 1 and 2 are incorporated herein by reference.

1. The LEA Notice of Meeting form includes the following statement, "As required by federal and state law, in addition to you, we will have the following people at our IEP meeting: 1) A general education teacher of your child 2) A special education teacher of your child 3) A school representative 4) If this is an initial IEP, a representative, if you request, of the Part C (Early Intervention Program for Infants/Toddlers with Disabilities) if your child is transitioning from Part C to Part B 5) Student (when checked)" Further, "Other(s) who can help explain the evaluation results or who have knowledge or special expertise regarding your child or services that may be needed." Finally, "If necessary, and with your consent, staff from other agencies that may be able to provide appropriate transition services/linkages will be invited to our meeting. The agencies they represent are shown below:"
2. The Notice of Meeting for the September 17, 2024 IEP meeting lists the role of LEA attendees that match job titles on the LEA website.
3. The Notice of Meeting for the December 12, 2024 IEP meeting lists the role of LEA attendees that match job titles on the LEA website.

Conclusion

It is found that the Local Education Agency named the LEA staff on the Notice of Meetings for the September 27, 2024 and December 12, 2024 IEPs with job titles from the LEA website and therefore met regulations for providing the complainant with proper notice of who was attending the student's IEP and *is IN compliance*.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §300.321(a)(6) and was not found. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. §300.322(b)(1)(i) and 34 C.F.R. §300.321(a)(1-6) was found and corrective action is required as follows:
    a. A procedural violation of 34 C.F.R. §300.322(b)(1)(i) and 34 C.F.R. §300.321(a)(1-6) was found based on the student's December 12, 2024 IEP not listing the Assistant Director of Special Services in attendance. The LEA shall immediately, within 21 school days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations 34 C.F.R. §300.322(b)(1)(i) and 34 C.F.R. §300.321(a)(1-6).
    b. The LEA shall send an email to all case managers reminding them of their obligation to include all attendees at IEP meeting on the IEP attendance sheet. The LEA shall submit evidence of this email and the recipients to SETS by November 8, 2025.
3. ISSUE THREE: A violation of 34 C.F.R. §300.322(b)(1)(i) and 34 C.F.R. §300.321(a)(1-6) was not found. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 233,
Olathe Public Schools: 26FC233-002

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on September 8, 2025, by -------on behalf of her child, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on October 8, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations with regard to Issue 2.

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the districts notice of appeal, and the parent's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Discussion of Issue on Appeal

The single issue on appeal is Issue 2:

> Did USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to include the assistant special education director as an IEP team member on the Notices of Meeting for the September 27, 2024 and December 12, 2024 IEP meetings?

On page 8 of the report, in finding 1, the investigator says: "It is noted that the Notice of Meeting for the September 9, 2024 meeting was sent on August 29, 2024 which exceeds the 12 month period of investigation and therefore not included in consideration of the finding." That finding left only the December 12, 2024 meeting to be considered by the investigator and this Appeal Committee. Accordingly, this Committee will not consider, on appeal, any matter connected with the September 27, 2024 IEP meeting.

With regard to the December 12, 2024 IEP meeting, in her conclusion, on page 8 and 9 in the report, the investigator said:

"It was known that the Assistant Director of Special Services was listed on the Notice of Meeting for the December 12, 2024 IEP meeting and attended this IEP meeting."

That finding, alone, is sufficient to conclude that the alleged violation was not substantiated. However, the investigator went on to say, "*It was discovered that the Assistant Director of Special Services was not listed as in attendance at the IEP meeting*." To clarify, the Assistant Director of Special Services was listed on the Notice of Meeting for the December 12, 2024 IEP meeting and attended this IEP meeting, but the IEP did not contain verification of the Assistant Director's presence. Based on that finding, the investigator found that there was a violation of law, without citing what law had been violated.

Apparently, in her conclusion, the investigator was referring to finding 4, on page 8 of the report, where the investigator said the student's IEP does not "*show the Assistant Director of Special Services listed as an IEP team meeting attendee.*" Even if correct, that finding is not a violation of law. As the district correctly asserts in its appeal, there is nothing in law that requires an IEP to include the names of those who attended an IEP meeting. While it may be common practice to include the names of those who attended an IEP meeting in an IEP in order to verify that required members were in attendance, no law or statute requires that an IEP contain that information.

For additional clarification, a Notice of Meeting must include "*who will be in attendance (See 34 C.F.R. 300.322(b)(1)(i).*" This regulation does not require this notice to include the names of those who will attend the meeting. it is sufficient that this notice include a general description of those who will attend by their relationship to the student. For example, the Notice of Meeting may state that attendees at the meeting will include a general education teacher and special education teacher of the child, without also providing the name of such attendees.

Additionally, in her appeal, the parent alleges that the Assistant Director of Special Services is an attorney and should have disclosed that information in the Notice of Meeting (NOM). While such disclosure may have been prudent, it is not required by any special education law or regulation.

Conclusion

For the reasons stated herein, the conclusion on Issue 2 in the Complaint Report is reversed. No corrective action is required.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 28th day of October, 2025.

Appeal Committee

Crista Grimwood
Brian Dempsey
Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
STATE ORGANIZATION 610 (SO610)
ON SEPTEMBER 4, 2025

DATE OF REPORT: OCTOBER 8, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of -------- by her mother, --------. In the remainder of the report -------- will be referred to as "the student" and -------- will be referred to as the "complainant" or "the parent".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the student is a resident of the Blue Valley School District (USD #229) but receives a free appropriate public education (FAPE) at the Kansas School for the Deaf (SO610), which employs its own staff to meet the requirements of the IDEA. It is noted that the allegation investigated was made solely against SO610 and, while both USD #229 and SO610 are considered the responsible local education agency (LEA), any findings resulting in corrective action will be the responsibility of SO610..

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on September 4, 2025 and assigned the case for investigation on that same date.

Evidence Reviewed

Both parties were contacted via telephone during the investigation to gather and clarify information. The complainant was interviewed by telephone on September 23, 2025. SO610 made the following school personnel available for a Zoom interview on September 25, 2025:

- Luanne Barron, Superintendent
- Dean Muszynski, Activities Coordinator

The complainant provided written responses to clarification questions on September 29, 2025. Quinn Price, the cheerleading coach for SO610 during the 2024-25 school year provided written responses to clarification questions on September 30, 2025.

Written documentation was provided by both the LEA and the complainant. All the documentation was reviewed and the following written documentation was used in consideration of the issue:

1. Formal Complaint Request Form dated September 4, 2025 written by the complainant
2. The Individual Education Program (IEP) dated February 26, 2024 and amended on September 23, 2024
3. The IEP dated March 5, 2025
4. Doctor's Note written by Dr. Jennifer Mellick, Pediatric Partners
5. Kansas School for the Deaf Extra-Curricular Activities & Athletics Handbook (revised July 2024)
6. Email chain dated August 29, September 1, 3, and 4, 2025 between the complainant; Joelle Allen, Secondary Principal; Dean Muszynski, Activities Coordinator; and Luanne Barron, Superintendent
7. Email dated December 2, 2024, written by the complainant to the Secondary Principal
8. Email chain dated December 4 and 6, 2024 between the complainant, the Activities Coordinator, and the Superintendent
9. Email dated December 10, 2024, written by the Activities Coordinator to the Superintendent
10. Email dated December 29, 2024, written by Quinn Price, Cheerleading Coach, to the parents of all the students on the cheerleading team, including the complainant
11. Copy of the January 2025 Cheerleading Schedule showing home games and practice schedule
12. Email chain dated January 20, 2025 between the complainant and the Cheerleading Coach
13. Email chain dated January 28, 2025 between the complainant and Cheerleading Coach
14. Meeting Notes dated September 15, 2025 written by the Superintendent
15. Email dated September 29, 2025, written by the complainant to the Investigator responding to clarification questions
16. Email dated September 30, 2025, written by the Cheerleading Coach to the Investigator responding to clarification questions

Background Information

The student is 16 years old and currently enrolled in the tenth grade at SO610 for the 2025-26 school year. The student received early intervention services and began receiving special education and related services at the Kansas School for the Deaf at the age of three. The most

recent reevaluation was completed on February 26, 2024 and the IEP team determined that the student continued to be eligible for special education and related services under the primary exceptionality category of Deaf / Blind due to medical diagnoses of bilateral sensorineural hearing loss and strabismus as well as the secondary exceptionality category of Other Health Impaired due to medical diagnoses which result in extreme fatigue and being tube fed.

Issues Investigated

Based on the written complaint, one issue was identified and investigated.

Issue One

SO610, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the student with a free appropriate public education (FAPE), specifically by not providing the supplementary aids and services necessary to allow the student to participate in nonacademic and extracurricular activities during the past 12 months .

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(4)(ii) require that each public agency include a statement in each student's IEP describing the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

There were two IEPs in place for the student during the past 12 months. The first IEP was developed on February 26, 2024 and amended on September 23, 2024. The second IEP was developed on March 5, 2025. Both IEPs include the following statement:

The student has the opportunity to participate in all non-academic and extracurricular activities such as clubs, sports, to the same extent as non-identified peers".

The parent reported the student was a member of the cheerleading team but was excluded from participating in extracurricular activities during the 2024-25 school year when she was not allowed to cheer during the last home basketball game on January 28, 2025 due to the Cheerleading Coach not providing the agreed upon accommodations for the student's disability.

The parent reported the student had participated in sports as the manager for the basketball team during the 2023-24 school year while in eighth grade. At the beginning of the 2024-25 school year, the student had expressed interest in being the manager for the volleyball team at home games but, after discussing this with the Secondary Principal and the Activities Coordinator, it was decided this would not be appropriate in light of the responsibilities for this position at the high school level.

The parent reported and documentation shows the student was diagnosed with chronic fatigue and was being treated at both the hematology and pulmonology clinics at Children's Mercy Hospital to "improve her endurance and find a medical solution for her fatigue". This information was shared with SO610 and the student's IEP was amended on September 23, 2024 to allow the student to be dismissed at 1:30 pm on Wednesdays in order to rest.

The parent contacted the Secondary Principal on December 2, 2024 regarding the possibility of the student becoming involved in extracurricular activities as a cheerleader during the basketball season with an adapted schedule due to her health issues.

On December 4, 2024, the Secondary Principal contacted the Activities Coordinator about the possibility of the student participating in cheerleading with a flexible cheer schedule. The following questions were posed:

- *What does the current cheer schedule look like?*
- *Would it be okay for her to attend practice once or maybe twice a week?*
- *Would it be okay for her to attend shorter practices if needed?*
- *Would it be okay for her to cheer at select games and miss others?*

SO610 reported that a meeting was held on December 10, 2024 to discuss this request. The Activities Coordinator provided a written summary of that meeting as follows:

> *The complainant, the student, and I met in my office to discuss how the student could participate in cheerleading given her medical conditions which prevent her from attending every practice. We agreed on the following:*
>
> - *The student may be included in the team picture wearing a cheerleader uniform*
> - *She may sit with the team on the bleachers in uniform*
> - *She may wave the Jackrabbits flag*
>
> *It was also agreed that the student will not participate in cheer competitions due to not being able to show up to all scheduled practices. However, if she is able to attend some practices, she may cheer with the team on the sidelines.*

The December 10, 2025 written meeting summary was apparently not shared with either the complainant or the Cheerleading Coach. The complainant was surprised that waving the

Jackrabbit flag was listed as one of the activities the student could participate in as a cheerleader at the home games because the Activities Coordinator had been told during that meeting that the student didn't have the strength to wave the large flags and this was not an activitiy she could do during the home games. In addition, the Cheerleading Coach stated, "I was never aware of any agreement for this student to wave a flag as I didn't know we had one".

SO610 reported there were a total of five home games scheduled following the meeting on December 10, 2024. The Cheerleading Coach confirmed that there were five home games after the student joined the team and that cheerleading practice was held "*every Monday, Tuesday, and Thursday if there was not a basketball game*".

The Cheerleading Coach noted that the student joined the team late and was behind the other students for learning the cheers and the steps because of the late start. The Cheerleading Coach believed the student was supposed to attend at least one practice per week but reported she was not sure how many practices the student actually attended because she did not have access to last year's records. However, based on her recollections, she indicated that the student "*attended one or two practices for the entirety of her time on the team*". The Cheerleading Coach also noted that the student missed the required practice where uniform fitting took place and the student's uniform did not fit her correctly.

The complainant reported the cheerleading practices were held after 6 pm and it was difficult for the student to attend due to her fatigue but that she was supposed to participate once per week to learn the routine and chants; however, the student did not need to attend cheer practices which solely focused on the competition team cheers. The complainant indicated that some of the other cheerleaders taped the cheer routines on their phones and sent them to the student so she could practice at home. In addition to practicing on her own at home, the complainant reported the student attended two of the six practices held in January 2025.

The complainant provided the Cheerleading Calendar for January 2025 which showed a total of seven cheer practices: two practices scheduled for the school weeks of January 6-10, 13-17, and 27-31; and one practice scheduled for the school week of January 20-24, 2025. The calendar showed two home games scheduled for January 21 and 28, 2025.

On January 20, 2025, the complainant sent an email to the Cheerleading Coach regarding the student missing practices due to being sick and the student's participation in the home game scheduled for January 21, 2025. The Cheerleading Coach responded that same day stating, *"It is okay she hasn't been there, we have honestly just been working on the competition"*.

The complainant and the Cheerleading Coach both reported the student attended the game but did not cheer on the sidelines during the game; instead the student chose to sit with the cheerleading team during the game and observe.

On January 28, 2025 at 12:32 pm, the complainant sent an email to the Cheerleading Coach stating:

> *I'm sorry the student didn't make if to practice last night. She was so tired she went to bed at 7. She has lots of health issues that make it pretty challenging to have any energy in the evening. She really wants to come support the team tonight. She's been practicing the cheers on her own. I hope it's okay if she comes. Hopefully next fall she will be in better health and can start cheer season at the beginning of the year. I really appreciate your understanding this season!*

The Cheerleading Coach responded to the complainant on that same date at 2:14 pm in an email which stated:

> *Since the student has not been at practice, I don't feel confident letting her cheer and I do not know what she has learned. I will unfortunately not have time to walk her through the cheers or dances before the games today. She may come and sit if that is what she wants. For next year, it is important she comes to practice if she wants to cheer.*

The complainant responded that same date at 3:27 pm in an email sent to both the Cheerleading Coach and the Activities Coordinator stating:

> *. . . I get the need to know what she has learned. She just really wants to find a place she can belong and participate and it's hard with her health issues because they do limit her so much to participate that late in the evening for practice. I thought in our conversation with Dean [Activities Coordinator] that there was flexibility for the student to participate. This is really going to break her heart.*

The Activities Coordinator responded to the complainant and the Cheerleading Coach on that same date at 3:47 pm in an email and stated:

> *Yes, we discussed flexibility, but to cheer with the team on the sideline, the student will need to attend practice. We expect all players to show up to practice if they want to cheer in the game. I understand that the student's health situation, and we agreed to allow her to participate in other ways if she was not able to show up to all practices, such as sitting with the team, being in the team picture, and waving the Jackrabbit flag. The student is welcome to sit with the team on the bleachers in her cheer uniform.*

The complainant made a final response at 4:00 pm via email to the Activities Coordinator and the Cheerleading Coach stating:

> *I just really misunderstood that she would need to attend practice as much as she needed to. Her health makes those late practices almost impossible. She is still on a modified school schedule for fatigue ordered by her physician. She thought they were practicing for the competition, and she knew that she couldn't participate in that so I think that's where she misunderstood that she didn't need to go . . . We will seek out other opportunities for her to feel like part of the KSD [Kansas School for the Deaf] community.*

The complainant reported that the student chose not to attend the final home game.

After the filing of this complaint, the Superintendent, Activities Coordinator, the Secondary Principal, and the parents met on September 15, 2025 to review the situation and develop a plan for the student to participate in extracurricular activities during the 2025-26 school year. Meeting notes kept by the Superintendent state:

> *Dean [Activities Coordinator] reviewed the incident, explaining that the student had missed all of the cheerleading practices. To ensure that she could still be included as part of the team, modifications were made for her participation in the last home game. These modifications included carrying the mascot flag and wearing the cheerleading uniform. Dean further clarified that , because the student had missed too many practices to participate fully in the cheers, these adjustments were intended to help her feel included and maintain her connection to the team.*

These notes as well as interviews with the SO610 staff and the complainant indicate that discussions are taking place to identify modification to enable the student to act as the manager for the junior varsity volleyball team during home games this season.

Conclusion

In this case, the complainant alleges the student was excluded from participating with the cheerleading team during the final home game on January 28, 2025 because the Cheerleading Coach and the Activities Director failed to provide the agreed upon program modifications developed at the December 10, 2024 meeting.

Interviews and documentation found the Activities Coordinator, the complainant, and the student met on December 10, 2024 and agreed to the following program modifications e designed to allow the student the opportunity to participate in extracurricular activities at the Kansas School for the Deaf given her medical conditions which prevent her from attending every cheerleading practice:

- The student may be included in the team picture wearing a cheerleader uniform
- She may sit with the team on the bleachers in uniform
- She may wave the Jackrabbits flag
- The student will not participate in cheer competitions due to not being able to show up to all scheduled practices.
- However, if she is able to attend some practices, she may cheer with the team on the sidelines.

It is noted that the term “some” was not specific or defined in the meeting notes and is, therefore, open to interpretation. The Google definition will be used for the purposes of this investigation and, as such, the term “some” is defined as an unspecified number or a small amount.

Interviews and documentation found conflicting information about the number of cheerleading practices which were held as well as the number of these practices the student actually participated in during December 2024 and January 2025. The Activities Coordinator indicated the student did not attend any of the cheerleading practices; however, both the Cheerleading Coach and the complainant reported the student attended at least some of the practices.

SO610 contends that the student failed to participate in enough cheerleading practices between December 10, 2024 and January 28, 2025 to be allowed to cheer on the sidelines during the final home game of the basketball season. However, interviews with the complainant and the Cheerleading Coach both support a finding that the student attended "some" practices as was described in the program modifications determined at the December 10, 2024 meeting. For this reason, the student did meet the requirement to cheer on the sidelines during the final home game on January 28, 2025.

However, based on this incorrect interpretation of the term "some", SO610 unilaterally determined to only provide the student the opportunity to "*to sit with the team on the bleachers in her cheer uniform*" and thus denied the student the opportunity to cheer with her teammates during the final home game.

It should be noted the student did not cheer on the sidelines during the home game held on January 21, 2025 but instead chose to sit and observe her cheerleader peers. While this is essentially the same outcome that was offered to the student by SO610 for the January 28, 2025 home game, the glaring difference is that the student made the choice of how she would participate in the cheerleading activity on January 21st while SO610 made the decision and took away the student's opportunity to make a choice for how to participate in the game on January 28th.

Based on the foregoing, ***SO610 is determined to be OUT of compliance*** with federal regulations at 34 C.F.R. 300.320(a)(4)(ii) which require that each public agency provide program modification or supports to enable the student with a disability to be involved in in extracurricular and other nonacademic activities. As such, the following corrective actions are ordered to be completed by SO610:

Corrective Action

1. No later than 15 days from the date of this report, SO610 will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. 300.320(a)(4)(ii) which require that each public agency provide program modification or supports to enable the student with a disability to be involved in in extracurricular and other nonacademic activities.
2. SO610 will develop written procedures for developing, documenting, and sharing any program modifications that are determined necessary to be provided to a student with

a disability in order to enable that student to be involved in extracurricular and other nonacademic activities. SO610 will provide SETS with a written copy of the plan and documentation that these procedures were shared with all SO610 staff responsible for extracurricular and nonacademic activities no later than October 30, 2025 .

3. SO610 will provide the Activities Coordinator with training on how to develop and document program modifications that are specific so as to avoid any miscommunication between parents and school staff in the future. SO610 will provide SETS with documentation showing the date of the training, the name of the trainer, and a summary of the training provided no late than October 30, 2025.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #446
ON SEPTEMBER 10, 2025

DATE OF REPORT: OCTOBER 9, 2025

This report is in response to a complaint filed with our office on behalf of a student, ------, by their parent, ------. In the remainder of the report, the Student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD # 446, Independence Public Schools. In the remainder of the report, the "School" and the "local education agency (LEA)" shall refer to USD #446.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the school district. In this case, the KSDE initially received the complaint on September 10, 2025, and the 30-day timeline ended on October 10, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #446, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented child find requirements. K.A.R. 91-40-7 (a)(b)(2)(c)(1)(2)(A)(C)(D)(3); 34 § C.F.R. 300.111(a)(c).

ISSUE TWO: Whether USD #446, in accordance with state and federal regulations implementing the IDEA, declined a parent request for an initial special education evaluation and used Response to Intervention (RTI) and General Education Intervention (GEI) data as the basis to decline the initial evaluation. K.A.R. 91-040-8, K.S.A. 72-3428, K.A.R. 91-40-7 (c), K.A.R. 91-40-11 (b)(1)(A)(B)(c)(2)(A), 34 §§ C.F.R. 300.301 (a)(b)(c), 300.305 (a)(1)(2)(d).

Investigation of Complaint

The Complaint Investigator interviewed the following LEA staff on October 1 and 3, 2025: the Assistant Principal and the School Psychologist. The Parent did not respond to a request for an interview.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. District Policy for Response to Intervention (MTSS in KS terms), no date
2. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 09/04/25
3. Notice of Meeting, 09/04/25
4. Letter from [the Complainant], 08/26/25
5. Intervention Meeting Documentation, 09/025/25
6. Behavior Detail Report, 10/29/24-11/26/24
7. Student Period Attendance Detail, 2024-25 School Year
8. Student Period Attendance Detail, 2025-26 School Year
9. Student Schedule, 2024-25 School Year
10. Student Schedule, 2025-26 School Year
11. High School Transcript, 09/17/25
12. Report Card, 2024-25 School Year
13. DIBELS Score Sheet - Grade 8, 08/15/25
14. STAR Reading Scores, 08/16/24-08/20/25
15. STAR Math Scores, 08/16/24-08/14/25
16. Information on Communication, Meetings, Concerns, 09/04/25-09/18/25
17. Email, re: Special Education Evaluation Request, 08/28/25-09/25/25
18. Email, re: [the Student], 09/04/25-09/16/25
19. Email, re: [the Student] [Student Intervention Team] SIT, 08/28/25-09/25/25
20. Email, re: Special Education Evaluation Request - [the Student], 08/26/25-09/25/25

Background Information

This investigation involved a high school-aged student enrolled at Independence High School in USD #446. The Student is not currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA). The Parent requested an evaluation for their child on August 26, 2025. On September 4, 2025, the LEA responded to the Parent that an initial evaluation was not required and rejected conducting the parent-requested evaluation.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with staff in the LEA.

1. The LEA Policy for Academic Interventions/Tiered Support indicated the following:
    a. Students in grades 9-12 who were identified as needing additional support participated in a dedicated advisory class for 60 minutes per week, which focused on individualized academic instruction in reading.
    b. Students identified as needing reading support participated in English Essentials as a required elective.
    c. "Math: At the secondary level, many data sources are used to determine if a student needs to be on an adjusted track with additional support."
    d. "Reading: All students are screened … . At the secondary level, students scoring below the 40th percentile on STAR Renaissance [formerly Standardized Test for the Assessment of Reading] are administered the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) … . Those scoring in the Strategic or Intensive Intervention range are provided with Reading Interventions through push-in and pull-out services."
    e. LEA policy indicated "Students can be moved out [of] or into all supports based on data from each screening window."
2. A Behavior Detail Report for the 2024-25 school year for the Student indicated three behavior incidents (October 29, 2024, November 25 and 26, 2024) for "excessive tardiness," with a resolution of detention for 25 minutes.
3. A Student Period Attendance Detail indicated the following for the 2024-25 school year:
    a. Period 1: 21 total absences, four tardies;
    b. Period 2: 21 total absences, zero tardies;
    c. Period 3: 21 total absences, zero tardies;
    d. Advisory: 22 total absences, one tardy;
    e. Period 4: 23 total absences, zero tardies;
    f. Period 5: 24 total absences, zero tardies;
    g. Period 6: 22 total absences, one tardy; and
    h. Period 7: 24 total absences, zero tardies.
4. The Student's schedule for the 2024-25 school year listed the following courses:
    a. Term 1:
        i. Period 1: Physical Science
        ii. Period 2: English Essentials
        iii. Period 3: English 9
        iv. Advisory: Advisory 9

v. Period 4: Geography
vi. Period 5: Math I
vii. Period 6: Mixed Chorus
viii. Period 7: Girls' Health

b. Term 2:
i. Period 1: Physical Science
ii. Period 2: English Essentials
iii. Period 3: English 9
iv. Advisory: Advisory 9
v. Period 4: Drawing I
vi. Period 5: Pre-Math I
vii. Period 6: Mixed Chorus
viii. Period 7: Web Page Design

5. The Student's report card for the 2024-25 school year indicated the following grades:
   a. "English 9: Term 1, 60.04%, D; Term 2, 49.65% F";
   b. "English Essentials: Term 1, 86.11%, B; Term 2, 88.98%, B";
   c. "Pre-Math: Term 1, no mark; Term 2, 62.47%, D";
   d. "Math 1: Term 1, 42.98%, F; Term 2, no mark";
   e. "Mixed Chorus: Term 1, 93.38%, A; Term 2, 96.80%, A";
   f. "Girls Health: Term 1, 51.51%, F"; Term 2 no mark";
   g. "Physical Science: Term 1, 80.46%, B; Term 2, 85.72, B";
   h. "Advisory 9: Term 1, 100%, A: Term 2, 100%, A"; and
   i. "Geography: Term 1, 66.64%, D; Term 2, no mark."
6. The Student's DIBELS scores from the 2024-25 school year indicated the following:
   a. "August 23, 2024: 96% Oral Reading Fluency Accuracy (ORF)";
   b. "December 16, 2024: 100% ORF"; and
   c. "April 30, 2024: 98% ORF."

   The Student's DIBELS score from the 2025-26 school year indicated the following:

   d. "August 15, 2025: 98% ORF."
7. The Student Period Attendance Detail for the 2025-26 school year (report included school year data through September 16, 2025) indicated:
   a. Period 1: two total absences, zero tardies;
   b. Period 2: two total absences, zero tardies;
   c. Period 3: two total absences, zero tardies;
   d. Advisory: two total absences, zero tardies;

e. Period 4: five total absences, zero tardies;
f. Period 5: two total absences, zero tardies;
g. Period 6: two total absences, zero tardies; and
h. Period 7: two total absences, zero tardies.

8. The Student's schedule for the 2025-26 school year indicated placement in the following courses:
   a. Term 1:
      i. Period 1: Girls' Physical Conditioning
      ii. Period 2: Math I
      iii. Period 3: World History
      iv. Advisory: Advisory 10
      v. Period 4: Biology
      vi. Period 5: English 10
      vii. Period 6: Mixed Chorus
      viii. Period 7: Learning Lab
   b. Term 2:
      i. Financial Literacy
      ii. Math I
      iii. World history
      iv. Advisory 10
      v. Biology
      vi. English 10
      vii. Mixed Chorus
      viii. Learning Lab
9. A high school transcript that included full high school data through September 17, 2025, listed the Student's cumulative Grade Point Average (GPA) as 2.143 (weighted and unweighted). During their 9th-grade year, the Student earned 6 out of the 7.5 attempted credits.
10. An undated STAR assessment listed the following scores for the Student:
    a. Reading Enterprise:
       i. Grade 9- August 16, 2024: "13th percentile, Intervention."
       ii. Grade 9-December 11, 2024: "15th percentile, Intervention."
       iii. Grade 9- April 16, 2025: "28th percentile, On watch."
       iv. Grade 10- August 20, 2025: "29th percentile, On Watch."
    b. Math Enterprise:
       i. Grade 9- August 16, 2024: "25th percentile, Intervention."
       ii. Grade 9-December 16, 2024: " 31st percentile, Intervention."

iii. Grade 9- April 14, 2025: "26th percentile, On watch."

iv. Grade 10- August 14, 2025: "57th percentile, At/Above Norm Reference Benchmark."

11. In reference to the Student getting out of the Reading Essentials class, the Assistant Principal stated, "[The Student] tested into [the class]" based on the DIBELS' screening and STAR score for the 2024-25 school year. "This year, [the Student's] STAR score grew significantly. In [20]25 [they] qualified for a DIBELS screener, [and they] did pass benchmark there, and [then] was tested out of Reading Essentials." They added, the Student's grades now are mostly "B's."

12. The Assistant Principal indicated the Student's "[Graduation Related Analytic Data] GRAD score showed [they were] on track to graduate." This score was a tool used to show potential through attendance, behavior, and grade data.

13. When asked about communication with the Parents last year, the Assistant Principal indicated, "I tried to contact them and was unsuccessful. I recall that personally. … [through] phone calls."

14. An August 26, 2025 letter from the Parent to the Records Clerk served as a formal, written request for a "comprehensive special education evaluation" and was signed by the Parent. The Parent expressed concern about the Student's inability to sustain attention, focus, and follow through on academic tasks.

15. On August 26, 2025, the School Counselor emailed the Parent acknowledging their formal request for a special education evaluation. They informed the Parent they planned on gathering teacher input and "as much information as possible in order to make the most informed decision for your student." They also requested to schedule a team meeting to discuss and offered a time to meet.

16. On August 29, 2025, the School Counselor emailed the Choir Teacher informing them the Student had been referred to the SIT. They inquired about concerns regarding "[the Student's] ability to learn, stay focused, etc." As well as any accommodations or modifications that have been successful with the Student.

17. The School Psychologist indicated the Student was referred to SIT on August 28, 2025, which was "a few days after we had gotten the Parent request." When asked how this was communicated to the Parent, they stated, "I think [the Assistant Principal] wanted to get the [SIT] to discuss, to see if there were any concerns from teachers about [the Student], because we had already had information from the Parent and we were getting ready to meet with the Parent. So [the Assistant Principal] wanted to meet with the teachers to see what concerns we had so that we could bring them to the meeting the following day to talk with the Parent."

18. An Intervention Meeting document dated [September 3, 2025] indicated teacher feedback regarding the Student. It described the current concern for the Student as "attentiveness and motivation." Data shared with the team indicated the following:

    a. Reading:

        i. "August [20]24 - 13th percentile";

ii. "December [20]24 - 15th percentile";

iii. "April [20]25 - 28th percentile"; and

iv. "August [20]25 - 29th percentile."

b. Math:

i. "August [20]24 - 25th percentile";

ii. "December [20]24 - 31st percentile";

iii. "April [20]25 - 26th percentile"; and

iv. "August [20]25 - 57th percentile."

c. The Preliminary version of the college entrance exam (PreACT)

i. "Composite Score 13: Math, 12; English 11; Reading 13."

d. GRAD Score

i. "122 - everything looks good[,] but attendance 87% last year."

e. Meeting notes indicated:

1. The Student was "motivated" to "test out" of an Essentials Class, which the Student was able to do.

2. Attendance was discussed, and it was noted the Student's frequent absences last school year may have contributed to their missing assignments.

3. The Student had missing assignments for the majority of the 2024-25 school year and spent time during Advisory period in the guidance office getting "caught up."

19. In an interview with the Complaint Investigator, the Assistant Principal described the [September 3, 2025] SIT meeting.

a. Prior to the meeting, the Parent "filled out a request, sent an email to [the LEA], and said they would like to have [the Student] tested for special education."

b. "We set up a meeting with [the] Parent, myself, and the School Psychologist.

c. The protocol is to take information about a student to SIT. "So, we put [the Student] on our SIT agenda." The SIT members then reached out to "every teacher [the Student] has to get feedback" regarding performance in each class. A reading specialist pulled the Student's testing data. All of this information was presented at the meeting and the team "discussed that data. … [We were] looking at the interventions that we were already doing with [the Student] through our reading program and an adjustment that we made with our math class. Those interventions worked."

d. The team knew these interventions worked due to:

ii. "Feedback from teachers;"

iii. The Student also showed significant growth in reading. The reading specialist in the SIT meeting was the Student's reading program teacher

and mentioned the Student "was very motivated to not be in that program. … [the Student] testing out of our reading intervention showed one piece of growth."

iv. Math "was a concern at [the] semester, but I remember a conversation with myself and our counselor, who was doing a grade check, and then checked in with [the Student's] math teacher last year … [the Student] wasn't progressing well in Math One. … We moved [the Student] to Pre-Math second semester [2024-25 school year] and [they] passed. And then this year in math, [the Student's] done well … [Their] math teacher spoke [in SIT] that [the Student] was doing really well and [was] very surprised that there was even a concern."

v. For classes the Student was not passing, "there was a significant amount of missing assignments" and "there was quite a bit of absences."

vi. They noted that this is the only meeting they have had about the Student. "I tried to get in touch with [one of the Parents] because after the math move, we were trying to get in contact with them, and it has always been a struggle. So, when we got contact from [the] Parents, they actually contacted our special ed[ucation department]. So no one's ever asked for anything for us or even requested any information from us."

20. In an interview with the Complaint Investigator, the School Psychologist described the SIT meeting and referral process:

a. "When any parent has concerns about their student, we refer them to the [SIT] to help figure out some [GEI]. … Teachers can refer, anybody can refer a student if they find that they're having struggles in any academic, any social, maybe it's attendance, maybe it's their buy-in to school in general, but anybody can refer their student to the SIT."

b. There is a document that teachers fill out when they have concerns and are "wanting to send a student to the SIT." When asked how parents refer their student to SIT, "I think it's more of a communication, like a verbal communication. I don't know if we have a form for parents to fill out."

c. "When the SIT team meets, they get feedback from all of the students' teachers, gather up as much information that we can about a student, and then we discuss problem areas that we see in the student, things that we can improve on, [and] the student's strengths. We openly discuss how we might be able to help the child."

d. "If a student isn't responding well to [GEI], we would refer them to the special education team to start the evaluation process if we deem it necessary."

e. The SIT is comprised of general education teachers, one special education teacher, the School Psychologist, an administrator, a reading interventionist, and "a couple of different teachers from each department, like math, reading, history."

21. The School Psychologist described interventions specific to the Student, "At this point [September 3, 2025 SIT Meeting], we hadn't had any concerns for [the Student] that couldn't be addressed through GEI. [They were] put in a reading essentials class, which is the general education reading intervention class … [as] an intervention."
22. A Notice of Meeting dated September 4, 2025 specified a meeting date of September 4, 2025, at 2:30 at the High School. Delivery to the Parents was marked mailed and emailed by the School Psychologist. The purpose of the meeting indicated by an "X" stated, "If your child will be at least 14 years old during the anticipated duration of this IEP… . …Your child is invited by the school to attend the meeting," and "X", "Other: Parent request for initial evaluation, team discussion."
23. The School Psychologist noted, "We don't always meet when getting consent for an evaluation, but I think it's really important to talk with the parents, especially when there's a request, to hear what their specific concerns are and if we have any more questions. … You get so much more information than talking to them on the phone or … through email. So I really like to have a face-to-face conversation with parents, especially when they [a]re wanting to voice concerns. … It can be really intimidating to sit at a table with education professionals, … but for communication['s] sake, … we can have that back and forth. … I just think it's best practice to meet with a parent."
24. In an Interview with the Complaint Investigator, the School Psychologist indicated they met with the Parent, the Assistant Principal, the School Counselor, and the Family Educational Advisor the day after the SIT meeting. The following is relevant information from the School Psychologist's account of the meeting:
    a. "I was just very confused where this all came from, because it was just all of a sudden [the Student] needs an IEP. … We hadn't had any specific concerns before and [the Student] had made progress, [they were] actively making progress."
    b. "The atmosphere of that meeting was very hostile." "[The Parent] immediately started the meeting off with, 'I'm not going to take no for an answer and I'll take you to court.' … We were hearing things that [the Parent] was doing to help [the Student]; all about the truancy that [the Student] had last year and how [the Parent was] just making [the Student] go [to school] regardless if [they are] sick. And if [the Student was] sick, [the Parent's idea was] the school [would then] send [the Student] home. … Truancy was a really big issue [for the Student] last school year. [The Parent] also expressed to us … [the Student's] previous school … coddled [the Student] and they wouldn't listen to [the Parent's] concerns and they wouldn't do anything about [their] concerns either." "It's hard when a student misses 20% of their school year."
    c. "Anytime I said something, it was very uncomfortable. … [The Family Educational Advisor] kept asking for us to diagnose [the Student] with

[Attention-Deficit Hyperactivity Disorder] ADHD. … I thought it was really strange if [they were] an educational advisor, why [were they] advising these things that schools don't do." "I asked, has [the Student] ever been diagnosed with ADHD or [do they] take any medication for attention, and [the Parent] said 'no, a doctor won't diagnose [them] with ADHD.' … I said I do see that [the Student] does take some medication, can you explain to me what that medication is for? and [the Parent] said '[they] take it for [their] attention and depression and anxiety.' … I think [the Parent] was saying that the depression medication does help [the Student] with [their] anxiety and attention. … And then the [Family Education Advisor] asked if I could diagnose [the Student] with ADHD. And I said, No, schools do not diagnose. We are not medical professionals. And ADHD is a medical diagnosis."

d. The Family Education Advisor continued asking about Other Health Impairment (OHI) and ADHD. The School Psychologist responded to them, "I am an educational professional. I am not a medical professional. I cannot diagnose your child with ADHD. … And we talked about how, during an evaluation, we find characteristics of ADHD or characteristics of a student that might be linked to an ADHD child, similarities. And that was explained, but I never said that I diagnose ADHD. I try to make that very clear."

e. "Towards the end [of the meeting], we were talking about all the positive things that [the Student] has done in response to [GEI]. [The Parent] almost got even more and more defensive, which is weird because those are positive things, but yet, [they were] a little bit more negative about it. … I also understand that [the Parent] really wants [the Student] on an IEP for OHI."

f. The end of the meeting was described as "very hostile." The School Psychologist recalled, "When it was told that we were not going forward with a special education evaluation, they said that they would be filing for due process and they would be taking us to court. And they were demanding the [PWN]. They wanted to sign the [PWN], but I told them that there wasn't any need to sign the [PWN] because we weren't moving forward with any special education action. I asked [the Parent] to stay so that I can write everything and make sure that I documented everything. And [they] said, 'no, I don't have time for that. I have to get back to work.' I [asked if they] would like me to email it to [them], or I can print it up so that it's easier to read instead of trying to read my chicken scratch. [The Parent responded] 'yes, that's fine. Just make sure you email me the [PWN] and … the next steps to take, or whatever, to take you to court.' [I responded] 'no, I can't advise you what to do.'"

g. At the end of the meeting, "I felt like the Parent was mad that we weren't going through with an evaluation and [they thought] that we were just dismissing their child. And I really don't think that [they] listened to any of the positive things that we said. … But I think that the Parent left that

meeting ready to fight for [the] Student, not physically fight, but [they] wanted this to happen and [they were] really upset that it didn't happen."

25. A Prior Written Notice (PWN) dated September 4, 2025 indicated the following:
    a. The proposed action: "The LEA refuses to conduct an initial evaluation. (Parental Consent Not Required)."
    b. The explanation of why the action was refused indicated, "LEA [rejected] the option to conduct an initial evaluation at this time. The team does not suspect the Student has a disability that significantly impedes [their] ability to access appropriate education. [The Student] has been referred for the [SIT] to address and monitor [their] missing assignments. In advisory class, [their] teacher will be monitoring missing assignments weekly. To address attendance, [the Parent] said that [they] plan to send [the Student] to school even when [they] may be sick. The team also discussed the option for [the Student] staying after school for tutoring in order to work on any missing assignments. After school tutoring has not previously been utilized by [the Student], and the team would like to see [them] [utilize] this when [they] [get] behind on assignments. [The Student] has tested out of the [GEI] in English and [has] made great gains in the area of math, displayed through [their] district assessments. [The Student] is responding well to [GEI], and the school team believes [they] will continue to make gains with assistance monitoring missing assignments, and attending school regularly."
        i. Additionally, the action was refused, indicating the "School team shared data that [the Student] is not displaying significant deficits in these areas. Last school year, [the Student] was placed in the English Essentials class, a Tier 2 [GEI]. The English Essentials teacher expressed that [the Student] was highly motivated and a hard worker in that class. This year, [the Student] has tested out of the intervention and no longer required this intervention. After failing [their] first semester of Math 1, [the Student] was placed in a general education math intervention class to help [them] build necessary skills. This school year [the Student] has made excellent gains in the area of math and is successful in Math 1, reported by [the Student's] current math teacher. Overall, the team is seeing positive gains in response to [GEI]. … [The Parent] shared that [the Student] does not have an ADHD diagnosis but does take some medication to address mental health (depression/anxiety). … [The] School Psychologist expressed that schools do not have the ability to diagnose students at all, only help identify different characteristics that may [be] attribute[d] to academic deficits."
        ii. It was noted the Student was considered "chronically truant," and the absences may have "attributed" to the Student's missing assignments and failing/low grades.

iii. The Parent and the Family Education Advisor requested the Student be evaluated for OHI and conveyed the Student may not qualify, but "would like an evaluation to get the information."

c. Options considered and the reasons the options were rejected indicated, "… an initial evaluation was rejected on the basis that [the Student] has made academic progress through [GEI] and the team does not suspect that [the Student] required specifically designed instruction in order to have education[al] success."

d. Data used as a basis for the refused action indicated:

i. Input from three general education teachers was taken into consideration. The Choir Teacher noted the Student struggled with "retention" and "self-awareness". The Math Teacher indicated the Student answered questions correctly when asked, and "does not suspect need for special education."
The Advisory Teacher noted the Student had multiple missing assignments last year, and the Student "does not take direction well, but not in a defiant way." They noted the Student was only missing one assignment thus far in the school year, which was an improvement.

ii. Additional data used: The Student's grades were taken into consideration; The Student's attendance information from the 2024-25 school year was noted; District assessment information for reading and math was taken into consideration; and the Parent input and team discussion were taken into consideration.

e. Other factors considered relevant to refusal of action indicated, "The team is not initiating an evaluation for special education at this time. The school team has outlined [the Student] attending school regularly, turning assignments in on time, and utilizing school-provided after-school tutoring as ways to address [P]arent's concerns."

f. Team members indicated on the form included: the Parent, the Family Education Advisor, the School Psychologist, the Assistant Principal, and the School Counselor.

g. Noted on the PWN was that the PWN was not immediately given to the Parent, as the Parent was unable to wait for the information to be documented.

h. The document listed the school contact person as the School Psychologist and indicated delivery was to the Parent with an "X" for other with no specificity, and dated September 5, 2025.

26. A Request for Consent for Special Education dated September 4, 2025, completed by the School Psychologist indicated "No signature is required. No special education action is being taken."

27. On September 4, 2025, the Assistant Principal emailed the Advisory Teacher and explained the Student had been referred to SIT, and the main concern was regarding missing assignments. They inquired about the regularity of turned-in student work.
28. On September 5, 2025, the School Psychologist emailed the Parent, per the Parent's request, the PWN, which outlined " … the conversation we had yesterday and the school's decision to not initiate a special education evaluation." They also attached a copy of the Parent Rights in Special Education.
29. An undated document titled "Information on Communication, Meetings, and Concerns" described the following items:
    a. "Per interview on September 18, 2025 with [the School Counselor] and [the Assistant Principal], there was no communication to the school from [the P]arents, or from the school, regarding concerns for [the Student] prior to the request for special education evaluation by [Parents]."
    b. "The school was following their process for students that were showing a need, and the interventions worked, therefore there was not a need to reach out with concerns."
    c. The September 4, 2025 meeting's purpose was to address the Parent's concerns and their request for evaluation. They also reviewed the supports provided over the past year to the Student, along with "the data that supports the determination that a disability is not suspected and that specially designed instruction [SDI] is not warranted at this time."
    d. The School Psychologist asked the Parent during the meeting if the Student had an official diagnosis of ADHD, as the Parent continued to mention it. The Parent replied, "No, the doctor won't diagnose [the Student] with ADHD." The Family Education Advisor specifically asked the School to diagnose the Student with ADHD. The School Psychologist clarified that schools cannot diagnose ADHD. The Family Education Advisor then modified the request, asking if the School could at least diagnose "characteristics of ADHD," to which the School Psychologist again clarified, while a school can identify characteristics, they cannot diagnose them.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #446, in accordance with state and federal regulations implementing the IDEA, implemented child find requirements. K.A.R. 91-40-7 (a)(b)(2)(c)(1)(2)(A)(C)(D)(3); 34 § C.F.R. 300.111(a)(c).

According to K.A.R. 91-40-7 (a)(b)(2)(c)(1)(2)(A)(C)(D)(3) Each board shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities

residing in its jurisdiction, including children with exceptionalities who meet any of the following criteria: attend private schools; are highly mobile, including migrant and homeless children; or are suspected of being children with disabilities even though they are advancing from grade to grade. In addition, each board's policies and procedures under this regulation shall include age-appropriate screening procedures that meet the following requirements: for children from ages five through 21, observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening as required by state law. School personnel have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met: the child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel; the child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction; the assessment results were provided to the child's parent or parents; the assessment results indicate that an evaluation is appropriate; and the parent of a child request an evaluation of the child and the board agrees that an evaluation of the child is appropriate.

The Parent alleged the LEA failed to fulfill its Child Find requirements on September 4, 2025, when it refused to initiate an evaluation of the Student per the Parent's written request, which was submitted on August 26, 2025.

The LEA clarified they have policies and procedures for Child Find and based on those procedures, the Student was placed in a reading intervention class (and later "tested out"), the Student was moved to a general education math intervention class to increase math skills (and has since shown "high growth"), and the Student has shown growth with "significantly less" missing assignments.

The LEA's tiered support system included reading and math screenings. In ninth grade, the Student's STAR Reading scores were in the "Intervention" range, leading to placement in English Essentials and a dedicated advisory class. By April 2025, their score improved to the 28th percentile, and they exited English Essentials for the 2025-26 school year based on STAR growth and DIBELS. For math, the Student failed Math I Term 1, was moved to Pre-Math I for Term 2 (which they passed), and showed improved STAR Math scores. The LEA concluded the Student was making progress and responding well to the GEI.

The Parent formally requested a special education evaluation on August 26, 2025, due to concerns about the Student's attention and follow-through. The Student was referred to the SIT on August 28, 2025. The SIT met on September 3, 2025, reviewing teacher input, low PreACT scores, attendance issues, and missing assignments; the concern was documented as "attentiveness and motivation." The LEA met with the Parent on September 4, 2025. The Parent and the Family Education Advisor requested an evaluation for OHI and ADHD. However, the Parent noted a doctor would not diagnose ADHD and the School Psychologist clarified that the School cannot diagnose it.

Based on evidence of the Student's growth and positive response to GEIs (e.g., testing out of English Essentials and math gains), the LEA refused to conduct an initial evaluation. The September 4, 2025 PWN stated the team did not suspect the Student had a disability requiring SDI, believing the Student would continue to make gains with assistance for regular attendance and monitoring missing assignments. The LEA demonstrated a system of GEI and academic screenings that identified the Student as needing support in reading and math, in accordance with the requirement to have a system to identify, locate, and evaluate all children residing in the State who are suspected of being a child with a disability. The LEA then provided GEIs that the team concluded were successful, based on assessment data (STAR scores) and teacher feedback.

Based on the foregoing, according to IDEA and Kansas special education regulations K.A.R. 91-40-7 (a)(b)(2)(c)(1)(2)(A)(C)(D)(3), ***it is not substantiated*** that the LEA failed to implement child find.

Issue Two

Whether USD #446, in accordance with state and federal regulations implementing the IDEA, declined a parent request for an initial special education evaluation and used RTI and GEI data as the basis to decline the initial evaluation. K.A.R. 91-040-8, K.S.A. 72-3428, K.A.R. 91-40-7 (c), K.A.R. 91-40-11 (b)(1)(A)(B)(c)(2)(A), 34 §§ C.F.R. 300.301 (a)(b)(c), 300.305 (a)(1)(2)(d).

According to K.A.R. 91-040-8, each agency shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services. Each evaluation shall include procedures to determine the following: whether the child is an exceptional child, and what the educational needs of the child are. The evaluation team shall review existing evaluation data on the child, including the following information: evaluations and information provided by the parent or parents of the child; current classroom-based, local, and state assessments and classroom-based observations; and observations by teachers and related services providers. On the basis of that review and input from the child's parent or parents, the evaluation team shall identify what additional data, if any, is needed to determine the following matters: whether the child has a particular category of exceptionality or, in the case of a reevaluation of a child, whether the child continues to have such an exceptionality; what the present levels of academic achievement and educational and related developmental needs of the child are; and whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services.

According to K.S.A. 72-3428, an agency shall conduct a full and individual initial evaluation in accordance with this section before the initial provision of special education and related services to an exceptional child. An initial evaluation may be initiated either by the parent of a child or by an agency. An initial evaluation shall consist of procedures to determine whether a

child is an exceptional child and the educational needs of such child. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation under this act. An agency proposing to conduct an initial evaluation of a child shall obtain informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services. If the parent of a child refuses consent for an initial evaluation of the child, or fails to respond to a written request to provide consent, the agency may, but shall not be required to, continue to pursue an initial evaluation by utilizing the mediation or due process procedures prescribed in this act. An agency shall provide notice to the parents of a child that describes any evaluation procedures the agency proposes to conduct.

According to K.A.R. 91-40-7 (c), any board may refer a child who is enrolled in public school for an evaluation if one of the following conditions is met: school personnel have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child. School personnel have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met: the child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel; the child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction. School personnel must ensure the assessment results are provided to the child's parent or parents, and the assessment results indicate that an evaluation is appropriate. The parent of the child requests and gives written consent for an evaluation of the child, and the board agrees that an evaluation of the child is appropriate.

According to K.A.R. 91-40-11, a group evaluating a child for a specific learning disability may determine that the child has that disability only if the following conditions are met: the child does not achieve adequately for the child's age or meet state-approved grade-level standards, if any, in one or more of the following areas—Oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, and mathematics problem solving—when the child is provided with learning experiences and instruction appropriate for the child’s age and grade level; and the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified above when using a process based on the child’s response to scientific, research-based intervention, or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade-level standards, or intellectual development that is determined by the group conducting the evaluation to be relevant to the identification of a specific learning disability, using appropriate assessments. Furthermore, the group evaluating the child shall ensure that the child is observed in the child’s learning environment, including the regular classroom setting, to document the child’s academic performance and behavior in the areas of difficulty, and in conducting the

observation, the group may employ either of the following procedures: Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation, or have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent is obtained.

The Parent alleged the LEA refused to complete an evaluation for special education services due to a lack of a medical statement. The Parent alleged the LEA violated policy by using RTI and GEI data to deny an initial evaluation request.

The LEA clarified they identified areas of need for the Student, and they were placed in a reading intervention class (and later "tested out"), and were moved to a general education math intervention class to increase math skills (and have since shown "high growth"). Data showed these interventions by the LEA were adequate, which meant they had no reason to initiate special education evaluation.

The evidence confirms the LEA declined the Parent's request for an initial special education evaluation on September 4, 2025, formally documented in a PWN. The LEA used the Student's positive response to and success with GEI as the basis to decline the initial evaluation. Specifically, the PWN cited the Student "testing out of the [GEI] in English" and making "great gains in the area of math." The LEA concluded the Student was responding well to GEIs, and therefore, the team did not suspect a disability that would require SDI.

This action by the LEA, utilizing GEI/RTI data to inform the decision not to evaluate, aligns with the principles codified in K.A.R. 91-40-11 (b)(1)(A), which requires the use of a variety of assessment tools and strategies, including "existing data" and information provided by the parent. It also relates to K.A.R. 91-40-7 (c) and K.S.A. 72-3428, which recognize that a tiered system of support (like RTI/GEI) is a part of general education.

Based on the evidence, the LEA followed its process, implemented documented GEI, and used data showing the Student was making sufficient progress and was responsive to those GEIs. The LEA then documented this existing data in the PWN to support its conclusion that a disability was not suspected and SDI was not warranted at that time, which is consistent with the framework supported by state regulations.

Based on the foregoing, according to IDEA and Kansas special education regulations K.A.R. 91-040-8, K.S.A. 72-3428, K.A.R. 91-40-7 (c), and K.A.R. 91-40-11 (b)(1)(A)(B)(c)(2)(A), ***it is not substantiated*** that the LEA's use of RTI and GEI data as the basis to decline the initial evaluation was a violation of regulations.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #231
ON SEPTEMBER 9, 2025

DATE OF REPORT: OCTOBER 8, 2025

This report is in response to a complaint filed with our office on behalf of a student, ------ by their parent, ------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #231, Gardner/Edgerton Public Schools. In the remainder of the report, the "District" and the "local education agency (LEA)" shall refer to USD #231.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "LEA" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the school district. In this case, the KSDE initially received the complaint on September 9, 2025, and the 30-day timeline ended on October 9, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #231, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), "wrongfully expelled" the Student for behaviors that were directly and substantially related to their disability. K.S.A. 72-3433, K.A.R. 91-40-33(a)(b), K.A.R. 91-40-35; 34 CFR §300.530.

ISSUE TWO: Whether USD #231, in accordance with state and federal regulations implementing the IDEA, provided the Student with a free and appropriate public education (FAPE), after the Student was expelled due to behaviors related to their disability. K.A.R. 91-40-1(z), K.A.R. 91-40-36(a); 34 C.F.R. §§ 300.101, 300.17.

Investigation of Complaint

The Parent did not respond to the Complaint Investigator's request to interview. The LEA staff were interviewed on September 23 and 25, 2025.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Plan (IEP), 10/09/24
2. Emails dated: 12/19/24, 01/30/25, 02/10/25, 03/10/25, 01/22/25-04/03/25, 05/01/25-08/26/25, 08/19/25-08/26/25
3. Prior Written Notice for Placement, Change in Services/Placement and Request for Consent, 03/05/25
4. Manifestation Determination Review, 03/05/25
5. Prior Written Notice for Initial Services, Placement, Change in Services/Placement and Request for Consent, 05/01/25
6. Attendance Profile, 08/14/24-05/24/25
7. Student Incident Profile Report, 08/14/24-05/23/25
8. Letter, re: Complaint, 08/24/25
9. Letter, re: [the LEA/The Student] (26FC231-001), 09/16/25
10. Functional Behavior Assessment (FBA), no date
11. Parent Notices of Emergency Safety Intervention dated: 10/24/24, 09/25/24, 10/09/24, 10/30/24, 10/31/24, 11/01/24, 11/01/24, 11/13/24 (3), 11/05/24, 01/14/25, 01/15/25, 01/16/25, 01/22/25, 01/23/25, 01/29/25
12. Logs for Emergency Safety Interventions (ESI) Restraint dated: 10/24/24, 01/16/25, 01/23/25, 01/29/25
13. Student Attendance, no date
14. Emergency Safety Intervention Documentation Forms dated: 09/25/24,10/09/24, 10/30/24, 10/31/24, 11/01/24 (3), 11/13/24, 11/05/24,11/13/24, 01/14/25, 01/15/25, 01/16/25, 01/22/25, 01/23/25,01/29/25
15. Email: [the Student] Student Referral, 04/17/25
16. Email: [the Student] OSS, 02/27/25
17. Email: Employee Injuries, 02/26/25
18. Email: [the Student] and Bit Staff, 10/31/24-11/04/24
19. Email: CPI Restraint, 10/30/24
20. Email: (no subject), 11/04/24
21. Email: [the Student] Update, 11/13/24
22. Email: [the Student], 11/13/24
23. Email: Trophy Cabinets, 12/04/24-12/16/24
24. Email: Post Meeting Action Items, 12/05/24

25. Email: [the Student], 12/13/24
26. Email [the Student] OSS, 01/17/25-01/21/25
27. Email: [the Student] @ TRMS, 01/23/25-01/24/25
28. Email Invitation: [the Student] Team Meeting @ Tue Jan 28, 2025 1pm - 2pm (CST), 01/27/25
29. Email: [the Student], 01/27/25-01/30/25
30. Email: [the Student], 01/29/25-01/31/25
31. Email: [the Student] IEP Meeting, 02/03/25
32. Meeting Notes, 02/03/25
33. Email: [the Student], 02/04/25
34. Email: Follow-Up [the Student] Wrap Around Meeting, 02/05/25-02/24/25
35. Aggression, Property Destruction, Elopement and SIB Data, 10/07/25-01/30/25
36. ABC Data Sheets dated: 11/08[24], 11/14[24], 11/20[24], 11/22[24], 11/13[24], 11/15[24]-11/19[24], 12/04[24], 12/05[24], 12/06[24]-12/10/[24], 12/13[24]-12/17/[24], 12/17[24]-12/18/[24], 12/18[24]-12/19/[24], 12/19[24]-12/20/[24], 01/09[25]-01/14/[25], 01/15[25]-01/16/[25], 01/16[25], 01/22[25], 01/22[25], 01/13[25]-01/29/[25], 01/29[25], 01/29[25]-01/30/[25], 01/30[25], 02/05[25], 02/06/[25]
37. ABC Data Sheet, illegible date
38. Bus Referral for Student Misconduct, 02/26/25
39. Notice of Short-Term Suspension, 02/27/25
40. Attendance, 2024-25 School Year
41. Student Incident Profile Report, 02/06/25-05/23/25

Background Information

This investigation involved a fifth-grade student enrolled at a middle school in USD #231. The Student is currently receiving special education or related services as a child with a disability per the IDEA under the eligibility category of Autism. The Student is described as "sweet, energetic, and self-determined." (D1)

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the staff in the LEA.

1. The Student's attendance during the 2024-25 school year was marked as out-of-school suspended (OSS) for the following dates and frequencies:
    a. January 17, 2025 (1 day),
    b. January 21, 2025 (1 day),
    c. January 24-28, 2025 (3 days),
    d. January 30-February 4, 2025 (3.5 days),

e. February 27-March 5, 2025 (4.5 days), for

f. A total of 13 days. (D49-D51)

2. An August 14, 2024 through February 27, 2025 Incident Profile Report for the Student cited 35 incidents. Of those incidents, 27 resulted in "conference with student and parent," 4 resulted in "out of school suspension," for a total of thirteen days, and five incidents did not list an "attribute." (D56-D62; D382-D383)
3. From September 9, 2024 through January 29, 2025, Emergency Safety Intervention Documentation Forms indicated there were 20 instances of restraint and one instance of seclusion for the Student, ranging from one minute to 10 minutes. Harm to others was cited as the reason for 12 of the incidents and self-injurious behavior was cited as the reason for nine of the incidents. Minimally, the Parent or Parent 2 was contacted on the same day for each incident. (D73-D152)
4. A data chart for behavior with a date range of October 7, 2024 through January 30, 2025 included the following incident counts (total incident count for all dates listed, with some dates having multiple incidents within and among the four categories):
   a. Aggression- 81
   b. Property destruction- 101
   c. Elopement- 7
   d. Self-injurious behaviors- 57 (D350)
5. The Student's October 9, 2024 IEP listed an "exceptionality" of "Autism (Primary)" (D1) and included the following relevant items:
   a. Present Levels
      i. The Student is diagnosed with "Autism, ADD/ADHD, Anxiety, and Unspecified, Disruptive, Impulse-Control and Conduct Disorder."
      ii. The Student is "sweet, energetic, and self-determined" and "enjoys listening to music, dancing, swinging, and food."
      iii. "Daily behaviors have been a barrier to participation in activities and lessons in the general education homeroom classroom, special education classroom, and elective classes."
      iv. Primary behavior concerns are "physical violence" and "emotional outbursts," and include hitting, kicking, and punching people and furniture, reciting inappropriate profanities, and self-harming behaviors. (D3-D4)
   b. Measurable Annual Finals
      i. Five goals were listed and the following three relevant goals include specific benchmarks:
         1. Appropriately greeting adults and engaging in a "small talk conversation while utilizing manners."

2. "When emotions are elevated within a special education setting, [the Student] will be able to expressively state how [they are] feeling and why."
3. When participating in structured tasks, the Student will be able to express personal information ([their] name, [their] parents' names, [their] age, birthday, [their] address, and [their] parents' phone number)." (D5-D6)

c. Services Summary indicated the following:

i. The following services were in the "Special Ed[ucation] Direct Services outside Regular Ed[ucation] Classroom" setting and were to occur weekly from October 9, 2024 through May 25, 2025 and August 13, 2025 through October 8, 2025:

1. Speech and Language as a Related Service for 2 days, 20 minutes per day.
2. Special Education Services (Pre-Academics) for 2 days, 395 minutes per day.
3. Special Education Services (Pre-Academics) for 3 days, 375 minutes per day.
4. Attendant Care for 5 days, 30 minutes per day.
5. Music Therapy (Communication) for 1 day, 20 minutes.

ii. The following Accommodations/Modification/Supplementary Aids and Services with start and end dates of October 9, 2024- October 8, 2025:

1. Two adults/supporting staff members present, daily, throughout the school day, in general and special education classrooms.
2. Visuals to "support structure for communication, routines, and academic activities," daily, throughout the duration of the school day, in the special education classroom.
3. Allow dication/scribe, anytime a writing assignment is given that involves more than one sentence, for the length of the assignment, in general and special education classrooms.
4. Positive Behavior Supports System, throughout the school day, for the duration of the IEP, in general and special education classrooms.
5. Alert the Student to transitions, anytime a transition occurs, for the duration of the IEP, in general and special education classrooms.
6. Access to fidget toys, anytime the Student is in a general education classroom, library/computer class, or assemblies, for the duration of the IEP, in general education classrooms.

7. "Other front row seating, closest to the door," throughout the Student's day, for the duration of the IEP, in general and special education classrooms.
8. Access to a padded helmet, throughout the school day, for the duration of the IEP, in general and special education classrooms.
9. Use a harness on the bus, when on the bus, for the duration of the bus ride to and from home/school, during special education transportation.

iii. Relevant supports for School Personnel were "Classroom support staff who work with [the Student] on a daily basis will be trained on Crisis Prevention Institute (CPI) Nonviolent Crisis Intervention Training" once per year for the duration of the IEP year. The rationale listed was "[The Student's] behavior requires supporting staff to be familiar with CPI in case of emergency." (D7-D9)

6. The Student's Behavior Intervention Plan (BIP) was included in the October 9, 2024 IEP and listed the following relevant items:
   a. "Behavior Descriptions" were:
      i. "Elopement," described as "Any instance in which [the Student] attempts, or successfully moves further than 5 feet away from [their] designated spot without expressed permission."
      ii. "Non-Compliance," described as "Anytime [the Student] refuses to follow a direction within one minute of the direction being given."
   b. "Behavioral Data" did not include information.
   c. "Predictors of Behavior" were:
      i. "Description of when the behavior is likely or least likely to occur:"
         1. "When [the Student] is asked to complete Non-preferred tasks."
      ii. "Description of individuals with which the behavior is likely or least likely to occur" did not include information.
      iii. "Description of where the behavior is likely or least likely to occur" did not include information.
      iv. "Description of other relevant factors such as setting events that increase or decrease the likelihood of the behavior occurring (Identify Circumstances that appear to come before the behavior or make the problem behavior more likely)":
         1. "The problem behavior is more likely to occur if the Student is not given access to [their] preferred adult/someone new is asked to work with [them]."
         2. "Schedule and routine being different."
         3. "Overworking without being given frequent breaks."

4. "Getting too long of a break (allowing [the Student] the chance to become 'bored')."

d. "Hypothesized Behavioral Function(s) as Identified by the Functional Behavior Assessment (FBA)" had Escape marked with "2" and Sensory marked with "Q."

e. "Summary Statement of Function" was listed as "to avoid working" and "wanting something but not being able to communicate effectively."

f. "Behavior goals and teaching steps" did not include any information.

g. "Antecedent Strategies" did not include any information.

h. "Reinforcement" listed the following:

i. What should staff do to prevent the problem behavior?

1. "Provide a timer for transitions."
2. "Provide multiple opportunities for positive praise and breaks throughout the day."
3. "Utilize a first, then board."
4. "Allow [the Student] the opportunity to request more time before a transition (verbally or with the use of visuals)."
5. "Honor appropriate requests."
6. "Prompt functional communication if [the Student's] motivation is clear."
7. "Adult should position their body between [the Student] and whatever it is [they are] trying to obtain while prompting [them] through appropriately making the request."

i. "Reactive Plan" included the following steps:

i. "Redirect behavior/Prompting [the Student] to appropriately make [their] request."

ii. "When [the Student] makes [their] request, repeat the initial direction (utilizing [their] first, then board)."

iii. "If [the Student] successfully elopes from [their] designated area, the adult working with [them] will yell 'BLOCK.' Any available adult within the room will step in front of [them] to block [their] access."

iv. "If [the Student] is successfully blocked, the adult working with [them] will redirect [the Student] by giving [them] the option of returning to [their] work station or taking a break on the crash pad. A 1-minute timer will be used to allow [the Student] wait time to make [their] choice. If the timer goes off and [they have] not made a choice, the teacher will direct [the Student] to [their] crash pad. Directions will be repeated using first, then statements and visuals until [the Student] is able to independently to walk to the crash pad."

v. "If [the Student] willingly walks to [their] crashpad, de-escalation strategies may begin; however, if [the Student] refuses to comply and begins to demonstrate Self-injurious Behavior or aggression towards adults, peers, or [themself], an assistance call will be made."

vi. "Once assistance arrives, [the Student] will be escorted to the chill room/safe room area."

vii. "When in the chill room, [the Student] must sit in a designated safe spot, displaying a calm body for 2 minutes (a timer must be used). If [the Student] is unable to sit calmly for the 2-minute timer, provide [them] with space, limit your communication with [them] and utilize behavior expectation visuals to reinforce expectations. Directions may be verbally repeated to [the Student] every 2 minutes. Positive praise and reinforcement will not be given until [the Student] is able to display a safe body and remain in the designated area assigned by the adult. Requests for food/sensory room will not be immediately honored."

viii. "If [the Student] is able to display a calm body throughout the 2-minute timer, the adult supervising must praise [them] for demonstrating a safe and calm body and offer [them] a blanket and additional time for space. An additional 2 minutes may be given during this time."

ix. "Once [the Student's] 2nd timer goes off and [they are] displaying the ability to remain regulated, [they] will be required to complete a minimum of 3 work tasks for tokens. Teacher will state, 'It's time to do some work.' Or if the motivation is clear, the teacher will state, 'We are going to work for three tokens so we can get [blank].' Teacher can give [the Student] the choice between working on the floor or at a table."

x. "If [the Student] begins to show precursor behaviors during [their] compliance work, the adult working with [them] should provide [the Student] with functional communication to escape the demand (ex: "break", "I'm not ready," etc.). If [the Student] imitates the request, it should always be honored. The adult should only prompt the functional communication for escape twice. If [the Student] does not respond to the phrase provided, the adult will model the language and provide space and a 2-minute timer for [the Student] to sit on [their] crash pad."

xi. "If [the Student] becomes dysregulated further, repeat steps 7-9."

xii. "If [the Student] is able to complete [their] 3 work tasks (earning a token with each task completion), [they] will be given access to a break of [their] choice (sensory room, take a walk, snack, etc.)."

xiii. "Once [the Student] has [their] break, [they] may return to the classroom." (D10-D11)

7. In an undated FBA, four target behaviors were listed: physical aggression, self-injurious behavior, property destruction, and elopement. All target behaviors noted

"attention" as a hypothesized function of behavior and "sensory" as a secondary hypothesized function, except for elopement, which did not have a noted secondary function. (D70-D72)

8. In an October 30, 2024 email to Coordinator 1, the Case Manager, the School Psychologist, and the Assistant Principal, the Principal stated, "We did choose [out of school suspension] OSS for the remainder of the day after additional conflict at 12:03 [p.m.]." (D197) The Principal emailed the same group later in the day and stated, "Just a heads up. I am meeting [Parent 2] at 3 [p.m.] today. [They] brought up out-of-district placement. Obviously, this is not my decision[,] but [I] wanted to keep you in the loop." (D198) The Principal sent a third email to this group a few minutes later and stated, "I did remove OSS as it is an early release day and [the] Parents were unable to pick [the Student] up. [The Student] will be back at [the School] tomorrow." (D200)
9. In a November 4, 2024 email to the Principal, the Case Manager, the School Psychologist, the Director of Special Education, and the Assistant Principal, Coordinator 1 indicated there would be a new FBA conducted for the Student and posed the question "whether a [Psychiatric Residential Treatment Facility] PRTF placement would be something the family would consider." (D173)
10. In a November 4, 2024 email to Coordinator 1, the Mental Health Liaison stated, "[The Parent] alleges the school is considering transferring [the Student] to a different school; perhaps a therapeutic day school? [The Parent] advised there was to be an in-house meeting last Friday [November 1, 2024]. I am following up. …" Coordinator 1 included the Principal in the reply and indicated they were unaware of this meeting. The Principal replied this was "part two of a prior meeting" and paperwork of "options" would be provided to the Parent. (D213) Replies included an inquiry about an "[Intellectual/Developmental Disability] IDD" or "[Serious Emotional Disturbance] SED" waiver for the Student, along with the Mental Health Liaison stating, "I believe the IDD waiver would be most appropriate. I'm following up to obtain [the Parent's] written permission to determine current waiver status/eligibility. …" (D214, D216)
11. Behavior tracking sheets ranging from November 8, 2024 through February 6, 2025 described three behaviors the Student engaged in: physical aggression, self-injurious behavior, and property destruction. Each sheet included the date, the staff involved, the setting events, the antecedent, a notation of the behavior, the consequence, and notes. The data from these sheets included the following behavior totals as marked by staff members:
    a. Physical Aggression- 48;
    b. Self-Injurious Behavior- 53; and
    c. Property Destruction- 30. (D351-D379)
12. In a November 13, 2024 email to the Principal, Coordinator 1 indicated they would have the Behavior Specialist "put eyes on [the Student] to see if an alternative location for services is needed." (D220)

13. In a November 13, 2024 email to the Principal and the Case Manager, the Parent inquired, "Is there a new plan in place moving forward with [the Student]? I was told [they] had charges filed against [them] today for criminal damage to property. Should we be in touch with our local law enforcement? This all seems so bizarre." The Case Manager replied and explained the supports in place for the Student and their optimism for the Student's progress. They also noted they would be updating the Student's behavior plan. (D227)
14. In a December 3, 2024 email to an unknown employee, the Principal wrote, "Please see that all trophy cabinets have locks installed. This is a safety measure related to [the Student]." (D243)
15. In a December 5, 2025 email to the Assistant Principal and the Director of Secondary Education, the Principal forwarded an email from the School Nurse who stated, "We have had a total of 19 reported employee injuries this year. Of those injuries, 14 involved a student. Of those 14 injuries involving a student, 13 of them involved [the Student]. Of these 13 injuries, 3 of them went to [occupational and urgent care]. A fourth should have gone, but the employee was already being treated with antibiotics from the previous injury. Two of these were lost-time accidents." (D246)
16. In a December 13, 2024 email to the Principal, the Behavior Specialist clarified the "upcoming meeting is not to discuss the FBA results." They indicated data was still being collected for the FBA, and a "separate" meeting would be scheduled to review the FBA and discuss updating the BIP. (D258)
17. In a December 19, 2024 email to the Parents, Coordinator 1 indicated the Parents would receive an email from "Doc-u-Sign" that would "provide the District with consent to send [the Student] paperwork for outside school placement, which might be able to serve [the Student] if the IEP team deems it appropriate." The Parents replied on the same day, "I think we signed everything." (D13)
18. In a January 17, 2025 email to the Case Manager, Coordinator 1, the Behavior Specialist, the School Psychologist, and the Assistant Principal, the Principal stated, "Be aware I did OSS for 2 days [for the Student]. [They] will return on Wednesday, January 22, 2025." (D273)
    The School Psychologist replied asking how many days the Student had OSS for the school year and "are we close to 10?" The Principal replied, "[The Student] is two days OSS total. This is not a norm and I do not expect continued concerns." (D274)
19. In a January 22, 2025 email to Alternative Placement 1, Coordinator 2 asked for the Student's records to be reviewed to see if they would be a "fit for Alternative Placement 1," and if so, to let them know the next steps and a potential start date. On February 25, 2025, Alternative Placement 1 responded "the Student was "a great fit" "and was placed on the waiting list. They also requested a "doctor's note for the helmet [they] use during the school day" and the Student's approximate height and weight. On April 3, 2025, Alternative Placement 1 responded again apologizing for "the major delay" and noted their enrollment is not first-come, first-served, rather,

"we take time to make thoughtful decisions based on the unique needs of each child and the support we're able to offer at the time." Coordinator 2 replied the same day and stated, "Please let us know what our next steps are[,] at this point we will do whatever we need to." (D31-D34)

20. In a January 23, 2025 email to the Case Manager, the Principal, Coordinator 1, and the Assistant Principal, the Behavior Specialist stated, "After talking to some of [the Student's] team members today regarding [their] self-injurious behavior, I think we should set up a meeting with [the Parents] to discuss the significant increase in these behaviors. Not only have we observed an increase in these behaviors[,] there are new self-injurious behaviors occurring. The last bus incident that I read indicates [the Student] is also engaging in these new self-injurious behaviors on the bus." (D276)
The Principal replied with a time they could meet and added, "I do have insight from [Parent 2] that I can share. It is basically that we cannot keep [the Student] safe and [they] need a different facility. [The Student] returns on Wednesday [January 29, 2025]." (D278)
21. On January 27, 2025 at 8:53 a.m., the Behavior Specialist sent a meeting invite for 1:00 - 2:00 p.m. on January 28, 2025 to the Case Manager, the Principal, Coordinator 1, and the School Psychologist, titled "[The Student] team meeting." (D281)
22. On January 27, 2025 at 1:26 p.m., the Parent sent an email to the Principal, the Case Manager, and Coordinator 1 requesting a meeting to "brainstorm strategies and learn more about how you plan to help [the Student] transition back, address [their] behaviors, and ensure [their] safety." The Parent noted they understood this would not be an IEP meeting. The Case Manager replied suggesting a 2:00 p.m. meeting on January 28, 2025. (D282)
23. In a January 30, 2025 email to the Parent, the Director of Special Education, the Family Resource Specialist, the Mental Health Liaison, the Case Manager, and Coordinator 1, the Principal addressed the Parent and thanked them for "meeting yesterday. I did see paperwork completion this morning. There were several 'action items' as a result of the meeting. Please alert me by Friday if you are getting these issues resolved." (D283)
24. In a January 30, 2025 email to Coordinator 1, the School Psychologist, the Assistant Principal, the Case Manager, and the Behavior Specialist, the Principal stated, "[the Student] is OSS for three days. [They are] targeting staff in the classroom and also inside the safe room. … We do have an IEP tentatively for Monday at 10[:00 a.m.]. Self-harm continues to be an ongoing issue." (D15)
25. On January 31, 2025 the Case Manager emailed the Parent and Parent 2 based on a request for "specific scripting [the Student] is using that is obscene" and cited some of the "inappropriate phrases [the Student] used at school yesterday." The Principal forwarded this email to Coordinator 1, the Director of Special Education, and the Assistant Principal and stated, "Just another new observational change over the last

few weeks. [The Parent] took offense to this when we made a call earlier this week with [them]." (D297)

26. In a February 3, 2025 email to the Case Manager, the Principal, and Coordinator 1, the Parent stated, "I still haven't heard anything about the status of [the Student] starting at another school." The Case Manager replied the same day, "We can discuss at our 9:00 a.m. IEP meeting this morning." (D304)

27. The February 3, 2025 IEP Meeting Notes indicated those in attendance were the Director of Special Education, Coordinator 2, the Behavior Specialist, the Parent, Parent 2, the Case Manager, and the Family Resource Specialist. The following relevant items were noted:

    a. The search continues for an out-of-district placement and options are limited.

    b. The Director of Special Education proposed "Administrative Homebound at this time."

    c. The Behavior Specialist explained the current situation in a school setting and talked about "the safe room and use of restraint as needed to prevent [the Student's] escalating self-injurious behavior."

    d. The Family Resource Specialist noted that IEP goals were important, but "following directions and staying safe are of the greatest importance right now."

    e. The Parent noted the Student has to be restrained at home as well, but is likely calmer at home due to getting 1:1 attention and not having the same "stressors and expectations as [they] would in the school setting."

    f. The Director of Special Education asked the Parent about a reduced day schedule and it was noted the Parent did not have the ability to watch the Student during the school day.

    g. The Family Resource Specialist suggested keeping the Student at school, rather than doing administrative homebound.

    h. The School Psychologist asked "What the family wants [the Student's] day to look like in the interim."

    i. The Family Resource Specialist noted during the last suspension, the Parent had to bring family in from out of town to assist with care for the Student and this was no longer an option.

    j. The Director of Special Education indicated they were doing what they could to facilitate an out-of-district placement, but the timeline for this could be extended and is unknown.

    k. The Family Resource Specialist asked about Alternative Placement 3 and Coordinator 2 explained the placement requires a dual diagnosis. The Parent thought it should be considered, so

Coordinator 2 indicated they would look into it and get back to the team.

l. The Parent inquired when they would know about the placement and Coordinator 2 explained they had to wait for an opening and then an offer of a spot. The Director of Special Education explained that it could be one week or six months and Coordinator 2 reiterated they would contact Alternative Placement 3 that day.

m. The Family Resource Specialist then explained to the Parent "out-of-district placements is to assist the child with areas of need and then get them back to the school district." The Director of Special Education agreed with this. (D305-D306)

28. In a February 4, 2025 email to the Principal and the Case Manager, the Parent asked for clarification of when the Student was allowed to come back to school after their suspension and the Principal stated the Student "does return to school tomorrow." (D310)

29. In a February 5, 2025 email to the School Psychologist, the Director of Special Education, the Principal, and Coordinator 1, the Case Manager notified them a person from the County Mental Health Center would be observing the Student the same morning. (D311)

30. In a February 5, 2025 email to the Parents and the Family Resource Specialist titled "Follow-up [the Student] Wrap Around Meeting," Coordinator 1 noted the following:

a. They did not have all the paperwork necessary to "confirm a dual diagnosis of IDD/ASD. Given [the Student's] behavior, it would be difficult to complete testing and deem the results valid. However, this doesn't mean we can't attempt it."

b. They indicated at "Tuesday's outside wrap-around meeting," it was mentioned the Student was on an "IDD waiver, which means [they] have a medical diagnosis of intellectual disabilities."

c. They requested the Parent provide the IDD waiver documentation in order to submit it to Alternative Placement 3 so the Student could meet the "consideration requirements."

d. "We have no new updates regarding the acceptance status for special day school from [Alternative Placement 2] and [Alternative Placement 4]. We will contact you to determine the next steps once we hear back from either of these schools. Once [the Student] is accepted, there could be a period till that spot opens up for [the Student] to attend." (D312)

31. In a February 10, 2025 email to the Parents, the School Nurse indicated they were asked to "see" the Student and they had "10-15 linear welts across [their] right shoulder blade." When they asked the Student how they hurt their back, the Student said they had thrown themself on the ground. (D333)

32. In a February 10, 2025 email to the LEA, the Parents indicated the Student was "let off the bus without supervision on Thursday." They reported this was a safety issue because the Student should be "supervised at all times." The Parents also questioned the status of the "outside placement referrals" and whether "any of them responded indicating [the Student] is eligible for their services."
The Director of Special Education replied on the same day, including the Principal, the Case Manager, Coordinator 1, and the Family Resource Specialist, and stated, "I have asked the bus company to pull the video on Thursday's dismissal. I will view and get back to you. On Friday, we followed up with Alternative Placement 1. They had requested additional behavior data and that was submitted Friday. Alternative Placement 2 responded that they were consulting with their [Board Certified Behavior Analyst] BCBA and would get back to us. They have a waiting list of six, so if accepted [the Student] would be number nine." They added that a test with the Student would be completed the next day and that "may provide the additional data we need to send Alternative Placement 3 a request." (D16)
33. In a February 21, 2021 email to the Parent, with the Family Resource Specialist, the Principal, the Director of Special Education, Coordinator 2, the School Psychologist, the Case Manager, and the Behavior Specialist included, Coordinator 1 provided an outside placement update. "[Coordinator 3] sent an email last Thursday and again this morning. We are hoping to hear back from them soon. The snow days have delayed getting information back to these schools." (D314) Coordinator 1 replied to this email the same day including everyone except the Parent and the Family Resource Specialist and stated they spoke with the Parent and were "going to draw up a new [pfrior written notice] PWN for Reevaluation on existing data and get that to parents for signatures. We can then consider the data we currently have and make any recommendations the team feels is appropriate for continued eligibility / exceptionalities." (D316)
34. In a February 26, 2025 email to the Case Manager and the Principal, the School Nurse stated, "We are at 16 employee injuries in [the Case Manager's] room this year. Of these 16 Injuries, four required visits to [occupational and urgent care]. … Of these four visits, two were lost time accidents." (D160)
35. In a February 27, 2025 email to the Case Manager, the Director of Special Education, the School Psychologist, Coordinator 1, the Director of Secondary Education, and the Assistant Principal, the Principal stated, "We are currently at 8 OSS for the year. Based on prior behavior, I would extend the OSS through next Thursday [March 6, 2025]. Five days." The School Psychologist replied, "We will need to hold a Manifestation meeting as [the Student] will be at ten days as of Monday." (D158)
36. A February 27, 2025 Notice of Short Term Suspension indicated the Student would be suspended from that day through March 5, 2025 for "inappropriate behavior." The notice was signed by the Principal and indicated the Student was "reinstated effective" March 6, 2025. (D380)

37. A March 5, 2025 Manifestation Determination Review (MDR) summarized the Student's behavior on February 27, 2025 as "[The Student] climbed on a chair. Poured Gatorade on self. Grabbed and head butted [staff member's] gut. Attempted to kick [staff member]; CPI transport." The document also noted that "previous incidents are on attached form."
    a. Input and observations and relevant information were as follows:
        i. The Case Manager stated, "Incidents listed are an accurate representation of the struggles that [the Student] exhibits in the school setting."
        ii. The Parents asked if there was a new BIP in place at the time of the incident and were told there was, and "the new intervention strategies were being followed." The Parents also inquired about the status of the sensory evaluation and Coordinator 1 explained the evaluation has not been completed due to the Student's behaviors "impeding completion," along with snow days and suspensions causing a "substantial disruption." It was noted the Parents were frustrated with the lack of progress on "assisting [the Student] with [their] self-injurious behavior," and Coordinator 1 responded with accommodations to assist in protecting the Student.
        iii. An FBA was completed on February 26, 2025 and the "corresponding BIP has been implemented."
    b. "The IEP team has explored alternative educational settings as a potential intervention. The district is currently evaluating outside placement options to determine if such a setting represents the LRE for [the Student]."
    c. The question "Was the conduct in question caused by or have a direct and substantial relationship to the child's disability?" was answered "Yes."
    d. The question "Was the conduct in question a direct result of the school's failure to implement the IEP?" was answered "No."
    e. The determination was "The behavior is a manifestation of the disability" and "the student will be returned to the placement specified in his/her IEP, unless: (a) the school and parent(s) agree to a change of placement through the IEP process; or (b) the student is assigned to an alternative educational setting for possession of a weapon or illegal drugs or for infliction of serious bodily injury on another person."
    f. The document included signatures for the Director of Special Education, Coordinator 1, the Principal, the Case Manager, the Parent, Parent 2, Attorney for the Parents, the Family Resource

Specialist, Attorney for the LEA, and two other LEA employees. (D26-D28)

38. A March 5, 2025 PWN proposed a change in services and a change in placement for the Student.

    a. Description of the Action Proposed or Refused: "[The Student] will receive special education services at [the School] during a 45-day [Interim Alternative Educational Setting] IAES, while school is in session. The services will be provided at [the School]. The setting will be U-Under Suspension." It was noted the Student wawas eligible for special education transportation and all the listed services wouldould be provided in the special education setting.

        i. From March 10, 2025 to March 14, 2025

            1. 60 minutes of special education services, 2 days per week;
            2. 45 minutes of special education services, 1 day per week;
            3. 15 minutes of speech language services, 1 day per week; and
            4. 15 minutes of music therapy, 1 day per week.

        ii. From March 17, 2025 to May 15, 2025

            1. 45 minutes of special education services, 2 days per week;
            2. 30 minutes of special education services, 1 day per week;
            3. 15 minutes of speech language services, 1 day per week; and
            4. 15 minutes of music therapy, 1 day per week.

        iii. From May 16, 2025, for the duration of the IEP, while school is in session:

            1. 395 minutes of special education services, 2 days per week;
            2. 375 minutes of special education services, 1 day per week;
            3. 20 minutes of speech language services, 1 day per week;
            4. 20 minutes of music therapy, 1 day per week; and
            5. 30 minutes of attendant care, 5 days per week.

        iv. "The IEP team[,] including parents, agree that an outside placement in a special day school is [the Student's] least restrictive environment at this time. However, a space at a special [sic] days school has not opened, once a spot [sic] become available [sic], [the Student] will be enrolled in that special day school."

    b. Explanation of the reason the action was proposed or refused stated the proposal was "due to [the Student's] manifestation determination" and noted "Services will be provided in person after school at [the School]." An explanation was provided for the additional 15 minutes per day for the first 3 days of service as

"compensatory services" due to the Student not receiving services beyond "10 days" where the Student was not in school. It was also indicated the team met in December to begin seeking an outside placement, "pending data from the open FBA/BIP." Also noted, "With updated behavior data, the team determined a special day school is the Student's Least Restrictive Environment [LRE]."

c. Options considered and the reasons the options were rejected included: included: the team considered virtual services and determined these services were not in the best interest for the Student. They also considered maintaining the Student in the current special education setting and rejected this "as an outside placement at a special day school will meet [the Student's] behavioral and academic needs."

d. Data used as a basis for the actions were team input, parent input, manifestation determination, and behavioral data collected during the 2024-25 school year.

e. The "Delivery" section listed Coordinator 2 as sending the PWN to the Parents on March 3, 2025 and this PWN was signed by the Parents on May 4, 2025 with the box to "give consent" checked. (D21-D23)

39. In a March 10, 2025 email to a state trainer, Coordinator 1 stated, "Right now, [the] Parents have declined all services. We are working with the family to determine an alternative plan. If we get something in place, I will communicate if something changes." (D29)

40. A 2024-25 school year service log for the Student indicated the following:

a. August- the Student received services 3 days;

b. September- the Student received services 6 days, therapist was absent 2 days;

c. October- the Student received services 5 days, therapist was absent 1 day;

d. November- the Student received services 6 days, therapist was absent 1 day;

e. December- the Student received services 5 days;

f. January- the Student was absent for 4 days of attempted service, there was one day of inclement weather, therapist was absent 1 day;

g. February- the Student received services 1 day, the Student was absent for 5 days of attempted service, therapist was absent 1 day;

h. March- the Student was absent for 3 days of attempted service; and

i. There is no recorded service for the rest of the school year.

Two items noted at the bottom: "lots of OSS sem[ester] 2" and "change in placement/service execution beg[inning] 3/11[25]." (D381)

41. In a March 12, 2025 Adapted PE Evaluation Report, it was noted the evaluator made three unsuccessful attempts to meet with the Student. One time the SStudent was dysregulated, and the other two were due to the Student being suspended out of school at the start of second semester in January, 2025 and then again on March 4th, 2025. (D156)

42. In an April 17, 2025 email to Coordinator 1 and 3, a representative from Alternative Placement 3 stated, "It was determined that we cannot accept [the Student] due to the teeth pulling and lack of medication management. These are both disqualifications in our residential and school setting." Coordinator 3 replied the same day, "Thank you for letting us know." (D154-D155)

43. A May 1, 2025 PWN for Initial Services, Placement, Change in Services/Placement and Request for Consent outlined a meeting on April 30, 2025 to review evaluation and assessment data regarding "special education and related services needed by your child; the appropriate educational placement to provide special education and related services identified in your child's IEP," and "any additions, changes or modifications to the special education and related services or educational placement that are needed to enable your child to meet the measurable annual goals set in the IEP and to participate, as appropriate, in the general curriculum."

    a. Description of the action proposed or refused indicated from May 16, 2025 to May 23, 2025, the Student "will receive special education services at [the School]." It was noted the Student wawas eligible for special education transportation and services were to be provided in the special education setting.

        i. 45 minutes of special education services, 2 days per week;

        ii. 30 minutes of special education services, 1 day per week;

        iii. 15 minutes of speech language services, 1 day per week; and

        iv. 15 minutes of music therapy, 1 day per week.

    b. Explanation of the reasons the action was proposed or refused indicated, "The above services are proposed to continue through the end of the school year. [The Student] is currently on a wait list for a Special Day School as a seat has not become available. The above was agreed upon by both the District and the [Parent] in a phone call on 4/30/2025."

    c. Options considered and the reasons the options were rejected stated, "For [the Student] to return full day to [their] center based program in the district [was] rejected as both the district and parent agreed it is in the best interest of [the Student] to continue

to receive the modified services above for the duration of the 24-25 School year after the 45 day IAES has concluded."

d. Description of the data used as the basis for the proposed or refused action listed a "phone call between the District ([the Director]) and [one of the Parents] on 4/30/2025."

e. Other relevant factors considered included: the Student missing time with peers and "may not make the same rate of progress as being in school full time from 5/16/2025-5/23/2025. The district and [the Parents] have determined the benefits outweigh the potentially harmful effects."

f. The "Delivery" section listed the Director as emailing the PWN to the Parents on May 1, 2025 and the document was signed illegibly on the "Parent/Legal Education Decision Maker" line, with no boxes for consent checked, on May 4, 2025. (D36-D38)

44. In a May 1, 2025 email to the Parent and Parent 2 the Director of Special Education thanked them for their time on the phone "earlier this week" and recapped the conversation. "I emailed you the PWN this morning … with the extension of [the Student's] current placement through May 23, 2025; as we agreed returning to [the School] for six days was not in the best interest of [the Student]. We also discussed that [the Student] is at the top of the list for Alternative Placement 2 and Alternative Placement 2 requires an observation. You agreed on the phone to do a home observation." The Director provided details and invited them to reach out with questions. (D39)

45. An August 19, 2025 PWN for placement and request for consent outlined a meeting on August 19, 2025 to review evaluation and assessment data regarding "the appropriate placement to provide special education and related services identified in your child's IEP."

a. A description of the aaction pproposed or rerfused stated "Starting 8/19/25 till a special day school setting has been obtained, [the Student] will receive the following special education services at [the School]." Services were within the special education setting.

i. 60 minutes of special education services 2 days per week;

ii. 45 minutes of special education services 1 day per week; and

iii. 15 minutes of speech language services 1 day per week.

Also noted was "The IEP team, including parents, agrees that an outside placement in a special day school is [the Student's] LRE at this time. However, a space at a special day school has not opened. Once a seat becomes available, [the Student] will be enrolled in that special day school."

b. The explanation of the reasons the action was proposed or refused indicated the Student was on a waitlist for a special day school and

a seat had not become available and the services proposed were to allow the Student access to special education services until a seat became available. It was also noted this process started in December 2024 2024.

c. Options considered and the reasons the options were rejected stated, "For [the Student] to return to [their] center-based program in the district was rejected due to the safety concerns of both [the Student] and special education staff;" and "Maintain [the Student] in the special education setting and not an outside placement [was] rejected as an outside placement at a Special Day School will meet [the Student's] behavioral and [sic] academic needs."

d. Description of the data used as the basis for the roposed or refused action listed "team input, parent input, manifestation determination, behavioral data collected during the [20]24-25 school year."

e. Other relevant factors considered were "[The Student] will not receive access to grade-level peers within general education or special education settings. This could be harmful regarding making adequate progress on IEP goals and the general education curriculum."

f. The "Delivery" section did not have information and the document was not signed. (D41-D43)

46. In an August 19, 2025 email to the Parent and Parent 2, the Director of Special Education informed them of a new LEA employee who reached out to schedule a meeting to review results of a re-evaluation and stated, "I understand you informed [new employee] that you do not wish to meet at this time." The Director of Special Education provided the Parents with the meeting date and time, told them they would receive a notice of meeting and continued, "as parents you have a right to attend this meeting, though your participation is not required." The Director of Special Education then outlined the out-of-district placement options for the Student and noted, "We are continuing to explore all viable options."

a. "Alternative Placement 3, which requires a student to have the eligibility classification of Intellectual Disability (ID) in order to be considered for admission. This requirement was the primary reason for initiating the re-evaluation this past spring. Without an ID eligibility, we are unable to submit [the Student's] application … ."

b. "[The Student] remains on Alternative Placement 2's waiting list; however, they have been unable to provide us with a start date."

c. "[The Student] is also currently on the waitlist for [Alternative Placement 1]."

> The Director of Special Education recalled an August 11th conversation where they spoke with Parent 2 and it was shared the Student "has begun a new medication and is showing improvement. I reviewed our proposed services with [Parent 2] while we await an out-of-district placement." Parent 2 indicated the offer was "unacceptable" and said they would follow up with the Director of Special Education, who noted "I have not received any further communication." This email included an attachment of the August 19, 2025 PWN. The Director of Special Education assured the Parent and Parent 2 that "our goal remains to support [the Student] in [their] LRE. The IEP team has determined that an out-of-district placement is currently the most appropriate setting for [the Student]. While we continue to work diligently to secure that placement, we are offering interim services to ensure [the Student] continues to receive support." (D47)

47. In the August 24, 2025 complaint letter, the Parent wrote, "[The LEA] cited a statute that expels student[s] after causing severe bodily harm or using drugs or alcohol on school property. [The Student] did not cause severe bodily harm, use drugs or alcohol on school property, and there was never evidence proposed to support any of those allegations." They indicated removing the Student from the School was to "evade [the Student's] behaviors." (D65)
48. In the August 24, 2025 complaint letter, the Parent indicated staff from the School "filed baseless reports" to the Department of Children and Families (DCF) "against [the Parent] in an effort to harass and deter parents from sending [the Student] back to school." The Parents also stated the School "told [them] they are sending referrals, but the alternative schools are telling the Parents the referrals are being denied because of [the] behaviors [the School] is describing to them … which are false." (D65)
49. The September 16, 2025 LEA response stated, "On February 25, 2025, [the Student] had 11 behavioral incidents, three (3) of which were aggressive behaviors. As of the morning of February 26, 2025, [they] had been involved in 16 incidents in which district employees were injured. Four of these incidents required staff to seek medical attention. [The Student] had been suspended for a total of eight (8) days during the 2024-2025 school year. They noted that the February 27, 2025 incident put the Student suspended out of school for five days, which "caused [the Student] to exceed 10 cumulative days for the school year." (D67)
50. In an interview with the Investigator, the Case Manager noted the FBA "took a very long time for us to complete" because of the quantity of ABC data and the "medication changes that took place while we were collecting data." They noted the FBA took "the full 60 days" to complete and the "BIP was finalized in February [2025]." (P2-P3, 04:31)
51. When asked if they were implementing the prior BIP while awaiting for the new FBA, the Case Manager stated they were "implementing the FBA" and "learning and working towards new strategies to find what would best support [the Student]

because the behaviors that were listed on [their] previous FBA were not consistent with what we were seeing." (P3, 06:36)

52. The Case Manager stated, "At the manifestation determination meeting, we discussed and determined that [the Student's] behaviors are a manifestation of [their] disability and that [the Student] would be placed on IAES and we offered services and there was no response. The family did sign the paperwork, but there was no verbal discussion." (P7, 19:00)

53. When asked about injuries sustained from the Student, the Case Manager stated, "I have been to the dentist because my tooth was knocked loose. I have been bitten multiple times. I do have a little lump of tissue on my leg because I was bit, it's still there from last year. I've been bit multiple times, but I just still have some permanent damage there from it-o-one of my bites. . I've had two concussions. Another staff member received a concussion." (P8, 20:56)

54. During the Case Manager's interview, the Director of Special Education clarified February 28, 2025 was the 11th day of OSS for the Student. When asked about services for days prior to the 11th, they stated, "We had not reached our 10th [sic], our 11th day, so we do not, we're not required to provide any services until we hit the 11th day of suspension." (P5, 16:27) They added that after the MDR, the LEA offered services "knowing that we had [sic][gone] over. ... The 11th day did not occur until [March 10, 2025] because we offer[ed] an increase in services at that time, compared to what we start[ed] on [March 17, 2025], because we knew we owed some services for compensatory reasons. [We owed services] because we went over our 10 days. So instead of 45 minutes, [the Student] received 60 minutes for that period of time, to make up the services that we needed to provide. That is why you see the difference on the PWN from [March 10, 2025] to [March 14, 2025], [and] [March 17, 2025] to [May 15, 2025]." The Director of Special Education added the Student never received any of these services "because the Parents did not make [the] child available." (P6, 17:33)

55. During the Case Manager's interview, the Director of Special Education stated, "The Parent won't communicate with us, but we assume that [the Student] has a placement starting October 2nd, [2025]. All the enrollment paperwork was submitted and [they are] ready to go." (P8, 22:03)

56. In an interview with the Investigator, the Principal clarified that February 28, 2025 was the 10th cumulative day of suspension for the school year, "then [day] 11 would've been on March 4th [2025] and [the] 12th [day] would've been on March 5th [2025]." (P3, 06:12)

57. When asked why the MDR was not held on February 28, 2025 or earlier, the Principal stated, "We generally start planning those once we get into [the] eight and nine [day] range. You can't predict that there's going to be another out-of-school suspension, but I can't tell you that it automatically occurs the day of. But I know the planning starts with the IEP team that, hey, we're approaching that line and we're going to get close to 10. We need to get a meeting scheduled. (P4, 07:26) The

Principal confirmed the suspension on February 27, 2025 was a five day suspension. (P4, 09:26)

58. The Principal noted communication challenges with the Parent and stated, "I wish we had a more cooperative spirit with [both Parents]." (P5, 11:34)

59. In an interview with the Complaint Investigator, the Director of Special Education explained the 45 day IAES, "We held the manifestation. It was found to be a manifestation of [the Student's] disability. However, serious bodily injury was taken into consideration. I had staff members with concussions, a tooth knocked loose, scratches, cuts, everything; and taking into consideration the self-harm that the Student was [doing]. We were trying to balance being able to provide for the Student [their] least restrictive environment, as well as protect our staff. So due to the level of [the Student's] behaviors, we determined that [they were] going to be given a 45-day IAES." (P7, 13:38)

60. The Director of Special Education indicated, "The Parents were given prior written notice on May 5th, [2025], [and the] Parents did not sign [it]." They noted the Parent did sign "the agreement" on May 1, 2025, where they offered "20 minutes two days a week of speech and language and one day a week of music therapy." This agreement was from March 2025 [2025]. (P7, 15:31)

61. The Director of Special Education stated the reason for the Parent not signing the PWN was, "[The] Parents did not see that [the Student] was as dangerous as what we were seeing [them] being. Even though [the Parent] has expressed to us that [they are] scared of [the Student], they wanted [them] at school and it was not the appropriate placement at the time." (P8, 16:37)

62. When asked what happened for services between March and May, 2025, the Director of Special Education stated, "Our obligation is to offer services, and we made an offer. [The] Parents did not agree or disagree. … We continued to offer services. They did not accept services. We tried to get the family to visit [Alternative Placement 4] … to do a visit, because it was time for [the Student] to return. I had called [Parent 2] prior … it was in [the Student's] best interest to return … to school, and [Parent 2] said no. So I once again sent the document, and [the] Parents at that time did sign for the services. … There was no disagreement to any of the services offered, but they did not access the services at all." (P8, 17:10)

63. The Director of Special Education clarified they continued pursuing an out-of-district placement while the Student was on the 45 day IAES. (P8, 18:48) They also clarified that they have offered the same services offered during the 45-day placement from May 1, 2025 through the end of the school year and from the beginning of the 2025-26 school year through now. Those services are located at the School and the Parents "have not accepted any of our services throughout the process." (P9, 23:15; P10, 23:48)

64. In an interview with the Complaint Investigator, Coordinator 1 attempted to account for the incidents noted in the LEA Response, "There is data documentation

throughout the classroom that is conducted every day. And so those 11 incidents, I would assume would be documented within those behavior logs." (P2, 02:47)

65. Coordinator 1 clarified, "I can say that we offered services based on a conversation that we were going to pursue an IAES and we outlined a PWN that would provide services during that time and that was provided to the family electronically through email, as well as DocuSign. And they gave information, I think through lawyers, that they would not be signing the document and then they did not sign that document until May of 2025. And at that point they did give consent for services." (P3, 06:15) In relation to the August PWN, "As of right now, there is no signatures whether denying that PWN or consenting to those services. They were a continuation of the same services that were being offered during the 45-day IAES, two sessions a week, I believe, with music therapy and SLP therapy as well as special education services." (P3, 07:34)

66. Coordinator 1 explained the barriers to getting an out-of-district placement for the Student, "Many of our out-of-districts have anywhere from a three to a 12-month wait list. And so [the Student] has been on a wait list for two out-of-district placements since December of 2024. We have continuously attempted to work on getting a dual eligibility for [the Student] to add a third outside placement to be able to refer [them] to see if [they] could start there. We still do not have consent to [add] a dual diagnosis of autism and intellectual disability, so we could send that information out for a third outside placement, but right now we are just waiting on those placements to have a spot available. Currently, [the Student] does have a spot open at one of our outside placements and will begin there October 2nd, 2025." (P4, 08:13)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #231, in accordance with state and federal regulations implementing the IDEA, "wrongfully expelled" the Student for behaviors that were directly and substantially related to their disability. K.S.A. 72-3433, K.A.R. 91-40-33(a)(b), K.A.R. 91-40-35, K.A.R. 91-40-36(a); 34 CFR §300.530.

The law regarding the suspension of children with a disability is complicated because of the varieties of behaviors subject to discipline, the varying length of suspensions, and whether behavior is a manifestation of the student's disability. For that reason, the conclusion on this issue in this report focuses only on the specific facts and law that apply to this case.

A student with a disability may be suspended for a violation of a school code of conduct for up to 10 school days in a school year without any educational services. Beginning on the 11 th day of suspension in a school year, the school district must provide the services the student needs in order to: (1) continue to participate in the general curriculum and (2) continue to make

appropriate progress toward IEP goals. 34 C.F.R.300.530(b)(2). At some point (as described in 34 C.F.R. 300.530(e)) when there are a series of additional suspensions beyond the 10 th school day in a school year, a manifestation determination review (MDR) may be required to determine whether the behavior subject to suspension is a manifestation of the student's disability. When the behavior subject to suspension is a manifestation of the student's disability the district must return the student to the placement (educational setting) described in the student's IEP, unless there is an exception to this requirement in the law.

A student with a disability may be suspended for a violation of a school code of conduct for up to 10 school days in a school year without any educational services. Beginning on the 11 th day of suspension in a school year, the school district must provide the services the student needs in order to: (1) continue to participate in the general curriculum and (2) continue to make appropriate progress toward IEP goals. 34 C.F.R.300.530(b)(2). At some point (as described in 34 C.F.R. 300.530(e)) when there are a series of additional suspensions beyond the 10 th school day in a school year, a manifestation determination review (MDR) may be required to determine whether the behavior subject to suspension is a manifestation of the student's disability. When the behavior subject to suspension is a manifestation of the student's disability the district must return the student to the placement (educational setting) described in the student's IEP, unless there is an exception to this requirement in the law.

In short, the LEA did not expel the Student. Instead, the LEA placed the Student in an IAES for 45 days due to serious bodily injury. The LEA's action was a legally permissible change of placement under the IDEA, not a wrongful expulsion. Based on the aforementioned, according to IDEA and Kansas special education regulations, ***it is unsubstantiated*** that the LEA "wrongfully expelled" the Student. The LEA followed the procedural requirements and used a permissible disciplinary removal based on serious bodily injury, as permitted by K.S.A. 72-3433, K.A.R. 91-40-33(a)(b), K.A.R. 91-40-35; 34 CFR §300.530.

Issue Two

Whether USD #231, in accordance with state and federal regulations implementing the IDEA, provided the Student with a free and appropriate public education (FAPE), after the Student was expelled due to behaviors related to their disability. K.A.R. 91-40-1(z); K.A.R. 91-40-36(a); 34 C.F.R. §§ 300.101; 300.17.

According to K.A.R. 91-40-1(z), a FAPE means special education and related services that meet the following criteria: are provided at public expense, under public supervision and direction, without charge, meet the standards of the state board, include an appropriate preschool, elementary, or secondary school education, and are provided in conformity with an individualized education program.

According to K.A.R. 91-40 -36(a), the determination of services for children with disabilities suspended from school or placed in interim alternative educational settings if a child with a

disability is properly suspended from school for more than 10 cumulative school days in any school year, the special education and related services to be provided to the child during any period of suspension shall be determined by school officials of the agency responsible for the education of the child.

The Parent alleged the Student was provided "no alternative to a free appropriate public education " after their expulsion from the Middle School.

The LEA claims the Student was not accessing their FAPE due to the Parents unilaterally withholding the Student from accessing services during the IAES.

The Student accumulated over 10 cumulative days of OSS by March 3, 2025, which triggered the requirement for the LEA to begin providing FAPE services immediately on the 11th day of removal. The evidence shows the LEA failed to provide these mandated services from March 3, 2025, until the start of the IAES services on March 6, 2025, for a total of three instructional days. The March 5, 2025 PWN offered compensatory services, which was intended to mitigate the LEA lapse in service.

The LEA's subsequent actions following the March 5, 2025, MDR complied with the IDEA. The MDR determined the behavior (which resulted in serious bodily injury to staff) was a manifestation of the disability, but due to the severity, the team appropriately placed the Student in a 45-day IAES. Services, including compensatory hours, were proposed to begin on March 6, 2025, and were continually offered via subsequent PWNs through May and August 2025, proposing modified part-time services while pursuing an out-of-district placement.

However, according to the Director of Special Education and Coordinator 1, the Student never received any of the offered services during the IAES or subsequent periods because the Parents either declined the services via email or made the Student unavailable. Since an LEA's obligation is to make a FAPE available, and the LEA documented multiple offers of service through PWNs, which were either unsigned or refused, the LEA met its requirement to offer a FAPE for the extended period. Furthermore, the LEA demonstrated good faith in pursuing the IEP team's agreed-upon LRE placement, an outside special day school, by placing the Student on multiple waitlists starting in December 2024, ultimately securing a spot for the Student to begin on October 2, 2025.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA denied the Student a FAPE.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437, AUBURN/WASHBURN PUBLIC SCHOOLS
ON SEPTEMBER 4, 2025

DATE OF REPORT: OCTOBER 11, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #437 (Auburn/ Public Schools) on behalf of --------- by his mother ---------. In the remainder of the report, _____ will be referred to as "the student" and --------- as "the parent" or "the complainant."

The complaint is against USD #437 (Auburn/ Public Schools). In the remainder of the report, USD #437 will be referred to as "the Local Education Agency". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." For the 2024-2025 school year the student attended 5th grade at Pauline South Intermediate School full-time until October 28, 2024 when the student's mother requested homeschooling. The student continued to receive special education service minutes at the school for the duration of the 2024-2025 school year. Throughout this report Pauline South Intermediate School will be referred to as "the school." School and Local Education Agency staff will be referred to In the remainder of this report as follows:

- Megan Geyser, director of special education
- Heidi Carlson, director of secondary special services
- Dawna Dennis, special education case manager
- Jennifer Mader, speech and language pathologist
- Kristine Wanamaker, previous special education teacher for the student
- Megan Boyte , school psychologist
- Christopher Holman, principal
- Mike Haire, school principal
- Tracie Bauer, social worker

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on September 8, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent. Due to the volume of emails and documents submitted not all are listed. Below are the documents and emails used directly in consideration and support of the investigation. The investigator interviewed the parent by phone on September 26, 2025 and the Assistant Director of Special Services and Director of Secondary Special Services for USD #437 on September 25, 2025 as part of this investigation.

The following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. IEP dated March 20, 2024
2. May 5, 2025 Resolution letter from KSDE regarding Child Complaint 25FC437-001
3. IEP Amendment dated October 28, 2024
4. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent, dated October 28, 2024, signed by parent on October 25, 2024
5. Notice of Meeting dated March 5, 2025
6. Evaluation Team Report dated March 11, 2025
7. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent, dated March 11, 2025, signed by parent on March 25, 2025
8. Individualized Education Program (IEP) dated March 11, 2025
9. IEP Amendment dated May 8, 2025
10. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent, dated May 8, 2025
11. IEE timeline dated May 8, 2025 through August 26, 2025 at 4:16 p.m.
12. IEP Amendment dated May 23, 2025
13. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent, dated September 18, 2025
14. LEA Response to Complaint 26FC437-001

Emails:

1. Email from special education case manager to parent dated October 28, 2024 at 8:14 p.m.
2. Email from parent to the district dated March 7, 2025 at 8:00 a.m.
3. Email from principal to mother dated April 11, 2025 at 4:25 p.m.
4. Email from director of special education to parent dated May 8, 2025

5. Email exchange between parent and director of secondary special services dated July 15, 2025
6. Email from director of secondary special services to director of provider at agency the LEA had provided and thought parent had selected for the IEE dated July 15, 2025 throughout day and ending at 5:49 p.m.
7. Email exchange between director of secondary special services to director of technology at LEA dated July 16, 2025 between 8:47 a.m. and 11:04 a.m.
8. Email exchange between director of secondary special services and principal dated July 17, 2025 between 11:04 a.m. and 4:04 p.m.
9. Email exchange between director of secondary special services and director of technology at LEA dated July 17, 2025 between 4:04 p.m. and 5:05 p.m.
10. Email exchange between director of secondary special services and director of provider at agency the LEA had provided dated July 17, 2025 between 4:10 p.m. and 4:42 p.m.
11. Email exchange among parent, director of special education, KSDE Dispute Resolution Coordinator and director of secondary special services dated August 6, 2025 between 2:04 p.m. and 3:36 p.m.
12. Email from
13. Email from parent to director of special education, KSDE Dispute Resolution Coordinator and director of secondary special services dated August 7, 2025 at 3:02 p.m.
14. Email from parent to director of special education and KSDE Dispute Resolution Coordinator dated August 20, 2025 at 11:45 a.m.
15. Email from director of special education to IEE provider dated August 20, 2025 at 12:01 p.m.
16. Email from KSDE Dispute Resolution Coordinator to director of special education and parent dated August 20, 2025 at 12:22 p.m.
17. Email exchange between director of parent-selected IEE provider to director of special education dated between August 21, 2025 at 4:19 p.m. and August 22, 2025 at 6:42 a.m.
18. Email exchange among KSDE Dispute Resolution Coordinator, director of special education, director of secondary special services, and Assistant Director, KSDE dated between August 26, 2025 between 2:54 p.m. and 3:34 p.m.
19. Email between director of special education and director of parent-selected IEE dated August 26, 2025 at 3:38 p.m. and 4:04 p.m.
20. Email from director of special education to KSDE Dispute Resolution Coordinator, director of secondary special services, and Assistant Director, KSDE dated August 26, 2025 at 3:40 p.m. and 4:09 p.m.
21. Email from KSDE Dispute Resolution Coordinator to director of special education, director of secondary special services, and Assistant Director, KSDE dated August 26, 2025 at 4:16 p.m.
22. Email from parent-selected IEE provider to director of special education dated August 6, 2025 at 5:49 p.m.

23. Email exchange between social worker and mother dated September 5, 2025 at 6:08 a.m. and 8:21 a.m.
24. Email exchange between principal and mother dated September 5, 2025 at 6:43 a.m.12:14 p.m.
25. Email exchange between mother and KSDE Dispute Resolution Coordinator dated September 11, 2025 between 2:39 p.m. and 5:30 p.m.

Background Information

The subject of this complaint was a 5th-grade student during the 2024-2025 school year who lives at home with their mother. As noted in the March 11, 2025, evaluation report the student was found eligible for special education services with the exceptionalities of Specific Learning Disability and Other Health Impairment. On October 3, 2024, the student began homeschooling but continued to receive reading and math individualized instruction at the student's middle school.

For the duration of the 2024-2025 school year two IEPs were in effect, dated March 20, 2024 and March 11, 2025. As a part of the IEPs the student received special education, speech, language pathology, and social work services. The student additionally had learning and behavioral accommodations for testing and academics.

It is noted that the parent filed a child complaint assigned as 25FC437-001 on April 9, 2025 and the LEA offered a resolution that was accepted on May 5, 2025. This resolution addressed three issues. Each of these issues and resolutions are either directly or indirectly addressed in this current complaint.

Issues Investigated

Issue One

Did USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provide the parent a Notice of meeting for a March 2025 IEP meeting?

Applicable Law

Federal regulations at 34 CFR §§300.322(a)(c) state, Notice of Meeting Notice must be given early enough to ensure that parents will have an opportunity to attend. Further, K.A.R. 91-40-17(a) states that the LEA must provide written notice to parents at least 10 calendar days in advance of any IEP team meeting.

Parent Position

The child complaint stated that the LEA scheduled an IEP meeting on March 11, 2025 and did not provide the parent written notice of the meeting ten days ahead.

Local Education Agency Position

In the Local Education Agency response, the LEA acknowledges that the parent was not given written notice of at least ten days prior to the March 11, 2025 meetings, which is a violation of procedural requirements under the IDEA.

Analysis: Findings of Fact

1. The district acknowledged they did not provide written notice to the parent at least ten days prior to the March 11, 2025 meeting.

Conclusion

The *Local Education Agency acknowledged they are out of compliance* with providing the parent notice of the March 11, 2025 meeting and corrective action is required.

Issue Two

Did USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), allow the parent participation in a March 2025 IEP meeting?

Applicable Law

Federal regulations at 34 C.F.R. §300.501(b)(1) states that parents must be given an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and provision of FAPE. Parent participation is defined in three ways:

1. Timely notice and information which means that parents receive written notice with enough time to prepare including the purpose, time location and who will be attending the meeting ahead of time (in Kansas 10 days)(§300.322(b)(1).
2. Ability to attend in person or through alternative means which means that schools must schedule meetings at a mutually agreed upon time/place or if the parent cannot attend in person the school must use other methods such as phone calls or video conferences (§§300.322(a)(2)(c)).
3. Right to bring others with knowledge or special expertise including advocates or attorney (§300.321(a)(6)) as well as full participation in discussion, access to documents and data and consideration of concerns.

Parent Position

The complaint alleged that she was not given ten days of written notice for the March 11, 2025 IEP meeting and therefore her ability to participate in the IEP was impacted.

Local Education Agency Position

The LEA responded that the parent confirmed the scheduled meeting date and time of March 11, 2025 at 8:00 via email on March 7, 2025. A notice of meeting was electronically provided to

the parent on March 10, 2025. As acknowledged in Issue One by the LEA, the parent was not given adequate for the March 11, 2025 meeting which is a violation of procedural requirements un IDEA. The re-evaluation and subsequent IEP meeting were conducted on March 11, 2025, with the parent in attendance. The parent's concerns were documented within the IEP, confirming the parent participation was supported and occurred as required under IDEA.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference.

1. The parent stated during her interview with the investigator that she had not planned to invite any outside persons to the IEP meeting and had provided items she wished to discuss at the IEP meeting with the team. She stated emphatically that she really didn't agree with the findings of the evaluation and was prepared for the IEP meeting but wasn't able to have her opinion "heard" by the team.
2. The LEA staff stated during their interview with the investigator that the parent did not state before or during the meeting that she was unable to invite outside persons due to the short notice of the meeting. Further, they stated that she has not invited outside persons to IEP meetings in the past. They additionally stated that the parent did not mention that she was unable to prepare and in fact, had provided the IEP team with agenda items that were discussed at the meeting.

Conclusion

Although the LEA was found out of compliance in Issue One with providing adequate notice, the interviews with the LEA and parent show that through the parent's diligence was able to fully participate in the IEP meeting. Therefore, the *Local Education Agency is IN compliance,* and no corrective action is required.

Issue Three

Did USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to call an IEP meeting during the 2024-2025 school year when the student failed to make adequate progress on his IEP goals?

Applicable Law

The federal regulation at 34 C.F.R. §34 C.F.R. § 300.324(b)(1)(ii)(A) and Kansas statute at K.S.A. 72-3429(f)(2)(A) states the IEP must be reviewed annually to determine whether the annual goals for the child are being achieved and revised, as appropriate, to address a lack of expected progress toward goals.

Parent Position

The parent complaint stated that she emailed the LEA at the beginning of the 2024-2025 school year about the student's needs not being met at school and the student's social emotional health suffered and as a result withdrew the student on October 3, 2024 opting for homeschooling for the short term until the student's behavior stabilized. The parent stated that she continued the student's special education reading and mathematics services but asked that the speech and social work service be paused but were never reinstated during the 2024-2025 school year. The parent stated that the student was not making progress on any of their goals.

Local Education Agency Position

The Local Education Agency states that on September 10, 2024 the parent emailed the special education teacher and building principal regarding concerns and the LEA met with the parent to discuss concerns. On October 28, 2024, the student's placement was changed to homeschooling and the LEA continued to provide special education academic services during the school year. The parent filed a child complaint with the KSDE April 9, 2025 regarding the student's lack of progress and the LEA offered a resolution to KSDE, offering compensatory services and more frequent progress updates which was subsequently accepted and implemented during the 2025-2026 school year. Student data is being collected but the first quarter of the school year is not until October 9, 2025.

Analysis: Findings of Fact

The findings of the previous issues are incorporated herein by reference.

1. The Child Complaint 25FC437-001 shows that an allegation was made on April 9, 2025 during the 2024-2025 school year regarding lack of student progress and a resolution was made and accepted by the KSDE.
2. The KSDE letter dated May 5, 2025 from Assistant Director of Special Education and Title Services to the Complainant and Assistant Special Education Director of the LEA provided the KSDE accepted resolution to Child Complaint 25FC437-001 in recognition of the LEA self-assessment that, "In reviewing this complaint, the district acknowledges that the student did not make adequate progress toward identified IEP goals, specifically around reading, as reflected in documented progress reports." and proposed the following resolution, "25FC437-001 will provide compensatory reading services for 30 minutes daily through the remainder of the IEP. A timeline for these services will be developed and included in the revised IEP by the IEP team. The district will continue to have progress monitoring data shared with the parents at least every two weeks. This will help ensure that the student's progress is tracked and that necessary adjustments can be made in a timely manner." This letter states, "After reviewing the district's proposal and the complaint file, it has been determined that the

district's proposed resolution should be, and is, accepted. The district is directed to notify Special Education Services when the specified resolutions have been completed."

3. Documentation received by the investigator from the LEA and Complainant show that progress monitoring data are shared by the IEP team at least every two weeks.
4. The Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent dated May 8, 2025 documents that the student will begin to receive an additional 30 minutes, 5 days a week of direct, specially designed instruction in the special education classroom. Additionally, the Assistant Director of Special Education reported during the September 25, 2025 interview with the investigator that while reviewing and responding to Child Complaint 25FC467-001 it was discovered that the student's related services were not provided and added these services as part of the PWN as follows:

   [Student] missed 460 minutes of social work services between the dates of October 28, 2024 through May 8, 2025. Therefore, [student] will benefit from 460 minutes of compensatory services. Beginning May 12, 2025 and ending September 12, 2025; an additional 48 minutes of social work services will be added to [student's] regular 20 minutes weekly. The sessions will focus on [student's] social-emotional goal as written in the current IEP. The schedule of these sessions, as agreed upon with the family are as follows: Services will begin May 12, 2025. They will be offered as 23 minutes, 3 days a week through September 12, 2025. In the event enough sessions are missed, sessions will be offered beyond the September 12, 2025 date until the total number of offered compensatory services are met. [Student] missed 200 minutes of speech-language services between the dates of March 28, 2025 through May 8, 2025. Therefore, [student] will benefit from 200 minutes of compensatory services. Beginning May 12, 2025 and ending August 22, 2025; an additional 10 minutes of speech-language services will be added to [student's] regular 20 minutes, 2 days a week. In the event enough sessions are missed, sessions will be offered beyond August 22, 2025.
5. The IEP amendments dated May 8, 2025 and May 23, 2025 documents the service minutes recorded in the May 8, 2025 PWN. The May 8, 2025 IEP amendment was signed on May 8, 2025 and the May 23, 2025 IEP amendment was signed by the parent on June 3, 2025.
6. The March 11, 2025 IEP documents that, "Parents will receive written reports of the student progress toward meeting annual IEP goals in accordance with the district's established grade reporting schedule."
7. The 2025-2026 LEA calendar shows October 9, 2025 as the end of the first grading period.

Conclusion

Based on the previous child complaint and resolution accepted from the KSDE on May 5, 2025 the investigation of this was limited to progress made since May 5, 2025. Since the student's IEP specifies that progress will be reported in accord with the district's "established grade reporting schedule" and that period is not scheduled until October 9, 2025 the Investigator

found that the complaint has been filed prematurely since the Local Education Agency has not adequate time to report progress since the resolution. As a result, the ***Local Education Agency is found IN compliance***, and no corrective action is required.

Issue Four

Did USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to develop an IEP during the 2024-2025 school year that met the student's behavior and emotional needs resulting in the student being bullied and not meeting his emotional needs?

Applicable Law

Federal regulations at 34 C.F.R. §§300.324(a)(1); (2)(i) and Kansas statutes at K.S.A. 72-3429(d) states requires that an IEP be developed, but that it be developed by the IEP team comprised of the parents, teachers and individuals knowledgeable about the child and the curriculum to meet the unique needs of the child. When developing the IEP, the IEP team must consider the strengths of the child, parent concerns, results of evaluations, academic, developmental, and functional needs of the child as well as any special factors such as behavior that impedes learning, limited English proficiency, communication needs, and any need for assistive technology.

Parent Position

The parent complaint stated that the district did not develop an IEP during the 2024-2025 school year to amend social services, teach emotional expressing skills, address internalization behaviors, address ASD, and implement a Behavioral Intervention Plan (BIP) incorporating a reward system (e.g., office helper breaks).

Local Education Agency Position

The Local Education Agency states that the IEP developed on March 20, 2024 included considerations for the student's behavior and emotional needs. Within the IEP, the team responded "yes" to the question regarding whether the student's behavior impedes their own learning or that of others. To address these needs, the IEP included: alternate settings for self-regulation breaks, and allowance of frequent breaks until the student felt self-regulated and weekly 20 minute pullout social work services to support the goal of demonstrating pro-social interaction skills with peers in social settings at 95% accuracy by the end of the IEP, as measured by observations. At the March 11, 2025 IEP meeting, the team determined that the student's behavior was no longer impeding the student's learning of self or others. The IEP continued weekly 20-minute pullout social work services to address the goal of demonstrating pro-social interaction skills with peers, specifically making, and maintaining friendships in a positive and safe manner, at 95% accuracy by the end of the IEP as measured by observation.

The IEP team also continued the previously established accommodations, including alternate settings for the use of frequent self-regulation breaks.

Additionally, based on the previous child complaint regarding IEP development, the LEA acknowledged that it did not develop an IEP fully responsive to the unique needs of the student, particularly regarding the related services of social work and provided compensatory social work services for the remainder of the 2024-2025 school year and the first 10 weeks of the 2025-2026 school year.

Analysis: Findings of Fact

The findings of the previous issues are incorporated herein by reference.

1. Issue One from the previous child complaint investigated whether the LEA, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), developed an IEP that was appropriate for the unique needs of the student. The LEA acknowledged that it did not develop an IEP that was fully responsive to the unique needs of the student, particularly regarding related services. The resolution involved staff training to address the district not providing social work services who primarily implemented the social skill goal of the student while in a homeschool The resolution focused on staff training and compensatory services.
2. The March 11, 2025 reevaluation report only relied on parent report for behavioral needs as the student was homeschooled with the exception of special education reading and math services. Behaviors were rated as average or at-risk.
3. An email on April 11, 2025 at 4:25 p.m. from principal to mother stated, "If it is your desire to have [them] return to [school] as a full time student for the rest of the school year then [they] would just need to be enrolled as such. The plan in place would be to have [them] rejoin [their] classroom and then continue to receive the services that [they] [have] been getting.
4. The March 11, 2025 IEP includes a goal, When in social settings, [student] will be able to regularly demonstrate pro-social interaction skills with making and maintaining friendships (interacting in a positive, safe manner in both conversation and actions) at 95% by end of the IEP as measured by Observation. The IEP includes the following accommodations: Allow frequent breaks and alternate setting. The IEP team determined that the student's behavior does not impact the student's own learning or the learning of others.
5. The parent stated in the interview with the investigator that she disagreed with the reevaluation findings and requested an IEE.
6. The PWN dated September 18, 2025 agreed to pay for an IEE for the student.

Conclusion

It is found that the LEA acknowledged that the IEP was not developed appropriately to the unique needs of the student. A re-evaluation was conducted, and a new IEP was developed,

however, the parent disagreed and requested an IEE. As addressed in Issue 7 this IEE is not completed. As such it is found that it is premature to make a finding since the resolution dated May 5, 2025 acknowledged the IEP was not appropriate and the parent disagreed with the reevaluation and an IEE is pending.

Issue Five

Did USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), develop an IEP during the 2024-2025 school year that met the student's needs specific to reading?

Applicable Law

Federal regulations at 34 C.F.R. §§300.324(a)(1); (2)(i) and Kansas statutes at K.S.A. 72-3429(d) states requires that an IEP be developed, but that it be developed by the IEP team comprised of the parents, teachers and individuals knowledgeable about the child and the curriculum to meet the unique needs of the child. When developing the IEP, the IEP team must consider the strengths of the child, parent concerns, results of evaluations, academic, developmental, and functional needs of the child as well as any special factors such as behavior that impedes learning, limited English proficiency, communication needs, and any need for assistive technology.

Parent Position

The parent complaint stated that her child was identified dyslexia in 3rd grade and has continually requested the IEP to incorporate dyslexia specialized reading instruction such as Orton-Gillingham or multisensory methods and assistive technology such as text to speech software and audiobooks.

Local Education Agency Position

The Local Education Agency states that the IEP developed on March 20, 2024 identified the student's needs in reading and included two reading goals. To support the student the IEP team provided extensive accommodations across all subjects including shortened assignments, read-aloud, access to text-to-speech software, use of word banks, limited multiple-choice, written models limited to three sentences, extended time (not to exceed two days), oral testing, alternate setting, written models limited to three sentences, chunking of assignments, use of a scribe, lined paper, and handwriting checklists. The student was also provided with resource services for 40 minutes, 5 days every week of specially designed instruction for reading.

At the annual IEP review held on March 11, 2025, the IEP team revised the students reading goals based on review of progress data and the reevaluation. The IEP team recommended that the student participate in Extended School Year due to regression to target academic goals

following the 2023-2024 and 2024-2025 school years, however the student did not participate during either summer.

Analysis: Findings of Fact

The findings of previous issues are incorporated herein by reference.

1. Issue One from the previous child complaint investigated whether the LEA, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), developed an IEP that was appropriate for the unique needs of the student. The LEA acknowledged that it did not develop an IEP that was fully responsive to the unique needs of the student, particularly regarding related services. The resolution involved staff training to address the district not providing social work services who primarily implemented the social skill goal of the student while in a homeschool The resolution focused on staff training and compensatory services.
2. An email from the special education teacher to mother dated October 28, 2024 at 8:14 p.m. stated, "The reading that I sent home today was meant as a resource for you if you choose to use it. It is not for [student] to read completely on [their] own but for [them] to follow along while an adult reads it with/to [them]. [They] can also use the passage to find and read the sight words that are familiar to [them]. I understand that [student] is an emerging reader and I am meeting [student] where [they] are at with [their] reading skills. We will continue to work on [their] skills at [their] level, along with [their] sight words, and vocabulary. These are all things that we address during reading intervention to help [student] make as much progress as possible in the time given. [Student] is a very hard worker and [they] learn the new skills with repetition. We just need to keep working and progressing at [their] level at a rate that is manageable"
3. The March 11, 2025 reevaluation report found academic weaknesses in basic reading skills and reading fluency. Evaluation results suggest that the student struggles with phonological awareness, specifically when blending, deleting, and isolating sounds in words and suggest that the student continues to meet the criteria to receive special education services under the exceptionality of Specific Learning Disability, specifically in the areas of word recognition/decoding (dyslexia).
4. The March 11, 2025 IEP includes two goal,1) When given 10 one syllable VC and CVC words, Common Beginning- and -Ending Consonant Digraphs words and 10 one syllable CVCC and CCVC words, the student will be able to read each list of words at with 90% accuracy by end of the IEP as measured by Running Records; and 2) When given a read passage at grade level 1, the student will be able to read the passage at 60 words per minute with 90% accuracy by end of the IEP as measured by Running Records. The following reading accommodations include: arrange for oral testing, shorten assignments, read aloud, access to Text to Speech software, Use of word banks, limited multiple choice, extended time, chunking of assignments and allow other Verbal responses, answers dictated to scribe on classroom assignments or assessments.

5. The parent stated in the interview with the investigator that she disagreed with the reevaluation findings and requested an IEE.
6. The PWN dated September 18, 2025 agreed to pay for an IEE for the student.

Conclusion

As in the case with Issue five, it is found that the LEA acknowledged that the IEP was not developed appropriately to the unique needs of the student. A re-evaluation was conducted, and a new IEP was developed, however, the parent disagreed and requested an IEE. As addressed in Issue 7 this IEE is not completed. As such, it is found that it is premature to make a finding since the resolution dated May 5, 2025 acknowledged the IEP was not appropriate and the parent disagreed with the reevaluation and an IEE is pending.

Issue Six

Did USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provide the student access to a screen reader for instruction and testing during the 2024-2025 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Parent Position

The parent complaint stated that the student told their mother that while at school the teachers put him on the computer and the student reported that they would just click through the pages, not using the screen reader. The complainant stated that they should have prevented the student from just clicking through and when she notified the school about this, she was ignored.

Local Education Agency Position

The Local Education Agency states that the student was provided with access to Text-to-Speech (TTS) software as specified in the IEP for all subjects, applicable to assignments and assessments of any length. Beginning at the end of October 2024 the student began homeschooling and only attended the school for special education services and the student did not participate in state testing per parent request.

Analysis: Findings of Fact

The findings of the previous issues are incorporated herein by reference.

1. The IEPs dated March 20, 2024 and March 11, 2025 include Access to Text to Speech Software as an accommodation when given an assignment or assessment.
2. During the LEA interview on September 25, 2025 the LEA staff stated that the majority of the 2024-2025 school year the student was in a small group working on IEP goals in the special education room and the majority of the work did not require the use of a computer. They stated that if the student had been in the general education setting this accommodation would have been used more extensively. The staff stated that the student's Chromebook has the screen reader, Read & Write installed and the student knows how to use it. They reported that in their experience the student requires some reminders that the screen reader is available and to use it. When reminded the student will readily use it. The case manager also noted that the student has not created the habit of using the program due to the fact that they do a lot of human reading to the student.

Conclusion

It is found that the nature of the special education instruction during the 2024-2025 school year did not readily lend itself to use of the text reader. It is anticipated that now that the student is attending the school full-time this accommodation will be used more extensively. Based on the foregoing, It is found that the Local Education Agency implemented the screen reader accommodation during the special education service minutes during the 2024-2025 school year and *is IN compliance* and no corrective action is ordered.

Issue Seven

Did USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provide a prior written notice to the parent to obtain an independent education evaluation (IEE) pursuant to child complaint 25FC437-001 in a timely manner?

Applicable Law

Federal regulations at 34 C.F.R. §300.502(b)(5)and Kansas statutes at K.A.R. 91-40-12 the parent of an exceptional child shall have the right to request an independent educational evaluation at public expense if the parent disagrees with the evaluation obtained by the agency.

K.A.R. 91-40-12(b)(1)(2) states that if a parent requests an independent educational evaluation of the child, the agency, without unnecessary delay, take one of the following actions: (1) Initiate a due process hearing to show that its evaluation is appropriate; or (2) (A) Provide information to the parent about where an independent educational evaluation may be obtained and the agency criteria prescribed under subsection (g)that apply to independent educational evaluations.

34 C.F.R. § 300.503(a)(1)(2) and K.S.A. 72-3432 regarding Prior Written Notice states, "Written notice must be given to the parents of a child with a disability a reasonable time before the public agency either proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

Parent Position

The parent complaint stated that she made a request for an Independent Educational Evaluation on April 1, 2025 and the LEA did not respond in a timely manner.

Local Education Agency Position

The Local Education Agency states that the Prior Written Notice (PWN) related to the parent's request for an Independent Educational Evaluation (IEE) pursuant to a formal complaint (25FC[LEA#] was provided in a timely manner. The formal complaint resolution was finalized on May 5, 2025 and the PWN was subsequently emailed to the Complainant on May 8, 2025. To support the Complainant's ability to make an informed choice, the LEA contacted potential IEE evaluators to confirm their availability as options for the family.

Analysis: Findings of Fact

The findings of the previous issues are incorporated herein by reference.

1. An email from the Complainant to the LEA shows the parent first requested an IEE on March 31,2025 and the LEA acknowledged the request on April 1, 2025.
2. The KSDE resolution dated May 5, 2025 documented that the LEA did not fulfil its obligation to meet the "procedural requirements under the Individuals with Disabilities Education Act (IDEA) and Kansas special education regulations regarding a parent's request for an Independent Educational Evaluation (IEE)." As a result, the following resolution was accepted by KSDE, the LEA will immediately issue a Prior Written Notice (PWN) formally responding to the parent's IEE request.
3. The PWN dated May 8, 2025 shows that the LEA agreed to paying for an IEE, "Following [student's] evaluation, the parent disagreed with the evaluation results and requested an independent educational evaluation (IEE). Per the KSDE Process Handbook, [LEA] is required to provide the parent with several options of where an IEE could be conducted." Two options were listed in the PWN.

Conclusion

It is found that the Local Education Agency addressed this issue in the resolution documented in the KSDE letter dated May 5, 2025. A PWN dated May 8, 2025 is written. Based on the foregoing, at this point in time the *LEA is IN compliance* with providing a PWN to the parent responding to a request for an IEE and no corrective action is ordered.

Issue Eight

Did USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), facilitate the parent obtaining the IEE as part of a resolution agreement pursuant to child complaint 25FC437-001?

Applicable Law

Federal regulations at 34 C.F.R. §34 C.F.R. §§300.502(a)(b) and Kansas regulations at K.A.R. 91-40-12(b)(2)(A)(B) states that if a parent requests an independent educational evaluation of the child and the agency agrees, then the agency, without unnecessary delay, shall provide information to the parent about where an independent educational evaluation may be obtained and the agency criteria prescribed under subsection (g)that apply to independent educational evaluations, and either pay the full cost of the independent educational evaluation or otherwise ensure that the evaluation is provided at no cost to the parent.

Parent Position

The parent complaint stated that the LEA failed to comply with the KSDE's resolution and obstructed the completion of an independent educational evaluation by mishandling the student's appointment. The agency imposed an unreasonable request of information duration requirement not mandated by IDEA, delaying and essentially denying the IEE. Further, the agency mishandled the student's appointment by failing to know that the student could not independently complete the reading portions of the evaluation.

Local Education Agency Position

The Local Education Agency states that in the PWN dated May 8, 2025 two IEE providers were listed, and the LEA had reached out to each to ensure their availability during the summer. The LEA stated that the parent ultimately selected a different IEE provider which the LEA agreed to work with once they learned that this provider had been selected by the parent. Unfortunately, the IEE provider selected by the parent was located within a different department within the same agency as one of the IEE providers listed on the PWN. This led to confusion and resulted in a delay in making payment and the IEE appointment. Once the IEE appointment started, the parent-selected provider was not prepared to evaluate the student based on the student's reading ability. This led to another delay and resulted in the parent filing this child complaint. The district issued a new PWN dated September 18, 2025 listing additional IEE providers.

Analysis: Findings of Fact

The findings of the previous issues are incorporated herein by reference.

1. The PWN dated May 8, 2025 listed two providers. "The following are provided as options for the parent to consider: 1. School psychologist employed by a different USD LEA - 2. Outcomes, Assessment Services, & Intervention Supports (OASIS) at University of Kansas Department of Educational Psychology

2. The LEA response stated that the parent did not indicate to the LEA the name of the provider they planned to proceed with for the IEE.
3. On July 15, 2025, the parent emailed the LEA, "I was writing to follow up on the evaluation for [student]. [Student's] been on the waiting list and finally has an appointment coming up for Intake. My question is, the eval needs to be paid for up front. I know we agreed to the district paying for that. What is my role in this process?" The LEA responded later that day that the University of Kansas provider does not require payment up front, not realizing the parent had scheduled the IEE appointment with a different University of Kansas provider. The LEA also confirmed with the University of Kansas provider listed on the PWN that it did not require up-front payment and did not have an IEE scheduled with the student.
4. Emails exchanged between July 16 and 17, 2025 between the IEE provider and the LEA show their attempts to verify the legitimacy of the request for prepayment of the IEE services. Additionally, emails between July 15 and 17, 2025 show that the LEA tried to confirm an unknown email requesting the LEA pay for an IEE. Emails between these dates show that without any verification of the email, scheduled appointment and requirement for prepayment the LEA confirmed with the IEE provider listed on the PWN that the request for prepayment was likely a phishing email.
5. The parent and LEA confirmed during interviews with the investigator that the parent used a different email address that was on file with the LEA, which did not allow the LEA to associate the parent-selected IEE provider to be associated with the student. The LEA further clarified in the interview that the Release of Information only allowed the IEE provider to speak to one staff member who was not on staff that summer so phone calls to clarify the email requests for prepayment could not be resolved.
6. An email from the parent to the LEA on August 6, 2025 stated that payment for the IEE for the 10:30 appointment on August 7, 2025 had not been made.
7. Between August 13 and 14, 2025 the LEA and parent-selected IEE provider attempted to clarify scheduling and payment, but there was still not a signed release of information by the parent to talk.
8. On August 20, 2025, the parent email the LEA and Dr. Crista Grimwood at KSDE, writing, "Dr. Grimwood, [student's] appointment for testing has been cancelled the (sic) before [their] testing and no further appointments are going to be made until the fee is paid as discussed in many written requests. There is an ROI on file with KU that I have already signed for KU to speak to [Assistant Director of Special Education]. [Assistant Director of Special Education] has been the director involved in this situation and readily has access to the acquired data that KU may need to gather data from [their] school. This has gone on too long and needs to stop. We have a legal right to this evaluation and I have signed the release for the district to pay. An academic evaluation is defined by the State. If anyone has questions what is being done, it is already predefined by the State and questions should be directed as such."
9. An email from the parent later on August 20, 2025 clarified, "I don't see that [student] is attending an "OASIS" program. Nor, has an appointment for anything related to

behavioral therapy. This is an academic evaluation from KU. I realize OASIS is a program within KU but not the program [student] is participating in. Here is a web link to the services tab on the KU clinic site. The staff you may be referring to is located at the OASIS web address at -- https://oasis.ku.edu/ . As I mentioned, prepayment is required. The following link does not go to OASIS and goes to the evaluation services offered from KU. https://kuclinic.ku.edu/services - you should have the number I sent earlier if you need it."

10. On August 20, 2025 Dr. Crista Grimwood emailed the parent, "Thank you for your email. I have spoken with [Assistant Director of Special Education] regarding this matter and [they] are in contact with KU to rectify the billing situation. I kindly ask that this matter be resolved within one week (August 27, 2025) and updates be sent to KSDE when they are made available . I have no doubt that this matter will be resolved in a timely manner."
11. Between August 21 – 22, 2025 the director of the parent selected IEE provider and LEA exchanged phone and emails to arrange the payment and coordinate release of information to discuss the IEE.
12. The parent took the student to the parent-selected provider however, the clinician "handed [student] an iPad and asked [student] to fill out a questionnaire, unaware that [student] cannot read – despite an extensive case history, previous diagnosis, and evaluation conducted by this provider. This led to the cancellation of subsequent appointments.
13. On September 2, 2025, the parent wrote in the complaint that during a phone call with the parent-selected provider the parent was informed that the 30-day ROI was unacceptable, requirement a longer duration and stated that the IEE would not be conducted until the ROI date was extended.

Conclusion

If a parent requests an independent educational evaluation and the LEA agrees, they are to provide information to the parent about where an independent educational evaluation can be obtained, any qualifications of examiners and location to obtain the evaluation If an independent educational evaluation is provided at public expense. In this case the LEA listed two IEE providers, and the parent selected a different provider. Because the LEA did not realize the parent was working with a different provider and the parent was using an unfamiliar email the LEA was unable to verify the legitimacy of the provider's request for prepayment. Additionally, once the appointment was finally made with the IEE provider selected by the parent the clinician did not adequately prepare for the student's reading needs causing the parent to not complete the IEE during the scheduled time and discontinuing the IEE with this provider.

Based on the foregoing, it is found that the LEA did not impede the scheduling, payment nor completion of the IEE. Therefore, the *LEA is IN compliance* with facilitating the parent obtaining the IEE as part of a resolution agreement pursuant to the child complaint 25FC437-001.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §§300.322(a)(c) and K.A.R. 91-40-17(a) was found. Corrective action is required as follows:
    a. A procedural violation of 34 CFR §§300.322(a)(c) and K.A.R. 91-40-17(a) was found based on not providing a notice of meeting to the parent for the March 11, 2025 IEP meeting. The LEA shall immediately, within 21 school days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations 34 CFR §§300.322(a)(c) and K.A.R. 91-40-17(a).
    b. The LEA shall send an email to all case managers reminding them of their obligation to notify parents of any and all upcoming IEP meetings with 10 days of written notice. The LEA shall submit evidence of this email and the recipients of the email to SETS by November 11, 2025.
2. ISSUE TWO: A violation of 34 C.F.R. §300.501(b)(1), 34 CFR §§§300.322(a)(2),(b)(1),(c) and 34 CFR §300.321(a)(6) was not found. Corrective action is not required.
3. ISSUE THREE: A violation of 34 C.F.R. §34 C.F.R. § 300.324(b)(1)(ii)(A) and Kansas statute at K.S.A. 72-3429(f)(2)(A) was not found as it was premature to make a finding. Corrective action is not required.
4. ISSUE FOUR: A violation of 34 C.F.R. §§300.324(a)(1); (2)(i) and Kansas statutes at K.S.A. 72-3429(d) was not found as it was premature to make a finding. Corrective action is not required.
5. ISSUE FIVE: A violation of 34 C.F.R. §§300.324(a)(1); (2)(i) and Kansas statutes at K.S.A. 72-3429(d) was not found as it was premature to make a finding. Corrective action is not required.
6. ISSUE SIX: A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) was not found. Corrective action is not required.
7. ISSUE SEVEN: A violation of 334 C.F.R. §300.502(b)(5), Kansas statutes at K.A.R. 91-40-12, 34 C.F.R. § 300.503(a)(1)(2) and K.S.A. 72-3432 was not found. Corrective action is not required.
8. ISSUE EIGHT: A violation of 34 C.F.R. §34 C.F.R. §§300.502(a)(b) and Kansas regulations at K.A.R. 91-40-12(b)(2)(A)(B) was not found at this point as it was premature to make a finding. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #477
ON 9/25/2025

DATE OF REPORT: 9/29/2025

26FC477-001

Final Report Communication From Investigator

Good morning, --------. I am the complaint investigator assigned to the formal complaint you have filed on behalf of your child, --------.

With my first reading of your written complaint, I see that your concerns with the Cooperative began in 2023, with a delay in completing an evaluation and then denial of services after receiving a district and subsequent independent educational evaluation in 2023. You have subsequently (2025) learned of an autism diagnosis that you believed could have been found by SKACD or your child accommodated using the diagnosis of auditory processing disorder that he received by the Independent Educational Evaluator.

Because of the one year limitation for formal complaints, the allegations on behalf of your son as they are written here cannot be investigated.

Only if you have allegations that occurred during the past year (September 25, 2024-September 25, 2025) can they be investigated using this formal complaint process with KSDE. There may be other dispute resolution processes available to you, and if you wish to find additional information on those options, I can recommend resources for your use.

In summary, if you have allegations occurring in the past year, please forward them to Dr. Grimwood and me as soon as possible. If the allegations do not occur in the past year, you can contact Families Together (https://familiestogetherinc.org/) or use the Kansas Special Education Process Handbook linked here for more information.

I will also contact Dr. Grimwood based on the broader systemic allegations of your complaint, but at this point, I believe this complaint cannot be investigated under this authority. If I am in error after consulting with KSDE, I will notify you, likely late next week.

Sincerely yours,

Gwen Beegle

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(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 477
Ingalls Public Schools: 26FC477-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on 9/25/2025, by -------- on behalf of her child --------. In the remainder of this decision, -------- will be referred to as "the parent," and -------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. During the opening stage of the investigation, the investigator determined that the alleged violation occurred more than one year prior to the filing of this complaint. With that finding, in a September 27, 2025 e-mail, the investigator dismissed the complaint.

Thereafter, the parent filed an appeal of the dismissal. On September 30, 2025, Special Education and Title Services notified the parties that an appeal had been filed. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Investigator's Dismissal, and the parent's notice of appeal. The district did not send a response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Discussion of Issues on Appeal

The complaint was filed on September 25, 2025. The complaint listed three concerns:

1. The student was evaluated and found not eligible for special education on 2/17/23 and again on 12/13/2023, despite independent evaluation results to the contrary;
2. The parent submitted a written request for an evaluation on 8/26/2022 and did not receive a consent to evaluate form until 10/26/2022 and in-class observations did not begin until 2/1/2023, exceeding the legal timelines for completing an evaluation; and
3. The KSDE Special Education Services Formal Complaint Request Form deters parents from submitting special education complaints by inserting into the form this statement: "The complaint must allege a violation of special education laws and regulations that occurred not more than one year before the date the complaint is filed."

The statement referred to above (in appeal issue 3) on the state's model form for filing a special education complaint has no function other than to inform the public of the legal limitation for filing special education complaints. This one-year timeline for filing special education complaints is a requirement of law and allows no discretion for a state agency to extend it.

Kansas Administrative Regulation 91-40-51(b)(1), states:

> *"The complaint **shall** allege a violation that occurred not more than one year before the date the complaint is received and shall be filed with the commissioner of education."* (emphasis added)

The Appeal Committee, having no discretion to extend this timeline for any reason, finds that the investigator's conclusion is correct. The issues presented in this complaint are not subject to investigation because the alleged violations occurred more than one year prior to the filing of the complaint.

Conclusion

For the reasons stated herein, the investigator's conclusions and dismissal of the complaint are sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 14th day of October, 2025.

Appeal Committee

Crista Grimwood Brian Dempsey Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON SEPTEMBER 11, 2025

DATE OF REPORT: OCTOBER 14, 2025

This report is in response to a complaint filed with our office on behalf of a student, -------, by their guardian, -------. In the remainder of the report, the student will be referred to as "the Student" and the guardian as "the Complainant."

The Complaint is against USD # 437 Auburn/Washburn Public Schools. In the remainder of the report, the "School" and the "local education agency (LEA)" shall refer to USD # 437.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on September 11, 2025, and the 30-day timeline ended on October 11, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD # 437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Individualized Education Program (IEP) and the behavior intervention plan (BIP) as written, specifically following the amendments made at the August 11, 2025, IEP meeting. K.A.R. 91-40-16(a)(b)(3-5), K.A.R. 91-40-19; 34 CFR § 300.323. NOTE: The Complainant verified that the allegations also pertained to the time prior to August 11, 2025.

ISSUE TWO: Whether USD # 437, in accordance with state and federal regulations implementing the IDEA, provided instruction and services to the Student according to the least restrictive environment (LRE) requirements when the Student was dismissed early for bus transport and was excluded from class due to the lack of paper-pencil coursework. K.A.R. 91-40-21, K.A.R. 91-40-1(II), K.S.A. 72-3420; 34 CFR § 300.114.

ISSUE THREE: Whether USD # 437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant with a copy of the updated IEP from the August 11, 2025 meeting, and an opportunity to review the Student's educational records. K.A.R. 91-40-25(a), K.A.R. 91-40-18(d); 34 CFR § 300.501(a), 34 CFR § 300.322(f).

Investigation of Complaint

The Investigator interviewed the Complainant on October 3, 2025. The following LEA staff were interviewed on October 7, 2025: the Special Education Provider, the Instructional Manager, the Assistant Principal, the Principal, the Paraprofessional, the PBS Teacher, and Witness 1.

In completing this investigation, the Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

District Materials

1. District Response, no date
2. Notice of Meeting, 03/10/25
3. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent (PWN), 03/10/25
4. Request for Consent for Special Education Action, 04/03/25
5. IEP Amendment Between Annual IEP Meetings, 04/24/25
6. Request for Consent for Special Education Action, 04/24/25
7. IEP, 10/24/24
8. Student Activity Report, 09/12/24-09/10/25
9. Food Service Account Statement for [the Student], 09/12/24-09/12/25
10. Student Schedule, 2024-25
11. Student Bell Schedule, no date
12. Middle School Bell Schedule, no date
13. Advanced De-Escalation Skills Slideshow, 08/05/25
14. Behavior Tracking Sheet, 09/08/25-09/12/25
15. Behavior Detail Report, 04/15/25
16. IDEA Disability Categories Slideshow, no date
17. Paraeducator Inservice Log, 05/30/25-08/05/25
18. Paraeducator Training Slideshow, no date
19. Understanding IDEA Disability Categories: Specific Diagnoses, no date
20. Paraeducator Inservice Sign-in Sheet, 08/11/25
21. Classified Professional Development Sign-in Sheet, 08/05/25
22. Classified Support Staff Sign-in, 04/02/25

23. Emails from September 12, 2024 through October 8, 2025

Complainant Materials

1. IEP, 10/24/24
2. Screenshot, outgoing calls, 08/08/25
3. Invitation: Parent Meeting For [the Student], 08/01/25
4. Emails from September 8, 2025 through October 8, 2025

Background Information

This investigation involved a ninth-grade student enrolled at a High School in USD # 437 who is creative and artistic. The Student's primary exceptionality is autism, and their secondary exceptionality is Other Health Impairment (OHI). The Student is currently receiving special education and/or related services as a child with a disability per the IDEA.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant and staff in the LEA.

1. The Student's Middle School schedule for the 2024-25 school year described the following:
    a. 00: Caseload; 01: Art.
    b. 02: General Science 8; 03: Positive Behavior Support (PBS).
    c. 04: Math 8; 05: SFA 8.
    d. 06: American History 8; 07: English Language Arts 8.
    e. Advisory. Noted, "Advisory period is used for independent reading, test make up, student assistance, planner checks and assemblies."
2. An IEP dated October 24, 2024, included an amendment dated April 24, 2025, and described the following:
    a. Transition assessments were identified, and service descriptions were listed for August 11, 2025 through May 23, 2029.
    b. The following goals were listed:
        i. "When [the Student] is given a directive to follow by an adult or peer, [the Student] will be able to follow directions on the first request by not arguing, negotiating, or seeking an alternative response with adults or peers at 95% by the end of the IEP as measured by Anecdotal Records." [The Student] will be able to follow directions on the first request by not arguing, negotiating or seeking an alternative response with adults or peers 95% of the time."
        ii. "When given a modified assignment or assessment, [the Student] will be able to complete the assignment or assessment on time with at least

80% accuracy at 90% of the time by [the] end of the IEP as measured by Anecdotal Records."

iii. "When feeling dysregulated, [the Student] will be able to verbalize [their] feelings and ask for a break at 50% of the time by [the] end of the IEP as measured by Anecdotal Records."

iv. "When eating breakfast or lunch, practicing self-care of hygiene, [the Student] will be able to demonstrate socially appropriate eating behaviors by practicing table manners, pacing [themself] during meals (eating slowly and steadily), using polite behaviors (e.g., saying 'please' and 'thank you,' chewing with [their] mouth closed, not talking with food in [their] mouth, wiping [their] face with a napkin), engaging in appropriate mealtime conversations, reducing the amount of food on [their] clothing and proper nose blowing at 4 out of 5 observed opportunities by the end of the IEP as measured by Anecdotal Records."

c. The "Parent Input" section included concerns regarding the Student's lunch location and training for bus personnel regarding the Student's BIP.

d. Considerations indicated:

i. The IEP team considered the Student's strengths, the concerns of the Complainant, the results of the most recent evaluation, and the academic, developmental, and functional needs of the Student.

1. The Student's behavior hindered the learning of others and was addressed through a BIP, goals, and accommodations.
2. The Student needed assistive technology and services and had a documented health condition that impacted their participation and progress in the general education curriculum and classroom setting.

e. A BIP and PBS document dated October 30, 2023, was included in the IEP:

i. The Student's problem behaviors were described as defiance (refusing directives, arguing, and attempting to manipulate situations) and being off-task (inappropriate peer talk, working on unrelated assignments, and misusing technology during instruction).

ii. Behaviors occurred when given a "non-preferred" activity, which led to avoidance of the task.

iii. The settings and antecedents were described as the Student's behaviors were most frequent during ELA, where their compliance with directives was lowest at 70%. They also showed slightly lower compliance in social studies and PBS (92.5% and 90%, respectively). Conversely, they exhibited high compliance (97.5%–100%) in art, science, math, an unknown course, and advisory.

iv. The function of the Student's behavior was "to gain access to preferred activities and to avoid the task that is being asked of them."

v. The Student required instruction in replacement behaviors that addressed several lagging skills across three main categories: Attention and Working Memory, Emotion and Self-Regulation, and Cognitive and Flexibility Skills. Specifically, the Student struggled with tasks such as persisting with difficult activities, managing feelings of annoyance or disappointment, and coping with changes to routines or rules.

vi. Proactive Strategies stated the staff should prevent the problem behavior and listed the following strategies:

1. "Give [the Student] praise when [the Student] is on task and completes tasks/directives."
2. "When [the Student] is beginning to demonstrate behaviors that include non-compliance with adult tasks/directives, [they] will be given up to three prompts to get back on task."
3. "When [the Student] is not responding to the directives given by the adult, staff will respond by telling [the Student], 'This is a non-negotiable.'"
4. "[The Student] will use self-regulation strategies to resist peer pressure / self-directed inappropriate activities, such as continuing to argue."
5. "[The Student] will leave [their] classroom materials in each classroom needed for the subject and [they] will not bring any other supplies with [them]."
6. "Teachers will refrain from giving [the Student] school supplies, food (unless a class party), or any other items."
7. "When [the Student] needs access to technology, [they] will be monitored and [their] [one] on [one] para[professional] will keep & carry the computer until [they] need it. [They] [are] not to use technology unless it pertains directly to the classroom assigned."
8. "Once [the Student] [is] on the bus [they] are not allowed to exit the bus until [they] have gotten to school or home."
9. "[The Student's] behavior will be documented on a behavior tracking sheet provided by the school."
10. "During the unstructured times and passing periods, teachers will be monitoring the environment and will wait until the teacher enters the room before [the Student] enters the room [sic]."
11. "[The Student] will be escorted to the bus at the end of the day for [them] to get there on time."
12. "When [the Student] is found stealing from the cafeteria, [the Student] will make restitution to the school for the item/s."

13. "[The Student] will check out with an adult at the end of the day to review [their] day."
14. "[The Student] will have direct social skills instruction."
15. "Staff will refrain from having any personal conversations or educationally relevant information with or around [the Student]."

vii. Reactive Strategies for staff for when the Student demonstrated "resistance" to working in class included:

1. "Working or completing a task/following a directive for the first time given."
2. "Taking a 5-minute break with a preferred list of activities, such as drawing, writing, or reading (this needs to be monitored to ensure it is school-appropriate after completion of the designated task required by the adult[])."
3. "When refusing to work, arguing, or defying adult requests to comply with simple requests, [the Student] will be given up to three redirections."
4. "If still exhibiting the above-mentioned behaviors, [the Student] will be sent to a 'buddy room' or 'office.'"
5. "If [the Student] refuses to leave and/or argues with the adult a member of the mental health team or support staff will be notified to come and walk [the Student] to an alternate location."
6. "If the behavior is considered to be a major behavior and/or a chronic behavior, [the Student] will have an Office Discipline Referral written and have a phone call home."
7. "[The Student] will then spend time in an alternate setting for a designated time according to the behaviors exhibited."
8. "All of this will be documented on [the Student's] tracking sheet."

viii. Progress monitoring methods included "Daily data collection."

ix. Staff training procedures indicated, "Include necessary staff training in the IEP. Staff should be trained with positive behavior supports and other reinforcement systems in order to implement the BIP with fidelity. [The Student's] bus staff needs to be trained in [the Student's] morning routine and when to be released from the bus. Bus staff and [one] on [one] para[professional] need to be trained on [the Student's] expectations, accommodations for [the Student][,] and provided with a copy of the BIP. [The Student's] para[professional] will help facilitate when there is a sub[stitute] in the class. Adults will be trained in trauma[-]informed responses along with [their] specific diagnosis (Attention Deficit/Hyperactivity Disorder (ADHD), Autism Spectrum Disorder (ASD), Reactive Attachment Disorder (RAD), Oppositional Defiant Disorder (ODD), Other Specified Disruptive Impulse Control and Conduct Disorder

associated with developmental disability, Generalized Anxiety Disorder (GAD)[)]. [The Complainant] needs some formal documentation that training has been completed in the event of a substitute para[professional] or teacher or any other staff who works with [the Student]."

f. Program Modifications and Supports with a start date of October 24, 2024 (no end date noted) indicated the following:

   i. An alternative setting for all subjects when provided an assessment until the assessment was completed.

   ii. Preferential seating for all subjects when provided a seating assignment for the length of the class.

   iii. Allow frequent breaks for all subjects when feeling dysregulated for no more than 10 minutes.

   iv. Frequent reminders of rules for all subjects when the Student was unable to regulate their behavior, no more than 2 times.

   v. Allow time for the organization of materials for "Other end of the day" once or twice a week for no more than 5 minutes.

   vi. Alert the Student to transitions for all subjects at the end of each class period for 1-2 minutes prior to transition."

   vii. PBS system for all subjects at the end of each class period, all day.

   viii. When using a computer, there will be direct supervision by the Student's one-on-one paraprofessional or the teacher for all subjects when needing to use a computer until the assignment/assessment is complete.

   ix. Shorten assignments for all subjects when provided with an assignment or assessment until the assessment or assignment is complete.

   x. When dysregulated, the Student will be escorted by their one-on-one paraprofessional to the PBS room for 5-10 minutes to regulate. The Student will have the option to return to class or stay in the PBS room to work on academics with their one-on-one paraprofessional support. Occurrences need to be documented in all subjects when the Student is dysregulated or staff notice the Student's dysregulation for 5-10 minutes to regulate.

   xi. Eating breakfast in the PBS room, "other" or before school, when the Student was eating breakfast, they would remain in the room until their one-on-one paraprofessional escorted them to their first class until the beginning of the first class.

   xii. Eating lunch in the PBS room (wellness room / side room in the PBS room) with one-on-one paraprofessional for lunch when the Student is eating lunch until the lunch period is completed.

xiii. One-on-one paraprofessional support to the bus to avoid wandering the halls looking to collect items/things or starting issues with peers at "other" and the bus when the Student is going to the bus until the Student has loaded the bus.

xiv. One-on-one paraprofessional support to the nurse's office to avoid wandering halls, collecting items, or starting issues with peers at "other" or the nurse's office when the Student is going to the nurse's office until the Student has taken [their] medication.

xv. One-on-one paraprofessional support when the Student goes to the restroom. The Student will not go during passing time, but at the end of the 3rd hour, lunch, and before the Student gets on the bus to go home. The paraprofessional support will wait for the Student and then escort them back to the class at "other" or the restroom when [the Student] is going to the restroom until the Student is finished with the restroom.

xvi. One-on-one paraprofessional support will follow the protocol of escorting the Student to the PBS room. A special education teacher will be contacted and determine if it is appropriate to call a social worker and/or the Principal in "other" and classrooms when the Student demands to see the social worker and/or the Principal after the protocol has been followed and the special education teacher determines who the Student needs to speak to.

xvii. One-on-one paraprofessional support will help monitor the Student wearing their glasses for all subjects, all the time, not just for computer use, during the school day.

xviii. One-on-one paraprofessional support will escort the Student from the bus to breakfast and then to the PBS room at "other" and arrival time. An adult will escort the Student from the bus to breakfast and back to the PBS room during the school day.

xix. When the Student argues or questions an adult on a directive, the adult will respond to the Student, "This is non-negotiable" in all subjects when teachers and staff are providing items to other students during the school day.

g. The "Transportation" section indicated special transportation was required to and from school and noted the Student's behavior was not safe to themself and/or others on the bus. Options included fewer people aboard the bus and preferential seating. Additionally, support for transportation personnel indicated, "[The Student's] bus staff need to be trained in [the Student's] morning routine and when to be released from the bus. Bus staff and [one][-]on[-][one] para[professional] need to be trained on [the Student's] expectations, accommodations for [the Student] and provided with a copy of the BIP."

h. Service Chart/State Reporting:

i. The following services were listed from October 24, 2024 through May 22, 2025 and were provided for five days per week, weekly:
    1. Special education direct services provided by a special education classroom teacher in the regular education classroom at the Middle School for 220 minutes per day.
    2. Special education direct services provided by a special education classroom teacher outside regular education classrooms, programs, and other locations, at the Middle School for 138 minutes.
    3. Attendant care, direct services, a non-instructional paraeducator, provided by a special education classroom teacher in a regular education classroom at the Middle School for 28 minutes.
    4. Attendant care, direct services, a non-instructional paraeducator, provided by a special education classroom teacher outside regular education classrooms, programs, or other locations at the Middle School for 30 minutes.
    5. School nurse direct services provided by a school nurse in a regular education classroom at the Middle School for eight minutes.
    6. Special education transportation in the extracurricular setting provided by a special education classroom teacher at the Middle School for 40 minutes.

ii. The following service was listed from October 24, 2024 to April 24, 2025:
    1. Social work direct services from a school social worker outside regular education classrooms, programs, and other locations at the Middle school for 20 minutes, one day per week, every two weeks.

iii. The following services were listed from August 11, 2025 to October 23, 2025 for five days per week, weekly:
    1. Special education direct services provided by a special education classroom teacher in a regular education classroom at the High School for 219 minutes.
    2. Special education direct services provided by a special education classroom teacher outside regular education classrooms, programs, and other locations at the High School for 144 minutes.
    3. Attendant care, direct services, a non-instructional paraeducator provided by the special education classroom teacher in a regular education classroom at the High School for 34 minutes.
    4. School nurse direct services provided by a school nurse in a regular education classroom at the High School for eight minutes.

5. Special education transportation in the extracurricular setting, provided by a special education classroom teacher outside regular education classrooms, programs, and other locations at the High School for 40 minutes.
6. Attendant care, direct services, a non-instructional paraeducator, provided by a special education classroom teacher outside regular education classrooms, programs, and other locations at the "Middle School" [sic] for 30 minutes.

i. The service delivery statement described the following services:
   i. "During the 8th grade, [the Student] will have the following services":
      1. "C- 220 min x 5 days a week for inclusion Science, History, SFA, Elective, and Advisory."
      2. "G- 138 minutes x 5 days a week for special education Math, Language Arts and PBS."
      3. "C- 28 minutes x 5 days a week for transition time supervision (attendant care)."
      4. "G- 30 minutes x 5 days a week for lunch (attendant care)."
      5. "C- 8 minutes x 5 days a week for school nurse services."
      6. "T- 40 minutes x 5 days a week for special education transportation."
   ii. "When [the Student] transitions to the high school for 9th grade, [the Student] will have the following services":
      1. "C- 219 minutes x 5 days a week for inclusion History, Science, Elective, PE/Health and Advisory."
      2. "G- 144 minutes x 5 days a week for special education Math, English and PBS."
      3. "C- 34 minutes x 5 days a week for transition time supervision (attendant care)."
      4. "C- 8 minutes x 5 days a week for school nurse services."
      5. "T- 40 minutes x 5 days a week for special education transportation."
      6. "G- 30 minutes x 5 days a week for lunch attendant care."

j. Parent rights were provided to the Complainant.

k. An IEP Amendment Between Annual IEP Meetings document dated April 24, 2025, indicated the description of proposed IEP changes as, "Currently, [the Student] has 20 minutes of social work twice a month. [The Complainant] has requested that social work services [be] dismissed from the current IEP. Social work goals # 1 and 3 will be serviced through the Positive Behavior Interventions (PBIS) class. All other services will remain the same." The Complainant "agreed to amend this student's IEP as described above," and

did "… not wish to convene an IEP meeting" as indicated by check marks. The Complainant's consent was indicated by a digital signature on the "Educational Advocate" line.

l. A Request for Consent for Special Education Action dated April 24, 2025 was signed by the Complainant.

3. In emails to the Complainant dated October 30, 2024, March 10, April 3, 17, 24, and 28, 2025, the Middle School Special Education Provider attached copies of various educational records.
4. On January 28, 2025, in an email to the Complainant, the Middle School Special Education Provider explained they reminded the bus driver and the para[professional] the Student "need[s] to be in the front seat and is not to receive or take anything from, or give anything to others on the bus. [The Student] is not allowed to have anything … ."
5. On March 3, 2025, the Middle School Special Education Provider emailed the Complainant and stated they spoke with the Middle School Social Worker, who confirmed with the Student the need to follow the escorting protocol described in their IEP.
6. On March 6, 2025, the Complainant emailed the Middle School Special Education Provider and thanked them for sending the behavior tracking data and requested social work service logs.
7. On March 7, 2025, the Middle School Social Worker emailed the Complainant with 13 dates on which the Student was provided with social work services, as requested by the Complainant.
8. A Notice of Meeting dated March 10, 2025 for a meeting scheduled on the same date, to "discuss possible changes in your child's IEP," was signed by the Complainant on April 3, 2025, consenting to waive their right to the 10-day prior written notice and indicating they planned on attending the meeting.
9. A PWN dated March 10, 2025, described a material change in services and a change in placement. Accommodations were added, goals adjusted, and changes were made to the BIP. An explanation of the proposed actions indicated, "The increase in accommodations, goals and increase in BIP is due to [the Student] needing more support in the school environments in order to be successful in school." The data used included team and guardian input and previous records.
    a. A Request for Consent for Special Education Action dated April 3, 2025, indicated permission by the Complainant with signature and box checked, "I give consent … for special education placement and services action(s) … ."
10. An April 2, 2025 Classified Support Staff Sign-in Sheet documented Witness 1's sign-in to a training entitled, "Understanding IDEA Disability Categories & Specific Diagnoses."
11. On April 3, 2025, the Middle School Special Education Provider emailed the Complainant and supplied four attachments of the Student's IEP paperwork.

12. In a Behavior Detail Report dated April 15, 2025, an unknown staff member noted, "I made sure to mention that [the Student] statement was not an appropriate comment to make." The report indicated an in-school suspension for the Student, and the resolution was, "[The Complainant] was called and made aware. Very supportive. [They] will spend the day in ISS."
13. On April 16, 2025, the Complainant emailed the Middle School Principal and requested a copy of the threat assessment completed for the Student. On April 17, 2025, the Middle School Principal responded to the Complainant and attached a threat assessment document for the Student.
14. On April 24, 2025, the Middle School Special Education Provider emailed the Complainant three attachments, all for the Student, titled "Amendment", "IEP Amend", and "IEP Amend PWN."
15. On April 28, 2025, the Middle School Special Education Provider emailed the Complainant an attachment of an updated IEP Amendment for the Student dated April 24, 2025.
16. On May 22, 2025, the Special Education Provider emailed the Student's high school course selections to the Complainant.
17. On May 26, 2025, the Middle School Special Education Provider emailed a copy of the Student's IEP Progress Report to the Complainant.
18. On August 1, 2025, the Complainant forwarded a May 23, 2025 email to the Special Education Provider and the Assistant Principal, in which they had formally requested an IEP meeting. The Complainant stated, "Just following up about this email to get the IEP meeting completed for [the Student]."
19. A Record of Paraeducator Inservice log indicated the Paraprofessional attended eight hours of "Convocation" on August 5, 2025.
20. A screenshot of outgoing calls placed by the Complainant to the Former Administrator's phone line listed two calls. According to the Complainant, "I called [the Assistant Principal] on August 8, 2025, at 11:58 AM, to reiterate that school was starting on Tuesday and that the IEP meeting needed to be held as soon as possible. Following that call, [the Assistant Principal] confirmed [they] would schedule it and sent out the Teams meeting invite later that same afternoon at 5:15 [PM]." On August 8, 2025, the Assistant Principal sent an invitation to 13 guests with the title: "Invitation: Parent Meeting For [the Student] @ Mon Aug 11, 2025 1pm - 2pm."
21. An Inservice Sign-in Sheet dated August 11, 2025, documented the attendance of the Paraprofessional at the professional development session from 7:30 a.m. to 9:00 a.m.
22. On August 12, 2025, the Complainant emailed the PBS Teacher and described that they would prefer the staff to get [the Student's] breakfast and lunch and deliver the meals to the PBS Room, "as it was suggested yesterday."
23. In an email exchange on August 12 and 29, 2025, the Complainant and the Assistant Principal discussed the consistent implementation of the Student's meal

plan, which required meals to be brought to them in the PBS room to prevent charging items. According to the Complainant, they followed up after the Assistant Principal's initial correction failed, reporting the Student was still being taken into the lunchroom. The Assistant Principal confirmed the lapse and immediately committed to correcting the procedure by establishing a meal delivery system.

24. On August 14, 2025, the Complainant emailed the Special Education Provider and listed concerns with the Paraprofessional's failure to implement the IEP after attending a meeting with the specific intent to review the IEP and expectations. The Complainant stated, "… I scheduled that meeting to ensure the para[professional] and teachers fully understood [the Student's] IEP and to get everyone on the same page … ."
25. In an email exchange on August 17 and 18, 2025, the Complainant and the PBS Teacher discussed school materials. The PBS Teacher apologized and stated, "I knew [their] Chromebook was to stay at school[,] but I must have missed the binder part. We will keep it in my class moving forward." They then confirmed with the Complainant that the Student did not have a Chromebook.
26. On August 17, 2025, Witness 1 emailed the PBS Teacher and informed them about school materials the Student attempted to bring home, which contradicted the IEP. Witness 1 refused to take the materials home and informed the PBS Teacher that the Student's belongings would not be leaving school when they were in charge of pickup.
27. On August 21, 2025, the PBS Teacher emailed the Complainant and indicated they were "… was not made aware that anything went home… . I hope you know I will be talking to both [the Student] and the [Paraprofessional]."
28. In an email exchange on August 22 and 25, 2025, the Complainant expressed concerns to the Assistant Principal and Special Education Provider regarding the persistent failure of school staff, particularly the Paraprofessional, to implement the Student's IEP and BIP with fidelity. Consequently, the Complainant requested the Paraprofessional be removed from the Student's case and a new special education instructor be assigned to oversee the Student's plan due to the Student receiving "inaccurate" accommodations, like being taken to an alternative classroom for a regular quiz because it was deemed "too loud," an accommodation only permitted for state assessments.
29. On August 25, 2025, the Assistant Principal emailed the Complainant and explained they reached out to a classroom teacher and worked on a "paper and pencil solution," and they "… have the teacher not to have [the Student] leave the classroom due to this issue [sic] … [the Student] should stay in the classroom" when other students are using computer based tests or curriculum.
30. In an additional August 25, 2025 email to the Complainant, the PBS Teacher described an incident with the Student coming to the PBS Room, and the PBS Teacher explained to the Student the expectations and "reiterated that there is a plan in place for a reason, and what the expectations for [the Student] are."

31. On August 28, 2025, the Assistant Principal emailed the Complainant to explain the Instructional Manager had agreed to become the Student's new case manager, and the process of updating their information in the system was underway. The Assistant Principal indicated they would not be switching the Student's paraprofessional.
32. On August 29, 2025, the Complainant and Assistant Principal exchanged emails that described the Student's participation in MAP testing and the necessary accommodations. The Assistant Principal informed the Complainant that due to the test's nature, the Student would use a computer for MAP testing only, a use permitted by the IEP with supervision, and confirmed that paper-and-pencil assignments would continue for all other classwork. The Complainant affirmed that the Student was allowed Chromebook access for state assessments, but stressed that one-on-one supervision was mandatory during this time to prevent the Student from accessing unauthorized content.
33. On September 2, 2025, the Complainant emailed the PBS Teacher, instructing them to convey a consistent message that the IEP was non-negotiable and to avoid explaining or reasoning with the Student. The PBS Teacher agreed to uphold this instruction.
34. On September 4, 2025, the PBS Teacher emailed the Complainant and stated they would send home the Student's project in a sealed envelope.
35. On September 8, 2025, the Complainant emailed the Art Teacher to express concerns about the Student's work, focusing on the implementation of their academic accommodations and the Paraprofessional's role. The Complainant stressed that a change decided at the August 11, 2025 meeting was the complete removal of Chromebook access for classwork, mandating instead that all assignments be provided in paper-and-pencil format due to the historical failure of the one-on-one supervision requirement. The Complainant asserted that despite this agreement, both the "no Chromebook use" and the paper-and-pencil requirements were not being consistently followed from the start of the school year. Furthermore, the Complainant sought clarification on whether the Paraprofessional was completing work for the Student. The Art Teacher countered by stating the Paraprofessional did not complete projects or classwork for the Student and confirmed the Student was engaged in class.
36. On September 8, 2025, the following emails were sent to the Complainant regarding the Student's IEP:
    a. The Instructional Manager wrote, "In the IEP I received it states Other: When using a computer there will be direct supervision by [the Student's] 1 on 1 para[professional] or the teacher. I am new to [the Student's] case management and was not a part of any previous meeting. [The Student's] IEP is dated 10/24/2025."

b. The Art Teacher wrote, "I went through the IEP again and it says [the Student] can use a computer with adult monitoring. Has there been an update that we are not aware of … ."

c. The Assistant Principal of Student Services wrote to describe working with the Instructional Manager to "… adjust the language of the IEP for an amendment."

37. Behavior Tracking Sheets for the Student, dated September 8-12, 2025, indicated daily tracking across class periods for the following behaviors: "Attendance, Argue, Avoid task, Profanity, Provoke," with a "Yes/No" to indicate whether the desired behavior was achieved.

38. The Bell Schedule for the 2024-25 school year indicated a "regular release" time of 2:50 p.m., an "early release" of 1:20 p.m., and a "FAST/Testing SCHEDULE" release time of 11:41 a.m. The High School Schedule for the 2025-26 school year noted release times of 3:02 p.m. on Monday, Tuesday, Thursday, and Friday, a Wednesday release time of 2:38 p.m., and an early release time of 1:32 p.m.

39. The Food Service Account Statement for the Student indicated 12 total charges placed between September 12, 2024, and September 12, 2025. Six of the 12 charges were voided, and the account maintained a balance of $4.50.

40. Bus scan records for the 2024-25 and 2025-26 school years indicated a total of nine early bus scans for the Student before the release time(s):

a. September 12, 2024, 2:47:36 p.m.

b. October 7, 2024, 2:48:50 p.m. and October 28, 2024, 2:48:35 p.m.

c. October 29, 2024, 2:48:32 p.m. and October 31, 2024, 2:49:10 p.m.

d. November 4, 2024, 2:46:03 p.m. and November 8, 2024, 2:49:36 p.m.

e. December 10, 2024, 2:45:18 p.m. and January 23, 2025, 2:48:45 p.m.

f. September 10, 2025, 2:59:44 p.m.

41. An undated staff training slide shows indicated the following trainings:

a. Title: "Advanced De-escalation Skills."

b. "IDEA Disability Categories."

c. "Handle with Care."

d. "Understanding IDEA Disabilities - Specific Diagnosis."

i. ADHD, ASD, RAD, ODD, GAD, and Other Specified Disruptive, Impulse-Control, and Conduct Disorder were listed as specific diagnoses.

Complainant Interview

42. In an interview with the Investigator, the Complainant shared:

a. They were the educational advocate for the Student.

b. They requested an IEP meeting at the end of the 2024-25 school year. A meeting was held on August 11, 2025. The Complainant believed it was a

formal IEP meeting. The Complainant indicated the meeting was virtual and requested all staff who worked with the Student be present. The Complainant recalled both the Paraprofessional and Witness 1 were in attendance, as well as the PBS Teacher, the Art Teacher, the ROTC Teacher, and the Special Education Provider. After the meeting, the Complainant "… felt like everybody was on the same page … ." They believed IEP amendments were made during the meeting and would be effective the next school day.

c. They had not received copies of the IEP documents from the August 11, 2025, meeting.

d. According to the Complainant, on August 12, 2025, the day after the meeting, "… the Student's charging food to my account with … [the Paraprofessional] with [them]." Additionally, the same day, "… the Student came home from school and [the Student] had all of [their] school supplies with [them] where [the Student's] IEP says [the Student's] school supplies are supposed to stay in the classroom and [the Student's] not supposed to bring them home."

43. The Complainant stated, according to the Student's IEP:

a. The Student was not allowed access to a Chromebook because the Student "becomes unsafe and distracted … on the computer."

b. The Complainant recalled, "… And then they agreed that they would do everything paper and pencil, and they didn't have any of that in place for [the Student] either, which was shocking as well because we had agreed upon that." The Complainant stated the School was not following this accommodation for any classes. The Complainant shared the Assistant Principal told them the Student was removed from a class because the accommodation could not be met.

c. The Student's IEP prohibited staff from giving the Student any non-educational items due to a history of stealing and hyper-focusing on gifted items.

d. The BIP stated the Student would be given "three choices or three times to comply. And then you are … just supposed to say 'non-negotiable, move on' …."

i. The Complainant believed this was not being followed because the PBS Teacher shared with the Complainant a "conversation" the PBS Teacher had with the Student during an escalation.

e. "And then as far as the bus staff, it also says on the IEP that staff are to refrain from having private, educational, or any type of information in front of the Student."

f. Staff training was listed in the Student's IEP. They believed this training was important for the staff to understand the accommodations in the IEP and, according to the Complainant, "… they're supposed to provide me copies of

training that it's happened … ." The Complainant indicated they requested, but had not received any training logs.

44. The Complainant stated the Paraprofessional took the Student to a separate room for a test, which was not an accommodation in the IEP. They also shared the Paraprofessional provided the Student with answers to a safety test for the art class. Additionally, the Complainant stated the Student was being released early from class in both the 2024-25 and 2025-26 school year so the Student could board their bus.

45. The Complainant shared the following regarding the 2024-25 school year:

    a. A paraprofessional assigned to the Student at the beginning of the 2024-25 school year "was taking [the Student] into the [janitorial] closet, getting [the Student] ice. [The paraprofessional] was letting [the Student] get on [the Student's] laptop. … was letting [the Student] listen to inappropriate music. … go to websites and do gaming and just stuff that was non-educational."

    b. The Complainant requested a new paraprofessional, and the Middle School Principal assigned two new paraprofessionals, including Witness 1, who was also the Student's respite provider.

    c. The Complainant reported the new paraprofessional team followed the IEP for the rest of the 2024-25 school year.

        i. The Complainant stated there were additional problems following the IEP in the second semester of the 2024-25 school year when a long-term substitute teacher was assigned to the Middle School PBS classroom. According to the Complainant, no grades were reported for the end of the semester, and the Student told the Complainant they were "not learning anything in class."

46. Additionally, the Complainant stated:

    a. Daily data tracking sheets were supposed to be kept for the Student according to their IEP. They requested copies in the 2025-26 school year and believed the copies emailed to them were doctored.

    b. The Complainant shared that data was not tracked at all at the beginning of the 2024-25 school year.

    c. The Complainant wanted to be able to cross-reference reported behavior incidents with daily tracking data.

47. After the start of the 2025-26 school year, the Complainant requested a new special education case manager and paraprofessional. The Assistant Principal "immediately" changed the case manager. At the time of the interview, the paraprofessional had not been reassigned.

48. The Complainant expressed doubt over the efficacy of the LEA digital pass system. The Complainant was able to view data reported in the Parent Portal. They were concerned with the amount of time the Student was reported out of class, as well as the system not documenting regularly scheduled nurse visits for medication.

Witness 1 Interview

49. In an interview with the Investigator and the Director of Secondary Special Education, Witness 1 shared the following:
    a. They were a paraprofessional with the LEA who was assigned to work with the Student at the Middle School in November 2024 and also provided respite care in a private setting every other weekend for the Student. Witness 1 shared they received training regarding the Student from the Middle School Special Education Provider during the 2024-25 school year.
    b. They were told the August 11, 2025 meeting was an IEP by the Principal. They had been asked to attend by the Complainant. Witness 1 stated they had trouble logging in to the virtual meeting and ended up calling in on speaker phone.
    c. The special education buses frequently left the Middle School at the same time the dismissal bell rang. This made it difficult to ensure students received both instructional minutes and transportation.

Special Education Provider Interview

50. In an interview with the Investigator, the Special Education Provider recalled an August 11, 2025 meeting between the Student's high school team and the Complainant. The Special Education Provider described it as a virtual meeting, which allowed the Complainant to share information about the Student with their new team. The Special Education Provider recalled the Complainant wanted the team to be "prepped" for the Student's behaviors and needs. The Special Education Provider shared the Complainant was upset during the meeting that the Special Education Provider had not sent out the IEP to the team. They sent the IEP out to the team by email during the meeting at the Complainant's request. According to the Special Education Provider, the August 11, 2025 meeting was not an IEP meeting, and the Complainant never formally requested to review the Student's documents.

Instructional Manager Interview

51. In an interview with the Investigator and the Director of Secondary Special Education, the Instructional Manager shared the following:
    a. They were assigned to the Student on August 28, 2025 and they were not present for the August 11, 2025 meeting. At the time of the August 11, 2025 meeting, the Special Education Provider was the case manager for the Student. The Instructional Manager stated they were unaware of any amendments or updates to the Student's IEP and did not recall the Complainant formally requesting a review of records.
    b. The PBS Teacher and the Special Education Provider had been in charge of the training for all special education staff, including bus staff. The Instructional Manager indicated they continuously checked in with the special education staff, including bus staff, to make sure training was being

followed. The Director of Secondary Special Education verified training was held for all classified staff on August 5, 2025, prior to the start of the 2025-26 school year. They described the training as "individualized" for the staff.

c. The Instructional Manager stated they performed weekly check-ins with staff and the Complainant. Regarding daily tracking data, the Instructional Manager stated the Paraprofessional filled out a daily checklist after each class period. At the end of each school day, the Paraprofessional turned the completed checklist into the Instructional Manager. At the end of each week, the Instructional Manager faxed the sheets to the Complainant.

PBS Teacher Interview

52. In an interview with the Investigator and the Director of Secondary Special Education, the PBS Teacher shared the following:

a. The Student was in their "first hour PBS class" and ate breakfast and lunch in the PBS classroom. The PBS Teacher indicated they used the social emotional learning curriculum in the PBS classroom and that Students were allowed to use the PBS classroom as a space to calm down. According to the PBS Teacher, the Student required one-on-one support. They shared the Student struggled with transitions, large group settings, and respect for others' personal space, and confirmed the Student did not have a Chromebook.

b. The purpose of the August 11, 2025 meeting was to share information about the Student, and it was not an IEP meeting because the IEP was not reviewed.

c. Regarding training, the PBS Teacher stated they had previously worked as a behavior technician. They believed their training as a registered behavior technician was sufficient for their position as PBS Teacher because the training focused on positive behavior reinforcement. The PBS Teacher stated the Student's specific disabilities were covered in their behavior technician training.

Assistant Principal Interview

53. In an interview with the Investigator and the Director of Secondary Special Education, the Assistant Principal shared the following:

a. The Special Education Provider shared the "IEP at a glance" with staff before the school year began.

b. The Instructional Manager continuously checked in with teachers and classified staff about the Student's IEP.

c. The Director of Secondary Special Education added the High School had early release every Wednesday to allow staff to communicate about student needs.

d. The Assistant Principal was unable to recall specific training the staff received for the Student's IEP. The Director of Secondary Special Education clarified that the professional development day on August 5, 2025 was an opportunity for all staff to review each student's IEP. During that professional development day, the Special Education Provider worked with teachers and classified staff assigned to the Student. The staff reviewed the Student's IEP and BIP and received any necessary specialized training. The PBS Teacher trained the paraprofessional staff, and the Transportation Department trained the bus staff.

e. The Director of Secondary Special Education stated both the staff and the LEA tracked the training data for classified staff to ensure fidelity. They stated the required amount of training varied depending on position, and the data was audited on an annual basis. The Director of Secondary Special Education stated they communicated with the Complainant regarding staff training in an informal manner and could provide documentation upon request.

f. The Director of Secondary Special Education stated the bus staff had access to the Student's IEP and BIP, and the Assistant Principal stated that both a hard copy and a digital copy of the IEP and BIP were shared with staff.

g. When asked to describe the August 11, 2025 meeting, the Assistant Principal recalled it as a "parent meeting" to allow the Complainant to share information about the Student and indicated "suggestions" were provided on how to interact with the Student. They believed the Complainant understood it was an informal meeting. According to the Assistant Principal, no amendments were made to the Student's IEP. However, a conversation about amendments began on or around September 8, 2025.

h. The Assistant Principal did not recall the Complainant formally requesting a records review.

i. The Director of Secondary Special Education stated that a "student activity report" was data collected by the LEA's digital pass system. The Student scanned their ID card when they got on and off the bus to log their location. The bus drivers were also able to check the Student in without the ID card.

j. The Assistant Principal added "… it just may be a thing that the bus driver may go ahead and decide to scan … ."

k. The Student had been released early a total of 29 minutes during the 2024-25 school year at the Middle School, and had not been released early from the High School.

l. Witness 1 was permitted to pick up the Student from school. This was done on a regular schedule that was communicated to the PBS Teacher. The Director of Secondary Special Education stated Witness 1 did not pick up the Student early from school.

Principal Interview

54. In an interview with the Investigator and the Director of Secondary Special Education, the Principal stated they verbally reminded staff not to release students early twice a year, in a meeting at the beginning of each semester, and provided regular written reminders throughout the year in the weekly staff email. They were not aware of the Student being released early, and they had not received a formal records request from the Complainant.

Paraprofessional Interview

55. In an interview with the Investigator, the Paraprofessional stated they were the Student's one-on-one assistant and described the following:
    a. "I always carry a copy of [the Student's] IEP, so I have all the things that I'm supposed to implement … ."
    b. Regarding the Student's accommodations, "[The Student] … has me … ." Additionally, "There's a lot of accommodations. I am required to take [the Student] to the bathroom three times a day: third period, lunch, and the end of the day." "[The Student's] allowed breaks for no more than 10 minutes. Reminders of rules. [The Student] gets that from me."
    c. The PBS Room was a location for both a class the Student attends and a space for de-escalation.
    d. Regarding the BIP, the Paraprofessional described "keeping a vigilant eye on [the Student]."
    e. Regarding a September 5, 2025 email from the Complainant to the PBS Teacher in which the Paraprofessional was referenced, the Paraprofessional described, "… [The Student] wasn't using the computer, I was. [The Student] was telling me what to do, but on … behalf of the teacher, didn't have it set up yet for the paper copy [sic]. It was one of the first days of school. [The teacher] just didn't have it yet."
    f. Regarding removing materials from the classroom, "I never … let [the Student] take anything home. Oh, it was a piece of a necklace. … It was a project that [the Student] made that [the Student] was trying to take home, and I didn't tell [the Student] to take it home and work on it. It was something that was already finished. And at the time, nobody had told me about the whole envelope, like putting things in the sealed envelope. And I should have known that ahead of time. I'm sorry … . What is right here in [the Student's] IEP that says [the Student's] not really allowed to take anything home unless it's a document that needs to be signed by [the Complainant] and that if we needed to send something home, we have to put it in an envelope and it's got to be sealed with [the Complainant's] name on it and it's got to be given directly to the bus driver."

g. "The Student doesn't get released early from school. We leave … the classroom five minutes before the release time to get [the Student's] bathroom break in, and that's in [the Student's] IEP, and then we go from there to the release area."

h. Regarding training. "So, specifically with [the Student]. The day before, I came in and did a whole day of training on just [the Student]. There was a meeting with … [the Complainant], and I met with the principal … [the Assistant Principal] and [the PBS Teacher]. And they all sat down and gave me how to handle certain things and what to do, and they gave me [the Student's] IEP and taught me about how to use [the Student's] IEP … ."

56. In the Paraprofessional's interview, the Assistant Director shared that the High School implemented a new scanning system whereby Students scan their card when they arrive, leave for a break or other reason, and when they exit. The Paraprofessional indicated the Student scanned their card "except for the five-minute [period] when [the Student] leaves the five minutes early for classes. [The Student] doesn't have to scan out because [they] won't be scanning back in. So I've worked [it] out with all the teachers."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD # 437, in accordance with state and federal regulations implementing the IDEA, implemented the IEP and the BIP as written, specifically following the amendments made at the August 11, 2025, IEP meeting. K.A.R. 91-40-16(a)(b)(3-5), K.A.R. 91-40-19; 34 CFR § 300.323.

According to K.A.R. 91-40-16(a)(b)(3-5), K.A.R. 91-40-19, and 34 CFR § 300.323, an IEP must be in effect for each exceptional child at the beginning of each school year. The IEP must be accessible to all staff responsible for implementation, and each staff member must be informed of their duties in relation to the IEP. Each agency, teacher, and related services provider shall provide special education and related services to an exceptional child in accordance with the child's IEP and shall make a good faith effort to assist the child to achieve the goals and objectives stated in the IEP. Any and all staff members making good-faith efforts toward their duties within the IEP shall not be held liable for lack of progress on the student's part.

The Complainant alleged the LEA failed to implement the IEP and BIP, especially following amendments made at an August 11, 2025 IEP meeting. The amendments pertained to a Chromebook ban, PBS meals delivered to the PBS room, paper-and-pencil coursework, the Student's blocked food/cafeteria account, testing accommodations, and the IEP bathroom schedule.

The LEA acknowledged that a meeting was held on August 11, 2025, at the Complainant's request to ensure everyone was "on the same page" regarding the Student, not to amend the Student's IEP. No amendment was created or documented at the August 11, 2025 meeting. However, staff understood the Complainant's strong preference for paper-pencil work and, in good faith, started that practice at the beginning of the school year. The LEA described the Student's IEP allowed for monitored computer use. On September 8, 2025, when the new High School Instructional Manager noted the difference between the paper-pencil practice and what was written in the IEP, the Assistant Principal agreed to work with the High School Instructional Manager to adjust the IEP language through an amendment.

A review of the documentation and interviews indicated the Complainant believed the LEA did not comply with the Student's IEP and BIP in the following areas:

1. Meal Provision/Food Charges: While the Complainant claimed the Student was repeatedly taken to the lunchroom instead of having meals delivered to the PBS room, the IEP described eating lunch in the PBS room, not the process by which the meals should be acquired or food charges. *Not substantiated*.
2. Prohibition of Unauthorized Items and Materials: On August 12, 2025, the Student took home a binder that should have remained in the classroom. On another occasion, the Student took home a project from art class. The IEP indicated that all school materials should remain in the classroom. *Substantiated*.
3. Staff Training and Documentation: The LEA provided dates, times, sign-in sheets, and slides to verify required training, and there was no indication in the evidence that the Complainant requested that documentation. *Not substantiated*.
4. Implementation of Behavioral Strategies/Protocols: The Complainant referenced conversations staff had with the Student that violated the IEP. No evidence of these conversations was found in the record. *Not substantiated*.
5. Progress Monitoring/Data Tracking: The Complainant indicated data was not tracked at the beginning of the 2024-25 school year and described that the data they received for the 2025-26 school year was "doctored." There was no evidence to suggest data was not provided or that any data was manipulated. There was evidence to indicate the Instructional Manager provided data to the Complainant. *Not substantiated*.
6. Improper Use of Accommodations: The Complainant indicated the Student was taken to a separate room for a quiz and the Paraprofessional provided answers to the Student on a safety test. The IEP described an "alternative setting for all subjects when provided an assessment" indicating the Student's removal was permissible. There was no evidence that the Paraprofessional provided answers to the Student. *Not substantiated*.

The central issue in this allegation hinged on whether the August 11, 2025 gathering qualified as a formal IEP meeting under the IDEA. For a meeting to meet this definition, it must adhere to IDEA's procedural safeguards, specifically requiring proper notice to the Complainant and

the attendance of necessary staff. The record lacks evidence of proper notice, an amendment, or a PWN confirming its status as an IEP meeting.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is partially substantiated*** that the LEA failed to properly implement the IEP/BIP for the Student.

Additional Finding: The Complainant clearly requested an IEP meeting on both May 23, 2025, and August 1, 2025. Given that no IEP meeting was scheduled by the time the Complaint was filed on September 11, 2025, the substantial delay in convening the IEP team constituted a procedural violation under the IDEA.

Issue Two

Whether USD # 437, in accordance with state and federal regulations implementing the IDEA, provided instruction and services to the Student according to the LRE requirements when the Student was dismissed early for bus transport and was excluded from class due to the lack of paper-pencil coursework. K.A.R. 91-40-21, K.A.R. 91-40-1(II), K.S.A. 72-3420; 34 CFR § 300.114.

According to K.A.R. 91-40-21, K.A.R. 91-40-1(II), K.S.A. 72-3420, and 34 CFR § 300.114, the LEA must ensure children with disabilities are educated in the LRE to the maximum extent appropriate with children who are not disabled. A child should not be removed from education in age-appropriate, regular classrooms solely because of needed modifications in the general curriculum.

The Complainant alleged the Student was released early for bus transport while nondisabled peers remained in class. Additionally, the LEA excluded the Student from class due to the lack of paper-pencil coursework being provided per the IEP.

The LEA indicated they attempted to implement parent-requested practices, like limiting Chromebook use, even before formal IEP amendments were finalized. However, conflicting understandings between the Complainant's statements and the IEP complicated the implementation. Additionally, bus scan data showed the Student was dismissed early on several occasions, totaling 29 minutes during the 2024–25 school year, though this has occurred only once in the 2025–26 school year.

A review of the documentation and interviews indicated the Complainant asserted that at the August 11, 2025 meeting, the team agreed to remove Chromebook access and supply the Student with paper-pencil assignments. However, the August 11, 2025 meeting was not an IEP meeting, and that information was not documented in an IEP amendment. The current IEP from October 2024 (amended in April 2025) indicated the Student could use a computer with adult monitoring and was silent on the provision of paper-pencil assignments.

During the interview, the Paraprofessional explained that they and the Student left the final class five minutes early to ensure the Student received an IEP-mandated bathroom break

before going to the bus. This adherence to the IEP resulted in one early bus scan during the current 2025–26 school year complaint window. The eight occurrences during the 2024–25 school year involved early release from a non-instructional Advisory class. In all these instances, the early admittance to the bus did not constitute a material failure to implement the Student's IEP, as supported in E.C. v. U.S.D. 365 Andover (D. Kan. 2020), which found that temporary departures from a student's plan did not cause lasting harm or impede a student's progress.

Based on the foregoing, ***it is not substantiated*** that the LEA violated IDEA and Kansas special education regulations regarding the provision of paper-pencil assignments. I***t is not substantiated*** that the LEA failed to educate the Student in the LRE on specific dates when the Student was allowed to go to the bus before the official dismissal time.

Issue Three

Whether USD # 437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant with a copy of the updated IEP from the August 11, 2025 meeting, and an opportunity to review the Student's educational records. K.A.R. 91-40-25(a), K.A.R. 91-40-18(d); 34 CFR § 300.501(a), 34 CFR § 300.322(f).

According to K.A.R. 91-40-25(a), K.A.R. 91-40-18(d), and 34 CFR § 300.501(a), 34 CFR § 300.322(f), the LEA must allow a parent or guardian to review any and all educational records for their student, and a copy of a child's IEP shall be given to the parent or guardian at no cost.

The Complainant alleged they requested, but did not receive, an updated copy of the IEP from the August 11, 2025 amendment meeting. Additionally, the Complainant requested, but did not receive, documentation of staff training on the Student's IEP and their mental health diagnoses.

The LEA asserted they consistently provided the Complainant with copies of the Student's IEP and amendments when they were created (October 2024, March–April 2025). The August 11, 2025 meeting did not generate an updated IEP, and the Complainant was later informed the IEP remained unchanged. According to the LEA, between September 12, 2024 and September 11, 2025, Complainant did not request educational records for the Student.

The August 11, 2025 meeting was not an IEP meeting and did not result in the creation of amendments. The LEA routinely provided records to the Complainant from October 2024 to May 2025, including IEP documents, amendments, progress reports, and a threat assessment. There was no evidence to indicate the Complainant made any formal request for a records review.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to provide an opportunity for the Complainant to review the Student's records.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at 34 CFR § 300.323, and Kansas regulations K.A.R. 91-40-16(a)(b)(3-5) and K.A.R. 91-40-19 specify that an IEP must be in effect at the beginning of the school year and that staff must make an effort to assist the child in meeting their IEP goals.

   In this case, the evidence supports the finding that USD # 437 did not adhere to the IEP/BIP regarding school materials. Documentation and interviews document this.

B. Federal regulations at 34 CFR §§ 300.321, 300.322, and Kansas regulations at K.A.R. 91-40-17 specify IEP meetings shall be properly noticed and attended by required participants.

   In this case, the evidence supports the finding that USD # 437 did not schedule an IEP meeting in a timely fashion after the Complainant requested one on multiple occasions.

Based on the foregoing, USD # 437 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD # 437 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the IDEA at 34 CFR § 300.323, and Kansas regulations K.A.R. 91-40-16(a)(b)(3-5) and K.A.R. 91-40-19) by reviewing the IEP and BIP with all relevant parties.
2. Within in 15 calendar days of the date of this report, USD # 437 shall submit a written statement of assurance to SETS stating that it will comply with state and federal regulations implementing the IDEA at 34 CFR §§ 300.321 300.322, and Kansas regulations K.A.R. 91-40-17 that the LEA's practices and procedures for parent-requested IEP meetings have been reviewed and revised as appropriate to be responsive and compliant the IDEA and the Kansas Special Education for Exceptional Children Act.
    a. Additionally, if an IEP meeting was not scheduled after the filing of this Complaint on September 11, 2025, then one is scheduled within 15 calendar days of receiving this report, and notification of the completion of the IEP meeting is provided to SETS by November 15, 2025.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 437
Auburn/Washburn Public Schools: 26FC437-003

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on September 11, 2025, by ----- on behalf of -----. In the remainder of this decision, ----- will be referred to as "the complainant" and ----- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on October 14,, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations with regard to Issue one, but not to Issues two and three.

Thereafter, the complainant filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the complainant's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Issues on Appeal

ISSUE ONE: Whether USD # 437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Individualized Education

Program (IEP) and the behavior intervention plan (BIP) as written, specifically following the amendments made at the August 11, 2025, IEP meeting. *K.A.R. 91-40-16(a)(b)(3-5), K.A.R. 91-40-19; 34 CFR § 300.323*. NOTE: The Complainant verified that the allegations also pertained to the time prior to August 11, 2025. This allegation was "partially substantiated."

ISSUE TWO: Whether USD # 437, in accordance with state and federal regulations implementing the IDEA, provided instruction and services to the Student according to the least restrictive environment (LRE) requirements when the Student was dismissed early for bus transport and was excluded from class due to the lack of paper-pencil coursework. *K.A.R. 91-40-21, K.A.R. 91-40-1(ll), K.S.A. 72-3420; 34 CFR § 300.114.* This allegation was not substantiated

ISSUE THREE: Whether USD # 437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant with a copy of the updated IEP from the August 11, 2025 meeting, and an opportunity to review the Student's educational records. *K.A.R. 91-40-25(a), K.A.R. 91-40-18(d); 34 CFR § 300.501(a), 34 CFR § 300.322(f)*. This allegation was not substantiated.

Discussion

As noted above, in the section titled "Preliminary Matters," a complainant may appeal "any of the findings or conclusions" of a complaint report. Kansas regulation 91-40-51(f)] limits appeals to the findings and conclusions in a complaint report. It does not allow an appeal based on newly raised issues or other considerations, such as the following allegations made in this appeal:

Retaliatory restrictions and adverse consequences imposed after I exercised my right to file state complaints; (Appeal, p. 1). This part of the appeal relates to the complainant's perception of conduct that may have occurred after the filing of this complaint and does not contest the findings or conclusions in the report and so is not subject to appeal.

Continued denial of my right to meaningful participation by restricting my direct communication with the IEP team for all three students in my home- (Appeal p. 1). This part of the appeal relates to the complainant's perception of conduct that occurred after the filing of this complaint and does not contest the findings or conclusions in the report and so is not subject to appeal.

The rest of the appeal is as follows:

1. Conflict of Interest and Lack of Impartiality – (Appeal, p. 1)

This part of the appeal contends that a school administrator attended interviews between the investigator and school staff members and a guest member of the student's IEP Team, and "constituted direct interference with a complainant witness, violating the procedural neutrality required under K.A.R. 91-40-51(a) and 34 C.F.R. § 300.509(a)(2). The Appeal Committee reviewed both of these regulations and found nothing in either that restricts the interview process in any way. The appeal also asserts that because the interviews were conducted on school premises, "*This environment deprived both my witness and me of voluntary participation*

and impartial treatment, violating procedural-fairness standards and compromising the independence of the investigation." The complainant added, "*All witnesses, including Witness 1, should be re-interviewed independently, outside district premises and without Ms. Carlson or any USD 437 representative present, to restore procedural fairness, neutrality, and compliance with IDEA and Kansas Administrative Regulation.*"

The Appeal Committee finds that there is nothing in the law that controls interview methods used by the investigator. Moreover, interviewing witnesses together is sometimes more, rather than less, likely to achieve fairness and neutrality in the interview process. The Appeal Committee concludes that the interview process used by the investigator did not violate any legal requirement, or interfere with, or otherwise adversely affect the findings and conclusions in the Complaint Report.

2. Incomplete, Inconsistent and Unverified Staff-Training Documentation – (Appeal p. 3).

This part of the appeal relates to a conclusion of the investigator on page 32 of the report that staff training required by the student's IEP was completed. The investigator concluded that " The LEA provided dates, times, sign-in sheets, and slides to verify required training, and there was no indication in the evidence that the Complainant requested that documentation. Not substantiated."

In this appeal, the complainant asserts that *"multiple staff statements regarding training were inconsistent and never reconciled.*" Among these inconsistent statements, the complainant asserts that different individuals cited different dates (August 5 and August 11) for when the training occurred. The complainant's appeal included this statement, *"This omission violates 34 C.F.R. § 300.323(d) and K.A.R. 91-40-17(a), which require that each teacher and service provider responsible for implementing a student's IEP be informed of their specific responsibilities and receive the necessary training to implement the IEP with fidelity*."

On page 32 of the report, the investigator found, "*The LEA provided dates, times, sign-in sheets, and slides to verify required training, and there was no indication in the evidence that the Complainant requested that documentation*." There may well have been some inconsistencies in what was reported to the investigator by various personnel, but the investigator did not rely on those reports for this conclusions. She relied on "*dates, times, sign-in sheets, and slides to verify required training.*"

The Appeal Committee concludes that there was adequate documentation of the completion of the staff training required by the IEP.

3. Misclassification of August 11, 2025, IEP Meeting and Procedural Deficiencies

In her appeal, the complainant says "The report incorrectly concluded that the August 11, 2025, meeting was not an IEP meeting…" The report said, "

> *The central issue in this allegation hinged on whether the August 11, 2025 gathering qualified as a formal IEP meeting under the IDEA. For a meeting to meet this definition, it must adhere to IDEA's procedural safeguards, specifically requiring proper notice to the Complainant and the attendance of necessary staff. The record lacks evidence of proper notice, an amendment, or a PWN confirming its status as an IEP meeting.*

It appears to the Appeal Committee that the district did not intend the August 11, 2025 meeting to be an IEP meeting and so did not treat it as an IEP meeting with a PWN. As the meeting proceeded, it looked more like an IEP meeting.

Whether or not this meeting should be ruled an IEP meeting is largely irrelevant because the report cited this "Additional Finding":

> Additional Finding: The Complainant clearly requested an IEP meeting on both May 23, 2025, and August 1, 2025. Given that no IEP meeting was scheduled by the time the Complaint was filed on September 11, 2025, the substantial delay in convening the IEP team constituted a procedural violation under the IDEA.

Accordingly, there was a finding in the report that the district had not timely scheduled an IEP meeting. if the August 11, 2025 meeting was an IEP meeting, we would have to remove this "Additional Finding." The August 11, 2025 meeting cannot be both an IEP meeting and not an IEP meeting.

The Appeal Committee concludes that the district mishandled this matter by either not timely convening an IEP meeting (as the investigator determined) or by scheduling a meeting without proper notice (as the complainant asserts in this appeal). The difference between the two is minimal, but should be clarified. Therefore, the Appeal Committee changes the conclusion in this portion of the report to: The district failed to comply with procedural requirements of law by either failing to timely schedule an IEP meeting or scheduling an IEP meeting without proper notice. No change to the corrective action ordered in the report is necessary as a result of the revision of this conclusion because the existing corrective action is sufficient to also address this revision.

4. Witness 1 Misclassified and Interviewed Improperly

This portion of the appeal is the same as the issue in number 1 above, and is not subject to appeal.

5. Paraprofessional Interview Contradictions and Unreconciled Training Inconsistencies – (Appeal, p. 7)

The complainant's appeal states that: "*The investigator failed to reconcile multiple contradictions within the paraprofessional's interview and to verify those statements against the student's IEP, related amendments, and regulatory requirements.*" While the Appeal Committee appreciates the complainants detailed analysis of what the complainant describes as "contradictions" in statements made by various school staff members, it does not reach the same conclusions. When multiple people are interviewed about a specific event, it is not unusual for there to be different interpretations of what occurred. Part of an investigator's task is to make judgements as to what testimony is most credible. That judgement may rely on the personal interaction between the investigator and the person being interviewed, much like a judge in a court when considering the testimony of witnesses. The Appeal Committee generally defers to the investigator's judgement of witness credibility, unless there appears to be a clear error of judgement, which there is not in this case. As previously noted, the investigator's conclusion on this "training" issue was based, not on witness credibility, but on solid evidence, explained in the report on page 32, as: "The LEA provided dates, times, sign-in sheets, and slides to verify required training."

6. Principal and PBS Teacher Interviews Not Fact-Checked

The complainant asserts that "The investigator failed to conduct adequate fact-checking or reconcile contradictions in the principal and PBS teacher interviews, resulting in unsupported findings and violations of IDEA procedural requirements for thorough, impartial investigation."

The Appeal Committee disagrees with this description of the investigator's work. The investigator conducted a comprehensive investigation, including the following:

- Review of 23 documents provided by the district and 4 documents provided by the district (Report, page 3 to page 31).
- Fifty Six separate findings of fact (from page 4 to page 31)
- Conclusions on the three issues presented (from page 31 to page 35)

The Appeal Committee concludes that the report reflects considerably more than "adequate fact checking." The report recorded the documents and the statements of both parties, gave weight to what the investigator concluded was most credible evidence, and reached reasonable conclusions based on the evidence presented.

7. Middle-School Violations Ignored

The complainant appeals the decision in Issue Two of the complaint, saying: "The investigator failed to address significant violations that occurred during the student's middle-school placement. Evidence and witness statements show that the student was regularly removed from instruction early to board the special-education bus, depriving him of instructional time in violation of Least Restrictive Environment (LRE) requirements under 34 C.F.R. §§ 300.114–300.116 and K.A.R. 91-40-21."

The investigator recognized that the student had been released from school early on occasion, but concluded that the early releases did not constitute a violation of law. The investigator explained her analysis as follows:

> *During the interview, the Paraprofessional explained that they and the Student left the final class five minutes early to ensure the Student received an IEP-mandated bathroom break before going to the bus. This adherence to the IEP resulted in one early bus scan during the current 2025–26 school year complaint window. The eight occurrences during the 2024–25 school year involved early release from a non-instructional Advisory class. In all these instances, the early admittance to the bus did not constitute a material failure to implement the Student's IEP, as supported in E.C. v. U.S.D. 365 Andover (D. Kan. 2020), which found that temporary departures from a student's plan did not cause lasting harm or impede a student's progress. Report p. 34.*

The investigator found no violation, citing a Kansas federal district court case saying that temporary departures from a student's IEP is not a violation of law unless it impedes a student's progress. While, a district court's rulings may have some persuasive value upon which an investigator may rely, higher courts that have ruled on this issue have unanimously agreed that perfect implementation of an IEP is not required.

In Abigail P. v. Old Forge School District, 124 LRP 21769 (3d. Cir. 2024), the third United States Circuit Court of Appeals joined the 4th, 5th, 8th, 9th, and 11th Circuits saying implementation failures must be material to be actionable and perfect adherence is not the standard. The court explained, "Indeed, a requirement of perfect adherence would ignore the realities and the challenges that the IDEA was built to accommodate… A materiality standard affords local agencies some flexibility while still holding those agencies accountable for material failures and for providing the disabled a meaningful education benefit."

The investigator reached her conclusion, not because the student did not leave school early, but because there was no evidence that the eight occurrences during the 2024–25 school year involving early release from a non-instructional Advisory class to board the bus constituted a material failure to implement the Student's IEP. The Appeal Committee agrees that without some showing of either a material failure to follow the IEP (whether a service or placement provision) or

some material detriment to the student's progress, there is no basis to find a violation of law. The conclusion in the complaint report on this issue is affirmed.

8. Procedural Violations and Adverse Consequence p. 11

In this portion of her appeal, the complaint asserts:

> Following the issuance of the investigation results, I have been subjected to escalating procedural restrictions and communication barriers.

This alleged activity was not an issue either alleged or investigated in this complaint. As such, the Appeal Committee concludes that it cannot be addressed in this appeal.

9. FERPA Violation Demonstrating Pattern of Misrepresentation – (Appeal p. 12)

This alleged communication and alleged violation of FERPA (or the IDEA) was not an issue alleged in this complaint or investigated by the investigator. As such, it cannot be addressed in this appeal.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 24th day of November, 2025.

Appeal Committee

Crista Grimwood

Brian Dempsey

Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512, SHAWNEE MISSION PUBLIC SCHOOLS
ON SEPTEMBER 22, 2025

DATE OF REPORT: OCTOBER 22, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #512 (Shawnee Mission Public Schools) on behalf of ------- by his mother -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the parent" or "the complainant".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The complaint is against USD #512 Shawnee Mission Public Schools. In the remainder of the report, USD #512 will be referred to as "the LEA". During the 2025-2026 school year the student is attending 9th grade at Shawnee Mission North High School which will be referred to as "the high school" in the remainder of the report. School and LEA staff will be referred to In the remainder of this report as follows:

- Sherry Dumolien, associate superintendent
- Holly Crumpton, school psychologist
- Carolann White, case manager
- Jennifer Dancer, assistant director of special education
- Jon Durham, assistant principal
- Jennifer Fontaine, counselor
- Emily Dorothy, social worker
- Abby Knipp, school psychologist conducting the Independent Education Evaluation (IEE)

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on September 22, 2025.

Evidence Reviewed

USD #512 made the following staff available for interviews on October 10, 2025 as part of this investigation.

- associate superintendent
- case manager

During the investigation, the Complaint Investigator, Nikki Crawford, reviewed all evidence and documentation provided by the LEA and the parent. Additionally, the complaint investigator contacted the parent and associate superintendent, on September 22, 23, 24, 25, 29, 30, October 2, 3, 4, 8, 10, 11, 13, 14, 15 and 17, 2025 by phone and email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. LEA's school calendar
2. Student's class schedule, no date
3. The student's most recent evaluation completed January 18, 2024
4. Student's current IEP dated January 15, 2025
5. Parent email to the LEA requesting a gifted evaluation and noting areas they felt the student demonstrated giftedness sent August 4, 2025
6. Student Attendance dated August 12, 2025 to October 2, 2025
7. LEA video sharing the role of general educators in the IEP process and the use of accommodations and modifications shared with school staff on August 14, 2025
8. Email from parent to case manager, assistant principal, counselor and social worker, second request for gifted evaluation, "These behaviors suggest a need for evaluation beyond math and English coursework. I am formally requesting that the school proceed with a gifted evaluation under the protections afforded through his current IEP." August 15, 2025 at 9:18 AM
9. Email from the school psychologist to the parent, "At this time, we will not be moving forward with an evaluation to consider eligibility as a student who is twice exceptional due to giftedness. I have attached a Prior Written Notice." sent August 15, 2025 at 11:06 AM
10. PWN refusing gifted evaluation dated August 15, 2025
11. Email from parent to school psychologist, case manager, social worker and assistant principal, "I am writing to formally express our disagreement with the LEA's decision and

to request an Independent Educational Evaluation (IEE) at public expense", sent August 15, 2025, 11:48 AM

12. Email from assistant director of special education to parents including a response letter approving the parent's request for an IEE, and a list of IEE providers sent August 28, 2025
13. PWN consenting to an IEE for "areas of academic performance and general intelligence" dated August 29, 2025
14. Email from the algebra teacher to the parent on September 16, 2025
15. Email from parent to the investigator offering additional information related to the denial of the evaluation for giftedness sent September 22, 2025
16. Email from the health teacher to the parent on September 23, 2025
17. LEA response to the complaint allegations dated October 3, 2025
18. LEA email confirming that there was at least one teacher who observed the student prior to the August 15, 2025 meeting, sent October 13, 2025
19. Email from the parent sharing examples of accommodations the student reports as not being implemented dated October 14, 2025
20. Emails from the associate director October 15 and 17, 2025 sharing evidence of accommodations offered in response to the parent's October 14, 2025 email
21. Email from the associate director clarifying why the school-wide motivation systems was removed from the student's IEP at the October 10, 2025 IEP amendment meeting dated October 17, 2025

Background Information

The subject of this complaint is a 9th-grade student during the 2024-2025 school year who lives at home with both parents as an only child. The student initially qualified for special education support for Speech/Language services in 2016 and later in 2020 was identified as having Autism. The parent reports that the student attended Head Start and was first evaluated in 3rd grade on the school's recommendation. The student has attended school in this LEA since kindergarten.

At the time of the complaint the student's current IEP is dated January 15, 2025 and includes the following goals and accommodations/modifications along with the anticipated frequency:

Goals -

1. Math goal to solve a one-step equation
2. Reading comprehension goal
3. Writing response goal
4. Executive functioning goal focused on reducing number of missing assignments

Accommodations/Modifications/Supplementary Aids and Services-

1. Preferential seating, near the source of instruction- daily
2. Frequent checks for understanding- daily
3. Modification of tasks to show mastery of priority standards- as determined by the task
4. Alternate setting and read-aloud accommodation for classroom LEA and state assessments- as determined by the assessment
5. Access to a scribe or speech to text for written assignments- as determined by writing task
6. Modification of length and format of classroom test and quizzes- as determined by assessment
7. Access to a copy of the teacher's notes- daily
8. Access to building-wide reinforcements for completing a required task or activity- daily
9. Verbal signal or warning to give the student notice that they may be called on to answer a question or share information- daily

The student has paraprofessional and/or certified special educator support available during all of the core classes which the student attends in the general education setting. The student receives 50 minutes 1x per week and 95 minutes 2x per week of instruction and support for executive functioning as well as 15 minutes of transition services, once a semester, in the special education setting.

Issues Investigated

Based on the written complaint and an interview with the complainant, three concerns which fall under IDEA or Kansas regulations were identified and investigated.

Issue One

Did USD #512 fail to provide a complete Prior Written Notice as required by 34 CFR §300.503(b) during the 2025-2026 school year?

Applicable Law

Federal regulations at 34 CFR §300.503(b) require that PWNs included the following: (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; (6) A description of other options that the IEP Team considered and the reasons why

those options were rejected; and (7) A description of other factors that are relevant to the agency's proposal or refusal.

Parent Position

The child complaint stated that, "The district continues to issue PWNs that lack the content required under 34 CFR 300.503, including data relied upon, options considered, and the reasons for rejecting alternatives".

LEA Position

The LEA response states, "The District maintains that it has complied fully with the requirements of IDEA and has not violated 34 C.F.R. § 300.503(b)". The LEA response also adds, "Both notices contained the elements required under federal law…".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. The LEA had issued two PWNs at the time the complaint for the 2025-2026 school year. The first was on August 15, 2025 which was a denial of the parent's request for a gifted evaluation and the second on August 29, 2025 which was an approval of parent request for an IEE.
2. The following is a comparison of what IDEA requires in a PWN and the content of the August 15, 2025 PWN.
    a. A description of the action proposed or refused by the agency.
        i. "[The LEA] refuses to conduct a evaluation."
    b. An explanation of why the agency proposes or refuses to take the action.
        i. "…there is not reason to suspect secondary exceptionality at this time."
        ii. "…data is suggesting that extension of academic materials and enrichment opportunities to adequately support [the student's] needs are within the scope of general education resources."
    c. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action.
        i. "Previous comprehensive educational evaluations completed by [the LEA] in January 2021 and January 2024; data reported in the 2021 re-evaluation included cognitive assessment scores that are not significantly above average."
        ii. "Academic history does not indicate enrollment in advanced level courses in middle school. Nationally-normed standardized assessment data in reading and math indicate skills are not significantly above average in either subject."

iii. "The most recent annual IEP, written January 15, 2025, states in its present levels of academic and functional performance that [the student's] abilities in math problem solving are significantly discrepant from peers, warranting placement in the special education setting to deliver direct, targeted instruction that would allow [the student] to access the general education curriculum in [their] on-level math course."

iv. "The current IEP includes accommodations that modify tasks to show mastery of priority standards and modified length and format of tests/quizzes."

v. "Eligibility Indicators for the state of Kansas define Giftedness as, 'performing or demonstrating the potential for performing at significantly higher levels of accomplishment in one or more academic fields due to intellectual ability, when compared to others of similar age, experience, and environment'. This includes, but is not limited to: progress monitoring that shows skills in one or more academic areas are much above that of peers, GPA, classroom assessments, etc., indicate significant excellence in academics, percentile rank not below the 95th percentile on nationally normed achievement tests, ease of task completion, rate of acquisition and retention indicate significantly high level of intellectual ability, and composite rank not below the 97th percentile rank on an individually administered, standardized, norm-referenced test of intellectual ability".

vi. "Parent input via email on 8/7/2025, and during a team meeting with [the school] staff on 8/15/2025. Staff input given during the meeting on 8/15/2025; meeting was attended by [the student's parents], special education case manager, school psychologist, academic counselor, biology teacher, social worker, and associate principal. Additional staff input was given to the school psychologist in a phone conversation with [the student's] 8th grade special education case manager on 8/7/25."

d. A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained.

i. A complete procedural safeguard statement is included in the PWN.

e. Sources for parents to contact to obtain assistance in understanding the provisions of this part.

i. These resources are listed under the Additional Information header.

f. A description of other options that the IEP Team considered and the reasons why those options were rejected.

i. "[The student] is a student accessing special education services due to exceptionality of Autism, which, Kansas eligibility indicators state is a

'developmental disability significantly affecting verbal and nonverbal communication and social interaction'. [The student] has an interest in computers and technology, parents reported [the student] exhibits signs of giftedness via tactile activities related to [the student's] interests. If enrichment required for [them] to access the curriculum is beyond those accessible through general education resources, the need for evaluation will be revisited. If it is suspected that [the student] possesses significantly higher skills and abilities upon transition to the high school, the team will reconvene to consider if there is reason to suspect potential for giftedness at that time."

3. The following is a comparison of what IDEA requires in a PWN and the content of the August 29, 2025 PWN.
    a. A description of the action proposed or refused by the agency.
        i. "[The LEA] proposes to conduct an initial evaluation."
    b. An explanation of why the agency proposes or refuses to take the action.
        i. "On August 15, 2025, [the student's] IEP team received an email from the student's parents requesting an Independent Educational Evaluation (IEE). The request followed the team's decision not to evaluate [the student] for eligibility as a twice-exceptional student due to giftedness. Based on the information provided, the district agrees to provide an IEE at public expense in the areas of academic performance and general intelligence. A list of approved IEE locations is included with this Notice for your consideration."
    c. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action.
        i. "The proposed IEE request is a unilateral request of the educational decision makers."
    d. A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained.
        i. A complete procedural safeguard statement is included in the PWN.
    e. Sources for parents to contact to obtain assistance in understanding the provisions of this part.
        i. These resources are listed under the Additional Information header.
    f. A description of other options that the IEP Team considered and the reasons why those options were rejected.
        i. "The team considered denying the request [and to] file for due process; however, in a good faith effort to resolve the matter, that option was rejected."

Conclusion

Federal regulations at 34 CFR §300.503(b) require that PWNs include specific information as noted above.

In this case, a review of both PWNs for the 2025-2025 school year at the time of the complaint found the LEA issued complete PWNs.

Based on the foregoing, it is found that the PWNs did include the required information. The *LEA is IN compliance* and no corrective actions are required.

Issue Two

Did USD #512 fail to appropriately consider a parent reevaluation request for giftedness as required by K.S.A. 72-3428(i)(1) during the 2025-2026 school year?

Applicable Law

K.S.A. 72-3428(i)(1) "As part of an initial evaluation, if appropriate, and as part of any reevaluation under this section, the IEP team and other qualified professionals, as appropriate, shall: (1) Review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers' observations;"

Parent Position

The parent complaint stated that there was a "Failure to act on parental reevaluation request."

LEA Position

The LEA response states, "The District maintains that it appropriately considered and responded to the parent's request in compliance with IDEA and Kansas statute".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of Issue One are incorporated herein by reference.

1. The parents sent an email to the school requesting a gifted evaluation on August 4, 2025.
2. The first day of school was August 12, 2025
3. The IEP team, including the parents, met to discuss the parent's request for a giftedness evaluation on August 15, 2025.
4. The LEA issued a PWN denying the request on that same day.
5. The refusal PWN dated August 15, 2025 included all of the required information of K.S.A. 72-3428(i)(1). Please see Issue One, ANALYSIS FINDING OF FACT, 2, c.
6. The PWN notes input from the parents, case manager, school psychologist, academic counselor, biology teacher, social worker and associate principal. Additional input from

the previous school year's special education case manager was gathered prior to the meeting on August 15, 2025.

7. In response to the LEA's denial of the gifted evaluation, the parent sent an email request for an IEE to the LEA on August 15, 2025.
8. The LEA responded with a PWN approving the IEE for general intelligence and academic performance on August 29, 2025.
9. In an email from the parent to the investigator on September 22, 2025 the parent shared, "I want to add that the school physically didn't even spend much time with [the student] before they refused [the gifted evaluation]. [The student] was at the school - maybe a week - before the refusal [to test for giftedness]. When we attended the [IEP] meeting - the school refused our requests - immediately - even in the actual meeting - and sent the PWN literally the same day. No evidence, no nothing".
10. In the LEA interview on October 10, 2025 the associate superintendent confirmed that the IEE will evaluate for giftedness.
11. In the LEA interview on October 10, 2025 the case manager confirmed that special education staff had observed the student in their general education classes prior to the August 15, 2025 IEP meeting.
12. In an October 13, 2025 email, the LEA confirmed that the biology teacher, having had the student in class, was able to share observational information as required by K.S.A. 72-3428(i)(1), in the August 15, 2025 meeting.

Conclusion

K.S.A. 72-3428(i)(1) As part of an initial evaluation, if appropriate, and as part of any reevaluation under this section, the IEP team and other qualified professionals, as appropriate, shall: (1) Review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers' observations;"

A review of the information included in the refusal PWN dated August 15, 2025 for the gifted evaluation finds that the LEA appropriately considered existing evaluation data which included LEA assessments in January 2021 and January 2024, parental input, classroom performance, and observations by the biology teacher and special education staff. Input from the student's 8th grade special education case manager was also noted in the PWN.

The parent understandably expressed concern that the student had only been at the high school for a few days prior to the LEAs refusal of a gifted evaluation. The LEA addressed this short time period in the August 15, 2025 PWN, "If enrichment required for [the student] to access the curriculum is beyond those accessible through general education resources, the need for evaluation will be revisited. If it is suspected that [the student] possesses significantly higher skills and abilities upon transition to [the high school], the team will reconvene to consider if there is reason to suspect potential for giftedness at that time".

It is noted that although the LEA denied an evaluation for giftedness on August 15, 2025, later upon the parent's request approved an IEE on August 29, 2025 which includes giftedness.

The initial refusal of the gifted evaluation included all of the information required by K.S.A. 72-3428(i)(1) and was within a reasonable timeframe with the first request being made by the parents in an email August 4, 2025 and the refusal PWN issued after the IEP meeting on August 15, 2025.

Based on the foregoing, it is found that the LEA appropriately considered the parent's evaluation request for giftedness. The *LEA is IN compliance* and corrective actions are not required.

Issue Three

Did USD #512 implement the student's IEP specifically related to accommodations as required by 34 CFR §300.323(c)(2) during the 2025-2026 school year?

Applicable Law

Federal regulations at IDEA 34 C.F.R. §300.323(c)(2) requires LEAs to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The parent stated in the September 22, 2025 interview, "… [the student] is getting tardies counted, but it is in the IEP. They are not following accommodations in the IEP".

LEA Position

The LEA response states, "The District denies this allegation and affirms that it has fully complied with federal and state requirements regarding IEP implementation. Pursuant to K.A.R. 91-40-16(b)(3), school districts must ensure that an IEP is in effect for each eligible child at the start of each school year".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of previous issues are incorporated herein by reference.

1. In the September 22, 2025 interview, the parent cited evidence of what they felt demonstrated lack of accommodation use:
    a. The student was being counted as tardy even though the parent felt this was addressed in the IEP.
    b. An email from the algebra teacher on September 16, 2025 noted missing assignments due to missed classes along with an offer to help the student catch-up, but no mention of accommodation use.

   c. An email from the health teacher on September 23, 2025 due to missing assignments and offer to help, but no mention of accommodations.

2. The student's accommodations (listed on page 4 of this report) do not address tardies or offer staff guidance on how to support the student to get to class on time.
3. Missing assignments are not specifically addressed in the IEP's accommodations although there are several strategies noted that may help the student complete work such as seating near the source of instruction, modification of tasks, access to a scribe or speech to text, and a copy of the teacher's notes.
4. A review of training records confirmed that all of the student's teachers received training on the use of accommodations and received the student's IEP Snapshot, which includes the student's IEP goals and accommodations.
5. In the October 10, 2025, interview, the associate superintendent stated that the LEA has no formal record-keeping for teachers to track when accommodations were utilized, but staff are told that they may be asked to summarize a student's IEP, including accommodations, at any time and need to be ready to do so.
6. In that same interview the case manager shared that she had frequently checked in with the student's teachers in-person and via email to ensure they understood the student's IEP. Additionally the case manager shared that the special education staff had observed use of accommodations utilized in the general education classes.
7. Examples of accommodations being implemented shared by the LEA:
   a. Biology- Teacher's documented use of an alternative location and read aloud for quizzes and a test on August 28, September 16 and 29, 2025. Teacher's notes including checks for understanding, and a staff working with the student in an alternative setting. The teacher also shared examples of class assignments and corresponding modified assignments for the student.
   b. Algebra- An example of a class assignment along with a sheet specifying modified steps to solve the equations which were shared with the student.
   c. English Language Arts- "[The student] was provided a scribe and completed the task in a small group setting outside of the classroom. This assignment was shortened to a 3-5 sentence paragraph from the original assignment which was to write 3 paragraphs. This was reduced to the priority standard of identifying a theme from identifying the theme and citing evidence to support your claim." And also, "…when completing the AF vocab quiz, [the student] completed the task in a small group setting outside of the classroom; [they were] tasked with completing 2 of the 3 sections originally assigned. [The student] answered verbally and the special education teacher in the class scribed for the student]. The number of questions asked of [the student] in sections 1 and 2 that were completed were reduced by 20% from the original task".
8. In an email on October 14, 2025 from the parent they reported that the student shared several accommodations that were not being offered including:

a. Frequent Checks for Understanding- "[The student] reports that staff are not using the agreed-upon scripted language (e.g., "What are you stuck on?") or check in with [the student] when [they are] not making progress on a task".
b. Modified Tasks to Demonstrate Mastery of Priority Standards- "This accommodation has not been implemented in most of [the student's] classes".
c. Access to a Scribe or Speech-to-Text Tools for Written Assignments- "[The student has not been instructed in how to use these tools and has not had the opportunity to utilize this support".
d. Modified Tests and Quizzes (Length and Format)- "Again, most of [the student's] classes are not making these modifications".
e. Access to Building-Wide Reinforcements for Completing Tasks- "This accommodation has never been offered or utilized".
f. Verbal Signal or Advance Warning Before Being Asked to Share or Respond- "[The student] reports that this support is not being used at all".

9. The LEA previously shared evidence of the above accommodations:
    a. Frequent checks for understanding reported by the Biology teacher.
    b. Modified tasks reported by Biology, Algebra and English teachers.
    c. Access to a scribe for written assignments reported by the English Language Arts teacher.
    d. Modified tests and quizzes reported by the English Language Arts teacher.
10. Emails from the associate director on October 15 and 17, 2025 shared evidence of accommodations offered in response to the parent's October 14, 2025 email.
    a. Verbal signal or advance warning prior to being asked to share or called on has been addressed by the teachers in the following manner:
        i. Math and Social Studies teachers report that they have not called on [the student].
        ii. The Computer Programming teacher reported significant improvement in engagement and performance. He reported working 1:1 or 1:2 with [the student] during class and only asking [the student's] his opinion on something after having done that.
        iii. ELA has not called on [the student] but reported [that they have] participated more often when in small groups with the SPED teacher.
        iv. Health reported having called on [the student] once, but it was not a curricular question — he asked, "if you had $5 million what would you do with it?" And [the student] answered.
11. An email from the associate director on October 17, 2025 clarified that use of the building-wide motivation system is not tracked for each student, however it was removed from the student's IEPs list of accommodations at the October 10, 2025 IEP amendment meeting. The associate director wrote, "The team determined that [the motivation system] wasn't motivating for the student. As part of the FBA they were going to also include motivation inventories. The amendment I provided you previously (from the meeting on 10/3) has received consent and is implemented."

Conclusion

IDEA 34 C.F.R. §300.323(c)(2) requires LEAs to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

In this case, the LEA confirms that the student's IEP was implemented at the beginning of the 2025–2026 school year. The LEA shared documentation that all of the student's general education teachers received training on the importance and use of accommodations and received the student's IEP Snapshot, including accommodations.

In the September 22, 2025 parent interview they noted two accommodation concerns; the lack of specific mention in staff emails of the use of accommodations and the student's tardies. The lack of specific mention in staff emails of the use of accommodations to support the student to complete assignments may be troubling for the parents but is not compelling evidence that accommodations were not utilized. Additionally, the student's tardies are understandably concerning for the parents, however the IEP accommodations do not mention strategies to address the student's tardies.

In a follow-up email on October 14, 2025 the parent included several other examples of accommodations the student reported as not being offered. It is noted that this student's opinions on whether the accommodations were being offered are important. Particularly as a student transitions into high school it becomes more important that they understand their own accommodations and are able to self-advocate. It is also noted that some of the current accommodations may not be obvious to the student who may not realize that an assignment or test has been modified or that not being asked a question in class is a function of an accommodation being offered.

The LEA provided specific examples and evidence of accommodation being followed except the building-wide motivation system. The associate director shared that the implementation of that system is not tracked by the school and that it had been removed by the IEP from the student's listed accommodations at the October 10, 2025 IEP amendment meeting.

Based on the foregoing, it is found that the LEA was able to provide examples and evidence of accommodation use and ***is IN compliance.*** No corrective actions are required.

Summary of Conclusions/Corrective Action

1. Issue One: A violation of 34 CFR §300.503(b) was not found based on the complete and accurate information contained in the reviewed 2025-2026 PWNs. Corrective action is not required.
2. Issue Two: A violation of K.S.A. 72-3428(i)(1) was not found based on the LEAs appropriate response to the parent's request for a gifted evaluation. Corrective action is not required.
3. Issue Three: A violation of 34 C.F.R. §300.323(c)(2) was not found based on the LEA's actions to promote implementation of the student's IEP accommodations and examples of accommodation use consistent with the IEP. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #385, ANDOVER PUBLIC SCHOOLS
ON SEPTEMBER 10, 2025

DATE OF REPORT: OCTOBER 23, 2025

This report is in response to a complaint with the Kansas State Department of Education against USD #385 (Andover Public Schools) on behalf of ------- by his parents, ------- and -------. In the remainder of the report, ------- will be referred to as "the student" and ------- will be referred as "parent 1" or "complainant 1"; ------- will be referred to as "parent 2" or complainant 2"; and both of them together will be referred to as "the parents" or the "complainants".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the complaint is against USD #385 (Andover Public Schools) who contracts with the Butler County Special Education Interlocal to provide special education and related services to students enrolled in the district. In the remainder of the report, both of these responsible public agencies will be referred to as "the Local Education Agency". In the remainder of the report, the LEA staff will be referred to as follows:

- April Hilyard, Special Education Director, Butler County Special Education Interlocal
- Shelley Jonas, Special Education Assistant Director, Butler County Special Education Interlocal
- Elton Armbruster, Principal, Wheatland Elementary School
- Marissa Vargas, School Psychologist
- Jennifer Thomas, Third Grade Teacher
- Jennifer Clausing, Special Education Teacher
- Rene Moses, Afternoon Paraprofessional
- Patti Scales, Morning Paraprofessional

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and issue a final decision from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on September 10, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator reviewed all evidence and documentation provided by the LEA and the parents.

The investigator interviewed parent 1 by telephone on September 12 and 30, 2025 and parent 2 by telephone on October 1, 2025.

The LEA made the following staff available for telephone interview on October 6, 2025 as part of this investigation:

- Principal
- Special Education Teacher
- Butler County Special Education Interlocal Assistant Director
- Afternoon Paraprofessional
- Morning Paraprofessional

Written documentation was provided by both the LEA and the complainant. The following written documentation was used in consideration of the issue:

1. Psychological Evaluation dated August 22, 2022 written by Dr. James Wright, Licensed Psychologist, Prairie View, Inc.
2. Student Based Support Team (SBST) Notes dated August 29, 2022
3. Individualized Education Program (IEP) dated September 25, 2024 and amended on May 5, 2025
4. Behavior Intervention Plan (BIP)
5. Prior Written Notice (PWN) for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent dated May 5, 2025
6. Email dated August 11, 2025 at 2:16 p.m. written by the Special Education Teacher to the parents
7. Special Education Teacher Service Logs dated August 11 though September 16, 2025
8. Email dated August 29, 2025 at 8:50 p.m. written by the Special Education Teacher to the parents
9. Video of student (August 29, 2025), 47 seconds
10. Email date August 30, 2025 at 11:04 a.m. written by the parent 1 to the Special Education Teacher
11. Email dated September 1, 2025 at 6:38 p.m. written by the Special Education Teacher to the parent 1
12. Email dated September 1, 2025 at 7:45 p.m. written by the parent 2 to the Special Education Teacher
13. Email dated September 1, 2025 at 8:05 p.m. written by the parent 1 to the Special Education Teacher

14. Email dated September 2, 2025 at 7:00 p.m. written by the Special Education Teacher to the parents
15. Email dated September 3, 2025 at 8:48 p.m. written by the School Psychologist to the parents and the Special Education Teacher
16. IEP dated September 22, 2025
17. LEA's Response to the Allegations dated October 1, 2025
18. Student's Daily Schedule (2025-26 school year)
19. Student's Attendance Record (2025-26 school year)
20. Student's Behavioral Episodes (2025-26 school year)
21. School Board Policy KGE: Concealed Observations
22. School Board Policy JRB: Release of Student Records

Background Information

The subject of this complaint is an eight-year-old boy currently enrolled in the third grade at Wheatland Elementary School in USD #385 during the 2025-2026 school year. The student began exhibiting behavioral concerns as a preschooler and was evaluated by the LEA during the first quarter of kindergarten and initially found eligible for special education services on October 25, 2022. The most recent special education reevaluation was completed on September 25, 2024 and, at that time, the IEP team determined the student continued to be eligible for special education services under the exceptionality category of Emotional Disturbance.

Issues Investigated

Based on the written complaint, three issues were identified and investigated.

Issue One

USD #385, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by not providing the required special education services in the general education classroom during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

State regulations at K.A.R. §91-40-1(kkk)(2) defines "special education", among other things, as paraeducator [paraprofessional] services, speech-language pathology services and any other

related service, if the service consists of specially designed instruction to meet the needs of a child with a disability.

Section A in Chapter 5 – Special Education and Related Services of The Kansas Special Education Process Manual states, "A Paraeducators (paras) cannot be given responsibility for designing or be the primary person in charge of delivering classroom content".

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

The parents reported that the student has not been in the general education classroom during the 2025-26 school year despite the IEP stating that he would receive instruction and be with his peers for part of the school day. Instead, the student has been in isolation with only a paraprofessional providing the third grade curriculum instruction and only allowed to be with his peers for recess, lunch, and Art, Music, or PE. The parents indicated that the student was sometimes not even allowed to participate with peers during those nonacademic times because of behavior that was exacerbated because of his isolation. The parents stated the student was frustrated and angry that he was being kept away from his peers and expressed that he was a "bad kid" and "hates himself".

The LEA reported the student was suspended for greater than 10 days during the 2024-25 school year and a manifestation determination meeting was conducted on May 5, 2025. At that time, the LEA and parent agreed to amend the September 25, 2024 IEP to increase the level of special education support due to the student's ongoing challenges with emotional regulation and the resulting behaviors. LEA staff reported and documentation show the parents were provided with prior written notice proposing a material change of services and a significant change of placement on May 5, 2025 and that the parents provided written consent for these changes on May 6, 2025.

The May 5, 2025 amendment of the September 25, 2024 IEP was the IEP in effect between August 13, 2025, the first day of the 2025-26 school year, until the IEP team met again on September 22, 2025. This IEP required direct special education services in a dedicated special education setting for 275 minutes per day, five days every week. The student would also receive 115 minutes per day, five days per week of direct special education support in the general education setting as well as 30 minutes per day, five days per week of attendant care. The student had special education support 100% of his school day both in the general education and special education settings.

A copy of the student's daily schedule shows the student was scheduled to receive 30 minutes of attendant care during mid-day transitions, recess, and lunch. The student was scheduled to be with his grade-level peers in the general education setting to receive special education support/instruction for 60 minutes each day for transitions, bathroom breaks, and two recesses as well as for 55 minutes each day for transitions and Art, Music, or PE class. The schedule also

shows the student was scheduled to be in the special education setting for 120 minutes per day of English language arts; 60 minutes per day of Math; 20 minutes per day of Science or Social Studies; 30 minutes per day of independent Reading or homework; and 45 minutes per day of "Morning Routine" and "Warrior Workshop". This schedule provided special education support services for 100% of the school day in both general and special education settings.

The LEA reported and documentation showed the only school days the student missed receiving the 115 minutes per day in the general education setting with special education support were as follows:

- 8/19/25: Late 2 hours due to medical appointment
- 8/27/25: In-school suspension (a.m.) / Absent - medical appointment (p.m.)
- 9/2/25: OSS
- 9/3/25: OSS
- 9/4/25: OSS
- 9/5/25: ESI (a.m.) / ISS (p.m.)
- 9/8/25: ISS
- 9/9/25: Absent - medical (p.m.)
- 9/10/25: OSS
- 9/11/25: OSS
- 9/12/25: OSS
- 9/16/25: OSS
- 9/19/25: Absent – medical (a.m.)

The student's IEP included only one social/emotional goal and a behavior intervention plan (BIP) to address the behavioral concerns described in the present level of academic and functional performance. The IEP goal is for the student to control explosive outbursts when frustrated by using appropriate coping strategies.

LEA staff reported the student's Third Grade Teacher provided lesson plans and teaching materials for the student based on the general education curriculum provided to the student's peers each school day. The Morning Paraprofessional reported that she would pick up these materials each morning and check-in with the Third Grade Teacher and the Special Education Teacher for any special instructions or any review assignments for the student.

The Special Education Teacher noted that the student is working at grade-level on most academic skills. She and the Third Grade Teacher consult and monitor the student's progress through grading his completed work and checking his progress on the iReady Learning Path for any necessary re-teaching of concepts.

Both Paraprofessionals reported using these materials and information from the Special Education Teacher and the Third Grade Teacher to work with the student throughout the

school day when he was in the special education setting. In addition, both Paraprofessionals stated they collected data on IEP goals and implemented the BIP when the student began to become dysregulated. The Special Education Teacher would check-in periodically throughout the school day to monitor student progress and would spend the last 30 minutes of each school day working 1-1 with the student. All the LEA staff interviewed indicated that, if there were behaviors that needed to be addressed, the Special Education Teacher would come to the classroom to support both the student and the Paraprofessionals.

Conclusion

In this case, interviews and documentation show the student's IEP required a total of 30 minutes per day of attendant care, 275 minutes per day of special education instruction in the special education setting, and 115 minutes per day of special education support in the general education setting. The student's schedule indicates the student is scheduled to receive 30 minutes per day of attendant care, 275 minutes per day of special education instruction in the special education setting, and 115 minutes per day of special education support in the general education setting. Based on this information, the LEA did provide the amount of special education support/instruction in the general education setting as required in the May 5, 2025 amendment to the September 25, 2024 IEP.

It is noted that the special education services provided by the Special Education Teacher and the Paraprofessionals were to enable the student to progress towards meeting the IEP goal related to his behavior and to implement the BIP. As such, the Paraprofessionals were not providing the initial instruction for the focus of the special education instruction and were not given the responsibility for designing or being primary person in charge of delivering classroom content.

Based on the foregoing, *USD #385 is determined to be IN compliance* with federal regulations at 34 C.F.R. §300.323(c)(2) and state regulations at K.A.R. §91-40-1(kkk)(2) which require IEPs to be implemented as written and that paraprofessionals not be in charge of designing instructional lessons or providing initial instruction of concepts. However, the LEA is encouraged to examine their procedures for providing the grade-level general education instruction as it appears that the student had very little contact with his third grade teacher for direct instruction during the 2025-26 school year.

Issue Two

USD #385, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically the behavior intervention plan (BIP) during the 2025-2026 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.300.324(a)(2)(i) require the IEP team to consider the use of positive behavioral interventions and supports, and other strategies, to address any behavior that impedes the learning of the student or that of others.

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review. Note that the findings from ISSUE ONE are incorporated herein by reference.

The complainants reported they received a video in an email from the Special Education Teacher on August 29, 2025 that documented a behavioral incident with the student which clearly showed the Special Education Teacher provoking the student while his behavior was escalated instead of implementing the student's behavior intervention plan by not conversing with him while he is an escalated state. The complainants stated that they questioned the special education teacher about engaging with the student when the IEP clearly states, "do not initiate conversation for at least 10 minutes" and the Special Education Teacher told them that, because it was past ten minutes, she could engage with the student again.

The May 5, 2025 amendment of the September 25, 2024 IEP indicates that the student's behavior impacts his learning and the learning of others. The IEP includes both an IEP goal and a Behavior Intervention Plan (BIP) to address behavioral concerns in the school setting.

The BIP in effect on August 29, 2025 describes the student's dysregulated behaviors as removing himself from the group; refusing to participate; yelling, primarily at adults; knocking chairs and desks over; pulling items off the wall; creating holes in sheetrock; destroying anything that is within reach, and kicking adults. When these behaviors occur the following steps should be taken:

1. <u>Ignore and Allow Time to Calm Down:</u>
   Give student space and time; he will typically calm down on his own. Avoid talking to him during this time to prevent further escalation.
2. <u>Use Short, Directive Statements:</u>
   When student is elevated, use clear and brief statements. Do not engage in discussions until he is fully calm.

3. Remove Student from the Classroom:
   Remove him from the classroom immediately if student displays destructive or aggressive behaviors. If he is too elevated to be safely removed, evacuate the rest of the class to a safe location.
4. Transition to a Quiet Room:
   Move student to a quiet room to allow him time to de-escalate.
5. Allow Time to Regulate:
   Do not initiate a conversation with student for at least 10 minutes to give him a chance to regulate. If he becomes physically aggressive, staff should leave the room and wait until he calms down before re-entering.
6. Debrief After Calming Down:
   Once student is calm, discuss the incident and remind him of appropriate replacement behaviors he could have used.
7. Complete Missing Work:
   Have student complete any work he missed during the behavioral incident.
8. Transition Back to the Classroom:
   After the debrief and completing missing work, guide student back to the classroom setting.
9. Address Consequences:
   Address the negative implications of his unsafe behavior by having student repair or clean up any damage he caused. Ensure Student apologizes to anyone affected by his actions. Inform his parents about the incident.

The LEA reported that the student had demonstrated 32 instances of dysregulated behavior that were successfully resolved by following the behavior plan since the beginning of the 2025-26 school year. The LEA indicated that the video was recorded and sent to the parents to show them that the student was being offered multiple choices because the student was telling the parents that school staff were only offering him one choice. The LEA further explained that the recording was taken in the midst of a behavioral incident when the BIP was being implemented and the teacher was engaging with the student after the ten-minute timeframe had passed.

An email dated September 2, 2025 at 7:00 p.m. written by the Special Education Teacher to the parents stated:

> *The student's behavior plan allows for a ten-minute de-escalation period. At the time of the video, he had already been in an escalating cycle for 40 minutes. I explained to him that the video was intended to show that he had been offered multiple choices, as he had mentioned in a prior situation that he was only given one option. For the team to work together effectively, both staff documentation and witness reports must be considered alongside student's perspective.*

The 47-second video shows the student sitting quietly on the carpeted floor with his back next to the wall. A large square beanbag cushion and two legless padded "gaming" chairs are against the walls near the student. After several seconds the Special Education Teacher speaks very quietly, slowly, and in a monotone to the student and says she is sending his work home. The student loudly tells her that she is not sending his homework home and he hits the beanbag cushion with his arm and hand. The Special Education Teacher then states, "I will send it through email because you will need to get it done". The student calmly responds, "At home?" and the Special Education Teacher replies, "Either here or at home". The student again loudly states that he is not doing homework at home and the Special Education Teacher asks him, "Why?". The student then loudly explains that he's not going to waste any more time doing homework and it's the weekend and he's not going to do any more homework. The Special Education Teacher indicates that other third grade students also have homework and the student loudly states, "They do not because there is no more homework today!" The Special Education Teacher indicates that some got it done today and the student then tells her to stop talking to him and shut up.

Conclusion

In this case, the issue of whether the LEA implemented the BIP as written surrounds a video of an interaction between the student and the Special Education Teacher that occurred on August 29, 2025. The Special Education Teacher reported that this video was taken after four instances of allowing the student a 10-minute regulation period for a total of 40 minutes and was recorded after the student had calmed down to demonstrate to the parents that the student is being given options. The Special Education Teacher indicated that she explained this to the student prior to her taking the video. The video shows Step 7 in the BIP where the Special Education Teacher is working with the student to have him complete any work he missed during the behavioral incident.

It is noted that the student was calm when the video started and was not physically aggressive towards the Special Education Teacher at any time during the video which would have triggered another 10-minute regulation period per Step 5 of the BIP.

Based on the foregoing, it appears that the LEA implemented the student's BIP as written on August 29, 2025. As such, the *LEA is found to be IN compliance* with federal regulations at 34 C.F.R. §300.300.324(a)(2)(i) require the IEP team to consider the use of positive behavioral interventions and supports, and other strategies, to address any behavior that impedes the learning of the student or that of others as well as federal regulations at 34 C.F.R. §300.323(c)(2) which require the LEA to implement the BIP as written.

Issue Three

USD #385, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate policies and procedures to protect personally identifiable information of the student during the 2025-26 school year, specifically by recording videos and taking pictures of the student on personal devices.

Applicable Law

Federal regulations at 34 C.F.R. §300.123 which require public agencies in the State to protect the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the IDEA.

Confidentiality of personally identifiable information is governed by 34 C.F.R. §99, the Family Educational Privacy Act (FERPA) which requires a parent's written consent to share educational records with others. As defined at 34 C.F.R. §99(3), an educational record can be a photo or video when the photo or video is: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution.

Federal regulations at 34 C.F.R. §99.31(a)(3)(iv) allow for an exception to the requirement for parental written consent to release educational records when the record is being released to authorized representatives of state and local educational authorities.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review. Note that the findings from ISSUE TWO are incorporated herein by reference.

The complainants stated that the August 29, 2025 video sent by the Special Education Teacher was recorded on the Special Education Teacher's personal device without obtaining their consent. They are concerned that this video may have been shared with other teachers, friends, and/or family members to embarrass the student when he is dysregulated because of his disability. However, the parents acknowledged they have no direct knowledge of the video being shared inappropriately with anyone by the Special Education Teacher.

In addition, the parents are concerned about where the video is stored or if it has been deleted. They indicated the LEA has not responded to their concerns regarding the video.

The LEA responded that the video was taken at approximately 3:00 p.m. on August 29, 2025, which is the same day the video was shared via email at 8:20 p.m. with both parents by the Special Education Teacher. The email stated, "I've attached the homework, along with the link to the student's reaction to it. We had the book to read or the science writing response to finish today. He wasn't having either . . .".

The Local Education Agency indicated that there was no attempt to hide the video or to use it to share with others outside of the "need to know" team members. The Special Education Teacher indicated that she would never share a student's personally identifiable information with family members or friends and the only teachers who would be able to see the video were those on the student's IEP team.

The Special Education Teacher acknowledged that the video was initially recorded on her personal device; however, it was then transferred and "saved" on her District-assigned Google drive and immediately deleted from her phone. The Principal confirmed this information. The LEA reported the video was subsequently released to the investigator as part of this complaint investigation.

The LEA stated that parent 1 expressed concern about the student's feelings of isolation and feeling like "the bad kid" at school on August 30, 2025. At that time, parent 1 did not share any concerns in regard to the recording, intent, or storage of the video.

On September 1, 2025, parent 2 also expressed concerns about the social isolation, the student's mental health and the current IEP services and placement. Parent 2 stated, "He already struggles with mental health and this is flat out not supporting him in this area. And in return is actually making it worse when we have made alot of improvement in that area. We no longer as parents agree to this isolation in this extreme format for the student". Again, no concerns were raised in regard to the recording, intent, or storage of the video.

School Board Policy JGB – Release of Student Records require the LEA to follow appropriate policies and procedures to protect personally identifiable information of the student, specifically by requiring parental consent prior to releasing any educational record to a third party. There is no LEA school board policy which specifically addresses staff using their personal devices for taking photographs or recording videos of students and this is also not addressed in the IDEA.

Conclusion

In this case, the video recording of the student on August 29, 2025 did contain personally identifiable information (PII) of the student, specifically his likeness and his participation in the special education program due to a disability. The IDEA requires LEAs to follow appropriate policies and procedures to protect personally identifiable information of the student including obtaining written consent to release educational records, except in certain circumstances.

The Special Education Teacher recorded the August 29, 2025 video on her personal device and was then transferred to the District-assigned Google drive belonging to the Special Education Teacher. The video was then deleted from the personal device as reported by both the Specia Education Teacher and the Principal and was never shared with any other party from the personal device. The video was maintained by the LEA on the Google drive and subsequently shared with the investigator, who was acting as an authorized representative of the Kansas State Department of Education, during this investigation.

Based on the foregoing, the ***LEA is determined to be IN of compliance*** with federal regulations at 34 C.F.R. 300.123 which require public agencies in the State to protect the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the IDEA.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-1(kkk)(2) was not found. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. §300.300.324(a)(2)(i) and 34 C.F.R. §300.323(c)(2) was not found. Corrective action is not required.
3. ISSUE THREE: A violation of 34 C.F.R. §300.123 was not found. Corrective action is not required.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #378
ON AUGUST 28, 2025

DATE OF REPORT: OCTOBER 7, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #378 (Riley County Public Schools) on behalf of ------- by his father, -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the father" or "the complainant". Also note that other family members including ------- will be referred to as "the stepmother" and ------- will be referred to as "the mother" in the report.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the complaint is against USD #378 (Riley County Public Schools) which contracts with the Twin Lakes Educational Cooperative (TLEC) to meet the requirements of the IDEA. In the remainder of the report, both of these responsible public agencies will be referred to as "the local education agency (LEA)".

In the remainder of the report, the LEA staff will be referred to as follows:

- Anita Breen, "TLEC Director of Special Education"
- Erin Flair, "USD #378 Superintendent"
- Charles Kipp, "Riley County High School Principal"
- Doug Thompson, "9th grade Special Education Teacher"
- Stephanie Lovett Bowman, "LEA attorney"
- Weston Steiner, "10th grade Special Education Teacher"
- Erika Willman, "TLEC School Psychologist"
- Amanda Cyrie, "ESY Teacher"

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on August 28, 2025. Because of the number of allegations and the scope of the investigation, the timeline to investigate this complaint was extended by 14 days.

Evidence Reviewed

Both parties were contacted via telephone during the investigation to gather and clarify information. The father was interviewed by telephone on September 24, 2025 and the stepmother was interviewed by telephone on September 23, 2025.

Also on September 23, 2025, the LEA made the following school staff available for an interview via Zoom:

- TLEC Director of Special Education
- USD #378 Superintendent
- Riley County High School Principal
- 9th grade Special Education Teacher
- Stephanie Lovett Bowman, LEA attorney

The LEA and the complainant provided the following written documentation which was used in consideration of the issue:

1. Individualized Education Plan (IEP) dated February 8, 2023
2. IEP dated February 5, 2024
3. Behavior Intervention Plan (BIP) signed by the father and the mother on February 5, 2025
4. IEP Amendment form for changes not requiring a full IEP team meeting dated April 8, 2024
5. Prior Written Notice (PWN) for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent dated April 29, 2024 and signed by parent on May 6, 2024
6. Email from 9th grade Special Education Teacher to the father dated August 12, 2024 at 4:24 p.m.
7. IEP Amendment dated August 14, 2024
8. ABC Charts dated between August 15 and December 11, 2024
9. Excel spreadsheet detailing communication exchange about 2024 IEP meeting dated between August 16, 2024 and September 27, 2024
10. Audio and Transcription of audio recorded IEP meeting dated September 18, 2024 time of 1 hour, 51 minutes and 40 seconds
11. IEP Meeting Proposal prepared by parents dated September 18, 2024, updated September 23, 2024 (49 pages)
12. Email from parents to 9th grade Special Education Teacher, Riley County High School Principal, student's mother, and USD #378 Superintendent dated September 19, 2024, at 6:40 a.m.
13. IEP Amendment dated September 27, 2024

14. Email from parent to 9th grade Special Education Teacher and TLEC Director of Special Education dated September 27, 2024 regarding inaccuracies
15. Email exchange between father and TLEC Director of Special Education dated between October 24, 2024 at 12:01 p.m. and November 5, 2024 at 9:27 a.m.
16. PWN dated November 1, 2024 and signed by parent on November 5, 2024
17. IEP Meeting Proposal prepared by parents dated January 22, 2025 (36 pages)
18. Audio and Transcription of audio recorded IEP meeting , titled 2025 IEP.m4a 67 pages, time of recording 2 hours, 29 minutes and 50 seconds
19. Progress Monitoring sheets for the student dated between October 21, 2024 and February 10, 2025
20. IEP dated January 22, 2025
21. PWN dated January 22, 2025 and signed by the parent on that same day
22. Transition Surveys completed by parents (undated)
23. Comprehensive Psychological Evaluation Report completed by the Jordan Psychological Assessment Center on May 7, 2025
24. IEP Amendment form for changes not requiring a full IEP team meeting dated May 8, 2025
25. Email from 9th grade Special Education Teacher to the father and mother dated May 15, 2025 at 11:44 a.m.
26. PWN dated May 20, 2025 and signed by the father on May 27, 2025
27. IEP Goal Progress Reports for the 2024-25 school year
28. Transportation Notes (undated)
29. Transportation Logs for 2024-25 school year
30. Student Schedule for the 2024-25 school year
31. Email from parent to TLEC Special Education Director and Riley County High School Principal on June 6, 2025
32. Excel spreadsheet detailing communication exchange about June 18, 2025 IEP meeting
33. Email exchange between father, 10th grade Special Education Teacher, TLEC Director of Special Education, and Riley County High School Principal dated June 18, 2025 between 8:02 a.m. and 9:34 a.m.
34. Email from the 10th grade Special Education Teacher to the father dated June 26, 2025 at 8:55 a.m.
35. Email from the father to the 10th grade Special Education Teacher dated July 7, 2025 at 10:36 a.m.
36. Email from parents to 10th grade Special Education Teacher, Riley County High School Principal and Director of Special Education dated July 29, 2025 at 11:48 a.m.
37. Email exchange between parents, 10th grade Special Education Teacher, Riley County High School Principal and Director of Special Education dated August 7, 2025

38. Email from TLEC School Psychologist to parents dated August 18, 2025 at 1:20 p.m.
39. PWN for Evaluation or Reevaluation and Request for Consent dated August 18, 2025
40. Email from father to TLEC School Psychologist dated August 18, 2025 at 4:33 p.m.
41. Email from TLEC School Psychologist to father dated August 19, 2025 at 12:46 p.m.
42. PWN for Evaluation or Reevaluation and Request for Consent dated August 19, 2025
43. Email from TLEC School Psychologist to parent dated August 25, 2025 at 1:07 p.m.
44. Notice of Meeting for September 3, 2025 meeting, signed by father on August 27, 2025
45. IEP Team Meeting Notes for the September 3, 2025 meeting
46. Email between father and 10th grade Special Education Teacher and TLEC Special Education Director dated September 16, 2025
47. IEP Amendment dated September 18, 2025
48. PWN dated September 18, 2025 and signed by parent on that same date
49. District Response to Allegations dated September 12, 2025
50. Positive Behavior Intervention Plan, undated
51. Student Schedule for the 2025-26 school year
52. USD #378 School District Calendar for the 2025-26 school year
53. LEA response to Investigator clarification questions dated September 26, 2025

Background Information

The student is a 15-year-old young man currently enrolled in the 10th grade at the Riley County High School in USD #378. The student lives at home with his stepmother and father, who obtained sole legal custody of the student in June 2025, which resulted in the father now being the sole educational decisionmaker for the student. Prior to that time, the father and mother shared custody and both were considered educational decisionmakers for the student. The father and LEA staff reported there was a history of parents not agreeing on what was in the best interest for the student .

The student received early intervention services and began receiving special education at the age of three through the LEA's early childhood special education program. Interviews noted the student has attended school in USD #378 since kindergarten and received special education and related services through an IEP at all time. The student's most recent triennial reevaluation was conducted on February 5, 2024 without additional assessment. At that time, the multidisciplinary team determined the student continued to be a child with a disability and in need of continued special education and related services under the IDEA category of Autism.

Issues Investigated

Based on the written complaint and an interview with the complainant, nine concerns which fall under IDEA regulations were identified and investigated.

Issue One

USD 378, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by not providing the required amount of special education services during the 2024-25 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(4) require public agencies to include a statement in the IEP describing the special education and related services to be provided to the child, or on behalf of the child, that will enable the child to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum ; to participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and nondisabled children.

Federal regulations at 34 C.F.R. 300.320(d)(2) states that there is no requirement for the IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

Federal regulations at 34 C.F.R. 300.323(c)(2) requires school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The father is concerned that the student is not receiving the special education services as described in the student's IEP. The IEP team met on September 18, 2024 and the IEP amendments and PWN notices resulting from that meeting made it difficult to match the minutes on the IEP with the student's daily school schedule. Per an October 17, 2024 communication from parent, "According to [the student's] current IEP, approximately 32% of [the student's] services were to be provided in special education setting, approximately 58% of his services were to be provided in a general education setting, and approximately 11% of his time was attendant care. Upon analysis of [student's] initial schedule for the 2024-2025 school year and his revised schedule, he is spending approximately 73% of his time in the special education setting, 19% in a general education setting, and 8% in attendant care" Ultimately, the parent reported that he signed the a revised PWN dated November 1, 2024 which more clearly described the student's special education minutes and school schedule "under duress" on November 5, 2024 because "the process is taking far more time and resources than necessary".

LEA Position

The allegation in ISSUE ONE appears to stem from the father's misunderstanding of the need to adjust service minutes because of the student's transition to high school from the grade school building. The student's IEP developed on February 5, 2024 reflected the services received during 8th grade in the grade school building based on the same schedule for five days per week. The high school building follows a block schedule, which rotates every other week. The student's IEP was amended in spring 2024 to coincide with the schedule at the high school.

Regardless, the student receives full-time support throughout the school day, including lunch and breaks. The amendments changed the support times for general education classes and direct instruction times, but there was no gap in the provision of IEP services. The student always received full-time support from special education staff during the school day and the LEA denies any failure to implement the student's special education services.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties.

1. The February 5, 2024 IEP lists the beginning and ending date for all special education and related services as February 5, 2024 through February 4, 2025. However, the Participation with Nondisabled Peers and the prior written notice dated February 5, 2024 includes a statement describing how the student's special education minutes will change beginning August 16, 2024 when the student transitions to the high school.
2. The February 5, 2024 IEP was amended on May 4, 2024 to add IEP goals to address behavior. No changes were made to the special education and related services minutes on the IEP and the PWN resulting from this meeting does not document any change in IEP team minutes.
3. An IEP team meeting was held on September 18, 2024 to amend the student's IEP by adding several goals and to specifically describe the classes where the special education services were being provided to match the student's 9th grade class schedule. The mother and father were provided with prior written notice of these proposed changes on September 27, 2024 and again on November 1, 2024. The father signed consent for these changes on November 5, 2024.
4. The student's 9th grade class schedule shows the student was enrolled in two general education classes with special education support each day and the remainder of his classes were in the special education setting. The student receives special education services and supports throughout the entire school day.
5. The January 22, 2025 IEP lists the special education services based on the class schedule for the student [e.g. PE in general ed setting with special education support for 85 minutes 2 days per week, every other week; PE in general ed setting with special education

support for 85 minutes 3 days per week, every other week]. The services summary matches the student's 9th grade class schedule during the 2024-25 school year.

Conclusion

IDEA requires that public agencies to include a statement in the IEP describing the special education and related services to be provided to the child, or on behalf of the child, that will enable the child to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum ; to participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and nondisabled children. The IDEA also requires the student's IEP to be implemented as written.

In this case, the student had two IEPs in place during the 2024-25 school year while in the 9th grade at the high school. The Participation with Nondisabled Peers section of the February 5, 2024 IEP and the PWN provided to the father following that IEP team meeting included a description of the special education services to be provided beginning on August 16, 2024 when the student transitioned to the high school building. These services matched the student's 9th grade schedule which included two "inclusion classes" where the student participated with typical peers in the general education setting with special education support. An IEP was held on September 18, 2024 to add several goals and to specifically describe the classes where the special education services were being provided to match the student's 9th grade class schedule.

The January 22, 2025 IEP describes the special education services to be provided to the student in the Services Summary section of the IEP and these services matched the student's 9th grade schedule which continued to include the Art and PE classes where the student participated with typical peers in the general education setting with special education support.

In this case the LEA does include a description of special education services to be provided to the student during the 2024-25 school year in the February 5, 2024 and January 22, 2025 IEPs. Although the descriptions were included in different sections of the IEP e.g the Participation with Nondisabled Peers section of the February 5, 2024 IEP and in the Services Summary of the January 22, 2025 IEP, the LEA did include the required information in the student's IEP. And, even though allowed by the IDEA, it is noted that this situation led to multiple misunderstandings between LEA staff and the student's father which could have been avoided if the information was uniformly reported in the same sections of both IEPs.

Based on the foregoing, it is found that the ***LEA is IN of compliance*** and no corrective actions are required.

Issue Two

USD #378, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically the Behavior Intervention Plan (BIP) by not providing the daily behavior reports to the parent during the 2024-25 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.300.324(a)(2)(i) require the IEP team to consider the use of positive behavioral interventions and supports, and other strategies, to address any behavior that impedes the learning of the student or that of others.

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The child complaint stated that the behavior intervention plan (BIP) has not been updated and/or provided to the parents since grade school and an updated functional behavioral assessment (FBA) was requested by the father. The current BIP states that a daily tracker will be sent home. This did not happen during the 2024-2025 school year and only happened in the 2025-2026 school year when father has provided sheet for the teacher to fill out.

The father acknowledged that the BIP does not require daily progress reporting but contends that the LEA should be sending home reports of behavior when the student's behavior reaches any level on the ABC chart. The father is also concerned that no behavior data was provided on any progress monitoring reports about the student's BIP.

LEA Position

The student's IEP contains a BIP, which was reviewed and updated at IEP team meetings on 2/5/2024 and again on 1/22/2025. Both of the student's parents signed the BIP forms. There is nothing noted in the student's BIP about daily behavior reports being provided to parents. Both the February 2, 2024 BIP and the January 22, 2025 BIP state: "Progress will be reported at the same intervals as general education progress reports and/or report cards are issued unless otherwise indicated below. . . . When the student has a behavior that is on his level 1-4 ABC chart. ABC chart will be made by the special education with the support of the behavior teacher if needed." The current BIP further states, "Monthly data will be taken when the student is not complying with the directive and asking for additional minutes before transitioning."

For further context the LEA reported that the 9th grade Special Education Teacher initially sent daily emails to the mother at the beginning of the 2024-25 school year. However, the mother requested no emails and preferred a verbal report. The 9th grade Special Education Teacher

then gave daily verbal reports when either of the student's parents dropped the student off or when the mother picked him up at school. The father expressed irritation at one point because when the mother had custody of the student, he was not getting a verbal report; but the father never obtained a commitment from the LEA for daily behavior reports. The LEA has always been responsive to the parents if they have questions or would like to know how the student is doing each day and the LEA believes both parents have always been well informed of the student's behavior. Regardless, the BIP did not require daily reports, so the lack of daily reports (written or verbal) is not a failure to implement the IEP.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties.

1. Both the February 5, 2024 and January 22, 2025 IEPs indicate the student requires a Behavior Intervention Plan (BIP) to address social/emotional behaviors.
2. The student's BIP that was signed by both parents on February 5, 2024 and reviewed during the IEP team meetings held on September 18, 2024 and January 22, 2025. The BIP remained the same following both subsequent IEP team meetings in regard to not including a requirement for a note regarding the student's behavior to be provided to the parents of the student on a daily basis.
3. The BIP also remained the same in regard to Progress Monitoring which required that "The IEP should contain at least 1 goal to address and monitor student behavior and the effectiveness of this plan and should appear of the goals page of the IEP". The method for collecting data was through a "behavior tracking sheet/report". Frequency was described as "Other; see below". The box below this statement contained the following typed statement: "Progress will be reported at the same intervals as general education progress reports and/or report cards are issued unless noted below:". Below that statement was typed: "When the student has a behavior that is on his level 1-4 ABC chart. ABC chart will be made by the special education with the support of the behavior teacher if needed". At the January 22, 2025 IEP team meeting, the BIP was revised to add the following statement: "Monthly data will be taken when the student is not complying with the directive and asking for additional minutes before transitioning".
4. The student's ABC Chart lists the following levels and descriptions of behavior:
   Level 1: Saying "No", "Leave me alone", "Go Away"
   Level 2: Cursing, Personal Space, Not leaving recess
   Level 3: Throwing objects/items
   Level 4: Attacking/Assaulting, Hitting/Kicking, Biting/Spitting
5. The February 5, 2024 IEP did not include a goal related to the student's behavior even though the present level included a description of behavioral concerns which were addressed in the BIP. The IEP team added a behavior goal when amending the

student's IEP on September 18, 2024. The IEP team reviewed and revised the student's behavior goal at the January 22, 2025 IEP team meeting.

6. A total of 11 ABC Charts for behaviors ranging between level 1 and 4 were completed for the student between August 15 and December 11, 2024. The father reported and the LEA acknowledged that these were not provided to the father; instead, the LEA reported this data was used to assess progress towards Goal 8 (the behavior goal) in the September 18, 2024 amendment to the February 5, 2024 IEP.
7. The IEP Goal Progress Report for the January 22, 2025 IEP reported "Slight Improvement" for Goal 6 (the behavior goal) on February 28, 2025; however, April 11, 2025 is shown as the date the report was hand-delivered to the parent. The data report stated, "The student's behavior continues to improve. We have not seen any major behaviors this month. The student is complying with directive within the 3 minutes of verbal reminders after the initial 5-minute timer with 82% accuracy".

Conclusion

IDEA requires that IEP teams consider the use of positive behavioral interventions and supports, and other strategies, to address any behavior that impedes the learning of the student or that of others. The behaviors can be addressed through individualized behavior intervention plans and/or IEP goals as a part of the student's IEP and, as such, must be implemented as written.

In this case, the student's IEP team determined the student's behavior was to be addressed through a BIP and at least one IEP goal during the 2024-25 school year. While the original February 5, 2024 IEP did not include a behavior goal, this was corrected through an IEP amendment on September 18, 2024. When the IEP was reviewed and revised on January 22, 2025, the IEP team again included both the BIP and a behavior goal. While the BIP does not require any daily reporting to the parents regarding the student's behavior, it does list three specific times in the Progress Monitoring section of the BIP when the parent will be notified.

First, the BIP requires 'Progress will be reported at the same intervals as general education progress reports and/or report cards are issued". Note that concerns with the IEP goal progress reporting during the 2024-25 school year on the student's two behavior goals will be addressed in ISSUE FIVE.

Second, the BIP qualifies the statement "Progress will be reported at the same intervals as general education progress reports and/or report cards are issued" by adding the phrase "unless noted below:" and below that statement was typed: "When the student has a behavior that is on his level 1-4 ABC chart". This means that when the student exhibits a behavior described in any of the four levels of the ABC Chart, this behavior should have been reported to the parents. Eleven ABC Charts were completed between August 15 and December 11, 2024 documenting the student's behavior ranging between Level 1 and 4; however, none of these ABC charts were sent to the parents as required by the other circumstance described in the BIP.

Third, after January 22, 2025, the BIP required that "Monthly data will be taken when the student is not complying with the directive and asking for additional minutes before transitioning". The IEP Goal Progress Report indicated this was done at some time during the third quarter because data was reported showing the student was able to transition appropriately within 3 minutes beyond the initial 5-minute timeframe with 82% accuracy. However, it unclear if this was implemented during the fourth quarter as the IEP Goal Progress Report did not reflect anything reported at that time.

Based on the foregoing, it is found that the ***LEA is OUT of compliance*** and corrective actions are required.

Issue Three

USD #378, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to develop and include a post-secondary transition plan in the student's IEP when he transitioned to high school at the beginning of the 2024-25 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(2) require that , beginning not later than the first IEP to be in effect when the student turns 16 and updated annually, school districts must develop IEPs that include 1) appropriate measurable post-secondary goals based on age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills, and 2) transition services, including a course of study, needed to assist the student in reaching those goals.

However, Kansas statutes at K.S.A. 72-3429(c)(8) require this transition planning to begin at the age 14. In addition, at age 16, these Kansas statutes require a statement of needed transition services for the student, including, when appropriate, a statement of the interagency responsibilities or any needed linkages.

Chapter 4-The Individualized Education Program, Section E in The Kansas Special Education Process Handbook states:

Beginning at age 14, transition services must include a description of courses of study. Courses of study are defined as a multi-year description of coursework to achieve the student's desired post-school goals, from the student's current to anticipated exit year. The courses of study may be identified on the student's IEP either as a list of courses of study or as a statement of instructional program, as appropriate for the student. If the IEP team chooses to identify the courses of study on the student's IEP as a list of courses of study, be aware that the IEP must be amended, using the IEP amendment process or an IEP team meeting, to reflect any changes to a list of courses of study.

Parent Position

The father reported that a transition plan was not developed for the student when he transitioned from eighth to ninth grade at the beginning of the 2024-25 school year. The father is also concerned that the student's schedule of courses listed in the IEP was changed at the beginning of the student's 10th grade year. The father stated that the case manager emailed the father on August 21, 2025 notifying him of the change in schedule, removing Art and enrolling the student in Horticulture and Industrial Technology. No IEP amendment was made to change the student's course of study.

LEA Position

The LEA reported that per federal regulations and state law, transition plans are written for students during the IEP year they turn age 14 and this occurred for the student during 8th grade. The initial transition plan was written for the student at the February 8, 2023 IEP meeting, during 7th grade. Both parents were participants in the February 5, 2024 IEP team meeting when the transition plan was reviewed with only the mother completing the parent survey to provide written input. The IEP team revisited the student's post-secondary transition plan on January 22, 2025 with both mother and father completing parent surveys to provide written input.

In an email on August 16, 2024, the stepmother stated (among other things), "We'd like to get his transition meeting scheduled as soon as possible. We were of the understanding this was going to happen prior to the school year starting so the sooner we can meet, the better. What information do you need from us to get that scheduled?" The LEA reported that It appeared as if the stepmother and father didn't realize that the transition meetings had already been held during the spring of the student's 7th and 8th grade years. Regardless, the LEA has met its obligation to develop a transition plan for the student beginning at age 14.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties.

1. The student's birthday is on November 24, 2009. The student turned age 14 on November 24, 2023.
2. The IEP in effect when the student turned age 14 was developed on February 8, 2023 and included a transition plan for the student.
3. The February 5, 2024 IEP includes a transition plan based on the mother's transition survey and both parents' input during the IEP team meeting. There are statements regarding the student possibly attending community college for training/education and possible selling art at the mother's salon for employment as well as a reference to "see survey". Independent living skills just states "see survey". None of these are measurable post-secondary goals. The course of study notes the student does not receive grades

based on his highly modified curriculum, but the student is anticipated to graduate in 2027-28 with a high school diploma. It is noted the student has earned 0 credits towards graduation and specific courses are not listed in the course of study.

4. The January 22, 2025 IEP includes a transition plan based on both the mother and the father's transition surveys and both parents' input during the IEP team meeting. This transition plan includes an education/training goal stating that the student will receive on-the-job-training in the field of art/drawing or animal care; an employment goal for working in the field of art/drawing, Artist, Videography, Animal Care; and an independent living goal to live in a group home or with family. The course of study notes the student does not receive grades based on his highly modified curriculum, and the student is anticipated to complete his education during the school year he turns age 21 or whenever he meets his alternative graduation requirements. It is noted the student has earned 0 credits towards graduation and specific courses are not listed in the course of study.

Conclusion

IDEA and Kansas law requires that, beginning not later than the first IEP to be in effect when the student turns 14 and updated annually, school districts must develop IEPs that include 1) appropriate measurable post-secondary goals based on age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills, and 2) transition services, including a course of study, needed to assist the student in reaching those goals. If specific classes are listed in the course of study, prior written notice must be provided to the parents when any change in the student's class schedule is made.

In this case, a transition plan was developed and included in the February 8, 2023 IEP which was in effect when the student turned age 14 on November 24, 2023. While the transition plan included in the February 5, 2024 IEP did not include measurable post-secondary goals, this was corrected in the January 22, 2025 IEP which does include measurable post-secondary goals for education/training, employment, and independent living. The transition plan in effect at the beginning of the 2025-26 school year did not include a list of specific classes in the course of study and, as such, the LEA was not required to provide the parent with prior written notice of the change from the Art class to the Horticulture and Industrial Technology classes.

Based on the foregoing, it is found that the *LEA is IN compliance* and no corrective actions are required.

Issue Four

USD #378, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by not providing transportation as a related service during the 2024-25 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(4) require public agencies to include a statement in the IEP describing the special education and related services to be provided to the child, or on behalf of the child, that will enable the child to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum ; to participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and nondisabled children.

Federal regulations at 34 C.F.R. 300.34(a) define "related services" as meaning transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. Federal regulations at 34 C.F.R. 300.32(b)(16) define "transportation" as meaning travel to and from school and between schools; travel in and around school buildings; and specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

Federal regulations at 34 C.F.R. 300.323(c)(2) requires school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The child complaint stated that the team agreed special education transportation was necessary for the student when he transitioned to the high school building at the beginning of the 2024-2025 school year. Parents reported these services were not set up until just shortly before the school year began; the father acknowledged that transportation services were initiated on the first day of school.

On September 12, 2024, the parents were notified that the driver refused to transport the student and that alternative transportation was to be provided by the special education teacher. The father responded that this impacted service minutes due to a change in schedule and voiced concerns over discrimination. Inconsistent pick-up and drop-off times continued through the remainder of the 2024-25 school year, extended school year (ESY), and that this inconsistency as continued into the 2025-2026 school year started due to adult schedules. Even though there was inconsistent timing, the father acknowledged the LEA did provide

transportation for the student to/from the high school building during the 2024-25 school year.

The father and stepmother also reported that transportation as a related service as well as the special education service minutes for transportation are not documented in the January 22, 2025 IEP despite continuing to receive transportation as a related service.

LEA Position

In July 2024, the father contacted the Principal of Riley County High School and asked for the LEA to provide transportation for the student both to and from the high school every other week when the student was living with and in the custody of the father. On August 12, 2024, the LEA and the father agreed to amend the February 5, 2024 IEP without an IEP team meeting to add transportation as a related service, per the father's request.

Notably, the father and stepmother sent demanding emails over the summer of 2024 regarding setting up the transportation. The LEA's responses were somewhat delayed during the summer because administration was working on purchasing a new van and figuring out the schedule for picking up the student, along with other students. However, transportation began as planned on the first day of school, August 14, 2024.

Per his IEP, the student had transportation services from August 14, 2024 through the end of the IEP year, February 4, 2025, and then again from February 5, 2025 through May 22, 2025. The student also received transportation for ESY services during the summer of 2025. Transportation was provided consistently and the LEA denies any failure to provide this related service.

The father has complained about inconsistent drop off and pick up times. The LEA indicated this is just the nature of bus service, which is impacted by traffic, weather, and other natural factors. Indeed, the father has acknowledged that the student is sometimes unwilling to go to school, which delays his departure from home (and that of other students).

The father has also alleged discrimination or a failure to implement because a bus driver requested not to transport the student after he became escalated toward her one day. This driver is a petite woman in her 60s who has personal health concerns, so the LEA honored her request to be removed from the route for her own sense of safety because the student is bigger than this driver. The change in driver did not disrupt the student's transportation, which was covered by other employees. The LEA has the right to make staffing decisions based on various factors, including employee needs, and did not violate the student's IEP or discriminate against him.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties.

1. The IEP developed on February 5, 2024 stated that the student did not require transportation as a related service.
2. On July 27, 2024, the father contacted the Principal of Riley County High School and requested transportation to/from the high school building on the weeks the student was living with the father and stepmother.
3. On August 12, 2024 at 4:24 p.m., the 9th grade Special Education Teacher responded to an email from the father indicating that an IEP amendment adding transportation as a related service would be scanned and sent home for signatures.
4. The IEP Amendment sent to the father described the change to the February 5, 2024 IEP as "Beginning 8/14/24, the student will receive student transportation minutes of 20 minutes per day, 5 days per week. This will be on the dad's week with the student. Due to adding student transportation minutes, this will affect the student's AC [Attendant Care] minutes. He will be receiving 30 minutes of AC 5X every other week and 50 minutes 5X every other week on mom's week."
5. No prior written notice corresponding to the changes proposed in the IEP amendment was provided by the LEA despite an initial request for copies of all prior written notices provided to the parent during the 2024-25 school as part of the documentation review in the investigation. This concern will be addressed in ISSUE NINE.
6. The August 14, 2024 amended version of the February 5, 2024 IEP reflected the student required transportation as a related services and listed the frequency as 20 minutes for five days per week when the student was living with his father; the location as "Dad's home"; and the duration as August 12, 2024 through February 4, 2025.
7. In addition, the Special Education and Related Services Summary Chart in that IEP reflects a related service of special education transportation with a location of "T-extracurricular"; an amount of time as 20 minutes; a frequency of five days per week every other week; and a duration of August 14, 2024 through February 4, 2025.
8. The student's IEP team met on January 22, 2025 the review and revise the IEP as appropriate. The IEP team determined the student did require transportation as a related service to continue as currently being provided until the next annual IEP review on January 21, 2026.
9. The LEA provided a copy of the January 22, 2025 IEP that included duplicate pages documenting the transportation as a related service. The first page included a handwritten note stating "See Webkidss" for the description of the service, frequency, location, and duration while the second page was blank in terms of the service, frequency, location, and duration.
10. The WebKIDSS anticipated services page shows special education transportation for 20 minutes, five days per week, every other week beginning on January 22, 2025 and ending on January 21, 2026.
11. Again, the Special Education and Related Services Summary Chart in that IEP reflects a related service of special education transportation with a location of "T-extracurricular";

an amount of time as 20 minutes; a frequency of five days per week every other week; and a duration of January 22, 2025 and ending on January 21, 2026.

12. The LEA provided Transportation Logs and Transportation Notes which documented the LEA either provided transportation or was willing to provide transportation between the first and last days of the 2024-25 school year as well as during the days the student was assigned to receive extended school year services in June and August 2025. The Transportation Logs document both date and mileage; however beginning and end times are not documented.

Conclusion

IDEA requires that each student's IEP team determines if transportation as a related services is required for the student to benefit from special education. If transportation as a related service is required, it must be provided as described in the IEP.

In this case, the father requested to amend the student's February 5, 2024 IEP to include transportation as a related service on July 27, 2024. The LEA responded by agreeing to amend the student's IEP for this requested change on August 12, 2024 without conducting an IEP team meeting. The student received transportation on a daily basis between August 14, 2024 and January 21, 2025. On January 22, 2025, the IEP again determined that transportation as a related services was required for the student to benefit from his special education. While this was not correctly documented in the IEP document developed on January 22, 2025, it is clear that the father and the LEA agreed that the student required the continued transportation to/from the father's home on the weeks when the student was living with the father and stepmother. Documentation and interviews confirm that the student did receive transportation as a related service.

The student's August 12, 2024 Amendment to the February 5, 2024 IEP and/or the January 22, 2025 IEP specifically indicated 20 minutes of transportation services, five days per week. However, this IEP provision does not require that transportation services will be provided for precisely 20 minutes for each trip. Federal regulation 34 C.F.R. 300.320(a)(7) requires that every IEP include the "anticipated" duration of services.

The "anticipated" duration requirement is particularly applicable for services such as transportation where factors outside of the district's control (traffic, stop lights, students late to bus stop, road work, etc.) where a strict time period (20 minutes, no more or less) is not practical or possible. It is sufficient implementation of the IEP when transportation services are provided for approximately the duration stated in the IEP, taking into account unexpected delays due to factors beyond the control of the district.

For this reason, the duration of transportation as a related services does not have to be stated in hours and minutes, as long as the description is sufficient to make clear what the obligation of the school is. For example, the frequency and duration of transportation could be described as: The student will receive transportation to school and back home every school day

(frequency) and from the time the student boards the bus until the student arrives at school or arrives at home (duration).

Based on the foregoing, the LEA is found that the ***LEA is IN compliance*** and no corrective actions are required.

Issue Five

USD #378, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to determine if the student was making adequate progress towards the IEP goals, specifically by relying on data collected on days the student was not in attendance during the 2024-25 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(3) require public agencies to include a statement in each IEP describing how the child's progress toward meeting the annual goals will be measured; and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

Parent Position

The child complaint stated, that in preparation for the 2024-25 IEP meetings, the father requested raw progress monitoring sheets. The data sheets provided show that data was "collected" on dates that the student was not present in school, specifically, November 6, 7, 8, 2024 and January 8, 2025. The father now questions the accuracy of the student's IEP Goal Progress Reports because these summaries are based on inaccurate raw data.

LEA Position

The LEA reported data was collected as required by the IEP and IEP Goal Progress Reports have been provided to parents as required during the 2024-25 school year. With regard to the father's allegations relating to the wrong dates on data sheets, the LEA reports this was due to human error. Sometimes forms are pre-dated for convenience, which can mean data is added to the wrong dates. During an internal review of this allegation, the 9th grade Special Education Teacher reported his record-keeping practices are thorough, and data is collected accurately to reflect the student's performance even if the date is incorrect on the raw data sheet. The LEA believes that it is erroneous to suggest that a couple of incorrect dates discredit the overall progress that the student made, which was shown through months of data.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties.

1. The student's IEP goals require progress towards each goal to be measured through data collocation.
2. The LEA acknowledged that data was recorded on the raw data sheets on for the dates of November 6, 7, 8, 2024 and January 8, 2025 and that the student was not in attendance on those days.
3. During an interview with the 9th grade Special Education Teacher, he reported a practice of pre-dating data sheets for convenience. While he acknowledged that the data collected may have been entered on the wrong dates on the raw data sheets, he reported that the data that was taken and recorded was an accurate reflections of the student's performance at that time.
4. IEP Goal Progress Reporting for the period covered for the incorrect dates was completed on January 10, 2025 and provided to the mother and the father. The data collected on the raw data sheets between October 16, 2024 and January 10, 2025 support the conclusions reported on the IEP Goal Progress Reports dated January 10, 2025.

Conclusion

IDEA requires that public agencies must include a statement in each IEP describing how the child's progress toward meeting the annual goals will be measured; and when periodic reports on the progress the child is making toward meeting the annual goals will be provided.

In this case, the student's IEP indicated IEP goal progress would be measured through data collection. The LEA maintained the raw data sheets as educational records and provided these the father upon his request. It is noted that the dates when the raw data was entered on incorrect dates was used to complete the January 10, 2025 IEP Goal Progress Reports. Despite the four dates when data was erroneously recorded on the wrong date on the raw data sheet through human error, the overall raw data supported the conclusions reported on those IEP Goal Progress Reports dated January 10, 2025.

Based on the foregoing, it is found that the *LEA is IN compliance* and no corrective actions are required.

Issue Six

USD #378, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to individually determine the need for extended school year (ESY) services, specifically by unilaterally limiting the duration of those services for the student during summer 2025.

Applicable Law

Federal regulations at 34 C.F.R. 300.106(b) require that the IEP team must consider the need for extended school year services in order to provide a free appropriate public education (FAPE) to each student with a disability.

Parent Position

The father reported that during the January 22, 2025 IEP team meeting, it was stated that extended school year (ESY) services are provided for two weeks for two hours a day during the summer break following the end of the school year and again just prior to the next school year. This is exactly what was recommended by the LEA for the student at the end of the 2024-25 school year during the IEP team meeting on May 8, 2025. There was no conversation expanding into what would be appropriate for the student based on his needs.

LEA Position

The LEA reported that the student received ESY services during the summer of 2025. While the father wanted longer services for a longer period of time over the summer of 2025, it is not accurate to say the IEP team unilaterally determined the duration of the student's ESY. "All available" members of IEP team met on May 8, 2025 to determine the need for ESY services. The team discussed and reviewed the student's progress toward goals, which goals needed to be worked on to prevent regression, and the amount of time needed to work on those goals.

Progress reports show data on the goals where the student either had slight improvement or a regression. The 9th grade Special Education Teacher stated in the prior written notice that "The student showed regression on his comprehension, time management, and his writing goals. These are areas that the team would like to focus on this summer with ESY." The LEA noted that the student only showed regression on one goal but two newer goals only showed slight improvement. The IEP team decided to work on two newer goals that they considered necessary for the student and it was best for the student to work on them to avoid regression. These were new goals that had been added during the IEP year per the father's request.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties.

1. The January 22, 2025 IEP shows that the IEP team determined ESY services are necessary for the student and that "Anticipated services will be determine prior to April 1, 2025, after more data is taken to determine which goals need to be maintained and worked on during ESY".
2. IEP Goal Progress Reports showed the student showed regression on the time management (behavior) goal and only slight improvement on reading and writing goals during the 2024-25 school year.
3. An IEP Amendment Form for Changes Not Requiring a Full IEP Team Meeting documents that a meeting was held on May 8, 2025 with "all available team". As a result of that meeting an IEP amendment was developed to provide ESY services to the student for four weeks during the summer of 2025. The IEP team proposed four days per week for the four weeks with the first two weeks being June 2-5 and June 9-12. The second two weeks would be July 21-24 and July 28-31. Transportation would be provided during the weeks the student is living with his father and stepmother.
4. On May 15, 2025, the 9th grade Special Education Teacher sent an email to the mother and the father with the dates and times of the ESY services and identifying the ESY Teacher. The 9th grade Special Education Teacher indicated that a copy of the IEP amendment adding the ESY services would be emailed home.
5. On May 20, 2025, the father was provided with prior written notice proposing these ESY services and noted the student showed regression on his comprehension, time management, and writing goals and those were the areas of focus during ESY. The father provided written consent on May 27, 2025.

Conclusion

IDEA requires that the IEP team must consider the need for extended school year services in order to provide a free appropriate public education (FAPE) to each student with a disability.

In this case, the IEP team determined the student required ESY services during the January 22, 2025 IEP team meeting and additional data was needed in order to determine the goals to be addressed as well as the amount of ESY services required. On May 8, 2025, available members of the IEP team met and based on a review IEP goal progress, it was determined to focus on the comprehension, time management, and writing goals during ESY. The IEP team determined that the student required four days per week for four weeks with the first two weeks being June 2-5 and June 9-12. The second two weeks would be July 21-24 and July 28-31. The father was provided with prior written notice proposing the ESY services May 20, 2025 and written consent was provided on May 27, 2025.

Based on the foregoing, it is found that the *LEA is IN compliance* and no corrective actions are required.

Issue Seven

USD #378, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to appropriately respond to the parent's request for an IEP team meeting made on June 18, 2025.

Applicable Law

Federal regulations at 34 C.F.R. 300.324(b)(1) require public agencies to ensure that each child's IEP is reviewed periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and revises the IEP, as appropriate, to address information about the child provided to, or by, the parents.

Federal regulations at 34 C.F.R. 300.322(a) require public agencies to take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place.

Parent Position

The father reported that he requested an IEP team meeting on June 18, 2025 to be held prior to August 1, 2025 to address substantial changes and updates to the student's IEP based on a change in circumstance. The father indicated he made multiple attempts to try and get this meeting schedule over the course of the summer but was told a meeting could not be held until school staff returned to the LEA on August 7, 2025. The father reported that he was contacted on August 12, 2025 by the 10th grade Special Education Teacher and a meeting was scheduled for August 14, 2025, which was the day before the first day of the school year. However, when he arrived for this meeting, he learned the meeting was a parent/teacher meeting with the 10th grade Special Education Teacher instead of an IEP team meeting. As of August 28, 2025 when he filed the child complaint with KSDE, the LEA had not responded to his request for an IEP team meeting.

LEA Position

The LEA reported that the father did not request an IEP team meeting on June 18, 2025; instead, the parent requested to meet with the Riley County High School Principal, the TLEC Director of Special Education, and the 10th grade Special Education Teacher to discuss a "list of items". The TLEC Director of Special Education responded to the father that a meeting with the student's teacher(s) could not happen during the summer because staff were not under contract at that time but offered to schedule a meeting in August. The father indicated he would prefer to meet briefly with the Riley County High School Principal and the TLEC Special Education Director to "ensure everyone was on the same page with communication and the father's requests". The father and the Riley County High School Principal met on June 19, 2025. Once staff returned to work at the beginning of August, the 10th grade Special Education

Teacher arranged to meet with the father and grandmother on August 14, 2025. Following that meeting, an IEP Meeting Notification was provided to the parent scheduling an IEP team meeting for September 3, 2025

The LEA noted that not every request for a meeting must be treated as an IEP team meeting, and the father never stated that he believed the full team needed to be assembled when he made his request to meet with only a selected few school staff in June 2025. Regardless, it was not possible to have a full IEP team meeting during the summer as staff are not under contract at that time. Once school started, the LEA was responsive to the father's request to meet reconvene the student's IEP team.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties.

1. The email dated June 18, 2025 at 8:02 a.m. written by the father stated, "I am writing to request a meeting to review several important updates. These matters impact the student's current and upcoming IEP, classroom supports, and long-term transition planning." The email included a list of 12 topics/requests.
2. The father and the Riley County High School Principal met on June 19, 2025. The father and reported and the Riley County High School Principal acknowledged that this meeting was to discuss personnel matters regarding general education teachers working with the student.
3. On June 26, 2025, the 10th grade Special Education Teacher responded to the father via email for each of the 12 topics/requests in the June 18, 2025 email and indicated a meeting would be scheduled once school began again in August.
4. On July 7, 2025, the father responded to the 10th grade Special Education Teacher and the Riley County High School Principal stating, "As we approach the start of school, I would like to discuss a good meeting date. My goal would be to have this meeting prior to the first day of school. I understand you aren't on contract and/or on vacation, but I know how quickly the first few weeks fill up".
5. The USD #378 School Calendar for the 2024-25 school year shows school staff returning to the district on August 7, 2025 and High School Orientation scheduled for August 14, 2025. The first day of classes was scheduled for August 15, 2025.
6. The 10th grade Special Education Teacher emailed the father on August 8, 2025 indicating that he would get with the Riley County High School Principal to see if a meeting could be arranged for August 14, 2025.
7. On August 11, 2025, the 10th grade Special Education Teacher tentatively scheduled a meeting for 2:00 p.m. but the father sent an email at 7:54 p.m. to the mother, the TLEC Director of Special Education, the Riley County High School Principal, and the 10th grade Special Education Teacher that he would not be able to attend this meeting. He also stated in the email that the mother would need to submit a list of additional IEP participants to him no later than noon the day before any IEP meeting was held.

8. The father and the 10th grade Special Education Teacher were able to arrange a meeting at 1:30 p.m. on August 14, 2025. The father, the student's grandmother, and the 10th grade Special Education Teacher attended this meeting. The father believed this was supposed to be an IEP team meeting while the 10th grade Special Education Teacher believed this was a parent/teacher conference prior to the first day of the new school year as requested in the July 7, 2025 email.
9. A Notice of a Special Education Meeting scheduled for September 3, 2025 at 1:30 p.m. was provided to the father who indicated in writing that he planned to attend the IEP team meeting and waived his right to a 10-day prior written notice of the meeting on August 27, 2025.

Conclusion

IDEA requires that public agencies ensure that each child's IEP is reviewed periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and revises the IEP, as appropriate, to address information about the child provided to, or by, the parents.

In this case, the father sent an email to the Riley Count High School Principal, the TLEC Director of Special Education, and the student's 10th grade Special Education Teacher on June 18, 2025 and requested a meeting to "review important updates" and discuss 12 issues/requests which will "impact the student's current and upcoming IEP, classroom supports, and long-term transition planning."

It is noted that there was a misunderstanding regarding the purpose of the meeting held between the father and the 10th grade Special Education Teacher on August 14, 2025; however, the parent was not provided with written notice of an IEP team meeting on this date nor asked to waive the 10-day notification requirement and, therefore, this would not have been considered an IEP team meeting.

In contrast, the first day of the 2025-26 school year was August 15, 2025 and the LEA provided the father with a Notification of an IEP Team Meeting scheduled for September 3, 2025 at 1:30 p.m.. The father indicated in writing that he planned to attend this IEP team meeting and waived the 10-day prior written notice requirement on August 27, 2025.

It is important to note that the LEA is correct that not all parent requests for a meeting are a request for an IEP team meeting; however, there is also no requirement that the parent request for a meeting must include the term "IEP team meeting" for it to be considered a request for an IEP team meeting either. The context of the request and the reason the parent has requested the meeting must be considered. In this case, the parent specifically indicates the "important updates" will "impact the student's current and upcoming IEP, classroom supports, and long-term transition planning."

Based on the foregoing, it is found that the ***district is IN compliance*** and no corrective actions are required.

Issue Eight

USD #378, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to appropriately respond to the parent's request for a special education evaluation at the beginning of the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.303(a) require public agencies to ensure that a reevaluation of each child with a disability is conducted If the public agency determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or if the child's parent or teacher requests a reevaluation.

Chapter 7-Reevaluation, Section B in The Kansas Special Education Process Handbook states:

If a parent requests a reevaluation, or more than one reevaluation per year, and the school disagrees that a reevaluation is needed, the school must provide Prior Written Notice to the parent that explains, among other things, why the school refuses to do the reevaluation and the parent's right to pursue the reevaluation through mediation or due process.

Federal regulations at 34 C.F.R. 300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Federal regulations at 34 C.F.R. 300.15 define the term "Evaluation" as meaning procedures conducted in accordance with federal regulations at 34 C.F.R. 300.304 through 300.11 [the IDEA Evaluation Procedures] to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

Federal regulations at 34 C.F.R. 300.302 state that the screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

Federal regulations at 34 C.F.R. 300.300(d) states that parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation; or administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

Parent Position

The father reported he requested a reevaluation of the student, specifically for occupational therapy (OT) and speech/language therapy (SLT) on June 19, 2025. He stated that, on August 19, 2025, the TLEC School Psychologist indicated that the beginning of the year is a busy time so, at this time, the evaluation is denied. The TLEC School Psychologist stated they would have

screeners done to determine if the student needed an evaluation for OT or SLT as related services.

LEA Position

The LEA reported the student's most recent reevaluation was conducted on February 5, 2024 without additional assessment. At that time, the multidisciplinary team determined the student continued to be a child with a disability and in need of continued special education and related services under the IDEA category of Autism. The LEA acknowledged that parent made a request for a reevaluation of the student on June 19, 2025 to determine the need for OT and SLT as related services. The TLEC School Psychologist followed district procedures and responded to this request when school started since the request was made while the LEA was not in session for the summer. The first day of school was August 15, 2025 and the prior written notice (PWN) was provided to the father on August 19, 2025 refusing to conduct a reevaluation of the student and explaining why an evaluation was not warranted at this time.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties.

1. On June 19, 2025, the father requested OT and SLT evaluations to determine if the student needs these related services.
2. On August 18, 2025, the TLEC School Psychologist responded to the father's request for a reevaluation of the student in an email stating, " . . . The beginning of the year is a busy time for our service providers, and I have a specific timeline in which I have to reply to your request for an evaluation, so at this time, I'm denying your request for an evaluation. However, I will be having our speech and occupational therapists screen the student to determine if there is a need for an evaluation . . . Once I hear from OT and speech about their screening data and whether or not they feel an evaluation is warranted, I'll let you know".
3. On August 18, 2025 the father was provided with a PWN refusing to conduct an evaluation of the student noting that parent consent was not required. The August 18, 2025 version of the PWN stated the reason the request for an evaluation of the student was refused was "The evaluation is being refused at this time, however, speech and OT will be screening to determine if there is a need for an initial evaluation in those areas. Based on available data, an evaluation is not warranted at this time". The PWN indicates conducting the evaluation as requested by the father was considered but rejected because "screening data is needed to determine the need for a comprehensive evaluation". Other Factors Considered Relevant to the Refused Actions state "Screening data will be gathered to determine the need for an evaluation".
4. The father sent an email that same day to the TLEC School Psychologist indicating that the PWN did not include a clear explanation of the refusal, the data used to make that determination, and the options considered and rejected. The father also stated that

screenings cannot be used to delay or deny the evaluation process once a parent has requested an evaluation. He indicated that screening can be included as part of the evaluation process but they cannot replace it.

5. On August 19, 2025, the TLEC School Psychologist responded to the father by providing an updated version of the PWN. She also stated, "I understand that screening do not take the place of an evaluation, but it allows the providers to determine if an in-depth evaluation is necessary. At this time, a evaluation is not supported by the data we have based on why related services are provided. Related services are provided to ensure a student is benefitting from their special education services".
6. On August 19, 2025, the parent was provided with a second version of the PWN which was much more complete and descriptive. The Explanation of Why the Action was Refused stated "The evaluation is being refused at this time, however, speech and OT will be screening to determine if there is a need for an initial evaluation in those areas. Based on previous IEP goals and progress towards those goals with his current special education services without support of speech and OT services, an evaluation is not warranted at this time". The PWN indicates conducting the evaluation as requested by the father was considered but rejected because "screening data is needed to determine the need for a comprehensive evaluation". Other Factors Considered Relevant to the Refused Actions state "Screening data will be gathered to determine the need for an evaluation or if related services are necessary for the student to continue benefiting from his special education services and making progress toward his goals. The psychological evaluation was reviewed and considered in the making of this determination and completing screenings was found to be the best way to proceed at this time".

Conclusion

IDEA requires that public agencies respond to parent requests for a reevaluation by either providing the parents with PWN proposing or refusing to conduct the requested evaluation of the child.

In this case, the parent requested a reevaluation of the student on June 19, 2025 when school was not in session. The LEA responded to that request on August 19, 2025 by issuing a finalized version of a PWN refusing to conduct the reevaluation when school resumed. However, this PWN included a statement that "Screening data will be gathered to determine the need for an evaluation or if related services are necessary for the student to continue benefiting from his special education services and making progress toward his goals".

The IDEA defines an "evaluation" as any procedure procedures conducted in accordance with federal regulations at 34 C.F.R. 300.304 through 300.11 [the IDEA Evaluation Procedures] to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. The IDEA requires public agencies to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

The IDEA describes three circumstances when public agencies are not required to provide PWN and obtain parent consent for an evauation. First, parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation. Second, when administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children. Third, when the screening of a student by a teacher or specialist is conducted to determine the appropriate instructional strategies for curriculum implementation.

In this case, the screening being proposed by the LEA in the August 19, 2025 PWN meets the IDEA's definition of an "evaluation" because the screening is being conducted to "determine if related services are necessary for the student to continue benefiting from his special education services and making progress towards his IEP goals". As such, the LEA is required to provide the father with a PWN proposing to conduct the screening and to obtain written consent prior to the screenings being conducted.

Based on the foregoing, it is found that the *LEA is OUT of compliance* and corrective actions are required.

Issue Nine

USD #378, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parent with appropriate prior written notice (PWN) during the 2024-25 school year, specifically by not describing the options considered and why rejected.

Applicable Law

Federal regulations at 34 C.F.R. 300.503(a) require public agencies to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE (free appropriate public education) to the student.

In addition, Kansas state regulations at K.A.R. 91-40-27(a)(3) require school districts to obtain parent consent before making a material change in services or a substantial change in placement. "Material change in services" is defined at K.A.R. 91-40-1(mm) as an increase or decrease of 25% or more of the frequency or duration of a special education service, related service, or supplementary aid or service specified in the child's IEP. "Substantial change in placement" is defined at K.A.R. 91-40-1(sss) as the movement of an exceptional child for more than 25% of the child's school day from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

Federal regulations at 34 C.F.R. 300.503(b) require the prior written notice to include 1) a description of the action proposed or refused by the agency; 2) an explanation of why the agency proposes or refuses to take the action; 3) a description of each evaluation procedure,

assessment, record, or report the agency used as a basis for the proposed or refused action; 4) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; 5) sources for parents to contact to obtain assistance in understanding the provisions regarding prior written notice and consent; 6) a description of other options that the IEP Team considered and the reasons why those options were rejected; and 7) a description of other factors that are relevant to the agency's proposal or refusal.

Parent Position

The father reports the LEA has repeatedly provided prior written notices which do not clearly explain the actions being proposed or refused by the public agency during the past 12 months. When this happens, he contacts the special education teacher and school administrators and requests for corrections to be made. He indicated the PWN dated September 27, 2024 did not fully describe all the ideas that were considered and rejected. After the father contacted the LEA, the PWN was updated to meet the requirements of the IDEA.

The father also reported that the PWN dated August 18, 2025 refusing to provide the requested evaluation was vague and did not fully explain why his request was being refused. This PWN lacked a description of the data that it referenced. The father emailed concerns about the PWN and refusal to evaluation. The psychologist provided the parent with an updated PWN along with copies of nine progress reports and a parent-supplied psychological evaluation and stated in her email that the student was making "great progress."

LEA Position

The IEP team met on September 18, 2024 to discuss proposed changes from the father and stepmother. At that meeting, the father shared a 36-page document including proposals for amendment of the student's IEP. The IEP team had a robust discussion, which resulted in several amendments being made to the IEP and a PWN was issued on September 18, 2024 which summarized the changes to the student's IEP at that time. The father pointed out what he viewed as inaccuracies in the PWN he received. Parents do not have a right to micro-manage PWNs issued by a school district. Nevertheless, the father's proposed "inaccuracies" were compared to the September 18, 2024 meeting notes and, while the LEA did not regard the father's proposed changes as necessary, the team made a few language changes to try to cooperate with the father and amended the September 18, 2024 PWN.

However, the LEA did not make all of the Father's requested changes. For instance, the PWN was not required to list all of the goals proposed by the father and stepmother because parents do not consent to specific goals; rather, they consent to services. Regardless, the father doesn't claim any confusion or harm to the student's education based on the alleged

"inaccuracies" in the original or amended September 18, 2024 PWN. Therefore, there is no basis for any corrective action related to this PWN.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties.

1. The finding from ISSUE FOUR, Number 5 is incorporated herein as follows:
   The parents were not provided with prior written notice corresponding to the material change of services and the significant change of placement proposed in the IEP amendment resulting from the August 14, 2024 IEP team meeting, which proposed changes in special education services as well as a shortened school day every other week due to transportation as a related service.
2. The findings from ISSUE EIGHT, Numbers 3-8 are incorporated herein as follows:
   The father was provided with two versions of the PWN responding to the request for a reevaluation of the student on June 19, 2025. The second version included more specific explanations and description of the action refused, the options considered, the description of the data used as the basis for the decision, and other relevant factors.
3. The parent was provided with two versions of the PWN resulting from the September 18, 2024 IEP team meeting. The second version included more specific explanations and description of the action refused, the options considered, the description of the data used as the basis for the decision, and other relevant factors.

Conclusion

IDEA requires public agencies to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE (free appropriate public education) to the student. In addition, Kansas regulations require public agencies to obtain parent consent before making a material change in services or a substantial change in placement.

This prior written notice must include 1) a description of the action proposed or refused by the agency; 2) an explanation of why the agency proposes or refuses to take the action; 3) a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; 4) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; 5) sources for parents to contact to obtain assistance in understanding the provisions regarding prior written notice and consent; 6) a description of other options that the IEP Team considered and the reasons why those options were rejected; and 7) a description of other factors that are relevant to the agency's proposal or refusal.

In this case, the LEA initially failed to provide the father with appropriate PWN following the September 18, 2024 IEP team meeting and when responding to the father's request for a

reevaluation of the student on June 19, 2025. Once the parent contacted the LEA regarding the vagueness of these two initial PWNs, the LEA updated and re-issued each of the PWN to include more specific information and clearer explanations of the actions proposed or refused. In addition, the LEA failed to provide the father with a PWN on August 14, 2024 for a change of services and placement resulting in a shortened school day due to adding transportation as a related service to the student's IEP.

Based on the foregoing, it is found the ***district is OUT of compliance*** and corrective actions are required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: The LEA was found to be in compliance with the requirements at 34 C.F.R. 300. 320(a)(4) and 300.323(c)(2) which require that the IEP include a statement of special education services to be provided to the student and for those services to be provided as described in the student's IEP.
2. ISSUE TWO: A violation of 34 C.F.R. 300.323(c)(2) which requires school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP was found. In this case, the IEPs in effect during the 2024-25 school year included behavior intervention plans (BIPs) that are required to be implemented as written. While documentation and interviews found the father's initial allegation regarding daily reporting was not included in the BIP, other reporting requirements to the parents were not consistently being provided as required.
    a. The LEA will contact TASN and arrange for training for special education teachers at Riley County High School to receive training on data collection methods and the requirement to implement IEPs, including BIPs, as written. The LEA will provide SETS with a sign-in sheet showing who was trained as well as a copy of the training documents no later than the end of the first semester of the 2025-26 school year.
    b. The Administration from TLEC will meet with the 10th grade High School Teacher at least monthly to ensure data is being collected as required by the student's BIP and that parents are being provided copies of any ABC charts as required by the BIP during the remainder of the 2025-26 school year. TLEC will provide SETS with documentation of these meetings, the outcomes, as well as re-training efforts, if appropriate, no later than June 30, 2026.
3. ISSUE THREE: The LEA was found to be in compliance with the requirements at 34 C.F.R. 300.320(a)(2) which require that , beginning not later than the first IEP to be in effect when the student turns 16 and updated annually, school districts must develop IEPs that include 1) appropriate measurable post-secondary goals based on age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills, and 2) transition services, including a course of study, needed to assist the student in reaching those goals.

4. ISSUE FOUR: The LEA was found to be in compliance with the requirements at 34 C.F.R. 300.320(a)(4) and 300.34(a) which require public agencies to includes a statement of the special education and related services, including transportation as a related service, to be provided to the student or on behalf of the student in order for that student to benefit from their special edcation services.
5. ISSUE FIVE: The LEA was found to be in compliance with the requirements at 34 C.F.R. 300.320(a)(3) which require public agencies to include a statement in each IEP describing how the child's progress toward meeting the annual goals will be measured; and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.
6. ISSUE SIX: The LEA was found to be in compliance with the requirements at 34 C.F.R. 300.106(b) which require that the IEP team must consider the need for extended school year services in order to provide a free appropriate public education (FAPE) to each student with a disability.
7. ISSUE SEVEN: The LEA was found to be in compliance with the requirements at 34 C.F.R. 300.324(b)(1) which require public agencies to ensure that each child's IEP is reviewed and revised, as appropriate, to address information about the child provided to, or by, the parents as well as at 34 C.F.R. 300.322(a) which require public agencies to take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place.
8. ISSUE EIGHT: A violation of 34 CFR 300.503(a) requiring school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student was found. In this case, the LEA refused to conduct an evaluation of the student at the same time as proposing to conduct screenings for OT and SLT to determine the need for related services for the student. The screening being proposed by the LEA meets the definition of an "evaluation" under the IDEA and requires parent consent. However, the LEA did not obtain consent from the parent prior to conducting these screenings.
    a. The LEA will review and revise, as appropriate, their policies, procedures and practices regarding obtaining parent consent when conducting screenings. TLEC will provide in-service training regarding the policies and procedures to all school psychologists and related services providers employed at TLEC no later than the end of November 2025. TLEC will provide SETS with a sign-in sheet showing who attended the in-services as well as a copy of the training documents no later than the end of the first semester of the 2025-26 school year.
9. ISSUE NINE: A violation of 34 CFR 300.503 (a, b) was found. These regulations require public agencies to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational

placement, or the provision of FAPE (free appropriate public education) to the student by including 1) a description of the action proposed or refused by the agency; 2) an explanation of why the agency proposes or refuses to take the action; 3) a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; 4) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; 5) sources for parents to contact to obtain assistance in understanding the provisions regarding prior written notice and consent; 6) a description of other options that the IEP Team considered and the reasons why those options were rejected; and 7) a description of other factors that are relevant to the agency's proposal or refusal. It is also noted that K.A.R. 91-40-27(a)(3) requires public agencies to obtain parent consent for any material change of services and/or a substantial change of placement.

a. The LEA will contact TASN and arrange for training for special education staff working at Riley County High School in the LEA to receive training on when and how to provide appropriate PWN to parents. The LEA will provide SETS with a sign-in sheet showing who was trained as well as a copy of the training documents no later than the end of the first semester of the 2025-26 school year.

b. The Administration from TLEC will conduct an internal review of at least two PWNs for each of the special education teachers at Riley County High School to monitor for compliance in regards initially providing parents with appropriate PWN which document and clearly explain the decisions made at made at IEP team meetings during the 2025-26 school year. TLEC will provide SETS with documentation of these reviews, the outcomes, as well as re-training efforts, if appropriate, no later than the end of the fourth quarter of the 2025-26 school year.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 378
Riley County Public Schoools: 26FC378-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on August 28, 2025, by --------- on behalf of his child, ---------. In the remainder of this decision, --------- will be referred to as "the parent," and ---------- will be referred to as "the student." it is also noted that the student's mothers name is ---------. An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on October 17, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, both the district and the parent filed an appeal of the Complaint Report. Upon receipt of the appeals, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parties' notices of appeal, and the parties responses to the appeals. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report contained nine issues.

The district appeals the decision in Issues 2, 8 and 9.

The parent appeals the decision in Issues 1, 2 and 7, along with "Technical and Editorial Corrections" regarding Issues 4 and 8.

We start with the district's appeal.

Issue 2

Issue 2 of the complaint alleges that the district failed to implement the student's IEP, specifically the Behavior Intervention Plan (BIP) by not providing daily behavior reports to the parent during the 2024-25 school year.

The investigator determined that the BIP did not require daily behavior reports (Report, p. 11). Hower, the investigator noted that:

> *the BIP qualifies the statement "Progress will be reported at the same intervals as general education progress reports and/or report cards are issued" by adding the phrase "unless noted below:" and below that statement was typed: "When the student has a behavior that is on his level 1-4 ABC chart". This means that when the student exhibits a behavior described in any of the four levels of the ABC Chart, this behavior should have been reported to the parents. Eleven ABC Charts were completed between August 15 and December 11, 2024 documenting the student's behavior ranging between Level 1 and 4; however, none of these ABC charts were sent to the parents as required by the other circumstance described in the BIP. Report, p. 13.*

In its appeal, the district asserts that the investigator reached the wrong conclusion because that "language in the BIP did not require reports to parents every time the student had a behavior on his level 1 – 4 ABC chart." In his response to the district's appeal on this issue, the parent disagrees and says the district's "claim that the requirement referred to "data collection" instead of "reporting" ignores the plain language of the plan and the intent behind it. The purpose of the BIP's reporting requirement is communication, not paperwork." The parent's response also says: "When the law (34 C.F.R. § 300.323(c)(2)) requires services, including behavioral interventions, to be implemented as written, that includes the communication procedures that make those interventions effective."

The Appeal Committee disagrees with the parent's assertion that "the district's claim that the requirement referred to "data collection" instead of "reporting" ignores the plain language of the plan and the intent behind it" but agrees with the parent's response that, "the law (34 C.F.R. § 300.323(c)(2)) requires services, including behavioral interventions, to be implemented as written.

When faced with an issue such as this one, where the dispute involves interpreting what is meant by language used in an IEP, we use the guidance provided from the highest courts that have considered this question.

In John M. v. Bd. Of Ed. of Evanston Township High Sch., 107 LRP 53843 (7th Cir. 2007), the United States Circuit Court of Appeals for the 7th Circuit said that, in most cases, a court should find it unnecessary to go beyond the four corners of an IEP, unless the IEP is vague in which case the court may look at extrinsic evidence.

In our own 10th Circuit Court of Appeals (Kansas is in the 10th Circuit, so its rulings are law in Kansas) in Sytsema v. Academy Sch. Dist. No. 20, 538 F.3d 1306, 50 IDELR 213 (10th Cir. 2008) the Circuit Court held a similar (four corners) result saying that the IEP is the written offer and the court will only consider the written IEP (emphasis added).

Thus, we look at the actual language used in the IEP. In this instance, the IEP (BIP) is not vague.

It states: "*Progress will be reported at the same intervals as general education progress reports and/or report cards are issued unless otherwise indicated below. . . . When the student has a behavior that is on his level 1-4 ABC chart. ABC chart will be made by the special education with the support of the behavior teacher if needed.*"

These are two independent statements. There is nothing in any of the language that follows the first statement that contradicts or modifies the first statement in any way. Certainly, nothing in the second statement indicates or even hints that a progress report of any kind will be made to the parent when the student has a behavior that is on his level 1-4 ABC chart.

For the reasons stated herein, the Appeal Committee finds that the conclusion in the report of a violation of law on issue 2 should be reversed and the corrective action rescinded.

Issue 8

The district failed to appropriately respond to the parent's request for a special education evaluation at the beginning of the 2025-26 school year.

On June 19, the parent requested OT and SLT evaluations to determine if the student needs these related services. On August 18, 2025 the father was provided with a PWN refusing to conduct an evaluation. When the parent indicated his view that the PWN was deficient the district promptly responded with an updated and more complete PWN on August 19, 2025. (Report, p. 33-34: Finding of Fact 1 – 5).

The second version of the PWN was described, in relevant part, in the report as follows:

> The Explanation of Why the Action was Refused stated "***The evaluation is being refused*** *at this time, however,* ***speech and OT will be screening to determine if there is a need for an initial evaluation in those areas****. Based on previous IEP goals and progress towards those goals with his current special education services without support of speech and OT services, an evaluation is not warranted at this time*". The PWN indicates conducting the evaluation as requested by the father was

> considered but rejected because "***screening data is needed to determine the need for a comprehensive evaluation***". Other Factors Considered Relevant to the Refused Actions state "***Screening data will be gathered to determine the need for an evaluation <u>or if related services are necessary for the student to continue benefiting from his special education services and making progress toward his goals</u>****. The psychological evaluation was reviewed and considered in the making of this determination and completing screenings was found to be the best way to proceed at this time*". (Report p. 34; Finding of Fact 6 – emphasis added)

The district bases its appeal on the portion of the PWN saying that the proposed screening will be done ***to determine if there is a need for an initial evaluation***. The investigator focused on additional language in the PWN, adding: "***<u>or if related services are necessary for the student to continue benefiting from his special education services and making progress toward his goals</u>***.

The investigator concluded that this additional, underlined, language in the PWN met the definition of the term "evaluation" and so was a proposal to conduct an evaluation. The investigator concluded that, "As such, the LEA is required to provide the father with a PWN proposing to conduct the screening and to obtain written consent prior to the screenings being conducted."

However, the Appeal Committee does not believe this PWN proposed an evaluation for the following reason: The PWN included this statement: "*The **<u>evaluation is being refused</u>** at this time, however, **speech and OT will be screening to determine if there is a** <u>need for an initial evaluation</u> **in those areas***. This explicit language in the PWN makes it clear that the purpose of the PWN is to (1) refuse the parent's request for an evaluation, and is not a district proposal to conduct an evaluation and (2) the purpose of the screening is to *determine if there is a <u>need for an initial evaluation</u> in those areas* (speech and OT), not whether there is a need for services. (Emphasis added).

For the reasons stated above, the Appeal Committee reverses the conclusion of the complaint investigator on Issue 8 and rescinds the corrective action connected with Issue 8.

<u>Issue 9</u>

> **The district failed to provide the parent with appropriate prior written notice (PWN) during the 2024-25 school year, specifically by not describing the options considered and why rejected.**

The investigator found a violation in this issue, concluding:

> In this case, the LEA initially failed to provide the father with appropriate PWN following the September 18, 2024 IEP team meeting and when responding to the father's request for a reevaluation of the student on June 19, 2025. Once the parent contacted the LEA regarding the vagueness of these two initial PWNs, the

> LEA updated and re-issued each of the PWNs to include more specific information and clearer explanations of the actions proposed or refused. In addition, the LEA failed to provide the father with a PWN on August 14, 2024 for a change of services and placement resulting in a shortened school day due to adding transportation as a related service to the student's IEP. (Report, p. 39-40).

In its appeal, the district asserts that the investigator found a violation even though the district responded to the parent's concerns about the adequacy of these two PWNs by issuing subsequent, more detailed PWNs, without an explanation in the report as to why the subsequent PWNs were inadequate. The Appeal Committee agrees that the report does not describe how these two subsequent PWNs were deficient.

In the conclusion of Issue 9, the investigator adds, "In addition, the LEA failed to provide the father with a PWN on August 14, 2024 for a change of services and placement resulting in a shortened school day due to adding transportation as a related service to the student's IEP. In its appeal, the district asserts that the added transportation occurred outside the school day (before and after each school day) and so did not shorten the student's school day.

Again, the Appeal Committee agrees with the district. The term "transportation" appears 52 times in the report, but there is no reference to providing this service during school hours that would result in shorting the school day of this student.

In Issue 4, finding 4, p. 20, the report states:

> 4. The IEP Amendment sent to the father described the change to the February 5, 2024 IEP as "*Beginning 8/14/24, the student will receive student transportation minutes of 20 minutes per day, 5 days per week. This will be on the dad's week with the student. Due to adding student transportation minutes, this will affect the student's AC [Attendant Care] minutes. He will be receiving 30 minutes of AC 5X every other week and 50 minutes 5X every other week on mom's week.*"

In Issue 4, finding 12, p. 21, the report adds:

> The Transportation Logs document both date and mileage; however beginning and end times are not documented.

There is nothing in the report that substantiates, or even refers to, providing transportation during the school day or otherwise shortening this students school day to provide transportation.

Additionally, in its appeal, the district notes that even if there was some deficiency in these original and subsequent PWNs, it was at most a harmless and procedural error that did not substantially result in a loss of educational opportunities for the student or substantially impede parent's

participation in the IEP process. The district cites a United States Circuit Court of Appeals decision stating:

> "Plaintiffs also have not shown that WCS's failure to provide notice caused any loss of educational opportunity to (the student). or seriously infringed on their opportunity to participate in the special-education process, since (the student's) parents continued to be closely involved in discussions with WCS about (the student's education despite the lack of prior written notice on the three occasions in question."

This court's finding is based on federal regulation 34 C.F.R. 300.513, which states that hearing officers must base their decisions on substantive grounds, and that when considering procedural violations, they may find that a child did not receive a free appropriate public education (FAPE) "only if the procedural inadequacies--

(i) Impeded the child's right to a FAPE;
(ii) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or
(iii) Caused a deprivation of educational benefit."

While this regulation directly effects decisions of hearing officers, not state complaint investigators, it provides important guidance to investigators considering procedural requirements, such as the content of a PWN, exactly the issue in this Circuit court decision. There is no analysis in the report addressing whether any alleged deficiency in these PWNs "Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child," and the Appeal Committee sees no support in the report for such a conclusion.

In his response to the district's appeal of this issue, the parent argues the following:

1. This defense minimizes both the law and common sense. The IDEA (34 C.F.R. § 300.503) is explicit: prior written notices must describe the actions proposed or refused, the reasons, the data relied upon, the options considered and rejected, and other relevant factors
2. Compliance is not optional, and accuracy is not a courtesy. It is a procedural safeguard protecting parental participation.
3. When a district refuses to communicate or document decisions accurately, it effectively silences the parent's voice. For a family like ours, accuracy in the record is not bureaucratic perfectionism. It is the only way to protect a child who cannot speak for himself

The Appeal Committee understands the parents position that the district should be held to complete compliance with the law. However, the courts that have considered this issue regarding compliance with the many procedural requirements of special education law have all adopted a different view.

In Abigail P. v. Old Forge School District, 124 LRP 21769 (3d. Cir. 2024), this court said it was joining the 4th, 5th, 8th, 9th, and 11th Circuits, in concluding that an implementation failure must be material to be actionable and perfect adherence is not the standard. The court said, "Indeed, a requirement of perfect adherence would ignore the realities and the challenges that the IDEA was built to accommodate…A materiality standard affords local agencies some flexibility while still holding those agencies accountable for material failures and for providing the disabled a meaningful education benefit."

Also see, L.J. v. School Board of Broward County, Florida, 119 LRP 24771 (11th Cir. 2019), where the court cited the 5th, 2nd, and 4th, Circuit decisions, and said the statute is violated when there is a material deviation from the IEP, and added, "We see nothing in the text of the IDEA holding schools to a standard of perfect implementation…"

Kansas is in the 10th Circuit, and the 10th Circuit Court of Appeals has also ruled on alleged procedural violations, saying: "It is well settled that, without a claim that the FAPE was deficient, procedural defects are not actionable…Procedural defects alone do not constitute a violation of the right to a FAPE unless they result in the loss of an educational opportunity." T.S. v. Indep. Sch. Dist. 54, 265 F.3d 1090, 35 IDELR 128 (10th Cir. 2001). In a Kansas case, the 10th Circuit Court said, "technical irregularities do not produce a violation of Kansas law or the IDEA." Otoole v. Olathe Sch. Dist., 28 IDELR 177 (10th Cir. 1998), " Emphasis added.

For all of the reasons cited above, including that,

(1) there was no finding in the report that the subsequent PWNs provided to the parent after the parent requested more information were deficient; and
(2) even if the PWNs were deficient, there was no finding in the report that the deficiency significantly impeded the parent's right to participate in the decision making process or caused a deprivation of educational benefit to the student. There was no evidence that the parent was unable to make proposals or unable to participate in IEP meetings, or that the student was deprived of educational benefit as a result of allegedly deficient PWNs.

The Appeal Committee concludes that the conclusion of the investigator on this issue should be, and is, reversed. Corrective action ordered by the investigator regarding this issue is rescinded.

Next, we turn to the parent's appeal.

Issue One

The district failed to implement the student's IEP, specifically by not providing the required amount of special education services during the 2024-25 school year.

The parent's appeal of this issue begins:

"ISSUE 1 — IEP Implementation (Service Minutes and Schedule Alignment)

Summary of Error: The report characterizes the father's concern about

(the student's IEP service minutes as a "misunderstanding" related to scheduling

changes from grade school to high school."

In support of this "Summary of Error" the parent asserts that he was correct that the IEP service minutes did not align to the student's schedule and so the investigator's conclusion misstates the evidence.

Noting that an appeal of a complaint report may contest only "findings or conclusions" in the report (See K.A.R. 91-40-51(f), the Appeal Committee reviewed the five findings related to Issue one on pages 7 and 8. None of these findings use the term "misunderstanding." Accordingly, there is no finding related to misunderstandings in this issue that can be reviewed on appeal.

The conclusion in the report that is related to Issue 1, does include this statement, "And, even though allowed by the IDEA, it is noted that this situation led to multiple misunderstandings between LEA staff and the student's father which could have been avoided if the information was uniformly reported in the same sections of both IEPs." This statement, however, is not the conclusion. It appears to be merely a comment about how information that is contained in successive IEPs would likely be more clear if that information were in the same sections of the two IEPs. Accordingly, who was "right" or "wrong" as to whether there was a "misunderstanding" is not a matter of a finding or conclusion in the report, and is not subject to review on appeal.

Moreover, the parent does not provide convincing evidence in this appeal that the investigator's conclusion that the February 5, 2024 IEP and the January 22, 2025 IEP both matched the student's 9th grade schedule was wrong.

The conclusion in the report on Issue 1 is sustained.

Issue 2

The district failed to implement the student's IEP, specifically the Behavior Intervention Plan (BIP) by not providing the daily behavior reports to the parent during the 2024-25 school year.

The parent's appeal of this issue begins:

"ISSUE 2 – Behavior Intervention Plan (BIP)

Summary of Error: The report states that according to the LEA, the BIP was revised at the January 22, 2025 IEP meeting to add "Monthly data will be taken when the student is not complying with the directive and asking for 3 additional minutes before transitioning." No documentation or PWN exists to support this. The LEA unilaterally changed the BIP without parent consent.

Whether the LEA changed the student's BIP on January 22, 2025 without a PWN or consent is not the concern alleged in Issue 2. The concern alleged in Issue 2 is whether the district failed to implement the student's Behavior Intervention Plan (BIP) by not providing the daily behavior

reports to the parent during the 2024-25 school year. The investigator noted that there was nothing in the student's BIP that required daily behavior reports to the parent (Report, Finding of Fact 2, p. 11), and that the parent "acknowledged that the BIP does not require daily progress reporting (Report, p. 10)."

The Appeal Committee finds no error occurred with regard to the issue presented in this appeal. Note: The conclusion in Issue 2 was reversed on other grounds by the Appeal Committee.

*With regard to references the parent made in his appeal to "cafeteria clean-up" and "classroom visits" the Appeal Committee found no reference to these topics anywhere in the report or original complaint. Accordingly, there is no finding or conclusion regarding these subjects that are subject to appeal.

Issue 7

The district failed to appropriately respond to the parent's request for an IEP team meeting made on June 18, 2025.

The parent's appeal of this issue begins:

"Summary of Error: The report states no direct IEP meeting request was made and finds the LEA in compliance, contradicting documented emails and legal standards."

The parent's request for a meeting are well documented in the report. The report states that an "email dated June 18, 2025 at 8:02 a.m. written by the father stated, "*I am writing to request a meeting to review several important updates. These matters impact the student's current and upcoming IEP, classroom supports, and long-term transition planning* (Emphasis added)." Further, the email included a list of 12 topics/requests. (Report, Finding of Fact 1, p. 29). The parent did not specifically ask for an IEP meeting, but wanted to talk about the student's IEP, classroom supports and transition planning. These are all matters only the IEP team could effectively address. There should have been no misunderstanding of this request. The Appeal Committee finds that this email constituted a written request for an IEP meeting.

The issue, then, is whether the district appropriately responded to this request for an IEP meeting. The parent cites the Kansas Special Education Process Handbook, in Ch. 4, Sec. C, as stating that an IEP team must meet "as soon as reasonably possible" after a request for an IEP meeting. The Appeal Committee reviewed Chapter 4, as well as the entire handbook, and could find no such statement. Nor is there any such requirement in law.

The Office of Special Education and Rehabilitative Services (OSERS) is an office within the United States Department of Education that provides guidance in special education matters. It has said:

> When an explicit timeline is not specified in the IDEA or its implementing regulations, the Department interprets that the requirement will be met within a

> reasonable period of time. The Department has not defined "a reasonable period of time" but has explained with respect to implementation of services in a child's IEP, that "with very limited exceptions, IEPs for most children with disabilities should be implemented without undue delay following the IEP meetings…We believe that there is nothing in IDEA that would prevent a State from establishing a reasonable timeline in its rules implementing this IDEA requirement. (Emphasis added). Letter to Frumkin, 79 IDELR 233 (OSERS 2021).

Kansas has exercised the authority described by OSERS in its Letter to Special Education Directors RE: "Reasonable Time" to respond to parent request for evaluation, (Jan. 8, 2002). In this letter, the Special Education Director for the Kansas State Department of Education notified the special education directors in all Kansas schools of the following:

> We are instructing our complaint investigators that when the school district is required to provide parents with a **written notice** of the district's proposal or the district's refusal of a parent's proposal (whether oral or written) under K.S.A. 72-988(b)(2) (**regarding the initiation, or a change of, identification, evaluation, placement or the provision of FAPE** to a child with an exceptionality), **unless there is some unusual circumstance, a reasonable time in which to provide such notice to the parents is 15 school days** (emphasis added).

This policy letter is cited in the Kansas Special Education Process Handbook in Chapter 1, Section D and Chapter 2, Section E. While the letter specifically addresses the time in which a district must respond to a parents request for a special education evaluation, it has been consistently used by the Special Education and Title Services team (SETS) at the Kansas State Department of Education to apply to any timeline for completing any task for which the law requires but does not specify a time in which the task must be completed. This policy is consistent with OSERS guidance in Letter to Frumkin (See above). The policy was established with the understanding that Kansas school districts have periods during a calendar year when they are not operating for extended lengths of time (such as during the summer break).

Using this, long-established guidance, the Appeal Committee notes that the facts in this issue are largely uncontested, and include the following:.

June 18, 2025, the parent requested an IEP meeting (although the district disputes this fact, the Appeal Committee has determined that this request to meet was a request for an IEP meeting – see above). (Report, Finding of Fact 1, p. 29)

August 15, 2025, was the first day of classes. (Report, Finding of Fact 5, p. 30)

August 15, 2025, the LEA provided the father with a Notification of an IEP Team Meeting scheduled for **September 3, 2025** at 1:30 p.m.. The father indicated in writing that he planned to attend this

IEP team meeting and waived the 10-day prior written notice requirement on August 27, 2025. (Report, p. 31).

The parent requested this IEP meeting on June 18, while school was not in session. The first day of school was August 15 (or as the parent alleges in his appeal, August 14) and the IEP meeting was scheduled for September 3. There were eight (or 9 according to the parent) school days between the date the parent requested an IEP meeting (June 18) and the date the meeting was scheduled to occur (September 3). Based on these facts and the long-time interpretation of SETS regarding the time in which to respond to a parent's special education request, the Appeal Committee concludes that the district scheduled the requested IEP meeting within a reasonable time.

The decision of the complaint investigator on issue 7, that the district is in compliance, is affirmed.

Issue 8

The district failed to appropriately respond to the parent's request for a special education evaluation at the beginning of the 2025-26 school year.

The investigator found a violation on this issue, stating:

> In this case, the screening being proposed by the LEA in the August 19, 2025 PWN meets the IDEA's definition of an "evaluation" because the screening is being conducted to "*determine if related services are necessary for the student to continue benefiting from his special education services and making progress towards his IEP goals*". As such, the LEA is required to provide the father with a PWN proposing to conduct the screening and to obtain written consent prior to the screenings being conducted.

The Appeal Committee has reversed this conclusion for the reasons stated earlier in response to the district's appeal of Issue 8.

In his response to the district's appeal of this issue, the parent asserts,

> The district's argument that screenings are "pre-referral processes" is a gross distortion of both the IDEA and the Kansas Special Education Process Handbook. The investigator correctly determined that the district violated the law by denying an evaluation while simultaneously conducting screenings to determine eligibility for related services, actions that meet the IDEA definition of an evaluation under 34 C.F.R. § 300.15.

The Appeal Committee disagrees. Federal regulation 34 C.F.R. 300.302 says:

"The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services." Kansas statute, K.S.A. 72-3428 has an identical

provision. The Office of Special Education Programs (OSEP), the office in the United States Department of Education that writes the federal regulations, explained that,

> Child find activities typically involve some sort of screening process to determine whether the child should be referred for a full evaluation to determine eligibility for special education and related services (Federal Register, Aug. 14, 2006, p. 46636).

And that,

> An "evaluation," as used in the Act, refers to an individual assessment to determine eligibility for special education and related services, consistent with the evaluation procedures in Sec. Sec. 300.301 through 300.311. "Screening," as used in Sec. 300.302 and section 614(a)(1)(E) of the Act, refers to a process that a teacher or specialist uses to determine appropriate instructional strategies…Because such screening is not considered an evaluation under Sec. Sec. 300.301 through 300.311 to determine eligibility for special education services, parental consent is not required. (Federal Register, Aug. 14, 2006, p.46639). Emphasis added.

Another consideration, mandated by Kansas Administrative Regulation 91-40-7(c)(2), is that Kansas school districts are required to conduct general education interventions, before referring a child for a special education evaluation, or have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child or have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met:

(A) The child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel.
(B) The child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction.
(C) The assessment results were provided to the child's parent or parents.
(D) The assessment results indicate that an evaluation is appropriate.

The only exception to this requirement is when: (3) The parent of the child requests, and gives written consent for, an evaluation of the child, and the board agrees that an evaluation of the child is appropriate. Clearly, as stated in the PWN, the district did not agree to conduct an evaluation.

The Appeal Committee concludes that the screening procedures proposed in the district's PWNs were not proposals to conduct an evaluation and did not require parent consent.

Technical and Editorial corrections:

This portion of the parent's appeal relates to errors and language used in the report. The parent objects to language the parent believes to be subjective, not neutral, and includes dates that are

incorrect but were not used in making findings of fact or conclusions, and includes an incorrect name for the student's mother.

The Appeal Committee declines to address these issues on appeal as it does not have authority to do so. The regulation authorizing the complaint appeal process limits the subject matter of appeals to the "findings or conclusions" of a complaint report (See, K.A.R. 91-40-51(f)(1). The issues addressed in this portion of the parent's appeal are not part of the findings or conclusions in the report. However, the Appeal Committee acknowledges that the parent has provided credible information on the name of the student's mother, and that the report should have referred to her by her legal name, as stated in the opening paragraph of this decision.

Conclusion

For the reasons stated herein, the Complaint Report is sustained where it finds no violation of law and reversed where it finds a violation of law. All corrective actions are rescinded.

The Appeal Committee understands the parent's desire to have his child evaluated for eligibility for specific related services, (Speech and OT) and reminds district officials of their "child find" obligation to propose a special education evaluation, rather than continuing general education interventions, when they reasonably suspect that a child has a disability and is in need of specially designed instruction as a result of the disability.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 10th day of November, 2025.

Appeal Committee

Crista Grimwood

Brian Dempsey

Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #37
ON SEPTEMBER 11, 2025

DATE OF REPORT: OCTOBER 14, 2025

This report is in response to a complaint filed with our office on behalf of a student, ------, by their guardian, ------. In the remainder of the report, the student will be referred to as "the Student" and the guardian as "the Complainant."

The Complaint is against USD # 437, Auburn/ Washburn Public Schools. In the remainder of the report, the "School" and the "local education agency (LEA)" shall refer to USD #437.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on September 11, 2025, and the 30-day timeline ended on October 11, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's Individualized Education Program (IEP), which included supports identified in the Student's Behavior Support Plan and Medical Plan. K.A.R. 91-40-16(b)(3), K.A.R. 91-40-19; 34 CFR §300.323.

ISSUE TWO: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, limited the Complainant's right to ask for revisions of their child's IEP. K.A.R. 91-40-16(a), K.A.R. 91-40-19(c), K.S.A. 72-3429(f)(2); 34 CFR § 300.324.

ISSUE THREE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant with a copy of the procedural safeguards

at least one time during the school year and upon the request of the Complainant. K.A.R. 91-40-26(d); 34 CFR § 300.504.

ISSUE FOUR: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided IEP access to each regular education teacher. special education teacher, related service provider, and other service providers who are responsible for its implementation. K.A.R. 91-40-16 (4), 34 CFR § 300.321.

ISSUE FIVE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the least restrictive environment (LRE) for the Student, including non-academic and extracurricular services and activities, such as meals, recess periods, and other non-academic services and activities, to the maximum extent appropriate to the needs of the Student. K.A.R. 91-40-1(h)(i)(1).(II), K.A.R. 91-40-21, K.S.A. 72-3420; 34 CFR § 300.600(d).

Investigation of Complaint

The Complaint Investigator interviewed the Complainant by video call on October 3, 2025. The following LEA staff were interviewed on October 2, 2025: The Food Service Manager, the Special Education Provider, the Behavior Technician 2, and the Director of Secondary Special Education.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Program, dated December 17, 2024.
2. Email correspondence between the LEA and the Complainant dated September 17, 2024 through September 10, 2025.
3. Progress Report dated May 19, 2025.
4. The Student's daily schedules dated January 14, 2025 through September 8, 2025.
5. Doctor's Note dated April 24, 2025.
6. My Ride K-12 Bus Details dated September 5, 2025, through September 8, 2025.
7. Emergency Safety Intervention (ESI): Report and Parent Notification dated May 5, 2025.
8. ESI Documentation Log dated May 5, 2025.
9. ABC Data dated February 7, 2025.
10. IEP Fidelity & Support system for [the Student] dated September 10, 2025.
11. Prior Written Notice (PWN) for Evaluation or Reevaluation dated June 4, 2025.
12. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated December 17, 2024.
13. Request for Consent for Special Education Action dated March 7, 2025.

14. Student Activity Report dated September 12, 2024.
15. Functional Behavior Assessment Summary (FBA) dated July 3, 2025.
16. LEA Response, undated.
17. Staffing Transition Plan dated February 28 through April 2 (no year given).
18. APE Consult dated August 14, 2024, through September 10, 2025.
19. Student Period Attendance Detail dated September 24, 2025.
20. Student Bell Schedule, undated.
21. Advanced De-Escalation Skills Slideshow dated August 5, 2025.
22. Detailed Hours Report dated July 11, 2025, through August 11, 2025.

Background Information

This investigation involved a tenth-grade student enrolled at Washburn Rural High School in USD #437. The Student was receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA). The Student is very observant and enjoys building relationships with school staff. The Student experienced significant disabilities and required a one-to-one staff member during their entire school day, including transportation to and from school. The Student had a Behavior Intervention Plan (BIP) that addressed behaviors such as physical aggression, eloping, self-injurious behaviors, eating too fast, and toileting challenges. The Student was non-verbal and used an Augmentative and Alternative Communication (AAC) device.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant and staff in the LEA.

1. On September 17, 2024, an email thread between the Special Education Provider and the Complainant stated:
    a. The Complainant requested the Student's "dedicated bathroom breaks and drinking water schedule" for each day, stating the Student was using the bathroom at home more frequently during school days and had clear urine. In addition, the Complainant stated the Student was "soaking [their] pull-up, the beadsheets, [their] pillow and pillowcase, blanket and comforter" on school nights only.
    b. The Special Education Teacher stated the Student was drinking "anywhere between 20 and 24 ounces a day," adding the Student's last drink of the day "is typically before 6th hour, about 6 oz."
    c. The Special Education Teacher suggested using a larger water bottle to hold all of the water the Student is allowed for the day. They stated they could portion it out to the Student throughout the day to limit and track the amount of water the Student drinks.

d. The Complainant responded to the Special Education Provider's email on September 19, 2024, stating, using the larger water bottle "sounds like a good idea to try."

2. On October 2, 2024, the Complainant emailed the Special Education Provider to state the Student had exited the bus holding a sweatshirt and a T-shirt, which was against the Student's plan not to have access to clothing. The Complainant stated the Student was agitated because of the clothing and "tore up [their] parents' house, destroyed and shredded clothing, tired [sic] to destroy and throw away all of their parents' clothing, and was up ALL night." The Student had become physically aggressive with their Parents and had to be picked up early because the Student had been "violent and destructive over [their] obsession with clothing and destroying it to make trash." The Complainant stated they had made multiple requests for a meeting about these issues and stated there had been no meeting scheduled and the paraprofessional was still letting the Student access their backpack and was not following the Student's IEP. The Complainant sent an additional email to the Special Education Provider asking for a copy of the Student's most recent IEP.

3. An annual IEP dated December 17, 2024, included the following:

   a. The Student struggled to use oral language to express their basic needs and wants, request information, and communicate what they know. The Student struggled with managing and regulating their emotions, behaviors, and social situations. The Student demonstrated anxious behaviors, OCD tendencies, and had a PICA and Disruptive Mood Dysregulation Disorder.

   b. Transition goals were listed in the areas of education and training, employment, and independent living skills. Academic and Functional goals were listed in the areas of math, English language arts, communication, fine motor, emotional regulation, social skills, spelling, daily living skills, and personal hygiene habits.

   c. The BIP was included in the IEP and was dated May 24, 2024. The plan indicated the following:

      i. Problem behaviors included hitting, kicking, pushing, headbutting, grabbing, eating inedible objects, property destruction, tackling staff, pulling hair, biting, pinching, slapping, peeing on staff, smearing feces, tearing clothing, eloping, picking scabs, eating too fast, swallowing food whole, overeating, and overdrinking, leading to vomiting.

      ii. Precursor behaviors included anxious sounds, face scrunching, hitting the table, grabbing the staff's hand, forceful high-fives, restlessness, requests to go to the preferred area, noticing holes or imperfections in clothing, and seeing clothing or laundry items.

      iii. Antecedents included being hungry, a change in staffing, sensory needs not met, non-preferred tasks, new tasks, a change in routine,

unclear expectations, unstructured time, being told 'no', hearing staff discuss bathroom or laundry, and being uncomfortable in clothes.

iv. The function of behavior was described as an attempt to avoid tasks, activities, or environments, or to gain a preferred activity.

v. Replacement behaviors were listed and indicated staff "should refer [the Student] to the icons on [the Student's] desk for break, calm down room, help, and then immediately provide what [they] requests [sic]."

vi. Proactive strategies included ensuring the Student had "access to two staff members who are trained in de-escalation strategies and who are familiar with [the Student's] routines and behavior plan" and ensuring the Student had "access to two staff members who know how to access help for emergent situations, such as knowing the number for the office and knowing the location of the intercom button" and ensuring staff are "aware of the PRN [as needed] medication that the nurse keeps available to [the Student]." Additional strategies included keeping the Student stimulated and engaged in learning activities, pre-teaching routines, familiarizing the Student with staff, offering choices, social stories, reinforcement with "thumbs-up and verbal praise rather than tangible items and rather than physical hand shakes, bumps, or high-fives," and using social reinforcement for transitioning onto the bus. According to the document, "a copy of BIP will be on the bus."

vii. Reactive strategies included alerting the nurse at the first sign of aggressive behaviors to administer PRN medication. The BIP stated, "This should be a known procedure by [the Student's] staff, administration, and the nursing staff. "Additional strategies included directing the Student to the calm space, reminding the Student of expectations, changing their activity, offering breaks, and the use of seclusion when the Student was being unsafe.

viii. Staff trainings included adding necessary staff training in the IEP, training on the procedure for the PRN medication, staff members who were trained in CPI to oversee de-escalation, new staff would receive training on de-escalation strategies, new staff would be trained on strategies the Student responds best to, and staff would have access to the Student's BIP.

d. The IEP team determined Extended School Year Services (ESY) would be necessary for the Student.

e. The following accommodations were listed:

i. Allow frequent breaks (as needed, while or after completing a work session), reinforcement system, Positive Behavior Supports System (PBIS), visual schedule, other mini schedules, alert student to transitions, other scheduled sensory movement breaks (twice a day for

15 minutes), and other supervision (for safety, in the restroom, transitions, and classroom).

f. Support for school personnel included indirect occupational therapy.

g. The IEP team determined transportation services were required.

   i. The IEP indicated the Student required a one-on-one bus aide, safety vest/harness, fewer people aboard the bus, and preferential seating (not by the window, aisle seat, not seated next to other students).

   ii. The IEP indicated the bus personnel needed training in de-escalation and CPI in order to provide services to the Student.

h. Service providers on the IEP included the special education classroom teacher, the school nurse, an instructional facilitator, an occupational therapist, and a speech and language pathologist. Services indicated they would be provided outside of regular education classrooms, programs, and other locations.

i. "[The Student] will have a 1-on-1 non-instructional behavior technician during non-instructional time. In addition, [the Student] will have another adult in the classroom (or restroom, hallway, transition areas, etc.) during non-instructional time."

j. The IEP indicated via a checkbox, "parent rights have been provided this school year to both parents (or educational decisionmaker) … in native language."

k. The service delivery statement indicated:

   i. The Student will have "a 1-on-1 instructional behavior technician" with an additional "adult in the classroom (or restroom, hallway, transition areas, etc.) during instructional time."

   ii. The Student will have "a 1-on-1 non-instructional behavior technician" with "another adult in the classroom (or restroom, hallway, transition areas, etc.) during non-instructional time"

   iii. The Student will have a 1-on-1 bus aide for transportation to and from school.

4. On December 17, 2024 a PWN indicated the IEP team met to review data to determine whether any changes or modifications to the special education and related services were needed to enable the Student to meet their goals as set in the IEP and to participate, as appropriate, in the general education setting. The document stated the LEA refused to initiate or change the provision of special education services and listed inclusion support, direct services for Speech, nursing, and OT, indirect services for OT and autism support, attendant care, and specialized transportation. It also described the need for a 1-on-1 "instructional behavioral technician" and a 1-on-1 "non-instructional behavior technician." In addition, the PWN indicated the Student would have inclusion services for three elective periods.

The Complainant signed their consent on the attached Request for Consent for Special Education Action form on March 7, 2025.

5. On January 14, 2025, the Student's daily schedule indicated:
   a. The Student ate biscuits and gravy, a Trix bar, a muffin, milk, apple juice, yogurt, a Pop-Tart, and an apple for breakfast.
   b. The Student ate refried beans, a banana, peaches, carrots, green pepper, crispitos, milk, ranch, and salsa for lunch.
   c. The Student had two walks, two breaks, and three trips to the bathroom.
   d. No Antecedent, Behavior, Consequence (ABC) data was provided for the day.
6. On January 15, 2025, the Student's daily schedule indicated:
   a. The Student ate biscuits and gravy, yogurt, milk, a Trix bar, a muffin, apple juice, a Pop-Tart, and an apple for breakfast.
   b. The Student ate orange chicken, chicken nachos, milk, sidekick icee, carrots, bell peppers with ranch, broccoli, and applesauce for lunch.
   c. The Student had two walks, one break, and five trips to the bathroom.
   d. No ABC data was provided for the day.
7. On January 16, 2025, the Student's daily schedule indicated:
   a. The Student ate biscuits and gravy, apple juice, a Trix bar, milk, a muffin, an apple, a Pop-Tart, and yogurt for breakfast.
   b. The Student ate goulash, pears, potato salad, garlic bread, cucumber, carrots, ranch, and milk for lunch.
8. On January 27, 2025, the Complainant emailed the Special Education Provider to request a copy of the Student's most recent IEP.
9. On January 28, 2025, an ABC data document described an incident at 2:10 P.M. during a science activity, which lasted 10 to 15 minutes and was rated medium intensity. The Student was denied an activity or item, and they responded with crying/whining/yelling/screaming, headbutting, and by hitting their head on the floor or wall. The form noted the Student was removed from the activity/ location and was offered a calming spot.
10. On January 30, 2025, the Complainant emailed the Special Education Provider stating they left them a voice message requesting the IEP be emailed that day.
11. On January 31, 2025, the Complainant emailed the Special Education Provider and the Assistant Principal, stating they did not receive the IEP after speaking with the Special Education Provider the previous day. They asked the Assistant Principal if they could get the IEP emailed to them, "since there seems to be computer difficulties" by the Special Education Provider. On February 2, 2025, the Assistant Principal emailed the IEP to the Complainant.
12. On February 7, 2025, an ABC data document indicated an incident at 2:00 P.M. during a transition that lasted one to five minutes and was rated medium intensity.

During a transition, the Student demonstrated crying, whining, and hitting. The staff provided redirection, removal from the activity, and a calming space.

13. According to a staffing transition plan, for the week of February 28 through March 6, [2025], staff would observe Behavior Technician 1 with a “gradual release” occurring with feedback. The plan listed the Student’s needs, which included "intentionality, consistency, and programming. It added staff need to be able to “observe, ask questions, and gradually take over programming to make sure the level of support remains.” It stated the team was using Behavior Skills Training.
14. According to a staffing transition plan, for the week of March 7 through March 10, 2025, other staff would work with the Student while the Behavior Technician 1 observed and provided feedback and support. The plan stated staff would be "responsible for all facets of programming and data collection” while being able to ask questions. The plan stated Behavior Technician 1 would be assessing “fidelity levels, as staff need to maintain a high level of programmatic fidelity to ensure student success.”
15. According to a staffing transition plan, on March 11, [2025], Behavior Technician 1 would work with other students but be available if the new staff had questions about the Student.
16. On March 7, 2025, the Complainant emailed the Special Education Provider to address concerns around the Student’s behavior. They stated they were informed the Student was aggressive on the bus on Wednesday, and did not receive a report about it. They also stated they were informed the Student had been running from Behavior Technician 2, crying, yelling, and “regressing in [their] behavior and they had not received any documentation for that either. The Complainant stated they were concerned about the “lack of communication regarding [the Student’s] IEP, [the Student’s] experiences in the classroom and on the bus, and [their] behavioral support.” They stated they did not believe they were receiving "accurate or timely information,“ and requested a clear line of communication moving forward.
17. On March 27, 2025, the Special Education Provider emailed the Complainant to provide them with details about an incident. The email stated the Student was triggered when another student touched the Student’s iPad, but quickly regulated themself. The Student again showed signs of dysregulation when their timer finished, but class hadn’t begun yet. Behavior Technician 2 helped the Student do deep breathing and set a new timer for five minutes. When the Student was asked to get supplies, but the new timer hadn’t gone off yet, they clenched their jaw. Behavior Technician 2 moved the Student to the quiet room. The Student got agitated and hit, pulled the Behavior Technician 2’s beard, tried to run, and tried to head butt the walls. When they got to the safe room, the Nurse came and administered PRN. Behavior Technician 2 helped the Student with deep breathing. Behavior Technician 3 helped the Student take a deep breath. At around 2:40 P.M., the team determined the Student would be calm enough to ride the bus, and they helped the Student complete their end-of-day routine, which they followed with no

issues. The Special Education teacher spoke to the bus driver, and there were no issues around getting the Student on the bus and "strapped in."

18. On March 28, 2025, the Special Education Provider emailed the Complainant with suggestions for support. They stated the team decided to increase the 'wait' timer to seven minutes at the start of class to allow the Special Education Teacher to get started. They agreed not to remove the Student at the first signs of escalated behavior, only after the Student has demonstrated aggression, and to remove students from table groups if the Student appears to escalate to violence. They asked if the Complainant wanted them to try 'tricking' the Student into "all done" if it appears the Student is going to escalate.
19. On March 31, 2025, the Complainant emailed the Special Education Provider stating:
    a. They agreed the Student "should not be removed from class at the first sign of [them] getting upset" because that would escalate the Student further.
    b. They stated a PRN could help at the first sign of any agitation.
    c. They did not see in the report where the team used the Student's iPad to allow them to communicate what they were upset about.
    d. They reiterated the importance of keeping the Student from handling or making trash.
    e. The Student should not be allowed to throw items they broke or destroyed, adding "this can make it harder for others to redirect [the Student] effectively."
    f. The Student should not be "allowed to get as much food as [the Student] wants." They shared, "[the Student] may begin to feel like [they're] more in control than [they] should be."
    g. They noticed the Student had tears in their clothing and broken pieces on their iPad, indicating the Student was "engaging in behavior [the Student] knows is outside of expectations," adding these behaviors could be signals that more significant behaviors were coming.
    h. They were seeing a "noticeable increase in the amount of urine in the bed-wetting during the school week." They added the Student's sheets, blankets, clothing, pillow, and diaper had been getting completely soaked. The Complainant reiterated that it was something addressed in the IEP and stated if it wasn't being followed could be "contributing to both physical and behavioral issues."
    i. They asked to have the Student's IEP and BIP followed "precisely and consistently."
    j. They recommended administering a PRN at the first sign of agitation, before the Student becomes aggressive, and added, if the Student needed seclusion, to limit the number of staff present, limit the talking, and remove items like the iPad, glasses, and headphones right away.

k. The staff staying with the Student should remain calm and "use simple, supportive language to help [them] de-escalate."

l. Removing items is an incentive for the Student because they will want them back, and they require safe behavior to get the items back.

20. On April 7, 2025, the Complainant emailed the Special Education Provider to follow up on issues the Student was experiencing at home. The Complainant asked for the Student's routine at school, including their bathroom schedule, how often they take breaks, and when and how much the Student is drinking at school. The Complainant stated they had noticed an increase in the Student's bathroom use after school, including large amounts of urine, and increased behavior issues around bathroom use. The Complainant added they heard Behavior Technician 2 had told the Student they could have more snacks when they got home, after the Student had asked for snacks while getting on the bus. The Complainant expressed feeling that the "IEP might not be followed consistently, particularly regarding structured eating, drinking, and bathroom routines. They asked the Special Education Provider to check with the paraprofessionals to confirm the Student's current daily routine.

21. On April 9, 2025, the Student's daily schedule indicated:

a. The Student ate biscuits and gravy, an apple, a Pop-Tart, yogurt, milk, and juice for breakfast.

b. The Student ate pulled pork, potato salad, fruit, beans, veggies, and protein milk for lunch.

c. The Student had three walks, three breaks, and three trips to the bathroom.

d. ABC data indicated a low-intensity incident at 12:00 P.M. during an art activity. According to the report, the Student was given a direction, task, and activity. They responded with refusal and destruction of property, tearing up their artwork. The consequences were redirection, and the duration was less than one minute.

22. On April 16, 2025, the Complainant emailed the Special Education Provider to follow up about previous emails. They stated they had heard the Student was kicking and headbutting the Bus Paraprofessional and another paraprofessional on the bus, and the Complainant had not received any documentation or an incident report. They asked for more details from that event and asked to have these events formally documented to better understand the Student's needs.

The Complainant described receiving ABC data which listed mild behavior and a headbutt, but stated they had been told the Student had another, more significant behavioral event in which they eloped, punched a paraprofessional, headbutted Behavior Technician 2, and the room had to be cleared. The Complainant asked for confirmation and documentation of this event.

The Complainant asked to review the Student's drinking and bathroom schedule

and wanted to know how often [the Student] is drinking, how much they were drinking, and how often they were going to the bathroom. The Complainant reminded the Special Education Provider the Student "should not have unlimited access to food or drink."

23. On April 16, 2025, the Student's daily schedule indicated:
    a. The Student ate biscuits and gravy, a Nutrigrain bar, an apple, yogurt, a Pop-Tart, milk, and cherry juice for breakfast.
    b. The Student ate potato salad, beans, a chicken sandwich, fries, apple sauce, veggies, and milk for lunch.
    c. The Student had three walks, two breaks, and two trips to the bathroom.
    d. ABC data indicated a low-intensity incident at 11:00 A.M. during occupational therapy, which lasted less than one minute. The notes stated, "OT gone." The behavior indicated the headbutting occurred, and the consequence was the redirection of the Student.
24. On April 23, 2025, the Student's daily schedule indicated:
    a. The Student ate breakfast crispitos, a Trix bar, a Pop-Tart, an apple, yogurt, grape juice, and milk for breakfast.
    b. The Student ate nuggets and potatoes, a dinner roll, grapes, applesauce, strawberry frozen juice, veggies with ranch, and milk for lunch.
    c. The Student had two walks, four breaks, and three trips to the bathroom.
    d. ABC data indicated a medium-intensity incident at 2:00 P.M. during science, which lasted 1-5 minutes. The Student was in a transition and was given a direction, task, or activity. The Student responded with refusal, crying/whining/yelling/screaming, and headbutting. The consequences were redirection and "keeping the demand."
25. On April 24, 2025, a note from the Student's pediatrician described the Student's dietary needs, stating the Student needed to continue "a high protein diet with plenty of fruits and vegetables, while limiting sweets and fried foods." The note also indicated the need to "avoid food and drinks as a behavior management tool" to maintain a healthy body mass index (BMI). A Medical Statement to Request Meal Modification dated April 24, 2025, added specific foods that should be avoided. These included processed foods, high-fat foods such as ranch dip and heavy dressings, sugary foods like Pop-Tarts and snack cakes, and potato salad. Replacement foods listed included whole grains, whole fruits and vegetables, and unsweetened Greek yogurt. The statement addressed preventing the Student from self-serving to maintain portion control. The statement specified food should not be used as a motivator and should not be used to avoid aggression. Staff was directed to coordinate with nutrition services to "ensure consistency with medical recommendations.
26. On April 24, 2025, the Student's daily schedule indicated:

a. The Student ate biscuits and gravy, potatoes, a Trix bar, a Pop-Tart, grape juice, an apple, and milk for breakfast.

b. The Student ate potato salad, a hamburger with ketchup, fruit, baked beans, sunchips, veggies with ranch, and milk for lunch.

c. The Student had four walks, four breaks, and three trips to the bathroom.

d. ABC data indicated no incidents.

27. On April 25, 2025, the Complainant emailed the Special Education Provider and requested to speak with them by phone or in person regarding the Student's care at school. The Complainant indicated this was a follow-up email, and previous emails had been sent with no response. The Complainant indicated they attached a doctor's note describing the Student's health needs. The Complainant stated they were concerned with how food and drink were being managed in relation to the Student's IEP. In addition, the Complainant stated they were informed about an incident on the bus in which the Student engaged in headbanging and hitting, and stated they had not received documentation or an incident report. The Complainant added there was a second incident on the bus where the Student had aggressive behaviors, and the Complainant did not receive any "written communication" about it.

28. On April 25, 2025, the Student's daily schedule indicated:

a. The Student ate biscuits and gravy, a Trix bar, a Pop-Tart, an apple, yogurt, mango juice, and milk for breakfast.

b. The Student ate potato salad, chips, a rib sandwich, mixed fruit, veggies, beans, and a shake for lunch.

c. The Student had two walks, four breaks, and three trips to the bathroom.

d. ABC data indicated no incidents.

29. On April 28, 2025, the Student's daily schedule indicated:

a. The Student ate eggs, biscuits and gravy, a Pop-Tart, a Trix bar, an apple, yogurt, grape juice, and milk for breakfast.

b. The Student ate potato salad, pulled pork sandwich, fries, applesauce, lemon frozen juice, veggies with ranch, and a protein shake for lunch.

c. The Student had three walks, four breaks, and three trips to the bathroom.

d. ABC data indicated no incidents.

30. On April 29, 2025, the Complainant emailed the Special Education Provider and the Assistant Principal and requested updating the Student's IEP to "more clearly state that [the Student] is to have a modified and accommodated breakfast, lunch, and food and drink plan and schedule." The email also described the foods the Student had been allowed to have, which included biscuits and gravy, potato salad, Pop-Tarts, fries, fruit juice, and chips. The Complainant asserted the "amount and type of food is excessive and not appropriate for [the Student]." The Complainant added the Student was not supposed to consume processed foods or fruits in juice form.

The Complainant asked for a strict food plan and a scheduled bathroom and drinking plan. They added the Student required clear limits around food, drink, and bathroom use for behavior management.

31. On April 29, 2025, the Assistant Principal emailed the Complainant and stated that since the Special Education Provider was out for a few days, they would "connect with [the Student's] support staff to review their current procedures" adding their goal was to "ensure any necessary adjustments are made so they align more closely with [the Student's] food plan."

    Also on April 29, 2025, the Complainant emailed the Assistant Director to ask for assistance with the Student's food plan. They stated they needed "help getting [the Student's] IEP updated to more clearly state that [they] [are] to have a modified and accommodated breakfast, lunch, and food and drink plan and schedule throughout the day." They added a detailed report of the food the Student had been provided for their meals at school, which included processed foods and fruit in juice form, and stated, "This amount and type of food is excessive and not appropriate for [the Student]."

32. On April 29, 2025, the Student's daily schedule indicated:
    a. The Student ate a waffle with syrup, a Pop-Tart, grape juice, a Trix bar, an apple, yogurt, and milk for breakfast.
    b. The Student ate beans, a chicken quesadilla, a banana, applesauce, veggies with ranch, and milk for lunch.
    c. The Student had three walks, five breaks, and three trips to the bathroom.
    d. ABC data indicated no incidents.

33. On April 30, 2025, the Student's daily schedule indicated:
    a. The Student ate biscuits and gravy, an apple, a Twix bar, a Pop-Tart, yogurt, grape juice, and milk for breakfast.
    b. The Student ate chips and taco meat, refried beans, apple sauce, frozen lemon juice, chocolate protein milk, and veggies with ranch for lunch.
    c. The Student had three walks, four breaks, and two trips to the bathroom.
    d. ABC data indicated an incident at 11:12 A.M. during occupational therapy, which lasted less than a minute and was low intensity. The Student was given a direction/task/activity, and they responded by hitting. The consequence was redirection and de-escalation.

34. On May 1, 2025, the Student's daily schedule indicated:
    a. The Student ate biscuits and gravy, an apple, yogurt, a Pop-Tart, cranberry juice, and milk for breakfast.
    b. The Student ate a chicken sandwich, potato salad, beans, and milk for lunch.
    c. The Student had two walks, five breaks, and one trip to the bathroom.
    d. ABC data indicated no incidents.

35. On May 2, 2025, the Student's daily schedule indicated:
    a. The Student ate a donut, an apple, yogurt, apple juice, and milk for breakfast.
    b. The Student ate a chicken quesadilla, potato salad, fruit, veggies, and milk for lunch.
    c. The Student had four walks, five breaks, and four trips to the bathroom.
    d. ABC data indicated no incidents.
36. On May 5, 2025, an Emergency Safety Interventions (ESI) Report and Parent Notification was completed to document a restraint that began at 9:30 A.M. and lasted for two minutes. The Student engaged in physical aggression after they eloped into a potentially dangerous area and did not respond to directives. According to the notes, the Student struck the Behavior Technician 2 many times before running ahead of them. The Student pushed another student in their head and then hit a second student. Behavior Technician 2 then wrapped their arms around the Student, and they "both went down to the ground slowly." Behavior Technician 2 put their hands on the Student's legs until they calmed, and all students had left the area.

    According to the ESI Documentation Log, the Student needed to use the restroom while on their scheduled walk during the second hour. The Student was in a hurry, and the Behavior Technician 2 had to put their arm out to stop the Student from walking in front of a vehicle at the "cross stop." The Student was very upset and hit, scratched, and pulled the Behavior Technician 2's beard. Behavior Technician 2 used de-escalation strategies, but the Student reengaged when Behavior Technician 2 wouldn't let the Student use the restroom because there were too many other students in the hall. The Student ran from Behavior Technician 2, hit Student 1, and then hit Student 2, before Behavior Technician 2 restrained the Student.
37. On May 5, 2025, the Student's daily schedule indicated:
    a. The Student ate biscuits and gravy, an apple, a Pop-Tarts, milk, yogurt, and juice for breakfast.
    b. The Student ate potato salad, baked beans, a cheeseburger, an icey, applesauce, and veggies for lunch.
    c. The Student had four walks, five breaks, and three trips to the bathroom.
    d. ABC data indicated a high-intensity incident at 9:50 A.M. during an outside walk. The Student was given a correction while transitioning. The form indicates "other: car." The Student was crying/whining/yelling/screaming, scratching, hitting, and kicking, running away, headbutting, and hitting their head on the floor/wall. Consequences were redirection, physical prompt, verbal reprimand, calming spot, and "other: time-out." The duration was 10-15 minutes.
    e. ABC data indicated a low-intensity incident at 2:20 P.M. during the time with the nurse. The Student was in a transition. The Student refused by walking

backward and freezing to avoid entering the room. Consequences were redirection, ignoring the problem behavior, and maintaining the demand. The duration was one to five minutes.

38. On May 6, 2025, the Student's daily schedule indicated:
    a. The Student ate biscuits and gravy, a Pop-Tart, an apple, grape juice, and milk for breakfast.
    b. The Student ate a chicken sandwich, milk, apple sauce, raspberry icee, baked beans, potato salad, and veggies with ranch for lunch.
    c. The Student had four walks, five breaks, and three trips to the bathroom.
    d. ABC data indicated no incidents.
39. On May 7, 2025, the Student's daily schedule indicated:
    a. The Student ate a breakfast wrap, yogurt, a Pop-Tart, an apple, grape juice, and milk for breakfast.
    b. The Student ate crispitos, beans, apple sauce, icey, veggies, and milk for lunch.
    c. The Student had three walks, five breaks, and three trips to the bathroom.
    d. ABC data indicated no incidents.
40. On May 8, 2025, the Student's daily schedule indicated:
    a. The Student ate biscuits and gravy, yogurt, an apple, a Pop-Tart, grape juice, and milk for breakfast.
    b. The Student ate chips and queso, apple sauce, kiwi-strawberry icee, veggies with ranch, and milk for lunch.
    c. The Student had three walks, five breaks, and two trips to the bathroom.
    d. ABC data indicated no incidents.
41. On May 9th, 2025, the Complainant forwarded an email to the Food Service Manager with the Student's doctor's note stating it was sent before they were aware Behavior Technician 2 was charging a la carte items to the Student's account. The Complainant requested blocking the Student's access and providing a specialized meal plan.
42. On May 9th, 2025, the Complainant emailed the Executive Director of Learning Services, the Director of Transportation, and the Director of Food Services and filed a formal complaint and requested immediate action. They stated the Student's IEP was not being followed and had led to behavioral escalation, medical concerns, and significant disruption in their learning. The Complainant formally requested a FBA be conducted. In addition, they requested an IEP meeting to review and amend "as necessary to support the structure [the Student] clearly needs."

    The Complainant stated their food account had a negative balance due to the Student charging a la carte food. The Complainant reiterated the Student had medical documentation and stated they had "been assured this would be enforced

with a specialized diet and accommodations." The Complainant explained the Student did not have the capacity to make informed decisions about their food and beverage consumption or charging food, stating "these repeated, unauthorized food purchases reflect a broader breakdown in communication and supervision."

The Complainant stated the Student missed their 7th hour class with no explanation and stated the Student came home with food on their face, scratches, bruises, and in different clothes than what they were sent to school in. They stated they did not receive a written explanation, only a voicemail stating the Student had been given a PRN. The Complainant added the Student had picked at their scratches and had visible blood and no first aid was administered.

The Complainant stated staff appeared to be avoiding setting limits with the Student, which caused the Student to become aggressive and unsafe. They stated the Student had been obsessing about food and snacks and started to gain weight again, "which puts [the Student] at medical risk."

The Complainant stated they felt "the expectations and boundaries [they had] clearly communicated [were] not being honored." They requested the "[LEA] ensure full compliance with state and federal laws." The Complainant requested a written response "as soon as possible."

43. In an undated email, the Executive Director of Learning Services emailed the Complainant to state they were researching the concerns they identified and were developing a plan to move forward. The Executive Director of Learning Services stated the Assistant Director was leading the process, and they would provide a written response by the end of the day on May 20, 2025. They stated the response would include the next steps for the Student.
44. On May 9, 2025, the Executive Director of Learning Services emailed the Complainant to acknowledge receipt of their email. They proposed a meeting to "engage in dialogue." They asked the Complainant to call them to set up a meeting.
45. On May 12, 2025, the Student's daily schedule indicated:
    a. The Student ate a bagel and eggs, yogurt, an apple, a Pop-Tart, cherry juice, and milk for breakfast.
    b. The Student ate orange chicken and rice, grapes, watermelon, chocolate protein milk, and veggies with ranch for lunch.
    c. The Student had three walks, six breaks, and three trips to the bathroom.
    d. ABC data indicated no incidents.
46. On May 13, 2025, the Complainant emailed the Executive Director of Learning Services and stated they didn't need a meeting to "go over concerns [they had] already clearly communicated." The Complainant requested they instead complete a thorough internal review. They requested the Executive Director of Learning Services review emails the Complainant sent during the school year, adding "these

issues have been ongoing." The Complainant stated they were asking for a written response outlining "how the situation is going to be addressed," and added, "If an IEP meeting is more appropriate than an amendment, I'm open to that." The Complainant stated, "an FBA is also necessary and should be initiated as soon as possible."

On May 13, 2025, the Complainant emailed the Food Service Manager to discuss the Student's meal plan, including asking for no added sugar foods for the Student, including fruit juice and Pop-Tarts, and regular yogurt. The Complainant asked to continue to improve the Student's food options and stated they need to stay between 450 to 600 calories for breakfast and 750-850 calories for lunch. The Food Service Manager emailed the Complainant back, stating they would share the information with the Student's paraprofessional.

47. On May 13, 2025, the Student's daily schedule indicated:
    a. The Student ate a bagel and egg, yogurt, an orange, cherry juice, and milk for breakfast.
    b. The Student ate chicken and fries, sugar-free fruit salad, veggies with ranch, and milk for lunch.
    c. The Student had two walks, four breaks, and two trips to the bathroom.
    d. ABC data indicated no incidents.
48. On May 13 [sic], 2025 (duplicate date), the Student's daily schedule indicated:
    a. The Student ate a bagel and eggs, an apple, yogurt, grape juice, and milk for breakfast.
    b. The Student ate a walking taco, applesauce, 2 slices of cucumber, 5 baby carrots and ranch, and milk for lunch.
    c. The Student had three walks, six breaks, and three trips to the bathroom.
    d. ABC data indicated no incidents.
49. On May 14, 2025, the Special Education Provider emailed the Complainant to say the Complainant was right to be "irritated" about the lack of communication and asked if they could call them that afternoon. They stated the Complainant's email to the Executive Director of Learning Services had valid concerns and was "completely a result of [the Special Education Provider's] lack of communication." The Special Education Provider stated they had "tightened things back up" after they were made aware of the food situation.
50. On May 15, 2025, the Student's daily schedule indicated:
    a. The Student ate a bagel and eggs, yogurt, an orange, cherry juice, and milk for breakfast.
    b. The Student ate potato salad, fruit salad, a chicken sandwich, tots, and veggies for lunch.
    c. The Student had three walks, four breaks, and three trips to the bathroom.

d. ABC data indicated no incidents.

51. On May 16, 2025, the Complainant emailed the Special Education Provider to state they felt the past events were "signs of a deeper breakdown in accountability, oversight, and follow-through."
    a. They added because the Student was non-verbal and unable to advocate for themself, the support they were receiving was not sufficient.
    b. The Complainant described a lack of training, citing Behavior Technician 2 allowed the Student to make extra charges to their student food account.
    c. They added a lack of boundaries and accountability impacted the Student having access to "consistent educational or therapeutic support required in [their] IEP."
    d. The Complainant stated they wanted to revisit the Student's FBA and IEP to address "concerning patterns."
52. The Complainant confirmed they spoke with the Food Service Manager in regards to the Student's dietary needs, which included no fruit juice, only whole fruit, and Greek yogurt with no added sugar. The Complainant stated they were told it was up to staff to ensure the Student's meal plan was being followed. The Complainant stated they had not received any documentation in regard to the May 5, 2025, incident. They asked the Special Education Provider why the Student was wearing different clothes, and whether the Student had an accident.

    The Complainant addressed the issues with the bus and the Student becoming physically aggressive, including banging their head on the window, with no incident report or documentation.

    The Complainant addressed the Special Education Provider's apology stating, "more than words, I need to see meaningful, lasting changes." They added they are seeing "not just academic decline, but deterioration in life skills and behavior that jeopardizes [the Student's] health, safety, and long-term ability to live in the community."

    The Complainant requested a concrete plan for how the issues would be addressed, including "immediate changes to [the Student's] daily structure, implementation of [their] IEP, staff training and oversight, food accommodations, transportation safety, and full documentation of all major incidents, including May 5 and the recent bus events."
53. On May 16, 2025, the Special Education Provider emailed the Complainant to let them know they would be able to remove the charges to the food account.

    The Special Education Provider stated they met with Behavior Technician 2, Behavior Technician 3, and the Head Principal to talk about what happened with the Student and make sure they were doing what they needed to be doing. The Special

Education Provider stated the previous staff who had worked with the Student didn't write down all the things the Student needed to be successful, and the new staff didn't know. They stated that was why the Behavior Technician 2 would let the Student scoop their own potato salad and allowed the Student to take a heaping scoop.

On May 20, 2025, the Assistant Director emailed the Complainant to discuss options for their requests for an FBA. The Assistant Director stated there were a couple of options: conducting the FBA over the summer during ESY, noting transportation would look similar to the regular school year, but the classroom would be different as there would be no regular education students present. The Assistant Director shared, "The issues related to the Student's food service accounts, staff training, and school-to-home communication have been addressed." They added the area they felt needed clarity was in the IEP around the BIP or accommodations related to breakfast and lunch. The Assistant Director offered to meet to discuss changes at a team meeting after the FBA was complete or prior to ESY starting.

On May 20, 2025, the Special Education Provider emailed the Complainant to discuss an unannounced lockdown. They stated they got permission to have extra staff with the Student and allowed the Student to use the swing while they "waited it out." The Special Education Provider stated the Student transitioned with them and continued their normal routine without any escalations. The Special Education Provider sent an additional email to the Complainant responding to the Complainant's email from May 16, 2025. The Special Education Provider stated they were "committed" to ensuring "communication from me is no longer a missing piece." They added if the Complainant wanted to "talk live or meet this week," they were open and would welcome it.

54. On May 22, 2025, the Student's daily schedule indicated:
    a. The Student ate an egg, a bagel, an orange, yogurt, milk, and juice for breakfast.
    b. The Student ate potato salad, a hamburger, Sun Chips, veggies, applesauce, and a protein shake for lunch.
    c. The Student had three walks, six breaks, and three trips to the bathroom.
    d. No ABC data was provided.
55. On May 27, 2025, the Complainant emailed the Assistant Director to request a meeting once summer school started on June 2, 2025. They stated they wanted to go over "everything (all the emails)" with them. The Assistant Director replied to the Complainant's email with the dates they had available.
56. On May 28, 2025, the Complainant emailed the Assistant Director and agreed to have the FBA begin during the summer, but asked that it continue into the school year. The Complainant indicated there were issues with summer transportation and

regular school year transportation. They stated concerns with timing, extended wait times, behaviors on the bus, and the transition between middle school and high school. They added they did not believe "the ongoing issues at school involving [the Student]" had been addressed.

57. On June 2, 2025, the Complainant emailed the Special Education Provider to request the meal modification form for ESY, stating they had already sent multiple emails and the doctor's note, and the meals had not reflected the Student's food requirements. The Special Education Provider emailed the Complainant in regards to the meals during ESY, stating it was the same for all students and contained a Pop-Tart, an apple, and milk for breakfast, and the lunch that day was a hamburger, a whole orange, and a bag of carrots. The Special Education Provider stated they would try to find out who provided the meal service, as it was different for ESY.

58. On June 4, 2025, in a PWN for Evaluation or Reevaluation, the LEA proposed "conducting a reevaluation," which required parental consent. The document stated it would focus on an FBA, which included observations both in the classroom and transportation settings during ESY. The form stated new data would come from those familiar with the Student and included staff and the Complainant. Other data would come from records such as the most recent evaluation report, IEP, and the doctor's notes. evaluation was "not intended to be the Student's triennial reevaluation, nor will it alter [their] 3-year reevaluation due date." The purpose was to inform the team of "potential updates to [their] [BIP], as well as to guide potential updates to [their] IEP". The Complainant provided electronic consent on June 6, 2025.

59. On June 18, 2025, the Student's daily schedule indicated:
    a. The Student ate a muffin, apple juice, and milk for breakfast.
    b. The Student ate half a corn, a burrito, a banana, and a protein shake for lunch.
    c. The Student had two walks, five breaks, and one trip to the bathroom.
    d. No ABC data was provided.

60. On June 19, 2025, the Student's daily schedule indicated:
    a. The Student ate a muffin, fruit, milk, juice, and a banana for breakfast.
    b. The Student ate a ham and cheese sandwich, lettuce, an apple, and a protein shake for lunch.
    c. The Student had two walks, five breaks, and one trip to the bathroom.
    d. No ABC data was provided.

61. On June 23, 2025, the Student's daily schedule indicated:
    a. The Student ate a banana, a muffin, and milk for breakfast.
    b. The Student ate a chicken sandwich, grapes, veggies, and a protein shake for lunch.
    c. The Student had two walks, four breaks, and one trip to the bathroom.

d. No ABC data was provided.

62. On June 24, 2025, the Student's daily schedule indicated:
    a. The Student ate a Nutrigrain bar, an orange, and milk for breakfast.
    b. The Student ate a chicken wrap, veggies, an apple, and a protein shake for lunch.
    c. The Student had two walks, five breaks, and one trip to the bathroom.
    d. No ABC data was provided.
63. On June 25, 2025, the Student's daily schedule indicated:
    a. The Student ate an apple, a muffin, and milk for breakfast.
    b. The Student ate a hot dog, veggies, a banana, and milk for lunch.
    c. The Student had two walks, five breaks, and one trip to the bathroom.
    d. No ABC data was provided.
64. On June 26, 2025, the Student's daily schedule indicated:
    a. The Student ate a banana, a muffin, and milk for breakfast.
    b. The Student ate a ham and cheese sandwich, carrots, grapes, and milk for lunch.
    c. The Student had two walks, five breaks, and one trip to the bathroom.
    d. No ABC data was provided.
65. On July 3, 2025, an FBA was developed, which stated, "The observer saw so few exhibited problem behaviors over the duration of the observations that a typical FBA format of observations and report was determined to not be applicable at this time." The report indicated the Student "appeared to thrive throughout [their] time at ESY, and ultimately benefitted greatly from adhering to [their] daily schedule and working with adults whom [they] had a strong relationship with." The problem behaviors that were identified included the Student throwing their head back while seated, slamming their fists down on their desk, using a "closed-fist punching motion into the behavior technician's hand" in response to a high-five/fist bump, and slamming their fist on the behavior technician's arm while the Student was seated at their desk. The Student was observed consistently transitioning on and off the bus, and sitting quietly during the bus drive to and from the school building without incident.

    According to the observer, the problem behaviors that occurred were brief moments of frustration or dysregulation and were mitigated quickly due to the behavior technicians' knowledge of how to respond and due to the Student's ability to self-correct their own behavior. The report indicated because the problem behaviors were infrequent and a formal FBA was not warranted, there were no behavior intensities included in the report. The report stated the ESY environment was structured with limited exposure to peers that could potentially become distracted by the Student's behaviors. Regarding the incidents where the Student

used a closed fist to punch a desk or the behavior technician's hand and arm, the observer stated there was not enough force to have caused bodily harm to the Student or to staff.

The report described fist-bumps and high-fives being used frequently throughout ESY as a positive reinforcement, "which [the Student] typically responded well to." The harder-than-necessary punch from the Student on one occasion was described as occurring due to the Student being "somewhat frustrated by something earlier in the day." Circumstances that appeared to come before behaviors included handwritten tasks with paper and pencil, disruption of the Student's routine, presence of new or unfamiliar staff, and unresponsiveness to the Student's communication attempts. Positive behavior supports that were attempted included timed sensory swing breaks, the use of noise cancelling headphones, one-to-one adult support for proximity, modeling, and prompting for emotional support and immediate feedback, frequent use of positive reinforcement such as high-fives, fist-bumps, positive verbal praise, and puzzle activities, use of visual communication aids, scented hand sanitizer, a consistent daily schedule, a low demand setting, regular opportunities for movement, flexible staff responses, alternate routes, offer choices, and clear and simple directions.

The Report indicated the Student's behavior had "minimal observable negative impact on [their] learning. "The Student consistently transitioned smoothly between activities, followed adult directions, and engaged in both academic and therapeutic tasks with appropriate support. The Student accessed instruction in reading, math, fine motor, and communication with "high levels of compliance and participation." According to the report, while there were isolated incidents, they were brief, the Student was easily redirected, and they did not interfere with task completion or instructional time.

The hypothesis described the Student engaged "in sudden, low-level physical aggression … to escape or avoid tasks, activities, or environments when unexpected changes in routine, adult interactions, or shift in attention occur during seated work tasks."

66. On July 15, 2025, the Assistant Director emailed the Complainant and stated the FBA had been completed based on observations on the bus and in the classroom during ESY. The Assistant Director asked the Complainant if they wanted to meet to review the report together or if they preferred reviewing the report independently without a meeting. On August 11, 2025, the Complainant replied to the Assistant Director, they would like to see the report first.
67. On August 5, 2025, an Advanced De-Escalation Skills presentation developed by the Assistant Director of Student Support Programs provided information on the science behind behaviors, de-escalation strategies, do's and don't's for adults,

behaviors on the bus, and when to use ESI. According to the Behavior Technician 2's timecard, they attended work on the day of the presentation.

68. On August 11, 2025, the Complainant emailed the Assistant Director, the Food Service Manager, and the Assistant Principal of Student Services regarding the Student's Food Accommodation Plan. The Complainant asked to be given the specialized menu options for the Student, which included "whole grains, meat, whole fruits, and whole vegetables." The Complainant indicated they wanted to plan the breakfast and lunch options for the Student. In addition, the Complainant asserted they wanted to ensure the paraprofessionals were trained to avoid allowing the Student to charge additional food to their account or allowing the Student to self-serve large portions of food.

69. On August 12, 2025, the Complainant emailed the Special Education Provider and Assistant Principal of Student Services to follow up on the June 4, 2025, meeting and the changes they discussed for the Student's IEP. The Complainant indicated they knew the Special Education Provider "took notes on items to add or modify" and indicated they had not received anything in writing that confirmed the changes were being implemented. The Complainant wanted to "ensure the updates have been made and that [the Student] has a solid food plan and accommodations in place."

70. On August 14, 2025, the Complainant emailed the Assistant Principal of Student Services to state the food plan was "still not being followed," stating the Student had items such as "juice, muffins, and Pop-Tarts." They added the Student should be on a high-protein menu with whole fruits, vegetables, and whole grains. The Complainant stated they had repeatedly asked for menu options from the "lunch lady supervisor" and had received no response.

71. On August 18, 2025, the Complainant emailed the Special Education Provider and Assistant Principal of Student Services to follow up in regards to a meeting on June 4, 2025, where they discussed the Student's IEP needing a meal modification based on a medical note from the Student's pediatrician. In addition, the Complainant requested the Special Education Provider send a copy of what was submitted to the Assistant Principal of Student Services and to copy the Complainant. The Complainant wanted confirmation the Assistant Principal of Student Services received it and the School had it on file. The Complainant also asked to have the documentation sent to the Assistant Director to "ensure everything was officially recorded and the IEP accommodations were made."

72. On August 19, 2025, the Complainant emailed the Assistant Director and requested the following items:

    a. The name of the School Psychologist who observed the Student, the author of the report, and the specific time the Student was observed getting on and off the bus.

    b. A full FBA be completed during the regular school year, both at school and on the bus.

c. Clarification about the use of the swing for over 60 minutes and whether the Positive BIP was "reviewed and followed to fidelity."

d. Why the FBA treated high fives and fist bumps as positive reinforcements when the Student's plan "makes it clear these should not occur."

e. The Complainant questioned whether the Student's plan was being followed when the report indicated the Student avoided work "by saying 'bye,'" ran off the bus into the lunchroom, and was given low demands and allowed to do what they want.

73. On August 19, 2025, the Complainant emailed the Assistant Principal of Student Services and the Special Education Provider to state they were made aware Behavior Technician 2 was "using fist bumps and high-fives as a form of positive reinforcement" with the Student during summer school. The Complainant clarified that according to the Student's BIP, any type of skin-to-skin contact is considered a "precursor behavior that can escalate into aggression." They added, according to the plan, these actions were "not allowed." The Complainant stated part of the FBA "recently documented this as if it were acceptable," when it should not be. The Complainant requested the Behavior Technician 2 "receive proper training and immediately discontinue the use of fist bumps and high-fives." The Complainant expressed, "What may appear to be positive reinforcement actually increases the risk of aggression and undermines the safeguards in [the Student's plan]." The Complainant asked that this be addressed promptly.

74. On August 20, 2025, the Assistant Principal of Student Services emailed the Complainant and stated they were told by the Special Education Provider that a teacher who was working summer school, but not directly assigned to the Student, was the one who was giving the Student fist bumps and high fives as a way to build a relationship with the Student. The Assistant Principal of Student Services stated they and the Special Education Provider would "reemphasize this as part of the behavior plan" and address it with "anyone who might interact with [the Student]."

75. On August 20, 2025, the Complainant emailed the Assistant Director to request an Independent Educational Evaluation (IEE) for a second FBA. They requested the evaluators' contact information before the evaluation so they could review the Student's IEP, BIP, and interventions.

76. On August 21, 2025, the Complainant emailed the Assistant Principal of Student Services and copied the Assistant Director and the Special Education Provider, stating the information provided did not match the report. The Complainant described the report as showing "the behavior technician initiated high fives and fist bumps with [the Student] throughout summer school during class, not at dismissal." The Complainant stated the report indicated this was used "consistently by the behavior technician multiple times a day." The Complainant indicated they were concerned that the Assistant Principal of Student Services' response did not reflect what was in the report and stated they did not feel their concerns were taken seriously.

77. On August 22, 2025, the Complainant emailed the Special Education Provider and the Assistant Principal of Student Services to ask who would be conducting the FBA. The Complainant indicated they had asked for an "independent person not affiliated with the school." The Complainant stated they were "especially troubled by the May 5 incident," given they were still not aware of where the Student was that day. The Complainant described the event as the Student "almost got hit by a car and was either restrained or tackled by [the Student's] behavior tech[nician]," who was not CPI trained. The Complainant indicated the Student had bruises. They stated no one had come forward to fully resolve the matter with them. The Complainant reported that on August 20, 2025, the Bus Paraprofessional allowed the Student to remove their shoes and pick at their socks. The Student hit the Bus Paraprofessional and became physically aggressive with themself on the bus. The Complainant requested the bus footage be reviewed from August 20 to August 22, 2025, to determine if the reports were accurate. The Complainant shared they did not receive data indicating this had happened.

    On August 22, 2025, the Assistant Director emailed the Complainant, indicating they received the Complainant's request for an Independent Educational Evaluation (IEE) and stated an IEE "becomes an option following an initial evaluation or reevaluation." They added the FBA that was conducted during ESY was "not a reevaluation … and was conducted for the purpose of informing the IEP team of potential updates to [the Student's] BIP … and IEP Accommodations." The Assistant Director confirmed the Complainant had asked for specific information regarding behaviors in the classroom as well as on the bus, and had agreed to do an assessment during ESY, which was completed. The Assistant Director stated they would complete an additional assessment in the classroom environment once school started. They also stated a school psychologist who was employed with the LEA but not assigned to the School would be conducting the FBA.

    The Assistant Director stated, "In the report, it is mentioned that [the Student] was seated in the sensory swing at 10:15 a[.]m[.] on 6/11 (a little over an hour after [the Student's] frustration escalation during handwriting)" and added they do not see where it stated the Student was in the swing for over an hour. The Assistant Director clarified the report had stated the "sensory swing break occurred an hour after an escalated incident." The Assistant Director informed the Complainant they would be receiving a new PWN that would give them consent to begin the new FBA.

78. On August 23, 2025, the Complainant emailed the Assistant Director with a request to review video footage involving the Student on May 5, 2025.

79. On August 25, 2025, the Complainant emailed the Assistant Director to inquire about the Student being released early to board the bus. The Complainant added the Student engaged in behaviors that included "screaming for treats and banging [their] head against the bus window with such force that it was believed [they] could have seriously injured [themself]." The Complaint stated they were worried staff

were bribing the Student with snacks to get on the bus. The Complainant asked for the video to be reviewed from that day, as well as footage from the previous week.

The Complainant sent an additional email to the Assistant Director to confirm they had received the medical statement requesting a meal modification. They stated the form was given to the Special Education Provider on June 4, 2025, so it could be initiated prior to ESY beginning.

80. On August 25, 2025, the Assistant Director emailed the Complainant stating they were working with the transportation department to review the bus video for the dates from the previous email and the latest email. They stated they were working to assign a staff member for the FBA and stated they would introduce them to the Complainant once they know who it will be.

81. On August 26, 2025, the Assistant Director emailed the Complainant to state they had begun reviewing the video footage from the dates the Complainant requested in August, and would complete their review the following day. They stated the requested video footage from the May 5 incident was "no longer available" due to the LEA retaining video records for a set period of time, and "that retention window has now passed." They added the timeframe for submitting a concern about the incident had also lapsed. They stated if the Complainant wanted to continue a conversation about the incident, they should let them know. In an additional email, the Assistant Director emailed the Complainant to confirm they had received the meal modification form.

82. On August 27, 2025, the Complainant emailed the Assistant Director stating they had already notified a school staff member, the Executive Director of Learning Services, on May 9, 2025, and added it was not "accurate to say that I missed my deadline for voicing concern," since they "never received the answers" they needed. The Complaint requested the policy the LEA was using that indicated the Complainant missed a deadline.

    The Complainant sent an additional email to the Assistant Director requesting that video footage from the bus be reviewed for August 27, 2025, for both the morning and afternoon routes involving the Student. The Complainant stated, "It was reported that [the Student] was biting [their] fingers during both rides." In addition, the Complainant stated they heard the Student "head-butted and struck [their] head backwards on the seat 14 times, hit [the Bus Paraprofessional] four times, and kicked [the Bus Paraprofessional] twice." The Complainant sent another email to the Assistant Director asking for a copy of the completed meal modification form for the Student.

83. On August 27, 2025, the Assistant Director emailed the Complainant, stating when the Complainant had emailed on May 9, they had requested a written response rather than a meeting, as well as an FBA. The Assistant Director indicated they provided a written response on May 20, and the FBA was initiated shortly

thereafter. The Assistant Director referenced board policy GAAF and Kansas Administrative Regulations. They added the school psychologist would be contacting them soon for consent to complete the FBA.

The Assistant Director sent an additional email to share the information they received from the bus video footage for the Student from August 20 through August 22, 2025. They stated there were no shoe removals and no altercations with bus support on August 20, 2025. On August 21, 2025, the Student removed their shoes 4 times and rested their hand on their foot, but did not pick at their foot during the morning route. The Student did not remove their shoes or engage in an altercation with bus support during the afternoon route. On August 22, 2025, the Student had no issues on the morning route but displayed physical behavior toward the support staff member while they were getting buckled into their harness. The Assistant Director stated the staff member "followed the behavior plan in regards to responding to aggressive behavior on the bus." The Student stopped the aggressive behavior "immediately," and no other issues occurred for the duration of the route. There were no issues on the August 25, 2025, morning and afternoon routes.

84. On August 28, 2025, the Assistant Director emailed the Complainant stating the meal modification form they have on file "is sufficient for ensuring all individuals working with [the Student] have clarity and direction regarding [the Student's] nutrition." The Assistant Director sent an additional email to the Complainant in regards to the information they received from the bus video from August 27, [2025] that the Complainant had requested. The email stated the Student put their finger in their mouth on occasion on the morning route, and the Student became upset and engaged in hitting and head-banging behaviors on the afternoon route. Staff provided "reminders and reassurance and followed the behavior plan, and once the bus was headed home, [the Student] calmed and no further incidents occurred." The Assistant Director sent another email to the Complainant confirming receipt of the Complainant's email requesting additional bus footage and letting the Complainant know they would be moving forward with the FBA.

85. On September 2, 2025, the Complainant emailed the Special Education Provider a "potato salad" PDF and the Student's food plan accommodations form and doctor's note PDF.

On September 2, 2025, the Complainant emailed the Assistant Principal of Student Services, the Special Education Provider, and the School Psychologist. Their email stated they had attached the three-page accommodation form that they had submitted to the Special Education Provider on June 4, 2025, plus two doctor notes. The email claims the Special Education Provider only had the doctor's note on file and not the full form. The Complainant stated the form clearly states the Student should not be given potato salad, and added lunch records showed the Student was served potato salad on Friday. The Complainant added they have repeatedly

asked the lunch staff to provide breakfast and lunch options so the Complainant could choose ahead of time, but had not received those options.

86. On September 8, 2025, the Student's daily schedule indicated:
    a. The Student ate a breakfast bagel, an orange slice, and milk for breakfast.
    b. The Student ate chicken fried chicken, mashed potatoes, veggies, and milk for lunch.
    c. The Student had one walk, seven breaks, and four trips to the bathroom.
    d. ABC data indicated no incidents.
87. On September 8, 2025, the School Psychologist scheduled a virtual meeting with the Complainant to discuss the Student's "school needs and help develop the best path forward for this FBA." They agreed on meeting on September 10, 2025, at 12:00 P.M.
88. On September 10, 2025, the Complainant emailed the Special Education Provider, stating on Friday, the Student had gotten into their backpack while on the bus and had a pill bottle in their hand when the Student got off the bus. They added the Student was "agitated getting off the bus" because there were three pill bottles in their backpack, and the Student thought the bottles needed to stay at school. The Complainant clarified the importance of not allowing the Student to have access to their backpack on the bus or access to medications inside the backpack. The Complainant asked to have it added to the Student's IEP. They also asked to have the Student's diagnosis of PICA added to their IEP because of the dangers of the Student eating medications. The Complainant stated the backpack should be with the bus driver or the paraeducator, and they should be the ones to provide the Student with their AAC device and books while on the bus.
89. A September 10, 2025 form titled, IEP Fidelity & Support System for [the Student] listed the purpose of the form, weekly staff actions, administrator oversight, parent communication, training cycles, and flow of support. The form also described actions through an 8-week training calendar, which showed the school psychologist as facilitator. The form described a "weekly IEP Fidelity Staff Check-In" in which staff members would determine if IEP accommodations were implemented as written, if progress monitoring occurred, any barriers identified and communicated to the case manager, and if team training occurred. The form also identified how and when communication would be provided to parents, and by whom.
90. According to an undated student schedule, on Monday, Tuesday, Thursday, and Friday, period 7 began at 2:14 P.M. and ended at 3:02 P.M. The schedule indicated on Wednesday, period 7 began at 1:49 P.M. and ended at 2:38 P.M. The schedule listed on early release days, period 7 began at 12:54 P.M. and ended at 1:32 P.M.
91. According to a Student Activity Report for the 2024-25 school year, the Student was scanned entering the bus before the end of the school day for 100 days throughout the school year. The earliest time scan was documented at 2:55 P.M.

92. A transportation report for the 2024-25 school year indicated the afternoon bus pick-up time for the Student was 3:08 P.M.

93. According to a Student Period Attendance Detail report generated on September 24, 2025, for all terms for grade 9, the Student had three tardies and was absent one day.

Food Service Manager Interview

94. In an interview with the Investigator and the Director of Secondary Special Education Services, the Food Service Manager spoke about their role in preparing the Students' meals. They stated by school rules, all meals offered, whether specialized or not, are low-sodium and low-sugar. They stated they take even greater care with the Student's meals.

95. The Food Service Manager stated the Complainant requested a high-protein diet for the Student, adding the Student's meals must be prepared specifically for the Student. They stated the kitchen made fresh chicken especially for the Student, and the bulk of the Student's meals consisted of ground beef, chicken, eggs, bagels, and fresh fruits and vegetables. The Food Service Manager stated the Student is only given "white" milk. "Breakfast is limited for us because we are a grab-and-go breakfast, so we are making [the Student's] stuff special for them every morning."

96. The Food Service Manager was not able to recall whether a food plan was provided to the Complainant. The Director of Secondary Special Education stated a food plan was given to the LEA by the Complainant and was signed by the Student's doctors.

97. The Food Service Manager stated at the beginning of the year, a paraprofessional was getting food for the Student, and the Complainant complained the Student was either getting too much food or the food plan was not being followed. After the concern from the Complainant, the Food Service Manager began packaging the Student's meals specifically for them.

98. The Food Service Manager stated the 2025-26 school year is the first year they have been tasked with providing meals to the Student.

Behavior Technician 2 Interview

99. In an interview with the Investigator and the Director of Secondary Special Education Services, Behavior Technician 2 shared on May 5, 2025, they took the Student on a walk on the school's track, which is across a frontage road from the main campus. At the end of the walk, the Student reentered the main campus to use the restroom. Behavior Technician 2 shared the purpose of daily walks with the Student was "to get some morning movement in to get 'em woken up for the day," adding, "second hour is a high intensity learning." Behavior Technician 2 stated they took a 10/15 minute walk before they went into the weight room because the Student struggled with weight training.

100. Behavior Technician 2 described the "struggles" with weight training as "fine motor skills, [their] ability to lift [their] arms the way demonstrated." Behavior Technician 2

stated they "do a lot of shoulder exercises and sometimes [the Student] gets frustrated with those. So to preempt that, we calm down with a walk."

Special Education Provider Interview

101. In an interview with the Investigator and the Director of Secondary Special Education, the Special Education Provider stated they were a special education teacher at the School as well as the special education department chair.

102. When asked about a schedule from May 13, 2025, the Special Education Provider stated it was a daily schedule for the Student. When asked about a second differing daily schedule with the same date, May 13, 2025, the Special Education Provider stated, "I can't tell you why they both are the same date." The Special Education Provider shared that it may be a simple error of staff miswriting the date.

103. The Special Education Provider stated "PRN" medication was given to the school by the Complainant to be used as a "preventative measure" when the Student may be "potentially violent." However, according to the Special Education Provider, school policy prevents special education staff from administering the medication without approval from the Complainant and the School Nurse. They stated "We have to get permission, but if the nurse makes a decision that it needs to happen, then we call [the Complainant] and let [them] know and we provide it." The Special Education Provider stated they "try not to use any PRN at all unless absolutely necessary," adding that was school policy. The Special Education Provider stated the medication was used when a student was escalated and already violent, and was used to keep the Student, other kids, and staff safe.

104. The Special Education Provider stated the Complainant asked staff to give the "PRN" preemptively, but they made a decision, along with Behavior Technician 1, to follow school policy, which was to wait until the medication was medically necessary for safety purposes. The School Nurse made the determination according to the Student's individualized health plan.

Director of Secondary Special Education Interview

105. In an interview with the Investigator, the Director of Secondary Special Education provided clarifying information about various LEA staff. They stated school begins at 7:58 A.M. and concludes at 3:02 P.M. Central Time. The Director of Secondary Special Education stated September 18, 2024 and October 2, 2024, were early release days for the LEA. They stated there were regular early release days throughout the school year.

106. Regarding an email from August 27, 2025, about concerns over the Student's safety on the bus, the Director of Secondary Special Education stated, "… the staff member addressed the behavior that was occurring and clarified to the Student that they were going home." They stated the behaviors, then stopped. They stated this was consistent with what was in [the Student's] behavior plan.

Complainant Interview

107. In an interview with the Investigator, the Complainant stated they had educational power of attorney for the Student, and the Student lived with them in a private placement.

108. The Complainant recalled a conversation they had with the bus staff on September 30, 2025, in which the bus staff informed the Complainant they did not have a physical copy of the Student's BIP, and the bus staff believed they were not legally allowed to have a physical copy on the bus. The bus staff told the Complainant they could look it up on their cell phones if needed. The Complainant stated the Student's IEP said it's supposed to be on the bus. The Complainant believed the bus staff had not read the IEP or BIP because they did not know a physical copy of the BIP was required on the bus.

109. The Complainant described a previous meeting with the Special Education Provider on June 4, 2025, stating the Complainant verified with the Special Education Provider the BIP wasn't being followed because staff were afraid of getting hit. The Complainant added staff didn't "want to tell [the Student] no" and deny them access to food, water, or trash. The Complainant reiterated the Student needed a BIP because they had "severe behaviors that get in the way of [their] education and are harmful to [themself] and to others."

110. The Complainant stated that they were receiving information about behavior incidents on the bus from other students, not the LEA. They stated they had to request information about incidents, but believed they were supposed to be automatically informed anytime there was an incident. They stated they had requested video footage from the bus several times and were frequently told by the LEA the cameras were not operational during the incidents. The Complainant described an incident when the Student came home with an injury, and on that occasion, the LEA was able to review the cameras and verify the incident.

111. The Complainant recalled the June 4, 2025, meeting was convened after the Student was "… hit by a car and they didn't let me know and I had to file an internal complaint … ." The Complainant reported they felt the Student should not be allowed in the cafeteria or outside because the Student was not listening to the staff. The Complainant stated, "[The Student was] supposed to be on a bathroom schedule and a water schedule." The Complainant believed the Student's plan was not being followed when the Student was allowed to drink water and use the bathroom "all day long."

112. At the June 4, 2025, meeting, the Complainant provided an LEA "medical accommodation" form, which included a food plan signed by a doctor. The Complainant recalled these changes were not made to the IEP.

113. The Complainant stated food was a trigger for the Student's behaviors. The Complainant reported that "in April or May [2025]" they received a $45 charge on the Student's food service account. When they inquired about the high charges, the

Complainant was informed a paraprofessional allowed the Student to "charge excessive amounts of food" to their account. The Complainant realized the BIP was not being followed, and that explained some of the Student's behaviors. The Complainant reached out to the Student's doctor to create an official food plan, which was provided on the "medical accommodation" form submitted on June 4, 2025.

114. The Complainant described an event on May 5, 2025 they were not sufficiently informed of by the LEA. The Student was outside with Behavior Technician 2. The Student needed to use the restroom and ran away from Behavior Technician 2. According to the Complainant, the Student was hitting other people and was restrained. They stated the Student came home with bruises and a different pair of clothes on. The Complainant stated they got a phone call informing them the staff had to give the Student a PRN, and they were told, "everything's fine." The Complainant added, they didn't get any paperwork sent home other than the Student's daily schedule "with the A, B, C data." The Complainant shared they had "still never gotten an answer other than them telling me that I had missed a deadline" to review the video, which was 30 days.

115. The Complainant believed the school was regularly releasing the Student early from instruction because the Student received breakfast at the School. The Complainant clarified breakfast was not instructional time.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP, which included supports identified in the Student's Behavior Support Plan and Medical Plan. K.A.R. 91-40-16(b)(3), K.A.R. 91-40-19; 34 CFR §300.323.

According to K.A.R. 91-40-16(b)(3)(5)(B) and 34 CFR §300.323, each agency shall ensure that an IEP is in effect for each exceptional child at the beginning of each school year. Each teacher and provider is informed of the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

According to K.A.R. 91-40-19, each agency, teacher, and related services provider shall provide special education and related services to an exceptional child in accordance with the child's IEP and shall make a good faith effort to assist the child to achieve the goals and objectives stated in the IEP.

The Complainant alleged that in April 2025, they reached out to the LEA to report that staff working with the Student, including transportation/bus staff, were not familiar with the Student's IEP and could not implement it.

The LEA denied they were in violation of implementing the Student's IEP, which included supports identified in the Student's Behavior Support Plan and Medical Plan. They responded the Student did not have a health care plan attached to their IEP, and the Special Factors section indicated the Student did not have a documented health condition that impacted their education. The LEA indicated the Student did have a separate health care plan that was managed by the school nurse and updated annually.

The LEA confirmed they implemented the Student's IEP, including both their medical support and BIP, during the complaint window. Medical support was provided with fidelity and documented through logs and nurse communications. Behavioral supports were implemented with fidelity, with one corrective instance regarding reinforcers (high-fives/fist bumps) promptly remedied once raised. The LEA maintains that the IEP was implemented as written, with responsive communication and documentation of both medical and behavioral supports.

The continuous use of physical contact (fist bumps and high fives) during the ESY directly defied the BIP, which mandated reinforcement consisting only of "thumbs up and verbal praise rather than tangible items and rather than physical handshakes, bumps, high-5, etc." The Student's BIP was violated when the Student exited the bus with a sweatshirt and t-shirt, which should have been stored in a "teacher area" inaccessible to the Student. This incident escalated the Student's agitation, resulting in destructive behavior at home and the loss of nighttime visitation access.

The BIP required staff to contact the nurse for administration of PRN medication "at first indication of aggressive behaviors, such as head banging and whining," as a known, proactive procedure. However, the Special Education Provider stated school policy was to "try not to use any PRN at all unless absolutely necessary" and to wait until the Student was escalated, already violent, and the medication was "medically necessary for safety purposes." While the School Nurse made the final determination per the Student's individualized health plan, this failure to follow the BIP's proactive measure was a direct violation. The BIP's proactive strategies—ensuring the Student had "access to two staff members who know how to access help for emergent situations" and are "aware of the PRN medication"—were undermined by the staff's stated policy of withholding the PRN medication until a crisis point.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA failed to fully implement the Student's IEP, specifically the supports outlined in their BIP and Medical Plan, resulting in a material failure to implement the Student's IEP.

Issue Two

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, limited the Complainant's right to ask for revisions of their child's IEP. K.A.R. 91-40-16(a), K.A.R. 91-40-19(c), K.S.A. 72-3429(f)(2); 34 CFR § 300.324.

According to K.A.R. 91-40-16(a), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency.

According to K.A.R. 91-40-19(c), nothing in this regulation shall limit a parent's right to ask for revisions of the child's IEP.

According to K.S.A. 72-3429(f)(2), each agency shall ensure that the IEP team: revises the IEP, as appropriate, to address information about the child provided by the parents; the child's anticipated needs; or other matters.

According to 34 CFR § 300.324, in making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting or by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

The Complainant alleged the LEA failed to meet and update the Student's IEP after a serious incident. The Complainant requested an IEP meeting on May 9, 2025, and no meeting was held.

The LEA denied they were in violation of limiting the Complainant's right to ask for revisions of the Student's IEP. They responded regular IEP meetings were held for the Student. They stated the LEA responded to the Complainant's concerns and requests for revisions with emails, phone calls, or by offering meetings. The LEA stated they did not limit the Complainant's right to request revisions of the Student's IEP, adding in some cases, the Complainant declined offered meetings, preferring email correspondence or document review.

In April 2025, the Complainant requested an IEP amendment to include a "modified and accommodated breakfast, lunch, and food and drink plan and schedule," arguing the current food and juice were "excessive and not appropriate." They also requested a scheduled bathroom and drinking plan for behavior management. The Complainant sought official support, submitting a doctor-signed "medical accommodation" form for a food plan in June 2025.

The LEA responded by offering a FBA be completed during ESY to inform "potential updates to [the Student's] BIP... and IEP Accommodations." While this process was initiated and the parent consented to the reevaluation (FBA), the LEA did not act on the specific requested revisions.

The Complainant repeatedly followed up in August 2025 to confirm the medical food plan and accommodations had been integrated into the IEP. The LEA continued to focus on further assessment, stating they would complete an "additional assessment" and issue a new PWN for a new FBA, rather than making the requested revisions.

On September 10, 2025, the Complainant also requested the Student's diagnosis of PICA be added to the IEP due to the danger of the Student eating medications, another specific request that was not addressed.

The LEA processed the Complainant's request for revision by initiating an FBA to gather data as required by K.S.A. 72-3429(f)(2), but failed to actually revise the IEP to address the parent's specific concerns regarding the food plan, drinking/bathroom schedule, or the PICA diagnosis.

Based on the foregoing, according to IDEA and Kansas special education regulations, i***t is substantiated*** that the LEA failed to review or revise the IEP after multiple requests from the Complainant. Additionally, the LEA failed to ensure the IEP team revised the IEP, as appropriate, to address information about the Student provided by the Complainant when they failed to add the requested accommodations and modifications.

Issue Three

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant with a copy of the procedural safeguards at least one time during the school year and upon the request of the Complainant. K.A.R. 91-40-26(d); 34 CFR § 300.504.

According to K.A.R. 91-40-26(d) and 34 CFR § 300.504, The agency shall be required to provide a parent with a copy of the procedural safeguards available to parents only one time during each school year, except that a copy shall also be provided to the parent in accordance with the discipline procedures in 300.507; and at any time, upon request of the parent.

The Complainant alleged the LEA failed to provide them with procedural safeguards and Parent Rights.

The LEA denied they were in violation of providing the Complainant with a copy of the procedural safeguards at least one time during the school year and upon the Complainant's request. The LEA notes , the IEP dated December 17, 2025, documented the Parents were provided with a copy of the procedural safeguards. The LEA stated the Complainant was provided a second copy of the procedural safeguards following an ESI incident on May 5, 2025, adding the documents were sent home in the Student's backpack and a phone call was made to the Complainant to notify them. The LEA reported they provided the Complainant with the procedural safeguards as required by law, both through the annual IEP process and again following the ESI incident, with no record of further requests being made.

The annual IEP dated December 17, 2024, indicated via a checkbox, parent rights had been provided during the school year to both parents (or educational decision makers). No other requests were made by the Complainant for procedural safeguards.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is unsubstantiated* that the LEA failed to provide the Complainant with a copy of the procedural safeguards one time per year and upon the Complainant's request.

Issue Four

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided IEP access to each regular education teacher,special education teacher, related service provider, and other service providers who are responsible for its implementation. K.A.R. 91-40-16 (4); 34 CFR § 300.321.

According to K.A.R. 91-40-16 (4) and 34 CFR § 300.321, each agency must ensure the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. The public agency must ensure the IEP Team for each child with a disability includes, at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate.

The Complainant alleged they were told by the Student's IEP team and bus drivers they did not know the supports in the IEP or even that the Student had an IEP. The Complainant did not receive documentation that confirmed staff were trained to implement the Student's IEP.

The LEA denied they were in violation of providing IEP access to each regular education teacher, special education teacher, related service provider, and other service providers who are responsible for its implementation. The LEA responded that the LEA ensured general education teachers, special education teachers, related service providers, and classified support staff had access to the Student's IEP and the information necessary to implement it through staff training during pre-service days, professional development (PD) sessions, and special education Team meetings.

Bus personnel informed the Complainant they did not have a physical copy of the BIP on the bus, violating the BIP's specific requirement that "A copy of the BIP will be on the bus." The staff also incorrectly stated they were "not legally allowed" to have a copy, suggesting a lack of training or proper information dissemination.

A Special Education Provider attributed instances of food-related non-compliance (e.g., a Behavior Technician allowing excessive food scooping) to the fact that previous staff "didn't write down all the things the Student needed to be successful and the new staff didn't know." This directly indicates that new or current staff were not provided adequate access to the IEP

and BIP, which listed problem behaviors related to overeating and over-drinking that could lead to vomiting and choking.

During ESY, Behavior Technician 2 violated a core safeguard in the BIP by using fist bumps and high-fives as positive feedback. The BIP clearly stated staff should use "thumbs up and verbal praise rather than tangible items and rather than physical handshakes, bumps, high-5, etc." Subsequent FBA updates confirmed this repeated violation, demonstrating staff's lack of knowledge or failure to adhere to the plan.

The Complainant reported staff failed to follow the BIP's limitations on food and water because they were "afraid of getting hit" and did not want to tell the Student "no." This suggests staff were either unfamiliar with the BIP's de-escalation/behavior management strategies or untrained on how to implement them for the Student's specific needs.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is substantiated* that the LEA failed to ensure the Student's IEP and BIP were fully accessible and understood by all service providers responsible for implementation.

Issue Five

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the LRE for the Student, including non-academic and extracurricular services and activities, such as meals, recess periods, and other non-academic services and activities, to the maximum extent appropriate to the needs of the Student. K.A.R. 91-40-21, K.S.A. 72-3420, 34 CFR § 300.114

According to K.A.R. 91-40-21 and 34 CFR § 300.114 each agency shall ensure that the children with disabilities served by the agency are educated in the LRE. Each agency shall ensure that a continuum of alternative educational placements is available to meet the needs of children with disabilities. These alternative educational placements shall meet the following criteria: include instruction in regular classes, special classes, and special schools; and make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement.

According to K.S.A. 72-3420, each LEA shall be required, to the maximum extent appropriate, to educate children with disabilities with children who are not disabled, and to provide special classes, separate schooling or for the removal of children with disabilities from the regular education environment only when the nature or severity of the disability of the child is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily.

The Complainant alleged the LEA was unable to determine the Student's location when the Student was not in attendance at their 7th-period class. The Complainant alleged the Student was released early daily and lost instructional time and access to a FAPE.

The LEA denied they were in violation of providing the LRE for the Student, including non-academic and extracurricular services and activities, such as meals, recess periods, and other non-academic services and activities, to the maximum extent appropriate to the needs of the Student. The LEA responded they considered and provided access to the LRE to the maximum extent appropriate to the Student's needs. The Student participated in general education classes, lunch, passing periods, and advisory with peer interaction and adult support. They added, the IEP team considered additional restrictions and determined the current inclusion was beneficial.

Due to staff failure to implement the Student's specialized food plan and limits, the Food Service Manager began packaging the Student's meals specifically for them to eat in the special education classroom. This practice indicates the Student was not participating in the typical cafeteria meal service with non-disabled peers. The Student's BIP required the Student to have attendant care in the inclusion environment for lunch and passing time (64 minutes, 5 days a week). The restrictions were severe enough that the Complainant stated they felt the Student should not be allowed in the cafeteria or outside because the Student was not following staff directions, underscoring the severity of the limitations placed on the Student's participation in non-academic activities.

The Student Activity Report showed the Student was scanned entering the bus before the end of the school day for 100 days during the 2024-25 school year, which indicated frequent and regular early removal from instruction/school environment, as early as 7 minutes prior to the end of the school day. The Student's daily schedule indicated their 7th hour class for the 24-25 school year was science, and it stated they would "leave classroom for bus at 3:02," which confirmed the Student's plan was to remain in class until the end of the school day. School Records indicate school ends at 3:02 daily except for early release days and Wednesdays. The frequency of early release from class demonstrated a consistent and cumulative removal from educational access throughout the school year, limiting the Student's access to FAPE.

Based on the foregoing, according to IDEA and Kansas special education regulations *it is substantiate*d that the LEA failed to ensure the LRE for the Student by imposing extreme restrictions on non-academic activities, specifically during mealtimes by limiting access to non-disabled peers. Further, it is substantiated that the LEA failed to provide a FAPE when the Student was dismissed early from class regularly over an extended period of time.

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Additional Finding

During the course of the investigation, the Investigator found the LEA failed to provide the Complainant with a PWN indicating whether the LEA was initiating or refusing requested changes by the Complainant for IEP accommodations and modifications to the Student's IEP.

According to K.A.R. 90-40-26 and 34 CFR 300.503(a)(b), written notice must be given to the parents of a child with a disability a reasonable time before the public agency refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The notice must include a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action, a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, the means by which a copy of a description of the procedural safeguards can be obtained, sources for parents to contact to obtain assistance in understanding the provisions of this part, a description of other options that the IEP Team considered and the reasons why those options were rejected; and a description of other factors that are relevant to the agency's proposal or refusal.

The LEA responded, while PWN or Notices of Meeting (NOM) were not consistently issued for every interaction, the LEA maintained robust communication and offered opportunities for revisions in compliance with IDEA.

Based on the foregoing, according to IDEA and Kansas special education regulations, the LEA failed to provide a PWN accepting or declining requested changes by the Complainant regarding the Student's IEP accommodations related to their food accommodations plan from their pediatrician, the addition of a scheduled bathroom break and water schedule, and accommodations for the PICA diagnosis.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. Violations occurred in the following areas:

A. State and federal regulations at K.A.R. 91-40-16(b)(3), K.A.R. 91-40-19, and 34 CFR §300.323 specify the public agency must have in effect, for each child within its jurisdiction, an IEP, and each teacher and provider is informed of the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. In addition, each agency, teacher, and related services provider shall provide special education and related services to an exceptional child in accordance with the child's IEP

In this case, the evidence supports the finding that USD # 437 did not fully implement the Student's IEP, specifically the supports outlined in their BIP and Medical Plan. Documentation from the LEA, the Complainant, and Interviews document this.

B. State and federal regulations at K.A.R. 91-40-16(a), K.A.R. 91-40-19(c), K.S.A. 72-3429(f)(2), and 34 CFR § 300.324 specify that each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency shall ensure that the IEP team: revises the IEP, as appropriate, to address information about the child provided by the parents; the child's anticipated needs; or other matters.

In this case, the evidence supports the finding that USD #437 did not revise the Student's IEP with information provided by the Complainant according to documentation, interviews, and the LEA Response letter.

C. State and federal regulations at K.A.R. 91-40-16 (4) and 34 CFR § 300.321 specifies each agency shall be responsible for ensuring the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. In addition, each teacher and provider is informed of the individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

In this case, the evidence supports the finding that USD # 437 did not ensure the Student's IEP and BIP were fully accessible and understood by all service providers responsible for implementation through documentation, Interviews, and the LEA Response letter.

D. State and federal regulations at K.A.R. 91-40-21, K.S.A. 72-3420, and 34 CFR § 300.114 specify that each agency shall ensure that the children with disabilities served by the agency are educated in the LRE.

In this case, the evidence supports the finding that USD #437 did not ensure the LRE for the Student by imposing extreme restrictions on non-academic activities, specifically during mealtimes by limiting access to non-disabled peers through documentation, interviews, and the LEA Response letter.

Additionally, the Student was dismissed early from class regularly over an extended period of time throughout the school year limiting the Student's access to instructional minutes.

E. State and federal regulations at K.A.R. 90-40-26 and 34 CFR 300.503(a)(b) specify that written notice must be given to the parents of a child with a disability a reasonable time before the public agency refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

In this case, the evidence supports the finding that USD # 437 did not provide required PWNs through documentation, interviews, and the LEA Response letter.

Based on the foregoing, USD # 437 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #437 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing theIDEA at 34 CFR §300.323 and K.A.R. 91-40-16(b)(3), K.A.R. 91-40-19 by ensuring each teacher and provider is informed of the specific accommodations, modifications, and supports that must be provided for the Student in accordance with their IEP. In addition, each agency, teacher, and related services provider shall provide special education and related services to the Student in accordance with the Student's IEP through direct training by the LEA.
2. Within 15 calendar days of the date of this report, USD #437 shall submit a written statement of assurance to SETS stating that it will comply with state and federal regulations implementing the IDEA at K.A.R. 91-40-16(a), K.A.R. 91-40-19(c), K.S.A. 72-3429(f)(2) and 34 CFR § 300.324 and will hold an IEP meeting to review and revise the Student's IEP and behavior plan and will consider the Complainant's request to add accommodations/modifications to the Student's IEP that address their food plan needs, accommodations for drinking and bathroom use, and accommodations that support the Student's diagnosis of PICA.
3. Within 15 calendar days of the date of this report, USD #437 shall submit a written statement of assurance to SETS stating that it will comply with state and federal regulations implementing the IDEA at K.A.R. 91-40-1(z)(1)(2)(3) and K.A.R. 91-40-2(a)(1) and will ensure the Student attends school for the duration of the day unless explicitly stated in the Student's IEP and agreed to by the IEP team.
4. Further, by January 11, 2026, USD #437 will complete the following: (1) submit a written statement of assurance to SETS that the LEA's practices and procedures for reviewing and revising IEPs and staff training on IEP implementation including accommodations, modifications, and BIPs have been reviewed and revised as appropriate to be responsive and compliant with IEP procedures of the (IDEA and the Kansas Special Education for Exceptional Children Act.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 437
Auburn-Washburn Public Schools: 26FC437-002

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on September 11, 2025, by ----- on behalf of -----. In the remainder of this decision, ----- will be referred to as "the complainant," and Thomas will be referred to as "the student." ----- is an education decision maker for the student pursuant to a Power of Attorney, dated 4/21/2023, and signed by the student's father. The Power of Attorney specifically includes the power to make decisions with regard to "all special education programs and services under state and federal law..."

An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on October 14, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations with regard to Issues 1, 2, 4 and 5, and an additional violation for a failure to provide the Complainant with a PWN indicating whether the LEA was initiating or refusing requested changes by the Complainant for IEP accommodations and modifications to the Student's IEP.

Thereafter, the complainant filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the complainant's notice of appeal, and the Local Education Agency's (LEA's) response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal

committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal Appeal

The appeal consists of seven concerns from the complainant:

First, Investigator and Conflict of Interest Restrictions:

> "the integrity of that process was compromised because LEA representative Heidi Carlson's involvement created an appearance of bias and a conflict of interest, and PRISM allowed it to continue even after I informed them of my fears of retaliation during my interview with KSDE..."

The Appeal Committee is aware that perceptions of bias and conflicts of interest can arise in the eyes of both parties in these kinds of disputes and investigations. However, these perceptions cannot serve as the basis of an appeal. The pertinent regulation is K.A.R. 91-40-51(f), which permits appeals only for the "findings or conclusions" in a complaint report. There is no appeal process available for this concern.

*When either a complainant or school personnel believe that a complaint investigator has acted in an inappropriate manner during an investigation we invite that feedback for consideration outside the complaint process.

Second, Altered PRN Medication and ESI Safety Incident

The appeal states:

> "In the KSDE investigative report, District staff reported that the school nurse and staff decided that they administer the student's PRN medication only when they determine it is "medically necessary," and defined that by active aggression, instead of as needed for agitation as prescribed by the physician. "

The complaint report found a violation with regard to this concern, stating:

> *The BIP required staff to contact the nurse for administration of PRN medication "at first indication of aggressive behaviors, such as head banging and whining," as a known, proactive procedure. However, the Special Education Provider stated school policy was to "try not to use any PRN at all unless absolutely necessary" and to wait until the Student was escalated, already violent, and the medication was "medically necessary for safety purposes." While the School Nurse made the final determination per the Student's individualized health plan, this failure to follow the BIP's proactive measure was a direct violation. The BIP's proactive strategies—ensuring the Student had "access to two staff members who know how to access help for emergent situations" and are "aware of the PRN medication"—were undermined by the staff's stated policy of withholding the PRN medication until a crisis point.*

> *Based on the foregoing, according to IDEA and Kansas special education regulations, it is substantiated that the LEA failed to fully implement the Student's IEP, specifically the supports outlined in their BIP and Medical Plan, resulting in a material failure to implement the Student's IEP.*

Accordingly, the complainant does not contest this conclusion, and it shall stand.

The complainant then adds a list of other concerns, including:

- Whether there will be additional retaliation that comes from this finding and ongoing complaints
- Whether the district followed the required ESI-specific notification protocols and provided safeguards immediately after the restraint event, including providing an incident report, notice of procedural safeguards, falsifying documents claiming those steps had been taken,
- Whether KSDE should have investigated the incident under K.A.R. 91-42-2 regarding Emergency Safety Interventions (ESI)
- Whether the district was involved in active retaliation
- Whether the district's "restricted communication plan" limited the complainant's right to participate in education decision making on behalf of the student.

None of these "other" listed concerns are subject to appeal either because they are not special education legal issues or because they were not allegations in the original complaint. The Appeal Committee concludes that the first in this list of concerns was found to be a violation, and the remaining "other" concerns are not within the jurisdiction of the Appeal Committee. The report is sustained to the extent there is any application to the first concern.

Third, Denial of Parental Access and Retaliation

In this concern, the complainant describes what she believes to be a denial of meaningful parent participation. We make no determination on this issue because the alleged facts are not a part of this complaint. This complaint was filed on September 11, 2025 and the incident described in this concern occurred on October 14, 2025, a full month after this complaint was filed. Accordingly, the Appeal Committee is without jurisdiction to consider this concern.

Fourth, 4. Anticipated Retaliation and Escalating Pattern

Here the complainant asserts that she believes:

> retaliation will continue and intensify if this unlawful restriction is not rescinded immediately. It is evident that additional complaints will follow, and the pattern of violations already documented strongly suggests further findings of noncompliance are likely. I am notifying KSDE now so proactive oversight and enforcement can prevent further harm to my students and others.

Again, the appeal process is only available to contest the findings and conclusions in a complaint report. It cannot be used to address anticipated violations. Thus, the Appeal Committee is without jurisdiction to consider this concern on appeal.

Fifth, Pending FERPA Violation

In this portion of the appeal, the complainant advises KSDE that she in the process of filing two formal FERPA violation complaints and spoliation of evidence complaint. The Appeal Committee acknowledges receipt of this information.

Sixth, . Prior Notice to the Superintendent and School Board – Failure to Act on Disability Discrimination

In this portion of the appeal, the complainant advises KSDE that she has filed a complaint with the OCR. The Appeal Committee acknowledges receipt of this information.

Seventh, Systemic Manipulation of Evidence and Denial of FAPE, IDEA, and Procedural Safeguards

The complainant states: "Across every KSDE complaint and appeal I have filed — 22FC437-001, 23FC437-003, 23FC437-004, 26FC437-002, and 26FC437-003 — USD 437 has submitted inaccurate or altered information to KSDE to avoid accountability. I documented contradictions and falsehoods in each case, yet the district's statements were accepted as credible." She adds: "I formally request that KSDE take the following actions," after which is a list of allegations without supporting facts.

The appeal process is not an appropriate vehicle to present new allegations. The complainant is familiar with the complaint process and the requirement in that process to provide the facts that support each allegation in the complaint and to provide a copy of the complaint to the LEA (school district). KSDE will appropriately address any future complaint from the complainant that meets the minimum content required by law, but cannot address new complaint allegations or duplicative allegations through the limited appeal process as set forth by K.A.R. 91-40-51(f).

After a full review of this appeal, the Appeal Committee finds that sufficient evidence exists to support the findings and conclusions in the Complaint Report

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 24th day of November, 2025.

Appeal Committee

Crista Grimwood
Brian Dempsey
Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #368. PAOLA PUBLIC SCHOOLS
ON OCTOBER 10, 2025

DATE OF REPORT: NOVEMBER 3, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #368 (Paola Public Schools) on behalf of ------ by his parent ------. In the remainder of the report, ------ will be referred to as "the student" and ------ as "the parent" or "the complainant."

The complaint is against USD #368 (Paola Public Schools). In the remainder of the report, USD #368 will be referred to as "the Local Education Agency". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." Local Education Agency staff will be referred to in the remainder of this report as follows:

- Kris Holt, Director, Special Education Director
- Brennan Riffel, Principal
- Elaine Carpenter, Assistant Special Education Director
- Helen Woolsey, Special Education Teacher
- Kennedy Voss, Kindergarten Teacher
- Jennifer Siders, School Psychologist
- Bridget Fleming, Behavior Specialist (BCBA), Lakemary Center
- Shrina Zaldivar, Crisis Case Manager, Lakemary Center

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on October 10, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent. The investigator

first emailed the parent on October 11, 2025, to clarify and confirm the issues and the Special Education Director on October 13, 2025, as part of this investigation. The investigator interviewed the parent on October 27, 2025, and interviewed the LEA staff, specifically, Kris Holt, Brennan Riffel, Elaine Carpenter, Jennifer Siders, Matt Meek, and Angela Davey on October 28, 2025. The investigator additionally spoke with the Special Education Director on October 27, 2025, to clarify evidence submitted.

Although additional documentation and emails were provided to the investigator and thoroughly reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, dated August 20, 2025, parent signed consent August 20, 2025
2. Notice of Special Education Meeting dated August 22, 2025, to discuss a special education evaluation to determine whether the child is eligible for special education services on August 22, 2025, at 11:00 p.m. Parent signed to waive 10-day written notice, but dated signed was not recorded.
3. Evaluation/Eligibility Team Report dated August 22, 2025
4. Individualized Education Plan (IEP), dated August 22, 2025
5. Consent to Excuse Required IEP Team Member from Meeting for IEP dated August 22, 2025, special education teacher and general education teacher, parent signed September 29, 2025
6. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent dated August 22, 2025, parent signed consent on September 29, 2025
7. Undated Notice of Special Education Meeting proposing a parent-requested meeting on September 29, 2025, at 2:00 p.m. Parent signed to waive 10-day written notice on September 29, 2025.
8. School Psychologist Documentation for initial IEP and eligibility timelines and signatures, compiled on October 16, 2025

Emails:

1. Email from parent to Student's team dated October 8, 2025, at 1:50 a.m.
2. Email from parent to behavior specialist (BCBA) dated October 8, 2025, at 1:14 p.m.
3. Email exchange among Crisis Case Manager, principal and parent dated October 8, 2025, between 2:08 p.m. and 4:20 p.m.
4. Email from parent to Student's team dated October 8, 2025, at 4:12 p.m.
5. Email exchange between principal and parent dated October 9, 2025, between 5:24 p.m. and 5:28 p.m.

6. Email exchange between parent and principal dated October 10, 2025, between 12:15 a.m. and 9:52 a.m.
7. Email exchange between school psychologist and parent dated October 10, 2025, between 1:32 p.m. and 2:14 p.m.

Background Information

The subject of this complaint is a five-year-old kindergartener during the 2025-2026 school year. The student was new to the LEA and had not previously received special education services. On August 14, 2025, the parent notified the LEA that the student had a diagnosis of ADHD and provided an outside evaluation documenting the ADHD diagnosis along with information about trauma. On August 19, 2025, the Student Improvement Team (SIT) met with the parent (attending virtually) and decided to conduct an initial special education evaluation due to behavioral and education concerns and existing medical diagnoses. The outside evaluation listed medical diagnoses of Autism spectrum disorder, ADHD, Global Developmental Delay, Language Delay stating that they will impact the student's ability to participate and progress in the general education curriculum without specialized instruction. On August 20, 2025, a Prior Written Notice (PWN) was sent home requesting consent for the evaluation and the parent signed and returned consent on August 21, 2025. On August 22, 2025, a virtual initial eligibility and IEP meeting was held with the parent in attendance. The parent waived a 10-day notice and excusal form for the classroom and special education teacher. At this meeting, the student was found eligible for special education as a student with Autism and Other Health Impairment due to ADHD. It is noted that the evaluation report stated that since the student was new to the district ongoing reevaluation would be conducted to further determine educational needs, strategies, and related services (SPL, OT). An Individualized Education Plan (IEP) was developed on the same day with one goal, accommodations, special education minutes and consultative OT and speech minutes. The Prior Written Notice authorizing services was subsequently signed and special education services were implemented.

Issues Investigated

Issue One

USD #368, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), misclassified an IEP-related meeting as a "conference" despite proposing to change the student's educational services, circumventing the required procedural safeguards during the 2025-26 school year.

Applicable Law

Federal regulations at 34 CFR §300.324(a)(4) state that changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

Further, 34 CFR §300.322 describes the public agency's responsibility for ensuring parent participation to include:

1. notifying parents of the meeting early enough to ensure that they will have an opportunity to attend. (300.322(a)(1))
2. scheduling the meeting at a mutually agreed on time and place. (300.322(a)(2))
3. informing the parents of the purpose, time, and location of the meeting and who will be in attendance. (300.322(b)(1)(i))
4. informing the parents of individuals that will participate on the IEP team who have knowledge or special expertise about the child. (300.322(b)(1)(ii))
5. providing the parent(s) a copy of the IEP at no cost (300.322(f))

Parent Position

The child complaint stated that the parent was informed of a meeting to discuss the student's progress and potential amendments to the student's services occurring on October 10, 2025, at 2:00 p.m. The meeting was designated as a "conference" despite the purpose of the meeting being to discuss changes to the student's IEP. The complainant wrote in the complaint that this mischaracterization of the name of the meeting impeded the parent's ability to fully participate in decisions affecting the student's education.

Local Education Agency Position

The Local Education Agency responded that a conference was planned for October 10, 2025. It was requested by the parent as "a meeting with special education and behavior staff to review and improve data collection before using it for [student's] Functional Behavioral Assessment (FBA) or Individualized Education Program (IEP)." Although October 10, 2025, was proposed as the date of the meeting, no meeting was held.

Analysis: Findings of Fact

1. The parent and district agree that the October 10, 2025, meeting did not occur.
2. Leading up to that decision, on October 8, 2025, the principal and school psychologist offered to meet with the mother on October 10, 2025, to respond to parent concerns and discuss the student's behavior. The principal informed the mother that the behavior specialist was not available to meet on October 10, 2025, and offered to delay the meeting to October 13, 2025, instead.

3. The parent asserted during her October 27, 2025 interview that principal had written in an October 9 email that "I would like to propose that we discuss a possible IEP amendment for more pullout since [student] needs appear to be more sustained as shown by progress monitoring data". Based on that she believed that this constituted an IEP meeting.
4. On October 9, 2025 the principal emailed the mother about an October 10, 2025 conference writing, "I do want to clarify that this is a conference and not an IEP meeting but I would like to propose that we discuss a possible IEP amendment for more pullout since [student's] needs appear to be more sustained as shown by progress monitoring data." The parent responded, "You have indicated that the upcoming meeting is a "conference," not an IEP meeting. However, you have also stated that one purpose of the meeting is to discuss a possible IEP amendment to increase pull-out services, based on progress monitoring data. Such a discussion constitutes a review and proposed modification of [student's] IEP, which places the meeting firmly within the scope of an IEP team function under the Individuals with Disabilities Education Act (IDEA)."

1. On October 10, 2025, the LEA emailed the parent that the October 10, 2025, meeting was cancelled and a formal IEP meeting would be scheduled instead.
2. The LEA staff stated during their interview on October 28, 2025, that the intent of the meeting was to clarify and explain behavior data and to set a date for an IEP meeting to discuss changing service minutes. The school psychologist stated that the LEA would never unilaterally change services. The LEA staff further stated that if a discussion about changing services came up in any conference with a parent the LEA practice is to stop and set up an IEP meeting that would be constituted with the appropriate participants and provided proper notice.

Conclusion

Based on the foregoing, it is found that the Local Education Agency is in compliance because a meeting did not occur and therefore, no corrective action is required.

Since the meeting did not occur the investigator did not determine if the LEA did or did not misclassify an IEP meeting as a "conference" and thus if parent participation was denied based on misclassifying the name of the meeting. It is additionally noted that the student had a current IEP and if the LEA were proposing to amend the IEP the district's obligation would be to follow 34 CFR §300.324(a)(4) which may or may not have resulted in an IEP meeting.

Issue Two

USD #368, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to include the student's general education teacher and paraprofessionals in IEP meetings during the 2025-26 school year resulting in a denial of meaningful parent participation and the ability to develop an appropriate IEP for the student.

Applicable Law

Federal regulations at 34 C.F.R. §300.324(a)(2) and (4)(ii) states that the public agency must ensure that the IEP Team for each child with a disability includes not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment) that is knowledgeable about the general education curriculum. Further, 34 C.F.R. §300.324(a)(6) states that at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate. While federal law allows parents to invite anyone with relevant knowledge of their child to an IEP meeting, the school district may deny the request if it creates a conflict with a paraprofessional's job duties.

Further, 34 CFR §300.322 and K.A.R. 91-40-17 describes the public agency's responsibility for ensuring parent participation to include:

1. notifying parents of the meeting early enough to ensure that they will have an opportunity to attend. (300.322(a)(1)) K.A.R. 91-40-17(a)(2) clarifies early enough to ensure an opportunity to attend as, at least 10 days in advance of the meeting.
2. scheduling the meeting at a mutually agreed on time and place. (300.322(a)(2); K.A.R. 91-40-17(a)(1))
3. informing the parents of the purpose, time, and location of the meeting and who will be in attendance. (300.322(b)(1)(i)); K.A.R. 91-40-17(b)(1))
4. informing the parents of individuals that will participate on the IEP team who have knowledge or special expertise about the child. (300.322(b)(1)(ii)); K.A.R. 91-40-17(b)(4))
5. providing the parent(s) a copy of the IEP at no cost (300.322(f))

Parent Position

The complaint alleged that upon being informed of a meeting to discuss the student's progress and potential changes to services the parent requested that the student's general education teacher and paraprofessionals assigned to work with the student attend the meeting. The parent alleged that this request was denied based on the grounds that their attendance was "not required," thereby impeding the parent's ability to fully participate in making decisions affecting the student's education.

Local Education Agency Position

The LEA responded that a conference was planned for October 10, 2025, and the parent requested that the student's kindergarten teacher and paraprofessionals that work with the student attend this meeting. The district stated that these personnel were not necessary for the meeting and instead listed the staff that would be in attendance. They stated that the October 10, 2025, meeting did not occur and that an IEP meeting is being scheduled.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference.

1. The parent and district agree that the October 10, 2025, meeting did not occur and that an IEP meeting was to be scheduled.
2. The parent stated on October 27, 2025 in an interview with the investigator that because the principal had mentioned a proposal to discuss a possible IEP amendment she believed the October 10 meeting was an IEP meeting and that the general educator and other professionals with expertise about the student were necessary.
3. On October 9, the Principal responded to the parent's email that the kindergarten teacher and paraprofessionals would not be in attendance on October 10, 2025, as requested by the parent. Additionally, the Principal wrote that the Principal, Special Education Director, Assistant Special Education Director, School Psychologist, and Special Education Teacher would attend.
4. The parent emailed the LEA on October 10, 2025
5. Furthermore, we must again formally request the participation - at least in part - of [kindergarten teacher], [student's] general education teacher, and the paraprofessionals assigned to [student]. These individuals have direct, daily interaction with [student] and possess critical insight into [student's] functioning, behaviors, and support needs within the school environment." Citing CFR 300.321(a)(6) and the Kansas Special education Process Handbook...Your current refusal to allow their attendance-despite my formal request-could be interpreted as an unlawful limitation of parental participation, which is a core tenant of IDEA. If scheduling concerns are at issue, as stated before we are open to these individuals attending only the relevant portion of the meeting or submitting written input in advance, as a reasonable compromise.
6. The LEA staff stated during the October 28, 2025, interview with the investigator that the general education teacher with the most familiarity of the student and knowledge of the curricular area would participate in a student's IEP. The special education teacher stated that it is the regular practice in the LEA that paraprofessional input is gathered ahead of time and shared as part of the IEP meeting as needed. This is due to the difficulty in reassigning a paraprofessional's duties during the school day and work hours. The director of special education said that in certain cases a paraprofessional may attend an IEP meeting when they possess specific information and are necessary for decision making, but it is not a general practice, and the decision is not solely based on a parent request.

Conclusion

Based on the foregoing, it is found that the Local Education Agency is in compliance and no corrective action is required because the October 10, 2025, meeting did not occur.

Both the LEA and parent described their understanding of 34 C.F.R. §300.324(a)(2) and (4)(ii), 34 C.F.R. §300.324(a)(6) and 34 CFR §300.322 and K.A.R. 91-40-17 that are pertinent to this

issue. The obligations for IEP participants, notice and parent participation differ between a conference and an IEP meeting. Without the meeting occurring it is not possible for the investigator to determine if the meeting was planned as a conference or an IEP amendment meeting to apply the IDEA and Kansas regulations of IEP participants and thus parent participation.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §300.324(a)(4) and 34 CFR §300.322 was not found and no corrective action is required.
2. ISSUE TWO: A violation of 34 C.F.R. §300.324(a)(2) and (4)(ii), 34 C.F.R. §300.324(a)(6) and 34 CFR §300.322 and K.A.R. 91-40-17 was not found and no corrective action is required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #231
ON OCTOBER 1, 2025

DATE OF REPORT: NOVEMBER 3, 2025

This report is in response to a complaint filed with our office by ------- on behalf of -------. For the remainder of this report, ------- will be referred to as "the complainant." -------. will be referred to as "the student."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" as used in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. For the remainder of this report, USD #231 will be referred to as "the LEA."

Investigation of Complaint

Any individual or organization may file a formal complaint if they believe that - within the 12-month period prior to the receipt of that complaint by KSDE - a school district did not comply with federal or state laws or regulations relating to special education.

The complainant in this case has been serving as an advocate for the student and his mother. The investigator spoke by telephone with the complainant on October 10 and 28, 2025. Additionally, the complainant and the investigator communicated via email on October 3, 13, and 24, 2025.

The investigator spoke by telephone with the Executive Director for the LEA on October 3 and 27, 2025. On October 29, 2025, the investigator spoke in a conference call with the Executive Director, the special education coordinator assigned to the student's high school, the assistant principal from that school, and the student's case manager (special education teacher).

The investigator spoke by telephone with the student's mother on October 31, 2025.

In completing this investigation, the complaint investigator reviewed the following materials:

- IEP for the student dated September 13, 2024
- Meeting Notes dated April 30, 2025
- Meeting Notes dated May 7, 2025

- Undated Meeting Notes (which appear to be from a second meeting held in May 2025)
- Email exchanges dated August 11 through 15, 2025
- Prior Written Notice for Change in Services/Placement dated May 12, 2025
- Notices (11) of Meeting dated August 15, 2025
- Email exchanges dated August 29 through September 8, 2025
- Record of District Attempts to Schedule IEP Meeting for September 5, 2025
- Consent to Invite Representative of Noneducational Agency (pre-ETS) to IEP Meeting of September 5, 2025
- Notices (10) of Meeting dated September 2, 2025
- Notice of Meeting signed by the student's mother on September 8, 2025
- Email dated September 7, 2025 from the student's case manager (special education teacher) to the student's mother
- Email exchange dated September 8, 2025 between the student's mother and the student's case manager (special education teacher)
- Email dated September 8, 2025 from the Executive Director of Special Education to the student's mother
- Record of District Attempts to Schedule IEP Meeting for September 8, 2025
- Email dated September 8, 2025 from the complainant to the student's IEP Team including the Executive Director of Special Education, the building principal, the student's special education teacher, and the student's mother
- Email dated September 8, 2025 from the Executive Director of Special Education to the complainant
- Series of emails dated September 8, 2025 from the student's case manager (special education teacher) to the student's mother
- Draft IEP dated September 8, 2025
- Meeting Notes dated September 8, 2025
- Draft IEP for the student dated September 8, 2025
- Email exchanges dated September 9 and 10, 2025 between the student's case manager (special education teacher) and the student's mother
- Email exchanges dated September 10 through 22, 2025
- Notices (19) of Meeting dated September 11, 2025
- Email dated September 23, 2025 from the student's mother to the case manager (special education teacher)
- Record of District Attempts to Schedule Meeting for September 23, 2025
- Notes regarding September 23, 2025 IEP Team Meeting
- Notices of Meeting (17) dated September 23, 2025
- Record of District Attempts to Schedule Meeting for September 29, 2025

- Prior Written Notice for Initial Services and Request for Consent for Special Education Action dated September 23, 2025
- Meeting Notes dated September 29, 2025
- Email exchange date September 19, 2025 between the student's special education teacher and his mother
- Email dated September 23, 2025 from the special education teacher to the student's mother
- Email exchanges dated October 5 through 14, 2025 between the student's mother and district staff
- Excerpts from the Special Education Process Guidance document for the LEA

Background

This complaint involves a 15-year-old boy who is enrolled in the 10th grade in his local high school. The student has been determined to be eligible for special education support under the categorical designation of Autism. He has also been diagnosed with Attention Deficit/Hyperactivity Disorder and asthma.

Issues

In her complaint, the complainant identified two issues. Eight separate allegations of special education violations were described under Issue One. Each of these eight alleged violations will be addressed separately under Issue One.

Issue One

The parents are not being included as meaningful participants in the IEP annual review for reasons specified below.

Allegation 1

Inadequate Notice of an IEP Team Meeting

Position of the Complainant:

The complainant contends that prior notice of a subsequently cancelled September 5, 2025 IEP team meeting for the student was sent home to the parent in the student's backpack with no prior communication with the parent regarding mutually agreed upon dates for that meeting.

Applicable Statutes and Regulations:

To address the requirement to strengthen the role of parents in the special education process, Congress mandated that schools afford parents the opportunity to be members of any decision making team for their child, including eligibility, initial evaluation and reevaluation, and

development of an individualized education program (IEP) for the provision of a free appropriate public education (FAPE). Schools are to ensure that parents have the opportunity to be members of the IEP team that makes decisions on the educational placement of their child (K.A.R. 91-40-17).

Parents are to be provided with written notice of an IEP meeting regarding their child at least 10 days in advance of the meeting (K.A.R. 91-40-17(b)(2)).

Investigative Findings:

On August 11, 2025, the student's case manager (special education teacher) sent an email to the student's parent proposing two dates (September 5 or 8, 2025) for the convening of the student's annual IEP review. On August 13, 2025, the case manager emailed the parent suggesting that the original proposed times (1:30 PM) be changed to 3:00 PM to minimize disruption to the student's instructional day. The parent sent an email to the case manager on August 15, 2025 writing:

> *"Friday, September 5 at 3:00 p.m. works perfectly. Please go ahead and schedule us for that time."*

The case manager responded via email on August 15, 2025 writing:

> *"Thanks! It is on the calendar. Notice of meeting and consent for outside representative (pre-ETS) was sent home with [the student] today."*

The LEA provided the investigator with a copy of a notice of an IEP Team meeting scheduled for September 5, 2025. That notice was dated August 15, 2025.

On August 29, 2025, the student's case manager (special education teacher) sent an email to the student's mother writing:

> *"Due to unforeseen scheduling conflicts, we are requesting to reschedule [the student's] IEP annual review meeting. This will allow us to have needed personnel present as we make decisions regarding [the student's] IEP."*

Summary and Conclusions:

The LEA has provided evidence to show that the student's mother and his case manager communicated via email to arrive at a mutually agreed upon time for the student's annual IEP review. Additionally, the parent was provided with more than 10-days written notice of that meeting which was scheduled for September 5, 2025. A violation of special education statutes and regulations *is not substantiated* on this aspect of this issue.

Allegation 2

Failure to Provide the Parent With 10-day Notice of an IEP Team Meeting

Position of the Complainant:

The complainant asserts that the parents were not provided with 10-day prior notice of a rescheduled IEP team meeting held on September 8, 2025.

Applicable Statutes and Regulations:

As noted above, Kansas special education laws require that parents be provided with written notice of an IEP meeting regarding their child at least 10 days in advance of the meeting (K.A.R. 91-40-17(b)(2)). Parents may waive the right to 10-days prior notice in order to expedite the rescheduling of a mutually agreed upon IEP Team meeting that has been cancelled.

Investigative Findings:

On August 29, 2025, the student's case manager (special education teacher) sent an email to the student's mother asking to reschedule a previously scheduled IEP Team meeting on September 5, 2025 "due to unforeseen scheduling conflicts." In her email, the case manager wrote:

> *"Which of the following [rescheduled] times would work for you? Wednesday September 10 [at 8:00, 9:15, or 10:30 AM]?"*

The parent responded via email at 9:48 AM on September 2, 2025 selecting the 10:30 AM time but at 11:11 AM sent a follow up email to the case manager stating that the complainant would not be able to participate in a meeting on September 10th. The case manager proposed September 8, 2025, but the parent wrote back to say that date would not work and offered September 9, 2025 at 2:00 PM. At 7:32 PM on September 2, 2025, the parent again sent an email to the case manager proposing to keep the September 8, 2025 date at 10:00 AM. The case manager wrote back to the parent stating that she had put that date "on the calendar."

On September 5, 2025, the parent wrote an email to the case manager asking for a notice of meeting for September 8, 2025. The case manager responded that she thought she had sent one home, and attached the notice to her message. The parent wrote back saying:

> *"I saw the NOM that it was sent with [the student] on 9/3/25. I appreciate you doing that but going forward can we send these electronically. [The student]...often loses things or does not notify me. If a signature is needed, I'll sign the paper and bring it to the school if needed whether the same day or next day if it doesn't have a digital signature option, and I'll send you an email to let you know it's in there."*

The LEA provided a copy of a meeting notice dated September 5, 2025 regarding an IEP Team meeting scheduled for September 8, 2025.

As will be discussed below under other allegations, the parent notified the district that she would be unable to participate in the scheduled meeting due to illness. The LEA opted to continue with the meeting as planned. The Executive Director of Special Education sent an email to the parent on September 8, 2025 writing:

> *"The IEP team will convene today at the scheduled time, you are welcome to join us; we will discuss your additional requests [made by the parent in another email] and the request to reschedule. The IEP is due on Sept. 12; convening today will allow us to go beyond the annual due date."*

The IEP Team meeting was conducted as scheduled. The parent was not in attendance.

Summary and Conclusions:

The student's mother was given only 3-days' notice of an IEP Team meeting held on September 8, 2025. While the parent might have waived the requirement for 10-day prior notice of the meeting had she been present, she did not attend due to illness.

Because the LEA did not provide the parent with 10-day notice of an IEP Team meeting, a violation of special education statutes and regulations *is substantiated* on this aspect of this issue.

Allegation 3

Failure to Schedule an IEP Team Meeting at a Mutually Agreed-Upon Time

Position of the Complainant:

It is the position of the complainant that the LEA conducted an IEP team meeting for the student after being informed that the parent could not attend due to illness.

Applicable Statutes and Regulations:

IEP Team meetings are to be scheduled at a mutually agreed upon time and place K.A.R. 91-40-17(a)(1)). The school should work with the parent to reach an amicable agreement regarding scheduling.

Investigative Findings:

Email records provided by the LEA show that the student's mother and his case manager collaboratively discussed options for the scheduling of an IEP annual review meeting for the student on September 5, 2025. The parties then worked collaboratively to schedule another meeting on September 8, 2025 after the district cancelled the meeting of September 5th, and they mutually agreed on the time and date for that meeting.

However, on the morning of September 8, 2025, the parent notified the LEA that she would be unable to attend the IEP Team meeting due to illness. The parent returned the notice of meeting form to the LEA indicating that she was unable to attend the meeting as scheduled

but wanted to schedule the meeting at another time or date. The parent asked the LEA to provide her with "three alternative dates and times." As will be discussed below, the LEA opted to convene the IEP Team meeting despite the parent's absence.

The student's case manager (special education teacher) followed up with a series of emails to the parent offering dates for yet another meeting. The case manager initially offered September 15 or 23, 2025 at 3:00 PM, changed the September 23rd date to September 25, 2025, then ended with an offer of September 18 or 23, 2025 at 3:00 PM. The case manager then added September 15, 2025 as a third option.

On September 9, 2025, the case manager also asked the parent whether she preferred to meet on September 15 or 23, 2025, and the student's mother wrote that "*September 23 and 3pm [would] work.*"

In a series of email exchanges between September 10 and 22, 2025, the case manager and the student's mother discussed the notice of the September 23, 2025 meeting sent by the case manager on September 11, 2025. At the request of the parent, changes were made to that form to add the complainant as an attendee as well as a representative from the IT department for the district. The parent also asked that a new notice be developed that specified the actual time of the meeting (3:00 PM) rather than 12:00 AM as originally written.

Summary and Conclusions:

Ample evidence was provided by the LEA to show that the case manager and the parent collaborated to establish mutually agreed upon times to hold IEP Team meetings regarding the student on September 5, 8, and 23, 2025. However, when the parent notified the LEA that she could not attend the September 8, 2025 meeting due to illness, the LEA unilaterally decided to convene the IEP Team meeting anyway rather than mutually agreeing to a rescheduled meeting. For this reason, a violation of special education statutes and regulation *is substantiated* on this aspect of this issue.

Allegation 4

Failure to Include a Required Participant in an IEP Team Meeting for the Student

Position of the Complainant:

The complainant asserts that the general education teacher(s) of the student was excused from participation in the September 8, 2025 IEP team meeting without the consent of the parent.

Applicable Statutes and Regulations:

The members of the IEP team are specifically identified and described in state and federal statutes and regulations. At least one of the general education teacher(s) of the child must be in attendance at an IEP Team meeting if the child is participating in the general education

environment (K.S.A. 72-3404(u)(2)). This must be a teacher who is or may be working with the child to ensure success in the general curriculum and who implements portions of the IEP. The general education teacher is knowledgeable about the curriculum, appropriate activities of typically developing peers, and how the child's exceptionality affect the child's participation (involvement and progress) in the curriculum or other appropriate activities. General education teachers assist in the development, review and revision of the IEP including determining appropriate positive behavioral interventions and supports and other strategies for the child, as well as supplementary aids and services, program modifications and supports to enable general education teachers to work with the child (K.A.R. 91-40-17(h)).

If the child has several general education teachers, at least one must attend the IEP meeting. However, it may be appropriate for more to attend. The school may designate which teacher or teachers will serve as IEP team member(s), taking into account the best interests of the child. The general education teacher who serves as a member of the child's IEP team should be one who is, or may be, responsible for implementing a portion of the IEP. The school is strongly encouraged to seek input from the teachers who will not be attending the IEP team meeting. All general education teachers of the child must be informed by the IEP team of their specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

A required member of the IEP team is not required to attend an IEP team meeting, in whole or in part, if the parent of a child with an exceptionality and the school agree, in writing, that the attendance of the IEP team member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

A required member of the IEP team may be excused from attending an IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:

- The parent, in writing, and the school consent to the excusal; and
- The IEP team member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting (K.S.A. 72-3429(b)(2), (3); 34 C.F.R. 300.321(e)).

Informed parental consent means that the school must provide the parent with appropriate and sufficient information to ensure that the parent fully understands that the parent is consenting to excuse a required IEP team member from attending an IEP team meeting in which the member's area of the curriculum or related services is being changed or discussed and that if the parent does not consent the IEP team meeting must be held with that IEP team member in attendance (Federal Register, August 14, 2006, p 46674).

Excusals through written agreement or consent apply only to the required IEP team members.

Schools are encouraged to carefully consider, based on the individual needs of the child and the issues that need to be addressed at the IEP team meeting, whether it makes sense to offer to hold the IEP team meeting without a particular IEP team member in attendance or whether it would be better to reschedule the meeting so that person could attend and participate in the discussion (Federal Register, August 14, 2006, p. 46674).

Investigative Findings:

Written notice of a September 8, 2025 IEP Team meeting was sent via email to the parent by the case manager on September 5, 2025. According to that notice, the following district staff had been invited to participate in the meeting:

- the Assistant Principal,
- two counselors,
- a school psychologist,
- the Special Services Coordinator,
- the student's special education teacher, and
- one of the student's general education classroom teachers (PE and Health).

The complainant sent an email dated September 8, 2025 to the Executive Director of Special Education, the building principal, the student's special education teacher, and the student's mother. In her email, the complainant stated that the student's case manager (his special education teacher) had emailed the parent a set of documents that included - among other documents - a form allowing the absence of general education teachers at an IEP Team meeting scheduled for September8, 2025.

Additionally, in an email to the student's case manager dated September 8, 2025, the student's mother wrote:

> *"After reviewing the Notice of Meeting, I have some concerns that key staff members are not listed, and I believe their participation is essential for developing an appropriate IEP for [the student]. For this reason, I think we should reschedule to ensure the correct team members can attend and meaningfully contribute.*
>
> *First, I noticed that assistive technology is not included. I spoke with [an AT staff member] from the district on August 27th, and he explained he would be sending a recommendation letter. We specifically discussed [the student] using a convertible Chromebook (tablet/keyboard function) that would allow him to utilize both keyboard and text-to-speech. This would address the issues he is currently having, since the tablet runs on Android while the Chromebook matches the district system. Having assistive technology represented at the meeting is crucial for this discussion.*
>
> *In addition, I saw a notice of excusal for a general education teacher. Since [the student] spends much of his time in general education settings, I believe a core teacher should be*

present—for example, a math teacher, as he is struggling in that subject. Their input is needed for realistic planning and supports. I also did not see a behavior specialist listed. Because [the student] is currently under evaluation, their presence is important. Similarly, I noticed no school social worker was included. I would like to add a social worker to the team so we can discuss the possibility of adding social work services to his IEP.

Finally, I believe there is a need for speech and language to be included to address social communication and self-advocacy skills. I also did not see any goal related to a Behavior Intervention Plan (BIP) or participation in a social skills group. I need clarification on whether this is being addressed by anyone.

I understand this is short notice, but I only received the NOM on September 5th and needed time to review it carefully. After reviewing it, we will need to reschedule the IEP meeting so that the proper staff are in attendance and [the student's] needs can be fully addressed. Without the right people in the room, we cannot develop a plan that ensures he is supported and has a successful year."

The case manager responded:

"Thank you for sharing your concerns. The IEP meeting is due Friday, September 12, so I have concerns about rescheduling.

The request for a different device can be discussed in the meeting today, and we can make changes as needed to the IEP draft. The excusal was created only for the event that the general education teacher has to leave early. There will be two general education teachers at the meeting. All teachers have provided input.

I apologize that the meeting participant list was not up to date; there will be more people in attendance than is listed. The social worker and behavior specialist will be in attendance.

The re-evaluation is in progress, and we will be meeting again to discuss the new data and make adjustments to the IEP. This includes speech-language needs and an updated Behavior Intervention Plan. There are currently 2 behavior goals included in the IEP draft, following directives and self-advocacy. I believe that meeting today, we can discuss all of the current data and make adjustments to the IEP draft as needed."

While the case manager's email states that two of the student's general education teachers would be attending the September 8, 2025 meeting, meeting notices provided by the LEA show that only the student's PE and Health teacher had been invited to attend. Signatures of the participants in the September 8, 2025 IEP Team meeting show that one general education teacher was in attendance.

Notes from the IEP Team meeting of September 23, 2025 show that 5 general education teachers attended the meeting. The notes reflect specific comments from the student's Health, ELA, and Science teachers.

Notes from the IEP Team meeting on September 29, 2025 also show that a general education teacher was present.

Summary and Conclusions:

Even though the parent was provided with a form requesting her consent for the excusal of a general education teacher from the IEP Team meeting held on September 8, 2025, a general education teacher did attend the meeting. A violation of special education statutes and regulations *is not substantiated* on this aspect of this issue.

Additional Comments:

Written notice of an IEP Team meeting must indicate - among other things - the titles or positions of the persons who will attend the meeting on behalf of the school. The school may elect to identify participants by name, but the LEA is under no obligation to do so and may refer to a participant by title only (K.A.R. 91-40-17(b)(1)).

The Notice of Meeting form related to the September 8, 2025 IEP Team meeting did not accurately inform the parent about who would be attending the meeting on behalf of the LEA. Signatures of the attendees at the meeting included the Director of Technology, a behavior specialist, and a social worker as attendees at the meeting even though these individuals were not shown to have been invited to the meeting on the meeting notice provided to the parent. (The social worker's name was included in the meeting notice provided to the parent, but she was erroneously labeled as a "Counselor.")

Because the LEA failed to properly inform the parent of those individuals who would be attending the September 8, 2025 IEP Team meeting on behalf of the school, a *violation of special education statutes and regulations has been identified* through this investigation.

Allegation 5

Predetermination of Services

Position of the Complainant:

According to the complainant, the parents were provided with prior written notice of actions proposed by the district before the IEP team meeting had been conducted.

Applicable Statutes and Regulations:

Predetermination of special education placement and services occurs when a school makes decisions about a student's IEP before the formal IEP meeting, without genuine input from parents or any meaningful consideration of the student's needs. This is a violation of special education law because the Individuals with Disabilities Education Act (IDEA) outlines an IEP process that specifically requires collaboration. IEP Teams - which include parents - must determine goals and services first, then decide what placement best serves the needs of the student, and then and only then seek the consent of the parent.

One of the procedural safeguards afforded to parents is the required Prior Written Notice of certain proposed special education actions. This notice must be provided to parents within a reasonable amount of time before the date the school proposes to initiate or change the

- identification,
- evaluation,
- educational placement of their child, or
- provision of special education and related services (FAPE) to their child (K.S.A. 72-3430).

The written consent of the parent is required before an LEA can make a substantial change in placement (more than 25% of the child's school day) or a material change in services (25% or more of the frequency or duration of any one service) or to add or delete a service.

Investigative Findings:

The complainant sent an email dated September 8, 2025 to the Executive Director of Special Education, the building principal, the student's special education teacher, and the student's mother. In her email, the complainant stated that the student's case manager (his special education teacher) had (on September 5, 2025) emailed the parent a set of documents that included - among other documents - a Prior Written Notice form dated September 8, 2025.

In a conference call with the investigator and representatives of the LEA on October 29, 2025, the student's case manager was asked why this document had been sent to the parent. According to the case manager, that form was sent in error. The Executive Director stated that it is not the practice of the district to send prior written notice of proposed action prior to the IEP meeting for a student.

The district was unable to provide a copy of the prior written notice form that was sent electronically to the parent on September 8, 2025 noting that as that form is revised, the earlier document is overwritten. However, the complainant was able to provide a copy of the draft that was sent to the parent. Both documents show the LEA to be recommending a material change to the student's special education services - an increase of more than 75% over what was specified in the student's September 13, 2024 IEP.

The LEA provided evidence to support their position that predetermination had in fact not occurred including the following:

On September 5, 2025, the student's case manager sent an email to the student's mother which included - among other documents - a draft IEP. In her email, the case manager wrote:

> *"You will notice that the BIP has not been altered from last year. This is because the FBA has not been completed. It is in progress and we will meet when it is complete to create an updated Behavior Plan."*

In an email to the student's mother dated September 19, 2025, the student's special education teacher wrote:

"Attached is an updated IEP draft that reflects data collected in the last couple of weeks. You will notice that baselines are adjusted, as well as success criteria in his goals."

The parent responded:

"I do have some questions regarding the adjusted baselines and success criteria noted in the updated draft. From my review of the progress reports and data provided, I do not see consistent supporting evidence that [the student] has mastered his current goals. For example, his math probe data still shows refusals and incomplete work, his comprehension accuracy remains around 43%, and there are no measurable baselines for writing or executive functioning. While the draft reflects adjusted baselines, there is no clear documentation or raw data provided to justify these changes. I respectfully request that the team provide the specific data sources used to determine the adjusted baselines and show evidence of where and how success has been measured. The Math progress reports show some probe data but many problems were left blank or marked as refusal. The 'growth' looks like a baseline adjustment more than real success. Drafts show baseline scores of 0 to 37 adjusted upward, with goal 'solve 2-step equations with 80% accuracy.' Compliance/Behavior progress report notes on refusals, shutdowns, or partial compliance. No consistent data points to show real mastery more anecdotal than quantitative. Draft IEP: baseline at 37% compliance goal 705. Self-advocacy the reports mention he sometimes asks for help with prompting, but there's no systematic data collection. Draft baseline adjusted from '3 times' to 10% to goal of 40-50%. Missing Reading: Comprehension probes = 43% accuracy, same as last year. No progress shown toward 80%. No baseline goal data chain in the 2025 drafts. Writing: Documents acknowledge 'brief responses, avoids writing' but no measurable baseline or criteria given. Executive Function: 'Often forgets to turn in assignments' is stated, but no baseline (e.g. % of work submitted) or measurable goal. Assistive Tech: AT listed in accommodations (tablet, audiobooks) but the AT section states 'not needed.' No baseline or criteria tied to AT usage or success. 'Comparing the Sept. drafts, I see baselines and criteria changed (e.g. Math 0 to 37; Self-advocacy 3 to 10) but the drafts do not include the probe data or logs supporting those changes, and there is no evidence that [the student] has met the stated criteria especially since reading and writing still lacks measurable goals; please provide the raw progress-monitoring data used to set these baselines and document any goal mastery. What specific data supports these adjusted baselines? Where is the documentation showing mastery of goals, beyond anecdotal notes? Can I see the raw probe scores or progress monitoring logs used to make these changes?"

The special education teacher replied:

"Attached is progress monitoring log for comprehension and algebra goals. You can view the behavioral data [with a provided link]. Comprehension should be: 62%. It must not have saved when I updated it. I have made that correction."

In an email to the student's mother dated September 23, 2025, the student's special education teacher wrote:

> *"I will update the parent concerns in the draft prior to our meeting."*

In a separate email to the case manager (special education teacher) on September 23, 2025, the student's mother asks that a "Parental Concerns Statement" be documented in the student's IEP. The parent specified her concerns related to math, written expression, reading comprehension, biology access, communication needs, behavioral supports, and assistive technology. She also listed a number of concerns that had been expressed by the student. These concerns are alluded to in the draft IEP document as follows:

> *"[The student's] mother is concerned about his mental health and safety at school. She wants to ensure that he graduates on time, is able to access creative and career-based courses in animation and develop self-advocacy and coping skills. [The student's] mother is concerned about his academic needs in math, reading comprehension, and written expression as well as communication needs. She is also concerned about access needs in Biology, including missed instruction, peer conflict, and impact of teacher interactions on [the student's] mental health. She has concerns about his need for assistive technology as well as behavior and social-emotional supports."*

The first properly constituted IEP Team meeting regarding the student took place on September 23, 2025. Both the complainant and the student's mother stipulate that the parties engaged in active discussions regarding the student's needs, and both agree that this discussion extended into a second IEP Team meeting on September 29, 2025.

Summary and Conclusions:

The student's case manager provided the parent with prior written notice of a material change in the student's special education services before any annual review meetings had been conducted. The LEA asserts that this form was sent to the parent in error. It is, however, easy to see why the parent and complainant would assert predetermination: the prior written notice sent to the parent before any IEP meetings had been held reads exactly the same as the prior written notice form provided to the parent after IEP meetings had been conducted.

The LEA states that it is continuing to provide services to the student in the manner outlined in the his September 13, 2024 IEP because the parent has not yet given written consent for the implementation of changes proposed by the LEA. Evidence provided by the district shows that the parent was involved in discussions about the student's new IEP and the services described therein.

Despite the "bad look" of this situation, the district has taken no action to implement a change in services without the consent of the parent. Under these circumstances, a violation of special education statutes and regulations ***is not substantiated*** on this aspect of this issue.

Additional Comments:

The prior written notice document provided to the parent remains unsigned as of the writing of this report. It should be noted that this notice contains no reference to the fact that more than 10 additions were made to the "Accommodations/Modifications/Supplementary Aids and Services" section of the student's IEP. These additions constitute a material change in services for the student and should be called out in the prior written notice document. The LEA is strongly encouraged to take this opportunity to amend the prior written notice document to include these changes. A failure to provide the parent with prior written notice of these changes would be a violation of special education statutes and regulations.

Allegation 6

Conducting an IEP Team Meeting Without the Parents

Position of the Complainant:

The complainant asserts that on September 8, 2025 the LEA conducted an IEP team meeting for the student without parental participation.

Applicable Statutes and Regulations:

As noted above, the members of the IEP team are specifically identified and described in state and federal statutes and regulations. The parents must be members of the IEP team. Parents are equal partners and should be involved in the decision-making process throughout the development of the IEP (K.A.R. 91-40-17 (a).

If neither parent is able to physically attend the IEP team meeting, the parent and the school may agree to use alternative means of participation, such as video conferences and individual or conference telephone calls (K.S.A. 72-3429(b)(1); K.A.R. 91-40-17(c); 34 C.F.R. 300.322(c); 34 C.F.R. 300.328).

If the parents are unable to meet prior to the annual review date of the IEP and request that the IEP team meeting be extended for a short period of time until they can be involved in the meeting, the school may honor their request and document why the IEP has not been reviewed and when the IEP will be reviewed and revised. This situation should not be a common practice, and to avoid this issue it is best to schedule IEP meetings far enough in advance of the annual review date to allow for rescheduling if necessary. Schools should be aware that there is no exception permitted in the law to the requirement to annually review a child's IEP. But when schools schedule IEP team meetings too close to the annual review deadline, schools must balance the obligation to meet the annual review deadline with giving the parent required notice of the IEP team meeting and working with the parent to reach an amicable agreement about scheduling the meeting.

A school may conduct an IEP team meeting without the parent(s) in attendance if the school, despite repeated attempts, has been unable to contact the parents to arrange for a mutually

agreed upon time or to convince the parents that they should participate (K.A.R. 91-40-17(e)(1); 34 C.F.R. 300.322(d)). The school must keep a record of its attempts to arrange a mutually agreed on time and place to secure the parents' participation. The record shall include at least two of the following:

- Detailed records of telephone calls made or attempted, including the date, time, person making the calls, and the results of those calls;
- Detailed records of visits made to the parents' home or place of employment, including the date, time, person making the visit, and the results of the visits;
- Copies of correspondence sent to the parents and any responses received; and
- Detailed records of any other method attempted to contact the parents and the results of that attempt (K.A.R. 91-40-17(e)(2)).

Districts are encouraged to use their judgment about what constitutes a good-faith effort in making repeated attempts to involve each family in the IEP process. At minimum, school districts must at least make two attempts, using at least two different methods, to involve the parents in the IEP team meeting.

Investigative Findings:

The LEA and the parent had mutually agreed to hold an IEP Team meeting on September 8, 2025 at 10:00 AM. The student's then-current IEP was ending on September 12, 2025. Prior notice of the meeting was provided to the parent via email from the case manager on September 5, 2025.

In an email to the student's case manager sent at 12:17 AM on September 8, 2025, the student's mother expressed concern regarding who would be attending the upcoming IEP meeting. The parent wrote:

> *"I understand this is short notice, but I only received the NOM on September 5th and needed time to review it carefully. After reviewing it, we will need to reschedule the IEP meeting so that the proper staff are in attendance and [the student's] needs can be fully addressed. Without the right people in the room, we cannot develop a plan that ensures he is supported and has a successful year."*

The case manager responded via email at 6:28 AM writing:

> *"Thank you for sharing your concerns. The IEP meeting is due Friday, September 12, so I have concerns about rescheduling.*
>
> *...I believe that meeting today, we can discuss all of the current data and make adjustments to the IEP draft as needed."*

The Executive Director of Special Education also sent an email to the student's mother at 7:48 AM on September 8, 2025 writing:

> *"We appreciate you sharing your additional questions and concerns. The IEP team will convene today at the scheduled time, you are welcome to join us; we will discuss your additional request and the request to reschedule. The IEP is due on Sept. 12; convening today will allow us to go beyond the annual due date. Do you have dates that you are wishing to meet? I know the re-eval is due next month; would you like to align the 2 and have one meeting?"*

At 8:28 AM, on September 8, 2025, the complainant sent an email to the Executive Director of Special Education, the building principal, the student's special education teacher, and the student's mother. In her email, the complainant stated:

> *"It was concerning to me that the parent appeared ill and likely unable to be a meaningful participant in this...IEP meeting. Therefore, I suggested [to the parent that she request] a later date to permit her meaningful participation."*

The Executive Director responded to the complainant via email at 8:54 AM on September 8, 2025 writing:

> *"I understand the concerns and we are happy to meet at a later date; the team is going to convene today and note that [the student's mother] requested to reschedule."*

The complainant responded to the Executive Director at 9:00 AM on September 8, 2025 writing:

> *"I instructed the parent to sign the NOM dated 9/5/25 for this 9/8/25 noting her request to have a meeting at a time she can attend to allow for her meaningful participation and to propose additional alternative dates she's available to participate."*

The student's mother subsequently sent an email to the complainant at 9:09 AM copying the Executive Director and others stating:

> *"Attached is the signed Notice of Meeting. Please note that I am unable to attend today's meeting as I am not feeling well. I remain committed to participating fully in [the student's] IEP process, so I kindly request that the meeting be rescheduled. Could you please provide three alternative dates and times so we can ensure the full team is present and I am able to attend."*

The LEA convened an IEP Team meeting for the student at the previously scheduled time on September 8, 2025. Meeting Notes dated September 8, 2025 include the following statement:

> *"Parents (sic) communicated that she was not going to attend the 9/8/25, due to personal illness. The IEP team met to review the content of the IEP and outline another meeting date for parents."*

The LEA held the scheduled meeting on September 8, 2025 in the absence of the parent. After the meeting, the case manager sent an email to the parent offering two dates for another meeting - September 15 or 23 at 3:00 PM. The case manager then almost immediately sent another email offering September 25th instead of September 23rd. Ten minutes later, the case manager sent another email offering September 18 and 23, 2025. Five minutes later, the case

manager sent the parent an email stating "Monday, September 15 3:00." On September 10, 2025, the case manager sent an email to the parent writing:

> *"Please let us know which date you prefer to meet: Monday, Sept 15 3:00 [or] Tuesday, Sept 23 3:00."*

The parent responded on September 11, 2025 writing "September 23 at 3pm will work."

In a telephone conversation with the investigator on October 27, 2025, the Executive Director confirmed that an IEP Team meeting for the student was conducted on September 8, 2025. The Executive Director stated that the parent had been notified of the meeting using two different methods, and the LEA did not want to be out of compliance by failing to conduct an IEP Team meeting before the student's then IEP lapsed.

The Executive Director reiterated her position during a conference call with the investigator on September 29, 2025 noting that it is the practice of the district to conduct an IEP Team meeting without the parent in attendance if there is a danger of not timely completing the annual IEP review so long as the parent has been notified of the meeting in two ways - in the case of this student via an email discussion and through the provision of a prior written notice form sent via email. It is the position of the Executive Director that before becoming ill the parent had agreed via email to attend the scheduled meeting, so the LEA felt it had met its obligation and thus conducted the meeting in the parent's absence. The Executive Director stated that a number of individuals from the district were scheduled to participate, and with a looming annual review deadline it would be difficult to reschedule, particularly because it was often hard to come to a mutual agreement with the parent on a meeting date.

The Executive Director of Special Education provided the investigator with an excerpt from the LEA's Process Guidance Document. That except - which addresses the topic of "Parent Participation Guidance" - includes the following bullet points:

- "The school district must ensure that one or both parents are afforded an opportunity to participate in the [IEP] meeting.
- Sufficient written notice (10 calendar days) must be provided to the parents to allow them to arrange to be present.
- The meeting must be scheduled at a mutually agreeable time and place.
- In the event that the parents cannot otherwise participate in the meeting, a telephone conference is acceptable.
- The school district may conduct an annual review meeting without parents in attendance only if it has made and recorded its unsuccessful attempts to arrange a mutually agreeable time and place to meet."

Summary and Conclusions:

in Doug C. v. State of Hawaii, 61 IDELR 91 (9th Cir. 2013), the United States Court of Appeals for the 9th Circuit Court faced almost the exact situation, where a parent became ill and could not

attend a scheduled IEP meeting. Faced with a situation where resetting the meeting would mean missing the annual IEP review date, the district elected to meet the required meeting date by conducting the meeting without the parent.

The court said, “The more difficult question is what a public agency must do when confronted with the difficult situation of being unable to meet two distinct procedural requirements of the IDEA, in this case parental participation and timely annual review of the IEP.” It answered its own question stating, “When confronted with the situation of complying with one procedural requirement of the IDEA or another, we hold that the agency must make a reasonable determination of which course of action promotes the purposes of the IDEA and is least likely to result in the denial of a FAPE. In reviewing an agency's action in such a scenario, we will allow the agency reasonable latitude in making that determination.” Even so, the court held that because a delay in holding the meeting would do less harm to the student’s interest than to the parent’s right to participate in the decision making process, “the Department's decision to prioritize strict deadline compliance over parental participation was clearly not reasonable.”

The court added, “There may, of course, be circumstances in which accommodating a parent's schedule would do more harm to the student's interest than proceeding without the parent's presence at the IEP.” For example, the court cited a case where “it was appropriate for the school to convene an IEP meeting without the parents' participation because the student was new to the school, and therefore did not have any IEP in place, and the student's parents were unwilling to reschedule for an entire month after having canceled a scheduled IEP review that was itself already almost one month overdue.” The court added, “We trust, however, that such circumstances will be rare given the central role parents have in helping to develop IEPs.”

In this complaint, the LEA acknowledges that it held an IEP Team meeting on September 8, 2025 without the parent in attendance only because the student's IEP was due for review by September 12, 2025 and the LEA did not want to be out of compliance by exceeding the 12-month window for an annual review. However, in convening this meeting the LEA ignored a key tenet of special education laws - that the involvement of a parent in the planning for their child is essential.

While the law allows LEAs to convene meetings without a parent present, it is clear that the decision to do so must be made only under those circumstances when a parent is proven to be unavailable or unwilling to participate in the process. In order to move ahead with a meeting in the absence of a parent, the LEA must demonstrate that, despite its best efforts, the parents were unreachable or refused to mutually agree on a time and date to meet.

In this case, the parent and the LEA agreed to meet on September 5, 2025, but the LEA found that they needed to reschedule that meeting. Both parties agreed to meet on September 8, 2025, but at the last minute, the parent was unable to attend because of illness. During the four days between September 8th and the upcoming September 12th deadline, the LEA could have proposed another meeting date for a time during that interval or could have explored

other methods to secure parent participation (i.e. telephone or video conference call). No alternative options were explored. Instead, the LEA artificially impose a deadline of September 8 rather than the actual deadline of September 12 and conducted a meeting without a properly constituted IEP Team in attendance.

Special education laws expect LEAs to make a good faith effort to collaborate with parents. It was not the intention of the drafters to allow an LEA to simply hold an IEP meeting if a parent is unavailable so long as the parent has been given written notice by two methods. In this case, the parent had already shown herself willing to collaborate in determining a date and time to meet. The LEA had no reason to believe the parent would be unwilling to participate in a rescheduled IEP meeting -- she was simply too sick to come to a meeting on September 8, 2025. The fact that the LEA found itself in a time crunch did not obviate its responsibility to find a way to include the parent in the IEP meeting as they dealt with a looming deadline.

Because the LEA conducted an IEP Team meeting without the parent on September 8, 2025, a violation of special education statutes and regulations *is substantiated* on this aspect of this issue. Because the Executive Director has stated that the actions of the LEA in this case are in line with general directives given to staff regarding the convening of an IEP Team meeting in similar circumstances, a systemic violation has been identified through this investigation.

Allegation 7

Failure to Amend the Student's Educational Record

Position of the Complainant:

The complainant contends that the LEA has refused to amend the date of the student's IEP review to accurately reflect the date the first properly constituted IEP Team meeting was held (September 23, 2025).

Applicable Statutes and Regulations:

Parents have the right to request that their child's education records be changed if they believe something is inaccurate, misleading, or in violation of the student's rights of privacy. The LEA must decide whether to amend the information in accordance with the request within a reasonable time period of the receipt of the request. If the school does not agree that the education records should be changed, parents must be notified and informed of their right to a hearing (34 C.F.R. 300.618). A reasonable time period for an LEA to respond to a request from a parent is generally considered to be 15 school days. A hearing to challenge information in education records must be conducted according to procedures for such hearings under the Family Educational Rights and Privacy Act (FERPA) (K.A.R. 91-40-50-(b)).

Investigative Findings:

In an email to the student's case manager (special education teacher) dated September 23, 2025, the student's mother asks to have the student's IEP edited to reflect the correct date of

the IEP team meeting (September 23, 2025) instead of September 8, 2025 - the date the LEA conducted an IEP meeting with an improperly constituted IEP Team due to the absence of the parent.

The LEA provided the investigator with an IEP for the student marked "Draft" which shows that the student's annual IEP review was conducted on September 8, 2025. The document also shows that implementation of special education and related services to the student began on that same date.

During a conference call between the investigator and representatives of the LEA on October 29, 2025, the LEA continued to state that three IEP meetings have been held during this school year, with the first on September 8, 2025. Since it is clear that the LEA did not believe the IEP should be amended to show September 23, 2025 as the date of the IEP, the district is obligated to inform the parent of that decision and notify her of her right to a hearing.

The Executive Director wrote in an email to the investigator on October 30, 2025 that the LEA had not provided the parent with prior written notice (PWN) of refusal to amend the date shown on the student's draft IEP noting that a PWN "is required when there is a refusal to a request to change the identification, evaluation, placement, or provision of special education services. Because the parent's request did not involve those things and was only about changing a date, we did not issue a PWN...Regarding the right to a hearing, the district sends procedural safeguards to all parents of special education students in August and offers them to parents at IEP meetings. [The student's case manager] offered the procedural safeguards at the September 23 [IEP] meeting, and the parent declined."

Summary and Conclusions:

While special education statutes and regulations do not specifically require an LEA to provide a parent with prior written notice of refusal to modify a student's educational records, those laws - which are spelled out in the Procedural Safeguards document - do require that the LEA respond in some manner to this type of request from a parent.

Special education laws describe what a "hearing" regarding a request for amendment of a student's record would look like.

In this case, the LEA did not offer any response to the parent's request but has indicated to the investigator that it considers the September 8, 2025 meeting to have been the first of three IEP Team meetings. It is the LEA's position that the date shown on the draft IEP given to the parents and on other documents reviewed as a part of this investigation is correct.

The September 8, 2025 meeting was not - for reasons previously explained - a properly constituted IEP Team meeting. Therefore, the date on the student's IEP should reflect the first properly constituted team meeting - September 23, 2025 - as the parent has requested.

The LEA has the opportunity to change the dates in the student's file while the IEP is still in draft form. However, because the LEA did not timely respond in any fashion to the parent's request for the student's records to be amended and did not - assuming the LEA intended to refuse to amend the student's record - inform the parent of her right to request a hearing, a violation of special education statutes and regulations ***is substantiated*** on this aspect of this issue.

Allegation 8

Failure to Properly Include the Student in His IEP Team Meeting

Position of the Complainant:

According to the complainant, the student - who was over age 14 - was not present for his IEP team meeting on September 8, 2025.

Applicable Statutes and Regulations:

Special education laws do not mandate the attendance of students under the age of 18 in every IEP Team meeting. The student must be invited to attend his/her own IEP meeting beginning at age 14, or younger, if a purpose of the meeting is consideration of the student's postsecondary goals and the transition services needed to assist the student in reaching those goals. If the student elects not to participate, the IEP Team must take other steps to ensure that the student's preferences and interests are considered in developing the IEP (K.S.A. 72-3429(c)(8); K.A.R. 91-40-17(f); (34 C.F.R. 300.321(b)(2)).

The LEA is not required to give students younger than age 18 the same notice of meeting that is required for parents but should document that the student was invited to the meeting.

Investigative Findings:

Notice of Meeting forms provided by the LEA show that the student was to be included in meetings on September 5, 8, and 23, 2025.

The IEP Team meeting of September 5, 2025 was cancelled by the LEA.

In an email to the student's mother dated September 7, 2025, the case manager wrote:

> *"I just wanted to be sure that [the student] is planning to attend the IEP meeting tomorrow. If so, I will get him out of class and bring him down to the meeting."*

The parent was ill and unable to attend the meeting scheduled for September 8, 2025. The student was also not present at that meeting. Meeting Notes dated September 8, 2025 reflect that transition planning for the student was not a topic of discussion.

Meeting notes from September 23 and 29, 2025 show that the student attended both meetings and participated in the team's discussion. The complainant also confirms the participation of the student in both meetings.

Summary and Conclusions:

Three IEP Team meetings were convened by the district between September 8 and 29, 2025. Evidence provided by the district shows that the student was invited to all three IEP Team meetings. The student did not attend the IEP Team meeting of September 8, 2025 (which was not a meeting of a properly constituted IEP Team), but evidence shows that transition planning for the student was not a topic of discussion during that meeting. The student did attend and participate in meetings on September 23 and 29, 2025 and contributed to the development of his IEP. Under these circumstances, a violation of special education statutes and regulations *is not substantiated* on this aspect of this issue.

Issue Two

The student has been denied a FAPE because the LEA has failed to provide the special education support specified in his IEP which would facilitate his participation in a general education Biology class.

Position of the Complainant

The complainant asserts that the student did not attend his general education biology class between August 26 and September 23, 2025 and has not received the special education services in that general education setting that are required by his IEP.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

Investigative Findings

The "Services Summary" section of the student's September 13, 2024 IEP states he was to receive 170 minutes of special education service in the general education setting for 5 days each week - or a total of 1,700 minutes over two weeks.

A Prior Written Notice for Initial Services, Change in Services/Placement and Request for Consent" dated September 16, 2024 shows that the district proposed that the student receive special education services inside the regular education setting for "340 minutes for 5 days every 2 weeks for English, math, science, and social studies" - a total of 1,700 minutes during the two week period.

The "Accommodations/Modifications/Supplementary Aids and Services" section of the student's September 13, 2024 IEP states that the student would be allowed "frequent breaks

daily as needed" because he "can become overstimulated and/or dysregulated." The IEP also lists "alternate setting" as an accommodation to be provided on a daily basis for the student for the same reason he is to be provided breaks.

The Behavior Intervention Plan (BIP)included in the student's September 13, 2024 IEP states that when the student is frustrated and/or wants to avoid a task presented to him, he may

- use a disrespectful tone when speaking with adults;
- put his head down on the desk and close his eyes;
- fall asleep at his desk;
- verbally refuse to work;
- complain of ailments;
- ask to go to the bathroom;
- speak off-topic;
- attempt to start a conversation with the adult working with him; or
- attempt to argue with the adult working with him.

The BIP notes that these behaviors are most likely to occur in the general education classroom. The "Reactive Plan" to address these behaviors included the following:

- breaks/Calm Down Room;
- 10-minute breaks in the special education classroom (staff will start the timer and remain with him);
- Staff will not give the student academic expectations during this time;
- The student will return to his general education classroom at the end of the 10-minute period.

The IEP Team for the student met on April 30, 2025. Meeting Notes show that among a variety of topics the team discussed "current services and accommodations." According to the notes, the team talked about what "frequent breaks" meant to the student, noting that

> *"...at the beginning of the [2024-25 school] year, [the student] wanted to take those in the special education classroom. At this point in the year, when asked [the student] prefers to take a break in the general education room."*

On several days, beginning on August 26, 2025, the student was in school but did not participate in his Biology class. According to the complainant, the student did not feel comfortable with either his Biology teacher or the paraeducator assigned to that classroom (who subsequently took another position). Rather than remaining in the classroom, the student went to the counselor's office on at least 5 occasions between August 26 and September 23, 2025.

According to the LEA and the complainant, the student was provided with a packets of curricular materials related to the course, and various staff district staff "checked on" the

student from time to time. No special education support was given to the student while he was away from classroom. According to the LEA, some of the course content was reviewed with the student during the time he spent in the special education setting.

According to the LEA a new paraeducator was assigned to the Biology class in the first week of September. That individual was, however, assigned to work with both this student and another in the classroom and therefore did not leave the classroom to support the student at the center of this complaint.

During the time spent in the counselor's office, the student missed out on lab activities. While he was allowed to submit work that had been provided to him through the packet, the student was not allowed to make up labs, and his course grade was negatively impacted. Additionally, the student took but failed a test that was given during the period he was avoiding class. According to notes from a meeting on September 8, 2025:

> *"[The student] is using his hot pass for the entire length of Science class."*

However, The LEA took no action to address the student's avoidance until September 23, 2025. According to information provided by the district, the student's Biology class met on 10 days between August 26 and September 23, 2025. The student was absent from school on 2 of those days. The student missed 22 minutes of class on August 26, 2025 (attending for 63 minutes). He missed 34 minutes of class on September 2, 2025 (attending for 51 minutes) and 50 minutes of class on September 10, 2025 (attending for 35 minutes). The student did not participate at all in Biology classes held on September 16 and 18 - missing a total of 170 minutes. In total, the student missed 276 minutes of class - and special education support - during this time period.

In an email to the parent dated September 12, 2025, the student's case manager wrote:

> *"I have noticed some improvement in class participation, and I am so glad he is enjoying some of his classes. I spoke to [the student's Biology teacher] and there is not an alternative for the labs, as those were hands-on activities. It is helpful that he is keeping up with his packet and his slides. He will have his unit test on Monday, 9/22, which is also the due date for all assignments for the unit. The study guide will be helpful in preparing. The plan is for him to take the test in my room with the para."*

Notes from the September 23, 2025 IEP Team meeting state:

> *"The science teacher is concerned with the amount of time that [the student] is missing class. [The student] does his (sic) 'hot pass' to head to the counselor office during science. While in the counselor's office, he is prompted by a variety of adults to help him process. [The student] communicated that he is struggling with feeling like he doesn't belong in the classroom. [He] wants to be treated as a part of a group.*

> *Parents reported that a situation occurred during science class that created tension with [the student]. The family has inquired about the possibility of changing his schedule. The team discussed the need to create a time frame and action steps to attempt to rebuild the relationship with the student in the classroom. If that resolution can't happen, then we could look into the possibility of changing the schedule. We will provide 5 class periods to repair student relationships...It would be reasonable to have the repair conversation completed by the end of the week (9/26/2025)."*

Individuals who could help with this process were identified.

Since the date this complaint was received by the Kansas State Department of Education (KSDE), the parent and the LEA have exchanged a number of emails regarding missed Biology classwork. The correspondence shows that the student has been making progress in completing missed work. Details regarding how the LEA is addressing grades for the quarter remain the subject of contention. On October 8, 2025 the student's mother sent an email to staff stating:

> *"Please let me remind you that combining the two test grades is not acceptable. As clearly stated in a previous email and documented during the IEP meeting, we did not agree to averaging or merging scores as it did not comply with [the student's] IEP.*
>
> *[The student] did not receive the 595 minutes of specially designed instruction required by his IEP to access the Biology curriculum. Therefore, the first test administered without those mandated instructional supports should not be considered valid or included in his grade. The appropriate and equitable action is to eliminate the first test score entirely and count only the second assessment.*
>
> *Furthermore, I want the record to accurately reflect that the second test was based primarily on memorization from a key that was provided to him. This should not be misconstrued as evidence of instructional mastery or access to learning, but rather as a compensatory opportunity, as [the student] spent his time sitting in the office alone during periods designated for specially designed instruction that limited his opportunity to receive the instruction he is entitled to under his IEP."*

The assistant principal responded: on October 10, 2025 writing:

> *"I followed up with [the student's case manager, the Biology teacher] and the rest of the team and they confirmed that the decision was made to average the two test scores.*
>
> *At the conclusion of the previous IEP, the team was tasked with creating a plan for [the student] to gain access to learning that was missed while not in the Biology classroom. They stayed after the meeting to brainstorm how this may occur, taking into consideration the minutes he was present in the Biology classroom, absences he had from school, and time missed when he was utilizing his "hot pass" during the tests instructional window. After review, the team believed that an average of the original test and the re-test was appropriate*

A plan of how to work individually with [the student] was planned, including organizing a way for [the paraeducator] to work directly with [the student] as the team acknowledged that [the student] has a strong relationship with him and making known of [the Biology teacher's] availability daily in seminar. It appears that this information...I am sorry if there was a misunderstanding about the test scoring and I would be happy to convene a team and schedule a time to discuss it with you."

Summary and Conclusions

The student opted to remove himself from his Biology class on 5 days between August 26 and September 23, 2025, going instead to the counselor's office. During each of those 5 days, he was to be receiving special education support in the general education classroom. While he was provided with curricular materials and checked on by various staff members during his absence from class, it was not until an IEP Team meeting on September 23, 2025 that a plan was put in place to reintegrate the student into the Biology classroom - where by all reports he is now finding some success.

The LEA asserts that the student was using a "hot button" accommodation in his IEP that allowed him to step away from the classroom, but no such accommodation is actually included in his September 13, 2024 IEP or referenced in a May 2025 amendment to that document. While the September 2024 IEP does allow the student to exit the general education setting to go to the special education classroom for a "break," a 10-minute timer was to be set, and the student was to return to his general education class. In May 2025, the location for the break was changed to a "general education classroom." There is no indication that the counselor's office would be considered a general education classroom.

Crediting 10 minutes per each absence (in line with what is specified in the student's September 13, 2024 IEP), the LEA still failed to provide the student with 250 minutes of special education support in the general education setting. The LEA asserts that time was spent working on Biology while the student was in the special education classroom at another time during the day, but doing so merely took time away from focusing on goals and objectives during that time. Those minutes do not count as support in the general education setting.

Because the LEA failed to provide the minutes of special education service in the general education setting required by the student's IEP, a violation of special education statutes and regulations *is substantiated* on this issue.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations on issues presented in this complaint. Specifically, violations have been identified with regard to

- K.A.R. 91-40-17(b)(2), which requires that parents be given 10-day prior written notice of an IEP Team meeting;
- K.A.R. 91-40-17(a)(1), which requires that IEP Team meetings be held at mutually agreed upon times and dates;
- K.A.R. 91-40-17(b)(1), which requires notice of an IEP Team meeting include the titles or positions of the persons who will attend the meeting on behalf of the school;
- K.A.R. 91-40-17(a), which requires that a parent be a part of any properly constituted IEP Team;
- 34 C.F.R. 300-618, which grants parents the right to request an amendment of their child's educational record and to timely receive a response from the LEA regarding that request;
- K.A.R. 91-40-50(b), which requires the LEA to advise a parent whose request for an amendment of educational records has been denied that they have the right to request a hearing regarding that refusal; and
- 34 C.F.R. 300.101; K.A.R. 91-40-2(b)(1); and 34 C.F.R. 300.17, which require the LEA to provide a free appropriate public education (FAPE) to a student by following that student's IEP.

Therefore, USD #231 is directed to take the following actions:

1. Submit to Special Education and Title Services (SETS) by no later than December 1, 2025, a written statement of assurance stating that it will comply with
    a. K.A.R. 91-40-17(b)(2), by providing the parents of special education students with 10-day prior written notice of an IEP Team meeting;
    b. K.A.R. 91-40-17(a)(1), by scheduling IEP Team meetings at mutually agreed upon times and dates;
    c. K.A.R. 91-40-17(b)(1), by providing notice of IEP Team meetings that include the titles or positions of all of the persons who will attend the meeting on behalf of the school;
    d. K.A.R. 91-40-17(a), by ensuring that a parent is a member of any properly constituted IEP Team;
    e. 34 C.F.R. 300-618, by providing a formal response to any parental request for an amendment of their child's educational record;
    f. K.A,R, 91-40-50(b), by advising a parent whose request for an amendment of educational records has been denied that they have the right to request a hearing regarding that refusal; and
    g. 34 C.F.R. 300.101; K.A.R. 91-40-2(b)(1); and 34 C.F.R. 300.17, by properly implementing this student's IEP.
2. By no later than December 1, 2025, USD #231shall
    a. Amend all IEP and Prior Written Notice documents related to this student which reflect an IEP Team meeting date of September 8, 2025 to show that

the IEP Team meetings for the student were conducted beginning on September 23, 2025. Copies of these amended documents should be provided to SETS by no later than December 15, 2025.

b. Provide documentation to SETS to show that the next annual review for this student must be completed by no later than September 11, 2026 - 12 months from the date the annual review should have been completed during this review cycle.

c. To address the systemic violation identified in this complaint, develop and submit for review and approval by SETS procedures outlining the requirements for the scheduling of annual IEP reviews that include

   i. how to ensure the timely occurrence of those meetings in order to facilitate completion before the deadline for annual review;

   ii. what to do if the scheduled meeting is cancelled by the parent or the LEA;

   iii. alternative methods for ensuring parent participation; and

   iv. emphasizing that no annual review meeting should be conducted without the parent unless there is documented evidence that the parent has been notified (via two different methods) of two different meetings and has failed to respond or has refused to participate in the annual review process.

d. Once the procedures outlined above under Corrective Action 2c have been approved by SETS, the LEA shall train all special education staff on these procedures and complete that training by no later than January 31, 2026. Documentation that this training has been completed must be provided to SETS by no later than February 6, 2026.

e. Convene an IEP Team meeting for the purpose of clearly outlining how "breaks" will be implemented for this student and modify the student's IEP to include that clarification. Provide SETS with a copy of the revised IEP by no later than December 15, 2025.

f. Provide the parent with prior written notice of proposed changes to the student's IEP with regard to the addition of accommodations and request parental consent for these material change (25%) in services. Provide a copy of the prior written notice form to SETS by no later than December 15, 2025.

3. By no later than December 1, 2025, USD #231shall

a. Develop and submit for review and approval by SETS procedures outlining the requirements for providing parents with 10-day prior notice of an IEP Team meeting for their child. These procedures must outline the proper steps required to document that the parent has waived their right to 10-day prior notice of the meeting and agreed to convene the meeting with less than 10-day notice.

b. Develop and submit for review and approval by SETS procedures for providing parents with notice of those individuals who will be attending the IEP Team meeting on behalf of the district and what to do if the district subsequently determines that it wants to include individuals who were not initially listed on the notice form provided to the parent. Specifically, these procedures should address how these additions might impact the provision of 10-day prior written notice of the meeting.

c. Once the procedures outlined above under Corrective Action 3 a and b have been approved by SETS, the LEA shall train all special education staff on these procedures and complete that training by no later than January 31, 2026. Documentation that this training has been completed must be provided to SETS by no later than February 6, 2026.

4. Because the student's IEP was not properly implemented, the LEA failed to provide him with special education services in a general education (Biology) setting and instructional time was lost. In lieu of providing compensatory services to address lost special education support, and to ensure that the student is not penalized for an identified violation of special education statutes and regulations, the student's first test grade should be dropped and his course grade calculated without that score.

Further, USD #231 shall, within 20 calendar days of the date of this report, submit to SETS one of the following:

a) A statement verifying acceptance of the corrective action or actions specified in this report;
b) a written request for an extension of time within which to complete one or more of the corrective actions specified in the report together with justification for the request; or
c) a written notice of appeal. Any such appeal shall be in accordance with K.A.R. 91-40-51(f).

Diana Durkin

Diana Durkin
Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 231
Gardner Edgerton School District: 26FC231-003

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on October 1, 2025, by ------- (Advocate), on behalf of ------- (Student). An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education and Title Services team at the Kansas State Department of Education (KSDE). Following the investigation, a Complaint Report addressing the allegations was issued on November 3, 2025. That Complaint Report concluded that there were substantiated violations of special education statutes and regulations.

Thereafter, the school district filed an appeal of the Complaint Report. Upon receipt of the appeal, an Appeal Committee was appointed, and it reviewed the parent's original complaint, the Complaint Report, the notice of appeal, and the response to the district's notice of appeal submitted by the parent, if any. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this Appeal Decision.

Preliminary Matters

The Appeal Committee limits its inquiry to the issues presented in the appeal. No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report issued on November 3, 2025. The Appeal Committee does not conduct a separate investigation. The Appeal Committee's function is to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The Complaint Report dated November 3, 2025 addressed two issues, including eight separate allegations of special education violations under issue one. The investigator found violations of special education laws for issues one and two, including five allegations under issue one. For both issues, the investigator stated appropriate corrective action. On appeal, the district disputes the findings in the Complaint Report (Notice of Appeal, p.1) for issues one (allegations six, and seven) and two. The district also takes issue with the investigator's additional comments in issue one, allegation five. The Appeal Committee will address both issues, including allegations five, six, and seven.

Issue One

Allegation Five

Did USD #231, in accordance with state and federal regulations implementing the IDEA, provide the parents with prior written notice of actions proposed by the district before the IEP team meeting had been conducted?

Any agency or complainant may appeal any finding or conclusion in a complaint report. K.A.R. 91-40-51(f)(1). Here, the district does not dispute the investigator's findings or conclusion in issue one, allegation five. Instead, the district asks the Appeal Committee to comment on and reverse the investigator's statement regarding the ten additional supplementary aids and services (accommodations) not referenced in the PWN provided to the parents. The Appeal Committee declines the district's invitation because appeals must only relate to an investigator's findings or conclusions. Additional comments by the investigator in the report do not constitute findings or conclusions.

The Appeal Committee recommends the district review the chart titled Requirements for Parental Notice and Consent in the Kansas Special Education Process Handbook, Chapter 1, page 10, and note the line for adding a new service or completely deleting a service. The addition of a new service or the complete deletion of a service requires a Prior Written Notice.

Allegation Six

Did USD #231, in accordance with state and federal regulations implementing the IDEA, allow the parents to meaningfully participate in the IEP annual review? Did USD #231 conduct an IEP team meeting with meaningful parental participation?

A school may conduct an IEP team meeting without the parent if the school, despite repeated attempts, has been unable to contact the parents to arrange for a mutually agreed upon time or to convince the parents that they should participate. K.A.R. 91-40-17(e)(1); 34 C.F.R. 300.322(d). Districts are encouraged to use their judgment about what constitutes a good-faith effort in making repeated attempts to involve each family in the IEP process. School districts must at least make two attempts, using at least two methods, to involve the parents in the IEP team meeting. In this case, the school was able to contact the parent to arrange for a mutually agreed upon time to conduct an IEP team meeting. The school and the parent mutually agreed to conduct the annual review of the Student's IEP on September 8, 2025 (Report, p. 18). Further, the parent was consistently reachable by email. (Report, p. 19). There was no need to convince the parent that they should participate in the annual review of the Student's IEP, as the Student's parent actively wanted to participate in the annual review of the Student's IEP and said as much in subsequent emails to the school.

Instead, the parent was unable to participate in the annual review of the Student's IEP due to illness. Kansas policy provides that if the parents are unable to meet prior to the annual review date of the IEP and request that the IEP team meeting be extended for a short period of time until they can be involved in the meeting, the school may honor their request and document why the IEP has not been reviewed and when the IEP will be reviewed and revised. Kansas Education Process Handbook, p. 68. When schools schedule IEP team meetings too close to the annual review deadline, schools must balance the obligation to meet the annual review deadline with giving the parent required notice of the IEP team meeting and working with the parent to reach an amicable agreement about scheduling the meeting. Kansas Education Process Handbook, p. 68.

Kansas policy is supported by Doug C. v. State of Hawaii. Though this 9th Circuit case is not binding on the 10th Circuit, of which Kansas is a part, this case is persuasive authority since it is the only appellate circuit decision on point. In Doug C. v. State of Hawaii, the district faced almost the exact same issue raised in this appeal. The Court stated, "When confronted with the situation of complying with one procedural requirement of the IDEA or another, an agency must make a reasonable determination of which course of action promote the purposes of the IDEA and is least likely to result in the denial of FAPE." Doug C. v. State of Hawaii, 61 IDELR 91 (9th Cir. 2013). The court held that because a delay in holding the meeting would do less harm to the student's interest than to the parent's right to participate in the decision-making process, "the decision to prioritize strict deadline compliance over parental participation was clearly not reasonable." Id.

Here, the district prioritized a strict deadline for compliance over parental participation. The district could have proposed another meeting date before the September 12th deadline or offered to secure parent participation through a telephone call or video conference call. These options were not explored (Report, p. 23). The district had no reason to believe the parent would be unwilling to participate in a rescheduled IEP meeting.

As for the identified systemic violation, it is enough that the Executive Director stated that the actions of the district in this case are in line with general directives given to staff regarding the convening of an IEP team meeting in similar circumstances. It was reasonable for the complaint investigator to infer that the district treats other parents similarly to the parent in this case, especially because the same practices and directives are given to staff regarding the convening of an IEP team meeting in similar circumstances. Therefore, the complaint investigator appropriately identified a systemic violation.

Allegation Seven

Did USD #231 fail to amend the Student's educational record?

Parents have the right to request that their child's education records be changed if they believe something is inaccurate, misleading, or in violation of the student's rights of privacy. 34 C.F.R. 300.618(a). The district must decide whether to amend the information in accordance with the

request within a reasonable time. 34 C.F.R. 300.618(b). If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under Section 300.619. 34 CFR 300.619(c).

In this case, the Student's annual IEP review began when the district met without the parent on September 8, 2025 and continued until September 23, 2025 when the IEP team met along with the Student's parent. The district was made aware of the parent's request to amend the Student's IEP to correctly state the date of the IEP team meeting on September 23, 2025 (Report, p. 24). The district refused to amend the date of the IEP team meeting. The district has the authority to accept or deny a parent request to amend a Student's educational record. However, the district must inform the parent of the refusal and advise the parent of their right to a hearing. Here, the district did not timely respond in any fashion to the parent's request for the Student's records to be amended and did not inform the parent of her right to request a hearing. The conclusion in the complaint report is sustained on this issue.

Issue Two

Did USD #231, in accordance with state and federal regulations implementing the IDEA, deny FAPE to the Student when it failed to provide the special education support specified in the IEP which would have facilitated the Student's participation in a general education Biology class? In addition, is the corresponding corrective action of dropping the Student's first Biology test grade?

In Letter to Clarke (OSEP 2007), the Office of Special Education Programs emphasizes the missed services' impact on the student's progress and performance and notes a denial of FAPE is a determination that must be made on a case-by-case basis. FAPE is denied when there is an adverse impact on the student's education or parent's participation. In this case, there is insufficient evidence to show that the Student's progress and performance was hindered. It is not enough that the Student failed his first test (Report, p. 29).

Although there is no substantive violation, the evidence shows a material procedural violation of the implementation of the Student's IEP. The Student's September 13, 2024 IEP states he was to "receive 170 minutes of special education service in the general education setting for 5 days each week or a total of 1,700 minutes over two weeks" (Report, p. 27). The paraeducator assigned to the Biology class was to deliver special education services to the Student in the general education classroom (Report, p.29). Beginning August 26, 2025, the Student did not participate in Biology class (Report, p. 29). Rather than remaining in the classroom, the Student went to the counselor's office on at least five occasions between August 26th and September 23rd (Report, p. 29). The Student was provided with packets of materials related to biology and staff "checked on" the Student periodically (Report, p. 29). No special education services were provided to the Student while he was away from the classroom (Report, p. 29). This is inconsistent with the Student's IEP

requiring special education services in the form of paraeducator support in Biology and other subjects. Thus, a procedural violation is found as it relates to the district's implementation of the Student's IEP.

Regarding the corresponding corrective action, any agency or complainant may appeal any finding or conclusion of a complaint report prepared by a complaint investigator. K.A.R. 91-40-51(f)(1). Corrective action is neither a finding nor a conclusion of the complaint report. The Appeal Committee only addresses corrective action if the corrective action is clearly erroneous. Here, the corrective action is reasonable, not clearly erroneous. The complaint investigator has broad authority when it comes to corresponding corrective action. Therefore, the Appeal Committee will not address or amend the corrective action required by the complaint report.

Conclusion

For the reasons stated above, the Appeal Committee sustains the investigator's finding in issue one, allegation six, specifically that the District failed to provide meaningful parent participation at the Student's IEP annual review meeting. The Appeal Committee also sustains the investigator's identification of a systemic violation.

For the reasons stated above, the Appeal Committee sustains the investigator's finding in issue one, allegation seven, specifically that the District failed to timely respond to the parent's request to amend the Student's educational record and inform the parent of their right to request a hearing.

For the reasons stated above, the Appeal Committee rejects the investigator's finding of a denial of FAPE in issue two. Instead, the Appeal Committee finds a material procedural violation as it relates to the district's implementation of the Student's IEP as written. As for the corresponding corrective action, the Appeal Committee sustains the investigator's corrective action for issue two, specifically that the Student's first test grade be dropped and the Student's course grade be calculated without the first test grade in lieu of compensatory services.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 1st day of December, 2025.

Appeal Committee

Hannah Miller

Mark Ward

Brian Dempsey

Crista Grimwood

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #500
ON OCTOBER 2, 2025

DATE OF REPORT: OCTOBER 31, 2025

This report is in response to a complaint filed with our office on behalf of a student, ------, by their parent, ------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #500, Kansas City Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #500.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term LEA in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on October 2, 2025, and the 30-day timeline ended on November 1, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #500, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), had an IEP in effect for the Student at the beginning of the school year. K.A.R. 91-40-16(b)(1-3); 34 § C.F.R. 300.323(a)(c)(2).

ISSUE TWO: Whether USD #500, in accordance with state and federal regulations implementing the IDEA, ensured the Student's Individualized Education Program (IEP) was accessible to the special education teacher, related services provider, and any other service provider who is responsible for its implementation; and each teacher and provider was informed of their specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. K.A.R. 91-40-16(b)(4)(5); C.F.R. 300.323(d)(1)(2).

ISSUE THREE: Whether USD #500, in accordance with state and federal regulations implementing the IDEA, allowed the Parent to inspect and review all education records with respect to the provision of a Free Appropriate Public Education (FAPE) for the Student, specifically regarding the Student's accommodations. K.A.R. 91-40-50(a)(2)(b), K.S.A. 72-3430(b)(1); 34 § C.F.R. 300.501 (a)(2).

Investigation of Complaint

The Complaint Investigator interviewed the Parents on October 20, 2025, the Executive Director on October 21, 2025, and the Teacher on October 22, 2025. The Virtual Case Manager and the Speech-Language Pathologist (SLP) were interviewed on October 27, 2025, and the Long-Term Substitute and the Paraeducator on October 28, 2025.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. IEP, 11/06/24
2. Student Progress Report, 11/06/24 - 11/05/25
3. PWN, 09/02/25
4. Contact Log, 08/28/25 - 10/14/25
5. [The School] Daily Schedule MTTF - Para/Collab, 08/14/25
6. [The School] Daily Schedule Wed - Para/Collab, 08/20/25
7. [The School] Daily Schedule MTTF - SLC/Direct, 08/12/25
8. [The School] Daily Schedule Wed - SLC/Direct, 08/20/25
9. Email, re: Checking in, 08/07/25 - 08/08/25
10. Signed Acknowledgement, 08/14/25
11. Email, re: [Special Education] SPED Support for a Student at [the School], Inquiry, 09/17/25 - 09/24/25
12. Service Log - Speech & Language, 09/08/25 - 10/02/25
13. Report Card, 2024-25 School Year
14. Report Card, 2025-26 School Year
15. 2025-2026 Special Education Case Manager Handbook, revised 09/09/25
16. LEA Response, 10/16/25

Background Information

This investigation involved a first-grade student enrolled at an elementary school in USD #500. The Student is currently receiving special education or related services as a child with a developmental delay, a disability under the IDEA. The Student is described as able to follow directions with minimal redirection.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parents and staff in the LEA.

1. An IEP dated November 6, 2024 described the following:
    a. Parent 2, the Principal, the Special Education Teacher, the Kindergarten Teacher, and the SLP were in attendance. The annual review date was listed as November 5, 2025.
    b. Present Levels indicated the Student experienced "a developmental delay observed in the area of cognition, affecting the ability to meet age-appropriate milestones related to acquiring and understanding knowledge through thoughts, experiences, and senses. This impacts reading-related instruction, and tasks such as retaining and generalizing letters/sounds or phonics and decoding skills, identifying, using the spelling of [the Student's] name, and cop[y]ing lower and uppercase letters. This impacts math-related instruction, and tasks … ." Regarding communication, "The Student's delays impact [their] ability to get [their] needs met throughout the day and express [themself]."
    c. Required areas included: speech, language, reading, math, and social-emotional. The Student's current performance was described in the areas of language, social-emotional and speech. No information was provided for current performance in math, reading, or writing.
    d. Goals included:
        i. Goal 1, speech and language: "By November 2025, [the Student] will answer ['wh'] (who, what, where, when, why, how) questions about a structured/unstructured task using complete sentences with 80% accuracy when given visual supports and prompts/modeling."
        ii. Goal 2, speech and language: "By November 2025, in order to increase speech intelligibility, [the Student] will produce /s/ blends and /l/ blends at the phrase level with 80% accuracy when given up to two cues/prompts per trial."
        iii. Goal 3, writing: "By November 7th 2025, [the Student] will form 12 upper and lowercase letters using a preferred writing tool when given verbal and visual prompts with 80% accuracy and proper pencil grip."
        iv. Goal 4, math: "By November 7th 2025, [the Student] will accurately count to 30 using additional strategies (such as: 1-1 correspondence, identifying numerals by sight) when given verbal cues in 3 out of 4 opportunities."
    e. Special Education Services in effect from November 6, 2024 to November 5, 2025 were described:
        i. Speech and language services for 20 minutes, two days weekly, and writing/math for 30 minutes, four days weekly, outside of the general education classroom setting.

   ii. Writing/math for 30 minutes, four days weekly, and Writing/math 20 minutes, one day weekly, inside the general education classroom setting.

f. Progress reporting was listed as quarterly.

g. Placement was reported as "outside regular class less than 21% of time."

2. The Student's 2024-25 Report Card described the following:
   a. The key described the letter marks: "A/B": Meets Expectations; "C": Progressing; "I": Not Progressing.
   b. For quarters two through four, the report card indicated a total of nine absences.
   c. For writing, the only mark noted was a "B" for quarter three.
   d. For math, no marks were included for quarter 4.
3. The Student's 2025-26 Report Card reflected the same "key" as previously noted in 2024-25.
   a. The Student was neither absent nor tardy during quarter one.
   b. For writing, an "I" was noted with the comment: "… Is unable to write any words independently."
   c. For math, an "I" was noted for operations and algebraic thinking and mathematical practices with the comment, "… [the Student] needs to practice basic addition and subtraction facts to 10. It is an essential concept [the Student] needs to have in order to be more successful in math."
4. In an email exchange on August 7, 2025 and August 8, 2025, Special Education Coordinator 1 asked the Special Education Teacher if they had distributed the IEP-at-a-Glance for all special education students at the School to teachers and confirmed the Special Education Teacher had access to all the special education documentation for all special education students at the School.
5. Daily schedules dated August 12, 2025, August 14, 2025, and August 20, 2025 indicated the Student received:
   a. 30 minutes of reading/math "Collab," four days weekly.
   b. 15 minutes of reading/math "Collab," one day weekly.
   c. 30 minutes of reading/math "Direct," four days weekly.
   d. 30 minutes of reading/math "Direct," one day weekly.
   e. On October 27, 2025, the Executive Director indicated the "Reading" provided on the schedules provided in the materials was supposed to be "Writing" and was corrected in the October 20, 2025 version.
6. The LEA website listed the first day of school for grades K-5 as August 13, 2025. The 2025-26 Special Education Case Manager Handbook noted in the "Related Service Providers" section that the commencement of related services, "… begins the first week of school."
7. A Teacher Acknowledgement form dated August 14, 2025, indicated the General Education Teacher received a copy of the Student's IEP, understood the Student's

accommodations and goals, and knew they were able to contact special education personnel with any questions.

8. From September 8, 2025 through September 25, 2025, the Student received speech-language services from the SLP, twice each week from 1:11 p.m. to 1:31 p.m., and three times during the week of September 29, 2025.
9. In an email exchange from September 17, 2025 through September 24, 2025, Parent 2 emailed Special Education Coordinator 3 to ask about the services the Student was receiving. Parent 2 mentioned they felt a significant amount of work was coming home with the Student. Parent 2 inquired about the teaching methods being used to support the Student and questioned whether "push-in" minutes were being completed. Parent 2 expressed concern about the skills the Student was learning. Parent 2 mentioned they communicated weekly with the General Education Teacher, and the General Education Teacher shared with Parent 2 the Student "becomes frustrated a bit within class." Parent 2 indicated that they "knew" at least some "pull-out" minutes were happening.

   The Director of Special Education responded to let Parent 2 know that they were taking leave and that the Principal and Special Education Coordinator 3 would handle the concerns. Special Education Coordinator 3 responded to clarify that they were not assigned to the School, and Parent 2 should reach out to Special Education Coordinator 2
10. Contact Logs dated September 18, 2025 through September 25, 2025 indicated Parent 2 reached out to several people in the LEA regarding "push-in services" for the Student.
11. For quarter one of the 2025-26 school year, the IEP Progress Reports dated November 6, 2024 through November 5, 2025, indicated the Student was not making progress on goal 1 (speech and language). Comments indicated, "[The Student] has shown some regression with this goal. With visuals and prompts/models, [the Student] answers 'wh' questions with an average of 60% accuracy, however [the Student] often requires multiple prompts and models to answer in complete sentences. [The Student] does better with what, who, where, but continues to show more difficulty with when, why, [and] how." For quarter one, the Student met goals two (speech and language), three (writing), and four (math).
12. On October 27, 2025, after their interview, and by request from the Complaint Investigator, the Virtual Case Manager shared the following information describing their communication with the Long-Term Substitute:
    a. On August 19, 2025, "I emailed the substitute teacher at [the School] to introduce myself. Briefly explain progress monitoring to [the Long-Term Substitute] and inquire about a date/time we can meet so I can go over that more thoroughly with [them]."
    b. August 21, 2025, "I met with the substitute teacher assigned to [the School] … to explain what students goals/benchmarks are and assessments to use throughout the quarter to monitor progress towards those goals/benchmarks."

c. September 12 and September 25, 2025: "I sent an email out … to the substitute teacher to provide instruction on the progress monitoring assessments."

Parent Interview:

13. In an interview with the Complaint Investigator, when asked about the implementation of the Student's IEP, Parent 2 explained they initiated contact after the Student's Teacher reported that the Student was struggling with the pace of instruction, especially in math. They explained the primary implementation concern related to the lack of communication, as the Teacher confirmed they were not connecting with the Long-Term Substitute who was providing the special education pull-out services. Parent 2 stated this lack of communication raised questions about whether specified accommodations were being consistently applied in both the general education and specialized settings. Parent 2 explained they attempted to resolve the issue by contacting the Special Education Coordinator 3 at Other Elementary, but were initially met with silence, which required Parent 2 to escalate concerns to board members. Ultimately, it was discovered that the Director of Special Education had misidentified the coordinator for the Student's campus.
14. When asked about push-in supports, Parent 2 indicated their initial efforts to coordinate services led to the discovery that the Student was not receiving the required push-in supports. Parent 2 became aware of the push-in minutes stipulated in the IEP for subjects such as math and writing only after reviewing the November 2024 IEP. Parent 2 shared that, according to the Teacher, the Teacher later verified that no special education personnel were pushing into the general education setting during class time. According to Parent 2, this lapse in service was officially confirmed when the Director of Special Education responded to Parent 2's inquiry, stating that a schedule would need to be created for the push-in, which Parent 2 recognized as proof that the service had not previously been implemented.
15. Parent 1 and Parent 2 explained they felt math and reading were the subjects in which the Student needed the most help. Parent 2 shared they saw the Student bring home math work, mentioned an "amplify core" item, incomplete Student work, and some reading sheets.
16. Parent 2 indicated they persistently requested specific data and skill information from the LEA about the educational content being delivered during the Student's pull-out sessions. They recalled these requests, sent through multiple emails, were largely unanswered, and the communication was further complicated by the fact that the coordinator position changed various times. Parent 2 shared they never received the detailed information necessary to determine the exact skills being targeted by the Long-Term Substitute.
17. Parent 2 indicated they received one progress report via email at the end of the quarter. They recalled the information on the progress report was "contradicting," and they experienced confusion because it did not match what the Teacher was reporting in class about the Student.

18. When asked about their communication with the LEA, Parent 1 and Parent 2 expressed frustration with the LEA's overall lack of communication. Parent 2 shared that what the LEA was telling them, what they had seen, and what the Student had received did not "match up." Parent 2 stated, "But that's how the email communication has been. They don't want to call and talk to me … ."
19. Parent 1 explained the Complaint has "made things move" and "… has gotten people to where they actually feel … okay … . So we know that we [have] got to good communication."

Executive Director Interview:

20. In an interview with the Complaint Investigator, the Executive Director described the various ways staff could access IEPs: via direct access to the IEP system, via the "IEP-at-a-Glance" document provided by case managers, and by requesting information directly from a case manager.
21. When asked who was providing Specially Designed Instruction (SDI) to the Student, the Executive Director stated the Long-Term Substitute and the Paraeducator were the service providers. The Executive Director confirmed the Special Education Teacher was the teacher last school year, as well as the teacher who started the 2025-26 year in the School, then left for another site.
22. The Executive Director confirmed progress reports were distributed four times a year at the quarterly report time via email. The Executive Director also shared that progress reports could be shared at IEP meetings by case managers.
23. When asked about the Allowed User Access document, the Executive Director stated, "[their] SLP teacher or related service provider and the [Special Education Teacher] both [were] down as users in the IEP system."
24. When asked about the Daily Schedule MTTF, the Executive Director established that the Paraeducator's "Para/Colab" schedule distinguished between "Collab," meaning "push-in" support inside the classroom, and "direct" time, which was identified as the pull-out service model. The Executive Director stated that the building staff created this schedule by aligning it with the classroom teacher's time to find slots for services and that all buildings operated on two different schedules due to early release on Wednesdays. They confirmed that the building determined when and where the Paraeducator would provide either push-in or pull-out supports.
25. The Executive Director stated they learned about the IEP not being implemented and the Parents' concerns after receiving the formal Complaint, and did not recall ever receiving direct communication about the concerns prior to the filing.

General Education Teacher Interview

26. In an interview with the Complaint Investigator, the General Education Teacher indicated they were the Student's first-grade teacher. They acknowledged they did not provide SDI in their classroom, as it was not their responsibility. The General Education

Teacher stated the Special Education Teacher left after the beginning of the 2025-26 school year, and the Long-Term Substitute was responsible for SDI.

27. The General Education Teacher recalled being provided a copy of the IEP-at-a-Glance by the Special Education Teacher at the beginning of the year and signing the acknowledgement form. They were unaware of whether any paraeducators had read the IEP or IEP-at-a-Glance, or if paraeducators had access to those documents.
28. The General Education Teacher observed various paraeducators working with the Student in their classroom and noted they had a schedule to follow. They indicated, generally, some paraeducators were better at working with the Student than others. They stated staff absences may have affected the Student's services, however, they were unaware of any specific examples and reiterated they were not required to track service minutes.
29. Regarding the IEP-at-a-Glance, the General Education Teacher recalled "off hand" that the Student's goals included counting to 30, "wh-" questions, forming upper and lowercase letters in speech, and using four to five-word phrases. The General Education Teacher described they modified assignments for the Student by simplifying them and by providing access to learning tools.
30. The General Education Teacher observed the Student could not keep up in class, was below grade level, and had a hard time processing "directions" and "concepts." They stated Parent 2 asked for math work to be sent home for the Student to complete. They mentioned reading work was also available to take home if requested.
31. The General Education Teacher described their communication with the Parents as a weekly class newsletter and responding to any emails sent by the Parents.
32. The General Education Teacher perceived Parent 2 was "very concerned because of there not being a certified [special education] teacher … ." They stated they believed that was why the Complaint was filed.

Virtual Case Manager Interview

33. In an interview with the Complaint Investigator, the Virtual Case Manager indicated they served the Student for one month during the 2024-25 school year, and from the beginning of the 2025-26 school year. The Virtual Case Manager described accessing the Student's IEP through the LEA's online platform, like other service providers, and indicated they provided the Paraeducator with the IEP-at-a-Glance.
34. The Virtual Case Manager described supporting the paraeducators and the Long-Term Substitute Teacher regarding the Student's goals and benchmarks. The Virtual Case Manager indicated they, "… met with them to go over what my assessments would look like quarterly to assess how [the Student's] doing towards each goal and benchmark … . And then the School has supported with gathering some materials to use throughout the week. And I have created … a drive, virtually, on Google, that's shared with them so they can look at resources and see what they can use that align with the goals. And we will meet weekly for that too. We meet weekly to go over what materials should be used for each goal … ."

35. According to the Virtual Case Manager, the Principal created the schedule for the Student's push-in and pull-out supports, and indicated that paraeducators and the Long-Term Substitute provided the Student with SDI, "… with my support and also the School support with providing materials and ensuring that they understand how the materials align to the goal, [and] how to implement the materials while working with [the Student]." The Virtual Case Manager explained their shared Google drive was organized by goal type and indicated they met with the Paraeducator weekly.
36. According to the Virtual Case Manager, the Long-Term Substitute "… is delivering services that are documented on [the Student's] IEP to ensure that [the Student's] receiving the services that we discussed as a team" in a pullout model.

Long-Term Substitute

37. In an interview with the Complaint Investigator, the Long-Term Substitute shared they originally served as the School substitute, and when the Special Education Teacher changed roles at the beginning of the 2025-26 school year, the Long-Term Substitute Teacher stepped in to fill that role.
38. The Long-Term Substitute used the Student's IEP-at-a-Glance to identify areas of focus for the Student's work. They supported the Student with math and writing worksheets from K-5 Learning and consulted the General Education Teacher for guidance on academic needs. The Long-Term Substitute indicated they pulled the Student for instruction from 11:05 a.m. through 11:30 a.m. and indicated the schedule provided in the LEA materials for "direct" services was "… not the right schedule at all. That's the one that [the Special Education Teacher] started out with. It's totally different from that. I don't see [the Student] in the morning anymore that early." The Long-Term Substitute indicated the schedule was changed for various reasons.
39. After looking at the Student's report card from 2025-26, the Long-Term Substitute confirmed the Student was not able to write any words independently.

SLP Interview

40. In an interview with the Complaint Investigator, the SLP described accessing the Student's IEP via the special education computer program and shared they provided speech and language services to the Student twice each week for 20 minutes. They believed they began providing services on August 25, 2025.
41. The SLP described the regression noted in the Student's first quarter progress report and indicated the Student was not consistently answering "wh" questions and averaged approximately 60% accuracy as opposed to 70% accuracy. The SLP described that regression was not common in their practice and believed it was related to the summer break. The SLP shared, "… we just kept kind of trucking along and [the Student] was starting to get back into it. It's like [the Student] needed to get a refresher … ."
42. The SLP described a shared drive in which the service providers shared their schedules and indicated, "… I want to say there's one day of the week where we overlap just a few minutes."

Paraeducator

43. In an interview with the Complaint Investigator, the Paraeducator indicated they worked "…. with the teacher, and I help the children if they need help with their math or their spelling or their lesson. [I] try to sit with them and help them with the lesson that's being taught." The Paraeducator shared they helped the Student with "… what's in [the Student's] IEP. I know … what [the Student's] IEP says … ."
44. The Paraeducator explained the Special Education Teacher provided them with copies of the Student's IEP. Additionally, the Paraeducator indicated the Student was strong in trying to write a sentence but needed more time with "getting the sentencing right" and described the Student tried very hard with math, a topic on which the Paraeducator also provided support.
45. Parent 1 filed the Complaint on October 2, 2025.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #500, in accordance with state and federal regulations implementing the IDEA, had an IEP in effect for the Student at the beginning of the school year. K.A.R. 91-40-16(b)(1-3); 34 § C.F.R. 300.323(a)(c)(2).

According to K.A.R. 91-40-16(b)(1-3) and 34 § C.F.R. 300.323(a)(c)(2), an IEP must be in effect for each exceptional child at the beginning of the school year and before special education and related services are provided. Those services for which written consent has been granted as specified by law must be implemented no later than 10 school days after parental consent is granted unless a reasonable justification for a delay can be shown.

The Parent alleged the Student did not receive the services outlined in the IEP.

The LEA indicated in their response that there was "… an active IEP in effect for the student at the beginning of the school year."

The 2025-26 school year officially began on August 13, 2025. The Student's existing IEP mandated that speech and language services (20 minutes, twice weekly) be in place from the start. However, the SLP did not begin providing these services until September 8, 2025, which was in the fourth week of instruction. This delay contradicts the regulatory requirement that an IEP be in effect at the start of the school year and the LEA's internal guideline noting that related services should begin "the first week of school." In Board of Education v. Rowley, 458 U.S. 176 (1982), the Supreme Court held that a FAPE means providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction. However, without the provision of speech services until the fourth week of school, the Student was not provided the opportunity to make progress toward their speech goal. As a

result, the LEA did not ensure the full provision of the Student's mandated speech services at the beginning of the 2025-26 school year, resulting in a denial of a FAPE.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA failed to have an IEP in effect until the fourth week of school by not providing the required amount of speech and language services, resulting in a denial of a FAPE.

Issue Two

Whether USD #500, in accordance with state and federal regulations implementing the IDEA, ensured the Student's IEP was accessible to the special education teacher, related services provider, and any other service provider who is responsible for its implementation; and each teacher and provider was informed of their specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. K.A.R. 91-40-16(b)(4)(5); 34 C.F.R. 300.323(d)(1)(2).

According to K.A.R. 91-40-16(b)(4)(5) and 34 C.F.R. 300.323(d)(1)(2), a child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service providers who are responsible for its implementation. Additionally, each teacher and provider is informed of their responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged the substitute teacher was unaware of the services in the IEP.

The LEA indicated in their response that the Student's IEP was provided to teachers and related service providers in a variety of ways.

The LEA provided the Student's teachers and service providers access to the Student's IEP by several different means, depending on their role. The General Education Teacher, the Virtual Case Manager, and the SLP all accessed the IEP through the LEA's online platform. The Virtual Case Manager provided initial verbal guidance on goals and instruction to the Long-Term Substitute, who also indicated they received a copy of the Student's IEP-at-a-Glance. The Paraeducator also confirmed direct knowledge of the IEP's content. These steps fulfilled the requirement to ensure staff were aware of the Student's goals and accommodations.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure the Student's IEP was accessible to the Student's teachers and related service providers or failed to inform them of their specific responsibilities, accommodations, and supports.

Issue Three

Whether USD #500, in accordance with state and federal regulations implementing the IDEA, allowed the Parent to inspect and review all education records regarding

the provision of a FAPE to the Student, specifically regarding the Student's accommodations. K.A.R. 91-40-50(a)(2)(b), K.S.A. 72-3430(b)(1); 34 § C.F.R. 300.501(a)(2).

K.A.R. 91-40-50(a)(2)(b) defines educational records as documents or media on which information directly related to one or more students is maintained by a participating agency. According to K.S.A. 72-3430(b)(1) and 34 § C.F.R. 300.501(a)(2), the parents of exceptional children shall have the right to examine all records relating to the child and to participate in meetings with respect to the identification, evaluation, educational placement, and the provision of a FAPE to such child.

The Parent alleged they did not receive a response from the LEA when they inquired about the strategies the LEA was using during the Student's pull-out instruction.

The LEA indicated in their response they were not aware there was a request to inspect or review the Student's educational records.

The evidence indicated the Parents asked about the Student's services, methods, and minutes, and recollected requesting "specific data and skill information," which constitutes a request for information, but is not explicitly a formal request to inspect and review a specific set of documents or educational records as defined by the law.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to allow the Parent to inspect and review all education records regarding the provision of a FAPE.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at K.A.R. 91-40-16(b)(1-3); 34 § C.F.R. 300.323(a)(c)(2) specify that IEPs must be in effect at the beginning of the school year.

In this case, the evidence supports the finding that USD #500 did not provide speech services for the Student until the fourth week of school. Materials provided by the LEA and interviews document this.

Based on the foregoing, USD #500 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #500 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the IDEA at 34 C.F.R. 300.301(c) and K.A.R. 91-40-8(f) by ensuring the IEPs for students with disabilities are in effect, including the provision of related services, at the beginning of each school year.

2. Further, by March 1, 2026, USD #500, the LEA shall provide the Student with compensatory services. The goal of compensatory education is to place the Student in the position that the Student would be in had the LEA provided the appropriate services in the first place.
    i) To address the denial of a FAPE, LEA shall provide the Student with 120 hours of compensatory speech and language services provided by an SLP.
    ii) A team composed of representatives from the LEA and the Parent shall meet no later than December 1, 2025. The team shall determine the schedule for the provision of the services. The team shall consider the Student's schedule for the school year, the educational setting, and the Student's ability to sustain attention and interest. Compensatory services should take place outside of the Student's regular school day, including instructional time, recreational time, and mealtimes. The meeting will be appropriately noticed.
        (1) Parental refusal to participate in scheduling or related meetings may result in a waiver of compensatory services in whole or in part, provided that LEA has documented good faith efforts to schedule the meeting at a mutually agreeable time and place.
    iii) The schedule for compensatory services shall be provided to SETS no later than January 15, 2026.
    iv) LEA shall be responsible for all costs and transportation associated with the compensatory services.
    v) Compensatory services shall be completed by March 1, 2026. Student absence shall result in the waiver of service scheduled for that day. Staff absence must be rescheduled. Any compensatory service declined or not utilized by March 1, 2026, shall be deemed waived (assuming LEA has made a good faith effort to timely commence and provide all compensatory service). Parents may choose to waive compensatory services in whole or in part. SETS requests that such a waiver be made in writing.
    vi) The LEA shall provide compensatory service logs to the SETS platform on a monthly basis until service minutes are complete.
    vii) Monthly logs shall contain a date, a brief description of the services offered, who provided the service, and a start and end time for each service rendered.
    viii) Student absence shall result in waiver of service for that day. Provider absence must be rescheduled.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 500
Kansas City Public Schools: 26FC500-002

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on October 2, 2025, by -------- (Parent), on behalf of his daughter, -------- (Student). An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education and Title Services team at the Kansas State Department of Education (KSDE). Following the investigation, a Complaint Report addressing the allegations was issued on October 31, 2025. That Complaint Report concluded that there were substantiated violations of special education statutes and regulations in issue one. There were no substantiated violations of special education statutes and regulations in issues two and three.

Thereafter, the school district filed an appeal of the Complaint Report. Upon receipt of the appeal, an Appeal Committee was appointed, and it reviewed the parent's original complaint, the Complaint Report, the notice of appeal, and the response to the district's notice of appeal submitted by the parent, if any. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this Appeal Decision.

Preliminary Matters

The Appeal Committee limits its inquiry to the issues presented in the appeal. No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report issued on October 31, 2025. The Appeal Committee does not conduct a separate investigation. The Appeal Committee's function is to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The Complaint Report dated October 31, 2025 addressed three issues. The investigator found violations of special education laws in issue one. For issue one, the investigator provided corrective action. On appeal, the district disputes the corrective action required by the Complaint Report (Notice of Appeal, p.1) for issue one. The Appeal Committee will address issue one, including related corrective action.

Issue One

Did USD #500, in accordance with state and federal regulations implementing the IDEA, have an IEP in effect for the Student at the beginning of the school year? Is the required corrective action to be completed by USD #500 reasonable and supported by the findings of fact?

An IEP must be in effect for each exceptional student at the beginning of the school year and before special education and related services are provided. K.A.R. 91-40-16(b)(1); K.A.R. 91-40-16(b)(3); 34 C.F.R. 300.323(c)(2). The services for which written consent was granted must be implemented not later than 10 school days after parental consent is granted unless a reasonable justification for a delay can be shown. K.A.R. 91-40-16(b)(2).

In this case, the Student's existing IEP mandated that speech and language services be in place from November 6, 2024 through November 5, 2025 (Report, p. 5). The existing IEP required speech and language services for 20 minutes, two days a week (Report, p. 5). The school year began August 13, 2025 (Report, p. 6). The school district did not provide the Student with the required speech and language services identified in the Student's IEP until September 8, 2025 or 3.5 weeks after the school year started (Report, p. 6).

The Individuals with Disabilities Education Act (IDEA) does not address make-up sessions when speech and language services are missed or not provided. The Appeal Committee looks to Letter to Clarke for guidance. In Letter to Clarke (2007), the Office of Special Education Programs emphasizes the missed sessions' impact on the student's progress and performance and notes a denial of FAPE is an individual determination that must be made on a case-by-case basis. The Supreme Court defines FAPE as providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction. Board of Education v. Rowley, 458 U.S. 176 (1982). Here, the Student was not provided the opportunity to make progress toward their speech and language goal for the first 3.5 weeks of the 2025-26 school year. The Student's IEP Progress Report for quarter one of the 2025-26 school year indicated that the Student was not making progress on goal one (speech and language goals). In fact, the Student regressed regarding goal one for quarter one of the 2025-26 school year (Report, p. 7). Therefore, the school district denied the Student FAPE requiring corrective action in the form of compensatory services. Compensatory services are reasonable in this case because the missed speech and language service sessions impacted the Student's progress and performance.

Even though corrective action in the form of compensatory services is reasonable in this case, the corrective action requiring 120 hours (7,200 minutes) of compensatory speech and language services is both excessive and obvious clerical error. The Student missed 3.5 weeks of 20 minute, twice weekly speech and language services. Thus, the Student is eligible for 140 minutes of compensatory speech and language services.

Conclusion

For the reasons stated above, the Appeal Committee sustains the investigator's finding in issue one, specifically that the District failed to provide the Student with 20-minute, twice weekly speech and language services required by the Student's IEP. However, the Appeal Committee finds the compensatory services corrective action for issue one an obvious clerical error, especially because total compensatory services would equal 7,200 minutes. Therefore, the Appeal Committee amends the total compensatory services to equal 140 minutes. The Parent may accept the compensatory services in whole or in part, or waive the compensatory services altogether.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this XXth day of November, 2025.

Appeal Committee

Hannah Miller

Mark Ward

Brian Dempsey

Crista Grimwood

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #530
ON OCTOBER 1, 2025

DATE OF REPORT: NOVEMBER 10, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #530 (Parsons Public Schools) on behalf of ----- by -----, his Applied Behavior Analysis (ABA) Therapist at Integrated Behavioral Technology (IBT). In the remainder of the report, ----- will be referred to as "the student" and ----- will be referred as "the complainant". It is noted that the complainant provided written consent from the student's parent, -----, to share personally identifiable information regarding the student in regards to this investigation. In the remainder of the report, ----- will be referred to as the "parent" or the "mother". In addition, -----, the student's Registered Behavior Technician (RBT) at IBT, will be referred to as "the RBT".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the complaint is against USD #503 (Parsons Public Schools) who contracts with the Tri-County Interlocal #607 to provide special education and related services to students enrolled in the district. In the remainder of the report, both of these responsible public agencies will be referred to as "the Local Education Agency" and the LEA staff will be referred to as follows:

- Emily McCambridge, Tri-County Interlocal #607 Director
- Lori Perkins, USD #503 Superintendent
- Barney Pontious, Garfield Elementary School Principal
- Jen Tavernaro, School Psychologist
- Malia Merrick, Special Education Teacher
- Roper Bradfield, Van Driver
- Latisha Hinman, Van Paraprofessional
- Amanda Johns, 2024-25 Special Education Teacher

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and issue a final decision from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on October 1, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator reviewed all evidence and documentation provided by the LEA and the parents.

The investigator interviewed the complainant by telephone on October 15, 2025 and parent by telephone on October 24, 2025. The LEA made the Principal, School Psychologist, and Van Driver available for telephone interviews on October 23, 2025 as part of this investigation.

The following materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Program (IEP) Goal Progress Report dated March 10, 2025
2. Notification for an IEP team meeting scheduled for March 25, 2025
3. Notification for an IEP team meeting scheduled for April 8, 2025
4. IEP dated April 8, 2025
5. Meeting Noted dated April 8, 2025 written by the School Psychologist
6. Prior Written Notice (PWN) for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent dated April 11, 2025
7. PWN for Evaluation or Reevaluation and Request for Consent dated and signed by the parent on April 15, 2025 for an FBA
8. FBA Planning Form dated April 15, 2025 with handwritten and typed notes
9. Notification for an IEP team meeting scheduled for May 6, 2025
10. FBA Planning Form dated May 6, 2025 with handwritten and typed notes
11. IEP Amendment dated May 12, 2025
12. PWN for for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent dated May 12, 2025
13. Staff Training Summary for 2025-26 School Year
14. Para Inservice Training Records dated August 5, 2025
15. Email exchanges between the complainant and the Garfield Elementary School Principal dated August 8 through September 2, 2025 regarding release of information
16. CPI Training Records dated August 9, 2025
17. Data Sheets and Classroom Observations dated August 21 through October 2, 2025
18. Notification for an IEP team meeting scheduled for September 12, 2025
19. Conference Summary dated September 12, 2025

20. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent dated September 12, 2025
21. PWN for Evaluation or Reevaluation and Request for Consent dated September 17, 2025
22. Student Classroom Schedule for the 2025-26 school year
23. Speech/Language Therapy Log and Data for the 2025-26 school year
24. Occupational Therapy Log and Data for the 2025-26 school year
25. Suspension Notices with pictures for the 2025-26 school year
26. Attendance Records for the 2025-26 school year
27. Tri-County FBA & BIP Guidebook
28. Transportation Interview conducted by the Tri-County Interlocal #607 Director
29. LEA Response to the Allegations, dated October 8, 2025

Background Information

The subject of this complaint is a nine-year-old student enrolled in the 4th grade at Garfield Elementary School in USD #503 during the 2025-2026 school year. The student's most recent reevaluation was conducted on April 18, 2023 and the multidisciplinary team determined that the student continued to be eligible for special education services under the exceptionality category of Autism.

The student was initially found eligible for early childhood special education services on May 15, 2020 and has always attended school in USD #503 with an IEP in place. The current IEP was developed on April 8, 2025 and amended on May 12, 2025 . The student currently receives special education instruction and supports during the entirety of his school day in a low incidence special education classroom with speech and language therapy, occupational therapy, attendant care, and transportation provided as a related service. The IEP calls for a shortened school day with the student attending school from 8:00 a.m. and leaving at 1:30 p.m. each school day.

It is noted that the student previously attended Guthridge Elementary School in a low incidence classroom but, because of district restructuring, the classroom was moved to Garfield Elementary for the 2025-26 school year.

Issues Investigated

Issue One

USD #503, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by shortening the student's school day and restraining the student with a

seatbelt when providing transportation as a related service as well as by not appropriately training transportation staff during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.320(a)(4) require the IEP to include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and nondisabled children in the activities.

Federal regulations at 34 C.F.R. §300.34(a) defines "related services" as transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education.

Federal regulations at 34 C.F.R. §300.34(c)(16) defines "transportation as a related service" to include travel to and from school and between schools; travel in and around school buildings; and specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The child complaint stated the LEA has not been providing transportation as a related service during the 2025-26 school year as required by the student's IEP. First, the student is supposed to be at school each day from 8:00 a.m. until 1:30 p.m. On August 22, 2025, the Garfield Elementary School Principal drove the student home from school before 1:30 p.m. without notifying the parents. The RBT reported she was told by the Garfield Elementary School Principal that "she needed to be at the student's house before 1:30 p.m. because there would be days the student would be home before 1:30 p.m.". On September 1, 2025, the parent reported she was told by the Garfield Elementary School Principal that he was going to get the student early at school in case there were "hiccups" that needed to be dealt with but did not indicate to her that this meant the student could be leaving school early each day. The parent is not in favor of shortening the student's school day and would like to see an increase in the school day for this school year.

Second, transportation was not provided appropriately on August 20, 2025, the first day of school. The RBT was at the student's house when he arrived at 1:39 p.m. for his scheduled

session but the student was crying and red in the face when he got off the school van. The RBT reported that the Van Paraprofessional said the student was not happy because he was made to wear a seatbelt on the van. The Van Paraprofessional indicated she had to hold the seatbelt on the student even though he was screaming and trying to get out of the seatbelt. The RBT reported the student continued to be extremely upset and dysregulated for "a long while after this before he was able to calm". The protocol for this type of situation was for the bus to pull over and call the parent to come pick up the child; however, this did not occur.

Third, the Van Paraprofessional and the Van Driver were not appropriately trained to work with the student or in crisis prevention and intervention (CPI). This resulted in the student being physically restrained on the bus and the student becoming very upset and dysregulated. The Van Paraprofessional told the parent that she was only told to ride the van with the student shortly before they left on August 20, 2025 and had not received any training to work with the student and was not CPI trained.

Local Education Agency Position

The LEA reported that all staff that work with the student are trained appropriately to provide a safe ride to the student's house. When there were questions or some type of difficulty with the student on the van, the Garfield Elementary Principal stepped in to observe and model what to do if a difficult behavior occurred on the van. This mentoring was provided for multiple days to ensure staff felt comfortable and the student was safe.

The LEA did not intentionally shorten the student's school day. The Garfield Elementary Principal and the van driving team were apprehensive about the van ride home during the first couple days of the school year because of new staff and the new school building. The LEA reported the van driving team practiced and developed a plan for safe transportation and determined the van route during those first couple of days of the new school year, just as occurs with all students on a transportation route.

Analysis: Findings of Fact

1. The student's IEP Amendment dated May 12, 2025 requires transportation as a related service from Garfield Elementary School to home in a van provided by the Tri-County Interlocal #607 using a "weight appropriate car seat with a 5-point harness" beginning April 8, 2025 through April 7, 2026. This transportation will be provided daily when school is in session for up to 20 minutes per day.
2. Interviews with the Van Driver and the Transportation Interview notes from the Tri-County Interlocal #607 Director showed the student rode the van on August 20, 2025 with only a seatbelt which caused the student to become very upset and dysregulated. A zip-front harness was then introduced at home and school and used on the van; however, the student now prefers to ride with just a lap belt. There have been no incidents on the van since the first day of school.

3. Interviews with the Van Driver and the Transportation Interview notes from the Tri-County Interlocal #607 Director showed the van ride is currently between 5 to 8 minutes long each day since the mother has moved to a new address. Previously, the van ride was between 2 and 5 minutes long each day.
4. The Garfield Building Principal stated, "On 8/22, I spoke with the RBT when we arrived at 1:32. She was not present when we arrived and was rude when she got there after a few minutes wait. She was complaining about the student being there early and I attempted to explain that all students have transportation wrinkles that need to be ironed out at the outset of each year and we would likely not typically be there that early, although that would be highly dependent on how much time we had to build in for transporting due to possible behaviors. It was quickly apparent that the student was highly motivated to return home and he has not attempted to remove his seat belt since, to my knowledge".
5. The Tri-County Interlocal #607 Director stated, "The instruction and training provided to Tri-County drivers is to ensure that all students are buckled when the vehicle is being driven. If a student unbuckles themselves then pull over. There are three things that occurred when the student took off his seat belt on the first day of transportation. a) The driver pulled over. b) The rider buckled the student back in. c) The rider held her hand over the seat belt locking mechanism so the student could not unbuckle the seatbelt. They drove the student home. Since safety is a number one priority for students, after this drive, reflection, a meeting and additional support were provided to staff. A harness was introduced to the student and the school attempted to use this in place of the seat belt. A harness was introduced but is no longer needed. The student is now able to ride in the van with just a seatbelt".
6. Interviews found that the Van Driver is also employed as a paraprofessional during the 2025-26 school year and is assigned to work with the student in the low incidence special education classroom.
7. CPI Training Records show that the Van Driver and the Garfield Elementary School Principal all hold current CPI certification.
8. Paraprofessional Training Logs show that the Van Driver and the Van Paraprofessional had received training in Emergency Safety Interventions (ESI) in August 2025 and prior to the first day of school on August 19, 2025
9. Interviews with the Van Driver and the Garfield Elementary Principal along with the Transportation Interview notes from the Tri-County Interlocal #607 Director all acknowledged the van did leave a little earlier for the first few days of school to ascertain what, if any behaviors were displayed by the student on the trip home since he had transferred to a new school building.
10. The Specia Education Teacher indicated that since those first several days of school when transportation issues were being addressed, the student is regularly in class until 1:30 p.m. each school day.
11. Neither the LEA or the complainant provided documentation showing the student's drop-off times at home following the van ride during the 2025-26 school year.

Conclusion

The student's current IEP is the May 12, 2025 amendment to the April 8, 2025 IEP which requires transportation as a related service in a van provided by the Tri-County Interlocal #607 using a "weight appropriate car seat with a 5-point harness" for five days per week for no more than 20 minutes when school is in session beginning April 8, 2025 through April 7, 2026. Interviews and documentation found that the student was provided with a seatbelt, a zip-front harness, and a lap belt but never the car seat as specifically described in the IEP during the 2025-26 school year. Based on the foregoing, the LEA is found ***OUT of compliance*** for providing transportation as a related service as required by the student's IEP and corrective action is required.

The concerns related to the shortening of the student's school day appear to come from the first weeks of the 2025-26 school year when the student had transferred to a new school building and was working with new staff. The LEA acknowledged the van did leave a little earlier for the first few days of school to ascertain what, if any behaviors were displayed by the student on the trip home since he had transferred to a new school building and to work out the van route and a plan for safe transportation on the school van. However, the Special Education Teacher reported that, besides those first couple of days of figuring out the transportation, the student is consistently staying in the special education classroom until 1:30 p.m. as required by the IEP. The LEA noted van routes are tweaked for all students during the first couple days of the school year and that same process is what caused the unintentional shortening of the student's school day for that brief time period. Based on the foregoing, the LEA is found to be ***IN compliance*** because the unintentional shortening of the school day by several minutes while determining the plan for the route and safety did not deny the student with FAPE.

In regards to the allegations related to appropriate training for the Van Driver and the Van Paraprofessional, the interviews and documentation showed the Van Driver holds current CPI certification, was trained in ESI procedures in August 2025, and participated in Tri-County Interlocal #607 driver training prior to the start of the 2025-26 school year while the Van Paraprofessional was trained in ESI procedures in August 2025 and was assigned to work in the low incidence special education classrooms at Garfield Elementary School. The incident described by both the parent and the complainant indicated the student was physically restrained on the van ride on August 20, 2025, and the interview with the Van Driver and the Transportation Interview notes from the Tri-County Interlocal #607 Director found the Van Paraprofessional had used her hand to cover the seatbelt locking mechanism so the student could not unbuckle the seatbelt. This would be considered a type of mechanical restraint since the student was being forcibly kept from moving against his will; however, this was also a safety issue and both the Van Driver and Van Paraprofessional had been trained in ESI procedures in

August 2025. Note that no findings can be made in regards to the use of ESI procedures because these do not fall under the jurisdiction of the IDEA.

Issue Two

USD #503, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to appropriately respond to the parent's requests for applied behavioral analysis (ABA) therapy to be provided at school to enable the student to meet IEP goals; to conduct a functional behavior assessment (FBA); and to develop a behavior intervention plan (BIP) for the student during the past 12 months.

Applicable Law

Federal regulations at 34 C.F.R. §300.324(a)(2)(i) require the IEP to consider special factors when developing the IEP. In the case of a child whose behavior impedes the child's learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

Federal regulations at 34 C.F.R. §300.503(a) require public agencies to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE (free appropriate public education) to the student.

When parents provide written consent for an evaluation of their child, Kansas regulations at K.A.R. 91-408(f) require the LEA to complete the proposed evaluation withing 60 school days.

Federal regulations at 34 C.F.R. §300.306(a)(2) require the public agency to provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

Parent Position

The child complaint stated that the parent has made multiple requests for the LEA to conduct a functional behavioral assessment to gather data to develop a behavior intervention plan to address the student's behavioral concerns with physical aggression towards staff and peers; however, an FBA has not yet been completed. In addition, the parent has made multiple requests for ABA therapy but these have been ignored.

Local Education Agency Position

The LEA reported an FBA was completed at parent request in May 2025 and a new FBA is in the process of being completed at the student's new school building this time. The LEA indicated that, based on the FBA completed in May 2025, the IEP team considered developing a BIP but instead agreed to make changes to the student's IEP. The LEA is unaware of any parent requests made for ABA therapy during the past 12 months.

Analysis: Findings of Fact

1. The student's IEP Amendment dated May 12, 2025 includes one goal and four accommodations to address behavior and sensory regulation. The IEP does not contain a BIP or ABA therapy as a related service.
2. During the past 12 months, the IEP team met on the following dates: March 25, April 8, May 6, and September 12, 2025.
3. The IEP team started the annual IEP review on March 25, 2025 but this meeting was not concluded. The IEP team met again on April 8, 2025 to complete the review and revision with both the parent and the complainant in attendance.
4. Copies of notes from the April 8, May 6, and September 12, 2025 IEP team meetings showed the student was receiving ABA therapy through IBT in the home and that the complainant shared strategies that were effective in that setting. The September 12, 2025 Conference Summary shows IBT offered to come to the school to "collaborate, oversee, and provide strategies and support for the student". However, there was no documentation found that reflected the parent requested ABA therapy as a related service to address the IEP goal for the student in the school setting.
5. During interviews, both the complainant and the parent indicated requests were made for ABA therapy to be provided at school; however, no written documentation was referenced.
6. The PWN dated April 11, 2025 showed the IEP team considered the development of a BIP but determined to wait until an FBA was completed.
7. The LEA uses the procedures outlined in the Tri-County FBA & BIP Guidebook to conduct an FBA. This document was created for the LEA through a collaboration between the Tri-County Interlocal #607 and Tommie Gonsalez, Educational Behavioral Consultant at Greenbush [Southeast Kansas Education Service Center].
8. The PWN dated April 15, 2025 proposed to conduct a reevaluation consisting of an FBA and the parent provided written consent on that same date.
9. The FBA Planning Forms dated April 15 and May 6, 2025 show the FBA team including the parent used the Basic Needs Questionnaire to gather historical and current information as well as current ABC [antecedent / behavior / consequence] data in the school setting to ascertain the function of the student's behavior, identify triggers as well as positive intervention strategies to address the negative behavior and increase the desired behavior. The May 6, 2025 notes indicate the function of the behavior was to escape and to seek sensory input. The notes included specific recommendations for interventions and the next step was to amend the IEP to include the identified supports and accommodations. It is noted that a BIP was not a recommendation resulting from the FBA. The notes also indicate that "Per IBT, their treatment plans cannot duplicate IEP goals".
10. The IEP was amended without a meeting on May 12, 2025 through written agreement between the parent and the 2024-25 Special Education Teacher.

11. The LEA did not provide the parent with a copy of an Evaluation Report resulting from the reevaluation for an FBA consented to by the parent on April 15, 2025 and completed on May 6, 2025.
12. The IEP team met on September 12, 2025 to discuss parent concerns and the transition to the new school building. The parent requested another FBA be conducted and the LEA provided the parent with PWN proposing to conduct a reevaluation of the student to include assessment in the areas of Health / Motor, Academic, and Social/Emotional/Behavioral including an FBA. The parent provided written consent for the proposed reevaluation on that same date. Currently, the reevaluation with assessment is being conducted by the LEA within the 60 school day timeframe.

Conclusion

In this case, interviews and documentation showed that the LEA did conduct an FBA through a reevaluation of the student in the spring of 2025. The parent provided written consent for the reevaluation on April 15, 2025. The LEA used the procedures in the Tri-County FBA & BIP Guidebook and the parent participated in completing the Basic Needs Questionnaire on April 15, 2025 as well as in the review of data and summary discussions held on May 6, 2025 where the function of the behavior was established and interventions were identified. Subsequently, the student's IEP was amended on May 12, 2025 without an IEP team meeting based on the information obtained during the reevaluation. However, the parent was never provided with an evaluation report summarizing the findings from the FBA which has caused confusion resulting in the parent not realizing an FBA was conducted. Based on the foregoing, the LEA is found *OUT of compliance* with the requirements to provide the parent with a copy of the evaluation report and corrective action is required.

Regarding the allegation that the LEA has not responded to the parent's requests for ABA therapy, documentation did not support a finding that the parent had requested this related service for the student. It appeared that the complainant and parent provided information about the ABA services provided in the home and shared strategies that were effective in that setting. While IBT offered to "collaborate, oversee, and provide strategies and support for the student", the LEA did not believe this was a parent request for ABA services as IBT had indicated their treatment plans could not duplicate IEP goals.

Regarding the allegation that a BIP be created for the student, documentation did not support a finding that the LEA failed to develop and include a BIP in the student's IEP. Documentation shows that a BIP was considered at the April 8, 2025 IEP team meeting but was rejected pending the completion of an FBA. Following the completion of the FBA on May 6, 2025, the IEP team did not recommend a BIP be included in the IEP and instead recommended amending the IEP to include the identified interventions resulting from the FBA. It is noted that IDEA does not require that a BIP be included in the IEP so long as the IEP includes goals, services, and accommodations and/or modifications to address the student's behavioral concerns.

Issue Three

USD #530, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate discipline procedures, specifically by not conducting a functional behavior analysis (FBA) when the student was out-of-school suspended (OSS) during the 2024-25 and the 2025-26 school years.

Applicable Law

Federal regulations at 34 CFR §300.530(f)(1) require that, if the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must either conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or if a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Parent Position

The child complaint stated that the LEA needs to conduct an FBA to address the multiple suspensions resulting from the student's "battery / assault / threatening" behavior. The complainant noted that the RBT is not able to evoke the same level of problem behavior being reported by the LEA. She also indicated that the LEA has been advised by TASN and provided with recommendations to address the student's behavior but the LEA has failed to follow these recommendations. In addition, the complainant has offered to "come assist" on multiple occasions but the school has not allowed it saying, ABA services at home and in the community are not the same as school.

Local Education Agency Position

The LEA responded that the student was not suspended for more than 10 consecutive or 10 cumulative school days with a pattern during either the 2024-25 or 2025-26 school years and there is no requirement under disciplinary procedures that would require the LEA to conduct an FBA or develop a BIP for the student.

Analysis: Findings of Fact

1. Interviews and discipline documentation showed the student was suspended a total of two days during the 2024-25 school year on December 6, 2024 and again on May 6, 2025.
2. Interviews and discipline documentation showed the student was suspended a total of four days during the 2025-26 school year to-date on August 21, September 18, September 24, and September 30, 2025

3. During interviews with the parent and LEA, both parties acknowledged the student has not been suspended out-of-school for more than 10 days during the 2024-25 and the 2025-26 school year.

Conclusion

In this case, the student has not been suspended for greater than 10 consecutive school days or 10 cumulative school days with a pattern during either the 2024-25 or 2025-26 school years. As such, a manifestation determination meeting to determine if the student's behavior that was subject to disciplinary action by the school was a result of the student's disability has not yet been required. Based on the foregoing, the LEA is found to be ***IN compliance*** with the requirements of 34 CFR §300.530(f)(1).

Summary of Conclusions/Corrective Action

ISSUE ONE: A violation of 34 C.F.R. §300.323(c)(2) was found. Corrective action is required as described below:

1. Within 15 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. §300.323(c)(2) which require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.
2. Within 40 days, the LEA will reconvene the student's IEP team to review the transportation as a related service for the student and amend or revise the IEP to accurately describe the transportation services required by the student at this time. The LEA will provide the parent with prior written notice for any changes or revisions made to the IEP, as appropriate. Within 5 days of the date of the IEP team meeting, the LEA will provide SETS with a copy of the student's IEP and any PWN provided to the parent.

ISSUE TWO: A violation of 34 C.F.R. §300.306(a)(2) was found. Corrective action is required as described below:

1. Within 15 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. §300.306(a)(2) and ensure that parents are provided with a copy of an evaluation report following the completion an initial or reevaluation of a student.
2. Within 30 days, the LEA will provide the parent with a copy of the evaluation report resulting from the reevaluation of the student consented to on April 15, 2025 and completed on May 6, 2025. The LEA will provide SETS with a copy of this report within the same timeframe.

ISSUE THREE: A violation of 34 CFR §300.530(f)(1) was not found. Corrective action is not required.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #259
ON OCTOBER 10, 2025

DATE OF REPORT: NOVEMBER 9, 2025

This report is in response to a complaint filed with our office on behalf of a student, ----- by their guardian -----. In the remainder of the report, the student will be referred to as "the Student" and the guardian as "the Complainant."

The Complaint is against USD #259, Wichita Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #259.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on October 10, 2025, and the 30-day timeline ended on November 9, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #259 ensured the Student's Individualized Education Program (IEP) was accessible to all bus staff and they were informed of the specific accommodations, modifications, and supports that must be provided to the Student; and the Student's behavior plan was implemented when the Student was on the bus. K.A.R. 91-40-16 (b)(3)(4)-(5)(B); C.F.R. 34 § 300.323.

ISSUE TWO: Whether USD #259, in accordance with state and federal regulations implementing the IDEA, responded to the Complainant's request for a meeting by either holding a meeting or notifying the Parent of their decision not to hold a meeting. K.A.R. 91-40-26, K.A.R. 91-40-17; C.F.R. 34 § 300.501, C.F.R. 34 § 300.503, C.F.R. 34 § 300.612 (a).

Investigation of Complaint

The Complaint Investigator interviewed the Complainant on October 30, 2025. The following LEA staff were interviewed on November 3, 2025: the Principal, the Assistant Principal, the Director of Transportation, Case Manager 1, and Campus Support.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. IEP Amendment Form, 05/06/24
2. Individualized Education Program AMENDMENT, 05/06/24
3. Letter, re: Education Advocacy, 12/02/24
4. Email, re: [the Student] Food, 01/08/25-01/09/25
5. Screenshot of Contact Log, 01/29/25-04/02/25
6. Screenshot of Text Messages, 04/02/[25]
7. Notice of Meeting, 04/02/25
8. Email, re: Touching Base, 04/03/25
9. Screenshot of Text Messages, 04/03/[25]
10. Email, re: Follow-up, 04/09/25-04/15/25
11. Email, re: Run Helpers, 08/22/25
12. Notice of Meeting, 04/23/25
13. Email, re: Notice of Team Meeting, 04/24/25-04/28/25
14. Individualized Education Program, 04/25/25
15. Multidisciplinary Evaluation Team Participants, 04/25/25
16. Prior Written Notice for Identification Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent, 04/25/25
17. IEP Progress Report - Annual Goal, 05/13/25
18. IEP Amendment Form, 08/15/25
19. Individualized Education Program AMENDMENT, 08/15/25
20. Email, re: [the Student] Off Bus - Tyler & 2nd, 08/20/25
21. Email, re: [the Student] [Address] , 08/29/25
22. Screenshot of Synergy Transportation Tab, no date
23. Attachment, 24-25 My Monitor Averages Reports, 10/08/25-10/31/25
24. Email, re: [the District] First Serves Meeting Notes (Aug 28, 2025), 08/28/25
25. Screenshot of Email from [the Principal], 07/01/[25]
26. Screenshot of Email from [the Principal], 06/26/[25]

Background Information

This investigation involves an 18-year-old student enrolled at Levy Special Education Center in USD #259. The Student is currently receiving special education services due to their exceptionalities of Intellectual Disability and Emotional Disturbance per the IDEA. The Student requires close supervision at all times. The Student is considered to be active, likes to interact with their peers and staff, and can be a motivated learner.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant and staff in the LEA.

1. The Student is a twelfth-grader at a special day school in the LEA. The Student enjoys interacting with peers and staff and enjoys their rewards.
2. An IEP amendment dated May 6, 2024 indicated the following relevant information:
    a. Due to increased behaviors, the Student qualified for a full day of Extended School Year (ESY), "Minutes are changed due to the increase in the behaviors that are being seen."
    b. The Student was eligible for services under the Intellectual Disability (ID) and Emotional Disability (ED) categories.
    c. Present levels of academic achievement and functional performance indicated the following:
        i. Impact of Exceptionality indicated "[The Student] [was] receiving special education services at a special day school due to [their] exceptionalities of Intellectual Disability and Emotional Disturbance and need for close supervision for [their] safety and the safety of those around [them]. [Their] disabilities affect [their] functioning in all areas and in all settings… . [They] require[d] individualized support, close supervision, attendant care during times of transition, recess/free time, and during lunchtime, and positive behavior expectations/ supports in a special day school setting… ."
        ii. Transition Assessments stated, "Needs close supervision at all times, especially during unstructured activities or during transitions."
        iii. "[The Student] has attendant care for 140 minutes throughout the day as in transitioning to and from the bus, staying in the bus area for [their] afternoon bus, transitioning to and from classrooms for specials, breakfast and lunch as well as recess time. [The Student] has struggled this year with afternoon buses and staying away from other students who are escalated."
        iv. Other indicated, " … [The Student] needs eyes[-]on supervision at all times, [they] [have] attendant care for transition to and from the buses, in

the hallways for transition to special classes, at breakfast and lunch time as well as out 30 minute free time/recess."

d. Parent/Guardian concerns included the Complainant and the Foster Parent were focused on helping the Student improve their positive behavior choices and ensuring they received the support needed to learn to make these choices. They specifically felt the Student "needs close supervision at all times, especially in unstructured settings."

e. Behavior needs indicated by a checked box of "yes." Behavior impeded learning and indicated, "[The Student] becomes aggressive, destroys property, runs away from [their] assigned area/building, becomes verbally and physically aggressive when [the Student] becomes upset and/or doesn't get [their] desired request granted. [The Student] may also display these behaviors for no known reason. A behavior may come on very suddenly or increase in intensity over a period of time. If [they] [believe] someone has done [them] wrong [they] may target that person. Goals and accommodations have been written to help [the Student] be more successful in [their] [current] educational setting."

   i. A Functional Behavior Assessment (FBA) was not needed.

   ii. A Behavior Intervention Plan (BIP) was needed.

f. Other considerations indicated:

   i. 140 minutes of daily attendant care provided throughout the school day.

   ii. Parent/Guardians "requested that [the Student] have a rider on the bus with [them] in the afternoons to help [them] stay on the bus and elope out the emergency exit or front doors." [sic]

   iii. Special Training required was checked "yes" and indicated "All staff directly working with [the Student] need to be informed of [their] BIP, reward system, and how to work with [them] effectively, as well as possible triggers to dangerous behaviors. [The Student] needs to build relationships with the attendant care individual in order for the service of the attendant care person to work. If [they] [do] [not] not like the individual, [they] will turn to eloping behaviors." Additionally, the staff should be aware of the Student's attendant care needs.

g. The Parents/Guardian was provided with a copy of the IEP via email.

h. The Student's goals covered reading, math, behavior, transition, and study skills, all provided by the special education teacher and applicable to ESY services.

i. Attendant care has been added to [the Student's] IEP to keep close supervision (eyes on) for structured (walking to and from specials) and unstructured activities (walking to and from the bus, waiting got the bus, lunch time, recess) as well as during transitions."

i. Transportation was noted as a related service.

ii. Student accommodation needs indicated:

1. The Student needed behavior accommodations in unstructured/unsupervised settings.

2. The Student [could] not be left unsupervised, and must have "line-of-sight by a pre-approved designated individual" indicated by: "[The Student] require[d] eyes[-]on supervision at all times. If upset, [they] may become verbally aggressive, then physical and or elope from the bus or bus area. Listening to music and explaining changes to an established routine [was] very helpful for [the Student] in dealing with [their] emotions. Building a relationship with [the Student] [was] key to [them] being successful on the bus. If asked, the address [they] would not be able to give it. [They] [could] give the first and last names of at least [four] people who [could] be called in case of an emergency. [They] cannot be left alone due to possibly harming [themself] (running away) or others."

iii. Vehicle Adaptions indicated the need for a seat belt and adult attendant care and supervision.

j. Supplementary Aids and Services (Accommodations and Modifications) indicated the following with the start date of April 4, 2024:

i. "Daily (or more frequently as needed) review of expectations and behaviors in the school setting. To be successful, [the Student] needs expectations to be frequently reviewed. Daily, sometimes twice daily[,] Homeroom class or other location as [needed. No more than [five] minute [in the] classroom."

ii. "A set visual schedule with advanced notice of changes when possible: [The Student] [did] best when [they] [knew] what is expected of [them], reviewed expectations for those classes that [they] [were] doing, as well as visuals to help [them] as well. Daily. Schedule should cover all activities during the school day. Schedule should cover all activities for the length of the school day."

iii. Every day at school, throughout the day, … to and from the bus, the Student "needs to have a [sic] adult supervision when transitioning throughout the hallways, to and from the bus, in the cafeteria, and making sure that [they] [get] on the bus after school [sic]. [The Student] needs to have adult supervision throughoutF [sic] the day to ensure the safety for [themself] and others. [The Student] has a history of eloping from the classroom as well as the school building and bus (after school)."

iv. "Bus area expectations reviewed daily: [The Student] has struggled this year with staying in the bus and staying in the bus area while waiting

for [their] bus. [E]nd of the day, before walking to the bus loading area in the back of the school. [E]nd of the school day, bus loading area. [E]nd of the day until [their] bus pulls away with [them] on it."

k. The Least Restrictive Environment (LRE) was provided in a special day school.

3. A Behavior Intervention Plan dated May 6, 2024 indicated the following relevant information:

   a. The target behavior was described as "difficulty following directions and completing assigned tasks throughout the school day." The Student could become physically "aggressive" towards themself.

   b. Peak Behavior was described as, "cussing and/or threatening to staff or students … . [The Student] will elope out of the building. [The Student] will elope off the bus … ."

   c. The function of the behavior was described as attention seeking.

   d. The behavior goal was listed as, "By April 3, 2025, after being given daily expectations of behaviors and daily instruction with social and emotional, other behavior supports instruction, and with opportunities to practice, [the Student] will be able to identify strategies to de-escalate a behavior and then use a learned strategy in a real-life situation to help [them] refrain from eloping behaviors (outside of the building and school bus) and physically aggressive behaviors 90% of school days present for 3 month period. [The Student] [was] able to name strategies but has only used them when highly agitated or frustrated. [They] [were] about 19 times of eloping from the school, bus, or bus area from 9-16-2023 to 3-30-2024."

   e. The replacement behavior was described as "[The Student] [would] remain in class, participate in class activities, and refrain from physical aggression towards staff and peers as well as eloping from the school building and the bus."

   f. Strategies and Supports to Prevent behavior were listed as follows:

      i. "Provide attempts to distract from disruptive situations using a calm voice."

      ii. "A visual of the Zone of [R]egulation that [they] can easily see that lets [them] know what zone [they] [were] currently in. NOTE: [The Student] may tell you [two] different colors such as yellow and blue or blue and green. [They] usually [have] a good reason for choosing [two]."

      iii. "[The Student] needs frequent breaks that consist of physical/sensory activities, time with staff, music (a pre-determined playlist on a MP3 music player or classroom smartboard will be create[d] for [the Student] with appropriate music on it that [they] can earn), resting, running errands etc … ."

iv. "Extensive direct instruction and extensive supports in multiple settings to acquire, maintain, and generalize academic and functional skills necessary for application in home and school setting."

v. "Expectations and daily activities (visually and verbally) should be reviewed with [the Student] at the start of every day and more often when necessary."

vi. "Provide [the Student] a reward system that provide[s] choices for earned rewards. This reward system should be periodically reviewed and modified as needed while the basic structure should remain intact. [They] current [sic] has a number system where staff write 1-10, each task [the Student] completes, they mark a number off backwards, counting down. The reward that [they] [have] picked, is at the end of the number line. Small rewards just as a M&M or skittle are given to [them] after the completion of 1 tasks. Sometimes, breaks are given as well to get [them] moving around."

vii. "[The Student] may earn a long[-]term reward - [sic] such as at the end of the week. A goal [they] [were] working towards may be modified to include a certain behavior [they] [were] currently having such as eloping from the building, physical aggression, intimidation etc … ."

viii. "Use scripted responses in a calm voice when redirection is necessary. Use as few words as possible. Give [them] time to process what is being said. (at least 30 seconds)."

ix. "Increase verbal and nonverbal praise when [the Student] [was] doing the right thing. [C]atch [them] doing the right thing. Provide positive notes-emails-texts home for a good day."

x. "Provide daily instruction and frequent reminders of social and emotional instruction. Provide opportunities to role play, practice learned skills, discuss strategies when [they] [were] calm. Periodically [throughout] the day-ask [them] what Zone [they] thinks [they] [were] in? [They] [were] usually pretty accurate."

g. Strategies to teach replacement behaviors included those listed in the Social/Emotional Supports and Strategies section of the IEP. Additionally, the following strategies were listed:

i. "Direct Instruction with opportunities to practice and or discuss will be used to teach [the Student] expectations. Having [them] restate an expectation or answer a simple question about an expectation is helpful in checking if [they] understand what is expected of [them]."

ii. "[The Student] will participate in daily direct instruction and given opportunities to practice social-emotional skills including Zones of Regulation."

iii. "[The Student] will be taught how to ask for a break when [they] [were] upset. [The Student] will be given opportunities to practice this skill when [they] [were] NOT escalated."

iv. "[The Student] will be encouraged to follow directions without physical aggression toward people or eloping from the classroom/school/bus. This will occur by direct instruction, verbal reminders, practice, and positive praise when directives are followed."

h. Target behavior examples included the following:

i. "When [the Student] completes [their] assigned work and refrains from physical aggression and eloping per [their] reward system." The response to this behavior included, "A reward of [their] choice from an approved list. (basketball. football. time with adult of choice when possible, music, snack etc…)."

ii. "When [the Student] has had an exceptionally good day (no eloping, all work done on time, participated in all class activities, no verbal or physical aggression etc…)." The response to this indicated, "A text or phone call home and a walk with a staff member of [their] choosing (when possible) near the very end of the day or earning music on the way to the bus."

iii. "When [the Student] verbalizes that [they] [were] upset and asks for a break. The response included, "Verbal praise for asking for the break followed by the requested break (Depending upon the situation you may ask [them] to finish the task [they] [were] working on first.)

i. An IEP case manager, classroom, and school staff were responsible for monitoring the BIP and collecting data quarterly for parents.

4. A screenshot of a contact log with various dates included the following relevant communications with the family:

a. On January 29, 2025, at 4:30 p.m. an unknown person contacted the Complainant by phone. Comments indicated, "Call to let [Complainant] know [the Student] had jumped off transportation twice and [they] would need [to] [be] picked up. [Complainant] stated that we would have to figure it out until 5[:]30[.]"

b. On March 31, 2025, at 11:20 a.m. the Assistant Principal had in-person contact with the Foster Parent and they discussed the bus incident from January. The Foster Parent then called and spoke to the Safety Services Supervisor who confirmed the LEA policy on pick up. The Assistant Principal offered the Foster Parent to meet at a later time to discuss LEA guidance and the Foster Parent was asked to leave.

c. On April 2, 2025 at 3:34 p.m. the Principal contacted the Complainant by phone. Comments indicated, "Sent home the 10-day notice to [Complainant] after our conversation about waiving the 10 [sic] days and holding the

annual IEP tomorrow and then having the Re-eval[uation] on the 25th. [They] also refused the parent rights."

5. In an email dated April 1, 2025 to the IEP Manager, the Assistant Principal inquired about scheduling the IEP. The IEP Manager stated they had called the Complainant and left a message.
6. An email dated April 2, 2025 showed the Complainant accepted the annual IEP. Additionally, on April 2, 2025 screenshots of text messages between the Complainant and an unknown person confirmed the scheduling of a phone conference and sending home a 10-day notice. The Complainant declined their parent rights.
7. A Notice of Meeting dated April 2, 2025 indicated a scheduled IEP meeting for April 3, 2025 at 2 p.m. via Teams Meetings. The purpose of the meeting was indicated with checked boxes next to:
    a. "If it is determined that your child is eligible, or continues to be eligible, for special education and related services, the IEP team will develop an individualized education program (IEP) for your child and determine the appropriate placement. … " "Conduct an annual review of your child's individualized education program (IEP)."
    b. A copy of the parent rights was indicated by an "x" in a box with a school representative's initials.
8. In an email dated April 3, 2025 to the Foster Parent, Campus Support confirmed the topics the two conversed about on March 31, 2025. Topics included the bus incident from January 2025, LEA pick up policy, communication with the Assistant Principal, their phone call with the Safety Services Supervisor regarding LEA policy, and next steps which included the Foster Parent requesting a meeting with the Assistant Principal and LEA representative.

    Additionally, an email on April 3, 2025 to the Principal, Campus Support shared they had asked the Foster Parent what they would like to happen regarding the January 29, 2025 incident, and the Foster Parent shared they wanted a meeting with the Assistant Principal and a "representative for the Administrative Center." Campus Support indicated they had passed the request on to the Principal for "next steps."
9. A screenshot of text messages dated April 3, 2025 between the Complainant and an Unknown Person discussed rescheduling the IEP meeting. The Unknown Person suggested "… just do it all on the 25th that way it's just one meeting." The Complainant responded with, "Okay[.]"
10. In an email dated April 9, 2025 the Principal followed up with the Foster Parent regarding the requested meeting. The Foster Parent responded with, "Yes please set a meeting up for me and [the Complainant] to attend."
11. A Notice of Meeting dated April 23, 2025 indicated a meeting for April 25, 2025 at 1:30 p.m. at the School's conference room to review results of a recent reevaluation.

12. An IEP dated April 25, 2025, indicated the following:
    a. Handwritten notes by an unknown person on the top page stated:
        i. "[School Social Worker] will set up meeting";
        ii. "Called [the Complainant] April 1, 2025";
        iii. "I could not make IEP sick[.]"; and
        iv. "Waive 10 days."
    b. The Complainant participated in person as indicated by the IEP Team Member section.
    c. The Parent/Guardian Statement indicated the Complainant received their parent rights on March 24, 2025 and the TFI Family Services Representative received their rights on April 25, 2025.
13. On April 25, 2025 the BIP was updated with the following relevant information:
    a.
    b. The target behavior was described as "Verbal Aggression."
        v. Examples stated, "Cursing, yelling and leaving assigned areas[.]"
    c. The peak behavior indicated physical aggression.
    d. The function of the behavior was described as "gain/access [to] Tangible/Activities."
    e. When the target behavior occurred, the following steps were identified:
        i. "When [the Student] complete[d] [their] assigned work and refrains from physical aggression and eloping per [their] reward system," [they] would earn, "A reward of [their] choice from an approved list. Examples included preferred sports activities and time with a preferred adult.
        ii. "When [the Student] verbalizes that [they] [were] upset and ask[ed] for a break," they would earn, "Verbal praise for asking for the break followed by the requested break (Depending upon the situation you may ask [them] to finish the task [they] [were] working on first.)"
    f. Staff would instruct the Student to take large breaths when yelling or cussing occurred.
    g. Staff would advise the Student when hitting or eloping occurred to take deep breaths, minimize the audience, and remind the Student of what they can earn.
    h. BIP data was collected by the IEP manager daily and was reported quarterly.
    i. The multidisciplinary evaluation team participants page indicated the Complainant participated by phone and their agreement was indicated by an "x."
14. On April 25, 2025, a PWN was sent to the Complainant after the team reviewed the Student's evaluation results and classroom assessments. The notice specifically indicated the IEP changes being made did not require parental consent by a checked box. The action proposed was that the Student would continue to receive

special education services in a specialized day school. It stated that input was taken into consideration from the Complainant and Child Study Team. The team advised against not completing a thorough evaluation and decided against it due to the Student's "complex needs." The consent page indicated no signature.

15. A screenshot of an email dated July 1, 2025 from the Principal to unknown staff recipients, the Principal instructed staff to review the Student's BIP, then to send an email back to them confirming the completion of the BIP review task.
16. An IEP Amendment form dated August 15, 2025 indicated changes to the transportation drop off to "line of sight as close to [their] home as possible to prevent eloping." The box indicating "I agree to amend my student's IEP as described above" was unchecked and an unidentified signature on the Parent/Legal Guardian line stated "Accepted - August 15, 2025."
17. An IEP Amendment, dated August 15, 2025, was developed after consulting with the Complainant, whose signature appeared on the IEP Team Members list. The IEP changes included the following:
    a. The Transportation Student Accommodation Needs section indicated the Student may not be left alone and must be "received line-of-sight by a pre-approved designated individual."
        i. The explanation for the change stated, " [The Student] will need a door[-] to[-] door stop as [they] [require] eyes on supervision at all times. If upset, [they] may become verbally aggressive, then physical and or elope from the bus or bus area."
18. A PWN dated August 15, 2025 confirmed the update to the Student's transportation plan per the Complainant 's request and indicated Parental consent was not required. An unidentified signature was on the Parent/Legal Guardian line and dated "accepted - August 15, 2025."
19. In an email exchange dated August 20, 2025, the Director of Transportation alerted the team that the Student had eloped from the bus and was walking toward the School. The Principal immediately responded to the alert by physically going to the bus to assist. Subsequently, the Principal proposed solutions, including returning the Student to a transportation van, adding an extra male aide for support, and investigating why the Student's usual door-to-door stop had been incorrectly changed to a corner stop.
20. In an email dated August 22, 2025, the Technical Analyst Special Education Transportation emailed the Principal and Assistant Principal with the following instructions regarding the Student's monitoring, "[The Student] [was] to have a male monitor. Sometimes to do nothing more than talk with [them]. Make sure that [the Student] is on the inside, not the aisle."
21. First Serves Meeting Notes dated August 28, 2025 indicated the Student had a "conflict" with another student on the bus. The First Serves team implemented a second bus monitor on the route and added positive behavior strategies to the

Student, examples given included giving the Student "tasks." The plan of action indicated follow up with the Assistant Principal and "caregivers" and to "monitor" the supports in place before taking action to make change.

22. In an email exchange dated August 29, 2025, the Complainant inquired about the status of the Student's two-week-old IEP amendment, which mandated a door-to-door stop due to the severe safety risk posed by his elopement history. The Director of Transportation confirmed the amendment was finalized and acknowledged the requirement for eyes-on supervision, but explained their team was having a safety assessment conducted to determine if the bus could safely turn around in the dead-end street for a stop closer than the current 180-foot location. The Complainant responded by assuring both the Director of Transportation and the Principal that buses had successfully navigated the cul-de-sac for five years and should not encounter any issues establishing the requested closer, door-to-door stop.
23. An undated screenshot of a Synergy Transportation tab indicated transportation for the Student for 72 minutes, 5 days, every week with a start date of April 25, 2025. Additionally, it stated, "… door to door stop as [the Student] required eyes on supervision … ." and "Everyday, to and from school, ensure that [they] stay on the bus throughout the ride to and from school to ensure [their] safety and the safety of others." Furthermore, an additional transportation detail screenshot indicated "[They] will need a door[-]to[-]door stop as [the Student] requires eyes on supervision at all times. If upset, [they] may become verbally aggressive, then physical and or elope from the bus or bus area. Listening to music and explaining changes to an established routine [was] very helpful for [the Student] in dealing with [their] emotions. Building a relationship with [the Student] [was] key to [them] being successful on the bus. If asked [their] address [they] would not be able to give it. [They] can give the first and last names of at least [four] people who can be called in case of an emergency. [They] cannot be left alone due to possibly harming [themself] (running away) or others."
24. A My Monitor Averages Report titled "Check in to Connect" for the Student with a start date of October 8, 2024 through October 31, 2025 indicated behavior data was collected for the following behaviors: following directions, safe hands, feet, and objects, and stay in assigned area.

Complainant Interview

25. In an interview with the Complaint Investigator, the Complainant stated they had requested a meeting following a bus incident where they were told to come to the School "in a certain amount of time," or the police would be called. They wanted to further discuss the incident and what had happened, but according to the Complainant, the meeting never occurred. The Principal reportedly claimed they personally emailed the LEA to schedule it, but no progress was made. An IEP meeting was also eventually scheduled and then canceled due to a teacher's

absence. Therefore, an opportunity to discuss the bus incident, as the Complainant intended, never happened.

26. Regarding the implementation of accommodations, the Complainant shared the belief that all but four were implemented consistently. They explained the daily review of behavioral expectations was inconsistent, which they attributed to the Student's frequent wandering around the school. When the Student left their familiar classroom, they encountered staff members who were unaware of their specific behavior plan. This lack of knowledge led to confusion, especially with the reward system. Specifically, other adults would give the Student unearned rewards like chips, candy, or drinks, which directly undermined the goals they were working toward in their own classroom. The Complainant was also not confident that non-classroom staff were familiar enough with the expectations to consistently remind the Student, creating a significant implementation gap.

    Additionally, the Complainant recounted a specific incident illustrating the inconsistency of the reward system as an accommodation. The day after the reported incident, the Student jumped off the bus, and subsequent investigation revealed the cause: they were denied a deserved daily reward. Although the teaching assistants were instructed to provide the reward, they failed to do so, prompting the significant behavioral reaction the following day. The Complainant concluded that the reward system was generally used correctly when a familiar teacher and the Principal were present. However, they noted that the system was not reliably followed when key personnel were absent, reinforcing the pattern of inconsistent implementation.

    Regarding the accommodation of close supervision, the Complainant shared the Student has been out in the hallway unsupervised and had managed to leave the building without anyone knowing, even locking themself in someone's car one time. The Complainant concluded these things would not happen if the Student was consistently closely supervised.

    Regarding the accommodation of adult supervision for transitions in the hallways, in the cafeteria, and to and from the bus, the Complainant stated it was sometimes implemented. They shared the Student had gotten off the bus and went back inside the School without staff knowing, and the Student jumped off the bus with staff following the Student instead of walking with them.

27. The Complainant shared the understanding that staff knowledge of the Student's accommodations was inconsistent. They noted only the Homeroom Teacher and the Principal reliably followed the Student's expectations, often having discussions about holding firm on demands, such as sending the Student back to complete assignments. The Complainant observed that when the Student experienced a lack of success, it typically coincided with staffing changes, like the introduction of a new teaching assistant or a transition to a different classroom or teacher. In fact, the Student had multiple teachers last year, and while the final one was "phenomenal,"

the expectations often differed significantly between each person working with the Student. It seemed like the Student's accommodations were less of a "plan" and more of a series of "suggestions" depending on who was in the room.

28. The Complainant detailed the Student's transportation accommodations, noting that they were moved from a regular bus to a van due to the behavior of jumping out while it was driving. Despite the van being intended to prevent escape, the Student eventually discovered how to exit the back door. The Student's formal accommodation included a bus aide, but the van often relied on other students' paraprofessionals to assist, which the Complainant felt led to inconsistent following of the specific behavior plan by the transportation staff. They confirmed, however, that the basic logistical accommodations, such as curbside pick-up due to elopement risk and mandatory adult-present drop-off, seemed to be followed. It seemed like, while the location of the ride was secure, the discipline of the ride was inconsistent.

29. The Complainant emphasized that consistency was critical for the Student's success and recounted the immense effort required, including a time when they and the Principal worked until 9:30 p.m. to safely secure the Student after they jumped off the bus. The Complainant stressed the importance of staff adhering to the plan and calling for help when needed. Significantly, the Complainant noted that since the LEA became fully aware of the situation last year, the dramatic behavior of jumping off the bus had stopped completely.

IEP Manager 1 Interview:

30. In an interview with the Complainant Investigator, IEP Manager 1 explained the IEP/BIP binder was kept on their desktop so all staff members could access it. They shared each week, they'd review the IEPs and have "general" conversations to ensure all staff knew what they were expected to do.

31. Case Manager 1 described several accommodations on the Student's IEP. The Student had one-to-one support and utilized an earning chart. They shared the Student also had opportunities to de-escalate and walk whenever they felt the need.

    Regarding the implementation of the BIP, Case Manager 1 stated that its primary focus was on "safe hands, safe feet," along with ensuring the Student stayed on the bus and did not jump off. They shared they were in communication with the bus driver so they could "support" them in anyway regarding the BIP.

    Case Manager 1 also detailed the staff's response to target behaviors like verbal aggression, cursing, yelling, and eloping. The strategy for staff, including Case Manager 1, was not to engage in a verbal argument with the Student. Case Manager 1 shared they were also the primary contact person, available to assist when the Student was out on a walk and became triggered, helping the Student de-escalate and find a way to return to their scheduled tasks. Furthermore, Case Manager 1

ensured that both the BIP and IEP were consistently implemented by all staff, noting that the BIP was typically the first point of reference when a behavioral incident occurred.

32. Case Manager 1 detailed their communication with the Complainant regarding scheduling IEPs. They attempted to contact the Complainant about scheduling the IEP, but never received a response. Case Manager 1 recalled that they reported the lack of communication to their administrator, who took over as the contact person and ultimately handled the scheduling with the family. Case Manager 1 reported they never received an IEP meeting request from the Complainant.

33. According to Case Manager 1, they had sent home copies of the IEP in the Student's backpack. Regarding the April 2025 IEP meeting and the updated copy, Case Manager 1 was not involved in that meeting. They shared the Complainant had never requested copies of service logs or IEPs from them.

Campus Support Interview:

34. In an interview with the Complaint Investigator, Campus Support shared they met with the Foster Parent via phone on March 31, 2025 where the Foster Parent expressed their "frustration" over how the bus incident was handled by the Assistant Principal. Campus Support recalled they had discussed the elopement off the bus and, "Yes. And that had been problem- solved through …." They shared that at the end of the conversation, the Foster Parent had requested they'd like a "conversation" with the Assistant Principal and a "representative from the administrative center" to discuss the pick up policy. Campus Support stated they had passed this request off to the Principal.

Assistant Principal Interview:

35. In an interview with the Complaint Investigator, the Assistant Principal explained they had initially made the phone call to the Complainant after the Student eloped off the bus. They stated the follow-up to that conversation was handled by the Principal, who met with the Complainant.

36. According to the Assistant Principal, the only meeting the Foster Parent had requested was with them and the Superintendent, but because the Foster Parent did not hold educational rights, there was "not a lot I could tell [them]." The Assistant Principal's understanding of the Foster Parent's meeting request was to discuss the pick-up policy.

Director of Transportation Interview:

37. In an interview with the Complaint Investigator, the Director of Transportation shared the support in place for the Student while on the bus. They confirmed the Student received several transportation accommodations, including door-to-door pickup and drop-off, a bus monitor for supervision, and the requirement for "line of sight" communication between the driver and the receiver at home. These accommodations were communicated to the staff through a detailed paper input

form and the daily route sheet, and via a digital input form on a tablet, which ensured both the driver and the monitor were informed. This essential information was shared daily with the contractor, First Student, who provided the paper copies to the staff.

38. According to the Director of Transportation, the Student's transportation input form's purpose was to communicate the accommodations from the IEP and BIP, along with additional information to best serve the Student and help the driver and monitor build a relationship with them. They confirmed the information on the Student's input form closely matched the Student's IEP and BIP. The Director of Transportation shared that a slightly more comprehensive and recent version of this information was currently available to drivers on an electronic "About Me" tablet form that drivers have access to on each bus.

39. The Director of Transportation stated that the First Serves Leadership Team met bi-weekly to discuss special education practices and transportation. The team's primary purposes were to problem-solve issues concerning individual students and to address questions from drivers or monitors regarding students' behavior data. The Director of Transportation confirmed the team had discussed supports for the Student at these meetings.

Principal Interview:

40. In an interview with the Complaint Investigator, the Principal explained they had a "good relationship" with the Complainant. They had texted to schedule the annual IEP meeting directly with the Complainant and stated, "I'll do whatever we can do to make sure we're in compliance." The Principal shared that their primary form of communication with the Complainant was through text messages along with phone calls.

    The Principal recalled the Complainant once emailed the school nurses stating, "I do not remember the details because that was through the nurses. I do remember it was about food, [staff] giving [the Student] food all the time … . And [the Complainant] said we have it in the IEP, but if I need to ask for a meeting I can." The Principal noted that despite this communication, the Complainant "didn't request [a meeting] when [they] [were] communicating with the nurses."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #259 in accordance with state and federal regulations implementing the IDEA ensured the Student's IEP was accessible to all bus staff and they were informed of the specific accommodations, modifications, and supports that must be provided to the Student; and the Student's behavior plan was implemented when

Student jumped off the school bus in January 2025. . C.F.R. 34 § 300.323; K.A.R. 91-40-16 (b)(3)(4)-(5)(B); C.F.R. 34 § 300.323.

According to K.A.R. 91-40-16 (b)(3)(4)(5)(B) and C.F.R. 34 § 300.323(d), LEAs shall ensure an IEP is in effect for each exceptional child at the beginning of the school year. The child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider must be informed of the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Complainant alleged the Student's behavior plan was not followed when they eloped off a moving bus.

The LEA ensured the Student's IEP was accessible to all staff and all staff were informed of the specific accommodations, modifications, and supports that were to be provided to the Student.

The Student's IEP, which was amended in May 2024 due to increased behaviors, documented their eligibility ID and ED, necessitating a special day school setting and close, "eyes-on" supervision for safety. The IEP detailed numerous social/emotional supports, strategies, accommodations, and a BIP. The IEP and BIP included numerous key supports to support the Student. Specific accommodations included a door-to-door transportation stop and a required "line-of-sight" transfer to an adult due to elopement risks.

The IEP mandated that all staff directly working with the Student needed to be informed of the BIP, reward system, and possible triggers. The Complainant, however, believed staff knowledge of accommodations was inconsistent, noting that only the Homeroom Teacher and Principal reliably followed expectations, and observed that lack of success coincided with staffing changes. They cited instances where the Student was unsupervised in the hallway, leaving the building, and jumping off the bus, which they attributed to the inconsistent implementation of the close supervision and transition supervision accommodations by staff, including those on the bus. Following an elopement incident in August 2025, the Principal and Director of Transportation addressed the incorrect change from a door-to-door stop to a corner stop and arranged for a male monitor. The Director of Transportation confirmed that the IEP and BIP accommodations were communicated to transportation staff daily via paper and electronic forms. The IEP Manager ensured the IEP/BIP binder was accessible on their desktop for all staff, and they had general weekly review conversations to ensure staff knowledge. The Principal instructed staff to review the Student's BIP and confirm completion via email, indicating an attempt to ensure awareness among school staff.

In contrast to the systems put in place, the Complainant provided multiple instances of implementation failure, suggesting a lack of awareness or adherence by many staff members.

The Complainant believed staff knowledge of accommodations was inconsistent, noting that only the Homeroom Teacher and Principal reliably followed expectations.

The LEA had mechanisms for making the IEP and BIP information accessible, including a binder, daily transportation forms, and communications to all staff members. The evidence points to implementation and knowledge of the IEP and BIP supports at the time of the bus incident in January 2025.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA made procedural violations by failing in effectively informing all staff members of the Student's IEP and supports when the Student was riding the bus.

Issue Two

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, responded to the Complainant's request for a meeting by either holding a meeting or notifying the Complainant of their decision not to hold a meeting. K.A.R. 91-40-26; K.A.R. 91-40-17, C.F.R. 34 § 300.503, C.F.R. 34 § 300.612 (a).

According to K.A.R. 91-40-17, C.F.R. 34 § 300.503 and C.F.R. 34 § 300.612 (a), each public agency must provide notice to ensure that parents of children with disabilities have the opportunity to participate in meetings. A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

According to K.A.R. 91-40-26, C.F.R. 34 § 300.612 (a), each agency must ensure written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

The notice required must include a description of the action proposed or refused by the agency; an explanation of why the agency proposes or refuses to take the action; a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; a statement that the parents of a child with a disability have protection under procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; sources for parents to contact to obtain assistance in understanding the provisions of this part; a description of other options that the IEP Team considered and the reasons why those options were rejected; and a description of other factors that are relevant to the agency's proposal or refusal.

The notice required must be written in language understandable to the general public; and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; that the parent understands the content of the notice; and that there is written evidence that the requirements of this section have been met.

The Complainant alleged the LEA did not hold a meeting after the Complainant requested one and the LEA did not send any documentation denying the meeting.

The LEA holds that it complied with requirements pertaining to and in accordance with state and federal regulations implementing IDEA, including holding IEP meetings and re-evaluations meetings as well as regarding any meeting requests made by the Complainant by either properly noticing and holding a meeting or notifying the parent of its decision not to hold a meeting.

On March 31, 2025, the Foster Parent, who does not hold educational rights, requested a meeting to discuss the January 29, 2025 bus incident and the LEA's pick-up policy with the Assistant Principal and an administrative representative. This request was passed from Campus Support to the Principal. In April 2025, the Principal followed up, and the Foster Parent confirmed, "Yes, please set a meeting up for me and [the Complainant] to attend."

However, the Complainant claimed a meeting to discuss the bus incident never occurred, stating the opportunity to discuss the incident was lost when a previously scheduled IEP meeting was canceled. Although the annual IEP was rescheduled and eventually held on April 25, 2025, the Complainant's intent to discuss the elopement and pickup policy outside of the annual review was not definitively met with a separate meeting or a PWN declining the request.

The LEA upon receiving the confirmed request by the Foster Parent, to include the Complainant, who holds educational rights, in the meeting regarding the Student's safety, supervision, and policy, the LEA was procedurally obligated to either convene the meeting or provide a PWN formally refusing the request and explaining why. The Complainant stated that a meeting specifically to discuss the bus incident and pick-up policy never occurred. Although the annual IEP review was held on April 25, 2025, the opportunity to discuss the incident as intended by the Complainant was reportedly lost. No documentation, such as a PWN, was provided by the LEA to the Complainant to document a refusal to hold the requested meeting. The failure to provide the mandated response, holding the meeting or issuing a formal refusal, constitutes a procedural violation.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA made procedural violations by failing to formally provide the mandated procedural response, holding the meeting, or issuing a formal refusal.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

B. Federal regulations at 34 C.F.R. § 300.503 and state regulations at K.A.R. 91-40-26 require a public agency to provide a parent with PWN when the agency refuses to initiate or change the identification, evaluation, or educational placement of a child, or the provision of FAPE. The failure to hold a requested meeting, which involved the BIP, accommodations and modifications on the bus, which represent provision of a FAPE, required a formal response.

   In this case, the evidence supports the finding that the LEA did not formally provide the mandated procedural response to the Foster Parent's confirmed request for a meeting to discuss the bus elopement incident and the BIP and supports in place. The LEA failed to either convene the requested meeting or issue a PWN formally refusing the request and explaining the reasons why.

Based on the foregoing, USD #259 is directed to take the following actions:

1. Within 60 calendar days of the date of this report, USD #259 shall conduct mandatory training for all special education administrators, IEP Managers, and relevant school principals regarding the procedural requirements for issuing a PWN . This training must specifically address:
   a. The circumstances under which a PWN is required, with a focus on documenting a formal refusal to act (propose or refuse) on a request for a meeting to discuss special education matters.
   b. The specific requirement to issue a PWN in response to a parent's written or confirmed request for an IEP or a FAPE-related meeting when the LEA chooses to refuse the request, pursuant to 34 C.F.R. § 300.503 and K.A.R. 91-40-26.
   c. The required elements that must be included in the PWN (e.g., description of action refused, explanation of the refusal, description of rejected options, and procedural safeguards information).
2. Within 60 calendar days of the date of this report, USD #259 shall submit an outline of the training curriculum, including training materials related to responding to parent meeting requests, and a list of all staff who completed the training to Special Education and Title Services (SETS).
3. Within 15 calendar days of the date of this report, USD #259 shall immediately issue a PWN to the Complainant. This PWN must reflect the LEA's decision at the time to refuse or decline the request for a separate meeting concerning the bus incident. The PWN must include all components required by 34 C.F.R. § 300.503 and K.A.R. 91-40-26, including an explanation of why the agency refused the request.

4. Within 15 calendar days of the date of this report, USD #259 shall submit a copy of the retroactively issued PWN to Special Education and Title Services (SETS).

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #259
ON OCTOBER 16, 2025

DATE OF REPORT: NOVEMBER 14, 2025

This report is in response to a complaint filed with our office on behalf of a student, -------- by their guardian, --------. In the remainder of the report, the student will be referred to as "the Student" and the guardian as "the Complainant."

The Complaint is against USD #259, Wichita Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #259.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on October 16, 2025, and the 30-day timeline ended on November 15, 2025.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #259, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provided the specific accommodations, modifications, and supports that must be provided for the Student in accordance with the Individualized Education Program (IEP). K.A.R. 91-40-27(C), K.A.R. 90-40-16(B); CFR 34 § 300.323.

Investigation of Complaint

The Complaint Investigator interviewed the Complainant on October 31, 2025. Social Worker 1 and the Teacher were interviewed on November 3, 2025.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Teacher Information Page, 11/04/24
2. IEP (prior District), 11/04/24
3. Psychological Evaluation, 06/09/25
4. Timeline of Events, 07/22/25-10/15/[25]
5. District Investigation Report, 10/01/25
6. Behavior Intervention Plan (BIP), 11/04/24
7. IEP (current District), 11/04/24
8. Service Log, 08/27/25-10/23/25
9. Service Schedule, 08/18/[25]-10/15/[25]
10. Walk-In Consultation, 08/14/25
11. Screenshot of Outlook Calendar, 08/21/25-08/22/25
12. Notice of Meeting, 10/07/25
13. Special Ed Student Contact Log, 08/13/25-10/16/25
14. SLP [Speech Language Pathologist] Calendar, 2025-26 School Year
15. Service Log and Notes, 08/25/23-10/24/25
16. Counseling Check-in, 08/21/25-10/20/25

Background Information

This investigation involved a third-grade student enrolled at Bryant Opportunity Academy in USD #259. The Student is currently receiving special education or related services as a child with a disability per the IDEA. In July 2025, the Student relocated to a new foster care placement, moving in with the Complainant. In August 2025, the Student enrolled at the School, transferring from another district within the state. The Student's educational placement is a therapeutic day school in a self-contained setting due to behavioral needs. Upon transfer, the School maintained the existing IEP for the Student, and a team meeting to update the IEP was scheduled for October 27, 2025.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant and staff in the LEA.

1. The Student's November 4, 2024 IEP was duplicated from the Previous LEA and formatted for the LEA. The IEP included the following relevant items:
    a. The Student's special education eligibility was "Emotional Disturbance," and the Student attended a "therapeutic day school program for [their] behavior." The

program was "self-contained for all academics and does not have access to [the] general education curriculum." The Previous LEA IEP listed "Speech/Language Impairments" as a secondary disability. (D9, C1)

b. Present Levels included a list of "current accommodations provided."
    i. This included: "small group, heavy adult assistance, close proximity to adults, safety plan, BIP, visuals, frequent breaks, social story, frequent redirection, front load transitions, all grade level text read aloud at least one time before [the Student] reads, extended time to complete assignments, flexible seating (rocking chair, wobble seat, regular chair), and special writing paper with wide, heavy lines. [The Student] works better in a small group environment with few choices, [and] high structure in [the] order and presentation of content."
    ii. It was also noted the Student "currently attends a shortened day school."
    iii. The classroom teacher reported destruction of the classroom, "lashing out physically," classroom evacuations due to the Student's behavior, other students being "scared of [the Student] at times," and the Student's "awareness of others' thoughts and feelings." (D13)
    iv. The Previous LEA IEP indicated the Student was scoring "an average of 80% on [their] point sheets" and their "behavior will escalate when told 'no' [three to four] times a week and last for an average of 20-30 minutes." (C6)
c. Relevant medical information included a diagnosis of Attention-deficit/hyperactivity disorder (ADHD), Disruptive Mood Dysregulation Disorder (DMDD), and Post-Traumatic Stress Disorder (PTSD).
d. Under "Behavioral Needs," it was confirmed the Student's behavior impeded their "learning, that of others, or their ability to access the general education curriculum." (D15)
e. Goals were included for reading, speech, writing, math, and behavior. The behavioral goal was also found in the BIP. (D17-D18)
f. Related Services included special education services in a special day school setting for the entirety of [the Student's] day, speech language services two times per week, counseling services twice per week, and transportation. (D19)
g. Accommodations and Modifications started on November 4, 2024 and duplicated the Previous LEA's IEP. They included:
    i. Read aloud for all assessments and activities anytime an activity contains reading material above kindergarten level, and in all school settings.
    ii. Frequent breaks anytime an activity contains reading material above kindergarten level, in a "designated safe spot," for two minutes.
    iii. Visual schedule, always available, in all school settings, for five seconds between classes. (D20)

h. The Least Restrictive Environment (LRE) section of the IEP indicated the Student attends a therapeutic day school. "While [they are] attending the day school, [they] will not be allowed to participate in any general education curriculum with [their] non-identified peers. As [the Student's] behavior improves, [they] will begin transitioning back to [their] home school." (D22)

2. The Student's November 4, 2024 BIP included the following relevant items:
    a. Target behavior was "noncompliance." The operational definitions of the target behavior included "noncompliance/refusals, aggression, elopement, and destruction of property." Examples of the Student's behavior included growling at the adult who was asking for compliance and aggressive behaviors.
    b. Peak Behavior was "physical aggression." Examples of this included screaming, yelling, hitting themself and others, kicking themself and others, biting and pinching themself and others, and destruction of property.
    c. The function and hypothesis of the target behavior were "avoidance of non-preferred tasks or situations."
    d. The expected behavior was following staff directions and demonstrating "appropriate skill/behavior."
    e. It was noted the Student was "moved to half-days" at the Previous LEA on September 18, 2024.
    f. The behavioral goal was "By the next annual IEP review, in an individual and/or small group setting, student will learn/utilize self regulation strategies to handle stressful situations (such as becoming upset, frustrated or angry 90% of the time in 30 minute interval tracked with behavior logs." The service provider for this goal was a social worker and the "score" for the goal noted, "Per [the Previous LEA] walk-in IEP, [the] Student currently has been handling stressful situations 85% of the time as tracked by [their] behavior logs."
    g. "Antecedent-Based Interventions" strategies/supports listed were: "parent contact, avoid power struggles, providing clear directions, avoid physical contact, reviewing rules, expectations, and reminders and/or prompts, frequent breaks, and structured environment." Each of these strategies/supports included the following as a "step-by-step instruction to implement": "Per [the Previous LEA] walk-in IEP, [the Student] will be taught strategies that will help [them] comply with a request with no aggressive behaviors within 2-3 prompts in a small group social work and one-on-one social work."
    h. Instruction and Strategy to teach replacement behaviors were:
        i. "Provide reminders/prompts/cues to use preferred calming strategies. … If [the Student] is able to use appropriate calming strategies, staff should attempt to process the emotions/ behaviors with [them] and then reinforce the appropriate choice(s)."

ii. "Provide instruction relating to social-emotional skills and social skills. Successful approximations of this should be reinforced/rewarded appropriately."

iii. Attempt to redirect/refocus the Student if they were beginning to escalate and if staff "notice in time." If the Student was able to be redirected, the same steps as listed above apply.

iv. When the Student was physically aggressive toward peers/staff, the adult response was, "If [the Student] is a danger to [themself] or others, staff will intervene and use methods to keep student(s) safe, such as evacuation and/or Emergency Safety Interventions (ESI)."

v. When the Student attempted to elope, "staff should follow [them] calmly and radio for support."

vi. When the Student was "growling, swiping objects, throwing [their] glasses and refusing to complete tasks," they will be "given space and time to settle down."

vii. "When [the Student] is becoming physically aggressive with staff or peers," staff should "call for a code red" to get assistance with de-escalation. (D4-D6)

i. Monitoring included daily data being collected (with no method listed) and then "analyzed by the Team" monthly, with progress on the goal reported to "parents" quarterly. (D7) Progress Monitoring on the Previous LEA IEP noted "charting/graphing" and "behavior tracking sheet/report" as methods that would be completed weekly. (C15)

3. In the Student's June 9, 2025 Psychological Evaluation, the Clinical Impression and Test Interpretation indicated "Reports of current suicidal ideation or intentions were denied. Homicidal ideas or intentions were denied. Insight and judgment appeared lacking due to [the Student's] young age. No signs of delusions, hallucinations, or other psychotic processes were apparent." (C63) Recommendations included the need for teaching the Student appropriate behaviors and a "highly structured environment with clearly defined rules, expectations, and daily routines." (C69)
4. An August 14, 2025 Walk-in Consultation form documented the Student would receive "comparable special education services from the previous district." The Family Advocate was listed as the person contacted for this consultation, by phone, on August 13, 2025. (D62)
5. An August 21, 2025 entry on the School Counselor's calendar noted a 30-minute "bullying prevention lesson" taught in the Student's classroom. An August 22, 2025 entry on the same calendar indicated the School Counselor was "sitting in [the Teacher's] class for [the Student]" from 8:30 to 9:30 a.m. (D64)
6. The School Counselor recorded service with the Student on the following days:
    a. August 21 and September 19, 2025 for "Check-in."

b. August 27 and 29, 2025 for "IEP Counse … [remaining letters and words cut from page]."

c. September 30, 2025 at 12:00 p.m. and 1:00 p.m., and October 20, 2025 for "Safety." (D85-D86)

7. A timeline titled with the Student's name, authored by the Complainant, included the following relevant items:

a. August 18, 2025, the Student started attending the School, and "about two weeks after" the Complainant received a phone call "informing me that [the Student] was having good behavior … and will be moving to a Tier 2 classroom." (C72)

b. September 26, 2025, the Complainant learned the Foster Case Manager had not received any calls or email communication from the School. The Complainant shared their last contact was two weeks after the Student started school, and also had not heard anything since. (C72)

c. September 29, 2025, the Complainant received a call from the Foster Home Worker. The Complainant noted the Foster Home Worker told them "someone from [the School] called [them] and said that [the Student] was having suicidal ideations and needs an acute screen." They added the School was not going to call the Complainant because they "have history and they feared retaliation because [the Complainant has] an open lawsuit [against them]." The Complainant was informed by the Foster Home Worker that, according to the School, the Student was not receiving necessary mental health services because of the Complainant. (C72)

d. October 1, 2025, the Complainant received a call from the Department of Children and Families (DCF) Investigator "mirroring" what the Foster Home Worker reported and "stated the report [of the Student's suicidal ideations] was made on September 22, [2025]." The Complainant contacted the LEA, informing them they were not contacted when the Student was having a "mental health crisis." (C72)

e. On October 6, 2025, a meeting with the Complainant, the Director of the agency, the Foster Case Manager, the Foster Home Worker, a health insurance representative, and a DCF liaison was held at the Foster Care Agency. The Complainant stated the Foster Case Manager "confirmed" they had not heard from the School until October 1, 2025 and a social worker "was saying [the Student] was having suicidal ideations." (C73)

f. October 15, 2025, the Complainant and the Foster Home Worker attended a meeting at the School and noted the Teacher referenced "daily behavioral sheets" that the Complainant had never seen. "I asked about [the Student] having suicidal ideations. [The Teacher] said [the Student] often has suicidal ideations. I asked [the Teacher] why [I haven't been] notified of [the] suicidal ideations, [and the Teacher] said [they do] not know, [they] escalate those things to the social workers." The Complainant asked for dates and incident

reports of these occurrences and what the School's protocol was. The School explained the protocol, and the Complainant asked who the School had called "because I have not received a phone call or email and [the Foster Case Manager] has not received anything." The Complainant requested documentation of these incidents and the School "did not find any incidents or documentation of suicidal ideations on [September 22, 2025] or any other date." The School told the Complainant the "protocol was to call [the Foster Care Manager] and notify DCF, not to notify [the Complainant]." (C74-C75)

8. A special education student contact log documented six contacts to the Family Advocate and two contacts to the Complainant, from the LEA, between August 13, 2025 through October 16, 2025. Relevant contacts included:
    a. August 13, 2025, Social Worker 1 contacted the Family Advocate by phone and notified them of IEP services that would be provided.
    b. August 14, 2025, Social Worker 1 contacted the Family Advocate by phone, and they discussed issues with an electronic form and the electronic parent system. The same day, they mailed the Family Advocate a letter with "Parent Rights" and "Walk-in Consultation letter" included.
    c. October 6, 2025, the LEA called the Family Advocate and left a message regarding setting up the annual IEP and "discussing LRE for [the Student]."
    d. October 7, 2025, the LEA called the Complainant after they "received an email from KSDE that [the Complainant] had concerns regarding the mental health of [their] foster child/children." They had a conversation about falsely filed claims, and they told the Complainant they would "let the Special Education Directors know." (D70)
9. A handwritten service log for Speech Language services indicated the Student had 20 minutes of service every Wednesday and Friday from August 20, 2025 through October 10, 2025, excluding September 10, September 19, and October 8, 2025 (three days). Two "make-up" sessions for October 8 and September 10, 2025 were noted as "20 min[utes] make-up" on October 23 and 24, 2025. (D71)
10. A service log from August 28, 2025 through October 24, 2025 documented "Individual Treatment" and "Counseling and/or Risk Factor Reduction" by three different providers. The number of minutes documented in sessions was as follows:
    a. Thirteen sessions for 20 minutes;
    b. Thirteen sessions for 30 minutes, with one outside the complaint date range;
    c. Two sessions for 35 minutes; and
    d. Two sessions for 40 minutes, both outside the complaint date range. (D58, D73-D83)
11. A document listing a summary of services included the following information:
    a. The weeks of August 18, 25, September 3, 22, 29, and October 13, 2025 (six weeks total) included two speech sessions and two counseling and/or social work sessions.

b. The weeks of September 8, 15, and October 6, 2025 (three weeks total) included one speech session and two counseling and/or social work sessions.
c. For the three missed speech sessions, two make-up sessions were provided on October 23 and October 24, 2025. (D59)

12. In an October 1, 2025 response letter to the Complainant regarding another investigation, the LEA stated, "[LEA] staff related that you requested the school exclude you from the contact chain in the event of a suicide crisis. It is important that you understand that when a student makes suicidal statements or shows risk of self-harm, the school is obligated to follow established safety protocols. This includes contacting a parent, guardian, or foster parent to ensure the student's safety and supervision before they leave school. The school cannot omit you from this process because doing so would conflict with its duty to protect the student. Kansas foster care policy also supports this expectation. The DCF Placement Standards Manual provides that 'family foster parents shall … communicate with the school regarding the student's academic progress and develop plans to address issues related to school performance.'" (C78)
13. An October 7, 2025 Notice of Meeting proposed a meeting on October 27, 2025 to discuss possible changes in the Student's IEP and an annual review of the IEP. The notice was unsigned, and a box was checked next to the statement "a copy of parent rights is provided." (D65-D66)
14. On October 7 and 15, 2025, a "BIP Fidelity Check" for the Student was logged by Social Worker 2, each lasting 20 minutes in the classroom with the Teacher. (D90-D92)

Complainant Interview

15. In an interview with the Complaint Investigator, the Complainant explained the Student's complex guardianship. The Student lived with the Complainant as their foster parent. According to the Complainant, the Foster Care Agency was the Student's legal guardian and the Foster Care Agency assigned the Case Manager to supervise the Student's care, including mental health services. The State assigned an Education Advocate to the Student, and the Education Advocate had educational decision-making rights. The Complainant stated they had never communicated directly with the Education Advocate. They also shared the Foster Home Worker supervised them as a foster parent. (P1, 01:57; P9, 33:16; P10, 34:08; P10, 34:59; P10, 35:04)
16. The Complainant recalled the Principal contacted them two weeks after the Student began school to say the Student "was doing wonderful." The Complainant stated the phone call with the Principal was the only communication they received from the School. (P2, 03:09)
17. The Complainant confirmed the call with the Foster Care Worker on September 29, 2025. They stated the LEA never contacted them about the Student's suicidal ideations. The Complainant explained that the Case Manager, as designated guardian, had to request in-school mental health services. (P1, 01:57; P2, 04:18; P9, 33:16)
18. The Complainant confirmed they received a phone call from DCF on October 1, 2025 regarding the Student's mental health. According to the Complainant, the DCF agent

reported the Student said "[they weren't] allowed to play with toys, [they] couldn't bring toys home." The DCF agent also informed them of a September 22, 2025 report of suicidal ideation. The Complainant stated they told the DCF agent they were unaware of any suicidal ideations and had not had any communication from the LEA about the Student's mental health. According to the Complainant, the "reports were found unsubstantiated." (P2, 05:07)

19. The Complainant asserted that, according to state foster care policy, they were to be contacted by the LEA in the event of a mental health crisis for the Student. They shared, as a state[-]designated foster parent, "I have a protocol that I have to complete." They stated they had previously confirmed this protocol with the State, due to an incident with a previous placement. (P3, 08:34; P3, 09:20; P4, 12:04)
20. Regarding the meeting on October 6, 2025, the Complainant clarified the meeting took place at the Foster Care Agency and included the Complainant, the Director of the agency, the Case Manager, the Foster Home Worker, a health insurance representative, and a DCF liaison. The Complainant stated no representative from the LEA was present. They expressed the purpose of the meeting was to "come up with a solution [for] why the school [was] not contacting me regarding [the Student's] behaviors … [and] … suicidal ideation." The Complainant perceived the meeting attendees were "confused" as to why the LEA was not communicating with the Complainant. According to the Complainant, the Case Manager was to refer the Student to the in-school mental health provider, and contact the Educational Advocate to schedule an IEP meeting. (P3, 10:19; P4, 11:12; P8, 30:11; P9, 31:43)
21. The Complainant reported the Case Worker had no direct contact with the LEA until they went in person on October 1, 2025. (P3, 10:19)
22. The Complainant stated an intake meeting for the Student's in-school mental health services was scheduled for October 13, 2025. They requested but never received the meeting link, and did not participate in the meeting. (P4, 16:22)
23. During a parent conference on October 15, 2025, the Complainant recalled being shown the Student's classwork journals with only a few pages completed. They shared the Teacher informed them the Student "doesn't like to do any work." The Complainant said the Teacher mentioned the Student "wins prizes in class and [was] scared to bring [them] home because [the Complainant would] throw [them] away." Therefore, the Teacher allowed the Student to spend class time playing with the toys. The Complainant clarified to the Teacher the Student had never brought any toys home from school and they had never thrown any of the Student's toys away. (P4, 16:22; P5, 17:23; P18:22)

    During the same meeting, the Complainant recalled the Teacher referencing daily behavior sheets for the Student. When the Complainant asked to see the sheets, they noticed the Student "has lots of behaviors." They inquired why they had not been notified. According to the Complainant, the Teacher responded, "it's nothing that I would notify a parent of because I can handle it." (P5, 18:22; P5, 19:29)

Subsequently, the Complainant recalled asking the Teacher about the Student's suicidal ideation, and specifically the September 22, 2025 incident. According to the Complainant, the Teacher said, "yes, sometimes [the Student] does have suicidal ideation." However, the Teacher was unable to find any notes or incident reports for September 22, 2025. The Teacher explained to the Complainant they pass on any "code white" incidents to the school social workers. During the meeting, the Teacher reached out to Social Worker 3, who was also unable to find any data for September 22, 2025. (P5, 19:29; P5, 20:39) The Complainant asserted they had never received any behavior data, notification of behaviors, or incident reports. (P5, 18:22)

24. Social Worker 3 informed the Complainant about an incident on October 4, 2025 where the Student "was refusing to get on the bus and ... was scared to go home." After a conversation with the Student, Social Worker 3 was able to get them on the bus. Social Worker 3 shared with the Complainant "their protocol ... [was] when a child says they're afraid to go home, ... they can't notify the parent." Social Worker 3 reportedly informed the Complainant that they had attempted to contact the Foster Care Agency on October 4, 2025, but were unsuccessful in speaking with anyone. The Complainant recounted that was the only incident report Social Worker 3 was able to locate. (P6, 21:45; P6, 22:43)
25. The Complainant shared they believed daily behavioral charts were to be sent home. They indicated the IEP required "progress monitoring ... to be ... reported weekly ..." and behavior data should be included in quarterly progress reports. According to the Complainant, the LEA had not fulfilled these requirements and they reiterated they had never received any behavior tracking data. (P11, 36:23, P12: 41:02; P12, 42:17)

Social Worker 1 Interview

26. In an interview with the Complaint Investigator, Social Worker 1 described the "typical protocol" when a student has suicidal ideations. They called it a "code white" and explained when the term was called over their walkie-talkies, a staff member would speak to the student experiencing a mental health challenge. Social Worker 1 said after assessing the situation, a call would be made to a guardian to get permission to "complete the [suicide severity rating scale] SSRS ." They indicated the call "happens pretty early on." According to Social Worker 1, once the "SSRS" was completed, a student would either be picked up for further treatment or stay at school, and then be monitored at home. (P3, 04:36; P3, 05:20)
27. Social Worker 1 believed the "code white" incident with the Student was initiated when they expressed suicidal ideation and fear of returning home. However, Social Worker 1 confirmed they were not present for the incident. They stated the protocol was to avoid contacting the parent if there were safety concerns at home, which is why they believed the foster agency, as the Student's legal guardian, was contacted instead. (P3, 05:47; P4, 07:41; P4, 08:57)

28. Social Worker 1 stated they did not "complete" any "code whites" for the Student. They indicated the process was completed by the School Counselor. (P2, 03:51)
29. Social Worker 1 stated their only communication with the Complainant was during parent-teacher conferences and the Student's annual IEP meeting. They shared they "have not had anything come up … in [the Student's] counseling sessions … where I felt I needed to notify [the Complainant] of anything." (P3, 06:02; P4, 06:47; P4, 08:27)
30. Social Worker 1 indicated BIP fidelity checks were performed by qualified behavioral interventionists at least once per quarter per classroom. They stated they did not perform the fidelity checks. (P1, 01:16, P1, 01:40)
31. Social Worker 1 stated they believed daily behavioral logs were completed every 30 minutes by either a teacher or paraprofessional. They reported the logs were both hard paper copies and entered into a computer. Social Worker 1 indicated the data from the logs was used for progress reports and IEP reviews. They stated the logs were shared with parents "if it is requested … ." (P1, 01:48; P2, 02:33; P2, 02:49; P2, 03:10)

Teacher Interview

32. In an interview with the Complaint Investigator, the Teacher stated they had no knowledge of the Student expressing suicidal ideation. (P2, 03:15; P2, 03:27)
33. The Teacher stated they had followed the accommodations listed in the Student's IEP. They indicated BIP fidelity checks had occurred in their classroom, however, not specifically for the Student. (P1, 01:21; P1, 01:58; P2, 03:49)

Written Follow-up

34. In a written response to the Complaint Investigator, the LEA clarified there was no SSRS completed for the Student on or around September 22, 2025. (D105)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, provided the specific accommodations, modifications, and supports that must be provided for the Student in accordance with the IEP. K.A.R. 91-40-27(C), K.A.R. 91-40-26, K.A.R. 90-40-16(B); CFR 34 § 300.323.

Rule: According to K.A.R 91-40-27(c), unless a judicial order specifies to the contrary, each agency shall recognize the biological or adoptive parent of an exceptional child who is a minor as the educational decision maker for the child if the parent exerts the parent's rights on behalf of the child, even if one or more other persons meet the definition of parent for the particular child.

According to K.A.R. 90-40-16(b) and CFR 34 § 300.323, each agency shall ensure an IEP is in effect before special education and related services are provided to an exceptional child. Those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless a reasonable justification for a delay can be shown. An IEP must be in effect for each exceptional child at the beginning of each school year. The child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider must be informed of that individual's specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

Complainant Position: The Complainant alleged the LEA failed to provide notification regarding a serious medical concern for the Student.

Respondent/LEA Position: The LEA claimed the required accommodations, modifications, and supports specified in the Student's IEP were delivered, with the sole exception of a noted instance of missed speech time.

Analysis: The LEA generally met the requirements for providing related services as outlined in the Student's IEP. The IEP required both speech-language services and counseling services twice per week. Service logs indicate that speech services were provided with the required frequency, including two make-up sessions planned for three missed dates. Similarly, counseling sessions were documented as meeting the twice-per-week requirement. The Student's placement in a therapeutic day school program, which is self-contained for academics, aligns with the need for a highly structured environment and supports the implementation of instructional accommodations and Antecedent-Based Interventions detailed in BIP.

The IEP required weekly progress monitoring via "charting/graphing" and a "behavior tracking sheet/report," and the BIP required daily data collection. Despite reports that daily behavioral logs were created every 30 minutes, the requirement for reporting progress and contacting the “parent” was not met. The LEA did not provide prior written notice removing these accommodations from the Studen’ts IEP at the time they transferred to the LEA. The LEA failed to provide the Complainant with daily behavioral sheets or any notification of the Student’s behaviors. The Teacher's reported assertion that they would not notify a parent of behaviors they could "handle" directly contradicts the implied need for open communication of critical progress monitoring data, representing a failure to fully implement the IEP's monitoring and reporting requirements for the Student.

The evidence regarding whether the Student reported suicidal ideations at the School is conflicting and lacks definitive documentation. The Complainant was informed by the Foster Home Worker that someone from the School called and said the Student was having suicidal

ideations and needed a screening. The DCF Investigator contacted the Complainant a few days later, mirroring this report and stating the report was made on September 22, 2025. The Complainant reported during a meeting with the Teacher, they referenced the Student often has suicidal ideations when asked about the matter.

While Social Worker 1 believed a "code white" incident was initiated when the Student expressed suicidal ideation and fear of returning home, the School was unable to find any incidents or documentation of suicidal ideations on September 22, 2025, or any other date. In the Complainant's provided timeline, they also asserted the School could not locate any documentation. The LEA clarified there was no SSRS completed for the Student on or around September 22, 2025, which further refutes the claim. In their interview, the Teacher stated they had no knowledge of the Student expressing suicidal ideation. This conflicts with the Complainant's recollection of the October 15, 2025 meeting. Additionally, the Student's Psychological Evaluation indicated that reports of current suicidal ideation or intentions were denied.

There is insufficient definitive evidence to confirm the Student reported suicidal ideations at the School. The claims were reported secondhand or are contradicted by direct interview statements and the absence of required school protocol documentation.

Conclusion:

Based on the foregoing, according to IDEA and Kansas special education regulations it is substantiated the LEA failed to provide the specific accommodations, modifications, and supports that must be provided for the Student in accordance with the IEP.

While this is a procedural error, the failure to provide the weekly behavior data impacted the Complainant's ability to meaningfully participate in the Student's education and support the behavioral plan. Without the behavior data or "parent contact," the Complainant was unable to know what behaviors were occurring, how frequently, which strategies were effective, and what needed to be reinforced at home. This lack of critical information made it impossible for the Complainant to partner with the School to implement a cohesive, structured, and consistent intervention plan, thereby precluding meaningful parental participation.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at CFR 34 § 300.323 and K.A.R. 90-40-16(b) specifies the IEP must be in effect for each exceptional child at the beginning of each school year.

In this case, the evidence supports the finding that USD #259 did not provide the Complainant with behavior data or "parent contact," as specified in the IEP. Documentation and Interviews document this.

Based on the foregoing, USD #259 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #259 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the IDEA at CFR 34 § 300.323 and K.A.R. 90-40-16(b) by implementing IEPs for each exceptional child at the beginning of the school year.
2. Within 15 calendar days of the date of this report, USD #259 shall provide the Complainant with the Student's behavior data from the 2025-26 school year. Additionally, a documented plan will be developed in coordination with the Complainant to disseminate the Student's behavior data in regular intervals agreed on by both parties. USD #259 shall provide the KSDE with this documented plan as evidence of compliance with the corrective measures.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 259
Wichita Public Schools 26FC259-003

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on October 16, 2025, by ----- on behalf of her foster child -----. In the remainder of this decision, ----- will be referred to as "the complainant," and ----- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on November 14, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the complainant, the Complaint Report, the school district's notice of appeal, and the complainant's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified one issue:

> Whether USD #259, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provided the specific accommodations,

modifications, and supports that must be provided for the Student in accordance with the Individualized Education Program (IEP).

The investigator found that "The LEA generally met the requirements for providing related services as outlined in the Student's IEP (Report, p. 16)." However, the investigator also found that;

> *"the requirement for reporting progress and contacting the 'parent' was not met. The LEA did not provide prior written notice removing these accommodations from the Student's IEP at the time they transferred to the LEA. The LEA failed to provide the Complainant with daily behavioral sheets or any notification of the Student's behaviors.* Report, p. 17.

Based on this additional finding that the district failed to report progress and failed to provide a Prior Written Notice (PWN) to the complainant, the investigator concluded that, "the LEA failed to provide the specific accommodations, modifications, and supports that must be provided for the Student in accordance with the IEP (Report, p. 18).

In its appeal of this conclusion, the district asserted that the conclusion was erroneous because the complainant was not the student's parent, meaning that the district had no obligation or even the ability to provide personally identifiable information about the student to the complainant. The district stated that this student had an educational advocate during the time period examined in this complaint and that the educational advocate had been fully informed of all relevant information.

In Kansas, an educational advocate serves as the parent of a child if there is no other person that meets the definition of "parent" or "person acting as a parent." An educational advocate is the Kansas equivalent of a "surrogate parent" in federal law (see, 34 C.F.R. 300.519). Additionally, in Kansas a foster parent cannot be a "person acting as a parent" unless the foster parent has been appointed as a student's educational advocate (KSA 72-3404(m)(6).

The Appeal Committee has confirmed that at all times covered by the allegations in this complaint, the student had an education advocate but the complainant was not the student's education advocate. Accordingly, any communication between the district and the parent required by the IEP or any notice required by law did not apply to the complainant.

In her response to this appeal, the complainant asserts that: "DCF foster care placement standards require schools to notify foster parents of behavioral incidents, safety issues, and mental health concerns including suicidal ideation regardless of educational rights status." This may be a correct interpretation of the DCF Placement Standards Manual, but it cannot be considered by the Appeal Committee because the special education complaint process (which includes both the initial investigation and this appeal) is restricted to only the requirements of special education laws and regulations.

Because the complainant had no parental rights under either state or federal law with regard to this student's special education program, the school district had no obligations to the complainant

under these laws. As such, the district was incapable of violating any special education duty owed to parents of a child with a disability with regard to its interactions with the complainant. Any conclusion otherwise in the report is reversed.

In its inquiry as to the status of the complainant's rights with regard to this student, the Appeal Committee was advised that the student did have an education advocate, that was not the complainant. However, the complainant has now completed the necessary education advocate training and, as of November 19, 2025, is assigned as the education advocate of the student who is the subject of this complaint. As such, the complainant does now have all of the rights of a parent with regard to the special education program of this student.

The appeal committee has not ruled favorably to the complainant in this appeal but wishes to express gratitude to the complainant for being willing to do the necessary work to qualify for and to serve as an education advocate for this student in special education matters. Kansas needs such willing volunteers to do this important work.

Issue

Conclusion

For the reasons stated herein, the conclusion of a violation of law set forth in the Complaint Report is reversed and all corrective action is rescinded.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 8th day of December, 2025.

Appeal Committee

Mark Ward

Brian Dempsey

Hannah Miller

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 259
Wichita Public Schools: 26FC259-002

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on October 10, 2025, by ----- (the student's education advocate) on behalf of -----, the student. In the remainder of this decision----- will be referred to as "the complainant," and ----- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on November 9, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the district filed an appeal of the Complaint Report. An appeal committee was appointed and it reviewed the original complaint filed by the complainant, the Complaint Report, the districts' notice of appeal, and the complainant's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified two issues. The report concluded that there was no violation of law with regard to Issue 1, but there was a violation with regard to Issue 2. The district appeals the conclusion in the complaint report with regard to Issue 2:

Issue Two

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, responded to the Complainant's request for a meeting by either holding a meeting or notifying the Parent of their decision not to hold a meeting. K.A.R. 91-40-26, K.A.R. 91-40-17; C.F.R. 34 § 300.501, C.F.R. 34 § 300.503, C.F.R. 34 § 300.612 (a).

In this issue, the Complainant alleged that the LEA did not hold a meeting after the Complainant requested one and the LEA did not send a Prior Written Notice or any other documentation denying the request for a meeting (Report, p. 26).

The pertinent facts are:

- The complainant is the Education Advocate for the student and a foster parent of the student;
- There is another foster parent of the student, who is not the Education Advocate of the student, who, on March 31, 2025, requested a meeting to discuss the January 29, 2025 bus incident and the LEA's pick-up policy (Report p. 26).

The investigator found that:

> *The LEA upon receiving the confirmed request by the Foster Parent, to include the Complainant, who holds educational rights, in the meeting regarding the Student's safety, supervision, and policy. The LEA was procedurally obligated to either convene the meeting or provide a PWN formally refusing the request and explaining why. The Complainant stated that a meeting specifically to discuss the bus incident and pick-up policy never occurred. Although the annual IEP review was held on April 25, 2025, the opportunity to discuss the incident as intended by the Complainant was reportedly lost. No documentation, such as a PWN, was provided by the LEA to the Complainant to document a refusal to hold the requested meeting. The failure to provide the mandated response, holding the meeting or issuing a formal refusal, constitutes a procedural violation. Report, p 26-27.*

Based on these findings, the report concluded that a procedural violation occurred because the district failed to "formally provide the mandated procedural response, holding the meeting, or issuing a formal refusal." Report, p. 27.

In its appeal, the district asserts that the conclusion is error because:

> *The duty imposed by the IDEA to respond to a request for a meeting is one that the District owes to the parent or parents of an exceptional child (see KAR 91-40-26(a)). A request made by a foster parent – who does not have the educational rights of a parent - does not trigger that duty. See K.S.A. 72-3404(m). But the Complaint Investigator appears to have reasoned that because the Foster Parent had requested that the Complainant be included in the meeting, that was sufficient*

to trigger the District's duty to either convene the meeting or provide a prior written notice refusing the request.

The district further asserted:

The Complaint Investigator appears to have treated the Foster Parent as a proxy or delegee of the Education Advocate, with the authority to make requests on behalf of and otherwise exercise rights of the Education Advocate. Kansas law is clear, however, that this is not permitted. A foster parent of an exceptional child is a "parent" under Kansas law only if the foster parent is also the child's education advocate. K.S.A. 72-3404(m)(6), One becomes an education advocate exclusively through appointment to that role by the state board of education. K.S.A. 38-2218. Stated differently, a foster parent does not become an education advocate or acquire rights equivalent to those of an education advocate through the assignment or delegation, nor are those rights transferred or shared through matrimony.

The Appeal Committee agrees with the district's interpretation of law. Most compelling is the very definition of the term "parent" in the Kansas statute. K.S.A. 72-3404(m) defines the term "parent" to mean: "(1) A natural parent; (2) an adoptive parent; (3) a person acting as parent; (4) a legal guardian; (5) an education advocate; or (6) a foster parent, if the foster parent has been appointed the education advocate of an exceptional child (Emphasis added).

This definition contains a qualifier that applies to all foster parents. A foster parent who is not the education advocate of a child with a disability cannot, by statute, act as a parent or assert or exercise any right of a parent pursuant to the laws and regulations regarding special education. Accordingly, the school district had no legal obligation to respond to this request of a foster parent who is not the education advocate of the student with a Prior Written Notice, or by any other method.

In her response to this appeal, the complainant said:

*Thank you for the opportunity to respond to the appeal filed by USD259 in regards to complaint number 26FC259-002. The obligation for USD259 to hold the meeting or issue a formal refusal was met on April 9, 2025, when the building principal **acknowledged** and **responded** through email to both of our email addresses confirming if "**we**" which included myself, would still like to hold a meeting. My husband responded, "Yes please set a meeting up for me and Jenna to attend." Thank you for your time in the matter.*

The Appeal committee understands the logic behind this response, but it does not change the outcome of this complaint. in this response the complainant acknowledges that it was her husband that responded, not her. The district's obligation to respond is owed only to requests made by the education advocate.

The conclusion in the Complaint Report is reversed and corrective action is rescinded.

Conclusion

For the reasons stated herein, the Complaint Report is reversed on this issue. No corrective action is required and this complaint is closed.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 15th day of December, 2025.

Appeal Committee

Crista Grimwood

Brian Dempsey

Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #417
ON OCTOBER 17, 2025

DATE OF REPORT: NOVEMBER 12, 2025

This report is in response to a complaint filed with our office on behalf of a student, --------, by their parent, --------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #417, Council Grove Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #417.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on October 17, 2025, and the 30-day timeline ended on November 16, 2025.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #417, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), properly notified the Parent of the October 6, 2025 IEP meeting, and afforded them an opportunity to participate. K.A.R. 91-40-17(a)(b)(1)(c)(e); 34 C.F.R. § 300.322 (a)(b)(1)(c-d).

Investigation of Complaint

The Complaint Investigator interviewed the Parent by video conference on November 3, 2025. The following LEA staff were interviewed on November 7, 2025: the Special Education Coordinator and the Special Education Teacher.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

District Materials

1. Notice of Special Education Meeting, 03/25/25
2. Individualized Education Plan (IEP), 04/08/25
3. Prior Written Notice (PWN) for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 04/08/25
4. Notice of Special Education Meeting, 10/06/25 Evaluation/Eligibility Team Report - Reevaluation, 10/06/25
5. IEP, 10/06/25
6. [The Complainant] Incident, 05/20/25
7. Direct Messages, 08/22[25]-10/07/[25]
8. Emails, 03/25/25-10/23/25

Parent Materials

9. Emails, 10/07/25-10/14/25

Background Information

This investigation involved a seventh-grade student enrolled at a school in the LEA. The Student is currently receiving special education or related services.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. On a Notice of Special Education Meeting dated March 25, 2025, the Parent and the Other Parent were listed as legal educational decision-makers (LEDMs) for the Student. (D3)
2. An undated PWN regarding a meeting on April 8, 2025 stated, "Both state and federal laws concerning the education of children with exceptionalities include many [LEDM] rights. Receiving notices of action the school wants to take in regard to this student and being a part of this student's educational planning team are examples of the rights these laws give you." (D34)
3. Incident Notes dated May 20, 2025 indicated the Parent was "verbally aggressive" with School staff and was trespassed from the building as a result. (D85)
4. Notes of direct messages between the Other Parent and the Special Education Teacher indicated:

a. On August 22, [2025], the Special Education Teacher was scheduling a meeting to review the Student's upcoming re-evaluation results and asked if the Parent would attend the meeting in person or virtually.
b. The Other Parent suggested October 6, [2025] and stated the Parent would not be "attending any meetings at this time."
c. The Special Education Teacher asked if they had to provide documents to the Parent or if there was a court order stating the Parent could not attend the meeting. They said, "I just want to [make] sure we do things correctly so [the Parent] doesn't have a reason to file a grievance."
d. The Other Parent replied, "All I know is [the Parent] cand [sic] be on [LEA] property as of May 2025. [The children] are placed in my custody and can't see [the Parent] until set up at the visitation center … I'll have to get clarification from their case worker on this."
e. The Special Education Teacher stated they would check with the Special Education Coordinator about the situation. (D91)

5. Additional notes of direct messages between the Other Parent and the Special Education Teacher indicated:
   a. On September 24, 2025, the Special Education Teacher asked the Other Parent if they had to let the Parent know about the Student's IEP meeting on October 6, 2025.
   b. The Other Parent replied the next day and stated the Parent was not able to be around the Student and their sibling and had not been involved with any plans pertaining to the Student since May [2025]. They reiterated the Parent could not be on LEA property and only had supervised visitation with the Student. They said, "So I would say no, [if] I need to get something in writing[,] I will from the Department for Children and Families (DCF) worker on that case."
   c. The Special Education Teacher replied that was enough, and they did not want to "not invite [the Parent] and [they will] be upset about it." (D92-D93)
6. On a Notice of Special Education Meeting dated October 6, 2025, the Other Parent was the only LEDM listed. The notice was in regard to possible changes to the Student's IEP. The notice said in part, "The results of the evaluation or reevaluation of your child are now available. By law, we must meet with either, or both, of you to review the evaluation results for your child … ." (D37) The Other Parent checked the box that they planned to attend the Student's IEP meeting and signed the document on October 6, 2025. (D39)
7. According to an Evaluation/Eligibility Team Report for re-evaluation, dated October 6, 2025, the Other Parent was present for the eligibility meeting and was part of the team's decision. On the Team Member Participation page, both parents were listed as LEDMs, but only the Other Parent had signed. (D41, D48, D49)
8. Both parents were listed as contacts on the Student's October 6, 2025 IEP, however, only the Other Parent was listed as a participant and provided input under the "Parent Input" section. The Other Parent was the only "Parent/Guardian/LEDM" included on the Meeting Participants page. Only the Other Parent signed the IEP on October 6, 2025. (D51-D54, D69)

9. An undated PWN was sent to the Other Parent, who was denoted as the LEDM, regarding the IEP meeting on October 6, 2025. (D73) The Other Parent selected they gave consent for special education placement and service actions for the Student listed in the PWN, and signed it on October 6, 2025. (D77)
10. The Special Education Teacher emailed the Parent copies of the Student's IEP documents on October 7, 2025. (P4)
11. The Step-Parent emailed the Principal on October 8, 2025. They indicated the Parent still had joint custody of the Student and said, "[The Parent] missed the IEP meeting for [the Student] … which [the Parent] was unaware was occurring, but still would not have been allowed to attend. [The Parent] would have liked the opportunity to have input prior to that meeting … ." (P1) The Principal responded they would discuss the situation with District administration. On October 14, 2025, the Principal replied and stated they would lift the no trespass order to allow the Parent to come onto the School property for their children's education. (P2-P3)
12. On October 21, 2025, the Director of Student Services emailed the Superintendent, the Special Education Coordinator, and the Principal, and stated they had missed inviting both parents to the IEP meeting. (D95)
13. In an email dated October 23, 2025, the Director of Student Services wrote the LEA acknowledged a procedural error and said, "The LEA failed to invite both legal educational decision-makers to the October 6, 2025 re-evaluation and annual review meeting." They indicated the LEA offered to hold a new meeting, and the Parent was willing to attend it. (D1)

Parent Interview

14. In an interview with the Complaint Investigator, the Parent and the Step-Parent confirmed they had not received a notice of meeting for the October 6, 2025 IEP meeting prior to the meeting. (P3, 06:16)
15. The Parent stated they received an email after the meeting, which was their first awareness of the meeting. The Step-Parent added the IEP was attached to the email. They stated the IEP listed the Parent as a "legal decision-maker." (P2, 01:49; P11, 30:13; P11, 30:49)
16. The Parent reported the Special Education Coordinator indicated to them the Other Parent had told the Special Education Teacher the Parent's "rights had all been terminated … ." The Step-Parent added they believed the Other Parent verbally relayed this information, as there was no legal document indicating a termination of parental rights. The Parent stated the LEA never contacted them to verify termination of rights and asserted their rights had not changed. (P2, 02:12, P3, 06:49; P5, 12:00; P11, 31:23)
17. The Parent shared they had been trespassed from the LEA during the 2024-25 school year. They reported the LEA made no attempt to set up an alternative method of attendance. The Parent shared the Special Education Coordinator informed them alternative methods were possible after the meeting had already occurred. (P4, 10:36; P10, 29:22; P11, 29:42)

18. Regarding parental notification, the Parent reported the Principal told them "[I]t's not [the LEA's] responsibility to figure out who has custody … ." The Step-Parent asserted, "[W]e've had to supply the custody arrangements to the school almost every year just so [the Parent] can have access to things." (P5, 12:00; P5, 13:35)
19. The Parent acknowledged the Other Parent had temporary full physical custody of the Student due to an issue involving the Student and law enforcement during the 2024-25 school year. (P4, 07:09; P12, 31:59)

Special Education Coordinator Interview

20. In an interview with the Complaint Investigator, the Special Education Coordinator stated they did not know the Parent was not invited to the October 6, 2025 IEP meeting. They shared "… in my understanding, … both parents had been invited … ." They recalled "I just assumed that [the Parent] couldn't come … ." (P1, 01:06; P3, 04:24)
21. The Special Education Coordinator confirmed the IEP and meeting notes were emailed to the Parent after the meeting. They were not aware of any notification occurring prior to the meeting. (P2, 03:00; P3, 06:37)
22. The Special Education Coordinator reported they were unaware of any trespass orders for the Parent, as it was unrelated to special education. They expressed if they had been aware, "I would've gone back and made sure." They shared they were also unaware of any legal change in the Parent's educational rights. They stated both the Parent and the Other Parent were listed on the IEP as legal decision-makers. (P1, 01:54; P1, 02:28; P2, 03:37; P4, 08:26)
23. The Special Education Coordinator reported the Special Education Teacher notified them of the trespass order and shared a conversation with the Other Parent, indicating the Parent's educational rights were "blurry" after the meeting had already occurred. (P1, 02:28; P3, 04:24)
24. The Special Education Coordinator indicated their first knowledge the Parent had not been invited to the October 6, 2025 meeting was when they received the complaint. They asserted they immediately contacted the Parent and set up a new meeting for them. That IEP meeting occurred on November 6, 2025. The Special Education Coordinator confirmed the Other Parent was also invited and declined to attend. (P3, 05:44; P5, 09:26)

Special Education Teacher Interview

25. In an interview with the Complaint Investigator, the Special Education Teacher stated they asked the Other Parent if the Parent would be attending the October 6, 2025 IEP meeting "in person or virtually?" They reported the Other Parent answered "[the Parent] would not be attending the meeting at all." The Special Education Teacher also reported the Other Parent informed them of the trespass order and indicated the Parent was no longer involved with decision-making for the Student. When asked who they believed to be the Student's legal decision-maker, the Special Education Teacher stated, "It's my understanding that [the Other Parent] was." (P1, 01:16; P3, 07:56)

26. The Special Education Teacher stated they had not seen the trespass order against the Parent or any paperwork terminating educational rights for the Parent. They expressed, "I was going off what [the Other Parent] was telling me." The Special Education Teacher reported "My understanding was … [the Parent] didn't have rights to be at the meeting or on school grounds … ." (P1, 03:03; P2, 03:41; P2, 04:02)
27. The Special Education Teacher confirmed a notice was not sent to the Parent prior to the October 6, 2025 IEP meeting. They also confirmed an email with the IEP and meeting notes was sent to the Parent after the meeting. (P2, 04:27; P3, 06:36)
28. The Special Education Teacher stated they primarily communicated with the Other Parent, and had only emailed the Parent in regards to the November 6, 2025 IEP meeting. (P3, 07:06; P3, 08:20)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #417, in accordance with state and federal regulations implementing the IDEA, properly notified the Parent of the October 6, 2025 IEP meeting, and afforded them an opportunity to participate. K.A.R. 91-40-17(a)(b)(1)(c)(e); 34 C.F.R. § 300.322 (a)(b)(1)(c-d).

According to K.A.R. 91-40-17(a)(b)(1)(c)(e), agencies are required to ensure that one or both parents of an exceptional child are present at each IEP team meeting or are given the opportunity to participate. This involves scheduling meetings at a mutually agreed-upon time and place, and informing parents of the required information. Written notice of any IEP team meeting, conforming to specific regulations, must be provided to parents at least 10 days in advance of the meeting, unless otherwise specified. This notice must clearly state the purpose, time, and location of the IEP team meeting, as well as the titles or positions of the individuals from the agency who will attend. If a parent cannot be physically present, the agency must attempt other measures to ensure their participation, such as individual or conference telephone calls. An agency may proceed with an IEP team meeting without parental participation if, despite repeated attempts, they have been unable to contact the parent or parents or convince them to participate.

The Parent alleged they did not receive notification of an October 6, 2025 IEP meeting for the Student, and was not given an opportunity to participate. The Parent claimed they received notification about the meeting after it had occurred.

In response, the LEA acknowledged its procedural error in failing to invite both LEDMs to the October 6, 2025, re-evaluation and annual review meeting. In an attempt to correct the situation, the LEA contacted the Parent on October 21, 2025, to apologize for the mistake and offer to hold a new meeting.

The Parent was documented as an LEDM on several district records. K.A.R. 91-40-17(b)(1) mandates that written notice must be provided to parents at least 10 days in advance of a meeting. However, the evidence confirmed the LEA failed to send any prior written notice to the Parent. Both the Parent and the Special Education Teacher confirmed that the Parent's first notification regarding the meeting was an email containing the IEP documents after the meeting had already occurred on October 7, 2025, a day late. However, it is noted the LEA identified its own procedural error and took swift remedial action by scheduling and conducting a new IEP meeting with the Parent on November 6, 2025, which the Parent attended.

The LEA also failed to fulfill its independent duty to verify educational rights. The Special Education Teacher, despite initial concerns about following correct procedure, relied solely on the Other Parent's statements that the Parent would not attend, was no longer involved in decision-making, and had a no-trespass order from the LEA. The Special Education Teacher admitted they had not seen any paperwork verifying the termination of the Parent's educational rights or limiting their participation. The Parent asserted that their educational rights had not changed. Federal and state regulations require the opportunity to participate to be afforded to all legal parents; the "one or both" language means the meeting can proceed if the LEA has made documented attempts to secure the participation of all legal parents. The LEA's failure to verify the legal status of the Parent's rights, coupled with the lack of direct notification, constitutes a breach of its duty to the Parent as an LEDM.

Furthermore, the LEA failed to ensure the Parent was afforded the opportunity to participate, even while aware of the Parent's in-person access restriction due to the May 20, 2025, trespass order. K.A.R. 91-40-17(e) requires the agency to attempt alternative measures for participation, such as telephone or conference calls, if a parent cannot attend in person. Despite the Special Education Teacher initially considering a virtual option, the LEA did not attempt to contact the Parent directly to arrange a virtual or telephonic means of attendance after the Other Parent stated the Parent would not be attending. This omission denied the Parent an opportunity to provide input prior to the IEP and eligibility decisions. The Director of Student Services acknowledged this procedural error, confirming the LEA "failed to invite both legal educational decision-makers to the October 6, 2025 re-evaluation and annual review meeting."

Based on the foregoing, according to IDEA and Kansas special education regulations, it is substantiated that the LEA failed to provide the Parent, a recognized LEDM, with advanced written notice of the October 6, 2025 IEP meeting and failed to ensure an adequate opportunity for them to participate.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at 34 C.F.R. § 300.322(a) and state regulation at K.A.R. 91-40-17(a)(b)(1)(c)(e) stipulate that each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate, and that parents are provided with written notice of any IEP team meeting at least 10 days in advance.

In this case, the evidence supports the finding that USD #417 failed to notify the Parent, a recognized LEDM, of the October 6, 2025, IEP meeting and failed to offer an alternative means for the Parent to participate. Documentation, the Parent interview, the Special Education Teacher interview, and the LEA's internal email all document this noncompliance. It is noted that the LEA took corrective action on its own initiative by holding a make-up IEP meeting with the Parent on November 6, 2025.

Based on the foregoing, USD #417 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #417 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the IDEA at 34 C.F.R. § 300.322(a) and K.A.R. 91-40-17(a)(b)(1)(c)(e) by ensuring all parents/LEDMs are properly notified of IEP meetings in advance and afforded a genuine opportunity to participate, including offering and arranging alternative participation methods (e.g., telephone or video conference) when in-person attendance is not possible or restricted.
2. Within 15 calendar days of the date of this report, USD #417 shall submit documentation of the Parent's participation in the subsequent IEP meeting held on November 6, 2025, including the following:
    a. A copy of the Notice of Meeting sent to the Parent for the November 6, 2025, meeting.
    b. The signature page of the IEP developed on November 6, 2025, showing the Parent's participation and/or input.
3. By February 1, 2026, USD #417 will complete the following:
    a. Submit a written statement of assurance to SETS that the LEA’s practices and procedures for parent notification of IEP meetings have been reviewed and revised as appropriate to be responsive and compliant with the notification and participation requirements of IDEA and the Kansas Special Education for Exceptional Children Act. This review must specifically address:
        i. The protocol for determining and confirming all legally recognized LEDMs when parents are separated or divorced.
        ii. The protocol for communication when one parent asserts that the other parent's rights have been restricted or terminated (requiring independent verification, not solely reliance on a single parent's statement).

iii. The protocol for ensuring alternative means of participation are offered and arranged when a parent cannot physically attend the meeting (e.g., due to a no-trespass order or distance).

b. Provide training to all Special Education staff (teachers, coordinators, and administrators) on the revised procedures, specifically detailing the requirements for notifying all LEDMs and documenting offers for alternative participation methods.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #456
ON OCTOBER 9, 2025

DATE OF REPORT: NOVEMBER 10, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of --------, by her parent, --------. In the remainder of the report, -------- will be referred to as "the Student." -------- will be referred to as "the Complainant" or "the Parent".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

In this case, the complaint is against Marais des Cygne Valley Public Schools USD #456, which contracts with Three Lakes Educational Cooperative to provide special education and related services to students enrolled in the district. In the remainder of the report, both of these responsible public agencies will be referred to as "the Local Education Agency."

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on October 9, 2025, and the 30-day timeline ends on November 8, 2025, with an extension granted till November 10, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator reviewed all evidence and documentation, which was provided by both the LEA and the Complainant(s). The following documentation and information were used in consideration of the issue(s):

1. The LEA's response dated October 22, 2025
2. Emails zip file, containing 57 email documents dated from October 16, 2024 through October 14, 2025
3. 2024-25 Grade Transcript
4. LEA MS/HS Master Schedule showing Student schedule and special education staffing, 2024-25 and 2025-26 school years

5. FastBridge Screening Results for the 2024-25 and 2025-26 school years
6. The Student's IEP, dated April 19, 2024
7. The Student's comprehensive evaluation report dated April 19, 2024
8. Progress Report on IEP Goals with entries dated October 14, 2024, January 6, 2025 and March 14, 2025
9. Prior Written Notice for material change in services, substantial change in placement and other changes to the IEP, dated March 31, 2025, signed by the Parent giving consent on March 31, 2025
10. The Student's IEP dated March 31, 2025
11. Progress Report on IEP Goals, with entries dated May 15, 2025 and October 10, 2025
12. Power School Assignment Grade Book (Science, ELA, Social Studies, Math)) 2025-26, First Quarter
13. ABC data logs, with entries dated October 3-22, 2025
14. Phone log of communication dated October 9, 2025
15. Progress Report, Grade 7, dated October 15, 2025
16. Prior Written Notice for material change in services, substantial change in placement, and other changes to the IEP, dated October 20, 2025, signed by the Parent giving consent on October 21, 2025
17. IEP Amendment between Annual IEP Meetings dated October 21, 202[5]
18. IEP dated March 31, 2025 as amended on October 21, 2025
19. Homework Checklists dated October 21 and 22, 2025
20. Accommodations, Modifications, Assistive Technology Checklist, dated October 21-22, 2025

Background Information

The Student attends the 7th grade in the LEA, in the second year since transition from elementary school. The Student's most recent comprehensive evaluation dated April 19, 2024, found eligibility in the categories of Specific Learning Disabilities in dyslexia, math, and written language; Other Health Impairment due to ADHD; and Speech Language. The Student's IEP dated April 19, 2024 included a Behavior Intervention Plan along with special education and related services in both special and general education settings. According to the Complainant, the Student's IEP and services worked well during her elementary years but problems began upon entering the middle school during the 2024-25 school year.

Issues Investigated

1. ISSUE ONE: Did the LEA implement the Student's IEP by providing special education services and accommodations in the Student's special education settings?
2. ISSUE TWO: Did the LEA implement the Student's IEP by providing the special education support in general education settings?

3. ISSUE THREE: Did the LEA implement the Student's IEP by providing the required accommodations and modifications in the student's general education science class?
4. ISSUE FOUR: Did the LEA respond to the parent's concerns regarding the Student's behavior, including any behavior that limited the Student's ability to make progress?
5. ISSUE FIVE: Did the LEA measure and report the Student's progress accurately and in accordance with the IEP's requirements?

Issue One

Did the LEA implement the Student's IEP by providing special education services and accommodations in the Student's special education settings?

Applicable Law

Federal regulation at 34 CFR 300.39 defines special education as specially designed instruction at no cost to the parent to meet the unique needs of a child with a disability. Further 34 CFR 300.320(a)(4) requires that the IEP include "a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child: (i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum. . . and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children. " Each special education service is required to be accompanied by the projected date for the beginning of the service and the anticipated frequency, location, and duration of the service. (34 C.F.R. § 300.320(a)(7).)

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Analysis: Findings of Fact

The Parent alleged that the Student was not being provided special education services in the time spent in the resource room. According to the formal complaint, the Student does not complete assignments during the scheduled special education resource room due to a lack of oversight, leading to misuse of study time, incomplete assignments affecting grades, and requiring parental follow up. "[The Student] has two study hall periods, yet instead of being used for academic support or completion of work, [the Student] is often assigned unrelated tasks (e.g., setting up for games, taking out trash, etc.). There is no reason [the Student] should have failing or missing assignments when this time should be used for structured support."

The District responded: "The [LEA] affirm[s} that the student consistently received all special education services and accommodations outlined in [the] IEP within designated special education settings. Services were delivered according to the schedule and specifications in the IEP."

Findings of Fact

During the 12 month period prior to the October 9, 2025 complaint and during the investigation period, three IEP documents were in place: the IEP dated April 19, 2024, the IEP dated March 31, 2025, and an IEP amendment which took place after the complaint was filed on October 21, 2025.

The Student's IEP dated April 19, 2024 included goals in math computation, writing a paragraph using alternatives to handwriting, using self regulation to reduce shutting down or yelling, reading a 5th grade passage and articulation of the R sound. The IEP dated March 31, 2025 included goals in articulating the R sound, math problem solving, using self regulation skills, and completing assignments. The IEP Amendment did not alter the IEP goals, but did alter services, accommodations, and data collection, as noted below.

The IEP dated April 19, 2024, required the following special education services to occur in the special education setting, beginning August 1, 2024, the first year in middle school: speech language for 20 minutes 1 time a week, and math and reading for 100 minutes 5 times a week. The IEP dated March 31, 2025 required the same services in the special education setting, with speech language for 25 minutes 1 time a week and math and reading for 100 minutes 5 times a week. The IEP Amendment dated October 21, 2025 increased the Student's time in special education to 150 minutes, 5 times a week (changing a general education study period to resource room time) and added social work services 20 minutes 1 time a week.

The Student's schedule for the 2024-25 and 2025-26 school year showed a special education setting for two periods (102 minutes) prior to the IEP Amendment of October 21, 2025, which added an additional period of 61 minutes to the special education schedule. The Student was in an additional general education study hall period, which was supported by a paraprofessional, further addressed in Issue Two.

The Student's PowerSchool records for these courses for the 2025-26 year showed 2 failed assignments in Social Studies and Academic Enrichment Math and 2 failed assignments in English and Science.

The Student's FastBridge reports show relatively unchanged scores in the reading and math scores across the time period in question.

Student progress reporting for the special education goals showed that the student did not make adequate progress to meet her goals in math, self regulation, and work completion at the end of her 6th grade year (May 16, 2025). The Student made adequate progress at the October 14, 2024; March 14, 2025; and October 25, 2025 monitoring.

According to an interview, the special education teacher provided math instruction during one of the period in special education. During the second period, the Special Education Teacher retaught needed content and provided support for the Student to complete other assignments in the resource room. Email correspondence further described in Issue Four showed that the Special Education Teacher communicated with the Parent regarding the Student's assignments and work in the resource room.

Conclusion

In this case, the evidence showed that the LEA scheduled the Student's required special education time in special education settings. Student progress was mixed, with a steady grade in the pull out math class, unchanged FastBridge scores, and a failure to meet expectations for one 9 week reporting period at the end of the 6th grade.

In this case, special education time was scheduled appropriately. Interviews and email communication documented that the Special Education Teacher provided the Student's math instruction and addressed the Student's assignments and reteaching during the study period in the resource room. It is noted that limited data were provided to the Investigator to document work completion in the resource room, which is further discussed in Issue Five.

Based on the foregoing, the allegation that the district failed to provide special education services in the special education setting is not substantiated.

Issue Two

Did the LEA implement the Student's IEP by providing the special education support in general education settings?

Applicable Law

Federal regulation at 34 CFR 300.39 defines special education as specially designed instruction at no cost to the parent to meet the unique needs of a child with a disability. Further 34 CFR 300.320(a)(4) requires that the IEP include "a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child: (i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum. . . and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children. "Each special education service is required to be accompanied by the projected date for the beginning of the service and the anticipated frequency, location, and duration of the service. (34 C.F.R. § 300.320(a)(7).)

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Analysis: Findings of Fact

The Parent alleged that the LEA hired only two paraprofessionals for the middle-high school and that the LEA had not provided the instructional services required by the Student's IEP due to a shortage of personnel and paraprofessional absences. "My child often receives little or no support in the classroom, and the accommodations - modifications agreed upon in her IEP are not being provided. Simply having a para present in the room does not replace the special education services required by her IEP, especially when that para is inconsistent and stretched across multiple classes."

The LEA responded: "The District recognizes that consistent paraprofessional and or special education teacher support in the general education setting is essential to meeting the student's needs and providing services as outlined in the IEP. Staffing schedules have been structured to ensure that the student receives direct support in all core content classes in accordance with her IEP." The LEA added that the paraprofessional schedule had been confirmed and that a documentation chart "will be added to document accommodations used, refused, and not needed during each class period."

Findings of Fact

Findings in Issue One are hereby incorporated by reference.

The IEP dated April 19, 2024, required the following special education services to occur in the general education setting: (a) special education instructional support for 200 minutes 5 days a week in social studies, science, ELA or reading. The PWN dated April 19, 2024, stated that the paraprofessional support would be in social studies, science, ELA and one elective. The IEP dated March 31, 2025 required special education instructional support for 150 minutes 5 days a week in social studies, science and ELA.

The paraprofessional schedule for the 2024-25 school year showed that paraprofessionals were scheduled into the Student's social studies, ELA and science courses, for a total of 162 minutes. The paraprofessional schedule for the 2025-26 school year showed that paraprofessionals were scheduled into the Student's social studies, ELA and science courses for a total of 153 minutes.

According to the Special Education Teacher's response to a follow up question, the Student was scheduled into an elective, general education study period which had paraprofessional support for the first semester of the 2024-25 school year for 50 minutes. The schedule was changed at the beginning of the spring semester (January 7, 2025) to allow the student to have

an additional elective based on her first semester progress. The IEP dated March 31, 2025 showed the updated paraprofessional support schedule of 150 minutes, 5 days a week.

Student Progress. The Student's semester grade reports for the 6th grade (2024-25) showed the following core class grades:

	Semester 1 (2024)	Semester 2 (2025
English	A-	B-
Science	B+	C
Social Studies	B-	C-
Academic Enrichment Math	A-	A

The Student's first 9 week grade report for the 7th grade showed: English (B), Social Studies (B), Science (A-), and Academic Enrichment Math (A-).

According to the Principal, a paraprofessional's illness required adjustment of the paraprofessional schedule, during which the para was scheduled for partial time in the student's classroom; during this time, the small class size of 10 students facilitated the general education teacher to provide the student's accommodations and instructional support. In an interview with the LEA, the Special Education Teacher stated that the paraprofessionals were experienced and interacted professionally in the classrooms. The Special Education Teacher reported that he conversed daily with the paraprofessionals to communicate about the Student's performance in general education classes, and that a para suggested and implemented tangible positive reinforcers for the student's work completion and self regulation in general education classes.

Conclusion

In this case, it appears that the paraprofessionals were scheduled into the Student's core academic courses, as required by the IEPs in place. In the 2025-26 school year, the minutes of support totaled 153 rather than 160 minutes of instructional support, which does not detract from full time support in core content courses The Student maintained positive general education performance during the period of time when paraprofessionals were partially scheduled into the Student's core courses. The first 9 week grades in the 2025-26 school year showed two B's and one A- grade in general education classes.

However, during the 2024-25 school year, paraprofessional support totaled 162 minutes during three core academic courses, and paraprofessional support was missing for the 4th elective course, a deficit of 38 minutes, for 11 weeks (49 school days) using the school calendar from January 7, 2025 to March 31, 2025 when the IEP was changed. When the Student's schedule was changed, an IEP amendment and Prior Written Notice was required.

The Student's grades fell by a grade level in each content course during the 2024-25 year. The Student passed with grades of C or above at the end of the 6th grade; however, it is noted that passing grades may be a result of the extra effort made by the Parent to ensure that

assignments were completed at home. The IEP team added 50 minutes of additional resource time with the IEP Amendment dated October 21, 2025, in response to the Parent's concerns, and indicating that special education oversight of Student work was needed.

Based on the foregoing, the allegation that the Student did not receive special education support in the general education setting required by the IEP is substantiated due to lack of special education instruction in general education as required by the IEP.

Issue Three

Did the LEA implement the Student's IEP by providing the required accommodations and modifications in the student's general education science class?

Applicable Law

Federal regulation at 34 CFR 300.39 defines special education as specially designed instruction at no cost to the parent to meet the unique needs of a child with a disability. Further 34 CFR 300.320(a)(4) requires that the IEP include "a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child: (i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum. . . and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children. "Each special education service is required to be accompanied by the projected date for the beginning of the service and the anticipated frequency, location, and duration of the service. (34 C.F.R. § 300.320(a)(7).)

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Analysis: Findings of Fact

The Parent alleged that the Student's accommodations were not being provided. According to the written complaint, "[The Science Teacher] has consistently failed to modify assignments or provide accommodations outlined in the IEP.. . . and does not respond respectfully to my child's needs. [The Student] feels she is not being taught, only given independent assignments to complete, despite her need for targeted direct instruction. . ." The Parent also alleged that the Student's use of noise canceling headphones would be precluded by new school rules, and that due to restrictions on the Student's use of the school provided Chromebook, assignments could not be completed at home. The Parent alleged: "·Homework expectations ignore the fact that the school has not only blocked the internet at school, but they have also blocked her access at home, as well, meaning the school's support must allow her to complete work

primarily at school. However, the school has made it clear that they expect her to complete the inaccessible assignments at home."

The District responded that it "affirms that the accommodations and modifications in the IEP have been implemented in the general education science classroom. . .[and the LEA] met with the teacher and parent to review the IEP in detail and ensure understanding of the services and supports required." Further, "As a proposed solution for parental concerns the following actions are being initiated: Modifications of the IXL Science Assignments. . . Teacher supports [as] ongoing consultation with the special education and administration. . .to the science teacher regarding differentiation and implementation of accommodations and modifications. Accountability [as] the special education teacher will monitor and document implementation of IEP accommodations and modifications in the science classroom daily with check-ins from the building administrator as needed."

Findings of Fact

Findings of Issue One and Issue Two are hereby incorporated by reference.

The IEP dated April 19, 2024 included these accommodations for the student: a separate quiet setting, additional time to complete assignments, modified assignments and assessments to skill level and with notes, read text aloud to student, frequent breaks, scribe, word bank for grade level materials, manipulatives in math, calculator, review agenda and assignments with school staff member, and a copy of notes. Assistive technology required by this IEP was: text to speech, speech to text, audiobooks, and grammar/spell check. This AT was continued in the IEP dated March 31, 2025 and the IEP Amendment dated October 21, 2025.

The IEP dated March 31, 2025 included these accommodations for the student: additional time, chunking of assignments, frequent check ins during work time (15 minutes), use of manipulatives and other supports, separate testing, breaks as needed, checklists for task completion with staff and parent to monitor homework, redo assignments at less than 70%, copy of notes, word bank for science, reduced choices in test and assignments with multiple choice questions, use notes, graphic organizers, scribe on longer assignments.

According to the Special Education Teacher in an interview, the Science teacher was unable to provide reduced choices on the multiple choice items in the educational software "IXL." According to emails dated April 25, 2025 between the special education teacher and a paraprofessional regarding an unspecified accommodation, the science teacher provided a grade adjustment after the assignment was completed in lieu of the accommodation.

In an email dated August 12, 2025 to the Principal, Special Education Teacher, School Counselor, and the Student's general education teachers, the Parent explained the Student's assignment planner and asked the teachers to use it, asked for a quiet discreet plan to address tardiness and out of class behavior, asked for weekly check ins with the Counselor due to the Student's reluctance to go to therapy, asked the teachers to be informed by the Special

Education Teacher regarding the Student's accommodations and asked the teachers to use the accommodations with the Student. In an interview, the Principal stated that meetings with the teachers at the beginning of the school year addressed these issues with the school staff.

On an exchange of emails beginning on October 8, 2025 at 7:09 a.m., the Parent emailed the Special Education Teacher to express concern over the School's block of access to the home internet, thus preventing the Student from completing the missed assignments "piling up" and preventing the Parent from helping.

In a reply on October 9, 2025 at 8:26 a.m., the Special Education Teacher wrote: "To address the internet access issue, [the Student's] Chromebook restrictions are part of the district's content block, which is in place to ensure devices are used only for academic purposes. This measure was implemented after multiple reports of non-instructional internet use during class time. Because of this, her Chromebook currently cannot connect to non-school networks. We understand this limits her ability to complete assignments at home, so we make sure she has time and support during the school day to complete her work." The Special Education Teacher also stated the accommodations and reteaching were occurring at school.

In an interview, the Principal stated that the technology team had, in error, installed additional blocks on the Student's Chromebook based on a misunderstanding of the content blocks being requested. The Principal stated that these were repaired when he understood the Parent's complaint during the October 21, 2025 IEP meeting.

The IEP amendment dated October 21, 2025 adjusted accommodations, data collection, and communication with the parent by: reducing the grade level of the science IXL program in lieu of reducing item choices, adding a shared google doc to monitor homework across school and home, implement data collection charts to track refusal to work and use of accommodations, and collecting baseline social emotional data by the social worker, anticipating a changed social emotional goal in the next IEP meeting, scheduled for November, 2025. Other adjustments included offering noise cancelling headphones, using a specific space for quiet assignments, and repairing access to home wifi.

Conclusion

In this case, there is some question about the clarity and implementation of the student's accommodations in the science class, at least upon one occasion which was addressed by the Special Education Teacher. In addition, the Student's accommodation could not be provided in the automated software used in Science. Although the Student continued to make progress as measured by her satisfactory semester and 9 week grades, the lack of Chromebook access to complete assignments and to provide the assistive technology required by the IEP, the failure to alter the IXL curriculum as required by the IEPs, and the failure to provide at least one accommodation documented in the emails combine to cast doubt on the LEA's provision of Student accommodations.

It is noted that remedies were put into place by the LEA at the October 21, 2025 IEP Amendment: to reduce the IXL curriculum difficulty by two grade levels, to add teacher support by the Special Education Teacher, and to add accountability check ins by the Principal.

Based on the foregoing, the allegation that the Student's accommodations were not provided in general education science is substantiated.

Issue Four

Did the LEA respond to the parent's concerns regarding the Student's behavior, including any behavior that limited the Student's ability to make progress?

Applicable Law

Federal and state statutes and regulations at CFR 300.324(b)(1)(ii)(c) and KSA 72-3429(f) require that the IEP team meets at least annually and that it revises the IEP as appropriate to respond to a parent's request for an IEP meeting to address a lack of progress, evaluation, the child's anticipated needs, information provided to or by the parents, or other matters. In Kansas, a reasonable time to respond to parental requests such as the request for an evaluation or for an IEP meeting is three weeks, or 15 school days.

Analysis: Findings of Fact

The Parent alleged that the Student continued to refuse to do her work at school, resulting in incomplete and failing assignments reported in PowerSchool. In the written complaint, the Parent stated:"·Requests for the school counselor to counsel [the Student] have been ignored." The Parent alleged that staff allowed the student to refuse work without a consistent structure or intervention, calling the Parent to complain while allowing the Student to fail. "Despite repeated meetings and emails, no consistent plan has been implemented."

The LEA responded they have "consistently responded to the parent's concerns regarding the student's behavior and engagement in the learning environment." This included collaboration to identify patterns and contributing factors by using an Antecedent-Behavior-Consequence (ABC) data collection system to collect data and guide interventions. In addition, the LEA responded that parental concerns were addressed at the October 20, 2025 meeting, by reviewing the data and adding social emotional supports for the students including adding social work services (20 minutes one time a week), access to a quieter setting when needed for regulation or focused work completion, continued data collection on refusals, accommodations, and assistive technology, collection of new baseline data by the social worker to inform goal development at the next IEP meeting on November 14, 2025. "These actions demonstrate the District's ongoing, data-driven response to behavioral concerns and its commitment to supporting the student's success across both academic and social-emotional domains."

Findings of Fact

Findings of Issue One, Issue Two, and Issue Three are hereby incorporated by reference.

The Parent reported that past behavioral intervention plans had been effective in reducing the Student's problem behavior at school. The Student's IEP dated April 19, 2024 included a Behavior Intervention Plan that included a daily visual behavior chart. The Student's IEP dated March 31, 2025 did not include a Behavior Intervention Plan, instead providing two IEP goals on self regulation and work completion to address the Student's needs.

As noted in Issue Three, the Parent emailed the LEA on August 12, 2025, to explain Student's assignment planner, to ask for a behavior strategy to address tardiness and out of class behavior, to ask for weekly check ins with the Counselor due to the Student's reluctance to go to therapy, to ask the teachers to be informed by the Special Education Teacher regarding the Student's accommodations and urged the teachers to use the accommodations with the Student.

The Parent and LEA agreed that the Student's behavior included withdrawing and refusing to do work perceived as difficult. The LEA reported that the Student was not a discipline problem, had no office referrals, and appeared well regulated, according to the Principal. In an interview, the Special Education Teacher noted that the Student was able to get back on track after a behavioral incident, that the Student was offered the opportunity to go to the Counselor when upset, but the Student did not agree to speak to the Counselor.

The LEA and the Parent agree that the Parent provided a planner for the Student to use to record assignments. In an interview, the Special Education Teacher reported that the Planner was a means of communicating problematic behavior along with emails home if the problem was severe. The Planner, along with the ABC monitoring, were used to monitor the Student's behavior during the current school year. The Special Education Teacher reported that most incidents occurred in science class.

In an examination of the email file provided by the LEA that included 57 email documents from October, 2024 to October, 2025, on the following dates the Parent and the Special Education teacher exchanged emails about completing assignments, failing grades on assignments, and at times, problematic behavior at school. A duplicated count of issues showed these topics: planner use (10), missing work or help with work (10), refusal to work or other behavior (11) and strategies and accommodation use (4).

Date	Initiator	Content
October 16, 2024	Teacher	Missing planner, request by parent for school papers in locker
October 17, 2024	Teacher	Homework assignments for each class in a table, note that the Student's planner is missing
October 29, 2024	Teacher	Injured para, Parent asks to help Student turn in work
October 25, 2024	Parent	Asks for missing assignment to be put in Student's bag
November 7, 2024	Teacher	Planner not filled out
November 11, 2024	Teacher	Work refusal at school

Date	Initiator	Content
November 13, 2024	Teacher	Missing planner
November 14-16, 2024	Teacher	Report on work completed, problems with behavior reported by parent, requests one on one conversations
November 21, 2024	Teacher	Missing planner, reporting positive achievement in math and ELA
December 6, 2024	Parent	Missed assignment and not using planner, asks for help to improve use of planner for communication. Special Education teacher restated the expectations of the Student.
December 12, 2024	Teacher	Report on assignments and FastBridge scores, "have not found a solution to planner situation."
February 11, 2025	Teacher	Not doing work in class
March 4, 2025	Parent	Class absence, tardy
March 10, 2025	Teacher	Forgot chromebook, assigned 40 minutes homework, study guide for English due
March 24, 2025	Teacher	Test for Student tomorrow
March 26, 2025	Teacher	Positive grade on test
April 4, 2025	Teacher	Student leaving PE class, found in restroom
April 4, 2025	Parent	Response to Student leaving class at school, Parent asks for plan to prevent escalation to previous eloping behavior
April 17, 2025	Parent	Asks for missing assignment
April 21, 2025	Parent	To Science and Special Educator, asks for scribe accommodation to allow student to complete material orally
April 22, 2025	From Teacher	Replies that he and Science Teacher offered to scribe and Student refused work
April 22, 2025	Parent	Asks for other accommodations to be given and gives examples of how to use them, including reducing length of assignment and using encouragement
August 14, 2025	Teacher	Planner use
August 15-22, 2025	Teacher	Missing planner, positive report on work, homework assignment, not using the planner, absent para, discussion of effective strategies
August 25, 2025	Teacher	Missing planner
September 17, 2025	Teacher	Student rushing through science work
September 19, 2025	Teacher	Positive report on work
September 25, 2025	Parent	Missed assignments due to absence
September 26, 2025	Parent	Additional missed work
September 28, 2025	Parent	Science assignment very difficult for Student to complete. Parent concerned about IXL causing shut downs
September 30, 2025	Teacher	Could not work on assignments because Student forgot her computer
October 1, 2025	Parent	Question about combined classes and effect on Student services and behavior
October 1, 2025	Teacher	Alerted Parent to non academic use of computer and lack of focus on work
October 1, 2025	Parent	Multiple assignments missing, distractions due to combined math and science classes, suggests science accommodations. Asks how assignments will be made up and for consistent response to Student and reason for behavior

The LEA reported that an ABC chart was implemented October 3, 2025 and data were provided to the Investigator through October 15, 2025.

In response to the formal complaint, the LEA scheduled and held an IEP team meeting to amend the IEP to add weekly social work services and to increase special education resource time to complete assignments, as noted in Issue Three.

Conclusion

In this case, the Parent asked for "counseling" services to be provided to the Student at the outset of the 2025-26 school year. In response, the LEA offered the opportunity to go to the School Counselor as needed and a later IEP amendment added social worker services to the Student's IEP. It is noted that general education school counseling, while offered, was likely not what the Parent had in mind when asking for weekly counseling. However, social work service was added by the LEA when the IEP team met and amended the IEP.

The Parent and the Special Education teacher were in regular communication about the Student's behavior, including work completion and refusals. In response to an email by the Parent to explore the reasons for the Student's behavior, the Special Education Teacher began to take more systematic data to learn more. Further, the IEP amendment dated October 21, 2025 added special education resource time to the Student's daily schedule to assist with work completion.

It cannot be determined from this evidence whether action should have taken place during the prior school year. The LEA responded to the Parent's concerns by collecting data, offering school counseling as needed, and subsequently amending the IEP. Therefore, the allegation that the LEA did not respond to the Parent's concerns is not substantiated.

Issue Five

Did the LEA measure and report the Student's progress accurately and in accordance with the IEP's requirements?

Applicable Law

Federal statute at 34 CFR 300.320(a)(3) require that the IEP include a description of (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

Analysis: Findings of Fact

The Parent alleged that the information coming home was inconsistent and that the daily communication on student progress was not provided and seemed inaccurate when she assisted the Student to complete assignments.

The District responded: "The District has consistently reported progress toward IEP goals per the reporting schedule outlined in the IEP. However, the team recognizes the parent's request for more transparent, frequent communication regarding the student's academic progress. To strengthen this process the following is proposed: A Google Doc communication log will serve as a continuous record of homework completion, missing work, and progress updates shared between school and home. The special education teacher will review and verify progress monitoring data bi-weekly to ensure accurate reporting. Any necessary revisions to progress reporting procedures will be discussed at the November 14, 2025 IEP meeting to ensure clarity and consistency going forward. "

Findings of Fact

The Student's IEP dated March 31, 2025 included two goals that required teacher observation, student self monitoring, and work completion records.

"Goal 3: Given academic tasks that the student perceives as difficult, [the Student] will use self-regulation strategies (e.g., asking for help, taking a short break, using positive self-talk) to remain engaged and complete assignments in 4 out of 5 opportunities, as measured by teacher observations, student self-monitoring, and work completion records.

Goal 4: Given homework assignments, [the Student] will complete and submit them on time and to the best of their ability in 4 out of 5 opportunities, as measured by teacher records, student self-monitoring, and work completion logs." A benchmark on this goal included: "With teacher support, [the Student] will use a planner, checklist, or digital tool to track homework assignments daily in 4 out of 5 opportunities."

School software (PowerSchool) recorded Student grades and assignment completion. The LEA did not provide any data pertaining to student self monitoring (like a checklist or visual display); however, interviews indicated that the Special Education Teacher and paras generally discussed assignments with the Student.

As found in Issue Four, the Special Education Teacher and Parent exchanged emails regarding the Student's behavior and assignments, including how the planner was being used by the school and the Student. The Special Education Teacher reported in an interview that the planner was used to track work completion and behavior. The Parent reported that the planner was an important tool for the Student to use for her daily assignments and as found in Issue Three, asked for the 2025-26 teachers to support the Student's planner use.

The District and the Parent were asked to locate and provide copies from the Student's planners from the 2024-25 and 2025-26 school year, and neither party could provide the 2024-25 planner data. However, the 2025-26 planner was provided. The Planner showed that assignments were written in the planner 11 of 12 school days in August, 14 of 21 school days in September, and 9 of 21 school days in October.

Conclusion

In this case, the Student's planner was the means to provide communication on the student's behavior and work completion. Email and planner evidence show that the use of the planner was inconsistent, as alleged by the Parent, for periods of time during the 2024-25 and 2025-26 school years. The planner was the measure for IEP goals as well as the means by which the Student's general education progress was sustained, including how the disability was addressed educationally. That the planner was specifically mentioned in an IEP goal benchmark and provided the only evident means of student self monitoring underscores the importance of its use. Therefore, the allegation that LEA failed to measure and report the Student's progress accurately and in accordance with the IEP's requirements is sustained.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 C.F.R. 300.323(c)(2) was not found based on the provision of special education in the special education setting. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. 300.323(c)(2) was found based on the facts above. Corrective action is required (as follows):
    a. CORRECTIVE ACTION:
        i. By December 8, 2025, USD #456 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 C.F.R. 300.323(c)(2).
        ii. By December 8, 2025, USD #456 shall propose compensatory education of 1862 minutes (49 school days X 38 minutes) to the Parent, who may accept none, some or all of the compensatory education. The compensatory education must be instructional support with accommodations to allow the student to have access to and to progress in the general education curriculum, specifically her core content courses with an emphasis on science content. The LEA will communicate or meet with the Parent to discuss scheduling the compensatory education which must be scheduled outside regular school hours. The LEA will offer appropriate PWN to the Parent.
        iii. By January 30, 2026, the LEA will provide documentation to SETs that this has been accomplished by providing the above mentioned documentation (compensatory education offer, communication or meeting with Parent to schedule the compensatory education, and PWN provided to the Parent.)
3. ISSUE THREE: A violation of 34 C.F.R. 300.323(c)(2) was found based on the failure to provide supplementary aids and services (accommodations) in the general education science class. Corrective action is required (as follows):
    a. CORRECTIVE ACTION:

i. By December 8, 2025, USD #456 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 C.F.R. 300.323(c)(2).

ii. By January 15, 2026, the LEA will provide professional development for the paraprofessionals in the Student's school to (a) review the Student's specific accommodations and how they apply in each of the Student's content classes, with particular attention to the science class and (b) review the accommodations being provided to other special education students in the school and how they apply in each core content course. By January 30, 2026, the LEA will provide documentation to SETs that this has been accomplished, by providing the date, content, participants, assurance of participation, and provider of the professional development. This may count toward the paraprofessional's yearly inservice requirement.

iii. By December 8, 2025, an LEA administrator will meet with the Student's science teacher to provide coaching on general education teacher responsibility for implementing special education accommodations and to review the Student's accommodations and how the accommodations will be implemented in the science classroom. By January 30, 2026, the LEA will provide documentation that this action has been accomplished by providing the date, participants, and content of the meeting, including any further professional development required.

iv. By January 15, 2026, USD #456 will provide professional development to the Student's general education teachers on general education teacher responsibility for implementing special education accommodations, on the Student's accommodations and on how the accommodations are implemented each's specific course of study. The LEA will provide the method, content, participants, and assurance of participation to SETS no later than January 30, 2026.

4. ISSUE FOUR: A violation of CFR 300.324(b)(1)(ii)(c) and KSA 72-3429(f) was not found, based on the response to the Parent's concerns about the Student's behavior. Corrective action is not required.

5. ISSUE FIVE: A violation of 34 CFR 300.320(a)(3) and 34 C.F.R. 300.323(c)(2) was found based on the failure to accurately measure and report progress as required by the IEP goals Corrective action is required (as follows):

a. CORRECTIVE ACTION:

i. By December 8, 2025, USD #456 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 CFR 300.320(a)(3) and 34 C.F.R. 300.323(c)(2).

ii. By December 8, 2025, USD #456 will review and clarify the data collection method for the Student's IEP goals pertaining to self regulation and work

completion, including explaining how self monitoring will occur and be implemented, how and when teacher observation measures will be recorded, and how the planner or other work completion method will be used to monitor and report student's work completion progress over time. Each of these elements must provide an explanation of how and when the information will be shared with the parent to show progress toward the IEP yearly goals. The LEA will provide appropriate PWN to the parent upon completion. By January 30, 2026, the LEA will provide SETS with documents showing that these actions were completed.

iii. By January 15, 2026, the LEA will schedule training to the LEA's special education teachers on self monitoring methods, teacher observation methods, data recording and summarizing, types of data suitable for monitoring IEP goals that show progress across time, and the requirements of 34 CFR 300.320(a)(3). This can be done in professional development, meetings or coaching sessions. By January 30, 2026, the LEA will provide SETS with documents showing that the training has been scheduled, and the LEA will provide the training documentation (attendees, provider, content materials, agenda) to SETS upon the completion of the training, which must be completed no later than 12 months from the date of this report.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #440, HALSTEAD PUBLIC SCHOOLS
ON OCTOBER 16, 2025

DATE OF REPORT: NOVEMBER 11, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #440 Halstead Public Schools on behalf of -------- by her parents -------- and --------. In the remainder of the report, -------- will be referred to as "the student" and -------- as "the parents" or "the complainants".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. In this case, the complaint is against USD #440 Halstead Public Schools whose special education services are ensured by the Harvey County Special Education Cooperative both of which will be referred to as "the LEA" in the remainder of the report. During the 2025-2026 school year the student is attending 8th grade at Halstead Middle School which will be referred to as "the middle school" in the remainder of the report. School and LEA staff will be referred to In the remainder of this report as follows:

- Ron Berry, superintendent
- Reagan Seidl, director
- Becky Jones, principal
- Lenae Kaus, school psychologist
- Susan Jacobs, case manager
- Daphne Keese, speech therapist
- Jesse Mueller, math teacher
- Jacob Randolph, government teacher
- Jordan Soward, math paraprofessional
- Diana Kuhn, government and ELA II paraprofessional
- Harley Stockebrand, science and ELA I paraprofessional

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in

which it was received by KSDE. In this case, the KSDE initially received the complaint on October 16, 2025.

Evidence Reviewed

USD #440 made the following staff available for phone interviews on November 4 and 6, 2025 as part of this investigation.

- Director
- Principal
- School psychologist
- Case manager
- ELA I and II paraprofessionals
- Math paraprofessional
- Government paraprofessional
- Science paraprofessional

During the investigation, the complaint investigator reviewed all evidence and documentation provided by the LEA and the parent. Additionally, the complaint investigator contacted the parents, director and/or classroom teachers on October 16, 17, 20, 21, 22, 23, 25, 27, 28, 30, November 4, 5, 6, & 7, 2025 by phone and email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents -

1. Most recent reevaluation report dated March 4, 2022
2. Student's annual IEP dated November 11, 2024
3. Signature page and PWN for student's annual IEP dated November 11, 2024
4. IEP amendment signed November 22, 2024
5. Refusal of Reevaluation document signed by parents on February 6, 2025
6. Student's class schedule for the 2025-2026 school year
7. Student's attendance record for the 2025-2026 school year
8. Paraprofessional schedule for the 2025-2026 school year
9. Student's first quarter progress report for the 2025-2026 school year
10. Fifteen page record of the principal's communication with parents and followup actions from September 12, 2025 to November 7, 2025

11. Two page record of the school psychologist's communication with the parents, meeting with the student and notification of issues raised by the parents, dates range from September 12, 2025 to October 30, 2025
12. Email from parents requesting an IEP team meeting, sent September 12, 2025 at 8:10 AM
13. Email of concern from the parents, which they requested be included in the student's special education record, sent September 12, 2025, at 10:12 AM
14. Reply from the case manager offering a meeting date, sent September 15, 2025, at 12:14 PM
15. Staffing notes dated September 17, 2025 including the parent's September 12, 2025 email which was added to the student's special education record
16. Minutes and action items from the team meeting on September 17, 2025
17. PWN from the September 17, 2025 meeting
18. Email from the school psychologist including the student's social/emotion plan, sent September 18, 2025, at 10:10 AM
19. Related reply from the parents that same day at 10:43 AM
20. Email from the principal to the parents sharing an incident report related to the student's panic attack in government class, sent on September 22, 2025, at 9:38 AM
21. Related email response from the parents on that same day at 11:39 AM
22. Related email response from the principal on that same day at 4:48 PM
23. Email from the parents to the math teacher sharing concern about paraprofessional support sent September 22, 2025, at 1:24 PM
24. Related email response from the math teacher on that same day at 5:36 PM
25. Related email response from the parents on that same day at 5:57 PM
26. Email from the principal related to the parent's concerns regarding support in math class sent September 23, 2025, at 7:03 AM
27. Email exchanges between the superintendent and parents on September 29, 2025, at 2:14 PM, 2:19 PM and 5:38 PM
28. Email from the parents to the principal asking for an update on concerns, sent September 30, 2025, at 6:51 PM
29. Email from the parents to the principal sent October 1, 2025, at 11:00 AM
30. Reply from the principal to the parents sent October 1, 2025, at 11:04 AM
31. Email from the superintendent offering to attend an upcoming IEP team meeting sent October 1, 2025 at 2:35 PM
32. Email reply from the parent that same day at 4:35 PM
33. Email from the superintendent to the parents sent October 3, 2025
34. Notice of Meeting dated October 1, 2025 for an October 10, 2025 team meeting to discuss parental concerns declined by the parents on October 6, 2025 indicating they want to wait until the next annual IEP meeting

35. Notice of Meeting for proposed IEP meeting dated October 10, 2025 for an October 22, 2025 IEP meeting
36. Photo of envelope containing the October 10, 2025 Notice of Meeting with a post mark of October 15, 2025
37. Email sent by the case manager to the parents checking on attendance at the upcoming IEP meeting scheduled for the next day, dated October 21, 2025
38. The parents replied to the case manager on October 22, 2025, at 5:17 AM declining the meeting and proposing an alternative date.
39. That same day, the parents sent an email requesting additional school staff be in attendance at the student's annual IEP meeting, October 22, 2025, at 6:12 AM.
40. Notice of Meeting for the October 22, 2025 IEP meeting signed as declined by the parents
41. Email from the school psychologist to the director sent October 22, 2025
42. Notice of Meeting sent to the parents October 23, 2025, for the November 4th, 2025 annual IEP meeting
43. Email exchange with the middle school math teacher on November 6, 2025
44. Email exchange with the government teacher on November 7, 2025
45. Communication between the principal, math teacher and case manager confirming that they have never witnessed the student's paraprofessional using their cell phone during instructional time with the student, sent on November 7, 2025

Background Information

The student named in this complaint attends the eighth grade at the district's middle school during the 2025–2026 school year. The student lives at home with both parents, an older brother, and a younger brother. According to the parents, the student was diagnosed with Autism around age three and received early intervention services through their previous school district, which included speech therapy. The student attended a self-contained classroom for students with Autism until third grade, when the family moved to the current district. Since that time, the student has received special education services within the general education setting. The most recent evaluation, dated March 4, 2022, states: "The team believes that the exceptionality category of Learning Disability (LD) is most appropriate moving forward and will provide [the student] with access to the services and supports [they] need."

At the time of the complaint the student's current IEP is dated November 12, 2024 with an IEP amendment dated November 22, 2024 and includes the following:

Goals -

1. Reading fluency
2. Communication - grammar and enunciation

Special Education and Related Services -

1. Speech/Language as a related service in the special education classroom for 20 minutes, one day per week.
2. English/Language Arts (ELA) special education direct support in the regular education classroom for 80 minutes, five days per week.
3. Math special education direct support in the regular education classroom for 40 minutes, five days per week.
4. Science special education direct support in the regular education classroom for 40 minutes, five days per week.
5. Social Studies special education direct support in the regular education classroom for 40 minutes, five days per week.

Accommodations/Modifications/Supplementary Aids -

1. Extended time to finish assignments/assessments which was added with the IEP amendment dated November 22, 2024.
2. Separate setting when given an assignment/assessment in all learning environments.
3. Read aloud when given an assignment/assessment in all learning environments.
4. Shortened/modified assignment/assessment in all learning environments.
5. Para will support [the student] as [the student] reads aloud given an assignment/assessment in all learning environments.

Issues Investigated

Based on the written complaints and interview with the complainants, three concerns that fall under IDEA or Kansas regulations were identified and investigated.

Issue One

Did USD #440 fail to implement the student's IEP specific to para professional support, as required by 34 CFR §300.323(c)(2) during the 2025-2026 school year?

Applicable Law

Federal regulations at 34 CFR §300.323(c)(2) require that the LEA must ensure that as soon as possible after the development of the IEP, special education and related services are available to the student.

Parent Position

The parents' complaint stated, "…the IEP team has a failed IEP, evidenced by the inability to provide adequate support, services, and accommodations." When asked to clarify this statement during the October 22, 2025 interview, the parent explained, "About four to five times a week we ask [the student], and [they] say [they] aren't getting the help [they need]." The parents reported that the student stated, "I try to wait, but the para is too busy. There are

also three or four other [students] who need help. I ask the case manager, and [they] say there isn't a para and that [the case manager] can't help me." The parents further stated, "We've requested a para log and haven't received a response."

LEA Position

The LEA response states, "According to conversations with members of the IEP team, when the team received [the student's] parents' concerns regarding paraeducator support, the school staff reviewed the paraeducator schedules, etc. to ensure that paraeducator support is available in [the student's] classes."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

Government class:

1. In an email to the parents on September 22, 2025 at 9:38 AM, the principal noted an issue of concern from the previous Friday, which was September 19, 2025. "Prior to that at around 10:50am, it was reported to me that [the student] was feeling overwhelmed in a class and the para helped [the student] through that. Here is the incident report from the para: 'This morning in Government class there was a sub. [The student] became very overwhelmed with an assignment. I let [them] know there was not going to be a grade for it. [The student] was still overwhelmed. [The student] asked to use the restroom, [they were] gone for 12 minutes. When [the student] returned to class [they were] visibly upset. I escorted [them] to the hall. [The student] did let me know how [they were] feeling, and that [they had] had an anxiety attack. We talked for a few minutes as I was trying to put [their] mind at ease. I had [the student] walk down the hall to get a cold drink of water. That helped for a moment. I asked [them] if [they would] like to chew gum and offered [them] a piece of gum or a mint. [The student] did take the mint. [The student] seemed able to return to class. Although after being in class for a few moments, it was obvious [they were] not ready to return and were visibly upset again. I picked up [the student's] belongings and had [them] come back out to the hallway. We spoke for a few moments, and I found an alternate environment for [them] to remain for the rest of class. There were no expectations as I left [the student] in the alternate environment. I'd only asked [them] to relax, and [said they] could go to lunch when [their] class did. There are no expectations for [the student] to finish any work from the class period [they] missed."
2. The parents replied to the principal at 11:39 AM on September 22, 2025, "There was an incident of an anxiety attack in history class as you mentioned. [The student] felt like [they] didn't understand the work and that [their] para was too busy with other kids to be able to assist [the student]. An anxiety attack followed. What's the alternative environment and was [the student] able to finish [their] work? What is the amount of hours that [the student] is receiving support in this class and others? It appears that

several students need para support and there is only 1 para. [The student] doesn't seem to have the support as indicated in [their] IEP. Please investigate and provide a detailed log of the amount of time in each class that para support is being provided. I don't believe the school is providing the full hours as directed in the IEP."

3. In an email reply from the principal on September 22, 2025 at 4:48 PM the principal stated, "I need some time to process your requests above and meet with the appropriate people involved to make sure we have a plan to move forward. I will get back with you."
4. In an interview with the principal on November 4, 2025, they stated, "I didn't respond in an email to that concern right then because the superintendent and I were trying to figure out how to respond to the multiple parent requests."
5. In an interview on November 4, 2025 the paraprofessional who supports the student in government stated, "[The student] does not ask for help frequently, only occasionally. I give [them] a moment to process the assignment and make sure it is clear. If I am busy with another student, [the student] is patient about waiting, I will even ask if [they are] stuck on the same thing as other students and will help them both." The paraprofessional also shared, "[the student] does ask to leave the classroom and go to the restroom because [they are] frustrated, but I am not always sure [they are upset] until they come back, and then I make sure to clarify if [they are] upset so I can help." The paraprofessional also clarified, and the schedule confirms this, that there are two paraprofessionals in this classroom and that each has specific students they are responsible for supporting.
6. In an email exchange with the government teacher on November 7, 2025, they shared, "I have never seen [the student] ask for support and not receive it. If the para is working with another student, [the student] has historically been fine working on [their] own. If [they] didn't know what to do, then [they] would talk to me or wait for the para to finish helping the other student. I believe there is sufficient para support in my classroom for the class [the student] is in. The para that is in that classroom does an excellent job and provides the support [the student] needs. The para is not stretched so thin that [they] neglect any of the IEP students."

Math class:

1. On September 22, 2025, at 1:24 PM the parents sent an email to the math teacher, "Over the weekend [the student] brought home a couple of worksheets that were not complete. These worksheets were learning angles of triangles. [The student] had a complete meltdown because [they] said [they] had no idea how to even begin to complete these problems. [The student] said during class the para, when [they weren't] busy looking at Facebook or SnapChat, only provided the answers to the questions. [The student] asked the para how [they] came to the answer, but the para was not able to explain. [The student] said to the para that if [the student] doesn't know how to get to the answer then [the student] will fail her quiz. The para said 'don't worry about it, just go to the next question.'"

2. The math teacher responded in an email that same day at 5:36 PM, "I am sorry that the assignment caused issues at your home over the weekend. To clarify a few things about the assignment, I did 4 of the questions on the worksheet with the entire class, if I remember correctly, 2 from the front side and 2 from the back. On which I wrote all the steps, and the reasons behind them, along with the answers. Before we started talking about the worksheet we spent roughly 15 minutes reviewing interior and exterior angle rules, and how they applied to questions. Once I had completed the "teaching" portion of the lesson, the students who often leave for a separate setting, [the student] included, did that, along with the para. I have no way of speaking to whether or not the para knew how to do the questions. Obviously, paras are aware of the expectations in my room, and have always given appropriate assistance when needed to students they are legally responsible for. Today in class students were given additional work time on this concept. [The student] did not leave to go to the separate setting, which is completely [their] choice. As I made my rounds, I stopped at [the student's] desk, and I asked how things were going, [they] had a few small questions, which we proceeded to work through together. [The student's] work looked great, and I complimented [the student] on how far [they] had gotten."
3. The parents responded that same day at 5:57 PM 'Thank you for your email. This helps us understand the instructional process. We have no concerns with that or what you did. Our concerns are where does [the student] go when [they] leave the room with the para? To [the case manager's] room? The hallway? Somewhere else? Who provides oversight to the para if you are not? If the para doesn't know how to give instructions or guide [the student] with the math process/rules/steps etc, who does? What are the expectations for paras in your room and other rooms? Is using personal phones and being on social media acceptable/allowed? If so, why? We have more questions than answers here and maybe it is [the principal] that needs to answer these questions. I am glad to hear that [the student] got the concept and demonstrated [their] knowledge well, but would this have been the case if we had not assisted at home over the weekend? I am afraid there would have been a different result."
4. The principal replied to the parents on September 23, 2025, at 7:03 AM, "I need some time to process your requests above and meet with the appropriate people involved to make sure we have a plan to move forward. I will get back with you."
5. The principal's log of parent communication and followup reflects the principal's investigation of the issue raised by the parents and found no evidence that the paraprofessional used their phone during this class time.
6. In the November 4, 2025 interview, the principal shared that they, along with the school psychologist and superintendent, reviewed the paraprofessional schedule on September 29, 2025, considering the appropriateness of available paraprofessional support in each of the student's general education classes. There were no changes to the schedule as a result of this review.

7. The parents sent a follow-up email to the principal on September 30, 2025, at 6:51 PM, "We have not seen a response to this email sent a week ago. We have an ongoing concern that has not been addressed with the lack of para support for [the student] that is clearly documented in [the] IEP. This is the second time and in a second class that [the student] has reported [they don't] have enough para support due to the para being too busy with other students. We are requesting an IEP meeting and our parent concerns from this email and all the other emails are to be documented verbatim in the parent concerns section."
8. The parents sent an email on October 1, 2025 at 11:00 AM "[The student] has reported again not receiving para support in Math class today. [The student] presented to the office and was reportedly told by you that [they] had to wait for the superintendent. We [came] to the office to meet with you and [the student] to discuss this. We have not received any communication back to our email or request for an IEP meeting."
9. The principal replied on October 1, 2025, at 11:04 AM, "I'm sorry I missed you this morning. We are available to meet as a team tomorrow morning at 8:00 a.m. [The speech therapist] would not be available but everyone else would be, including [the superintendent]. We would have a hard stop time at 9:20. If we need more time than that, we can pause the meeting and finish it at another time." The parents were not available to meet at this time and offered other availability.
10. There were a number of emails sent back and forth between the school and parents in an effort to schedule a meeting to discuss the parents' concerns. October 10, 2025 was agreed upon but ultimately declined by the parents, as they wanted to wait until the student's annual IEP.
11. In the November 4, 2025 interview with the principal, they confirmed that the paraprofessionals are not required to keep logs of which students they helped during class.
12. In an interview with the case manager on November 4, 2025, they stated that the student knows to ask the classroom teacher questions if they don't want to wait for the paraprofessional's support. When asked if they had ever told the student they were too busy to help, the case manager replied, "No, of course not."
13. During the November 4, 2025 interview, the science and ELA paraprofessional shared, "If I'm helping someone else, I go to [the student] right after."
14. In an email exchange with the math teacher on November 6, 2025 they stated, "Para's are occasionally busy with another student and cannot provide support immediately, but I have never seen a para intentionally ignore or not assist a student in need, including [the student]." When asked what the student does when a paraprofessional is busy the teacher replied, "They seem to wait patiently. I have never heard [the student] be disruptive if [they are] waiting. If I see [the student] needing help when a para is busy I try to help [the student]. I feel like I have sufficient para support. Students are given a significant amount of support and accommodations."

15. In an interview with the director on November 4, 2025, they stated that the LEA does not have a policy that dictates the ratio of student to paraprofessional in a classroom. They further explained that how much paraprofessional support is needed in a particular classroom is determined by each student's IEPs and level of need for these students.
16. On November 7, 2025, the principal shared evidence that they confirmed with the case manager and classroom teacher that neither had witnessed any of the students' paraprofessionals on their cell phones during instructional time with the student.

Conclusion

34 CFR §300.323(c)(2) requires LEAs to implement the student's IEP as soon as possible, and in this case, specific to paraprofessional support.

The state of Kansas does not mandate a specific number of paraprofessionals in general education classrooms, nor does the LEA. Decisions about what is educationally appropriate are made by LEA staff based on the needs of the students and the requirements outlined in their IEPs. This student's IEP does not include a dedicated paraprofessional; therefore, the student shares paraprofessional support with other students. The principal, school psychologist and superintendent reviewed the school's paraprofessional schedule and determined that paraprofessional staffing levels were appropriate. According to the student's IEP, paraprofessional assistance is provided for 40 minutes in each core class, meaning a paraprofessional must be available during that time, but not exclusively for this student.

The parents notified the school of concerns related to paraprofessional support once for government and twice for math. Although there are no logs of when the student received paraprofessional support, interviews with LEA staff, the case manager, the math and government general education teachers, and the student's paraprofessionals all share that the student receives paraprofessional support when it is requested.

Based on the foregoing, it is found that the LEA is implementing the IEP specific to paraprofessional support. The LEA is *IN compliance*, and corrective actions are not required.

Issue Two

Did USD #440 fail to ensure parent participation as required by 34 CFR §300.324(a)(1)(ii) during the 2025-2026 school year?

Applicable Law

34 CFR §300.324(a)(1)(ii) states that concerns of the parents for enhancing the education of their child must be considered by the IEP team.

Parent Position

The parent shared in the October 22, 2025 interview, "The point I am trying to make is that we're trying to have meaningful participation with the district. We noticed that our child is having panic attacks, etc. It seems like the school is hearing our concerns but not creating goals or reevaluating [the student] to ensure the IEP is supporting [the student]."

LEA Position

The LEA response states, "Beginning in September 2025, parents began expressing their concerns regarding multiple topics. Some of the items were related to [the student's] special education services while others were not. The building administrator, [principal], would investigate/visit with additional individuals and respond to the parent's email. Phone calls were attempted by both building and district administration to engage parents in discussion; however, parents stated they would only communicate by e-mail."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of Issue One are incorporated herein by reference.

1. The parents emailed the case manager on September 12, 2025 requesting an IEP team meeting to include the school psychologist as soon as possible due to allegations of bullying.
2. The case manager replied on September 15, 2025 offering September 17, 2025 for the meeting to which the parents agreed.
3. As a result of the September 17, 2025 IEP team meeting the team produced a list of 16 actions to be completed including additions to the social/emotional section of the student's IEP, alternative area for the student to change clothes for athletics or P.E., and early lunch dismissal with a lunch check-in. Due to concerns about the student's peer relationships and alleged bullying, the team also agreed to have the school psychologist implement a 6-8 week social/emotional intervention with the student.
4. The principal shared in an interview that the social/emotional intervention was not added to the IEP due to the short-term nature of the intervention and because it was the initial attempt to support the student's social/emotional behavior which has not historically been an issue for the student. They went on to state, "this is an intervention we would consider for any student regardless of whether the student had an IEP."
5. In a September 18, 2025 email the parents stated agreement with the social/emotional intervention proposed by the school psychologist.
6. The initial PWN sent home for the parent's signature for the September 17, 2025 IEP amendment meeting had a box mistakenly checked and the parents found it to be too general and replied, "Once this is updated please send the paperwork with [the student] or mail us a copy and we will review and sign". Following this email there were two additional attempts made by the school psychologist to gain parental consent including the addition of requested information and clarifying terms on the form.

Ultimately, this PWN was not signed; however, the issues were added to the November 4, 2025 annual IEP meeting agenda by the LEA.

7. According to documentation shared by the LEA, the superintendent called the parents on September 29, 2025 to get clarity on the numerous issues the parents had raised with the middle school staff in order to create a communication plan as a way to manage the follow-up for these issues. The parent answered the call but ended the call prior to any conversation.
8. The parent sent an email to the superintendent September 29, 2025 just after the call from the superintendent at 2:14 PM stating, "I am not going to get back to you. Is there something we need to talk about?" To which the superintendent replied at 2:19 PM stating, "Just call when you have a chance." to which the parent replied at 5:38 PM, "You can just email me."
9. On October 1, 2025 the parents sent the following email to the school psychologist, "All the rest of our concerns that have been submitted by email to [the principal]. All our emails have included a request for a formal written response. [The principal] advised [that they] would investigate all of these matters and get back to us. [The principal] has not replied to us in writing as [they] stated [they] would. This is a failure to address our concerns and this is not acceptable."
10. In an email on October 1, 2025, at 2:35 PM, the superintendent offered his support at a proposed October 10, 2025 meeting to ensure topics could be covered in the allotted two hours as the parents had expressed concern about having a "hard stop time" for the meeting.
11. In an email reply from the parents, they stated that, "This IEP team has been meeting for several years now and has never had an issue with staying on topic or being respectful of each other's time. I don't think we need the type of support you are suggesting."
12. The LEA provided evidence that the superintendent contacted the Kansas Association of School Boards (KASB) legal staff about having to communicate only through email with regard to addressing concerns from parents that are related to staff members or students, "I was advised that we should be careful when providing certain information via email as it may violate privacy laws. I was also informed that we do have the ability to request to meet in person to address concerns related to students or staff. Finally, I asked if we could have a hard stop at an IEP meeting and have a continuation of the meeting if needed. The KASB legal staff stated that we can have a hard stop at the meeting and that parents should not be able to request an unlimited amount of time from staff. I also confirmed this with the LEA cooperative director. As a result I followed up with the email below."
13. The superintendent stated that as a result of guidance from KASB the following email was sent to the parents on October 3, 2025, "I have attempted to set up an in person meeting with you via phone call and email to discuss any specific concerns. I will preface that I cannot discuss any particular situations regarding other students or personnel matters as it is my duty to protect student privacy under FERPA and personnel privacy as well.

From what I have been following through the email chains, your concerns have and/or are being addressed by multiple administrators. That being said, there have been a number of different strands of email communication. This is part of the reason why I have been trying to set up the personal meeting to ensure that we have addressed all questions and to confirm that I am not missing any questions you still may have moving forward. I think it is best and most effective for this to be done in person as there have been a number of emails sent. I often find that a face to face meeting is valuable, more efficient, and effective in addressing questions or concerns by parents. We can set up a specific meeting individually or I can join an IEP meeting if needed."

14. The LEA provided evidence that there was a meeting scheduled with the parents for October 10, 2025 to address concerns that had been emailed to the principal; however the parents declined the meeting noting that they would wait until the annual IEP meeting.
15. In an October 22, 2025 email exchange between the school psychologist and director, the psychologist noted honoring the parent's request to have information unrelated to the IEP included in the student's special education record, "I didn't know where to add [the parent email statement], plus their complaint included multiple names of other students and staff. So most recently I again added more clarifying information to the concerns/needs and I would add to the social emotional page [in the IEP], then I redacted their complaint and copied and pasted it into a staffing notes document so it could be included in [the student's] webkidss records that way. These last drafts [of the September PWN] were mailed to them on 10/10/25 and have not been returned."
16. In the November 4, 2025 interview with the principal they noted that the superintendent was planning to attend the November 4, 2025 IEP meeting. They also shared that the parents have not requested a reevaluation of the student in the 2025 fall meetings or emails and the parents declined the student's most recent notification for a reevaluation on February 6, 2025.

Conclusion

34 CFR §300.324(a)(1)(ii) requires the IEP team to consider parent concerns.

The protections offered under IDEA are often not clear to families. From a parent's perspective, their child is one individual who may need various supports, and it can be confusing to understand which of those supports are part of the IEP process. As a result, parents may develop expectations of what IDEA can provide that are not fully grounded in the law. The investigator has no doubt that, in this case, the parents are acting in their child's best interest and are exploring multiple avenues, including the IEP process, to ensure the student receives appropriate support.

It is noted that the principal responded to the parents' emails, indicating they would follow up after gathering additional information. Although the principal may not have replied to every message via email, they offered meeting dates and times to address the parents' concerns. The principal also requested the superintendent's assistance in managing and responding to the parents' communications. The superintendent attempted to speak with the parents by

phone and offered to meet with them to discuss their concerns; however, the parents declined this support.

During the 2025–2026 school year, the parents raised multiple issues, many of which were not related to the student's IEP and therefore fell outside the protections of IDEA. The LEA provided evidence that IDEA-related concerns raised by the parents were considered by the IEP team. The team's responses to those concerns included:

- The parent's request that an email alleging bullying be included in the student's special education record.
- The parent's request for a September 17, 2025, meeting to amend the student's IEP, and the follow-up actions taken as a result of the team's agreements.
- Rescheduling the annual IEP meeting, originally set for September 23, 2025, to accommodate the list of additional staff the parents requested to attend, evidence of which is found in Issue Three.
- The superintendent's offer to meet with the parents on October 10, 2025, to ensure their concerns were being addressed.
- In response to the parent's concerns about paraprofessional support, a review of paraprofessional schedules on October 29, 2025, as noted in Issue One.

Based on the foregoing, it is found that the IEP team did consider the parent's concerns in the 2025-2026 school year. The LEA is *IN compliance*, and corrective actions are not required.

Issue Three

Did USD #440 fail to provide a timely Prior Written Notice for the student's annual IEP meeting as required by K.A.R. 91-40-17(a)(2) during the 2025-2026 school year?

Applicable Law

Kansas regulations at K.A.R. 91-40-17(a)(2) requires LEAs to send parents a notice of meeting at least 10 days in advance of the IEP meeting.

Parent Position

The second parent complaint received by KSDE on October 16, 2025 stated, "The notice of meeting for the annual review of the IEP is dated 10/10/2025, the post mark is 10/15/2025. The notice of meeting for the annual review was received by mail on 10/16/2025. The [middle school] proposed meeting date is 10/22/2025 at 2:00 pm".

LEA Position

The LEA response states, "[The student's] annual IEP date is November 12, 2025. On October 10, 2025, the Notice of Meeting was completed. The IEP Case Manager contacted [the student] to ask [the student] to take the paperwork home as this has been the past practice. [The student] responded that [they are] no longer to bring paperwork home from the school. The

IEP Case Manager placed it in the school district outgoing mail. The meeting was scheduled for October 22, 2025."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of previous issues are incorporated herein by reference. To clarify, the parent's concern was with a Notice of Meeting (NOM), which is addressed by K.A.R. 91-40-17(a)(2), not a Prior Written Notice (PWN).

1. The director shared the process found in the LEA's handbook to ensure IEP meetings are scheduled in compliance with the 10-day notice requirement under Kansas regulations. This guidance recommends beginning the scheduling process approximately 35 days before the student's annual IEP due date, when possible.
2. During the November 6, 2025 interview, the school psychologist stated that the case manager identified the earliest date when all required IEP team members were available and prepared a Notice of Meeting for the parents, proposing October 22, 2025, as the meeting date noting that the student's annual IEP was due by November 12, 2025.
3. In the November 4 2025 interview, the case manager shared that on Friday, October 10th they attempted to give the Notice of Meeting to the student to take home, which has been the practice in the past. However, the student said that their parents no longer want them to be responsible to bring home papers from school.
4. The case manager put the Notice of Meeting envelope in the school mail on the afternoon of Friday the10th, 2025 but the envelope wasn't postmarked until the 15th, 2025 due to the weekend and Columbus Day.
5. The parents provided evidence that the envelope containing the Notice of Meeting was postmarked October 15, 2025 and reported receiving the Notice on October 16, 2025, only 7 days prior to the scheduled meeting on October 22, 2025.
6. In an email dated October 21, 2025, the case manager asked the parents to confirm their attendance at the IEP meeting scheduled for the following day, noting that the signed Notice of Meeting had not yet been returned.
7. The parents replied to the case manager on October 22, 2025, at 5:17 AM declining the meeting and proposing an alternative date.
8. The parents sent an email requesting additional school staff be in attendance at the student's annual IEP meeting, October 22, 2025, at 6:12 AM.
9. The LEA response states, "While these individuals are not a part of the required IEP team participants, the [middle school] team worked to identify a date/time that the required IEP team members may be present along with as many of the parent requested attendees that are available to attend. That date is November 4, 2025 at 2:00 p.m. at [the middle school]. A new Notice of Meeting for the annual review was completed on October 23, 2025 and provided by mail and e-mail to the parent."

Conclusion

Kansas regulations at K.A.R. 91-40-17(a)(2) requires LEAs to send parents a notice of meeting at least 10 days in advance of the IEP meeting to ensure parents are able to attend the IEP and offer input.

The first agreed-upon annual IEP meeting date was October 22, 2025 for which the parents did not receive the Notice of Meeting at least 10 days in advance. However, the parents declined that date, requested additional staff be included, and proposed alternate dates. The team subsequently agreed on November 4, 2025, and the Notice of Meeting was emailed to the parents on October 23, 2025, 13 days prior to the meeting.

Based on the foregoing, it is found that the LEA provided at least 10 days notice to the student's annual IEP on November 4, 2025. The LEA is *IN compliance,* and corrective actions are not required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §300.323(c)(2) was not found based on evidence of implementation of the IEP specific to paraprofessional support. Corrective action is not required.
2. ISSUE TWO: A violation of 34 CFR §300.324(a)(1)(ii) was not found based on evidence of the LEA's consideration of parent concerns. Corrective action is not required.
3. ISSUE THREE: A violation of K.A.R. 91-40-17(a)(2) was not found based on the LEA's provision of the Notice of Meeting to the parents for the student's annual IEP meeting held on November 4, 2025. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #260
ON SEPTEMBER 18, 2025

DATE OF REPORT: OCTOBER 18, 2025

This report is in response to a complaint filed with our office on behalf of a student, --------, by their parent, --------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #260, Derby Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #260.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state-recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the school district. In this case, the KSDE initially received the Complaint on September 18, 2025, and the 30-day timeline ended on October 18, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #260, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), convened a properly constituted Individualized Education Program (IEP) team at IEP meetings. Specifically, whether the LEA ensured the attendance of all required members, including the occupational therapist (OT) whose presence was requested by the Parent, at the August 7, 2025 IEP meeting. K.A.R. 91-40-17 (b)(h-j), K.S.A. 72-3404(u), K.S.A. 72-3429(b); 34 § C.F.R. 300.321.

ISSUE TWO: Whether USD #260, in accordance with state and federal regulations implementing the IDEA, properly reviewed and revised the Student's IEP and Behavior Intervention Plan (BIP) to address the Student's behavior. K.S.A. 72-3429(b); 34 § C.F.R. 300.324 (b).

Investigation of Complaint

The Investigator interviewed the Parent on October 7, 2025. The following LEA staff were interviewed on October 6, 2025: the Director, the Principal, the Special Education Teacher, and the School Psychologist.

In completing this investigation, the Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. LEA response, 09/29/25
2. IEP,01/16/25
3. Functional Behavior Assessment (FBA), 12/20/24
4. Positive Behavior Intervention Plan (PBIP), 01/16/25
5. Prior Written Notice (PWN) for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 01/16/25 and 08/07/25
6. PWN, 01/16/25
7. Evaluation/Eligibility Team Report (FY25), re: the Student, additional pages, no date
8. Student Information, 09/29/25
9. Notice of Special Education Meeting, 12/16/24
10. Notes, re: the Parent, 09/15/[25]
11. PWN, 09/18/25
12. PWN, 09/23/24
13. IEP, 08/27/24
14. KSDE Letter, re: educational quality, Fall 2024
15. Classroom DOJO documentation, 2024-25
16. Notes, re: behavior, 08/07/25
17. Summary of behavior incidents, 10/7/24-04/28/25
18. Incident Details, 2025-26
19. Attendance codes, no date
20. Emails from September 19, 2024 through October 7, 2025

Background Information

This investigation involved a third-grade student enrolled at an elementary school in USD #260. The Student began attending their current school in October 2024 and is currently receiving special education or related services as a child with a disability per the IDEA, with the primary exceptionality of autism and a secondary exceptionality of Attention Deficit Hyperactivity Disorder (ADHD). The Student is described as being sweet and creative and enjoys walks, magnetic tiles, Legos, and works better with adults than with peers.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. An IEP dated August 27, 2024, from the Previous LEA described the Parent's concerns, the Student's strengths and needs, goals, and accommodations and modifications. The IEP indicated the Student was attending school virtually.
2. A PWN dated September 18, 2024, described the following:
    a. The team met on September 23, 2024 to review information and determine special education and related services, placement, and additions, changes, or modifications to services.
    b. A "material change in services" and a "substantial change in placement" were noted.
    c. The actions proposed or refused included services from the previous school that would be discontinued and those from the current LEA that would be provided.
    d. An explanation of the proposal indicated, “The team has determined that the services listed will best meet [the Student's] needs as [the Student] was previously receiving [their] special education services online and will now be receiving services in person as the school district is able to meet [the Student's] needs in a general education building." The team reviewed the Student's previous IEPs and reevaluation as the basis for the action.
    e. Consent for special education placement and services specified in the notice was provided via signatures from the Parents and dated October 7, 2024.
3. On September 19, 2024, the Parent emailed the School Psychologist to indicate the Student would begin school on October 7, 2024 due to "too short of notice for me to try and adjust my schedule, especially my work schedule."
4. A PWN dated September 23, 2024, described the LEA's proposal to conduct a reevaluation to determine the Student's present levels and to determine if the Student continued to qualify for special education. Assessment areas and descriptions were listed. Consent for the reevaluation was provided via signatures from the Parents and dated October 7, 2024.
5. On October 17, 2024, the Special Education Teacher emailed the Parent to share the Student"... took a bin of markers from the teacher area and refused to give them back. When they were taken away, [the Student] escalated and began hitting staff and throwing chairs and knocking down desks. Due to the classroom needing to be cleared for the others [sic] safety [Emergency Safety Intervention] ESI paperwork has to be filled out." The Parent responded, 'Tt1is is unfortunate because I can't give you advice on [the Student's] problem behaviors because [the Student's] not aggressive c1 home. The most [the Student] will do is cry when [the Student] doesn't get a preferred item:1'
6. An FBA dated December 20, 2024, indicated data were collected over a 44-day period regarding elopement, physical aggression, and task refusal. The document indicated the team did not feel there were instructional, curricular, or learner-specific

antecedents to the problem behaviors, and noted the Student did not like loud noises and performed better in structured situations. Additionally, the consequences of staff reaction and redirection were deemed "inconsistent" with regard to reinforcing the behaviors. The team hypothesized"... when [the Student] gets over[-]stimulated by environmental stimuli, [the Student] elopes the room in order to escape the sensory overload" and because of this, the Student required a SIP as part of their IEP.

7. A Notice of Special Education Meeting sent by mail on December 16, 2024, described a meeting scheduled for January 16, 2025 to review the results of the evaluation, to determine the Student's eligibility, and to develop an IEP or discuss possible changes to the IEP. This notice was acknowledged and initialed by the Parent on January 16, 2025.
8. Weekly behavior tracking reports were summarized in spreadsheets and described the Student's behaviors:
    a. On October 7, 2024, the Student experienced a total of 6 behaviors, with the two most frequent behaviors of dysregulated transition (3) and "other" behavior (3).
    b. From October 21, 2024 through the week of December 16, 2024, the Student experienced a total of 250 behaviors, with the four most frequent behaviors of elopement (54), yelling (53), refusal (43), and task avoidance (33).
    c. From January 8, 2025 through the week of March 10, 2025, the Student experienced a total of 368 behaviors, with the four most frequent behaviors of yelling (137), task avoidance (83), elopement (70), and refusal (40).
    d. From March 24, 2025 through the week of April 28, 2025, the Student experienced 221 behaviors, with the four most frequent behaviors of yelling (62), task avoidance (48), elopement (39), and refusal (35).
9. On January 15, 2025, the Special Education Teacher emailed the Parent to thank them for "helping calm [the Student] down" and attached a document entitled: "[The Student] Parent Letter for 3rd ESI."
10. An IEP dated January 16, 2025, included the following:
    a. The Student's reevaluation was completed on January 16, 2025.
        i. The reevaluation report indicated, "All required members were invited and in attendance." Team member signatures included the Parents, the Speech Language Pathologist (SLP), the OT, the Principal, the General Education Teacher, the School Psychologist, the School Social Worker, and the Special Education Teacher.
    b. Parent input included "hitting, fighting, crying does happen at home, overall concerned with [the Student's] behaviors at school."
    c. The Student's behaviors were noted as being addressed in a BIP.
    d. The "Motor" section indicated, based on the most recent evaluation and data collection, the Student had needs in this area that required special education and related services.

i. "The Student requires occupational therapy intervention to work with [the Student's] sensory differences to assist [the Student] in recognizing what [the Student] needs and learning strategies to utilize so that [the Student] can more fully access [their] educational environment."

e. The Student required special education or related services in the areas of communication, daily living, and math.

f. The "Social-emotional" section indicated the Student required special education or related services, "Since starting at [the School] in October, [the Student] has had 250 behavior incidents. [The Student] has eloped [from] the classroom 54 times and yelled/screamed 53 incidents accounting for 42% of [the Student's] total behaviors." Additionally, the Student was unable"... to participate in the general education setting with same-aged peers full-time due to demonstrated behaviors."

g. The following goals were described:

i. Goal 1: "By January 15, 2026, [the Student] will initiate and maintain conversations with peers, teachers, incorporating turn taking and active listening skills with 50% accuracy as measured by peers and classroom teacher conversations" documented by data accumulation, observation, and teacher input and provided by special education staff, an SLP, and a social worker.

1. Baseline: "Currently, [the Student] does not initiate and maintain conversations with peers, teachers, incorporating turn-taking and active listening skills. 0% accuracy."

ii. Goal 2: "By January 15, 2026[,J when presented with a non-preferred task, [the Student] will initiate and complete the task for 1O minutes without attempting to elope the designated area, with visual cues and verbal prompts, occurring 60% of the time, as measured by teacher observation and student work samples," provided by a special education teacher.

1. Baseline: "[The Student] has eloped the designated area 54 times since October 2024 when [the Student] started at [the School]."

iii. Goal 3: "By January 15, 2026, When asked to state [their] parents name [sic] and ... address, [the Student] will independently orally state and then write [the Student's] name and address, with 65% accuracy as measured by student writing samples and teacher[-Jcollected data," provided by a special education teacher.

1. Baseline: "When asked to state [their] parents [sic] name and address, [the Student] has responded correctly 0% of the time."

iv. Goal 4: "By January 15, 2026, given occupational therapy intervention and special education staff support, [the Student] will accurately and effectively perform three activities within a sensory diet in 3 out of 4 sessions" measured by an OT and special education classroom documentation and provided by "[an occupational therapist/licensed] OTR/L and/or [a certified occupational therapy assistant licensed] COTA/L; [Special Education] SpEd."

1. Baseline: "This is a new skill to be learned; baseline 0%."

v. Goal 5: "By January 15, 2026[,] when given exercises with subtraction, two digits, [the Student] will subtract two-digit numbers - with regrouping, improving number and operations in base ten skills from 30% accuracy to 80% accuracy as measured by student work samples," teacher-recorded data, and provided by a special education teacher.

1. Baseline: "[The Student] currently can subtract double[-] digit problems without regrouping by drawing out the numbers and then X'ing out the other number. [The Student] does better when a line i[s] drawn between the ones and tens digit. [The Student] solves double[-Jdigit problems with regrouping at 30% accuracy."

vi. Special education and related services were delivered in classrooms within the general education building; however, the documentation did not list the start or end dates. The services included the following:

1. Special education for all subjects was provided in a behavior classroom five times per week for the duration of the day, minus the minutes for related support services.
2. Direct speech-language services were provided in a behavior classroom twice per week for 20 minutes.
3. Social work was provided in the social work office or special education classroom, weekly for 30 minutes.
4. Direct occupational therapy was provided in a special education room once per week for 15 minutes.
5. Indirect occupational therapy was provided as communication and training with the IEP team on assisting the Student with sensory strategies, once per month for ten minutes.

vii. The following accommodations/modifications/supplementary aids and services were listed for January 16, 2025 to January 15, 2026:

1. A quiet area for assessments in a designated testing location for the entirety of the test.
2. Sensory breaks provided daily, in remote and designated testing locations throughout the day.
3. Noise-canceling headphones, daily, in remote and designated testing locations throughout the day.
4. Extended time, daily, in remote and designated testing locations throughout the day.

viii. Supports for School Personnel included:

1. ESI, as required by the LEA, where training occurred, for the length of the training.

2. A review of the IEP, at least once a year, in the special education classroom, for as long as it takes to review.
3. Occupational therapy sensory regulation strategies, at least once per month, in a special education classroom, for the length of the new training, usually at least ten minutes.

ix. Transportation needs included specialized transportation and the provision of a bus aide.

x. Regarding the Student's participation with non-disabled peers, "[The Student] does attend the general education classroom for math and reading throughout [the Student's] day, however the time in general education i[s] dependent on [the Student] as [the Student] will elope the classroom when [the Student] feels [the Student] is done."

xi. The Parent initialed and dated the IEP on January 16, 2025 indicating they received disclosures and a copy of the IEP.

xii. Participants included the Parent, the General Education Teacher, the Principal, the Special Education Teacher, the SLP, the School Psychologist, and the OT.

11. A PBIP dated January 16, 2025, included the following:
    a. Behavior concern: elopement; the Student eloped 54 times.
    b. Replacement behavior: "[The Student] should use skills learned at school and will continue to learn in the special education behavioral classroom environment. These will include but not be limited to calming tools, techniques, and safe places designated around the classroom."
        i. "Ask for a break (verbally or use break card) when ... getting upset or agitated."
    c. Instructional methods: "Anger management, behavior contract, decision-making skills, direct instruction, modeling, providing cues, role-play, social skills training, stress management, mentoring, and other."
        i. Instructional description: “The IEP team will model and role-play how to use the break cards or verbally ask for a break in different settings. The team will also provide cues to use cards/ask for a break when they notice that [the Student] is becoming upset."
        ii. Responsible parties: All staff.
    d. Prevention strategy description: "The team will provide clear directions and a routine schedule for [the Student]. We will provide [the Student] with frequent breaks throughout the day. The team will review the rules/expectations with [the Student] as needed."
        i. Prevention strategies: "Avoid physical contact and power struggles, provide clear directions, parent communication, frequent breaks, reminders and/or prompts, assignment modification, predictable routine/schedule, preferential seating, structured environment, private student redirection, review rules and expectations, provide independent area/space, staff proximity, and other."

ii. Responsible parties: All staff.

e. Intervention description: "The team will provide prompts/cues, repeat expectations, and offer breaks as needed to ensure [the Student] is using the replacement behavior appropriately."

i. Intervention strategies: "Redirect, provide prompts/cues, repeat expectations, use visuals, offer a break, give physical space, increase proximity, and other."

ii. Responsible parties: All staff.

f. Consequences

i. Positive consequences description: "The team will provide [the Student] with breaks in the sensory room and/or a tangible reward. The tangible reward can [be] a preferred activity/item that is approved by the team. [The Student] does better with instant gratification so privileges/rewards should occur immediately after the replacement behavior occurs."

1. Positive consequences: "Earn privileges, earn token/ticket/points, verbal/nonverbal praise, note or call home, office visit, tangible reward, and other."

ii. Negative consequences description: "When [the Student] displays the target behavior, [they] will lose privileges."

1. Negative consequences: "Loss of privileges, loss of token/ticket/points, note or call home, office visit, restitution, and other."

iii. Responsible Parties: All staff.

g. Triggers, behavior signals, and the person responsible for notifying the Parent were described in the "Crisis Response" section.

h. Progress monitoring included charting/graphing, a behavior tracking sheet or report and "other," completed quarterly. The "other" was described as the behavior"... will be tracked on [the Student's] own individual behavioral tracking sheet and via progress reports that are shared quarterly with parents. Parents will be updated regularly on both positive and negative behaviors that occur."

12. A PWN dated January 16, 2025, included the following:

a. The Student was determined to be eligible for special education and related services after the team met to review the evaluation data, special education and related services, placement, and additions, changes, or modifications needed for the Student to meet their goals and participate in the general curriculum.

b. A "material change in services" was noted.

c. The actions proposed or refused included proposing IEP goals in the areas of communication, daily living, math, social-emotional, and occupational therapy. Accommodations, specially designed instruction (SDI), and related services were listed.

d. The actions were proposed to help the Student meet their IEP goals.

e. Additional options were considered and rejected, and the data used as a basis for the proposed actions were listed.

f. Consent for the placement and services specified in the PWN was provided by the Parent via Parent initials on January 16, 2025 and Parent signature on January 19, 2025.

13. On March 4, 2025, the Parent was informed via Classroom DOJO the Student required seclusion for five minutes"... to keep [the Student] safe as [the Student] was trying to elope while escalated. You will receive ESI paperwork via email tomorrow." The Parent acknowledged receipt by commenting, "Ok thank you for letting me know"

14. The following email exchanges occurred between May 12, 2025 and May 16, 2025 regarding scheduling a meeting regarding the Student:

    a. On May 12, 2025, the earent emailed the School Psychologist an email entitled "Modify IEP," alerting them the Student had been unenrolled and asking about adjusting the Student' IEP to half days.

    b. On May 13, 2025, the School Psychologist replied, “We can call an IEP to discuss potential changes to [the Student's] IEP. I am adding [the Student's] team to this email as well so we can get a meeting set up if that is what you would like to do." On the same day;-the Parent replied, "A meeting would be great."

    c. On May 14, 2025, the Assistant Director [unclear text received by KSDE] the "unenrollment" process and indicated, "We can absolutely get together as an IEP team to discuss what services need to look like and how to move forward. What are good days for you to meet?" The Assistant Director wrote, "Several members of [the Student's] team will be in another meeting at 1 [p.m.]" and they agreed on a 2 o'clock virtual meeting.

15. The following email exchanges occurred between July 14, 2025 and August 3, 2025 between the Parent and the LEA regarding the Student:

    a. On July 14, 2025, the Parent wrote:"... I wanted to follow[-]up on our IEP meeting from May. We've decided that [the Student] will attend school on a half-day schedule, as we believe this best supports [the Student's] current needs."

    b. On July 16, 2025, the School Psychologist responded, "Most staff are still off for summer break but when the team gets back in the building, I will make sure they are aware of what you would like to do for [the Student's] schedule. We will need to determine specific times so that [the Student's] IEP providers can continue to provide services when [the Student] is here. I have added the IEP providers so that they are aware as well as [the Assistant Director] to this email in case there is anything we need to do on our end to ensure a successful beginning of the year for [the Student]."

    c. On July 22, 2025, the Special Education Teacher wrote, "As a team, I think it is imperative that we meet in person before school starts. [Parent], would you be able to meet on Aug 4th? If you could allow for an hour that would be great ... Also, here are some things that would be helpful for [the Student's] meeting if they apply: 1.

Complete the online enrollment form for this school year. 2. Bring any current diagnosis and/or prescription information. 3. Bring a list of current outside providers."

d. On July 23, 2025, the Parent confirmed a meeting for August 4, 2025.

e. On August 3, 2025, the Parent canceled the August 4, 2025 meeting and proposed dates to reschedule. The team eventually agreed to August 7, 2025 as the meeting date.

16. The Principal's notes from August 7, 2025 described the following:
    a. The Parent reported the Student had been more aggressive with their siblings, and the Student's screaming had increased.
    b. The Parent mentioned a need to get the Student into therapies.
    c. Outside services were noted, and the Social Worker and SLP provided resources.
    d. Physical aggression in the form of hitting and shoving had increased at home.
    e. The Parent shared concerns about the Student attending a full day of school with the Student's behaviors.
    f. "[A] PWN will be created to address parental concerns"
17. On August 7, 2025, the Parent emailed the LEA with a summary of the meeting earlier that day, "I'd like to provide a quick recap of today's meeting regarding [the Student] and [their] IEP. At this time, half-day services have been denied until [the Student] begins receiving additional support outside of school. Once those external services are in place, half-day requests will be reconsidered." On the same day, the Special Education Teacher replied, "You are welcome to have [the Student] attend half days, however, transportation would not be provided as attending school is [the Student's] least restrictive environment."
18. A PWN dated January 16, 2025, contained information from an August 7, 2025 meeting.[1] According to the PWN, "On 08/07/2025, we met to review the evaluation/assessment data on this student, including any evaluations or information you provided, current classroom-based assessments and observations, and teacher or other staff observations to determine, with your input" Two boxes were checked, "Special education and related services needed by this student" and "The appropriate educational placement to provide special education and related services identified in this student's Individualized Education Program (IEP)."
    a. The following box was checked in Section D: Change in Placement:
        i. "SUBSTANTIAL CHANGE IN PLACEMENT."
    b. The Section E placement box was checked and indicated other changes to the IEP, not involving services or placement.
    c. The actions proposed or refused included, "8/7/2025: On July 14, 2025, [the Parent] emailed the team requesting to meet and discuss [the Student] going half days,

[1] The Investigator cross-referenced the original January 16, 2025 PWN with the January 16, 2025 PWN that contained information from the August 7, 2025 PWN to identify differences.

however school was not in session. An agreed[-]upon meeting was set up for August 4th, but the parent later was unable to attend an[d] the meeting was rescheduled for August 7th at 3:30 [p.m.]. The team, parent included, convened on August 7th [2025] where the parent shared the following concerns with the team: [The Student's] behaviors have escalated since [the Student] stopped attending school and has become physically aggressive towards siblings, screams and yells for minor events (i.e. not getting a cookie, waiting 5 minutes, or not getting to be on a phone) at home. [The Parent] shared that police have been called several times due to [the Student's] screaming over the summer. [The Parent] also shared that [the Parent] is struggling to find resources to help [the Student] but does have a Dr's [sic] appointment set up for August 12th [2025] to obtain a referral and a possible psychiatrist for [the Student] to meet with. [The Parent] shared that [the Parent] is also looking into [Applied Behavior Analysis] ABA therapy. [The Parent] proposed that they would like [the Student] to attend school half days and work up to full days. The school district is refusing the parent's request for the student to attend school on a half-day schedule."

d. The explanation provided included, "8/7/25: The decision to deny a half-day schedule is based on the absence of current and objective data from the home environment that demonstrates that a reduced school day would be educationally or behaviorally beneficial for the student. The IEP team requires data-supported evidence that a shortened day would improve access to the general education curriculum or address specific needs identified in the IEP."
e. The options considered and the reason for rejection included, "8/7/25 Option Considered: Implementation of a half-day schedule as requested. Reason Rejected: There is no documented behavioral or educational data indicating that a reduced day would result in improved student outcomes." The data used as a basis for the refusal included the following:
    i. "8/7/25: Classroom observations and teacher reports indicating that the student is able to participate in a full school day without significant difficulty."
    ii. "Progress monitoring data showing consistent attendance and performance during the full-day schedule."
    iii. "Review of existing evaluation reports and IEP goals indicating that the current placement and schedule are appropriate."
    iv. "Lack of home-collected data or professional recommendations from outside providers supporting a half-day schedule."
f. Other factors relevant included, "8/7/25: The school team is committed to providing appropriate supports and services within the school environment. A decision to reduce instructional time is considered a significant change in placement and requires evidence that it is in the best interest of the student's educational progress. Without supportive data, such a reduction would be inconsistent with FAPE (Free Appropriate Public Education)."

19. On August 25, 2025, the Special Education Teacher emailed the Autism Intervention Team (AIT) to request assistance, "I am responding to a team email from March of last year in regards to an AIT student consultation that we put in for [the Student]. [The Student] was put on hold for any assistance due to the number of evaluations. I am pleading for help and would like to request that we readdress [the Student's] situation. We would really like to have several eyes on [the Student], so that we get further input." The Special Education Teacher listed the accommodations they were utilizing and wrote, "With these things, and more that I am probably just not thinking of, we are still experiencing behaviors (ear piercing screaming, eloping, and hitting peers/staff) when [the Student] does not get to do exactly what [the Student] wants to do.... We have had to pull the float para[educator] as [the Student] requires someone to be with [them] at all times for [the] safety of [the Student] and those around [them]." The AIT team responded and indicated the Student would be first on the request list.
20. On September.5, 2025, the Parent emailed the LEA to share the Student's behaviors were only occurring at school and "There have been no updates to [the Student's] IEP or behavior plan, and your school continues to rely on outdated documentation from last year, which is clearly ineffective."
21. Between September 11, 2025 and September 29, 2025, the LEA and the Parent exchanged emails to schedule a meeting to discuss the Parent's concerns, eventually agreeing to an October 9, 2025 IEP meeting.
22. The Assistant Director's notes from a September 15, 2025 communication with the Parent indicated the Parent shared, "Only 3 people show up to [the Student's] meeting. [The Social Worker] SW is most of the time late, a special education teacher, and the principal. IEP meeting behavior plans were never discussed.... August 7th [2025] is the last IEP."
23. Enrollment and discipline information for the 2024-25 school year indicated the following:
    a. The Student's start date at the School was October 7, 2024 and their end date was May 22, 2025.
    b. The Student received 10 discipline referrals.
24. Attendance information for the 2024-25 school year indicated the following:
    a. The Student's attendance was marked other than "present" on 36 days from November 5, 2024 to May 22, 2025:
        i. 2/36 days: In-school suspension (155).
        ii. 2/36 days: Out-of-school suspension (OSS).
        iii. 4/36 days: Unexcused absence.
        iv. 28/36 days: Excused absence.
25. Enrollment, attendance, and discipline information for the 2025-26 school year indicated the following:
    a. The Student's start date was August 13, 2025.

b. The Student had been absent from school for five days by September 18, 2025.
c. The Student was suspended for two days.
d. The Student received eight referrals/incident notations from August 21, 2025 to September 16, 2025 for the following behaviors: elopement, insubordination, battery, and assault with physical harm.

Interview Summaries

The Parent

26. In an interview with the Investigator, the Parent remembered a May meeting they believed was an IEP meeting and shared, "I do know, I think some of them didn't show up. I don't know what was going on, but I mean, that's a normal thing. Not everybody comes, but I'm pretty sure it was an IEP meeting because ... we need to come up with something [the Student's] not learning anything. [The Student's] going into behaviors, and it's only at school, so what can we do? But yeah, nothing really came of it." The Parent recalled the presence of the Special Education Teacher and another person at the meeting.
27. Regarding the August 7, 2025 meeting, the Parent recalled the Special Education Teacher, the Social Worker, the Principal, and another person present at the meeting. The Parent remembered being "extremely upset" and indicated the Student was suspended and"this is the third suspension ... something's not working. The environment at School, obviously, it's too much if [the Student's] behaviors is only occurring at school [sic]."
    The Parent recalled sharing the Student could go to school for half days, with the idea the Parent could find therapy for the Student during the other portion of the day. The Parent indicated the LEA said, "'We don't have any proof and no data that we should do half days.' If I decide to still do half days, they're not providing me [with] transportation. So that was the condition" The Parent shared with the Investigator, "Well, I need transportation for [the Student] to go to school. I don't drive, so I don't have a choice but to abide by their conditions." Additionally, the Parent shared the only decision made at the meeting was"... they denied the request for half days." According to the Parent, the LEA informed the Parent of this decision in person and"... they also sent me a form afterwards that stated that the only decision made at the meeting was"...they denied the request for half days." According to the Parent, the LEA informed the Parent of this decision in person and "...they also sent me a form afterwards that stated that they denied the request for half days."
    The Parent recalled telling the School, "It [unclear text received by KSDE] them from the beginning;-[the Student] started in October of 2024. the behaviors [the Student] has only occurs in school. It's not at home... The fighting, the aggression, the biting, the Kicking, the throwing." The Parent indicated the Student-"'fights with their siblings, but was not violent at home. The Parent shared they left the meeting frustrated, noting the staff only repeated old questions about the Student's behavior at home. The Parent complained the School never provided information about what triggered the Student's

behavior or how the School helped to decrease the incidents. The Parent shared the Student did not act out in the community or at home, insisting that something specific was happening at school.

28. When asked about requesting the OT at the August 7, 2025 meeting, the Parent shared, "I just felt like because there was things as far as [the Student's] speech and OT. I don't know any of what's going on with that because the only people that showed up now, maybe the OT was the [person] from the last one, but the only people that usually show up is the social worker, [the Student's] main teacher, and the Principal. But I want to know how [the Student's] doing with OT, [and] speech. I mean, they came to one meeting. That's the first time [the Student] came to the school.
Everybody was there, and then it's like nobody else's existence after that. Does [the Student] need additional help when it comes to that type of stuff, too? I don't know. Why is only a portion of people showing up to the Student's meeting?" The Parent shared, "I would like for everybody to attend so I can know where [the Student's] at on every level in every circumstance. I appreciate the [Special Education] teacher being there all the time. I appreciate that. But [the Special Education Teacher] doesn't deal with [the Student] for these 30 minutes of time, the Speech Therapist or the OT does."
29. When asked to describe the indicators the Student's needs were not being met, the Parent shared the following:
    a. "For starters, when [the Student] goes into behaviors, is there someone that can step in and help with those circumstances besides that general teacher?"
    b. "... If it's one teacher and [the Student's] dashing out [of] the room, who was there blocking [as a] safety precaution? [The Student's] already had [their] finger cut open because no one was watching [the Student]."
    c. "Is there anybody else with [the Student]? I mean a para[educator] or something, a one-on-one aid or something that can be with [the Student] to make sure, 'Hey, you have to sit at your desk. Hey, we can't run in the hallway. Hey, we can't run and hide in the bathroom.'"
    d. "... I'm being called all the time for behaviors that I don't know how to deal with because they're not happening here."
30. The Parent indicated the School communicated with them after a seclusion or if the Student needed to be picked up, "Other than that, I don't get an update on [the Student's] behaviors at all."
31. Regarding the Student's attendance from March 2025 to May 2025, the Parent shared the Student attended daily"... besides maybe if [the Student] needed an appointment" or if the Parent could tell there were going to be behaviors, 'We're going to avoid you going today, I can already tell you're going to be in behaviors."
32. When asked if the Parent had noticed differences in the Student's behaviors from second grade to third grade, the Parent shared, "I think it's either the same. I won't say it['s] gotten worse, but it's the same. The physical aggression, the elopement, I don't think there's been any improvement at all."

The Director

33. In an interview with the Investigator, the Director shared the difference between an IEP meeting and a parent meeting,"... It is not unusual for us to get into what we believe is a parent-teacher conference ... and then something IEP related might come out of that. And then at that time, we typically stop the meeting, have the parents either waive their 10-day rights and continue with that meeting, or we can set up a meeting for another time. It is my understanding for this particular meeting that they were just listening to [the Parent] and [the Parent's] concerns regarding kind of how the school year ended, what [the Student's] behavior looked like over the summer I know the staff had given [the Parent] resources in the past and I think it was more just catching up, if you will, and seeing where they were with those resources and continu[ing] to help.... It was more of that parent-teacher conference meeting."
34. Regarding decisions made during the August 7, 2025 meeting, the Director shared, "So I can harp on them a lot to make sure that there are any parent concerns, that they always document those. And I think that's what [the Special Education Teacher] was alluding to with the PWN, is to make sure that those Parent concerns were documented." Additionally, the Director shared,"... I did do some already preemptive corrective action" on the topics of the notice of meeting, stopping the meeting if it turns into an IEP meeting, "And then we went through the meeting that occurred on August 7th [2025] and looked at when it began to discuss half days and how that could have felt like to the Parent, an IEP."
35. The Director indicated they never found anything that indicated the Parent requested the presence of the OT at the August 7, 2025 meeting.

The Principal

36. In an interview with the Investigator, the Principal shared they interacted with the Student when the Student escalated and was harming others. According to the Principal, when calm, the Student was pleasant and took many supervised breaks throughout the building. However, when upset, the Student would throw things, hit, or kick. During a recent intervention, the Student struck the Principal in the face. The Principal shared the Student was able to attend their general education classes briefly, and recently, the team decreased the Student's demands to find opportunities for the Student to be successful.
37. The Principal recalled attending a meeting with the Parent, the Special Education Teacher, the Social Worker, and the SLP on August 7, 2025, in which the Parent expressed frustration over the Student's summer behavior, stating family outings like going to the waterpark or restaurants were impossible without the Student becoming escalated. According to the Principal, the Parent found the Student needed to be constantly busy to stay content. The Parent was concerned the Student's increased aggression with their siblings would become unmanageable as the Student grew older and larger, worrying the Parent wouldn't be able to physically restrain the Student.

38. When asked about the Parent requesting the presence of an OT at the August 7, 2025 meeting, the Principal shared, "I don't recall that request." Additionally, the Principal shared they did not consider the August 7, 2025 meetrng an IEP meeting but a" ... briefing on how the summer went for [the Student]." The Principal recalled the Parent wondering if the Student would be successful with half days,"... and we talked about what that would look like and we did not feel like that was beneficial for [the Student]" The Principal shared "No decisions were made" at the August 7, 2025 meeting.

The Special Education Teacher

39. In an interview with the Investigator, the Special Education Teacher shared the following regarding the Student's behaviors:
    a. The Student's primary behaviors consisted of elopement and, secondarily, task-avoidance. Additionally, when the Student was asked to perform a non-preferred activity, the staff would prompt, redirect, and say "No." When the Student indicated they did not want to perform the activity,"... [the Student] kind of gives the head shake, and then, if we're like, 'But this is math time, this is what our schedule is,' that's when [the Student] will be like, 'I said no.' And then [the Student] will hit whoever's around [them] ... and then [the Student] started yelling, screaming, and [the Student] elopes the classroom. And that's [the Student's] pretty typical behaviors we experienced all last school year."
    b. Because the Student had previously been in an online program and did not enroll in the School until October 2024, the staff initially had limited information on the Student's behavior. They initiated a full evaluation, which included an FBA, and began collecting data. They tracked the Student's behavior weekly using a classroom data tracker that documented the frequency of specific actions, and shared a handwritten report with the Parent. Following the Student's IEP meeting in January 2025, they transitioned to sharing the digital data tracker with the Parent, which listed the targeted behaviors and the number of times they occurred each week. Additionally, they communicated with the Parent via Classroom DOJO.
    c. Following the IEP meeting on January 16, 2025, parent conferences were held about a month and a half later. At that time, the Student's most frequent and concerning behaviors of elopement and task avoidance were still occurring. Because these were the consistent major concerns, the behavior plan had not been revised. Despite the ongoing behaviors, the Student did not have any out-of-school suspensions until April 1 and 2, 2025. A more severe behavioral incident occurred on April 28, 2025, and the Parent came to the School that day and chose to take the Student home. The Student did not return to school for the rest of the academic year.
40. Regarding IEP meetings, the Special Education shared there were no IEP meetings after January 16, 2025. Regarding the May 16, 2025 meeting, the Parent sent an email to the School Psychologist entitled "Modified IEP" on May 12th or 13th, 2025, and they recalled the Parent was"... just saying that [the Student's] behaviors had increased ... and ... we really provided the Parent with more resources because the Parent was at a

loss of what to do with [the Student] and their increasing behaviors." The Special Education teacher recalled,"... and at that point in time, we decided that no IEP was needed or anything to be modified because [the Parent] was going to be looking for resources ... over the summer." The Special Education Teacher indicated they attended the meeting with the Parent, the Principal, and the Social Worker.

41. In July 2025, the Special Education Teacher recalled the Parent emailed the LEA, indicating the Student was going to "be receiving half-day services at the School and that [the Parent] was finishing up securing outside resources.
And so as a team, [we] felt it was necessary to have an updated information grouping to come together because none of us were sure what was really going on ... because we hadn't had communication with the Parent since our May 16th meeting. So we said, 'Let's go ahead and have a meeting' per [the Parent]. [the Parent] wanted to talk about things, too."
42. The Special Education Teacher recalled the August 7, 2025 meeting, "So when [the Parent] came [on] August 7th [2025], [the Parent] sat with myself and some of the other providers that [the Student] has Not all staff was back to school yet, based on our days. And so we kind of just let [the Parent] talk and [the Parent] shared where [the Parent] was with outside services, what [the Parent] was looking into Based on that meeting though, [the Parent] did share with us that [the Parent] has not secured any outside services "
The Special Education Teacher recalled sharing half days were a possibility, but at that moment,"... it didn't seem like [the Parent] really had anything going on and that [the Parent] was free to choose half days, but that ... transportation is not provided at that time [and] that if we needed to, we could address things. If [the Parent] had services, we could amend IEPs, we could change it to be half days to fit whatever schedule [the Parent] needed. And so that was kind of the very end of that conversation that we had with [the Parent] ...." The Special Education Teacher indicated they attended the August 7, 2025 meeting with the Parent, the Principal, the Social Worker, and the SLP, and indicated, “To my knowledge, there was no written communication or even at the time of the meeting, [a] request for the Occupational Therapist to be present."
43. Regarding decisions made at the August 7, 2025 meeting, the Special Education Teacher shared,"... there was really no decision we just said that we were going to honor [the Student's] IEP as it was written because it didn't seem like anything, there hadn't been any changes as far as services or anything outside of what we had already been doing." When asked if the August 7, 2025 meeting was an IEP meeting, the Special Education Teacher shared, "I do not feel so, no" and described their rationale, "We did not discuss any of the components of the IEP until the very last five minutes where I just kind of said, 'Hey, but to address what your email said, I think it would be best just to start the school year on full days. And if something changed or we needed to change something, we could call and amend [the Student's] IEP.' But the majority, the beef of the meeting was the Parent sharing how their summer had went and all the places they

had gone [and] [the Student's] behaviors and just sharing kind of where [the Parent] was at with that..."

44. The Special Education Teacher explained the reasons the January 16, 2025 and August 7, 2025 PWN were on the same document. They did not know how to access a blank PWN and shared, "We're told to continually add to the original so that it is all considered part of the record." The Special Education Teacher shared the information in the PWN below the date of August 7, 2025, was related to that date. When asked about specific information listed below the August 7, 2025 date, including the description of the data used as a basis for the proposed or refused action, classroom observations, teacher reports, progress monitoring, and a data review, the Special Education Teacher indicated that not all of those items, specifically, were discussed. The Special Education teacher said, "And so the way the conversation was, that was not addressed specifically, but just saying that based on everything that had happened from the end of the school year and everything that we had, that [the Student's] behaviors were still very extreme behaviors that we didn't understand what a half-day would essentially provide"
45. The Special Education Teacher indicated there were no written agreements signed by the Parent regarding staff attendance at meetings.

The School Psychologist

46. In an interview with the Investigator, the School Psychologist indicated they completed the Student's reevaluation when the Student enrolled the previous school year. During this process, the School Psychologist learned many of the Student's behaviors in the classroom stemmed from the Student's difficulty with verbalizing the Student's wants and needs. The School Psychologist described during the FBA, behaviors were tracked and data were collected to determine the functions of the behavior and to tailor the BIP to meet the Student's needs.

    When asked to describe the Student's behaviors overtime since enrollment, the School Psychologist felt they had likely "gotten a little worse." Although the School Psychologist was not often in the classroom to witness the behaviors directly, they understood the worsening behavior involved a lot of screaming and task refusal. This refusal often occurred when the Student was fixated on a preferred activity and did not want to shift to the requested task.
47. Regarding the August 7, 2025 meeting, the School Psychologist did not attend but recalled the Parent emailing them over the summer, requesting the Student attend half days. The School Psychologist forwarded the email to the rest of the IEP team, including the OT, so they could schedule the meeting with the Parent. The School Psychologist did not remember the Parent specifically requesting the OT's presence.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #260, in accordance with state and federal regulations implementing the IDEA, convened a properly constituted IEP team at IEP meetings. Specifically, whether the LEA ensured the attendance of all required members, including the OT whose presence was requested by the Parent, at the August 7, 2025 IEP meeting. K.A.R. 91-40-17(b)(h-j), K.5.A. 72-3404(u), K.S.A. 72-3429(b); 34 § C.F.R. 300.321.

According to K.A.R. 91-40-17(b)(h-j), K.S.A. 72-3404(u), K.5.A. 72-3429(b) and 34 § C.F.R. 300.321, the notice for an IEP team meeting shall indicate the purpose, time, and location of the IEP team meeting and the titles or positions of the persons who will attend on behalf of the agency, including, if appropriate, any other agency invited to send a representative to discuss needed transition services. The notice shall inform the parent that the parent has the right to invite to the IEP team meeting individuals whom the parent believes to have knowledge or special expertise about the child. Additionally, a regular education teacher of an exceptional child, as a member of an IEP team, shall participate to the extent appropriate in the development, review, and revision of the child's IEP. This participation shall include assisting in determining the appropriate positive behavioral interventions and strategies for the child, the supplementary aids and services needed for the child, and the program modifications or supports for school personnel that will be provided to assist the child. If qualified to do so, an agency member of the IEP team may serve in the role of two or more required members of a child's IEP team. In asking individuals with knowledge or special expertise about a child to be members of the child's IEP team, the party asking the person to participate shall have the sole discretion in determining whether the invited person has knowledge or special expertise regarding the child.

The Parent alleged most staff members consistently failed to attend the Student's IEP meetings. They reported a lack of transparency regarding the Student's team, noting they were not informed of who was on the team and that no documentation or attendance sheet was provided to verify meeting participants. Regarding the IEP meeting on August 7, 2025, the Parent indicated only three staff members were present, and they were particularly disappointed the OT. whose input they specifically requested, was absent along with other necessary team members.

The LEA indicated they "properly convened a parent-staff conference on August 7, 2025." The LEA opted for a parent-staff conference "rather than an IEP meeting to better understand what had transpired in the three months since they last saw [the Student] and to understand [the Parent's] intentions." After the meeting, the Assistant Director recommended the meeting discussion be documented via PWN. Additionally, "The team recognized that after the meeting

was over, they were remiss in not stopping the meeting and garnering parental consent from [the Parent] to waive [their] 10-day rights in writing, as at some point in the meeting, it felt like it turned into an IEP meeting. yet no one, at the time, recognized it as such."

The January 16, 2025 IEP meeting was properly noticed and convened with the required team members. In contrast, the LEA labeled the May 16, 2025 and the August 7, 2025 gatherings as "parent meetings," not formal IEP meetings. Neither the May nor the August meetings were properly noticed nor attended by the required members of the IEP team. The May 2025 meeting in particular constituted a parent meeting and not an IEP meeting for these reasons. Additionally, there is no evidence to suggest the OT was specifically requested for the August 7, 2025 meeting. Despite the LEA's intention, the "parent meeting" on August 7, 2025 evolved into an IEP meeting when substantive decisions about the Student's placement were made. *Partially substantiated.*

Separately, the Parent essentially requested an IEP meeting with the title of their May 12, 2025 email, "Modified IEP" and inquiry about a half-day schedule for the Student. Although both the School Psychologist and the Assistant Director acknowledged an IEP could be convened, one was not scheduled until October 9, 2025. The Parent reiterated their desire for half days in their July 14, 2025 email, which prompted the LEA to gather a team to discuss the Parent's concerns at a meeting scheduled on August 7, 2025. While the LEA intended for the August meeting to be an informal gathering of information, the discussion formally culminated in the refusal of a half-day schedule, a decision documented in the PWN as a "substantial change in placement." This determination, which directly impacted the Student's services, was made without a properly convened IEP team or the necessary written agreement for the excusal of absent, mandatory members. As a result, the LEA's procedural failures violate the procedural prong of Board of Education v. Rowley (1982). These lapses prevented the collaborative planning required to meet the current substantive standard from Endrew F. v. Douglas County School District (2017), which requires an IEP to be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances," thereby resulting in a denial of a FAPE. *Additional finding is substantiated.*

Additionally, the PWN documenting the August 7, 2025 decision was procedurally and factually inaccurate. Using an old date for a new decision related to a "substantial change in placement" obscures the timeline and was misleading about the date and scope of the actions taken. Additionally, the Special Education Teacher indicated the list of data reviewed for the basis of the refusal of half days was inaccurate. *Additional finding is substantiated.*

Based on the foregoing, according to IDEA and Kansas special education regulations, USD #260 *made procedural violations* by failing to convene a properly constituted and noticed IEP meeting, a timely IEP meeting to address the Student's behaviors and needs, and by issuing an inaccurate PWN, thereby denying the Student a FAPE.

Issue Two

Whether USD #260, in accordance with state and federal regulations implementing the IDEA, properly reviewed and revised the Student's IEP and BIP to address the Student's behavior. K.S.A. 72-3429(b); 34 § C.F.R. 300.324(b).

According to K.S.A. 72-3429(b) and 34 § C.F.R. 300.324(b), each agency shall ensure the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved. Each agency shall also ensure the team revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate, the results of any reevaluation conducted under this section, information about the child provided by the parents, the child's anticipated needs, or other matters.

The Parent alleged the Student's IEP had not been updated or modified to reflect the Student's current needs and behaviors. The Parent claimed the School continued to follow the previous year's IEP despite clear evidence it was no longer appropriate. Additionally, the Parent reported the Student's BIP was never discussed during IEP meetings. They indicated they had only received one behavior report in January 2025 and received no updates or modifications before or after that date. The Parent also noted there was no discussion of the Student's triggers, calming strategies, or how the School was addressing the Student's physical aggression.

The LEA indicated they properly reviewed and revised the Student's IEP and behavior plan to address the Student's behavior, starting with garnering consent to evaluate when the Student began attending the School in October 2024. The LEA indicated the Student was evaluated, and the IEP team met on January 16, 2025 to complete a new IEP, review the FBA, and create a new BIP. Additionally, the LEA reached out to the AIT in March 2025 to assist with the Student's behaviors, but the team could not observe until April. According to the LEA, "By then, [the Student's] attendance had become sporadic, with [the Student] eventually leaving the district on April 28, 2025, so the AIT team was never able to observe."

The Student's behavior data from October 2024 to April 2025 showed a persisting and escalating pattern of behavior incidents, clearly indicating the Student's lack of progress. The baseline data collected during the reevaluation process documented 250 behaviors over roughly ten weeks. From January 16, 2025 through March 2025, the total number of behaviors increased to 368 over a similar period, with yelling and task avoidance becoming more frequent Despite the 368 new incidents in the weeks following the new BIP's implementation, the LEA did not convene a timely IEP team to review and revise the plan. Additionally, the Parent raised concerns about the Student's school behaviors in October 2024, May 2025, and August 2025. On August 25, 2025, the Special Education Teacher emailed the AIT, "pleading for help," 'and indicated the Student required additional staff for support, and the Principal

indicated recently that demands placed upon the Student had been reduced, all indications that demonstrate a need for a review and revision of the Student's plan. *Substantiated*.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** the LEA failed to review and revise the Student's IEP/BIP when evidence indicated a need for both.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at 34 § C.F.R. 300.321, and Kansas regulations at K.A.R. 97-40-17(b)(h-j), K.S.A. 72-3404(u), and K.S.A. 72-3429(b) specify the notice and participation requirements for an IEP meeting.

In this case, the evidence supports the finding that USD #260 did not properly notice or convene the required participants when the August 7, 2025 meeting became an IEP meeting.

B. Federal regulations at 34 CFR §§ 300.321, 300.322, and Kansas regulations at K.A.R. 91-40-17, specify that IEP meetings shall be properly noticed and attended by the required participants. Additionally, federal regulations at 34 C.F.R. § 300.324 and Kansas regulations K.S.A. 72-3429(f)(2) require an IEP team to revise the IEP to address a lack of progress.

In this case, the evidence supports the finding that USD #260 did not schedule an IEP meeting in a timely fashion after the Parent requested one on multiple occasions, nor did the IEP team review and revise the Student's IEP or BIP when a lack of progress was evident.

C. Federal regulations at 34 CFR § 300.503 and Kansas regulations K.A.R. 91-40-26 specify the notice requirements for a PWN.

In this case, the evidence supports the finding that USD #260 did not provide procedurally or factually accurate information on the August 7, 2025 PWN.

Based on the foregoing, USD #260 is directed to take the following actions:

1. As part of the materials for this case, the LEA submitted documentation regarding corrective action in the form of a training they have already provided on the steps to take when a meeting transitions from a parent meeting to an IEP meeting. No further training is required. However, within 15 calendar days of the date of this report, USD #260 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating it will comply with state and federal regulations implementing the IDEA at 34 § C.F.R. 300.321; K.A.R. 91-40-17(b)(h-j), K.S.A. 72-3404(U), and K.S.A. 72-3429(b) by implementing the necessary requirements for the notice of an IEP meeting and by ensuring no substantive decisions are made about the services or placement of a Student without a properly constituted IEP team.
2. Further, within in 15 calendar days of the date of this report, USD #260 shall submit a written statement of assurance to SETS stating it will comply with state and federal

regulations implementing the IDEA at 34 CFR §§ 300.321 300.322, and Kansas regulation K.A.R. 91-40-7 7 and 34 C.F.R. § 300.324 and Kansas regulation K.S.A. 72-3429(f)(2) that the LEA's practices and procedures for parent-requested IEP meetings and the review and revision processes for IEPs have been reviewed and revised as appropriate to be responsive and compliant with the IDEA and the Kansas Special Education for Exceptional Children Act.

a. Additionally, if an lEP meeting was not held after the filing of this Complaint on September 18, 2025, then one is scheduled within 15 calendar days of receiving this report, and notification of the completion of the IEP meeting is provided to SETS by December 15, 2025.
b. The properly constituted IEP team must review and revise the Student's IEP/BIP based on information from required parties to ensure the IEP is reasonably calculated for the Student to make progress.
c. Additionally, for the period of April 29, 2025 through May 22, 2025: The IEP team shall reconvene if an IEP meeting was held after the date of this Complaint, to develop a mutually agreed upon schedule to provide 90 hours of compensatory service for all special education and related services.
    i. The IEP team, including the Parent, shall determine the schedule for which the 90 hours of compensatory services will be provided.
    ii. The schedule for compensatory services must be provided to SETS within 10 days of the IEP meeting.
    iii. Compensatory services shall be completed by March 2, 2026. Student absence or refusal of the Parent to make the child available shall result in a waiver of service scheduled for that day. Staff absences must be rescheduled. Any compensatory services declined or not used by March 2, 2026, shall be waived.
    iv. The LEA must provide service provider logs verifying the completion of all compensatory services to SETS by the last business day of each month until the service is complete and all services have been verified.
d. Convene training for all LEA staff on the following topics to be completed within 45 calendar days of the date of this report:
    i. Legal requirements for convening an IEP team meeting; and
    ii. Triggers for reviewing and revising an IEP or BIP.
e. Certify all required personnel have completed the training and submit documentation to SETS by February 15, 2026.

3. Further, within 15 calendar days of the date of this report, USD #260 shall submit a written statement of assurance to SETS stating it will comply with state and federal regulations implementing the IDEA at 34 CFR § 300.503 and Kansas Regulation K.A.R. 91-40-26 regarding the notice requirements of a PWN.
    a. Additionally, train all LEA special education staff who participate in the production of PWNs on the following:

i. The purpose of a PWN;
ii. The factual elements required in a PWN; and
iii. The navigation of the LEA template to ensure accurate PWNs are generated.

Tania Tong/Jaime Hartt, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 260
Derby Public Schools: 26FC260-002

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on September 18, 2025, by xxxxxxxx (Parent), on behalf of her son, xxxxxxxx (Student). An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education and Title Services team at the Kansas State Department of Education (KSDE). Following the investigation, a Complaint Report addressing the allegations was issued on October 18, 2025. That Complaint Report concluded that there were substantiated violations of special education statutes and regulations.

Thereafter, the school district filed an appeal of the Complaint Report. Upon receipt of the appeal, an Appeal Committee was appointed, and it reviewed the parent's original complaint, the Complaint Report, the notice of appeal, and the response to the district's notice of appeal submitted by the parent. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this Appeal Decision.

Preliminary Matters

The Appeal Committee limits its inquiry to the issues presented in the appeal. No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report issued on October 18, 2025. The Appeal Committee does not conduct a separate investigation. The Appeal Committee's function is to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The Complaint Report dated October 18, 2025 addressed two issues. The investigator found violations of special education laws for issues one and two. For both issues, the investigator stated appropriate corrective action. On appeal, the district disputes the findings in the Complaint Report (Notice of Appeal, p.1) for issues one and two. The Appeal Committee will address both issues.

Issue One

> Did USD #260, in accordance with state and federal regulations implementing the IDEA, convene a properly constituted IEP team at IEP meetings? Specifically, did the LEA ensure the attendance of all required members, including the OT whose presence was requested by the Parent at the August 7, 2025 IEP meeting?

An IEP meeting notice shall indicate the purpose, time, and location of the IEP meeting and the titles and positions of the persons who will attend. KAR 91-40-17(b)(1). The notice shall inform the parent that the parent has the right to invite to the IEP meeting individuals whom the parent believes to have knowledge or special expertise about the child. KAR 91-40-17(b)(4). IEP team means a group of individuals composed of: the parent, one regular education teacher, one special education teacher or provider, an agency representative directly involved in providing specially designed instruction, an individual who can interpret instructional implications of evaluation results, other individuals with knowledge or special expertise regarding the student, and the student. K.S.A. 72-3404(u). If qualified to do so, an agency member of the IEP team may serve in the role of two or more required members of a child's IEP team. KAR 91-40-17(i).

First, it must be determined whether the meeting on August 7, 2025 was an IEP meeting or a parent-staff conference. On May 12, 2025, the Parent emailed the School Psychologist an email entitled, "Modify IEP" (Report, p. 12). In the email, the Parent asked about adjusting the Student's IEP to half days. On May 13, 2025, the School Psychologist responded, assuring that an IEP meeting will be held. On May 14, 2025, the Assistant Director agreed to hold an IEP meeting. An IEP meeting was held sometime in May. During the May IEP meeting, it seems that a half-day schedule was discussed but the Parent or the school had not yet agreed to the schedule change (Report, p. 13).

On July 14, 2025, the Parent sent an email regarding the Student's placement and wanting a half-day schedule (Report, p. 13). On July 16, 2025, the School Psychologist responded and assured the Parent that they would make service providers and the Assistant Director aware. On July 22, 2025, the Special Education Teacher sent an email to meet as a team before school started. A meeting was held on August 7, 2025 (Report, p. 14). According to a PWN dated January 16, 2025, the August 7th meeting included a review of evaluation and assessment data, classroom-based assessments and observations, and teacher and staff observations (Report, p. 14). Further, a substantial change in placement was proposed in the form of a half-day schedule. In the PWN, it is noted that the District refused the Parent's request for the Student to attend school on a half-day schedule due to lack of data that a half-day schedule would be educationally or behaviorally beneficial for the Student (Report, p. 15).

Based on the facts stated above, it is the view of the Appeal Committee that the August 7, 2025 meeting was an IEP meeting. Th August meeting was a continuation of the May IEP meeting because, as of August 7, 2025, the IEP had not yet been amended to show substantial change in placement in the form of a half-day schedule. Thus, the District and the school had been on notice that the Parent desired to change the Student's placement in the form of a half-day schedule. As of the August 7, 2025 meeting, the schedule issue had not been resolved. Therefore, it is reasonable for a person, let alone a parent, to conclude that the next meeting would be to discuss the Student's placement. Since the August 7th meeting was an IEP meeting, the Parent must have been given notice and the full IEP team must have been in attendance unless properly excused.

There is no evidence suggesting all members of the IEP team were present at the August 7th IEP meeting.

The investigator also found that the District denied the Student FAPE because the IEP was not "reasonably calculated to enable the child to make progress appropriate in light of the child's circumstances." Endrew F. v. Douglas County School District (2017). The IEP was not reasonably calculated because the District failed to hold an IEP meeting addressing the Student's lack of progress. In addition, the investigator found that the PWN documenting the August 7, 2025 meeting was procedurally and factually inaccurate since it used an old date for a new decision relating to a substantial change in placement. It seems that the District may have been misinformed in previous training. Still, misinformation does not negate the fact that the District failed to provide an accurate PWN. These additional findings are undisturbed.

Issue Two

Did USD #260, in accordance with state and federal regulations implementing the IDEA, properly review and revise the Student's IEP and BIP to address the Student's behavior?

Each agency shall ensure that the IEP team reviews the child's IEP periodically at least annually to determine whether the annual goals for the child are being achieved. 34 CFR 300.324(b)(i); K.S.A. 72-3429(f)(1). Further, each agency shall ensure that the IEP team revises the IEP, as appropriate, to address lack of expected progress toward annual goal and the general education curriculum, the results of any conducted reevaluations, information provided by parents, the child's anticipated needs, or other matters. 34 C.F.R. 300.324(b)(ii); K.S.A. 72-3429(f)(2).

In this case, the Parent alleged that the Student's IEP and BIP had not been updated or modified to reflect the Student's current needs and behaviors. An IEP dated January 16, 2025 noted in the "social-emotional" section that the Student required special education and related services because student was unable "to participate in the general education setting with same-aged peers full-time due to demonstrated behaviors," including elopement and yelling (Report, p. 7). The IEP noted several goals regarding the Student's behavior, including completing tasks for ten minutes without elopement (Report, p. 7). A BIP dated January 16, 2025 addressed the elopement behavior concern by allowing the Student to ask for breaks throughout the school day.

Contrary to the District's assertion that the Student's behavior incidents decreased once a BIP was implemented on January 16, 2025, the facts show that the Student's behavior incidents increased after the BIP was implemented (Report, p. 6). Based on data, the Student's behavior from October 2024 to April 2025 showed a persisting and escalating pattern of behavior incidents, indicating a lack of progress. In fact, from January 16, 2025 through March 10, 2025, the total number of behavior incidents increased to 368 in total which is an increase from the 250 behavior incidents recorded in the previous ten weeks. (Report, p. 6). During the following six weeks, from March 24, 2025 through April 28, 2025, there were 221 behavior incidents in total, which is proportional to the previous ten weeks when there were 368 behavior incidents in total. (Report, p. 6). In fact, the

total number of elopement, which was the BIP's target behavior, stayed consistent even after the BIP was implemented on January 16, 2025. Additionally, the Parent raised concerns about the Student's school behaviors in October 2024, May 2025, and August 2025. (Report, p. 30). Based on the foregoing, the District was on notice that the Student's Behavior Intervention Plan (BIP) was not effective. All indications demonstrate a need for review and revision of the Student's BIP.

The District's assertion that IEPs from previous school districts show the level of behavior the student displays at home is of no significance. Further, the alleged report of the Derby Police Department that, during the summer of 2025, 9-1-1 calls were made from neighbors regarding the Parent and Student's home is of no significance to the fact that the BIP the IEP Team created on January 16, 2025 was not effective in the school environment.

The investigator ordered 90 hours of compensatory services to be completed by March 2, 2026, because the Student did not attend school from April 29, 2025 through May 22, 2025. (Report, p. 32). The Parent, the Student's mother, emailed the School Psychologist alerting the school that the Student had been unenrolled on May 12, 2025. Though the District is required to provide special education and related services to students while they are at school, the District is not required to provide special education services to a student who fails to attend school. Here, the District was ready, willing, and able to provide Student with individualized special education services. It was the Student's absence from school and lack of enrollment that prohibited the District from provided special education and related services. As such, the corrective action requiring the District to provide the Student with 90 hours of compensatory services is overturned meaning this particular corrective action is no longer required by the District. The corrective action as it relates to scheduling an IEP Team meeting to review and revise the Student's IEP and BIP to ensure the Student makes progress remains in effect.

Conclusion

For the reasons stated above, the Appeal Committee sustains the investigator's finding in issue one, specifically that the District failed to provide the Parent with notice before an IEP meeting was held and to convene the entire IEP team.

For the reasons stated above, the Appeal Committee sustains the investigator's finding in issue two, specifically that the District violated the IDEA by failing to review and revise the Student's IEP and BIP when it was evident that revision was needed to ensure Student progress.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 18th day of November, 2025.

Appeal Committee

Hannah Miller
Mark Ward
Brian Dempsey
Crista Grimwood

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #204
ON OCTOBER 2, 2025

DATE OF REPORT: NOVEMBER 19, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #204 (Bonner Springs - Edwardsville Public Schools) on behalf of ------- by -------, an educational advocate hired by her parent. In the remainder of the report, ------- will be referred to as "the student" and ------- will be referred as "the complainant" or "the educational advocate". It is noted that the complainant provided a copy of written consent from the student's parent, -------, to share personally identifiable information about the student in regard to this investigation. In the remainder of the report, ------- will be referred to as the parent" or the "mother".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the complaint is against USD #204 (Bonner Springs - Edwardsville Public Schools) who contracts with the Wyandotte Comprehensive SPED Cooperative to provide special education and related services to students enrolled in the district. In the remainder of the report, both of these responsible public agencies will be referred to as "the Local Education Agency" and the LEA staff will be referred to as follows:

- Dr. JaKyta Lawrie, Executive Director of SPED
- Rebecca Lambert-Hugo, Special Education Coordinator
- Taryn Bramel, Special Education Special Education Teacher
- Theresa Canche, School Psychologist
- Karly Hoefler, Kindergarten Teacher
- Angela Martindale, Bus Driver

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and issue a final decision from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially

received the complaint on October 2, 2025 and the timeline for investigation was extended due to the number of allegations investigated.

Evidence Reviewed

During the investigation, the Complaint Investigator reviewed all evidence and documentation provided by the LEA and the parents.

The LEA made the Special Education Coordinator, School Psychologist, and Special Education Teacher available for a telephone interview on October 22, 2025 as part of this investigation. The investigator interviewed the complainant by telephone on October 24, 2025 and the parent by telephone on October 29, 2025.

The following materials were used as the basis of the findings and conclusions of the investigation:

1. Amended Individualized Education Program (IEP) dated May 10, 2024
2. IEP Team Meeting Notes dated November 13, 2024
3. Prior Written Notice (PWN) dated November 13, 2024 for Evaluation or Reevaluation and request for consent and signed by the parent on March 24, 2025
4. PWN March 11, 2025 refusing to conduct a speech/language evaluation requested by the parent
5. IEP dated March 25, 2025
6. Evaluate Social Interactions with Peers Score Sheets dated April 24, May 1, May 6, and May 13, 2025
7. Evaluation / Eligibility Report dated May 8, 2025
8. IEP Team Meeting Notes dated May 8, 2025
9. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent dated May 8, 2025
10. Email dated May 9, 2025 written by the Special Education Teacher to the parent regarding the IEP and accommodations
11. Advocacy contract between the complainant and the parent dated May 13, 2025
12. Email dated May 13, 2025 written by the complainant to the Special Education Special Education Teacher and School Psychologist requesting records and listing concerns with parent contact
13. Email dated May 16, 2025 written by the Special Education Coordinator to the complainant and the parent
14. Screenshots of text messages dated May 16, 2025 between the School Psychologist and the parent regarding completion of parent surveys for tests
15. Email dated May 18, 2025 written by the complainant to the Special Education Coordinator requesting an independent educational evaluation (IEE)
16. Letter dated May 18, 2025 handwritten by the Bus Driver to the parent

17. Email dated May 20, 2025 written by the complainant to the Special Education Coordinator regarding improper contact with the parent
18. Email dated May 23, 2025 written by the Special Education Coordinator to the complainant
19. IEP Goal Progress Reports for 2024-25 school year
20. Email dated September 8, 2025 from the complainant to the Special Education Teacher requesting an IEP meeting and checking status of IEE request
21. Email dated September 9, 2025 written by the Special Education Coordinator to the parent regarding the IEE and meeting limitations
22. Email dated September 10, 2025 written by the complainant to the Special Education Director with IEE questions
23. Email dated September 11, 2025 written by the Special Education Coordinator to the complainant regarding IEE procedures and IEP team meeting dates
24. Notification of Meeting dated September 11, 2025 with signed waiver of 10-day notice
25. IEP team meeting notes dated September 18, 2025
26. IEE Notice from Meadowlark Psychology and Development Center signed by the parent on September 24, 2025
27. Email chain dated between September 25 and September 29, 2025 between the complainant, the Special Education Teacher and the Executive Director of SPED
28. I-Ready Personalized Instruction Reports for Math and Reading dated September 29, 2025
29. Email dated October 24, 2025 written by the complainant to the investigator with estimated costs of independent educational evaluation from 18 providers in the Kansas City geographical area
30. Emails between the parent and the Special Education Teacher regarding student's behavior
31. Screenshots of text messages between the Bus Driver and the parent
32. Wyandotte Cooperative IEE Information Letter
33. Advocacy Contract between the complainant and the parent
34. Detailed Timeline of Events created by the complainant
35. 2024-25 USD #204 School Calendar
36. Formal Complaint Request Form dated October 1, 2025
37. LEA Response to the Allegations, dated October 21, 2025

Background Information

The subject of this complaint is a seven-year-old student enrolled in the 1st grade at Delaware Ridge Elementary School in USD #204 during the 2025-2026 school year. She is currently receiving special education services through an IEP developed on March 25, 2025.

The student was initially evaluated and found eligible for special education in preschool under the eligibility category of developmental delay on May 5, 2022. The student also has a medical diagnosis of Autism Spectrum Disorder from the KU Medical Center.

Issues Investigated

Issue One

USD #204, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to conduct a comprehensive and appropriate evaluation of the student during the past 12 months, specifically by not obtaining parental input and evaluating the student in all areas of suspected disability.

Applicable Law

Federal regulations at 34 C.F.R. §300.303(b)(2) require that reevaluation must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

As part of a reevaluation, federal regulations implementing the IDEA at 34 C.F.R. §300.305 (a)(1) require that the IEP team (which includes the parents) and other qualified professionals, as appropriate, must conduct a review of existing evaluation data on the child including evaluations and information provided by the child's parents; current classroom-based, local, or state assessments, and classroom-based observations; and observations by teachers and related services providers.

On the basis of that review and input from the child's parents, federal regulations implementing the IDEA at 34 C.F.R. §300.305(a)(2) require school districts to identify what additional data, if any, are needed to determine whether the child is a child with a disability; the present levels of academic achievement and related developmental needs of the child; whether the child needs special education and related service; and whether any special education and related services are needed to enable the child to meet the measurable annual IEP and to participate, as appropriate, in the general education curriculum.

Federal regulations at 34 C.F.R. §300.304(a) require each public agency to provide notice to the parents of a child with a disability that describes any evaluation procedures the agency proposes to conduct and to obtain written consent prior to proceeding with any evaluation procedure proposed.

Federal regulations at 34 C.F.R. §300.304(b)(1)(i) require each public agency to use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability.

Federal regulations at 34 C.F.R. §300.304(c)(4) require assessment in all areas

of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

Federal regulations at 34 C.F.R. §300.306(c)(1) require public agencies to draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and ensure that information obtained from all of these sources is documented and carefully considered when interpreting data for the purposes of determining eligibility and educational need of the student.

Parent Position

The child complaint stated that on May 8, 2025, the district's reevaluation was incomplete and referenced the school psychologist noting that the student "shut down" and could not complete the cognitive testing. Despite this, the team concluded her skills were "average". Furthermore, despite a medical diagnosis of Autism from the KU medical center and behavioral concerns requiring specialized transportation, the team failed to conduct a formal Autism eligibility determination or a functional behavioral assessment (FBA) to assess transportation needs.

In addition, the parent's input was not obtained as part of the reevaluation of the student. Note that this issue will be addressed fully in Issue Five of this report.

Local Education Agency Position

The LEA denies this allegation. The evaluation completed in the Spring of 2025 looked at all the areas of suspected disability and concern including motor, social/emotional, adaptive behavior, cognitive, academic performance, and communication. Tools were used in each of these areas and noted in the evaluation report. An Autism rating scale was also used which did not indicate concerns related to Autism in the school setting. A formal standardized cognitive score is not a required component to determine eligibility; the team noted that there were no concerns for the student's cognitive functioning in the school setting and used a rating scale as an alternative way to address this area in the evaluation. Parental input was included in the evaluation summary.

Analysis: Findings of Fact

1. The student's initial evaluation was conducted on May 5, 2022 with the triennial reevaluation required to be completed no later than May 4, 2025.
2. The student's IEP was amended on May 21, 2024 to include transportation as a related service for door-to-door drop off and access to a bus monitor beginning in the 2024-25 school year. In addition, the IEP was amended to include an updated description of what it looks like when the student has sensory overload and some different activities that are calming and some activities to avoid because they increased the overstimulation.

3. The parent was provided with a Notification of Meeting dated November 13, 2024 for an IEP team meeting held that same date. The Meeting Notification did not include a purpose for the meeting other than "Parent Request".
4. During the interview, the School Psychologist stated that the IEP team discussed conducting the student's triennial reevaluation before the due date to gather information to consider revisions to the student's IEP at the November 13, 2024 IEP team meeting. The IEP team meeting notes dated November 13, 2024 provided by the LEA noted the School Psychologist talked about collecting additional data to inform accommodations and modifications.
5. The parent indicated that concerns were shared with social/emotional behavior, cognitive skills, language skills, academic skills, and the impact of the Autism diagnosis on the student's behavior in school and on the bus at the November 13, 2024 IEP team meeting.
6. The LEA provided the parent with a PWN proposing to conduct a reevaluation of the student in the areas of social/emotional, general intelligence, academic performance, and adaptive behavior assessments, observations, interviews, and rating scales on November 13, 2024; however, the parent did not provide written consent for the proposed reevaluation at that time.
7. The parent made a request for a speech/language evaluation and the LEA provided the parent with a PWN refusing to conduct this parent requested evaluation in the area of speech/language on March 11, 2025.
8. The parent provided written consent for the LEA to conduct the reevaluation proposed in the November 13, 2024 PWN on March 24, 2025.
9. The IEP team met on May 8, 2025 to review the evaluation results and to determine continued eligibility for special education.
10. The May 8, 2025 Evaluation/Eligibility Report includes summarized testing results in the following areas:
    a. Health/Physical/Motor/Sensory using The Developmental Profile 4 (DP-4)
    b. Social/Emotional using the DP-4, Autism Spectrum Rating Scales Short Form (6-18 Years) [ASRS Short Form (6-18 Years)] and Classroom Behavior Data Sheets
    c. Adaptive Behavior using the DP-4 and Adaptive Behavior Assessment System—Third Edition (ABAS-3)
    d. Cognitive using the Wechsler Intelligence Scale for Children – Fifth Edition (WISC-V) and Reynolds Intellectual Assessment Scales, Second Edition-Remote (RIAS-2 Remote)
    e. Academic Performance using the Kaufman Test of Educational Achievement – Third Edition (KTEA-3), i-Ready benchmark testing from the 2024-25 school year, and classroom observations.
    f. Communication using the DP-4

11. Interviews and documentation show that the DP-4, ASRS Short Form (6-18 Years), and ABAS-3 summarized in the Evaluation/Eligibility Report were only completed by the Kindergarten Teacher and the Special Education Teacher.
12. The Evaluation/Eligibility Report showed the student could not complete either individual administration of the cognitive assessments and stated the testing was "discontinued due to signs of frustration and disengagement, as well as the absence of concerns regarding her cognitive development".
13. The Evaluation/Eligibility Report concluded that the student no longer meets the eligibility criteria for developmental delay and is no longer eligible for special education services. There is no documentation to demonstrate that any other category of exceptionality was considered for the student in light of the medical diagnosis of Autism and the parent's concerns with the behavior which required specialized transportation, the student's cognitive skills for unfamiliar/novel tasks resulting in frustration and disengagement, adaptive behavior skills, as well as the functional impact of the Autism diagnosis in the school setting for receptive language of sensory integration.
14. The LEA provided the parent with a PWN proposing to dismiss the student from special education through a material change in services and a substantial change of placement. However, the parent refused to provide consent. The LEA is currently continuing to implement the student's most recent IEP dated March 25, 2025 while the parent pursues an independent educational evaluation (IEE).
15. Interviews and documentation show the School Psychologist sent the parent copies of the parent survey forms for the DP-4 and the ABAS-3 on May 16, 2025 in order to allow the parent to provide input into the areas assessed by these tests.

Conclusion

In this case, the interviews and documentation appear to support the parent involvement in the review of existing data that occurred during the November 13, 2024 IEP team meeting and resulted in the LEA proposing to conduct a reevaluation of the student with additional assessment in the areas of social/emotional, general intelligence, academic performance, and adaptive behavior assessments, observations, interviews, and rating scales. The parent provided written consent for this proposed reevaluation on March 24, 2025.

However, the summarized testing of the reevaluation in the Evaluation / Eligibility Report dated May 8, 2025 did not include parent information when gathering relevant functional, developmental, and academic information about the child. In fact, this input was only sought from the parent in the form of the DP-4 and ABAS-3 parent survey forms on May 16, 2025, which is after the completion of the reevaluation with additional assessment and the eligibility determination meeting held on May 8, 2025.

Based on the assessment results reviewed on May 8, 2025, the LEA determined the student no longer met the eligibility criteria to be identified as a student with a developmental delay. However, it appears that the IEP team failed to consider any other disability category,

specifically Autism, in light of the medical diagnosis. The only data considered related to Autism was a 15-question survey completed by the student's general and special education teachers. The Evaluation/Eligibility Report did not include any information regarding the previous assessments which resulted in the student's Autism diagnosis and only mentioned a previous "outside medical diagnosis of Autism Spectrum Disorder from KU medical center according to her initial psychoeducational evaluation".

The Evaluation/Eligibility Report included multiple evaluation results which were not synthesized in the eligibility determination. In the area of Adaptive Behavior, the following statement was made: "There may be various strengths and weaknesses related to expressing needs, interacting with others, and adhering to societal norms, but overall there is sufficient development in this realm compared to peers" but the subtest scores or any description of the weaknesses and their frequency and/or intensity were not included. In addition, the Evaluation/Eligibility Report stated that the cognitive testing was not able to be completed due to the student's frustration and disengagement and concluded this information was not required due to the "absence of concerns regarding her cognitive development"; however, the IEP team determined that additional information in the cognitive area was necessary when it proposed the reevaluation on November 13, 2024.

Documentation also shows the triennial evaluation was not conducted within the required timelines and exceeded the three-year timeframe.

Based on the foregoing, the *LEA is found OUT of compliance* with federal regulations at 34 C.F.R. §300.303(b)(2) which require an evaluation to be completed at least every three years; at 34 C.F.R. §300.304(b)(1)(i) which require the use of a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, in determining whether the child is a child with a disability; and at 34 C.F.R. §300.306(c)(1) which require public agencies to draw upon information from a variety of sources and to carefully considered when interpreting data for the purposes of determining eligibility and educational need of the student in all areas of suspected disability.

Issue Two

USD #204, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate procedures when dismissing the student from special education services during the past 12 months, specifically by predetermining eligibility and denying the parents the right to participate in the eligibility determination.

Applicable Law

Federal regulations at 34 C.F.R. §300.8(a)(1) defines a "child with a disability" as meaning a child evaluated and found to meet the eligibility criteria as having an intellectual disability, a hearing

impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

Federal regulations at 34 C.F.R. §300.306(a)(1) require that, upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent of the child determines whether the child is a child with a disability and the educational needs of the child.

Federal regulations at 34 C.F.R. §300.306(c)(1) require public agencies to draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and ensure that information obtained from all of these sources is documented and carefully considered when interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child.

Chapter 7, Section F - Determining Continued Eligibility in the Kansas Special Education Process Manual states:

Upon completion of the reevaluation, the team should compile all data (that which previously existed and/or was collected as part of the reevaluation) into a format that will be useful when the team convenes to make the continued eligibility determination. It is important that all the information be in an understandable format that allows the team, including the parent, to understand the child's strengths and weaknesses and how the child is progressing in the general curriculum in addition to information about the child's exceptionality and needs for special education. At the time the reevaluation is completed, the team should schedule a time to convene in order to make the determination of continued eligibility. Parents are to be provided an opportunity to participate in the eligibility meeting, which can be

conducted at the same time as the IEP team meeting. The school must provide a notice of the meeting at least 10 calendar days prior to the meeting date . . . When the meeting is convened, the reevaluation team, including the parents, reviews the results of the reevaluation to determine:

- If the child continues to be a child with an exceptionality;
- whether the child continues to need special education and related services;
- the educational needs of the child;
- the present levels of academic achievement and the functional performance (related developmental needs) of the child; and

- whether any additions of modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate in the general education curriculum.

As is the case in all reevaluations, when making the determination of whether the child continues to be a child with an exceptionality and whether the child continues to need special education and related services, teams must take into account that the child has made progress since the time he/she was initially evaluated and determined to be eligible for services. The fact that the child's performance gap may be less than at the time of the initial evaluation would not necessarily mean that the child is no longer a child with an exceptionality and no longer in need of special education services. The data collected at the time of the reevaluation should assist the team in decision making. Teams should thoroughly discuss the child's present levels of educational performance and consider the child's rate of progress. Teams should also consider what level of support is needed in order for the child to access and progress in the general curriculum and whether that level of support would continue to require specially designed instruction. If at the time of reevaluation, a student needs only general accommodations, then the student is no longer eligible for special education, but should be referred for consideration of eligibility for a 504 plan. These careful considerations should drive the determination of continued eligibility.

Parent Position

The student's IEP most recent IEP was developed on March 25, 2025, which required special education and related services including specialized transportation as well as a goal for social interaction behavior and accommodations for sensory concerns. Then, approximately six weeks later, the LEA determined the student was ineligible for special education based on the incomplete May 8, 2025 evaluation. The district selectively used i-Ready data, highlighting broad percentile rankings while ignoring its own data showing the student is receiving instruction at an "Early K" level. The complainant believes this demonstrates a clear pre-determination to exit the student from special education.

Local Education Agency Position

THE LEA denies this allegation. The eligibility determination was not made until the full IEP team met at the May 8, 2025 IEP team meeting, which included the student's mother.

Analysis: Findings of Fact

1. The findings from Issue One are incorporated herein by reference.
2. The Evaluation/Eligibility Report dated May 8, 2025 included a summary of the student's kindergarten i-Ready benchmark data from the 2024-25 school year. These scores are reported based on percentile ranks as compared to same grade peers. The scores in reading for the three benchmark administrations fell as follows: fall = 49th percentile; winter = 30th percentile; spring = 35th percentile. The scores in math for the two

benchmark administrations fell as follows: fall = 40th percentile; winter = 22nd percentile. These scores were summarized as being commensurate with same-grade peers.

3. Statistics for standardized testing shows that percentile ranks are based on a mean at the 50th percentile with percentile ranks falling between the 25th and 75th percentiles being considered to fall within the "average range".
4. The IEP dated March 25, 2025 summarizes district-wide assessment data in a chart which shows the student falls at the "emerging K" level for all areas of reading and math except for high frequency words which falls at the "early K" level.
5. The March 25, 2025 IEP includes an IEP goal to address social interaction behavior with peers and requires 50 minutes per day of specialized instruction in the general education setting and 20 minutes per day of transportation as a related service.

Conclusion

In this case, interviews and documentation found the parent attended and participated in the May 8, 2025 IEP team meeting when the eligibility determination was made. The LEA provided the parent with PWN proposing to dismiss the student from special education and, because the parent disagreed with the proposed action, the parent refused to provide written consent as is her right under federal and state regulations. As such, the LEA is continuing to provide the student with the special education services to address the IEP goal as described in the last agreed upon IEP dated March 25, 2025. Based on the foregoing, it appears the LEA did follow the correct procedure to propose the student be dismissed from special education in May 2025 including not only providing PWN proposing the dismissal but also responding appropriately when the parent refused to provide consent.

The concerns raised regarding the reporting of the academic achievement data based on the student's district-wide assessment data do appear contradictory between the Evaluation/Eligibility Report and the IEP's present level of performance. However, this confusing presentation of this one set of academic data does not indicate that the district predetermined the eligibility status for the student. IEP team meeting notes dated May 8, 2025 show a discussion of the evaluation results and the parent sharing continued concerns regarding behavior in the classroom and on the bus should the special education supports be removed. Because the parent disagreed with the LEA's conclusions at the eligibility determination meeting does not mean the LEA predetermined the eligibility decision. Note that the complainant and parent's concerns with how the assessment was conducted are addressed in Issue One.

Based on the foregoing, the ***LEA is found IN compliance*** with the requirements to include the parent in the eligibility determination process and not predetermine eligibility status.

Issue Three

USD #204, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the student with a free appropriate public education during the past 12 months, specifically by dismissing the student from special education regardless of the lack of progress and not working on grade-level content.

Applicable Law

Federal regulations at 34 C.F.R. §300.101 require a free appropriate public education (FAPE) be made available to all eligible children with disabilities. Federal regulations at 34 C.F.R. §300.17 define FAPE as meaning special education and related services that are provided at public expense, under public supervision and direction, and without charge; and are provided in conformity with an individualized education program (IEP).

Federal regulations at 34 C.F.R. §300.503(a) require public agencies to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

In addition, Kansas state regulations at K.A.R. 91-40-27(a)(3) require school districts to obtain parent consent before making a material change in services or a substantial change in placement. "Material change in services" is defined at K.A.R. 91-40-1(mm) as an increase or decrease of 25% or more of the frequency or duration of a special education service, related service, or supplementary aid or service specified in the child's IEP. "Substantial change in placement" is defined at K.A.R. 91-40-1(sss) as the movement of an exceptional child for more than 25% of the child's school day from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

Parent Position

The child complaint stated that by failing to conduct a proper evaluation and making a predetermination for an exit from services, the district has denied the student the specially designed instruction necessary for her to make appropriate progress. The complainant believes the data from the district's own i-Ready system shows the student is not working on grade-level content, which is direct evidence of a continued need for support and a denial of FAPE.

Local Education Agency Position

THE LEA denies this allegation. The parent did not sign consent to exit the student from special education services and the required special education services required by the most recent annual IEP dated March 25, 2025 are continuing to be provided. IEP Goal Progress Reports for the 2024-25 school year show the student has consistently demonstrated progress towards her annual IEP goals and teacher reports from the 2025-26 school year indicate the student is

successful in the grade-level curriculum with support provided in the general education classroom.

Analysis: Findings of Fact

1. The findings from Issues One and Two are incorporated herein by reference.
2. The Evaluation/Eligibility Report noted the student's academic skills fell within the average range as compared to same grade peers in kindergarten based on district-wide assessment. Standardized assessment of the student using the KTEA-3 showed subtest scores falling between 88 and 96 and composite scores as follows: Reading = 91; Math = 92; and Written Expression = 90.
3. Statistics for standardized testing show that subtest and composite scores are based on a mean of 100 with average scores falling between 85 and 115.
4. Interviews with LEA staff found the student has continuously received the special education services required by the March 25, 2025 IEP in both the 2024-25 school year as well as the 2025-26 school year.

Conclusion

Again, interviews and documentation found the parent attended and participated in the May 8, 2025 IEP team meeting when the eligibility determination was made. The LEA provided the parent with PWN proposing to dismiss the student from special education and the parent refused to provide written consent as is her right under federal and state regulations because she disagreed with the proposed action. As such, the LEA is continuing to provide the student with special education services to address the IEP goal for social interaction behavior as described in the last agreed upon IEP dated March 25, 2025, which was designed to provide the student with FAPE.

It is noted that the summarized academic achievement assessment data in the Evaluation/Eligibility Report could have been confusing for the parent but did not indicate any concerns with academic achievement as compared to same-grade peers. Because there were no concerns in this area based on testing and teacher reporting, there was no need for the IEP team to consider adding academic goals to address an area that is not a concern for the student to receive FAPE.

Based on the foregoing, the *LEA is found to be IN compliance* with the requirements of state and federal laws for providing the parent with appropriate PWN proposing to dismiss the student from special education on May 8, 2025 and subsequently continuing to provide special education services to the student based on the March 25, 2025 IEP, which was developed to provide FAPE to the student when the parent refused to provide consent for this proposed action.

Issue Four

The LEA, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to appropriately respond to the parents' request for an independent education evaluation (IEE) during the past 12 months, specifically by not responding in a timely manner and imposing cost limitations.

Applicable Law

Federal regulations at 34 C.F.R. §300.502(b)(1) state that a parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency.

Federal regulations at 34 C.F.R. §300.502(b)(2) require that if a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either file a due process complaint to request a hearing to show that its evaluation is appropriate; or ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing that the evaluation obtained by the parent did not meet agency criteria.

Federal regulations at 34 C.F.R. §300.502(a)(2) require that each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations.

If an independent education evaluation is at public expense, federal regulations at 34 C.F.R. §300.502(e)(1) require the criteria under which the independent educational evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria the public agency uses when it initiates and evaluation. However, federal regulations at 34 C.F.R. §300.502(e)(2) prohibit a public agency from imposing any other conditions or timelines related to obtaining an independent educational evaluation at public expense.

Chapter 3, Section H – Independent Educational Evaluation of the Kansas Special Education Process Handbook states:

If an independent educational evaluation is provided at public expense, the criteria under which the evaluation is obtained must be the same as the criteria that the school uses when it initiates an evaluation. These criteria may include the location of the evaluation and the qualifications of the examiner. The credentials of the independent evaluator or evaluators must be comparable to the school's evaluators. The school may set reasonable limitations on the costs for which it will be responsible. The school may have to exceed those costs if necessary to ensure that the independent educational evaluation meets the child's unique needs.

Parent Position

Because of the LEA's proposed dismissal of the student from special education services, the parent hired the complainant as the family's educational advocate and granted her permission to act on her behalf in regard to specific actions described in their contract, which included issues related to the LEA's most recent evaluation of the student. In response to the May 13, 2025 email written by the complainant which requested an IEE, the LEA waited four months to respond. The response date was September 9, 2025 and illegally imposed an $800 cost limitation on the IEE.

Local Education Agency Position

The LEA acknowledged that the IEE information letter from the Wyandotte Comprehensive Special Education Cooperative was provided on September 9, 2025. When the family shared their chosen provider and estimated cost of $2,600-$3,200, the Executive Director of Special Education indicated that they would need to choose something that is closer to the $800 cost listed on the information letter.

Analysis: Findings of Fact

1. The parent hired the complainant as an educational advocate to represent her and the student regarding special education issues and concerns and signed a contract to this effect on May 13, 2025.
2. On that same date, the parent sent a letter to the LEA which informed them of this decision and outlined the permissions the parent was granting to the educational advocate by stating:

   The complainant is fully authorized to represent me and act on my behalf in all matters pertaining to the student's special education services and rights. This authorization includes, but is not limited to:
   - *Attending and participating in IEP and eligibility meetings*
   - *Requesting and reviewing educational records and evaluations*
   - *Engaging in communication with school staff and district personnel*
   - *Supporting the development, review, and monitoring of the student's IEP and services*
   - *Advocating for the student's rights under the Individuals with Disabilities Education Act (IDEA) and Kansas State Department of Education (KSDE) policies"*
3. The email dated May 13, 2025 written by the complainant to the Special Education Teacher and School Psychologist describes the reasons the parent disagrees with the May 8, 2025 reevaluation of the student but does not request an IEE at public expense.
4. The complainant sent an email to the Special Education Coordinator on May 18, 2025 requesting an IEE in response to the LEA's reevaluation of the student on May 8, 2025 which resulted in a determination that the student was no longer eligible for special education.

5. The IEE request came to the district with only three days left in the school year as shown by the 2024-25 school calendar and LEA staff indicated the summer break was the reason for a delay in responding to the parent.
6. On September 8, 2025, the complainant emailed the Special Education Teacher again requesting the LEA's response to the IEE request.
7. The Special Education Coordinator responded on September 9, 2025 to the complainant regarding the IEE and attached a copy of the LEA's IEE Letter.
8. The LEA's IEE Letter listed three agencies that could provide IEEs and the IEE requirements for the location, the qualifications of the examiner, and the cost.
9. The complainant responded in an email dated September 10, 2025 and stated, *Our preliminary research indicates that the current market rate for a comprehensive psychoeducational evaluation in the Kansas City area is between $2,000 and $5,000. The district's proposed cap of $800 appears insufficient to obtain a comprehensive evaluation from a qualified provider. Under IDEA, the district is obligated to pay the reasonable, customary rate for this service. We are happy to share our findings and work with you to ensure the chosen evaluator's cost is reasonable for the area.*
10. The Special Education Coordinator sent an email to the complainant on September 11, 2025 explaining the IEE process as follows:

    . . . once you have selected a provider, please share their name, contact information, and projected cost with me. I will then forward the information to the Executive Director for Special Education for review and approval in accordance with cooperative procedures.

11. An IEP team meeting was held on September 18, 2025 and IEP team meeting notes reflect that the IEE request and process were discussed during this meeting.
12. A copy of the Independent Educational Evaluation Notice from the Meadowlark Psychology and Developmental Center located in Overland Park, Kansas was signed by the parent on September 24, 2025.
13. The complainant emailed the Special Education Teacher and Special Education Coordinator on September 25, 2025 and stated,

    The family intends to proceed with an evaluation by Meadowlark Psychology and Development Center, which has a projected cost of $2,600-$3,200. Under 34 C.F.R. §300.502, a parent is entitled to an IEE at public expense if they disagree with the district's evaluation. The district's evaluation, conducted on May 8, 2025, was inconclusive as the student was unable to complete the standardized assessments. Therefore, the evaluation was not sufficiently comprehensive to assist in determining her educational needs, which is a foundational component of FAPE. A district's policies or cost caps cannot be so restrictive that they effectively deny a parent their right to an IEE. The proposed $800 limit significantly hinders the family's ability to obtain a comprehensive evaluation from a qualified professional in this area. The projected cost

for Meadowlark's evaluation is reasonable and customary for the scope of assessment required to gain a clear understanding of the student's needs—an understanding the district's own evaluation failed to provide.

14. The Special Education Coordinator sent an email to the complainant on September 29, 2025 indicating that the request for an IEE at Meadowlark Psychology and Developmental Center was denied and the parent would need to "select a provider that is closer to the outlined $800 from the IEE information letter".
15. The complainant provided a list of 18 agencies in the Kansas City area that provide comprehensive evaluations of students with disabilities. None of these agencies have a cost for this service that would fall within the LEA's cost limitation of $800. The estimated costs for the three agencies listed in the LEA's IEE Letter were projected to cost between $2000 and $5000.

Conclusion

In this case, the parent disagreed with the LEA's May 8, 2025 evaluation of the student and, because of this disagreement, hired the complainant to serve as the family's educational advocate. The parent signed a contract on May 13, 2025 which granted the educational advocate the right to request evaluations. The parent, through the educational advocate, requested an IEE on May 18, 2025 because she disagreed with the evaluation conducted by the LEA on May 8, 2025. The LEA failed to respond to this request in a timely manner and waited almost four months to provide the required information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations.

Once the required information was provided to the parent on September 9, 2025, the parent chose the Meadowlark Psychology and Developmental Center in Overland Park, Kansas to conduct the IEE at a cost of between $2600 and $3200. This agency meets the location and examiner requirements set by the LEA but the cost was well above the $800 cost limitation. The LEA rejected this IEE provider on September 29, 2025 and indicated the parent must choose a provider with a cost closer to the $800 cost cap. However, information provided by the complainant shows the current customary rate for comprehensive psychoeducational evaluations costs between $2000 and $5000 in the Kansas City area.

Based on the foregoing, the ***LEA is found OUT of compliance*** with the requirements for responding to a parent request for an IEE in a timely manner and for limiting the parent's options for obtaining an IEE at public expense due to the cost limitations included in the LEA's IEE Notification Letter.

Issue Five

The LEA, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parents and their

advocate with the opportunity to participate in meetings regarding the student's IEP and reevaluation during the past 12 months, specifically by failing to conduct these meetings at mutually agreeable times and places.

Applicable Law

Federal regulations at 34 C.F.R. §300.501(b)(1) require that the parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child.

Federal regulations at 34 C.F.R. §300.322(a) requires that each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place.

Federal regulations at 34 C.F.R. §300.321(a)(6) allow the parent to invite other individuals they believe have knowledge or special expertise regarding the child to the IEP team meeting.

Federal regulations at 34 C.F.R. §300.30(a) defines the term "parent" as meaning a biological or adoptive parent of a child; a foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent; a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or a surrogate parent who has been appointed by the state education authority (in this case, KSDE).

Parent Position

The district has repeatedly attempted to circumvent the family's retained advocate by contacting the parent directly, limited meeting times to suit staff convenience rather than the child's needs and failed to include the parent meaningfully in the evaluation process.

Local Education Agency Position

THE LEA denies this allegation. During the past 12 months, the IEP team met on several occasions at times agreed upon with the family and their advocate. When the family and advocate first expressed concerns regarding the evaluation in May 2025, the LEA staff attempted to contact the parent to set up a meeting to discuss the concerns. The parent did not respond to these contacts and the complainant sent an email reporting that the district could not contact the parent without the complainant's written permission. The LEA believes

this is a misinterpretation of the role of an educational advocate and sent the complainant an email explaining their position.

Analysis: Findings of Fact

1. The findings from Issue One and Issue Four are incorporated herein by reference.
2. Email dated May 13, 2025 written by the complainant to the Special Education Teacher and School Psychologist indicates the parent's disagreement with the reevaluation, requests documentation be provided to the complainant on behalf of the parent, and "*invokes the stay-put*" provision".
3. Interviews and documentation show the Special Education Teacher called the parent on May 19 and May 20, 2025 to schedule a meeting to discuss the parent's concerns regarding the parent's concerns with the eligibility determination and the Evaluation/Eligibility Report dated May 8, 2025.
4. The Timeline entry dated May 20, 2025 provided by the complainant states, "*The advocate sends a formal email to LEA Special Education Coordinator demanding that all improper direct contact with the parent cease immediately*".
5. The May 20, 2025 email written by the complainant to the Special Education Coordinator stated,

   As you are aware—and have previously acknowledged—I am serving as the student's educational advocate. This role is protected under IDEA (34 C.F.R. §300.501) and KSDE guidance, which both uphold the parent's right to designate a representative in all matters concerning the identification, evaluation, and educational placement of their child. You are not only aware of this representation—you have chosen to disregard it. The email then stated that "All communications regarding the student's evaluation, IEP, eligibility, or any dispute-related matters must be directed to me—not to the parent. Direct contact with the parent about special education decision-making is strictly prohibited unless I authorize it in writing. - This does not apply to urgent, real-time matters concerning daily attendance, immediate health, medical needs, safety, or behavioral emergencies. Please confirm in writing that you will comply with this directive and all applicable procedural safeguards.

6. The Special Education Coordinator responded to the complainant in an email dated May 23, 2025 and stated,

   I would like to respectfully clarify several important points. While I recognize and respect your designation as an advocate, under both IDEA (34 C.F.R. §300.501) and KSDE guidance, the parent remains the student's legal guardian and educational decision maker. As such, she retains full rights to receive notice, provide consent, and participate in all matters related to her child's identification, evaluation, and placement. The involvement of an advocate does not replace or override these parental rights. In fact, the school continues to have a legal obligation to ensure that the parent receives timely notice and is meaningfully included in the special education process regardless of

whether the parent utilizes an advocate. There is no provision in IDEA or KSDE guidance that prohibits school staff from communicating directly with a parent who has chosen to be represented by an advocate.

7. The complainant sent the Special Education Coordinator an email on September 8, 2025 requesting an IEP team meeting to discuss a list of concerns and possible dates to hold this meeting within the next 10 school days.
8. The Special Education Coordinator sent an email to the complainant and the parent on September 9, 2025 offering two possible dates and times to hold the IEP team meeting within that timeframe and indicated the meeting would need to last no more than 45 minutes to allow the general education teacher to return to the classroom following her scheduled plan period.
9. The complainant responded on September 11, 2025 indicating the parent's willingness to sign consent to excuse the general education teacher should the IEP team meeting exceed the time limitation of her planning period.
10. The LEA provided the parent and complainant with a Notification of Meeting on September 11, 2025 scheduling an IEP team meeting for September 18, 2025. The parent signed consent waiving the required 10-day notification for scheduling this meeting.
11. IEP team meeting notes dated September 18, 2025 reflect the parent and complainant participated during the IEP team discussions.

Conclusion

In this case, documentation and interviews showed the parent requested the IEP team meetings which were held on November 13, 2024 and September 18, 2025. In addition, the parent participated in the IEP team meetings held on March 25, 2025 and May 8, 2025. No information was found to show the LEA scheduled IEP team meetings at times that prevented the parent and the complainant from participating in IEP team meetings.

In regard to the concern for the 45-minute limit to the IEP team meeting, it is not unreasonable for the LEA to set a limit due to the responsibilities of the general education teacher; however, the IDEA allows for the parent to excuse IEP team members in whole or part to facilitate parent participation as well as allows IEP teams to reconvene to complete lengthy discussions. In this case, the parent indicated a willingness to excuse the general education teacher in part if the IEP team meeting exceeded her plan period.

The second concern related to the complainant's belief that the LEA was trying to thwart her participation and representation of the student and the family. The problem appears to have originated when the parent was contacted by LEA staff on May 19 and May 20, 2025, which was after the parent hired the complainant to act as the family's advocate and the LEA had been informed about that representation on May 13, 2025. Following this contact, the complainant sent the LEA an email on May 20, 2025 which required the LEA to direct all

communication regarding any special education issue to the complainant and that all contact the parent regarding special education issues stop effective immediately unless "authorized in writing" from the complainant.

The LEA responded correctly in the May 23, 2025 email written by the Special Education Coordinator indicating that this was a misinterpretation of the role of the advocate in this situation. While the IDEA allows parents to invite any person they believe has special expertise regarding the student to an IEP team meeting, the IDEA also includes a definition of who may act as the "parent" of the student. Nothing in the May 13, 2025 parent letter notifying the district of the complainant's hiring as "the authorized educational advocate" restricts the LEA staff from directly contacting the parent who remains the parent and thus the educational decisionmaker for the student because "authorized educational advocate" does not meet the IDEA's definition of "parent".

It is noted that the concern related to the parent not being involved in the evaluation process has previously been addressed in the investigation.

Based on the foregoing, the *LEA is found to be IN compliance* with the federal and state requirements in regard to scheduling IEP team meetings at mutually agreeable dates and times to allow for parent and advocate participation in these meetings and to continue to treat the parent as the educational decisionmaker for the student because the "authorized educational advocate" does not meet IDEA's definition of "parent".

Issue Six

USD #204, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to appropriately respond to the advocate's request for copies of specific student educational records on May 13, 2025, specifically by not providing copies of the finalized IEP, the autism eligibility worksheets, progress notes, and any internal communication to dismiss the student from special education.

Applicable Law

Federal regulations at 34 C.F.R. §300.613(a) require that each public agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 [filing a due process complaint] or §300.530 through §300.532 [disciplinary change of placement], or resolution session pursuant to §300.510 [due process resolution process], and in no case more than 45 days after the request has been made.

Parent Position

On May 13, 2025, the advocate formally requested specific educational records, including the finalized IEP, autism eligibility worksheets, progress notes, and internal communication related to the decision to exit the student from special education. The district failed to provide a complete response furnishing only i-Ready data and progress reports.

Local Education Agency Position

The LEA denies this allegation. In response to the May 13, 2025 correspondence, the Special Education Coordinator replied on May 16, 2025 with answers to the identified concerns and attached the requested records which were in existence.

Analysis: Findings of Fact

1. The findings of Issue Five are incorporated herein by reference.
2. An email dated May 13, 2025 written by the complainant to the Special Education Teacher and School Psychologist requested the following documents within three days:
    a. Finalized IEP from the May 8, 2025 triennial meeting
    b. Autism eligibility worksheet or justification for exclusion
    c. IEP progress reports and classroom data logs
    d. i-Ready benchmark results (Fall, Winter, Spring)
    e. Internal communications or notes about exiting the student from services
    f. All quarterly Progress Reports
3. An email dated May 16, 2025 written by the Special Education Coordinator responded to each item requested as follows:
    a. Explained that the purpose of the May 8, 2025 IEP team meeting was to review the evaluation results and determine eligibility for continued special education services. A new IEP was not developed because the LEA determined the student no longer needed special education services and provided the parent with PWN proposing dismissal from special education; however, the parent did not agree with this proposal and refused to provide consent. Therefore, the most recent IEP for the student continues to be the IEP developed at the March 25, 2025 IEP team meeting. Another copy of the March 25, 2025 IEP was not provided because the parent has already received a copy of this document.
    b. Explained that an Autism eligibility worksheet was not completed for the student and could not be provided as this document did not exist. Described the Prong 1 requirement that the student must demonstrate significant delays in verbal communication, nonverbal communication and social interactions which adversely impact educational performance and the Prong 2 requirement that, because of the significant delays, the student must require specialized instruction. Instead, the evaluation results including teacher observations, academic assessments, and standardized scores on the ASRS short form show the student

is making adequate progress towards grade-level standards as compared to peers and does not require specialized instruction but only supports and interventions which can be provided in the general education setting.

c. Attached the IEP Goal Progress Reports for the March 2024 IEP for first, second, and third quarters of the 2024-25 school year as well as the IEP Goal Progress Reports for the March 25, 2025 IEP for the fourth quarter of the 2024-25 school year to the email response.

d. Attached i-Ready Diagnostic Results for three reading benchmark testing dates and for three math benchmark testing dates

e. Explained that no internal communications or notes regarding the proposal to exit the student from special education services exist so no documentation can be provided because eligibility decisions are made only during formal IEP team meetings to ensure that no decisions are predetermined and that all team members, including parents, participate in the process.

f. Explained that "Quarterly progress reports" are the same as "IEP Goal Progress Reports" and these are already attached to the email response.

Conclusion

In this case, the complainant requested six specific documents on behalf of the parent while acting in her role as the educational advocate. The LEA took three days to either gather the documentation or to provide an explanation for each request. Copies of IEP Goal Progress Reports and i-Ready Diagnostic Results were provided as requested. However, four of the requested documents did not exist and could not be provided including the May 8, 2025 IEP; the Autism eligibility worksheet; and internal communication regarding the eligibility determination. In each of these cases, the LEA provided an explanation for why a particular document did not exist and could not be provided.

Based on the foregoing, the *LEA is found to be IN compliance* with the federal and state requirements in regard to responding to a parent request for educational records in a timely manner as required by 34 C.F.R. §300.613(a).

Summary of Conclusions/Corrective Action

ISSUE ONE: Violations of federal regulations were found at 34 C.F.R. §300.303(b)(2), 34 C.F.R. §300.304(b)(1)(i), and 34 C.F.R. §300.306(c)(1). Corrective action is required as described below:

1. Within 15 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. §300.303(b)(2) which require an evaluation to be completed at least every three years; at 34 C.F.R. §300.304(b)(1)(i) which require the use of a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, in determining whether the child is a child with a disability; and at 34 C.F.R. §300.306(c)(1) which require public agencies to

draw upon information from a variety of sources and to carefully considered when interpreting data for the purposes of determining eligibility and educational need of the student in all areas of suspected disability.

2. Within 15 days, the LEA will provide the parent with a PWN proposing to conduct a reevaluation of the student with additional assessment to include, at a minimum, the parent surveys of the DP-4 and ABAS-3 which have already been provided to the parent as well as the ASRS Long Form for the Kindergarten Teacher, the current first grade teacher, the Special Education Teacher and the parent.
3. Within 30 days of receiving parent consent, the LEA will reconvene the student's IEP team to review the results of the additional assessments and consider the results of the IEE (if available) to make an eligibility determination of the student. The LEA will provide the parent with appropriate prior written notice of the eligibility determination and any changes or revisions made to the IEP, as appropriate as well as a copy of the Evaluation/Eligibility Report following the IEP team meeting. Within 5 days of the date of the IEP team meeting, the LEA will provide SETS with a copy of the student's Evaluation/Eligibility Report and the PWN provided to the parent.

ISSUE TWO: Violations of 34 C.F.R. §300.306(a)(1) and 34 C.F.R. §300.306(c)(1) were not found. Corrective action is not required

ISSUE THREE: Violations of 34 C.F.R. §300.503(a) and K.A.R. 91-40-27(a)(3) were not found. Corrective action is not required.

ISSUE FOUR: Violation of 34 C.F.R. §300.502(b)(1) and (2) were found. Corrective action is required as noted below:

1. Within 15 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. §300.502(b)(1) which require the LEA to respond to a parent request for an IEE in a timely manner.
2. The LEA will approve the parent's choice for providing the student's IEE at Meadowlark Psychology and Developmental Center and pay for the full cost of this comprehensive IEE. The LEA will provide a copy of the paid invoice to SETS no later than 45 days from the completed evaluation by the agency.
3. Within 30 days from the date of this investigation report, the LEA will update the IEE Notification Letter with cost limitations that are commensurate with the current rates of the three agencies listed in the IEE Notification Letter. The LEA will provide SETS with a copy of the updated IEE Notification Letter no more than 45 days from the date of this investigation report.

ISSUE FIVE: Violations of 34 C.F.R. §300.501(b)(1), 34 C.F.R. §300.322(a), and 34 C.F.R. §300.321(a)(6) were not found. Corrective action is not required

ISSUE SIX: A violation of 34 C.F.R. §300.613(a) was not found. Corrective action is not required

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #368, PAOLA PUBLIC SCHOOLS
ON OCTOBER 20, 2025

DATE OF REPORT: NOVEMBER 20, 2025

This is complete and spell checked – need only add the parent interview content.

This report is in response to a complaint filed with the Kansas State Department of Education against USD #368 (Paola Public Schools) on behalf of ------ by his parent ------. In the remainder of the report, ------ will be referred to as "the student" and ------ as "the parent" or "the complainant."

The complaint is against USD #368 (Paola Public Schools). In the remainder of the report, USD #368 will be referred to as "the Local Education Agency". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." Local Education Agency staff will be referred to in the remainder of this report as follows:

- Kris Holt, Special Education Director
- Brennan Riffel, Principal
- Elaine Carpenter, Assistant Special Education Director
- Helen Woolsey, Special Education Teacher
- Kennedy Voss, Kindergarten Teacher
- Jennifer Siders, School Psychologist

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on October 20, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent. The investigator first emailed the Parent and Special Education Director on October 30, 2025. The investigator

interviewed the Special Education Director on October 30, 2025, and Parent on November 10, 2025.

The following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. District response dated October 30, 2025
2. Individualized Education Plan (IEP), dated August 22, 2025
3. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent dated August 22, 2025, parent signed consent on September 29, 2025

Emails:

1. Email exchange between Parent and Principal dated October 20, 2025, between 11:07 p.m. and 12:26 p.m.
2. Email exchange between Parent and Superintendent and Principal dated October 20, 2025, between 2:09 p.m. and 2:11 p.m.

Background Information

The subject of this complaint is a five-year-old kindergartener during the 2025-2026 school year. On August 22, 2025, the student was found eligible for special education as a student with Autism and Other Health Impairment due to ADHD. It is noted that the evaluation report stated that since the student was new to the district ongoing reevaluation would be conducted to further determine educational needs, strategies, and related services (SPL, OT). An Individualized Education Plan (IEP) was developed on the same day with one goal, accommodations, special education minutes and consultative OT and speech minutes. The Prior Written Notice authorizing services was subsequently signed and special education services were implemented.

Issues Investigated

Issue One

USD #368, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), refused to provide the morning drop-off accommodation for the student despite granting the same accommodation for afternoon pick-up during the 2025-2026 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made

available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Parent Position

The child complaint stated that the school approved a special accommodation allowing the student to be picked up from the back of the building at the end of the school day, supervised by staff, to reduce the student's wait time and ensure safety. Based on this approved accommodation the parent requested this accommodation extend to the morning drop-off. The parent stated that the school's refusal to allow this accommodation to morning drop-off is a procedural preference rather than following the student's legal rights.

Local Education Agency Position

The Local Education Agency responded that the afternoon pick-up accommodation is not included on the student's IEP and is not a special education accommodation due to the student's disability. Instead, it was a building level decision to help the mother. The LEA stated they would be happy to discuss this accommodation with the IEP team.

Analysis: Findings of Fact

1. The Student's IEP dated August 22, 2025, includes with one goal, for the student to remain seated in an indicated area for up to 5 minutes during small or large group activities and accommodations specific to visual supports and visual schedules. No mention is made of a need for special drop-off or pick-up arrangements in the IEP or PWN.
2. An email chain on October 20, 2025, between the Parent and Principal document that the Parent requested that the morning drop off procedures be extended to the afternoon pickup of the Student and the Principal refusing the request.

Correspondents	Body
Principal to Parent	" I wanted to touch base regarding afternoon pick-up. I've noticed a few times that you've come up to the car line area on foot to meet [Student]. For safety and supervision reasons, our dismissal procedures require families to remain in their vehicles and go through the designated car line when picking up students. That said, if the current process has been challenging, we can make an alternate arrangement that might better support [Student]. We could have [Student] wait by the back doors with a staff member. This is where our daycare and preschool buses load. When we see your vehicle pull up, a staff member could walk him out to meet you. This option may help reduce [Student's] wait time after school dismisses at 3:10. Would this plan work for you? Thank you for your understanding and cooperation as we work to keep dismissal safe, consistent, and efficient for everyone."

Correspondents	Body
Parent to Principal	" The alternate arrangement you proposed as having [Student] wait with a staff member by the back doors where the daycare and preschool buses load will work perfectly fine. Please consider this our new pick-up and drop-off procedure moving forward in adherence to safety, consistency, and efficiency."
Principal to Parent	"To clarify this would be for pick up only. Please continue to use the drop off line in the morning."
Parent to Principal	"Thank you for previously offering the alternative pick-up arrangement for [Student]. However, I am concerned by the refusal to allow this same process for morning drop-off. You emphasized the importance of safety, consistency, and efficiency yet applying this only to one part of the day contradicts that message and disrupts [Student's] routine. I am requesting that the same back-door procedure be used for both drop-off and pick-up to support [Student's] needs consistently. Please confirm that this adjustment will be made."
Principal to Parent	"I need to clarify our expectations regarding morning drop-off. All parents are required to use the designated parent drop-off line in the morning. This procedure is in place for the safety of all students and to ensure an orderly arrival process. While we made a special accommodation for afternoon pick-up—allowing you to park behind the building and meet [Student] in the back of the school—this was a courtesy to help reduce his wait time. That arrangement was never offered for morning drop-off and will not be permitted. [Student] will be expected to enter the front of the school in the morning. Moving forward, please follow the standard morning drop-off procedures like all other families. The school will not allow exceptions to this policy, and any deviation from these procedures cannot be accommodated."
Parent to Principal	"Your refusal to apply the same accommodation for [Student's] morning drop-off that was granted for pick-up is not acceptable. Denying the same accommodation for [Student's] morning drop-off contradicts your stated goals of safety, consistency, and efficiency. [Student] is a disabled student entitled to reasonable accommodations that ensure equal access to education and school facilities…[Student] has the right to a Free Appropriate Public Education (FAPE), which includes reasonable accommodations such as access to an alternative entrance to the building. Refusing this accommodation for morning drop-off is discriminatory and violates both federal and state law. I am formally requesting that the back-door drop-off procedure be extended to morning drop-off as a reasonable accommodation for [Student]. Please provide written confirmation that this adjustment will be implemented promptly.

3. Later on October 20, 2025, the Parent notified the Superintendent and Principal of filing a child complaint with KSDE, writing, "regarding the district's refusal to provide consistent and reasonable accommodations for [Student's] morning drop-off, despite having granted such accommodations for [Student's] afternoon pick-up. This inconsistent treatment not only compromises [Student's] safety and access to education but also constitutes discrimination in violation of the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (ADA), and Kansas state special education law." Later that same day the Superintendent replied to the Parent, "It is my understanding that [Principal] reached out to you to offer an alternative pick-up procedure, as you have occasionally parked and approached the car line area on foot to meet [Student], which does not align with our established dismissal procedures. These procedures are in place to

ensure an orderly and safe dismissal process for all students. The alternative arrangement was offered to provide a quicker pick-up option for you and to support [Student]. This procedure is typically used by our preschool and daycare providers after school; [Principal] was attempting to assist within the framework of our existing protocols. Your request for a change to the morning drop-off procedure was not approved, as the current system is appropriate and functioning effectively. We have sufficient staff stationed at the front entrance each morning to receive students as they are dropped off by car. Alternative drop-off procedures are not part of our established morning routine and are not warranted at this time, as [Student's] current morning drop-off process is proceeding smoothly."

4. The Director of Special Education stated to the Investigator during the October 30, 2025, interview that the pick-up alternative was granted as a convenience to the Parent and was not a special education accommodation and therefore there is no IDEA obligation to provide an accommodation with drop-off procedures due to the child's disability status.
5. The Parent stated during the November 10, 2025, interview with the Investigator that she has had to make the accommodations that works for her child and causes the least amount of disruption for all students at the school. She stated she understands that this accommodation is not in the IEP and has not been successful in obtaining a date to update the Student's IEP.

Conclusion

It is found that the Student did not have any special education accommodations, goals or services that specifically related to the necessity for an alternative drop off or pick up location or procedure that obligated the LEA to provide this accommodation. It is noted that the LEA has offered to discuss adding an alternative drop-off procedure at the IEP that is currently being scheduled. Based on the foregoing it is found that the Local Education Agency ***is in compliance*** and no corrective action is required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) was not found and no corrective action is required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233 OLATHE PUBLIC SCHOOLS
ON OCTOBER 22, 2025

DATE OF REPORT: NOVEMBER 24, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ----- by their parent, -----. In the remainder of the report, ----- will be referred to as "the Student." ----- will be referred to as "the Complainant" or "the Parent".

The complaint is against USD #233 Olathe Public Schools. In the remainder of the report, USD will be referred to as "the local education agency (LEA)".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on October 22, 2025, and an extension was granted to the 30-day timeline, which ends with the publication of this report.

Evidence Reviewed

During the investigation, the Complaint Investigator reviewed all evidence and documentation, which was provided by both the district and the complainant(s). The Parent was contacted on October 29, 2025, to gather information and to clarify the issues, and the Parent was interviewed again on November 17, 2025. The Parent and the Investigator exchanged emails from October 29, 2025, to November 18, 2025. The LEA provided the Special Services Coordinator and the Assistant Special Education Director for an interview on November 10, 2025, and School Psychologist 1 was interviewed on November 18, 2025. The LEA and the Investigator exchanged emails with follow up questions and requests for documents from October 29, 2025, to November 20, 2025. The following documentation and information were used in consideration of the issue(s):

Evidence from the Parent:

1. IEP dated October 24, 2023
2. Notice of Meeting dated October 3, 2024 for a meeting on October 22, 2024 to review evaluation results with continued eligibility, signed by the Parent on October 22, 2024, giving consent for transition services to attend the meeting and acknowledging meeting attendance and receipt of parent rights document
3. IEP for the Student dated October 22, 2024
4. Evaluation Report for the Student dated October 22, 2024, with Parent signature dated October 22, 2024
5. Prior Written Notice dated October 22, 2024, signed by the Parent with consent for services dated October 22, 2024.
6. Audio Recording IEP meeting October 14, 2025
7. Draft IEP dated October 14, 2025
8. Prior Written Notice dated November 5, 2025 for a material change in services and other changes to the IEP unsigned by the Parent
9. Email from the Parent to the Investigator dated Nov 17, 2025 at 11:34 AM

Evidence from the District:

1. Interim Process Documentation dated August 15, 2024
2. Prior Written Notice dated August 15, 2024
3. Notice of Meeting dated October 3, 2024 for a meeting on October 22, 2024 to review evaluation results with continued eligibility, signed by the Parent on October 22, 2024, giving consent for transition services to attend the meeting and acknowledging meeting attendance and receipt of parent rights document
4. Prior Written Notice for evaluation or reevaluation request for consent dated October 3, 2024 signed by the Parent giving consent on October 22, 2024
5. IEP for the Student dated October 22, 2024
6. Evaluation Report for the Student dated October 22, 2024, with Parent signature dated October 22, 2024
7. Prior Written Notice dated October 22, 2024, signed by the Parent with consent for services dated October 22, 2024.
8. Docusign record of document sent to Parent on November 4, 2024 at 9:26 a.m. and 12:54 p.m. and on November 5, 2024 at 1:00 p.m. with no Parent Signature
9. Email from School Psychologist 1 to the Parent dated December 16, 2024 at 11:04 a.m. and the Parent's reply the same day at 11:25 a.m.
10. Email from Special Education Teacher 1 to School Psychologist 1 and the Parent dated December 16, 2024 at 12:22 p.m.

11. Email from School Psychologist 1 to the Parent, Special Education Teacher 1, and Assistant Principal dated October 23, 2024 12:55 p.m.
12. Email from Special Education Teacher 1 to the Parent, School Psychologist 1 and Assistant Principal dated October 23, 2024 2:04 p.m.
13. Email exchange among Special Education Teacher 1, School Psychologist 1, and Assistant Principal beginning November 13, 2024 at 12:29 p.m. and ending November 21, 2024 at 6:57 a.m.
14. Email from High School Resource Teacher to High School Teachers dated August 13, 2025 12:38 p.m.
15. Email from High School Language Arts Teacher to High School Teachers dated August 27, 2025 at 3:00 p.m.
16. Email from Special Education Teacher 2 to the Parent with Notice of Meeting attachment dated September 12, 2025 at 9:30 a.m.
17. Notice of Meeting dated September 12, 2025 for a meeting on October 14, 2025
18. Email from Special Education Teacher 2 to the Parent with Draft IEP attached dated October 13, 2025 5:01 p.m.
19. Proposed IEP for the Student dated October 14, 2025
20. Email from the Parent to School Psychologist 2, Special Education Teacher 2 dated October 15, 2025 2:39 PM and School Psychologist 2 reply dated October 15, 2025 at 5:08 p.m.
21. Email from the Parent to School Psychologist 2 and Special Education Teacher 2, dated October 15, 2025 at 7:04 p.m. and School Psychologist 2's reply October 15, 2025 at 7:18 p.m.
22. Email from the Parent to School Psychologist 2, Special Education Teacher 2, Assistant Principal and Special Services Coordinator dated October 21, 2025 at 12:02 p.m.
23. Email from Special Education Teacher 2 to Parent with NOM dated October 21, 2025 1:30 p.m.
24. Notice of Meeting dated October 21, 2025
25. Email from School Psychologist 2 to the Special Services Coordinator and Assistant Special Education Director dated November 4, 2025 at 8:07 a.m.
26. Undated Grade 10 Accommodation List for the Student
27. Email from School Psychologist 2 to the Parent and others dated November 5, 2025 2:43 p.m. and the Parent's reply November 5, 2025 5:15 p.m.
28. Prior Written Notice dated November 5, 2025 for a material change in services and other changes to the IEP unsigned by the Parent
29. Email from Special Services Coordinator to the Parent, School Psychologist 2 and others dated November 6, 2025 9:30 a.m. and the Parent's reply November 6, 2025 2:24 p.m.
30. Prior Written Notice for Evaluation dated November 7, 2025

31. Email from School Psychologist 2 to the Special Education Director, Special Education Teacher 2, and Special Services Coordinator dated November 11, 2025 at 11:59 a.m.
32. Related Service Provider Contact Log, 2025-26 school year

Background Information

The Student transferred to the District at the beginning of the 2024-25 school year when beginning the 9th grade. At that time, the LEA offered a transfer IEP that continued special education and related services.

According to the Parent and LEA, the Student was evaluated by Children's Mercy and found to have dyslexia in 2021. According to the LEA, Prior Written Notice for Evaluation with a request for parent consent was sent in August, 2024 and October 3, 2024. According to the Student's reevaluation (2024), the Student had been previously diagnosed with Dyslexia, Autism, ADHD and Asthma. The Student qualified for special education in the categories of Specific Learning Disability and Autism, according to the 2024 reevaluation.

During the current school year, the Student attended the 10th grade and received special education and related services in a High School in the LEA.

Issues Investigated

1. ISSUE ONE: Whether the LEA conducted a comprehensive evaluation during the 2024-25 and 2025-26 school years after parental requests and when due as required by 34 CFR 300.303
2. ISSUE TWO: Whether the LEA altered the Student's diagnosis by removing dyslexia from the IEP without parental participation as required by 34 CFR 300.501(b) or prior written notice as required by 34 CFR 503(a)(b)
3. ISSUE THREE: Whether the LEA provided accommodations appropriate for the Student's dyslexia as required by 34 CFR 300.320(a)(4) and 34 CFR 300.323(a)
4. ISSUE FOUR: Whether the LEA provided an accurate copy of the IEP to the Student's teachers as required by 34 CFR 300.323(d)?
5. ISSUE FIVE: Whether the Student's IEP contained required information regarding the time the Student would not participate in general education as required by 34 CFR.320(a)(5)

Issue One

Whether the LEA conducted a comprehensive evaluation during the 2024-25 and 2025-26 school years after parental requests and when due as required by 34 CFR 300.303

Applicable Law

Federal/State statutes and regulations at 34 CFR 300.303 require that reevaluations are conducted in accordance with 34 CFR.300.304-300.311 if the public agency determines a need for evaluation or the parent requests an evaluation, not more than one time per year and at least once every three years, unless the parent and public agency agree that a reevaluation is not necessary. Federal regulation 34 CFR 300.304 (b) states that public agency must use a variety of assessment tools and strategies to gather relevant information about the child to determine whether the child is a child with a disability and the content of the child's IEP, and not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and use technically sound instruments. Federal regulation 34 CFR 300.304(c)(4) requires that the child is assessed in all areas related to the suspected disability and (6) that the evaluation is sufficiently comprehensive to identify all the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

Additional requirements for reevaluations found in 34 CFR 300.305 (a) state that the IEP team and other qualified professionals must (1) review of existing evaluation data including evaluations and information provided by the parent, current classroom based, local or state assessments and classroom based assessments, and observations by teachers and service providers and (2) on the basis of that review and input from the child's parents, identify what additional data if any are needed to determine whether the child continues to be a child with a disability, the present levels of academic achievement and related developmental needs of the child, whether the child continues to need special education, and whether any additions or modifications to the special education and related services are needed to enable the child to meet the annual goals in the IEP and to participate in the general education curriculum. The review of existing data may be conducted without a meeting (34 CFR 300.305 (b)) and without parent consent.

To determine eligibility and educational need, the public agency must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations as well as information about the child's physical condition, social or cultural background and adaptive behavior, and ensure that the information obtained from all these sources is documented and carefully considered (34 CFR 300.306(c)). Also, 34 CFR 300.307 requires that a public agency must use the state criteria adopted in determining whether a child has a specific learning disability.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term shall not include learning problems that are primarily the result of any of the following: (1) Visual, hearing, or motor disabilities; (2) mental

retardation; (3) emotional disturbance; or (4) environmental, cultural, or economic disadvantage" (K.A.R 91-40-1(mmm)).

KAR 91-40-10(a)(2) requires that when eligibility is determined, each team member shall certify in writing whether the report reflects the member's conclusion.

Analysis: Findings of Fact

The Parent alleged that the LEA failed to conduct a comprehensive evaluation when it was due in 2024, and that the Parent made a request for a new evaluation at a meeting on October 14, 2025. The formal complaint states: "[The LEA] failed to conduct the comprehensive evaluation I formally requested during both the 2024-25 and 2025-26 school years. Instead they used classroom based screeners and informal diagnostic tools instead of the required standardized formal assessments." The Parent added, in the formal written complaint, "…the school removed 'dyslexia' from [the Student's] IEP without informing me or requesting consent."

The LEA replied: "A comprehensive evaluation was completed during the 2024-2025 school year. On August 14, 2024, Olathe School District received transfer IEP documents from an out-of-district school for [the Student]. The Case Manager contacted [the Parent] on August 16, 2024, to discuss comparable services and on August 19, 2024, to discuss a possible reevaluation. The District sent a PWN, proposing a reevaluation on October 3, 2024. The reevaluation included a review of existing data and collecting additional data in the areas of Social/Emotional/Behavioral Status and Academic Performance." The LEA continued: "Following an IEP team meeting, held October 22, 2024, the School Psychologist emailed [the Parent] further discussing testing, specifically the WAIT, and seeking additional parent input. On November 4, 2024, the draft evaluation report and related documents were sent to the Parent. The Parent signed the evaluation report and eligibility documents on December 16, 2024."

With regard to the 2025-26 school year, the LEA responded: "A reevaluation has not been completed for the 2025-2026 school year. The IEP team is currently trying to schedule an IEP team meeting to discuss [the Parent]'s request for a reevaluation. To date, [the Parent] has declined to meet with the IEP team. . . At this time, the IEP team continues to try to work with [the Parent] to schedule an IEP team meeting to review existing data and discuss a reevaluation. . .It is the District's position that the IEP team has appropriately and timely responded to [the Parent]'s requests. The District has a reasonable amount of time to respond to parent proposals. In Kansas, a reasonable amount of time is 15 school days. According to the District's calendar, 15 school days from the date of the Parent's reevaluation request ends on November 7, 2025."

Findings of Fact

Student Reevaluation, 2024: An email dated Oct 3, 2024 at 3:03 p.m. from the School Psychologist to the Parent shows the scheduling of the Student's evaluation meeting and the provision of a consent to evaluate via docusign. In a reply email, the Parent indicated that she would complete and return the "checklist" which asked for input into the evaluation. The PWN for evaluation (PWNE) dated October 3, 2024 indicated two areas where new data would be collected, social

interaction and academic performance. The PWNE was signed by the Parent giving consent during the morning of October 22, 2024, before the IEP Meeting occurred. According to an interview with School Psychologist 1, the request for new information in the PWNE was based on Parent input provided to Special Education Teacher 1, before the IEP meeting.

In an email dated Oct 21, 2024 at 3:30 p.m. from the Parent to the School Psychologist, the parent affirmed her attendance at the October 22, 2024 meeting, and in a second email that day the Parent asked for the meeting to occur virtually rather than in person.

The Parent and the District agree that an IEP meeting was held on October 22, 2024 and that the Parent attended and participated.

In response to follow up questions in an email to the investigator dated November 17, 2025, the LEA reported that the IEP team reviewed existing data, proposed updated goals and accommodations based on the Student's needs, made proposals based on the review of current and existing data, and gathered more information from the Parent about her concerns.

Content of the Evaluation Report: An Evaluation Report for the Student dated October 22, 2024, stated that the purpose of the evaluation was for the required three year reevaluation and "to help the school team and parents understand how much special education support is appropriate based on updated data and present levels of performance." The Evaluation Report began with a review of existing data including current support in the general education classroom, attendance, summary of previous assessments including evaluations, medical certification, information provided by the parents, state and district testing, and current classroom based assessment and performance in the general curriculum.

The Evaluation Report stated that a previous district, in 2021, determined no additional data were needed to determine eligibility and need. The Evaluation Report summarized previous testing from an Academic Language Reading Evaluation completed by Children's Mercy Hospital Hearing and Speech Clinic in February of 2021, listing scores from the Clinical Evaluation of Language Fundamentals-5, Test of Word Reading Efficiency- 2, Word Identification and Spelling Test, and Gray Oral Reading Test- 5. Cognitive and academic functioning and academic achievement results were summarized from an out of state evaluation report from 2019.

The Evaluation Report continued with Current Classroom Based Assessment and Performance in the General Curriculum. Three general education content area teachers and one special education teacher reported on their observations of social behavior, classroom performance, strengths and needs. Additional data included observation by the previous School Psychologist and the summarized results and recommendations from the administration of the Wechsler Individual Achievement Test- Fourth Edition, which is "an individually administered achievement test for ages 4-50 (grades PreK-12+) for use in a wide variety of clinical, educational, and research settings. This test includes 20 subtests to measure listening, speaking, reading,

writing, and mathematics skills." Reading, writing and math needs were discussed in the test summary section. No testing date was provided for the WIAT-4 in the Evaluation Report.

The Evaluation Report listed additional sources of data: FastBridge in Reading, Math and Math Automaticity (Fall, 2024), IXL Reading and Math L Real-Time Diagnostic "that shows the student what they know and what they're ready to learn next" (Fall, 2024), a Phoneme Language Arts skill assessment given by the special education teacher, and Writing and Work Sample report summary from classroom assignments, and two 4th grade level reading comprehension assessments from EasyCBM.

The Evaluation Report summarized the assessment results in reading, math, and writing and addressed educational needs and made recommendations to access the general curriculum.

The Evaluation Report summarized eligibility stating: "[the Student] has an exceptionality. [the Student] requires specially designed instruction. The evaluation team reached consensus that [the Student] exhibits the following exceptionality: Autism, Specific Learning Disability. Eligibility was determined according to the criteria considered on the attached eligibility determination document(s). [the Student] meets the criteria for Dyslexia." The eligibility criteria attachments for Specific Learning Disability and Autism were attached to the report.

In an email dated Wednesday, October 23, 2024 12:55 p.m., School Psychologist 1 wrote that additional testing would be completed based on the October 22, 2024 meeting: the Wechsler Individual Achievement Test- 4 and additional curriculum based measures to determine the Student's performance in reading, math and writing. The LEA reported that the additional testing was completed on October 25, 2024 and a new evaluation report sent to the Parent on October 28, 2024, with an offer to meet to discuss the results.

Prior Written Notice and Parent Signatures: The LEA reported that a PWN for services was sent via docusign and certified mail November 4, 2024. Docusign and mail receipts showed the same. The LEA reported that "after multiple failed attempts to reach [the Parent] for consent, the PWN was sent home in [the Student]'s backpack. [The Parent] hand signed the PWN on 12.16.24 but dated it 10.22.24."

In an interview, School Psychologist 1 stated that both the Evaluation Report and the PWN dated October 22, 2024 were returned to the LEA signed by the Parent on December 16, 2024. School Psychologist 1 stated that several attempts were made to contact the Parent with offers to meet to discuss the additional testing completed following the IEP meeting on October 22, 2024. School Psychologist 1 stated that no Notice of Meeting was sent to the Parent because the Parent did not respond to indicate a need for an IEP meeting to discuss the additions (WIAT-4 assessment) to the Evaluation Report.

When asked, the Parent could not recall the details of signing and dating the PWNs provided by the LEA and referred the Investigator to the LEA records. When asked, the LEA acknowledged that the PWN should have been offered with the proper (December 16, 2024) date.

Request for Evaluation 2025: The LEA and the Parent agreed that an IEP Meeting was held on October 14, 2025 and that the Parent was present and participated. The LEA and the Parent agreed that the Parent requested an evaluation during the meeting.

An audio recording of the meeting showed that the IEP team members were unable to locate the 2024 Evaluation Report and discussed the process of requesting a new reevaluation, which the LEA IEP team members agreed to initiate. In an email dated October 14, 2025, Special Education Teacher 2 emailed the Parent a copy of the Student's 2024 Evaluation Report, offering to discuss it with the Parent.

On October 15, 2025, the Parent emailed the LEA IEP team members with concerns related to the 2024-25 reevaluation and requested changes to the IEP and a new re-evaluation, as had been discussed at the IEP Meeting on October 14, 2025. School Psychologist 2 responded the same day, addressing the Parent's concerns and suggesting the IEP team meet to discuss a reevaluation. An email exchanged showed that the Parent was not in agreement with the draft IEP discussed at the October 14, 2025, IEP team meeting, and School Psychologist 2 replied, offering a number of alterations to the IEP and requesting to meet to continue to discuss the concerns and reevaluation request and finalize the IEP. The Parent declined to meet until the LEA made new data available to discuss.

The LEA sent a Notice of Meeting dated October 21, 2025, for a meeting on October 30, 2025, and when the Parent was unable to attend at that time, the LEA offered additional meeting times.

On November 5, 2025, the LEA provided a revised copy of the IEP and PWN to the Parent listing changes to the IEP accepted and refused. Regarding the request for re-evaluation, the PWN stated: "On 10/15/25, [the] parent sent an email requesting a reevaluation. The team is currently reviewing existing data with the parent."

In a November 5, 2025, email to the Parent, School Psychologist 2 sent a review of existing data along with the revised IEP, and the Parent replied declining to meet due to the formal complaint in process. On November 6, 2025, the Special Services Coordinator sent an email to the Parent explaining the reevaluation process and the reason why the LEA requested to meet with the Parent to discuss the need for a new re-evaluation.

The LEA provided an PWN dated November 7, 2025, declining the Parent's request to re-evaluate. According to the LEA calendar, 15 school days from the date of the Parent's reevaluation request ended on November 7, 2025 (one day of no school is included in this

Conclusion

In this case, the Parent alleged that the Student's reevaluation was incomplete because it included only one standardized assessment and the reevaluation did not specifically address the Student's known medical diagnosis of dyslexia.

A review of the Evaluation Report dated October 22, 2024 showed that a variety of assessment tools were used to determine eligibility, need and present level of performance. These

included: information provided by the Parent, current teacher reports of performance, strengths and needs, an observation by a school psychologist, a review of previous evaluation reports including the 2021Children's Mercy Report, absences, classroom work samples and classroom based performance tests, standardized progress monitoring measures, and a standardized assessment that addressed 20 subskills in listening, speaking reading, writing, and mathematics. Additionally, the Evaluation Report reviewed and included the Student's diagnosis of dyslexia along with the SLD eligibility checklist. The Evaluation Report provided related reading, writing, and mathematics recommendations in the evaluation and established the present level of performances in areas of identified needs.

IDEA requires that the child is assessed in all areas related to the suspected disability and that the evaluation is sufficiently comprehensive to identify all the child's special education and related services needs (34 CFR 300.304 (c)(4) and (6)). Federal regulations at 34 CFR 300.304 (b) state that public agency must use a variety of assessment tools and strategies to gather relevant information about the child to determine whether the child is a child with a disability and the content of the child's IEP, and not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and use technically sound instruments. With the Evaluation Report dated October 22, 2024, the LEA did so.

Therefore it is found that the content of the Evaluation Report dated October 22, 2024 meets the required criteria.

Further, for a reevaluation, the IEP team must review existing data and based upon that review, determine the need and then conduct additional assessments in order to determine if the child continues to be a child with a disability, the present levels of academic achievement and related developmental needs of the child, whether the child continues to need special education, and whether any additions or modifications to the special education and related services are needed to enable the child to meet the annual goals in the IEP and to participate in the general education curriculum (34 CFR 300.305(a)).

At the October 14, 2025, IEP meeting, the Parent expressed concerns regarding the IEP and at that time, verbally requested a reevaluation, followed by a written request the following day. Participants in the meeting agreed to contact the School Psychologist to start the reevaluation process. It is understandable that, at this point, the Parent along with other IEP members at the meeting, believed that the Student's 2024 reevaluation had not been completed. However, evidence showed that the reevaluation had been completed the previous year, and the reevaluation report was provided to the Parent later the same day.

To respond to the Parent's request for a new evaluation, the LEA offered a review of existing performance data and NOM to discuss the need for new assessments. The Parent did not meet with the LEA at that time, and the LEA, on the 15th school day, provided PWNE declining to reevaluate the Student.

Therefore, it is found that the LEA properly responded to and provided PWNE to decline the Parental request for a new reevaluation during the 2025-26 school year.

However, during the investigation, the date of the Parent's signatures on the Evaluation Report dated October 22, 2024, and the PWN dated October 22, 2024 to initiate services did not agree with the documentation of when those signatures were provided. First, the LEA appropriately offered PWN within a reasonable time (34 CFR 300.503(a)) following the IEP meeting and then documented various and multiple means to contact the Parent for signatures. When the Parent did not respond, the LEA continued to send the same PWN, without updating its issuance date. Thus, the Parent signatures appear to be misdated (as October 22, 2024) and based on the documentation, could not have been signed on that date. Based on the documentation, emails and interviews, the PWN dated October 22, 2024 was signed on or about December 16, 2024. The LRE acknowledged that the PWN for services should have been updated with the proper date associated when it was re-offered to the Parent, several weeks following the IEP meeting.

The Parent's signature on the Evaluation Report (reevaluation) was dated October 22, 2024, as were the other members of the IEP and evaluation team. The School Psychologist added the additional testing requested by the Parent at the October 22, 2024 IEP team meeting after that meeting but the School Psychologist did not record the testing date or alter the date of the Evaluation report to indicate that the Parent reviewed the Evaluation report with the additional testing included. For these reasons, it appears unclear when that signature was collected; however, based on the provided interview and document evidence, the Evaluation Report was signed at the same time as the PWN (above) on or about December 16, 2024. Therefore, it is found that the Parent signature on the Evaluation Report is not in accordance with KAR 91-40-10(a)(2) which requires the team members to certify their agreement with the results of the report.

According to 34 CFR 300.324(b)(1)(i) and (ii) the IEP team must review the child's IEP periodically, but not less than annually, to determine if the IEP goals are being achieved and revises the IEP as appropriate to address any lack of expected progress in the general education curriculum and the results of any re-evaluation conducted under §300.303, information about the child provided to or by parents under §300.305(a)(2), the child's anticipated needs or other matters.

When the LEA agreed to and conducted additional testing based on the Parent request and PWNE dated October 22, 2024, after the IEP meeting of that date, the LEA should have provided a NOM to the Parent to discuss the results of the additional testing and whether the findings had any effect on the proposed IEP dated October 22, 2024.

Based on the foregoing, ***it is not substantiated*** that the LEA failed to conduct a comprehensive evaluation during the 2024-25 and 2025-26 school years after parental requests and when due as required by 34 CFR 300.303.

However, ***violations of the following were found***: 34 CFR 300.503(a)) which requires PWN to parents in a reasonable period of time, due to the late and/or misdated Parent signature

described above; 34 CFR 300.324(b)(1)(ii) which requires the IEP team to review the results of any reevaluation conducted under §300.303, due to the failure of the LEA to ask for an IEP meeting after adding assessments to the reevaluation; and KAR 91-40-10(a)(2) which requires the team members to certify their agreement with the results of the report, due to the misdated Parent signature.

Issue Two

Whether the LEA altered the Student's diagnosis by removing dyslexia from the IEP without parental participation as required by 34 CFR 300.501(b) or prior written notice as required by 34 CFR 503(a)(b)

Applicable Law

Federal/State statutes and regulations at 34 CFR 300.501(b) require parent participation at meetings on identification, evaluation, educational placement and the provision of FAPE to the child. Federal statutes and regulations at 34 CFR 300.503(a)(b) state the prior written notice must be provided to the parent when the LEA proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The content of the notice must include: a description of the action proposed or refused by the agency; an explanation of why the agency proposes or refuses to take the action; a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; a statement that the parents of a child with a disability have protection under the procedural safeguards; sources for parents to contact to obtain assistance in understanding the provisions of this part; a description of other options that the IEP Team considered and the reasons why those options were rejected; and a description of other factors that are relevant to the agency's proposal or refusal.

To be eligible for special education, a team of qualified individuals and the parent must ensure that the child meets the definition of one of the categories of exceptionality and, as a result of that exceptionality, needs special education and related services (i.e., 2 pronged test) (K.A.R. 91-40-1(k), (w); 34 C.F.R. 300.8). Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia (34 C.F.R. 300.8(10)).

Analysis: Findings of Fact

The Parent alleged that the District removed the Student's diagnosis of dyslexia from the IEP without the "notice, prior written consent, or required procedural safeguards." The Parent alleged that, due to this removal of dyslexia, the resulting IEP services logically could not address the Student's specific needs as a student with dyslexia.

The LEA responded: "On October 13, 2025, the IEP team sent [the Parent] a draft copy of the annual IEP ahead of the annual IEP team meeting. [The Parent] responded with concerns, including that dyslexia was removed from [the Student]'s IEP. However, dyslexia was never specifically identified in the student's IEP. The school psychologist explained to the Parent that a student's exceptionality is typically not listed in a student's IEP. Even so, [the Student]'s IEP documents, specifically, the categories of eligibility listed in the evaluation report do include SLD and list dyslexia as an identified exceptionality. This eligibility category has not been removed from [the Student]'s IEP documents, nor has the team ever suggested that it should be removed." The LEA continued: "As discussed in the email sent to the Parent on October 15, 2025, and in the PWN dated November 5, 2025, the IEP team agreed to add the medical diagnosis of Dyslexia to [the Student]'s IEP under the medical section of the IEP and update IEP language to include [the Student]'s diagnoses. The IEP team is waiting on consent from the Parent to make those changes."

Findings of Fact

Findings in Issue One are hereby incorporated by reference.

The LEA reported that an interim IEP was developed for the Student in August 2024 when transferring from another Kansas District. The PWN dated August 15, 2024 altered the number of IEP minutes from 500 special education support in general education and 875 minutes of special education in special education settings to 450 minutes of special education support in general education settings and 495 minutes of special education in special education settings. The Parent consented and Parent signature was dated August 15, 2024. No accommodation changes were listed on the PWN dated August 15, 2024.

The LEA and the Parent agree that the Parent participated in the IEP meetings dated October 22, 2024 and October 14, 2025. The Parent and the LEA agreed that the Parent consented and signed the PWN dated October 22, 2024 before changes to the IEP were implemented during the second semester of the 2024-25 school year.

The IEP dated October 24, 2023 from the previous district did not list dyslexia on the IEP. The Interim Process Documentation dated August 15, 2024, did not list dyslexia on the IEP. The IEP dated October 22, 2024 did not list dyslexia on the IEP.

Email and document review evidence showed that the Parent requested that dyslexia was added to the IEP at the time of the October 14, 2025 IEP meeting. The LEA offered a revised IEP on November 5, 2025, that used the term dyslexia. The PWN dated November 5, 2025 stated: "Per parent request, the team added [the Student]'s Dyslexia diagnosis to the medical section of the IEP. Per parent request, the team replaced "reading disability" with Dyslexia in the impact of [the] exceptionality box on the LRE page. Per parent request, the team included [a] percentage of time missed from general education for services."

Conclusion

In this case, the Parent was greatly concerned that the Student's IEP included dyslexia as definitional to the Student's unique circumstances. However, IDEA does not recognize dyslexia as a qualifying category; rather IDEA uses Specific Learning Disability as an eligibility category, and the definition of SLD includes dyslexia as one of example conditions. The IEP and evaluation team determined that the Student was eligible in the categories of SLD and Autism, as found in Issue One.

In this case, the term dyslexia was not removed from the Student's evaluation, where it was used specifically in the review of previous testing and in the SLD qualification statement, nor was it removed from the IEP, given that the previous IEPs did not use the term dyslexia to describe the Student's disability nor the impact of the disability on the Student's general education. The Parent was present at the October 22, 2024 IEP and evaluation team meeting where the IEP of that date was developed. The Parent signed consent for the IEP to be implemented and dated the signature October 22, 2024. Further, the LEA offered to change the latest proposed IEP dated October 14, 2025 to say "dyslexia" rather than "reading disability" at the Parent's request. It is noted that the term "learning disability" is used on the IEP and the LEA should update the PWN to appropriately reflect its offer to use the term dyslexia pertaining to the Student's reading problems, services, and accommodations. At the time of the report, the Parent had not further responded to the LEA on this issue.

Based on the foregoing, ***it is not substantiated*** that USD 233 altered the Student's diagnosis by removing dyslexia from the IEP without parental participation as required by 34 CFR 300.501(b) or prior written notice as required by 34 CFR 503(a)(b).

Issue Three

Whether the LEA provided accommodations appropriate for the Student's dyslexia as required by 34 CFR 300.320(a)(4) and 34 CFR 300.323(a)

Applicable Law

Federal statutes and regulations at 34 CFR 300.320(a)(4) require that the IEP includes a statement of the special education and related services and supplementary aids and services to be provided to or on behalf of the child, and a statement of the program modifications or supports for school personnel that will enable the child to advance appropriately toward attaining the annual goals, to be involved in and make progress in the general curriculum and to be educated with other children with and without disabilities. The LEA is required to have an IEP in place for each child with a disability at the beginning of the school year (34 CFR 300.323(a)).

To be eligible for special education, a team of qualified individuals and the parent must ensure that the child meets the definition of one of the categories of exceptionality and, as a result of that exceptionality, needs special education and related services (i.e., 2 pronged test) (K.A.R. 91-40-1(k), (w); 34 C.F.R. 300.8).

Analysis: Findings of Fact

The Parent alleged that the District failed to include accommodations specific to the Student's dyslexia, although the District received and acknowledged the Student's official 2021 Children's Mercy Dyslexia Evaluation. In the written report, the Parent alleged that three events showed that the Student had not received accommodations as required in the Student's IEP.

The LEA responded: "[the Student]'s October 22, 2024, IEP does include accommodations that address his needs regarding dyslexia, specifically text to speech, extended time for assessments and assignments, taking a test in a quiet, non-competitive setting, and reduced number of test items. The annual IEP team meeting was held on October 14, 2025. This meeting was timely, and the Parent was in attendance. At the meeting the IEP team reviewed the IEP and discussed accommodations. On October 13, 2025, (prior to IEP team meeting) and November 5, 2025, (following the IEP team meeting) the school team sent the Parent draft IEPs which include numerous accommodations to appropriately address [the Student]'s dyslexia, such as text to speech, extended time on assignments and assessments, reduced test items, speech to text for writing assignments, testing in a separate location, and text to speech directions. [The Student] has been provided with his accommodations in the 2024-2025 school year and in the 2025-2026 school year. There is no indication in the record that [the Student] has not received his accommodations as written in his IEP."

The LEA continued: "Addressing the incidents the Parent specifically referenced in the complaint:

10/7/25 Debate Incident: [The Parent] requested that [the Student] use a computer to read his debate case aloud for him, rather than having him read or present it verbally. [The Student]'s current IEP does not include an accommodation for "not reading allowed in class". This is an accommodation that the IEP team discussed at the October 14, 2025, IEP team meeting and the team agreed to add. [The Parent] has not signed consent for the change.

10/21/25 Physical Science Incident: [The Parent] reported that [the Student] did not receive the accommodation of "not being required to read text aloud" in class. However, as stated above, this accommodation is not in [the Student]'s current IEP. The IEP team did discuss adding this accommodation but [the Parent] has not consented to the change. Also, the science teacher clarified that [the Student] was not asked to read any text aloud. Instead, she used a projected wheel of questions, which she spun and read aloud, asking [the Student] to respond. When called upon, [the Student] stated that he had an accommodation excusing him from providing verbal responses. [The Student]'s current IEP does not include an accommodation excusing him from providing verbal responses to questions or being called upon."

Findings of Fact

Findings of Issue One and Issue Two are hereby incorporated by reference.

The PWN dated August 15, 2024 associated with the Interim Process Document showed changes of services as found in Issue Two and no changes in accommodations. PWN to

implement changes to the IEP dated October 22, 2024 was signed by the Parent on or about December 16, 2024.

The IEP dated October 24, 2023 from the previous district listed the following accommodations: reduced number of questions, allowed to answer electronically, or verbally if electronically is not possible, adult support to assist [the Student] in the classroom, where/when noted, with his accommodations and modifications as well as behavior, curriculum differentiation, extended time of an additional 15-30 minutes on assignments/tests to allow for frequent breaks, access to speech to text and text to speech technology, chunking of assignments, adult support in planning project and homework completion, notes provided by the teacher before lecture or class if notes are given, check for understanding of directions, adults making sure [the Student] has followed the directions, and directions for assignments should be written and oral. Testing accommodations were: reduce number of test items, take test in a quiet non-competitive setting, text to Speech-reading passage, extended time, and text to Speech-directions/test.

The Parent and the District agree that an IEP meeting was held on October 22, 2024 and the Parent attended and participated.

The accommodations listed on the IEP dated October 22, 2024, were: Text to speech-reading

passage, extended time for assessments and assignments, text to speech directions/test items, take the test in a quiet non-competitive setting, upon request reduce the number of test items by 25%. Testing accommodations on this IEP were: Extended time, Text to speech directions/ test items, text to speech-reading passage, and take the test in a quiet non-competitive setting.

The Student's first quarter grades, as reported in the review of current performance provided to the parent on November 5, 2025, were: Geometry: D; ASL: D; Physical Science: B; English 10: A-; Novice Debate: A; Intro to Psychology: C+; Resource: A+.

In the written complaint, the Parent reported that three incidents demonstrated failure to provide accommodations. "October 7, 2025. Debate Class. [The Student] was called to read aloud unfamiliar material. A direct violation of his dyslexia accommodation. [The Student] was embarrassed and reported it to me. October 21, 2025. Physical Science Class. The exact same violation occurred again. The teacher told [the Student] the accommodation was not in [the Student's] IEP. October 21, 2025. While baseline data was supposedly being collected, the school counselor [name] removed [the Student] from instruction to ask about [the Student's] weekend/birthday. During that time, [the Student] expressed confusion about why [the] dyslexia protections were not being followed, further proving [the] IEP is inaccurate."

Conclusion

In this case, based on three incidents occurring in general education classes, the Parent was concerned whether the Student's accommodations were being provided. As found in Issue Two, dyslexia is not an eligibility category; no disability category or exceptionality dictates the

accommodations provided to a student. Rather, the IEP team uses the student's present levels of performance to guide the development of the IEP's goals and the services provided to reach those goals and to progress in the general education curriculum. The Student's accommodations in place at the time of the incidents were developed by the IEP team meeting, October 22, 2024, in which the Parent participated. These accommodations did not state that the Student was excused from the incidents as described in class. Following the IEP Meeting on October 14, 2024 and email conversations pertaining to it, the LEA offered revisions to the IEP and the PWN dated November 5, 2025 in order to make additional accommodations available to the Student based on the Parent's concerns and suggestions.

The Parent's concern that the Student be empowered to request and receive accommodations and instructional adjustments in class is both important and laudable. However, the needed accommodations must be listed on the IEP, and the Student prepared for self-advocacy in the general education class in order to be properly enacted. It is recommended that the IEP team consider these matters.

Based on the foregoing, ***it is not substantiated*** that USD failed to provide accommodations appropriate for the Student's dyslexia as required by 34 CFR 300.320(a)(4) and 34 CFR 300.323(a).

Issue Four

Whether the LEA provided an accurate copy of the IEP to the Student's teachers as required by 34 CFR 300.323(d)?

Applicable Law

"Once an IEP has been completed and consent for services has been obtained from the parents, the child's IEP must be accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. Regardless of whether an individual participates in the IEP meeting, all individuals who are providing education to the child (regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementation of the IEP) must be informed by the IEP team of (1) his or her specific responsibilities related to implementing the child's IEP, and (2) the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP (K.A.R. 91-40-16(b)(5); 34 C.F.R. 300.323(d)(2))" (Kansas Special Education Process Handbook, p. 90).

Analysis: Findings of Fact

The Parent alleged that, due to the errors in the IEP, the Student's teachers did not have an accurate IEP upon which to base their provision of classroom services and accommodations to the Student. The Parent alleged that the failure of the LEA to provide an accurate IEP to the Student's teachers then resulted in two incidents (October 7, 2025, and October 21, 2025) when the teachers did not provide the Student's accommodations in general education classes.

The LEA responded: "[The Student]'s teachers were provided a snapshot of the IEP on August 13, 2025. Additionally, all teachers have access to a student's "IEP at a Glance" and the full IEP through the District's record system. Teachers were also offered an additional opportunity to meet with case managers on August 29, 2025, to discuss specific IEPs and gather more information as needed. 34 C.F.R. §300.323(d) requires district to make sure that a child's IEP is accessible to each regular education teacher, special education teacher, and related service provider. OSEP has stated that the mechanism a public agency uses to inform each teacher is best left to the public agency. It is the District's position that [the Student]'s IEP was appropriately provided to teachers."

Findings of Fact

Findings of Issues One, Two, and Three are hereby incorporated by reference.

The IEP dated October 22, 2024 was in place during the time of the two incidents.

According to an email dated August 13, 2025 sent to general education teachers, "snapshots" of IEPs were placed in teacher mailboxes. Teachers were advised to review and meet with special education teachers of their students if they had questions. An email dated August 27, 2025 showed the agenda professional development for teachers on providing accommodations for students.

Conclusion

The IEP team is responsible for the content of the IEP, and when that IEP is developed and any required PWN is provided to the Parent, the IEP can be implemented. In this case, the Parent alleged that the IEP had flaws and so teachers were mistaken if they implemented it. However, state and federal regulations require that the persons responsible for implementing the IEP have access to it and are informed of their responsibilities to implement the IEP. It is found that the LEA provided access to the Student's IEP and informed the general education teachers of their responsibilities to implement it.

Based on the foregoing, *it is not substantiated* that the LEA failed to provide an accurate copy of the IEP to the Student's teachers as required by 34 CFR 300.323(d).

Issue Five

Whether the Student's IEP contained required information regarding the time the Student would not participate in general education as required by 34 CFR.320(a)(5)

Applicable Law

Federal regulations at 300.320(a)(5) require explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the special education and related services and supplementary aids and services that will be provided to the child.

Analysis: Findings of Fact

The Parent alleged "failure to include legally required LRE service percentages despite the fact that [the Student] is in general education nearly 100% of the school day."

The LEA responded: "In her complaint, [the Parent] states that the LRE section of an IEP should include a percentage of time that [the Student] is not in the general education setting. However, there is nothing in IDEA or Kansas regulations that require a District to use percentages, or any other specific language, to describe when the student will not participate in the general education setting. Currently, [the Student]'s IEP indicates that [the Student] will participate in the general education setting and receive services in the special education setting as indicated on his IEP. On October 15, 2025, [the Parent], sent an email requesting that time in the special education setting be noted by percentages. Although not required, the school team does not object to including percentages in the LRE section of the IEP. On November 5, 2025, the school psychologist sent a PWN and an updated draft IEP to [the Parent]. The PWN proposes to update the LRE section with percentages as requested by [the Parent]. The team is waiting for consent to amend the IEP."

Findings of Fact

The IEP dated October 22, 2024 showed that each service listed was associated with the provider, instructional setting (general or special education), minutes, frequency, and duration, as found in Issue One.

Conclusion

The Student's IEP appropriately listed the frequency, location and duration of services required by 34 CFR 300.320(a)(5). There is no known requirement that a percentage of time is required to be listed in a student's IEP. However, 34 CFR 300.600(d)(1) requires states to monitor the implementation of FAPE in LRE, and 34 CFR 300.211 requires LEAs to provide information to the SEA to carry out SEA's duties. This does not require the LEA to record reporting categories on the IEP, although it is noted that many automated IEP systems do.

Based on the foregoing, ***it is not substantiated*** that USD #233 failed to provide required information regarding the time the Student would not participate in general education as required by 34 CFR.320(a)(5).

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR 300.303 was not found. A violation of 34 CFR 300.503(a), K.A.R.91-40-10(a)(2), and 34 CFR 300.324(b)(1)(ii) was found based on facts above. Corrective action is required (as follows):

    a. CORRECTIVE ACTION:

        i. By December 22, 2025, USD #233 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will

comply with federal regulations at 34 CFR 300.503(a)), K.A.R.91-40-10(a)(2), and 34 CFR 300.324(b)(1)(ii) which require the PWN be provided to parents in a reasonable length of time, that the team members certify the evaluation report, and that results of a reevaluation be discussed with parents.

ii. By December 22, 2025, USD #233 shall provide a PWN to the Parent correcting the date of signature error on the PWN dated October 22, 2024 and the reevaluation report.

iii. By December 22, 2025, USD #233 shall contact the Parent to mutually determine the best method of communication to ensure the timely communication between the parties on time sensitive documents, especially those requiring the Parent's consent. The LEA shall provide evidence of this communication to SETS by December 22, 2025.

iv. By March 15, 2026, USD #233 shall provide professional development on providing PWN when consent signatures are required and delayed. The professional development shall be provided to persons in positions responsible for ensuring that PWNs are provided properly in unique or unusual circumstances, such as the school psychologists and building principals.

v. By March 15, 2026, USD #233 shall provide professional development on providing Notice of Meeting when additional data has been collected following an IEP meeting to discuss evaluation or reevaluation. The professional development shall be provided to persons in positions responsible for ensuring that NOMs are provided properly in unique or unusual circumstances, such as the school psychologists and building principals.

vi. By March 31, 2026, USD #233 shall provide to SETS documentation of the professional development agendas, providers, participants, method of delivery, and documentation of completion for participants.

2. ISSUE TWO: A violation of 34 CFR 300.501(b) and 34 CFR 503(a)(b) was not found, based on facts above. Corrective action is not required.

3. ISSUE THREE: A violation of 34 CFR 300.320(a)(4) and 34 CFR 300.323(a) was not found, based on facts above. Corrective action is not required.

4. ISSUE FOUR: A violation of 34 CFR 300.323(d) was not found based on the facts above. Corrective action is not required.

5. ISSUE FIVE: A violation of 34 CFR.320(a)(5) was not found based on the facts above. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #253
ON OCTOBER 24, 2025

DATE OF REPORT: NOVEMBER 27, 2025

This report is in response to a complaint filed with our office on behalf of a student, ------- by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD # 253, Emporia Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #253.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on October 24, 2025, and the 30-day timeline ends on November 23, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #253, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), identified, located, and evaluated the Student according to Child Find requirements. K.A.R. 91-40-7 (a)(1)(3)(b)(2)(A)(3); 34 CFR § 300.111(a)(1)(c)(1).

ISSUE TWO: Whether USD #253, in accordance with state and federal regulations implementing the IDEA, conducted a full and individual initial evaluation before initial provision of special education and related services. K.A.R. 91-40-8(a)(1)(A)(B)(C)(2)(A)(B)(C); 34 CFR § 300.301.

ISSUE THREE: Whether USD #253, in accordance with state and federal regulations implementing the IDEA, prevented the Parent from requesting a reevaluation. K.A.R 91-40-25 (2)(B)(1)(2), K.A.R. 91-40-9 (3)(4)(A)(B); 34 CFR § 300.303 (a)(2)(b)(1), 34 CFR § 300.501(b)(1)(i)(ii)(2)(a)(b).

ISSUE FOUR: Whether USD #253, in accordance with state and federal regulations implementing the IDEA, used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the Parent, and whether the LEA ensured the evaluation was sufficiently comprehensive to identify all of the Student's special education and related services needs, whether or not commonly linked to the disability category in which the Student had been classified. Additionally, whether USD #253, in accordance with state and federal regulations implementing the IDEA, used assessments and other evaluation materials that included those tailored to assess specific areas of educational need, and not merely those that are designed to provide a single general intelligence quotient, when they made the determination not to evaluate the Student. K.A.R. 91-40-9(3)(6) (b)(1), K.A.R. 91-40-9 (8); 34 CFR § 300.304 (c)(2), 34 CFR § 300.304 (b)(1)(6),34 CFR § 300.304 (c)(2).

ISSUE FIVE: Whether USD #253, in accordance with state and federal regulations implementing the IDEA, either filed a due process complaint or ensured an independent educational evaluation (IEE) was provided at public expense after the Parent requested an IEE. K.A.R. 91-40-12(a)(1)(2)(b)(1)(2)(A)(B); 34 CFR § 300.502 (b)(1)(2).

ISSUE SIX: Whether USD #253, in accordance with state and federal regulations implementing the IDEA, provided a Free Appropriate Public Education (FAPE) to the Student and provided appropriate services related to all areas of need. K.A.R. 91-40-2(a)(1)(d)(1)(2)(e); 34 CFR § 300.17.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on November 11, 2025. The School Psychologist was interviewed on November 10, 2025.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Vanderbilt Assessment Scale Student Summary Report, 04/23/24
2. Special Education Screen Report, 04/17/24
3. Email, re: IEE Request - [the Student] 9/25/25, 10/06/25
4. Email, re: IEE Request - [the Student] 9/25/25, 10/02/25
5. Email, re: IEE Request - [the Student] 9/25/25, 10/01/25
6. Prior Written Notice (PWN) for Evaluation or Reevaluation and Request for Consent, 09/23/25
7. Email, re: IEE Request - [the Student] 9/25/25, 09/25/25
8. Team Meeting Notes, 11/13/24
9. Notice of Special Education Meeting, 11/08/24
10. Notice of Team Meeting Acknowledgement, 11/13/24
11. Screenshot of Communication, no date

12. Individualized Education Program (IEP), 04/14/25
13. Email, re: IEE Request for [the Student],11/04/24- 09/25/25
14. Email, re: [the Parent], 11/06/24
15. Email, re: IEE Request - [the Student] 9/25/25, 09/25/25-10/06/25
16. Email, re: Request for Evaluation Re-Evaluation for [the Student], 09/09/25-09/29/25
17. Email, re: Invitation: [the Student] SIT [Student Intervention Team] @ Mon Mar 3, 2025 2pm-3pm (CST), 01/17/25-01/28/25
18. Email, re: Article, 11/19/24-09/25/25
19. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 04/14/25
20. Progress Report, 10/31/25
21. Progress Report, 2024-25 School Year
22. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 11/06/24
23. Request for Special Education Evaluation Form - General Education Intervention (GEI), 01/29/25
24. Meeting Notes, 04/14/25
25. Student Assessment Report, 2025-26 School Year
26. Student Assessment Report, 2024-25 School Year

Background Information

This investigation involved a second-grade student enrolled at a private school in the LEA where they have attended since kindergarten. The Student is currently receiving special education or related services as a child with a disability per the IDEA and is described as kind, energetic, and happy. According to the Parent, the Student was first referred for a special education evaluation after their first quarter of kindergarten due to concerns related to speech, fine and gross motor skills, Autism Spectrum Disorder (ASD), and Attention Deficit Hyperactivity Disorder (ADHD). However, the eligibility and IEP were created before the results of ASD and ADHD screenings were received by the Parent. The Parent has since requested additional evaluation for areas of concern related to ASD, ADHD, and possible dyslexia or other learning disabilities. The LEA refused their request for evaluation based on the Student's district-wide assessment data. The Parent then requested an IEE, which the LEA also refused.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. An April 23, 2024 Vanderbilt Assessment Scale Student Summary Report stated, "[The Parent] Informant Inventory and the Teacher Inventory completed by [the Student's] art

teacher each indicate concerns in 5 of 6 categories for the Inattentive subtype of ADHD and 1 or more concerns on performance questions. These scores bring [the Student] very close to a positive screening result. [The] Teacher Informant inventory completed by [the Student's] kindergarten classroom teacher indicates 7 categories a positive screening for ADHD Hyperactive/Impulsive Subtype and [Oppositional Defiance Disorder] ODD."

2. An April 17, 2024 Autism Spectrum Rating Scale evaluation report stated, "At this time [the Student's] screening score indicates several elevated characteristics of a possible [ASD]."
3. In a November 4, 2024 email to the Director of the Cooperative, the Parent attached a letter requesting "independent evaluation at public expense for [the Student]." They added a request to keep "all [email recipients] in copy on any replies" because the IEP team may need information "pertinent to this request."
4. In a November 6, 2024 email to the Director of the Cooperative, the LEA Home School Principal, and the Teacher, the Principal indicated they spoke with the Parent and asked "what [their] concerns were or what [they were] upset about" and "[The Parent] said [the Student's] pediatrician took [them] off [their] ADHD medication." The Principal noted, "I explained to [the Parent] that there are a lot of moving parts to [Special Education] … I told [the Parent] that [the Student] is making academic growth and [the LEA] is providing the necessary services for [the Student] to be successful. We are providing speech services and [Occupational Therapy] OT each week, and [the Student] is growing academically. … We test 3 times per year on [benchmark], we are meeting [the Student's] educational needs, and [their] test scores are too high for [them] to qualify for academic services." They added they thought the Parent "did not understand the entire process," but seemed "more at ease" after the conversation.
5. In a November 6, 2024 PWN, the LEA denied the Parent's request for an IEE by an outside agency at public expense.
    a. It was noted the Parent's request would be considered if they were "not satisfied with the results" following a comprehensive academic/cognitive evaluation of the Student, completed by the LEA.
    b. The reason the LEA denied the request was GEI data indicated the Student was "making academic gains" with tier three interventions and the Student's benchmark score in reading "increased from [the] 13th percentile to [the] 27th percentile" from the previous school year to the present.
    c. It was also noted the LEA needed "their own formal and comprehensive evaluation information to consider eligibility for special education placement and services."
    d. Data used for this decision was the IEP, eligibility documentation, PWN documents, GEI, progress monitoring information from the previous school year, and benchmark data.
    e. The PWN was delivered to the Parent by email on November 6, 2024 by the Director of the Cooperative.

6. A November 8, 2024 Notice of Special Education Meeting described the meeting as requested by the Parent to discuss the Student's present services and concerns for the Student in "the academic areas of reading, with specific interest in dyslexia characteristics." The Parent signed the meeting notice on November 13, 2025, confirming receipt of the Parents' Rights and Procedural Safeguards and agreeing to waive the right to a 10-day PWN of the meeting.
7. The Complaint Investigator confirmed in an interview with the School Psychologist that an email screenshot was sent to the Principal, the Speech Language Pathologist (SLP), the Teacher, the Occupational Therapist (OT), the Director of the Cooperative, and the LEA Home School Principal on November 11, 2025. In the email, the School Psychologist outlined three Special Education process items, three data reports, and one resource they would have available at the meeting with the Parent. They stated their intention in providing the seven items was to "provide continued access to the full range of resources available through the Cooperative through the [Tertiary Support Interdisciplinary Team] TSIT referral that led to [the Student's] screening."
8. November 13, 2024 Team Meeting Notes for a "Non-procedural IEP Team Meeting" documented the following:
    a. Attendees were the Parent, the Director of the Cooperative, the Principal, the LEA Home School Principal, the School Psychologist, and the Teacher.
    b. "Parent rights delivered and retained" was noted.
    c. The purpose of the meeting was "[the Parent] requested an IEP Team meeting to discuss [their] current concerns regarding [the Student's] observed difficulties in reading."
    d. The Parent described the Student's difficulties in reading and the Teacher relayed "things are beginning to connect for [the Student] in a better way and [they are] making progress."
    e. The Student's data was reviewed, and their broad reading assessment was in the 27th percentile. The School Psychologist "shared that for special education evaluation referrals, students are typically not making progress in the most rigorous of [GEIs], with percentiles in the 10th percentile and below, and with skills more than one and a half years behind their typical peers."
    f. The team discussed a PWN that was "drawn up after [the Parent's] request for an [IEE] was denied by the LEA."
    g. The Principal and the Teacher shared the Student was making progress and waiting "one more month for a second benchmark data point would help the team know whether an evaluation" would be needed.
    h. The Parent "agreed to not signing the [PWN] consent to evaluate form at this time" and it was noted the team would "reconvene to review [the Student's] winter academic benchmark data when it becomes available, at which time [the Parent] will decide whether [they] would like to move forward with an evaluation."

9. In a December 4, 2024 email to the School Psychologist, the Parent reported they were pursuing getting the Student evaluated "or at least continue with treatment for ADHD. After seeing [the Student] with [their] peers last night … it is very evident that [they have] behavioral issues."
   On December 5, 2024 the School Psychologist replied and acknowledged updates about outside evaluation and informed the Parent the most updated data for the Student indicated they were in the 27th percentile, which was "healthily above where we identify a special education level need for services in reading." They added information regarding the nuances of learning disabilities diagnosed in a clinical setting and explained "it is possible for a child to have a mild or moderately qualified clinical presentation of a learning disability … but not require special education services, because they are able to make adequate progress in the general education setting with appropriate reading interventions." They noted the Student's "adequate progress" in reading after interventions had continued "through to this fall."
10. On January 4, 2025, the Teacher replied to the November 4, 2024 email from the Parent and stated, "At our last meeting in November, it was decided to reconvene after winter [benchmark] testing to look at [the Student's] data and see where we go next." Multiple replies ensued to schedule a time and day.
    On January 9, 2025, the School Psychologist replied and asked the Teacher to "complete a [Quick Phonics Screener] QPS and a [Phonological Awareness Screening Test] PAST with [the Student]" prior to the meeting. They added, "If there is any curriculum-based work in grade level standards that we can review, that would be helpful, too. Since [the Student's benchmark] Early Reading percentile has dropped, it will be good to know if this deficit is indicated in [their] phonics and [Phonics Awareness] PA tasks and daily work."
    On January 12 and January 13, 2025, the Teacher replied, agreed, and noted there were updated scores from December 2024. The School Psychologist confirmed the December 2024 tests would "be just fine."
11. In a January 21, 2025 email to the Teacher, the School Psychologist provided a recap of a meeting with the Parent. They stated phonological awareness "seemed to be a need," and the Parent agreed the curriculum they were using was good for developing phonological awareness. "[The Parent] seemed to be leaning toward not requesting an evaluation due to [the Student being gone for medical issues] and due to [the Student's] intervention being favorable." The Parent thought it made sense to revisit progress data after the Student's medical issues were taken care of and they "had time to engage with the [intervention]." The School Psychologist indicated the Parent "seemed very satisfied with that plan."
    The Teacher replied the same day, confirming they would monitor the Student's progress and input the information appropriately, as they were hoping to have strong data to provide in March [2025].
    The Former Title 1 Instructor replied on January 28, 2025 noting they were progress-monitoring the Student and stated, "I started a [Tier 3] T3 log for [the Student] now that [they are] tier 3."

12. A January 29, 2025 (updated in April of 2025, with no specific update day listed) Request for Special Education Evaluation Form "that summarizes [the Student's] continued acquisition of early reading skills," included the following relevant information:
    a. Attendance record from August 2024 to April 3, 2025 was 30.75 absences, 8 tardies, and 1 time "left early."
    b. Services and supports the Student was "currently receiving at school" included "title/at-risk" and "speech/OT IEP."
    c. The reason for referral and specific areas of concern each listed the Student's inconsistency with their reading scores.
    d. Phonics, fluency, and comprehension were marked as reading concerns. Memory and "general" were marked as cognitive concerns. Following directions and organization/work completion were marked as social/emotional concerns and vision was marked as a health concern.
    e. Intervention data were provided as follows:
        i. Phonics intervention from September 23, 2024 to December 16, 2024 with the Student scoring "significantly lower" on their winter benchmark testing, so the team shifted the intervention.
        ii. Phonics intervention from January 7, 2025 to "current" was the smaller group intervention based on the previous data.
    f. PAST "Spring Scores 2025 (March 3, 2025)" indicated scores of six out of six in 12 categories, five out of six in three categories, and four out of six in one category.
    g. QPS "Winter Scores 2025" indicated the following scores:
        i. Task 1- 26 out of 26
        ii. Task 2- 26 out of 26
        iii. Task 3- 9 out of 10 and 20 out of 20
        iv. Task 4- 7 out of 10 and 9 out of 10
        v. Task 5- 7 out of 10 and 7 out of 10
        vi. Task 6- 7 out of 10 and 5 out of 10
        vii. Task 7- no scores reported
    h. QPS "Spring Scores 2025" indicated the following scores:
        i. Task 1- 26 out of 26
        ii. Task 2- 26 out of 26
        iii. Task 3- 10 out of 10 and 19 out of 20
        iv. Task 4- 10 out of 10 and 10 out of 10
        v. Task 5- 8 out of 10 and 9 out of 10
        vi. Task 6- 9 out of 10 and 9 out of 10
        vii. Task 7- 3 out of 10 and 1 out of 10
    i. Winter Scores for benchmark reading indicated 30 (8th percentile), 31, 9, NA, 13, and 8. Comparable Spring Scores indicated 41 (12th percentile), 28, 16, NA, 37, and 23.

13. An April 14, 2025 PWN for a Change in Services indicated the team met to review data for services needed, educational placement, and IEP revision. It noted the team updated the Student's IEP to "reflect [their] current levels of performance" and the Student would "continue to receive the same accommodations listed within [their] IEP." Data used included parent and teacher input, recent IEP goals, progress monitoring, classroom performance, and student response to special education supports/services. The Parent was asked for input and "expressed that [they were] worried about [the Student's] reading." The team agreed to meet and talk about that concern after the IEP meeting.
14. The Student's April 14, 2025 IEP indicated an initial evaluation on April 23, 2024 and consent was received for evaluation on February 29, 2024. The Student's primary exceptionality was listed as "DD" (Developmental Delay). The IEP included the following relevant items:
    a. Parental input outlined commentary on the Student's progress with holding a pencil and "speaking more clearly and is starting to break down words into sounds." It was also noted the Student needed adaptive paper, sizing letters was still a challenge, and the Student "continues to struggle to sound out words."
    b. Services included in the IEP were OT and Speech Language services, each for 20 minutes one time per week, for the duration of the IEP, in the special education classroom.
    c. In "Parent Concerns" it was noted the Parent expressed concerns about the Student's reading, "but it was discussed that they will have a meeting discussing [the Student's] reading following the adjournment of this annual IEP meeting."
    d. The presented IEP draft was "accepted as presented by all team members" and the information on the PWN was "presented and reviewed thoroughly." The Parent "gave signed consent for the PWN as presented."
    e. The IEP listed a handwriting "motor" and a communication goal, each with four benchmarks.
    f. Accommodations listed were for all settings for the duration of the IEP and included "repeated directions and reminders," "directions presented in a variety of ways," "preferential seating," "extended wait time," "consistent expectations and routines," "instruct to make corrections," and "3-lined paper."
15. April 14, 2025 meeting notes included the following relevant information:
    a. The Parent observed the Student's improved motor ability, they continued to struggle saying their own name, and they struggled with the "CH" and "ST" sounds. They added the Student was speaking more clearly and identifying more letter sounds by themself.
    b. It was noted the Student missed "nearly 40 days of school due to illness." The Student was "showing growth in progress monitoring and in [benchmark] (despite attendance issues)."
    c. The Student's absences from August, 2024 to April, 2025 amounted to "almost an entire quarter of lost instructional time."

d. The team "discussed that due to attendance[,] the exclusionary factor of lack of access to instruction can't be ruled out."
e. The team also discussed holding check-in meetings during the next school year to monitor the Student's progress.

16. An April 15, 2025 Progress report included the following relevant information:
    a. The Student's first goal was "By the end of the IEP year, [the Student] will write [their] uppercase and lowercase letters while using a functional grasp with 80% accuracy for memory, orientation, size, and placement in 1 of 3 trials."
        i. March 4, 2025 progress indicated "slight improvement."
        ii. December 19, 2024 progress indicated "mastered."
    b. The Student's second goal was "By the end of the IEP year (April 2024), [the Student] will produce /L/ and /V/ at the word level with 80% accuracy during speech therapy."
        i. February 28, 2025 progress indicated "moderate improvement."
        ii. December 12, 2024 progress indicated "moderate improvement."
17. The Student's 2024-25 Student Assessment Report provided a grading scale noting an "S" as "Satisfactory Progress" and a "/" as "Needs Improvement." The following relevant grades were reported:
    a. Reading Literature and informational text grades for quarter one were "/" in one category and three categories were not assessed. Quarter two indicated "/" in three categories and one category was not assessed. Quarters three and four indicated "/" in all four categories.
    b. Language Arts grades were "/" and "/" in both categories for all four quarters.
    c. Attendance for quarter one indicated four full days absent and two days leaving early.
    d. Attendance for quarter two indicated eight full days absent.
    e. Attendance for quarter three indicated 13 full days absent.
    f. Attendance for quarter four indicated five full days absent
    g. The Student was enrolled for 165 days and attended 134.25 days.
18. A September 9, 2025 letter from the Parent outlined a special education evaluation request for "a full comprehensive evaluation/reevaluation to include: speech and language to include pragmatic, medical/physical, sociological, cognitive to include all 7 G's (fluid reasoning, crystallized intelligence, short term memory, long term memory, long term retrieval, visual processing, auditory processing, and processing speeds), achievement to include (reading, writing, math, listening comprehension, and oral expression), formal adaptive, and behavioral/psychological evaluation to include all areas and related services including possible adaptive technology. [The Parent] listed all areas since [the Student's] initial evaluation only included speech, fine and gross motor skills (According to Written Consent)." They noted the Student had a screening for ADHD and ASD in kindergarten and this information did not end up in the Student's IEP. They added the Student was "having difficulties learning even with the current IEP

supports" and they "strongly believe that the initial evaluation, which wasn't comprehensive, failed to identify all [the Student's] exceptionalities. … I have been pushing for intervention and keep being told let's wait[,] but [the Student] doesn't have much wait time left. … I'm requesting all areas be evaluated[,] not only to identify exceptionalities[,] but to also rule out any need in that area."

19. Email correspondence occurred between September 9 and September 10, 2025. Key excerpts from these emails are noted below:
    a. In a September 9, 2025 email to the LEA Home School Principal, with the Principal and the School Psychologist carbon copied, the Parent attached a letter "requesting evaluation/re-evaluation of [the Student]." A document titled "[The Student] 2025-26 Special Education Evaluation Request" was attached.
    b. In a September 10, 2025, 11:07 a.m. email to the School Psychologist, the Title 1 Instructor shared the Student's assessment results as follows:
        i. Phonics Screener- "Passed all Kindergarten and 1st grade skills, except silent 'e,' an end-of-1st-grade skill, which is often reviewed at the beginning of 2nd grade."
        ii. Benchmark Fluency- "Grade-level fluency" and considered "Tier 2" with "some risk."
        iii. Benchmark Reading and Benchmark Math- "Tier 1, on grade level."

        They noted the Student would be meeting with them in a small group for 30 minutes per day to focus on "phonemic awareness and phonics and applying what we learn in text."
    c. On September 10, 2025 at 11:42 a.m. the School Psychologist sent an email to the Director of the Cooperative and the LEA Home School Principal and noted the Director of the Cooperative's substantial involvement with the Student and the Parent. This involvement was attributed to the Cooperative "refusing a parent request for an independent evaluation" during the previous school year. "Attendance record and resulting lack of instruction were, and continued to be[,] a concern before and after that request was denied. We had several follow-up SIT meetings to review data, which [the Parent] and [he Director of the Cooperative] participated in." They added they would review data from the Title 1 Instructor, schedule a SIT meeting, and include them on the updated GEI.
    d. On September 10, 2025 at 11:51 a.m., the School Psychologist replied "all" to the September 9, 2025 email from the Parent, added the Director of the Cooperative, and acknowledged the Parent's request for special education evaluation for the Student. They noted the LEA and the School team would meet to "review [the Student's] current and historical academic data to determine whether it indicates a level of need where referral for special education evaluation is appropriate at this time." They added the law requires them to respond to the request within 15 school days and they would "respond to your

request on or before [September 23, 2025]." They attached a copy of Parent Rights and a Parent Guide to Special Education.

e. On September 10, 2025 at 12:13 p.m., the School Psychologist replied to the September 10, 2025 11:07 a.m. email from the Title 1 Instructor and added the Principal, the LEA Home School Principal, and the Director of the Cooperative with an attached copy of the Student's "ongoing GEI." They also noted "attendance had become a concern" last spring and they "wanted to calculate the percentage of missed days for last school year in its entirety, and for each progress reporting period with regard to benchmark testing."

20. In a September 23, 2025 email to the Parent, the School Psychologist followed up on the request for evaluation and stated, "[The Student's] team reviewed present levels of academic performance, and they do not indicate a level of need that warrants an evaluation at this time." They noted there was a PWN attached to the email and two attachments were visible.
21. A September 23, 2025, PWN documented the following:
    a. The Special Education Cooperative refused to conduct an initial evaluation (parental consent not required).
    b. Explanation: The Parent requested a special education evaluation on September 9, 2025, and the School team met on September 22, 2025, to review existing data for present levels and academic performance. Based on the data, the following was determined:
        i. The Student's data did not indicate a level of need that supported a referral for special education evaluation.
        ii. The Student had passed all first-grade phonics skills except one, which would be reviewed at the beginning of second grade.
        iii. The Student's fall benchmark assessment for reading fluency placed them in the 22nd percentile and a tier 2 small group for reading support.
        iv. The Student's general reading fall benchmark assessment score was in the 30th percentile, which fell within the average range for grade-level performance.
        v. The Student's general math fall benchmark score was in the 70th percentile, which was considered grade-level.
    c. Options considered: Referring the Student for a special education evaluation based on the Parent's request. This was rejected due to the Student's present levels of academic performance "not indicating a concern that would warrant an evaluation at this time."
    d. Data used: Parent input, teacher input, strategist input, psychologist input, administrator input, district academic benchmark testing, academic intervention progress, curriculum-based testing, and academic history, including attendance.

e. Other factors: The Student would not participate in a special education evaluation and would continue to receive academic instruction in the general education setting.

f. The School Psychologist emailed the PWN to the Parent on September 23, 2025.

22. In a September 24, 2025 email to the School Psychologist, the LEA Home School Principal, the Principal, the Title 1 Instructor, and the Director of the Cooperative, the Parent requested copies of the benchmark testing from Kindergarten through second grade and "meeting notes or other testing that was used in making the decision not to do a special education evaluation" for the Student. They described the Student's benchmark scores declining from fall to winter and scores going up over the summer. They additionally requested all future communication be in person or in writing "to make sure everything is on the record." The Parent added legal information about the use of [Multi-tiered Systems of Support] MTSS or [Response to Intervention] RTI to delay an evaluation and indicated the Student "has been at tier 2 at the beginning of the year and tier 3 after [they] show signs of needing more help." They concluded the email requesting more "intensive instruction and/or more services," along with mentioning the Student's diagnosed ADHD, being on a waitlist for an ASD evaluation, and showing signs of dyslexia, "but no evaluation has been completed for special education to determine any needs for these disabilities."

23. On September 25, 2025, the Parent emailed LEA staff requesting an IEE at public expense because the Student "was denied a robust comprehensive evaluation by [the Special Education Cooperative]" based on the September 23, 2025 PWN. The Parent claimed the LEA had not provided an evaluation for suspected disabilities and special education needs outside of the speech and OT services the Student was receiving. The Parent added the Student was referred to an outside health agency based on results from a School ASD screening, and was diagnosed with ADHD, which was not part of the current evaluation or IEP.
    The Director of Student Services replied the next day, indicating they would review the information and contact the Parent "early next week."

24. Emails were exchanged October 1 through October 6, 2025 between the Director of Student Services and the Parent regarding an evaluation.

    a. On October 1, 2025 the Director of Student Services informed the Parent the LEA would not be evaluating and the team's decision had been shared in the PWN sent to the Parent. Another copy was attached to the email. The Director of Student Services also noted if the Parent disagreed, they had rights outlined in the Notice of Parental Rights, also attached to the email.

    b. On October 2, 2025 the Parent asked, "Is this a denial of my request for [an] IEE?" If so, the Parent requested a due process filing. If not, they asked for a response as required by law.

    c. On October 6, 2025 the Director of Student Services responded, "This is a denial of the requested IEE because [the LEA] has not completed an initial evaluation of your child in the additional area requested." The Director of Student Services

referred to the September 23, 2025 PWN and referred the Parent to the Notice of Parental Rights (attached to the email) if they disagreed.

25. An October 31, 2025 Progress report included the following relevant information:
    a. The Student's first goal for "motor" was "By the end of the IEP year, [the Student] will write 2 sentences with 90% accuracy for size, placement, and spacing between words in 2 of 3 opportunities."
        i. October 16, 2025 progress indicated "slight improvement."
        ii. May 15, 2025 progress indicated "moderate improvement."
    b. The Student's second goal for "communication" was "[The Student] will produce 'th' (voiceless and voiced) and [their] name ['the Student's name'] with 80% accuracy at the sentence level without cues by the end of the IEP year (April 2026)."
        i. October 13, 2025 progress indicated "slight improvement."
        ii. May 8, 2025 progress indicated "moderate improvement."
26. The Student's 2025-26 Student Assessment Report provided a grading scale noting an "S" as "Satisfactory Progress" and a "\" as "Needs Improvement." The following relevant grades were reported for quarter one:
    a. Reading Literature and informational text grades were "S", "S", and "S-".
    b. Language Arts grades were "S" and "S".
    c. Attendance for quarter one indicated nine full days absent and for quarter two indicated two full days absent.
    d. The Student was enrolled for 52 days and attended 41 days.

School Psychologist Interview

27. In an interview with the Complaint Investigator, the School Psychologist recalled the IEP team meeting conversation where the School team and the LEA "did not support [an evaluation] … based on the Student's data. [They were] in interventions and … were making adequate progress in early reading skills in the interventions that [they were] receiving." They added both the Teacher and the Principal agreed the Student was making adequate progress and the IEP team, including the Parent, was in agreement, "that rather than evaluate at that time that we would meet [throughout the year] and include [the Parent]."
28. The School Psychologist noted "moving in from late winter into early spring of [the Student's] first-grade year, there were significant attendance issues. … Even though [the Student] had many absences, [they were] still academically progressing and, relative to academic benchmark testing, well above national percentiles where we would consider [the Student] being behind to the degree of a special education level need."
29. The School Psychologist reported, "At the beginning of this school year, [the Parent] requested an evaluation, and again, based on the Student's demonstrated need, [their] present levels of academic … performance, we determined that there was not

academically a special education level need indicated." They added the Student still receives speech and occupational therapy services.

30. The School Psychologist indicated the Parent's current evaluation request made "after the denial at the beginning of this school year [2025-26]" is "a little bit different from what requests have been in the past." The requests had "always been a concern in reading" and now the Parent claimed the Student "may have a disability in either ADHD or autism." The School Psychologist confirmed, "none of our conversations with the School up to that point had ever indicated that [the Student] had social skills problems or behavioral maladaptations that was either impacting [the Student's] learning or the learning of [their] peers." They added there were no behavior logs, no disciplinary history, no history of social skills problems, and "no behavioral manifestations of emotional rigidity or inflexibility or physical aggression or verbal aggression or anything that would be considered a special education level need. … Given that and given that [the Student's] academic progress continues to be adequate and the gaps are closing for [them] consistently in reading … there's no demonstrative need being indicated in school data that would support [the Parent's] request for an evaluation." (
31. The School Psychologist noted the Parent had concerns about the possibility of dyslexia and they informed the Parent and the Teacher "the potential for ADHD, which at that time was not confirmed, … can look in early reading skills similar to dyslexia."
32. The School Psychologist reflected on a time they observed the Student in Kindergarten and it took them 20 minutes to determine which student was the Student because they were "not exhibiting behaviors or a level of engagement or functioning in the classroom that was markedly different to any of [their] peers." This is relevant to the data from the Student's current teachers who indicated the Student is "the highest student" in their targeted reading group. "We just have only seen the Student make sufficient adequate academic progress in academic skills."
33. When asked about the Student's attendance, the School Psychologist stated, "It's my understanding that the Student has significant upper respiratory history." They explained the School noted attendance being a significant issue and an early denial of academic services "had to do with the amount of absences and the potential for lack of instruction being an exclusionary factor."

Parent Interview

34. In an interview with the Complaint Investigator, the Parent indicated they requested an independent evaluation at public expense in first grade because they "didn't feel like the initial evaluation was thorough. … [the School] wanted to use MTSS instead of evaluating [the Student]." They recalled a meeting in November [2024] to discuss the evaluation and the LEA "told me to wait until [benchmark] testing was out in December [2024] and we'd convene after that to determine if [the Student] still needed an evaluation." They noted there were a "couple more" MTSS meetings throughout the 2024-25 school year, but the Student "kept decreasing in reading comprehension."

35. The Parent described the beginning of the 2025-26 school year and they requested another evaluation "because I still didn't feel like [the Student] had gotten the services that [they] needed to succeed. … I think [the Student is] probably close to a grade-level behind [their] peers in reading and writing." They clarified the LEA denied this request and that is why the Parent filed the complaint. "I feel like [the LEA has] just kind of kept pushing me back … trying not to give [the Student] services that I believe [they] need."
36. The Parent discussed the Student's diagnoses of ADHD and clarified the pediatrician wrote a note, the Parent provided that note to the LEA, and "it felt like they just ignored the fact that I'd provided it to them." They also stated "It is impossible to get an evaluation for autism" and the Student's kindergarten screening through the School said the Student would "probably be autistic."
37. The Parent stated their "feeling is [the Student's] probably dyslexic or has dysgraphia" and provided an example of the Student struggling on a spelling test, "getting one out of 10 or zero out of 10, correct" and not understanding "when it comes to hearing the word and then putting it down on paper." They noted the extra time spent at school working on these skills. "But [the Student's] still not progressing … especially the writing part. … The reading part, [they'll] guess words sometimes or [they'll] skip words." They conceded there is no diagnosis for this, but these are "things that I've noticed."
38. The Parent recalled a meeting at the School, which was labeled by the School as an IEP meeting, where they "offered an evaluation, but then they … talked me out of doing the evaluation."
39. The Parent reiterated "General ed[ucation] is doing everything they can for [the Student], but I don't think that's enough. … [The Student] needs more instruction to help with the dyslexia, or possible dyslexia, … not being able to hear the sound and note letters. … [The Student is] not progressing like [they] should." They cited declining benchmark test scores as evidence of the Student not progressing and clarified the Student improved over the summer because the Parent worked with them "almost every day" to keep them from "falling too far behind."
40. The Parent indicated the Principal asked them not to re-enroll the Student when they were entering first grade because they thought the Student would "be better served if [they were] going to the public school instead of the private school." The Parent interpreted this as an inability for the School to meet the Student's needs and "if it was that bad, why weren't they evaluating her?"

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #253, in accordance with state and federal regulations implementing the IDEA, identified, located, and evaluated the Student according to Child Find requirements. K.A.R. 91-40-7 (a)(1)(3)(b)(2)(A)(3); 34 CFR § 300.111(a)(1)(c)(1).

According to K.A.R. 91-40-7 (a)(1)(3)(b)(2)(A)(3), each board shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction, including children with exceptionalities who attend private schools and are suspected of being children with disabilities even though they are advancing from grade to grade. Each board's policies and procedures under this regulation shall include age-appropriate screening procedures that meet the following requirements for children from ages five through 21: observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening as required by state law. Each agency will ensure that the child was provided with appropriate instruction in regular education settings by qualified personnel. The parent of the child requests and gives written consent for an evaluation of the child, and the board agrees that an evaluation of the child is appropriate.

The Parent alleged the Student was referred for a special education evaluation by their private school teacher in late 2023 due to concerns, which initiated contact with the LEA. In November 2024, the LEA allegedly used a MTSS meeting to deny and/or delay a full special education evaluation, citing the Student's improvement over the summer and general education benchmark screening scores as justification. Despite the Student having a diagnosis of ADHD and suspected learning disabilities (Autism/Dyslexia), the LEA allegedly repeatedly refused a full evaluation, leading the Parent to assert that the Student's disabilities have not been adequately identified and evaluated.

The LEA contended they responded appropriately and legally in this issue and have taken steps to address the Parent's concern and the Student's needs. These steps included direct communication with the Parent, academic and attendance data review, and the provision of a formal evaluation.

The Parent explicitly requested evaluations for a broad range of suspected needs, including behavioral and psychological concerns (ADHD/ASD). The LEA dismissed these requests primarily because the School team had not observed behavioral issues or "behavioral maladaptations." While the LEA may consider school-based observations, the duty to evaluate is comprehensive. Given the Student's existing IEP, the documented "needs improvement" in the area of Language Arts, the Parent's report of an outside ADHD diagnosis, and the Parent's specific request for a behavioral/psychological evaluation to "rule out any need in that area," the LEA was required to conduct an evaluation to determine if these suspected disabilities resulted in a need for special education services, regardless of whether the Student's current academic data supported it.

The LEA's core reasoning for refusing to evaluate the Student in the areas of reading and cognition were the Student was making "adequate progress" in GEI/MTSS and benchmark scores were above the 10th percentile threshold. Child Find requires an evaluation when a disability is suspected. The existence of conflicting data, such as a low 8th percentile score, the consistent need for intensive Tier 2/3 interventions, and the Parent's repeated, specific concerns about dyslexia, created a duty to evaluate the Student for a suspected learning disability. Relying on an arbitrary percentile cut-off (10th percentile) or the Student's performance in MTSS/GEI to deny or delay an initial evaluation (or an evaluation for an additional, suspected disability) is a violation of the Child Find mandate and Office of Special Education Programs (OSEP) Memo 11-07. This memo was issued to address concerns that some LEAs might be improperly using RTI strategies to postpone or reject initial evaluations. It clarifies that while RTI is supported for instructional purposes and is permissible as part of the criteria for a specific learning disability determination, it cannot be employed to delay or deny an initial evaluation that a parent has requested or the LEA has agreed to conduct in a timely manner.

Based on the foregoing, according to IDEA and Kansas special education regulations, i***t is substantiated*** that the LEA failed to identify, locate, and evaluate the Student according to Child Find requirements.

Issue Two

Whether USD #253, in accordance with state and federal regulations implementing the IDEA, conducted a full and individual initial evaluation before initial provision of special education and related services. K.A.R. 91-40-8(a)(1)(A)(B)(C)(2)(A)(B)(C); 34 CFR § 300.301.

According to K.A.R. 91-40-8(a)(1)(A)(B)(C)(2)(A)(B)(C), each agency shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services. Each evaluation shall include procedures to determine whether the child is an exceptional child. As part of an initial evaluation, each agency shall ensure evaluations and information provided by the parent or parents of the child, current classroom-based, local, and state assessments, and classroom-based observations are taken into consideration in the evaluation, and observations by teachers and related services providers.

Each agency shall on the basis of that review and input from the child's parent or parents, the evaluation team shall identify what additional data, if any, is needed to determine the following matters: whether the child has a particular category of exceptionality or, in the case of a reevaluation of a child whether the child continues to have such an exceptionality; what the present levels of academic achievement and educational and related developmental needs of the child are; and whether the child needs special education and related services.

The Parent alleged when the Student was referred for a special education evaluation in late 2023, the Parent received PWN on February 2, 2024, for assessments that were completed for

the IEP meeting. The Parent alleged the OT and SLP repeated evaluations after the PWN because a step was missed, suggesting the initial assessment was incomplete and the IEP meeting and PWN were created before the results of the ADHD and Autism screening were shared with the Parent.

The LEA believed they responded appropriately and legally in this issue. They contended the team formally evaluated where the data identified needs.

The Student's April 14, 2025 IEP documents an initial evaluation on April 23, 2024, with consent received on February 29, 2024. Based on this, the Student was determined to have a primary exceptionality of developmental delay and began receiving OT and speech-language services. Additionally, the initial consent and evaluation are outside the statute of limitations for this complaint.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to conduct a full and individual initial evaluation before initial provision of special education and related services.

Issue Three

Whether USD #253, in accordance with state and federal regulations implementing the IDEA, prevented the Parent from requesting a reevaluation. K.A.R 91-40-25 (2)(B)(1)(2); 34 CFR § 300.303 (a)(2)(b)(1).

According to K.A.R 91-40-25 (2)(B)(1)(2), each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child and the provision of FAPE to the child. Each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each meeting concerning their child or are allowed to participate. These steps shall include scheduling the meeting at a mutually agreed-upon time and place, informing the parents, and providing prior written notice of any meeting.

The Parent alleged they were denied the right to request an evaluation or re-evaluation for the Student.

The LEA believed they responded appropriately and legally in this issue.

The Parent submitted multiple formal requests, including two requests for an IEE at public expense (November 2024 and September 2025) and a request for a full comprehensive evaluation/reevaluation (September 2025). In all cases, the LEA received and acknowledged the Parent's requests, thereby confirming the requests were not prevented. The Parent stated in the November 2024 meeting the team "offered an evaluation, but then they ... talked me out of doing the evaluation." The meeting notes confirm the Parent "agreed to not signing the [PWN] consent to evaluate form at this time" and would wait for winter data. While the Parent may have

felt discouraged or deferred the evaluation based on the LEA's presentation of data, the Parent still retained and successfully exercised the right to submit a formal request for reevaluation.

The LEA's decision to refuse to conduct the evaluation or grant the IEE is not the same as preventing the Parent from submitting the initial request. The LEA's subsequent actions involved issuing formal refusals (PWNs) to conduct the requested evaluations or grant IEEs, which is a procedural response to a request, not the prevention of the request itself.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA prevented the Parent from requesting a reevaluation.

Issue Four

Whether USD #253, in accordance with state and federal regulations implementing the IDEA, used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the Student, including information provided by the Parent, and whether the LEA ensured the evaluation was sufficiently comprehensive to identify all of the Student's special education and related services needs, whether or not commonly linked to the disability category in which the Student had been classified. Additionally, whether USD #253, in accordance with state and federal regulations implementing the IDEA, used assessments and other evaluation materials that included those tailored to assess specific areas of educational need, and not merely those that are designed to provide a single general intelligence quotient, when they made the determination not to evaluate the Student. K.A.R. 91-40-9(3)(6) (b)(1), K.A.R. 91-40-9 (8); 34 CFR § 300.304 (c)(2); 34 CFR § 300.304 (b)(1)(6),34 CFR § 300.304 (c)(2).

According to K.A.R. 91-40-9 (3)(6)(b)(1), each agency shall ensure a variety of assessment tools and strategies shall be used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved and progress in the general curriculum or to participate in appropriate activities that could assist in determining whether the child is an exceptional child and what the content of the child's IEP should be. Each agency shall make certain assessments, and other evaluation materials shall include those that are tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient. Each child shall be assessed in all areas related to a suspected exceptionality.

According to K.A.R. 91-40-9 (8), each agency will ensure a single procedure shall not be used as the sole criterion for determining whether a child is an exceptional child and for determining an appropriate educational program for the child.

The Parent alleged, the LEA refused to do a full evaluation despite the Student having a diagnosis of ADHD and screeners showing a risk for Autism, with a new concern of dyslexia. Instead of using tailored assessments for these specific learning disability concerns, the LEA relied on

FastBridge screening used for general education placement. The LEA then cites "improvement over the summer" as a reason to deny further evaluation, which the Parent argued violates guidance stating that grade progression is not a reason to delay or deny evaluation.

The LEA believed they responded appropriately and legally in this issue by utilizing a systematic, data-driven approach to inform their decisions. They contended they reviewed multiple data sources and targeted screeners, and made informed decisions supported by their multi-faceted data review and the results of the completed screeners.

The LEA met the requirement to use a variety of assessment tools and strategies when reviewing the Parent's September 2025 request for an evaluation, utilizing academic data like district benchmark tests (showing general reading in the 30th percentile, which is within the average range), curriculum-based testing (Phonics Screener), intervention progress, and historical information including attendance. The team did not rely on a single general intelligence quotient (IQ) score, instead compiling input from the Parent, teacher, strategist, psychologist, and administrators to determine the Student's present levels. The LEA concluded that this existing data, which showed the Student was making adequate academic progress and was "well above national percentiles where we would consider [the Student] being behind to the degree of a special education level needed," did not warrant an evaluation at that time.

Based on the foregoing, according to IDEA and Kansas special education regulations *it is not substantiated* that the LEA failed to use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the Student. Additionally, *it is not substantiated* that the LEA failed to use assessments and other evaluation materials that included those tailored to assess specific areas of educational need, and not merely those that are designed to provide a single general intelligence quotient, when they made the determination not to evaluate the Student.

Issue Five

Whether USD #253, in accordance with state and federal regulations implementing the IDEA, either filed a due process complaint or ensured an IEE was provided at public expense after the Parent requested an IEE. K.A.R. 91-40-12(a)(1)(2)(b)(1)(2)(A)(B); 34 CFR § 300.502 (b)(1)(2).

According to K.A.R. 91-40-12(a)(1)(2)(b)(1)(2)(A)(B), each agency will make certain that the parent of an exceptional child shall have the right to request an IEE at public expense if the parent disagrees with the evaluation obtained by the agency. The parent shall be eligible for only one IEE at public expense in response to an evaluation conducted by the agency. If a parent requests an IEE of the child, the agency, without unnecessary delay, shall initiate a due process hearing to show that its evaluation is appropriate or provide information to the parent about where an IEE may be obtained. The agency will also either pay the full cost of the IEE or otherwise ensure that

the evaluation is provided at no cost to the parent or initiate a due process hearing to show that the evaluation obtained by the parent does not meet agency criteria.

The Parent alleged the cooperative denied their IEE request, claiming the Parent did not have the right to an IEE because they had agreed to the IEP and because the cooperative had the right to conduct the initial evaluation. After a subsequent denial for a full evaluation, the Parent made a second IEE request, which the cooperative allegedly denied again at public expense, failing to either grant the IEE or file for a due process hearing to defend its initial evaluation.

The LEA believed they responded appropriately and legally in this issue.

An initial evaluation of the Student was completed on April 23, 2024.The Parent requested an IEE in November 2024 and September 2025 and, in both cases, the LEA responded with a PWN denying the requests. Subsequently, the LEA did not fund an IEE or file for a due process hearing to defend its current evaluation or refusal to evaluate. The District's position that they first needed to complete an evaluation at the time the Parent made the request for an IEE was flawed, as the initial evaluation had been completed and was subject to the Parent's request for an IEE.

Based on the foregoing, according to IDEA and Kansas special education regulations *it is substantiated* that the LEA failed to either file a due process complaint or ensure an IEE was provided at public expense after the Parent's request.

Issue Six

Whether USD #253, in accordance with state and federal regulations implementing the IDEA, provided a FAPE to the Student and provided appropriate services related to all areas of need. K.A.R. 91-40-2(a)(1)(d)(1)(2)(e); 34 CFR § 300.17.

According to K.A.R. 91-40-2(a)(1)(d)(1)(2)(e), each agency shall provide a FAPE. Each agency shall make a FAPE available to any child with a disability, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination of whether a child who is advancing from grade to grade is a child with a disability shall be made on an individual basis in accordance with child find activities and evaluation procedures required by this article. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

The Parent alleged the LEA has not properly identified all the Student's disabilities and continually refused to conduct the necessary evaluation to determine their academic needs, which denies the Student a FAPE.

The LEA believed they responded appropriately and legally in this issue. They contended the Student's current IEP in the identified areas of speech and motor was being implemented, progress had been shared with the Parent, and the Student continued to receive interventions through the GEI process at the School.

The LEA repeatedly failed to fully satisfy its Child Find obligation and conduct a comprehensive evaluation, formally refusing the Parent's consistent and explicit requests to evaluate for suspected areas, including specific learning disability (dyslexia), ADHD, and Autism. While the LEA cited the Student was "healthily above" the internal academic thresholds, they improved reading and language arts grades, and they had "significant attendance issues" (missing almost 40 days) as justification for refusing the evaluation, this reasoning is insufficient to override the duty to evaluate, which is triggered by the suspicion of a disability. Consequently, without a thorough evaluation, the IEP team lacked the necessary diagnostic information to accurately determine the Student's unique needs. The existing IEP only provided goals and services for OT and Speech Language, entirely lacking specially designed instruction or academic goals for the Parent's primary concern of reading, and therefore was not reasonably calculated to enable the Student to make appropriate progress in light of their circumstances. The lack of an evaluation makes it impossible to know what progress could have been achieved if the true nature and scope of the Student's disabilities were known.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is substantiated*** that the LEA failed to provide a FAPE to the Student and to provide appropriate services related to all areas of need.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at 34 CFR § 300.111(a)(1)(c)(1), K.A.R. 91-40-7 (a)(1)(3)(b)(2)(A)(3), and OSEP Memo 11-07 specifies the LEA's responsibility to identify, locate, and evaluate all children with exceptionalities and not use GEI/RTI to deny or delay this evaluation.

In this case, the evidence supports the finding that USD #235 used GEI/MTSS to delay the Student's evaluation. Documentation, Interviews, and the LEA Response letter of November 4, 2025 document this.

B. Federal regulations at 34 CFR § 300.502 (b)(1)(2) and K.A.R. 91-40-12(a)(1)(2)(b)(1)(2)(A)(B) specifies the parent of an exceptional child has the right to request an IEE at public expense, and upon request, the LEA (without unnecessary delay) shall either initiate a due process hearing or provide the evaluation at their expense.

In this case, the evidence supports the finding that USD #235 did not fund an IEE or file for a due process hearing after two requests for IEE from the Parent.

C. Federal regulations at 34 CFR § 300.17 and K.A.R. 91-40-2(a)(1)(d)(1)(2)(e) specifies the parent of an exceptional child has the right to request an IEE at public expense, and upon request, the LEA (without unnecessary delay) shall either initiate a due process hearing or provide the evaluation at their expense.

In this case, the evidence supports the finding that USD #235 failed to provide the Student a FAPE.

Based on the foregoing, USD # 253 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #253 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the IDEA at 34 CFR § 300.111(a)(1)(c)(1), K.A.R. 91-40-7 (a)(1)(3)(b)(2)(A)(3), and OSEP Memo 11-07.
2. Within 15 calendar days of the date of this report, USD #253 shall submit a written statement of assurance to SETS stating that it will comply with state and federal regulations implementing the IDEA at 34 CFR § 300.502 (b)(1)(2) and K.A.R. 91-40-12(a)(1)(2)(b)(1)(2)(A)(B).
3. Within 15 calendar days of the date of this report, USD #253 shall submit a written statement of assurance to SETS stating that it will comply with state and federal regulations implementing the IDEA at 34 CFR § 300.17 and K.A.R. 91-40-2(a)(1)(d)(1)(2)(e).
4. Within 15 calendar days of the date of this report, USD #253 will initiate the process for an IEE at public expense to evaluate the Student for ADHD, ASD, and a specific learning disability.
5. Upon completion of the evaluation, USD #253 will convene the IEP team to review the results and make necessary revisions to the Student's IEP. Where appropriate, the revised IEP should incorporate new Specially Designed Instruction (SDI) and related services.
6. Should the Student's evaluation reveal an additional exceptionality, USD #253 will provide retroactive services for 40 weeks, counting from the initial IEE request on November 4, 2024, up to the date of this report. These services will be based on the service minute determinations established for the newly identified exceptionalities.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #418
ON OCTOBER 30, 2025

DATE OF REPORT: DECEMBER 3, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of --------- by his mother, ---------. In the remainder of the report --------- will be referred to as "the student" and --------- will be referred to as the "complainant" or "the parent".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the complaint is against USD #418 (McPherson Public Schools) which contracts with the McPherson County Special Education Cooperative (McCSEC) to meet the requirements of the IDEA. In the remainder of the report, both of these responsible public agencies will be referred to as "the local education agency (LEA)".

In the remainder of the report, the LEA staff will be referred to as follows:

- Melissa Strathman, McCSEC Executive Director
- Megan Ladenburger, McCSEC Assistant Director
- Shandell Schieferecke, McCSEC Behavior Consultant
- Cara Schrag, Roosevelt Elementary School Principal
- Kayla Singleton, Third Grade Classroom Teacher
- Sam Thompson, Special Education Teacher
- Jessica Bengston, School Counselor
- Melissa Sullivan, School Psychologist
- Megan Bucl, Paraeducator 1
- Jenny Roberts, Paraeducator 2

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE and the LEA. In this case, October 30, 2025 is considered as the date the complaint was filed.

Evidence Reviewed

Both parties were contacted via telephone during the investigation to gather and clarify information. The complainant was interviewed by telephone on November 20, 2025. The LEA made the following school personnel available for individual telephone interviews as noted below:

- November 17, 2025
    - Roosevelt Elementary School Principal
    - McCSEC Behavior Consultant
    - Third Grade Classroom Teacher
    - McCSEC Assistant Director
- November 19, 2025
    - Special Education
    - School Counselor
- November 21, 20025
    - McCSEC Executive Director

Written documentation was provided by both the LEA and the complainant. All the documentation was reviewed, and the following written documentation was used in consideration of the issue:

1. Evaluation and Eligibility Report date March 30, 2023
2. The Individual Education Program (IEP) dated February 20, 2025
3. Emails dated April 2, 2025 between the parent and the Roosevelt Elementary School Principal regarding "Teach & Protect"
4. May 7, 2025 Incident Summary written by the McCSEC Assistant Director
5. Antecedent/Behavior/Consequence (ABC) Data for May 7, 2025 Incident
6. Notes written by the Roosevelt Elementary School Principal dated May 7 and 8, 2025
7. ABC Data dated between September 2 and September 30, 2025
8. Emails dated September 5, 2025 between the parent and the Roosevelt Elementary School Principal regarding in-school suspension (ISS)
9. September 22, 2025 IEP amendment to the February 20, 2025 IEP
10. IEP Team Meeting Notes dated September 22, 2025
11. Prior Written Notice (PWN) for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change of Placement, and/or Request for Consent dated September 22, 2025
12. Consideration of Special Education Evaluation or Reevaluation dated September 22, 2025
13. PWN for Evaluation or Reevaluation and Request for Consent dated September 22, 2025

14. Student's Weekly Schedule with Sensory Break Choices
15. Behavior Incident Log dated September 30, 2025
16. Playground Incident documentation dated September 30, 2025
17. Staff Statements from School Psychologist, McCSEC Behavior Consultant, and Third Grade Classroom Teacher
18. Student Processing Form dated September 30, 2025
19. Data Summary for September 2025
20. Team Meeting Notes dated October 2, 2025
21. Team Meeting Notes dated October 10, 2025
22. Formal Complaint Request Form dated October 30, 2025 written by the complainant
23. The LEA's Response to the Allegations dated November 8, 2025 written by the McCSEC Executive Director
24. Attendance Record for the 2025-26 school year
25. Elementary School Handbook for the 2025-26 school year
26. USD #418 School Board Policy JDD: Suspension and Expulsion
27. Clarification Question Responses from the Roosevelt Elementary School Principal dated November 30, 2025

Background Information

The student is a 7-year-old boy who is currently enrolled in the third grade in USD #418 for the 2025-26 school year. During the timeframe when the allegations being investigated occurred, the student was assigned to Roosevelt Elementary School, his neighborhood school.

The student began receiving early childhood special education services as a preschool student under the exceptionality category of Developmental Delay. The student was diagnosed with autism spectrum disorder and an accompanying language disorder at Veridian Behavioral Health in January 2022. The most recent reevaluation was completed on March 30, 2023 when the student was in kindergarten. At that time, the IEP team determined that the student continued to be eligible for special education and related services under the primary exceptionality category of Developmental Delay.

It is noted that the student is currently being reevaluated and the parent granted written consent for a reevaluation with additional assessment on September 25, 2025. In addition, both the parent and the LEA reported that the IEP team met and proposed a material change in services and a significant change of placement for the student to be placed in the positive behavior intervention and support (PBIS) classroom at Lincoln Elementary School beginning on October 20, 2025.

Issues Investigated

Based on the written complaint, two issues were identified and investigated.

Issue One

USD #418, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP on May 7 and again on September 30, 2025, specifically by not following the student's behavior intervention plan.

Applicable Law

Federal regulations at 34 C.F.R. 300.300.324(a)(2)(i) require the IEP team to consider the use of positive behavioral interventions and supports, and other strategies, to address any behavior that impedes the learning of the student or that of others.

Federal regulations at 34 C.F.R. 300.323(c)(2) require each public agency to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Federal regulations at 34 C.F.R. 300.324(a)(4) allow the parent and public agency to make changes to a child's IEP after the annual IEP Team meeting for a school year by making a written document to amend or modify the child's current IEP and, if changes are made to the child's IEP, the public agency must ensure that the child's IEP team is informed of those changes.

Parent Position

The parent reported that the student had a behavioral incident at school on May 7, 2024 when he was at a literacy fair in the cafeteria with over 40 students talking at the same time and 20-30 walking around listening to the presentations. The student became overstimulated and school staff failed to intervene and offer him a sensory break to help him regulate which resulted in the student becoming physically aggressive with three peers and multiple staff. However, the McCSEC Assistant Director informed me that there would be no disciplinary action taken against the student due to the staff failing to follow his IEP.

The staff again failed to implement the student's IEP on September 30, 2025 when his behavior escalated at recess which resulted in physical aggression and property damage. While reviewing the video footage of the incident, I was concerned about safety when the student was left outside on the playground alone for over 30 minutes even though he has a history of elopement. School staff indicated they were watching from inside the building and the playground is surrounded by a fence; however, the student can climb over the fence if he wants.

The staff also failed to follow his BIP when he sat outside "criss cross applesauce" for over 10 minutes before anyone interacted with him even though his IEP states that he will be prompted after 2-5 minutes. In addition, there were four staff working with the student during the incident when the IEP specifically states that no more than two people should be involved because too many adults is a trigger for the student.

LEA Position

The LEA acknowledged that the student' BIP was not followed on May 7, 2025, based upon an internal review of the incident. The BIP required that a staff person prompt the student to use his safe space when he first begins to be overstimulated or dysregulated. On that date, the paraeducator assigned to work with the student during the literacy fair was in the room but not in close enough proximity to prompt the student when his behavior began to escalate. No disciplinary action was taken because staff were not in close enough proximity to intervene and support the student appropriately. The LEA reported that staff working with the student were re-trained regarding the requirements of the BIP and "what proximity looks like for the student".

However, the LEA reported the student's BIP was followed during the behavioral incident that occurred on September 30, 2025. The LEA reported that no more than two staff members were interacting with the student at any time during the playground incident but noted that those staff members changed at various points and that there was a staff member in the vicinity acting as a recorder. As a result of that incident, which involved physical aggression towards students and staff as well as property destruction, the student received two days of out-of-school suspension. The LEA noted that the IEP team was reconvened on October 2, 2025 to debrief regarding the incident and consider if any revisions to the IEP were needed. In addition, the LEA indicated that IEP team subsequently met two more times in October to review data and consider revisions to the student's IEP.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

1. The student's IEP, which includes the BIP, was not followed during the May 7, 2025 behavioral incident as acknowledged by the LEA
2. The February 20, 2024 IEP was in effect during the behavioral incident which occurred on September 30, 2025. The Crisis Intervention Plan is included as part of the BIP and states the following procedures should be followed for behavior which might result in suspension or expulsion:
   When it appears that the student is beginning to escalate, he will be prompted to go to the safe space in the classroom. If he chooses not to go to that space, he may use the safe space in the special education classroom. It is best to use minimal words and give him time. While the student is de-escalating, it is best to not offer things to him or interact with him until he is ready. After two minutes, the student can be distracted if he wants a snack, a break or to

share a story. It is important for the adult to use a calm and quiet voice. If student needs an ISS setting it should be in a special education setting so his academics can be monitored. If the student's behaviors continue to escalate and he becomes physically aggressive toward the adults working with him or peers in the classroom, the student will be given time then when ready will process with an adult. If the student becomes physically aggressive a second time the same day after given time to calm and then process, he will be in the special education classroom for the remainder of the day for ISS. If the student becomes physically aggressive for the third time the same day, the student will serve OSS.

3. The February 20, 2024 IEP was amended on September 22, 2025 and the parent provided with PWN. Both documents reflect that a copy of the student's BIP, including the Crisis Plan, will be provided to all staff working with the student. The IEP team meeting notes from the September 22, 2025 IEP team meeting stated,
The team took out the old crisis plan that was still in the current IEP. It should have been removed when the annual IEP was written in February. We talked about disciplinary actions and the needs for ISS/OSS. That decision comes from the building principal. The behavior plan is written to encapsulate possible behaviors, but the crisis plan allows for principal discretion. The crisis plan addresses property destruction or physical aggression.
4. Neither the IEP amendment nor the PWN from the September 22, 2025 IEP team meeting includes a description of the updated Crisis Intervention Plan that replaces the "old crisis plan" which was included in the February 20, 2024 IEP.
5. The LEA's response to the allegations states that the key components of the BIP/Crisis Plan include a) staff notified to assist with deescalation strategies; b) no more than 2 staff working with him during the time he deescalates; and c) staff working with him will process the situation to determine readiness to return.
6. The Student Processing Sheet includes a description of the updated crisis intervention plan as follows:
    - *Step 1: Sit Criss cross applesauce for 3 mins, silently and with a still body*
    - *Step 2: 1st non-academic task (breathing movement, cross body tapping, hitting basic hierarchy of needs, mantras to repeat, music/sounds, etc.)*
    - *Step 3: 2nd non-academic task*
    - *Step 4: 3rd non-academic task*
    - *Step 5: 1st academic task*
    - *Step 6: 2nd academic task*
    - *Step 7: Discussion (What happened / Severity / Three Strategies for Next Time)*
7. The parent and all LEA staff who were interviewed were able to accurately describe the current crisis intervention plan as outlined in the LEA's response to the allegations and as described on the Student Processing Sheet.
8. The parent reported that there were four staff involved with the student on the video recording of the incident on the playground including the Roosevelt Elementary School Principal, the Third Grade Classroom Teacher, the McCSEC Behavior Consultant, and another staff member.

9. The interviews with the Roosevelt Elementary School Principal, the McCSEC Behavior Consultant, and the Third Grade Classroom Teacher found that these three staff were involved with intervening with the student during the playground incident on September 30, 2025. One staff member acted as the lead during the intervention and communicated with the student while the other staff member focused on the safety of the student, the staff, and peers. The Third Grade Classroom Teacher and the Roosevelt Elementary School Principal took turns in these roles during the first part of the incident. The McCSEC Behavior Consultant came to Roosevelt Elementary School in order to gather data for a functional behavioral assessment and, towards the end of the incident, she "tagged in" to allow the Third Grade Classroom Teacher to return to her classroom. Paraeducator 2 acted as the recorder during the 48-minute incident according to the Playground Incident document.
10. The Student's Processing Sheet reflects that the first four steps of the plan were implemented on the playground while the final three steps were completed in the special education classroom.
11. During their interviews, the Third Grade Teacher and the Roosevelt Elementary School Principal reported that the student sat "criss cross applesauce" for the 3-minute timeframe for several attempts but would then re-escalate when asked to follow a simple non-academic command to demonstrate he was "ready". After approximately 45 minutes of this calming/re-escalation cycle, the student was able to complete the first four steps in the process. At approximately 11:00 a.m., he transitioned to the special education classroom to complete the two simple academic tasks, eat lunch and process the incident. He continued to be dysregulated and was sent home around noon.
12. Information contained in the September 30, 2025 Behavior Incident Log, the September 30, 2025 Student Processing Sheet, and the September 30, 2025 Playground Incident documentation, which is a timeline of staff communication and observations, corroborates the information obtained in the staff interviews. These three documents were completed by Paraeducator 2, the Roosevelt Elementary School Principal, the Third Grade Classroom Teacher, and the McCSEC Behavior Consultant.

Conclusion

In this case, the LEA acknowledged that the student's IEP, including the BIP, was not implemented during the May 7, 2025 incident and correctly did not take any disciplinary action against the student because the behavior which was subject to the disciplinary action was a result of the IEP not being implemented. Based on the foregoing, the LEA is found OUT of compliance with federal regulations at 34 C.F.R. 300.323(c)(2) which require public agencies to ensure the student's IEP was implemented as written during the past 12 months. As such, corrective action is required.

The September 22, 2025 IEP amendment to the February 20, 2024 IEP was in effect when the behavioral incident occurred on September 30, 2025. The amendment and PWN both refer to an updated Crisis Intervention Plan but the plan is not written in either document. The IEP

Team Meeting Notes indicate the IEP team "*took out the old crisis intervention plan that was still in the current IEP*" but again, did not include any specific description of the updated plan. However, interviews found that staff working with the student were aware of the changes made to the crisis intervention plan. Based on the foregoing, the LEA is found OUT of compliance with federal regulations at 34 C.F.R. 300.324(a)(4)(i) for failing to develop a written document to amend the student's IEP, specifically the BIP, which includes a crisis intervention plan. As such, corrective action is required.

However, interviews and documentation related to the September 30, 2025 incident found that the LEA and the parent agreed on what should have been included in the BIP, which includes a crisis intervention plan. Interviews with the LEA staff involved in the incident showed that all were aware of the new plan. These interviews and three separate documents related to the behavioral incident showed the LEA staff had followed the agreed upon plan on September 30, 2025.

Issue Two

USD #418, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate disciplinary procedures when the student was suspended for greater than 10 days during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.530 require specific procedures to be followed when a student with a disability or suspected of having a disability are subject to a disciplinary removal because of a violation of the student code of conduct.

Disciplinary removals are considered to be "short-term" when a student is removed from their educational placement for no more than 10 consecutive school days or no more than 10 cumulative school days during a school year. In these situations, federal regulations at 34 C.F.R. 300.530(b)(1) allow for a public agency to remove a student with a disability who violates a code of student conduct from the student's educational placement to another setting, including suspension, without providing any services.

However, when a student with a disability who has violated a code of student conduct has been removed from the student's educational placement for more than 10 cumulative days during a school year, federal regulations at 34 C.F.R. 300.536(a) require the public agency to determine if a pattern of suspensions exists. The public agency must consider the length of each removal, the total amount of time removed, the proximity of removals to one another, and the similarity of the behaviors resulting in the removals when determining if a pattern exists. If the public agency determines that a pattern does not exist, a manifestation determination meeting is not required to be held but the public agency must provide services

to enable the student to participate in the general education curriculum (although in another setting) and to progress toward meeting the goals in the IEP according to 34 C.F.R. 300.530(d)(4).

Disciplinary removals are considered to be "long-term" when a disciplinary change of placement occurs. Federal regulations at 34 C.F.R. 300.536(a) define a disciplinary change of placement as occurring when a student's educational placement has been changed because of disciplinary action resulting from a violation of the student code of conduct for more than 10 consecutive school days or for more than 10 cumulative school days when a pattern exists. When a long-term suspension occurs, the public agency is required to conduct a manifestation determination meeting to determine if the behavior resulting in the disciplinary action is related to the student's disability as described in federal regulations at 34 C.F.R. 300.530(c,d,e,f). In this situation, the public agency is also required to provide services to enable the student to participate in the general education curriculum (although in another setting) and to progress toward meeting the goals in the IEP.

Federal regulations at 34 CFR §300.530(f)(1) require that, if the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must either conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or if a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Parent Position

The parent reported that the student has been suspended for a total of 12 school days during the 2025-26 school year and believes that the IDEA special discipline procedures should have been triggered. However, the parent indicated she was told that only the five days of out-of-school suspension "counted" and not the seven days of in-school suspension (ISS) because, during ISS, the student can continue to work in his general education curriculum, can continue to receive his special education accommodations, and can continue to interact with general education peers as normal. The parent stated the student serves ISS in the special education class, has a separate recess, eats lunch in the resource room, and does not interact with his classroom peers. The parent indicated she wants to clarify what counts toward the IDEA disciplinary procedures.

LEA Position

The LEA reported that the student was suspended out-of-school (OSS) for a total of five days during the 2025-26 school year. The LEA acknowledged that the student did not receive the special education services required by the IEP on those five days. The LEA also reported that the student has received in-school-suspension (ISS) for a total of seven days during the 2025-

26 school year but indicated that the student serves the ISS in the special education classroom through the "Teach & Protect" intervention model. The LEA believes that no special disciplinary procedures have been required because the student has not been long-term suspended for greater than 10 consecutive school days or greater than 10 cumulative school days when a pattern exists during this school year.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

1. The student's attendance record for the 2025-26 school year shows the student was suspended out-of-school on the following dates: September 19, 24, 25, 30 and October 1, 2025.
2. The student's attendance record for the 2025-26 school year shows the student was in-school suspended on the following dates: September 4, 5, 22, 26, 29 and October 2 and 3, 2025.
3. During interviews with the Roosevelt Elementary School Principal, the Special Education Teacher, and the Third Grade Classroom Teacher, all three LEA staff reported using the "Teach & Protect" model for the student to serve any assigned ISS days. On these days, the student is assigned to the special education classroom with an LEA staff member who works directly with the student under the supervision of the special education teacher to provide support, implement the BIP, and provide the IEP accommodations. The Third Grade Teacher goes into the special education classroom during the school day to teach the general education concepts covered that day, as well as assign and check the student's homework and assignments. The student receives his required special education services as scheduled in the special education classroom.
4. The Roosevelt Elementary School Principal reported the student had the following opportunities to participate with peers when he is assigned to ISS using the Teach & Protect model:
    - Recess with general education peers
    - Lunch (if the student has been safe or are regulated)
    - Morning school assembly
    - If the team finds other times within his school day where he shows safe behavior, we have scheduled for him to participate in those general education activities as well
5. An email written by the Roosevelt Elementary School Principal to the parent on April 2, 2025 described the "Teach & Protect" concept as allowing students to stay in school rather than be suspended. This was a strategy learned at the Midwest Behavior Symposium that staff from Roosevelt Elementary School attended in February 2024 which has been shown to be successful to keep students both at school and safe. It is a proactive strategy to more intently teach and practice behavioral expectations for success.

6. The student's IEP dated February 20, 2024 and amended on September 22, 2025 requires the following special education services:
    - Special Education services in the special education setting:
        - 30 minutes per day of specialized instruction in math
        - 20 minutes per day of specialized instruction in social skills and self-regulation
        - 25-minutes once per week of social work
        - 15-minutes twice per week of occupational therapy (OT)
    - Special education support in the general education setting "*in place during language arts, ~~math instruction~~, and to check for understanding throughout the day. This in-class support is to help keep him on task and focused*"

Conclusion

The student was suspended OSS on a total of five cumulative days without receiving special education services during the 2025-26 school year. And the student was assigned ISS using the "Teach & Protect" model for seven cumulative days during the 2025 school year. The pertinent question is whether the seven cumulative days of ISS should be considered when determining if the student has been suspended greater than 10 cumulative days in a school year, which would have triggered the IDEA's discipline procedures.

Page 46715 of the Federal Register / Vol. 71, No. 156 / Monday, August 14, 2006 / Rules and Regulations states,

> *The Department's long term policy that an in-school suspension would not be considered a part of the days of suspension addressed in § 300.530 as long as the child is afforded the opportunity to continue to appropriately participate in the general curriculum, continue to receive the services specified on the child's IEP, and continue to participate with nondisabled children to the extent they would have in their current placement.*

Based upon the LEA staff descriptions of the student's ISS using the "Teach & Protect" model provided, it appears that the student was provided an opportunity to continue to participate in the general education curriculum when the Third Grade Teacher provided direct instruction and the accompanying schoolwork.

In addition, it appears that the student was provided with his special education services described in the September 22, 2025 amendment to the February 20, 2024 IEP when he received special education services for math and social skills / regulation from the Special Education Teacher as well as support from the assigned paraeducator to keep him focused and on-task with his general education assignments.

The LEA reported that the student was provided with the opportunity to join with peers throughout the school day during morning assembly and at recess, even though the peers may not have been his classmates. The student was also provided with the opportunity to join his peers at lunch and at other identified times during the school day when the student was

displaying safe behavior or was regulated in order to safely participate in these activities. However, based on these opportunities, it appears the student spends much more than 50 minutes per day in the special education setting when serving ISS. So, while it appears this student did have some brief periods of time with nondisabled children, he did not continue to participate with nondisabled children to the extent he would have in his current placement as described in his IEP.

In this case, there is a preponderance of findings to determine that the student has received a total of 12 cumulative days of suspension during the 2025-26 school year and the LEA was required to follow the IDEA disciplinary procedures and determine if a pattern of suspensions exists when he was suspended greater than 10 days beginning on October 2, 2025.

Based on the foregoing, the LEA is determined to be OUT of compliance with federal regulations at 34 C.F.R. 300.536(a) which require that public agencies determine if a pattern of suspensions exists when a student has been suspended greater than 10 cumulative days in a school year. As such, corrective action is required.

Summary of Conclusions/Corrective Action

ISSUE ONE: Violations of federal regulations were found at 34 C.F.R. 300.323(c)(2) and 34 C.F.R. 300.324(a)(4)(i). Corrective action is required as described below:

1. Within 15 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. 300.323(c)(2) which require public agencies to ensure students' IEPs will be implemented as written.
2. Within 15 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. 300.324(a)(4)(i) which require public agencies to develop a written document to amend the student's IEP.
3. Within 10 days of the date of this report, the LEA will provide the parent with a written description of the BIP, including the crisis intervention plan, developed at the September 22, 2025 IEP team meeting. If the parent determines this description is accurate, the LEA will include this description in the September 22, 2025 IEP amendment. However, if the parent determines this description is inaccurate, the LEA will reconvene the student's IEP team within 20 days of the parent's determination to review and revise the student's IEP, as appropriate. The LEA will provide SETS with a copy of the final version of the student's BIP, including the crisis plan no later than 45 days after the date of this report.

ISSUE TWO: A violation of 34 C.F.R. 300.536(a) was found. Corrective action is required as described below:

1. Within 15 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. 300.536(a) which

require that public agencies determine if a pattern of suspensions exists when a student has been suspended greater than 10 cumulative days in a school year.

2. It is noted that the student has transferred to Lincoln Elementary School within USD #418. The LEA will notify administrators and special education staff working with the student of the findings of this report and the requirement to follow the IDEA special education disciplinary procedures for any future disciplinary actions. The LEA will provide SETS with a copy of the communication provided to the Lincoln Elementary School staff.
3. Within 30 days of the date of this report, the LEA will review and revise the procedures for implementing the "Teach & Protect" model of ISS to either provide students with the opportunities to participate with nondisabled peers to the extent each student would have in their current placement as described in their IEP or the LEA will continue to implement current model and count these days as OSS for the purpose of determining when a student with a disability has been suspended greater than 10 days in a school year for triggering IDEA disciplinary procedures. The LEA will update all building administrators in the district who use the "Teach & Protect" model of ISS of this determination and provide SETS with a copy of the notification no later than 45 days following the date of this report.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON OCTOBER 30, 2025

DATE OF REPORT: DECEMBER 3, 2025

This report is in response to a complaint filed with our office on behalf of a student, -----, by -----, the student's former education advocate. In the remainder of the report, the student will be referred to as "the Student" and the former education advocate as "the Complainant."

The Complaint is against USD #437, Auburn/Washburn Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #437.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on October 30, 2025, and the 30-day timeline ended on November 29, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's post-surgery medical supports, behavior intervention plan (BIP), and accommodations. K.A.R. 91-40-16(b)(3-5); 34 CFR § 300.323(a)(d).

ISSUE TWO: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, included or appropriately excused all required members of the IEP team for the October 22, 2025, IEP meeting. K.A.R 91-40-17(h)(i), K.A.R. 91-40-19(a); 34 CFR § 300.321(a)(e).

ISSUE THREE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided progress monitoring information as required. K.S.A. 72-3429(c)(3); 34 CFR § 300.320(a)(3).

ISSUE FOUR: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided adequate notice for the October 22, 2025, IEP meeting and afforded the Complainant the opportunity to participate. K.A.R. 91-40-17(a)(b)(1), K.A.R. 91-40-25(a)(2)(b)(c); 34 CFR § 300.322(a)(b).

ISSUE FIVE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided required prior written notice (PWN) before changing the delivery of the Student's paraprofessional services when they transitioned from middle to high school. K.A.R. 91-40-26(a); K.S.A. 72-3430(b)(2); 34 CFR §300.503(a)(b).

ISSUE SIX: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant access to inspect or review educational records related to the Student prior to the October 22, 2025, IEP meeting, and when requested by the Complainant. K.S.A. 72-3430(b)(1); K.A.R. 91-40-50(2); 34 CFR § 300.613.

ISSUE SEVEN: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, maintained confidentiality of personally identifiable information related to an audio recording of an IEP meeting by naming a student who was not the subject of the meeting; and additionally, by disclosing confidential information, including portions of the audio recording containing personally identifiable information regarding the Complainant and the Student, to unauthorized agencies without obtaining written consent. K.A.R. 91-40-50(a)(2-3)(b); K.S.A. 72-6311(b); 34 C.F.R. §§ 300.610, 300.611, 300.622(a)(b)(1), 300.623(a); 34 C.F.R. §§ 99.30, 99.31(a)(10).

ISSUE EIGHT: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Student a Free Appropriate Public Education (FAPE). K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Complainant by video call on November 21, 2025. The following LEA staff were interviewed via video call on November 24, 2025: the Paraprofessional, the Bus Paraprofessional, the PBS Teacher, the Special Education Teacher, the Assistant Principal, and the Director of Secondary Special Services. Witness 1 was interviewed on November 12, 2025.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Formal Complaint, 10/30/25
2. Emails between the Complainant and the LEA dated 03/04/25 through 11/24/25
3. Progress Report, 10/08/25

4. [The Student] Bus Incident Statement, 10/22/25
5. IEP Team Meeting Participants, 10/22/25
6. IEP Amendment Between Annual IEP Meetings, 03/10/25
7. IEP Amendment Between Annual IEP Meetings, 04/24/25
8. Weekly Behavior Tracking Sheets dated 09/08/25 through 09/19/25
9. Behavior Intervention Plan and Positive Behavior Supports, 10/30/23
10. IDEA Disability Categories, no date
11. Individualized Education Program, 10/24/24
12. Notice of Meeting, 09/26/25
13. Health Office Visit Report, 08/12/25-05/21/26
14. Paraeducator Inservice Log, 2025-26 School Year
15. Progress Report, 10/08/25
16. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent, 03/10/25
17. Request for Consent for Special Education Action, 04/03/25
18. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent, 04/24/25
19. Request for Consent for Special Education Action, 04/24/25
20. Title Page - Recording Communication, no date
21. Weekly Behavior Tracking Sheets dated 09/22/[25] through 10/31/[25]
22. IEP Meeting Notes, 10/22/25
23. IEP Meeting Transcript, no date
24. "Handle with Care" Training Slides, no date
25. Understanding IDEA Disability Categories & Specific Diagnoses, no date

Background Information

This investigation involved a freshman student enrolled at Washburn Rural High School in USD #437. The Student is currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA) in the category of Other Health Impairment (OHI). The Student has a one-to-one paraprofessional assigned for the duration of their school day and bus accommodations, which include adult supervision. The Student was in a foster placement with the Complainant until October 31, 2025.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant and staff in the LEA.

1. An IEP dated October 24, 2024, included an amendment dated April 24, 2025, and described the following:
    a. Transition assessments were identified, and service descriptions were listed for August 11, 2025 through May 23, 2029.
    b. The following goals were listed:
        i. "When [the Student] is given a directive to follow by an adult or peer, [the Student] will be able to follow directions on the first request by not arguing, negotiating, or seeking an alternative response with adults or peers at 95% by the end of the IEP as measured by Anecdotal Records." [The Student] will be able to follow directions on the first request by not arguing, negotiating, or seeking an alternative response with adults or peers 95% of the time."
        ii. "When given a modified assignment or assessment, [the Student] will be able to complete the assignment or assessment on time with at least 80% accuracy at 90% of the time by [the] end of the IEP as measured by Anecdotal Records."
        iii. "When feeling dysregulated, [the Student] will be able to verbalize [their] feelings and ask for a break at 50% of the time by [the] end of the IEP as measured by Anecdotal Records."
        iv. "When eating breakfast or lunch, practicing self-care of hygiene, [the Student] will be able to demonstrate socially appropriate eating behaviors by practicing table manners, pacing [themself] during meals (eating slowly and steadily), using polite behaviors (e.g., saying 'please' and 'thank you,' chewing with [their] mouth closed, not talking with food in [their] mouth, wiping [their] face with a napkin), engaging in appropriate mealtime conversations, reducing the amount of food on [their] clothing and proper nose blowing at 4 out of 5 observed opportunities by the end of the IEP as measured by Anecdotal Records."
    c. The "Parent Input" section included concerns regarding the Student's lunch location and training for bus personnel regarding the Student's BIP.
    d. A BIP and PBS document dated October 30, 2023, was included in the IEP:
        i. The Student's problem behaviors were described as defiance (refusing directives, arguing, and attempting to manipulate situations) and being off-task (inappropriate peer talk, working on unrelated assignments, and misusing technology during instruction).
        ii. Behaviors occurred when given a "non-preferred" activity, leading to task avoidance.
        iii. The settings and antecedents described the Student's behaviors as most frequent during ELA, where their compliance with directives was lowest at 70%. They also showed slightly lower compliance in social studies and PBS (92.5% and 90%, respectively). Conversely, they exhibited high compliance (97.5%–100%) in art, science, math, an unknown course, and advisory.
        iv. The function of the Student's behavior was "to gain access to preferred activities and to avoid the task that is being asked of them."

v. The Student required instruction in replacement behaviors that addressed several lagging skills across three main categories: Attention and Working Memory, Emotion and Self-Regulation, and Cognitive and Flexibility Skills. Specifically, the Student struggled with tasks such as persisting with difficult activities, managing feelings of annoyance or disappointment, and coping with changes to routines or rules.

vi. Proactive Strategies to prevent the problem behavior included:

1. "Give [the Student] praise when [the Student] is on task and completes tasks/directives."
2. "When [the Student] is beginning to demonstrate behaviors that include non-compliance with adult tasks/directives, [they] will be given up to three prompts to get back on task."
3. "When [the Student] is not responding to the directives given by the adult, staff will respond by telling [the Student], 'This is a non-negotiable.'"
4. "[The Student] will use self-regulation strategies to resist peer pressure / self-directed inappropriate activities, such as continuing to argue."
5. "[The Student] will leave [their] classroom materials in each classroom needed for the subject and [they] will not bring any other supplies with [them]."
6. "Teachers will refrain from giving [the Student] school supplies, food (unless a class party), or any other items."
7. "When [the Student] needs access to technology, [they] will be monitored and [their] [one] on [one] para[professional] will keep & carry the computer until [they] need it. [They] [are] not to use technology unless it pertains directly to the classroom assigned."
8. "Once [the Student] [is] on the bus, [they] are not allowed to exit the bus until [they] have gotten to school or home."
9. "[The Student's] behavior will be documented on a behavior tracking sheet provided by the school."
10. "During the unstructured times and passing periods, teachers will be monitoring the environment and will wait until the teacher enters the room before [the Student] enters the room [sic]."
11. "[The Student] will be escorted to the bus at the end of the day for [the Student] to get there on time."
12. "When [the Student] is found stealing from the cafeteria, [the Student] will make restitution to the school for the item/s."
13. "[The Student] will check out with an adult at the end of the day to review [their] day."
14. "[The Student] will have direct social skills instruction."

15. "Staff will refrain from having any personal conversations or educationally relevant information with or around [the Student]."

vii. Reactive Strategies for staff for when the Student demonstrated "resistance" to working in class included:

1. "Working or completing a task/following a directive for the first time given."
2. "Taking a 5-minute break with a preferred list of activities, such as drawing, writing, or reading (this needs to be monitored to ensure it is school-appropriate after completion of the designated task required by the adult[)]."
3. "When refusing to work, arguing, or defying adult requests to comply with simple requests, [the Student] will be given up to three redirections."
4. "If still exhibiting the above-mentioned behaviors, [the Student] will be sent to a 'buddy room' or 'office.'"
5. "If [the Student] refuses to leave and/or argues with the adult a member of the mental health team or support staff will be notified to come and walk [the Student] to an alternate location."
6. "If the behavior is considered to be a major behavior and/or a chronic behavior, [the Student] will have an Office Discipline Referral written and have a phone call home."
7. "[The Student] will then spend time in an alternate setting for a designated time according to the behaviors exhibited."
8. "All of this will be documented on [the Student's] tracking sheet."

viii. Progress monitoring methods included "[d]aily data collection."

ix. Staff training procedures indicated, "Include necessary staff training in the IEP. Staff should be trained with positive behavior supports and other reinforcement systems in order to implement the BIP with fidelity. [The Student's] bus staff needs to be trained in [the Student's] morning routine and when to be released from the bus. Bus staff and [one] on [one] para[professional] need to be trained on [the Student's] expectations, accommodations for [the Student][,] and provided with a copy of the BIP. [The Student's] para[professional] will help facilitate when there is a sub[stitute] in the class. Adults will be trained in trauma[-]informed responses along with [their] specific diagnosis (Attention Deficit/Hyperactivity Disorder (ADHD), Autism Spectrum Disorder (ASD), Reactive Attachment Disorder (RAD), Oppositional Defiant Disorder (ODD), Other Specified Disruptive Impulse Control and Conduct Disorder associated with developmental disability, Generalized Anxiety Disorder (GAD)[)]. [The Complainant] needs some formal documentation that training

has been completed in the event of a substitute para[professional] or teacher or any other staff who works with [the Student]."

e. The "Transportation" section indicated that special transportation was required to and from school and noted that the Student's behavior was unsafe to themselves and/or others on the bus. Options included fewer people aboard the bus and preferential seating. Additionally, support for transportation personnel indicated, "[The Student's] bus staff need to be trained in [the Student's] morning routine and when to be released from the bus. Bus staff and [one][-]on[-][one] para[professional] need to be trained on [the Student's] expectations, accommodations for [the Student] and provided with a copy of the BIP."

f. An IEP Amendment Between Annual IEP Meetings document dated April 24, 2025, indicated the description of proposed IEP changes as, "Currently, [the Student] has 20 minutes of social work twice a month. [The Complainant] has requested that social work services [be] dismissed from the current IEP. Social work goals # 1 and 3 will be serviced through the Positive Behavior Interventions (PBIS) class. All other services will remain the same." The Complainant "agreed to amend this student's IEP as described above," and did "… not wish to convene an IEP meeting" as indicated by check marks. The Complainant's consent was indicated by a digital signature on the "Educational Advocate" line.

g. A Request for Consent for Special Education Action dated April 24, 2025, was signed by the Complainant.

2. On September 19, 2025, the Teacher emailed the Complainant the Student's weekly grades and behavior report.
3. A Notice of Meeting dated September 26, 2025, for an annual IEP meeting scheduled on October 22, 2025, was signed by the Complainant on September 30, 2025, which indicated they planned on attending.
4. A Progress Report dated October 8, 2025, indicated "Progress [was] adequate to meet annual goal" for all four IEP goals.
5. On October 9, 2025, the Teacher emailed the Complainant regarding an Unknown Person who emailed wanting to "connect." The Teacher confirmed they had not disclosed any information and informed the Complainant a "signed release" would be needed. The Complainant responded with "Yes, that should be fine." And requested they be included in all communication.
6. In an email exchange from October 10 through 13, 2025, the Parent, Assistant Principal, and Teacher discussed support and communication strategies for the Student. The Complainant inquired about the Student's IEP execution, participation in class parties, and positive behavior supports. The Assistant Principal suggested all communication go through the Teacher to "streamline" it.
   Additionally, the Teacher confirmed while at the party, "… "[the Student] had [three] cookies, no chips, and did have a Dr. Pepper to drink." The Teacher inquired about the Complainant wanting to meet prior to the IEP meeting and requested the Assistant Principal be a part of the meeting.

7. On October 16, 2025, the Director of Secondary Special Services emailed the Complainant and inquired about the approaching IEP meeting to verify the legal representation for the Student, so they could properly plan for the meeting. Additionally, on October 16, 2025, the Director of Secondary Special Services emailed the Complainant with an attached IEP progress report, grades, and behavior data. The attachments indicated the following relevant information:
    a. Behavior data dated October 13-15, 2025, for periods 1 - 7 for the behaviors of "attendance, argue, avoid task, profanity, and provoke."
    b. Grades denoted: PBS - A, Jewelry Making - A, JROTC - A, Advisory - "No concerns noted at this time," World History - A, Biology - C, English 9 - A, and Math - A.
    c. A Progress Report dated October 8, 2025, indicated "adequate" progress towards four IEP goals.
8. In an email exchange on October 14 through 17, 2025, the Complainant emailed the Teacher and Vice Principal and formally requested a new paraeducator be assigned to the Student, along with a formal request to meet prior to the October 22, 2025, IEP meeting.
   The Director of Secondary Special Services answered the Complainant and confirmed there would not be a change in the appointment of the paraprofessional as the Student had "made measurable progress, as reflected in [their] IEP goal quarterly progress reports … ." They also directed that if the Complainant had any queries, they should come to them directly, and they would provide a response.
9. On October 20, 2025, the Complainant emailed the Teacher to request soft food accommodations, specifically "something soft like a parfait," because the Student had undergone wisdom tooth removal.
   Additionally, on October 20, 2025, the Assistant Principal emailed the Director of Special Services Elementary, confirming Food Services had been informed of the soft food request by the Complainant and to inform the Complainant.
10. On October 21, 2025, the Director of Special Services Elementary emailed the Complainant to acknowledge they had " … connected with the school, and they confirmed that they are currently providing a parfait without granola for breakfast and selecting the softest available options for lunch to support [the Student] during [their] wisdom teeth removal recovery." The Director of Special Services Elementary then asked how long the Complainant would like the meal accommodations to continue.
11. On October 22, 2025, at 5:16 a.m., the Director of Secondary Special Services emailed the Complainant a "draft copy" of the Student's IEP for their evaluation.
12. IEP Meeting Notes for the Student dated October 22, 2025, listed the IEP team members present and indicated the meeting was held virtually. The Complainant requested the meeting be recorded, and the LEA agreed. The Complainant then shared they did not feel "prepared," and the IEP team offered to reschedule, choosing instead to address questions regarding the currently implemented IEP. The Student's current IEP was sent to both the Complainant and Witness 1 through email. The Student's post-surgery food accommodations were confirmed. The Complainant then made a

statement about Hawaii and used obscene language. The High School Associate Principal asked if they were "okay" and ended the meeting.

13. An IEP Team Meeting Participants document dated October 22, 2025, indicated the following participants at the IEP meeting:
    a. General Education Teacher
    b. Special Education Provider
    c. LEA Representative
    d. The Complainant
    e. Witness 1
    f. Director of Elementary Special Services
    g. The High School Associate Principal
    h. Speech-Language Pathologist
    i. General Education Teacher
    j. Junior Reserve Officer Training Corps Instructor
14. The Student Bus Incident Statement dated October 22, 2025, indicated the Student engaged with the Bus Paraprofessional regarding sarcasm and male bus drivers. The Student stated they felt "targeted."
15. Behavior Tracking Sheets for the Student, dated September 8, 2025, through October 31, 2025, indicated daily tracking across class periods for the following behaviors: "Attendance, Argue, Avoid task, Profanity, Provoke," with a "Yes/No" to indicate whether the desired behavior was achieved.
16. On October 30, 2025, the Complainant emailed the Assistant Principal and other LEA recipients requesting all educational records related to the Student and the October 22, 2025, IEP meeting.
17. On October 31, 2025, the Director of Secondary Special Services received an email from the Education Advocate Program Director stating they found an advocate for the Student, and they cancelled the educational advocacy status of the Complainant dated that day.
18. Health Office Visit Reports for the 2025-26 school year indicated daily medical input for the Student starting on August 12, 2025 through October 30, 3025. The comments stated the following regarding post-surgery needs:
    a. "[The Student] enter[ed] [the] health room and voice[d] 'I have a suture string handing [sic] in my mouth.' Let [the Student] know that this nurse would not be able to cut the stitch and also not be able to contact [the Complainant] per administration[']s orders. Informed [the Student] to let [the Complainant] know when [they] get home from school. [The Student] voic[ed] 'Okay'[.]"
    b. "[The Student] quickly returns and shares 'I am tasting blood in my mouth.' This nurse looked with pen light and did not see any blood. [The Student] share[d] that [they] had [their] wisdom teeth out last weekend. [The Student] voice[d] 'I feel like I can taste

blood.' Reassured [the Student] that at this time this nurse does not see any blood on the upper or lower right side of [their] gum/teeth."

c. "[The Student] brought into office by [their] paraprofessional, [the Paraprofessional]. Administered scheduled medication and monitored for compliance."

19. An undated Consent for Release to Third Party document indicated the LEA had no record of the prior written consent from the Complainant because "no release was necessary." The LEA stated the audio recording was not "released" or "shared" with any third-party entities or individuals, only accessed by LEA personnel and by the LEA's legal counsel "acting in official capacity on behalf of the LEA."
20. An undated Recording Communication document specified the steps taken by the LEA after the October 22, 2025, IEP meeting. The LEA "reiterated that all discussion of the meeting should remain confidential." The recording of the meeting was given to the Board Clerk for the "purpose of transcription," and "No written correspondence regarding the recording was generated or exchanged."
21. IEP Meeting Transcription with no date indicated Speaker Nine as the Complainant. The Complainant at minute 09:01 shared, "I would like this on the record that during this meeting, [Unknown Person] told me that [they] met me through my student, [Unknown Student]. And I do not have a student named [Unknown Student].

Complainant Interview

22. In an interview with the Complaint Investigator, the Complainant stated they filed the complaint.
23. The Complainant described requesting accommodations for the Student because of oral surgery to remove the Student's wisdom teeth. The Complainant stated they emailed the School and sent a follow-up, but the LEA did not respond. The Complainant explained the LEA couldn't answer due to the communication plan, adding staff had been instructed "not to have any type of communication" with the Complainant. The Complainant said during the IEP meeting, the Director of Elementary Special Services asked whether they had received their email response. The Complainant indicated they did not receive the email because they "had tons of emails." The Director of Elementary Special Services asked the Complainant how long they had requested the accommodations to remain in place.
24. The Complainant stated that the accommodations included having the Student eat only soft foods and avoiding anything sharp that could "poke at the incisions." The Director of Elementary Special Services said they had followed the plan by providing the Student with a parfait without granola and soft foods. The Complainant stated the Student reported being served food they were unable to eat, and they felt there was a "discrepancy" between what the Student was reporting and what the LEA was reporting. The Complainant asked the Director of Elementary Special Services to confirm what the Student was eating, and the Director of Elementary Special Services responded they would check with staff. The Complainant stated they wanted the Director to respond, not the staff, since that was in the communication plan. The Complainant stated they

were unable to fact-check due to communication restrictions with the IEP team.
The Complainant recalled the Student saying they were served crispitos, beans, chicken nuggets, hard rolls, raw broccoli, carrots, cauliflower, and cucumbers. The Complainant stated after the October 22, [2025] IEP meeting, they received emails regarding the Student going to the nurse because they thought they had blood in their mouth and thought their stitches were coming out.

25. The Complainant stated when they asked the LEA for the Student's records so they could review them, the LEA "refused to acknowledge their request" and did not provide documentation. The Complainant confirmed they emailed a request for a meeting, and the LEA did not set up a meeting. They added they had been requesting a meeting since before the communication plan began.
26. The Complainant described asking for the IEP meeting on October 22 [2025] to be recorded because they had "caught the district in so many different lies." The Complainant recalled the LEA stating they were unable to do a video recording because it wasn't working, and the LEA asked if it was okay to do an audio recording instead. The Complainant agreed.
27. The Director of Elementary Special Services asked the Complainant whether they'd received the draft IEP sent at 5:30 a.m. that morning. The Complainant stated they hadn't and expressed concern they were reviewing a new IEP when the Complainant had wanted to discuss the current IEP. They reiterated they had requested a meeting to review the current IEP and stated the Director of Secondary Special Services had never scheduled it. The Complainant stated the Director of Secondary Special Services responded to the Complainant's requests about replacing the Paraeducator who worked with the Student, but did not schedule the IEP review meeting.
28. The Complainant stated they were not prepared to discuss changes made to the IEP and noted the Director of Secondary Special Services offered to reschedule the meeting and review the current IEP instead. The Complainant recalled the Director of Secondary Special Services emailing a copy of the current IEP to them.
    The Complainant stated while they were waiting for the email, they began to have a "medical condition." The Complainant noted the team "disconnected" from the meeting. The Complainant reported the LEA had "released" the audio of them in "medical distress" to the DCF [Department for Children and Families] and told them the Complainant was "abusive, that the kids were in imminent danger, and that it was a safety risk."
    The Complainant stated they did not provide the LEA a release for them to provide the agency with the audio of the meeting. The Complainant disagreed that they were a risk to the kids and added the school shouldn't have released the students at the end of the day if they felt they were in "imminent" danger. The Complainant described the LEA's actions as "retaliation," adding they "didn't have the authority to release a [sic] protected information."
29. The Complainant described that the Student "felt targeted" by one of the paraeducators on the bus and added that the paraeducator "always picks on [the Student]."

Additionally, the other children shared the Student felt the paraeducator thought the Student was "sexist" because the Student treated the male bus driver better than the female bus driver. The Complainant stated, because of this situation, the Paraeducator and bus drivers were not following the Student's BIP or IEP.

30. The Complainant mentioned the progress reports for the Student had been completed by the Director of Secondary Special Services and stated the Director didn't provide "direct services" and was not involved with the IEP. The Complainant stated the data provided did not align with the Student's annual goals and indicated there was no data collection measuring the Student's goal regarding breakfast and lunch manners.
31. The Complainant asserted the IEP team was only tracking attendance, arguing, avoiding tasks, profanity, and provoking behaviors. They indicated the Student's self-regulation goals were not addressed. The Complainant clarified the tracking tool did not have anecdotal data to measure the Student's goals.
32. According to the Complainant, the Student said the Paraprofessional had given the Student answers to the safety test in their jewelry-making class, and the Student had reported they did not know the answers. According to the Complainant, the Paraprofessional had access to the Student's "portal." The Complainant stated they had received an email after the IEP meeting from the Director of Elementary Special Services that the Student had been injured in their jewelry-making class and had to be treated by the nurse.

Witness 1 Interview

33. In an interview with the Complaint Investigator, Witness 1 shared they know the Complainant and the Student outside of school, and added, the Complainant "tells me things." They were requested to be a "witness" for "…some things that were not being done in [the Student's] IEP."
34. Witness 1 described the "things" the Complainant claimed were not being completed from the Student's IEP as, Witness 1 not being the paraprofessional at the High School for the Student, work not being modified, and no communication between staff and the Complainant. They stated, "Teachers are not following them" regarding IEPs.
35. Witness 1 stated that the Complainant received an email from the Director of Secondary Special Services indicating all communication would go through the Director of Secondary Special Services. Witness 1 shared the teachers and IEP manager would not respond to the Parent, the Director of Secondary Special Services would be the one to do so.
36. Witness 1 was unaware of the Student's progress monitoring.
37. Witness 1 recalled during the October 22, 2025, IEP meeting, they were asked to give their input on how best to serve the Student. They recollected the Teacher, Assistant Principal, PBS Teacher, as well as "another school principal," were in attendance.

Assistant Principal Interview

38. In an interview with the Complaint Investigator, the Assistant Principal was joined by the Director of Secondary Special Services.
39. The Assistant Principal and the Director of Secondary Special Services stated they were not aware of the document the Student had written after riding the bus on October 22, [2025]. The Assistant Principal stated the document had not been shared with them, and therefore, it did not get shared with the Director of Secondary Special Services.
40. The Assistant Principal stated the Paraprofessional was assigned to the Student "from day one of the school year" and had not changed. They shared the Student had a different paraprofessional in middle school who "wouldn't have followed" the Student into high school.
41. The Assistant Principal and the Director of Secondary Special Services recalled the staff who attended the IEP meeting in late October as the Assistant Principal, the Special Education Teacher, General Education Teacher 3, the Director of Elementary Special Services, the JROTC Instructor, the PBS Teacher, the Complainant, Witness 1, General Education Teacher 1, General Education Teacher 2, and the Associate Principal.
42. The Assistant Principal explained the IEP meeting was held virtually, with some teachers and the Complainant on their computers, and other teachers in the room with the Assistant Principal. They added Witness 1 participated via phone. They stated all virtual teachers had their cameras on.
    The Assistant Principal stated General Education Teacher 1 had shared how the Student was doing and then had to leave the meeting. They added the JROTC Instructor asked to step out at the "very end" of the meeting to get information to their class. The Director of Secondary Special Services recalled General Education Teacher 2 stayed the whole time. The Assistant Principal said it was typical for teachers to move in and out of the meeting to provide feedback. The Assistant Principal confirmed there were no individuals at the IEP meeting who were not supposed to be there.
43. The Assistant Principal recalled an email dated October 30, [2025], from the Complainant requesting records. The Assistant Principal stated they believed the records request was filled, but added, since it wasn't their role to complete it, they couldn't say for sure that it had been done.
44. The Assistant Principal stated they were not aware of anything being released to DCFS.

Special Education Teacher Interview

45. In an interview with the Complaint Investigator, the Special Education Teacher was joined by the Director of Secondary Special Services.
46. The Director of Secondary Special Services discussed an email from KVC Kansas stating someone from that organization reached out with some questions. The Special Education Teacher added the Complainant requested to be "kept in the loop" and that the worker from KVC had said they had the right to speak with "[the Student]." The

Special Education Teacher recalled it was regarding putting the Student on a list for adoption.

47. The Director of Secondary Special Services clarified the agency was reaching out with "vague" questions. The Director stated they directed staff to stop communicating with the agency because they did not have a release of information for them.
48. The Special Education Teacher described behavioral checklists used to track the Student's progress in attendance, whether they argued, avoided tasks, used profanity, or provoked others. The Special Education Teacher stated the checklists were completed daily by the Paraprofessional and sent home so the Complainant could see the documentation.
49. The Special Education teacher confirmed they completed the Student's October 8, [2025] progress reports with collaboration from the PBS Teacher. They noted the data used to complete the progress reports came from the daily behavior checklists. The Special Education Teacher stated the behavior checklists were not formalized grades. The Special Education Teacher explained the Director of Secondary Special Services sent the progress reports to the Complainant because of the communication plan, which required communication to come from a single person. The Special Education Teacher stated, before the plan and with other students, they emailed progress reports themself to parents. The Special Education Teacher confirmed they emailed it unless a parent specifically asked for something different, such as printing and mailing it home. They stated they did not recall the Complainant had asked for a printed copy of the progress report.
50. The Special Education Teacher stated they were notified at 7:16 a.m. the day after the Student had dental surgery that the Student would need "soft foods" beginning that day. They shared they contacted the cafeteria and let the Complainant know they would take care of it. The Special Education Teacher confirmed the accommodations for soft food were not formally added to the Student's IEP.
51. The Special Education Teacher confirmed the Paraeducator was aware of the Student's accommodations. They added they met with the Paraeducator in the morning and at the end of each day to discuss the implementation of the IEP. The Special Education Teacher noted they emailed the Student's accommodations to general education teachers at the end of September when they became the case manager. The Director of Secondary Special Services explained general education teachers got emailed copies of IEP accommodations and could request a printed copy at any time.
52. The Special Education Teacher stated they tried to have an IEP meeting with the Complainant in October, but were unable to have the meeting because the Complainant became "erratic." The Special Education Teacher recalled the Assistant Principal, the Associate Principal, the PBS Teacher, and General Education Teacher 3 attended the meeting. They added the JROTC Instructor was also in attendance. The Special Education Teacher noted the team makeup was typical for an IEP meeting. The Director of Secondary Special Services indicated there was additional administrator attendance to support staff due to the Complainant sending "threatening emails and

communication."

The Special Education Teacher was not aware of any teachers who were formally excused from the IEP meeting. The Director of Secondary Special Services confirmed no teachers were excused other than the JROTC Instructor, who left for a moment to check on their class. They added it was while the JROTC instructor was attempting to leave that the Complainant became "extremely disregulated."

53. The Special Education Teacher declared the Complainant never requested any meetings with them. They added the Complainant wanted to meet before the IEP meeting, "just to sit down and visit about [the Student] but stated it never happened. The Director of Secondary Special Services recalled the Complainant had reached out the week before the IEP meeting requesting to meet, to which the Director of Secondary Special Services agreed, but stated the Complainant never responded.
54. The Special Education Teacher could not recall the Complainant requesting records, and they were unaware of any records that were released to DCF.

Director of Secondary Special Services Interview

55. In an interview with the Complaint Investigator, the Director of Secondary Special Services stated their role with the LEA.
56. The Director of Secondary Special Services described their role in sending out documents to the Complainant. They stated it began after the communication plan was implemented. They explained the plan reduced the volume of communication with staff, eliminated communication with outside agencies without releasing information documents, and ensured there was one point of contact after the Complainant involved legal counsel.

    The Director of Secondary Special Services stated their role in the communication plan was established because of their knowledge of special education. They explained it was the team's collaborative decision to assign them to "protect the team" from threats they were receiving and to be the main point of contact for the legal counsel. They noted the team consisted of the Executive Director of Learning Services, the Superintendent, the LEA's legal counsel, and the principal of the high school.

    The Director of Secondary Special Services explained when the Special Education Teacher took over as case manager, they realized the Complainant needed "a lot more communication" and created a system to email the Complainant every two weeks with behavior data for the Student. The Director of Secondary Special Services took over that role when the communication plan began.
57. The Director of Secondary Special Services stated they did not receive a response regarding an email sent on October 16, [2025]. They recalled trying to determine if the Complainant was going to bring counsel for the Student, so the LEA could also plan to have counsel attend the meeting. They stated the Complainant never responded, and their legal counsel did not join the October 22, 2025, meeting, so the LEA did not have their legal counsel join either.

58. The Director of Secondary Special Services described over the past year, they repeatedly agreed with the Complainant even when the team felt it was "not in the best interest of the student." The Director of Secondary Special Services added they began working with the team to determine what the Student needed and stated if something was "unnecessary" and they had data to prove it, they would refuse the request and would continue to work "collaboratively" with the Complainant.
    The Director of Secondary Special Services stated the Complainant only reached out when they were upset and added it was not collaborative. They shared the Complainant had refused mediation opportunities and clarified the Complainant prefers to communicate via email. The Director of Secondary Special Services reported the formal complaints began in September [2025] and described being "quite involved" since then.
59. The Director of Secondary Special Services shared the Complainant continued to reach out to staff members and added staff forwarded the Complainant's emails. The Director of Secondary Special Services stated they worked directly with staff to figure out an appropriate response and what information they might need to be able to respond. The Director of Secondary Special Services noted Complainant 2 communicated more since the October 22, [2025] IEP meeting.
60. The Director of Secondary Special Services described being forwarded a records request from the Complainant. They shared the communication plan had already been established when the request was received. The Director of Secondary Special Services explained they were uncomfortable sending anything because they had been made aware the "educational advocacy component" was being terminated for the Complainant. They added they had knowledge the Student had been removed from the home for a week as of the date of the record request. The Director of Secondary Special Services confirmed they did not send anything to the Complainant after the request was made.
61. The Director of Secondary Special Services stated they had no knowledge of records being released to DCF. They stated they communicated with KVC, which was the foster agency they had a release of information with, while gathering information on the Student's living arrangements. They confirmed they never had a conversation with bus staff regarding an incident on October 22, [2025].
62. The Director of Secondary Special Services shared they had listened to the audio-recorded IEP meeting from October 22, [2025]. The Director of Secondary Special Services recalled the Complainant asking all staff to state their name and describe how they were connected to the Student. They shared a teacher describing meeting the Complainant at "[a student's] meeting." The Director of Secondary Special Services noted the teacher did not use a last name or other "identifiable information" and was "simply making a connection" with the Complainant that they had met before.
63. The Director of Secondary Special Services indicated the Paraprofessional who worked with the Student at the middle school was not the same as the one who was working with the Student at the high school. They clarified although staff changed, the Student's IEP services remained the same. The Director of Secondary Special Services clarified it

was not consistent with the "regulation" to send a PWN when staffing changes occur. The Director of Secondary Special Services explained the Complainant would have been notified of the staffing changes either at the end of the school year in June or in August, before school started back up. They added the Student's previous case manager was the staff member most likely to share the information.

Bus Paraprofessional Interview

64. In an interview with the Complaint Investigator, the Bus Paraprofessional was joined by the Director of Secondary Special Services.
65. The Bus Paraprofessional stated they were not assigned to the Student on the bus. They explained the Student sat on the other side of the bus, and the Bus Paraprofessional sat with a different student. The Bus Paraprofessional described having assigned seating on the bus.
66. The Bus Paraprofessional stated they were unable to recall an incident or conversation on the bus from October 22 or 23, [2025] and added they do not typically interact with the Student. The Bus Paraprofessional clarified they try to stay quiet because when they talk, it "adds more volume to the bus" and encourages other students to talk.
67. The Bus Paraprofessional indicated they were aware of the Student's IEP and BIP accommodations and had access to them through their school email on their school laptop. They stated they were aware of the measures they are supposed to take, the topics to avoid, and the redirection instructions.

Paraprofessional Interview

68. In an interview with the Complaint Investigator, the Paraprofessional was joined by the Director of Secondary Special Services.
69. The Paraprofessional described tracking the Student's behavior and stated that the Student was "a good kid" who self-regulated and "rarely" acted out. The Paraprofessional noted they document what the Student does throughout their day and added they support the Student for the entire day. The Paraprofessional clarified they are with the Student from the time they get out of a vehicle until they get back into a vehicle. They clarified they don't support the Student on the bus.
70. The Paraprofessional indicated they saved the behavior data at the end of the day and gave it to either the PBS Teacher or the Special Education Teacher, and added they were not sure what happened to it after that. They shared they met with the PBS Teacher "every morning" and met with the Special Education Teacher in the afternoons to discuss the Student's behavior.
71. The Paraprofessional reported the Student told them "once or twice" about the oral surgery. They stated they were aware the Student needed soft foods, but were not told when that expectation changed, adding the staff "just started giving [the Student] hard foods." The Paraprofessional noted the Student would get something they didn't like, but it was still a soft food.

PBS Teacher Interview

72. In an interview with the Complaint Investigator, the PBS Teacher was joined by the Director of Secondary Special Services.
73. The PBS Teacher described implementing the Student's BIP while in the PBS room. They stated the Student had a one-on-one support for their entire school day. The PBS Teacher noted when the Student argued, they gave the Student a directive about the situation being "non-negotiable." Additionally, the PBS Teacher shared the Student was not allowed to have any extra supplies other than just what was needed for the task. The Student did not have access to a Chromebook. If the Student was dysregulated, they were to be brought down to the PBS room to de-escalate for 5 to 10 minutes.
    The PBS Teacher shared when the Student became escalated, they questioned their situation, for example, why they couldn't have a Chromebook when the rest of the class could. They added the Student was "typically pretty calm" and smart, and added, de-escalation techniques focused on collaborative problem solving, the issue and finding a way to meet in the middle. The PBS Teacher reported the Student typically asked to come down when they were frustrated and didn't need to be told to go to the PBS room to de-escalate.
    The PBS Teacher noted the Student had come to the PBS room three times during the current school year to de-escalate. They recalled the Student stayed less than ten minutes before being able to return to class.
74. The PBS Teacher described the Student's accommodations as "centered around [their] one-to-one." They stated the one-to-one helped the Student wandering the halls, picking up things, and trying to trade them with other students. They explained many of the accommodations were solved by having an adult next to them continuously.
75. The PBS Teacher stated they talk with the Paraeducator "quite a bit" to get feedback on how the Student is doing in their classes, and then will talk to the general education teacher about accommodations, if there was an issue in class. The PBS Teacher recalled the Student's general education teachers received a "debrief" of the IEP and BIP at the beginning of the year. If they have questions after that, they would email the PBS Teacher or have an in-person conversation about accommodations.
76. The PBS Teacher explained when they received notice the Student needed soft foods, the kitchen staff brought yogurt to the PBS room within ten minutes so the Student would have immediate access to it. They added the kitchen staff forgot to cancel the Student's normal food order that first day, and it was delivered. The PBS teacher recalled telling the Student not to eat the regular food and to only eat the soft foods that were provided. They added the Student did not eat the regular food and stated it only happened that first day. They stated the Student ate soft foods for "roughly two weeks."
77. The PBS Teacher described the IEP meeting in late October as a hybrid meeting with some teachers in person, with other teachers and the Complainant participating virtually. They shared when the meeting started, the Complainant did not want to talk about "the future" or the new IEP and amendments the team wanted to make. The PBS

Teacher stated the Complainant wanted to talk about "historical events." They shared the meeting was "off track" from the start.

78. The PBS Teacher reported a teacher had asked to be excused to check on their class when the Complainant made a comment about "going to Hawaii" and something about "God." They described the Assistant Principal asking the Complainant if they were "okay." The PBS Teacher stated the Complainant "used some profanities" and yelled at the Assistant Principal, at which point they ended the meeting. The PBS Teacher stated the IEP meeting had not been reconvened because the Student was assigned a new educational advocate.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, implemented the IEP as written, including the Student's post-surgery medical supports, BIP, and accommodations, including one-to-one paraprofessional support. Additionally, whether USD #437 properly trained the assigned paraeducator on the contents of the IEP and their responsibilities for implementation. K.A.R. 91-40-16(b)(3-5); 34 CFR § 300.323(a)(d).

According to K.A.R. 91-40-16(b)(3-5), an IEP must be in effect for each exceptional child at the beginning of each school year. The child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.

Each teacher and provider must be informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Complainant alleged the LEA failed to implement the Student's IEP accommodations and post-surgery medical supports. Additionally, the Complainant alleged that on October 22, 2025, LEA staff engaged the Student in inappropriate conversations on the bus that violated their BIP. Finally, the Complainant alleged the LEA did not follow the Student's IEP as written and failed to properly train their assigned paraeducator regarding the provision of one-to-one paraprofessional support for transitions and supervision required by the IEP.

The LEA responded the Student's oral surgery was reported on Monday, October 20, 2025. The procedure and subsequent dietary needs were not related to the Student's IEP. Nevertheless, the team implemented the requested dietary changes immediately to ensure the Student's comfort and safety, even though the request fell outside the IEP's scope. The IEP team has consistently implemented the IEP as written.

Facts indicated the Student's post-surgery accommodations were not formally included in the IEP and therefore were not covered under the IDEA and Kansas state regulations. However, information provided indicated the Student was provided soft foods consistently for the duration of two weeks immediately following the oral surgery.

The IEP's staff training procedures indicated the one-on-one paraprofessional and bus staff needed to be trained on the Student's expectations, accommodations, and provided a copy of the BIP. The Paraprofessional and Bus Paraprofessional both confirmed they were aware of the IEP/BIP contents and accommodations. The Special Education Teacher also confirmed meeting with the Paraprofessional daily. Staff indicated they were unaware of an incident that occurred on the bus on October 22, 2025 and no reports were made.

According to the facts, the PBS Teacher described implementing the BIP, including the "non-negotiable" directive on arguments, restricted access to supplies, and one-on-one support. The Student utilized the PBS room for de-escalation three times and typically asked to go themselves. Behavior Tracking Sheets were used daily from September 8 to October 31, 2025, tracking "attendance, argue, avoid task, profanity, and provoke."

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to implement the IEP as written, including the Student's post-surgery medical supports, BIP, and accommodations, including one-to-one paraprofessional support. Additionally***, it is not substantiated*** the LEA failed to properly train the assigned paraeducator on the contents of the IEP and their responsibilities for implementation.

Issue Two

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, included or appropriately excused all required members of the IEP team for the October 22, 2025, IEP meeting. K.A.R 91-40-17(h)(i), K.A.R. 91-40-19(a); 34 CFR § 300.321(a)(e).

According to K.A.R 91-40-17(h)(i), a regular education teacher of an exceptional child, as a member of an IEP team, shall participate to the extent appropriate in the development, review, and revision of the child's IEP. This participation shall include assisting in determining the appropriate positive behavioral interventions and strategies for the child, the supplementary aids and services needed by the child, and the program modifications or supports for school personnel that will be provided to assist the child. If qualified to do so, an agency member of the IEP team may serve in the role of two or more required members of a child's IEP team.

According to 34 CFR § 300.321(a)(e), the public agency must ensure that the IEP team for each child with a disability includes the parents of the child, not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment), not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child, and a representative of the public agency who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, and is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the public agency. The team must also include an individual who can interpret the instructional implications of evaluation results. This may be a member of the team described above.

At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child may be included, such as related services personnel as appropriate, and whenever appropriate, the child with a disability.

A member of the IEP Team is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. A member of the IEP Team may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent, in writing, and the public agency consent to the excusal, and the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

The Complainant alleged the LEA failed to ensure all required IEP team members were present for the October 22, 2025, meeting.

The LEA responded all required IEP Team members were present at the October 22, 2025, annual IEP meeting.

The IEP Team Meeting Participants document for the October 22, 2025, meeting listed the following in attendance: General Education Teacher (2 listed), Special Education Provider, LEA Representative, The Complainant, Witness 1, Director of Elementary Special Services, High School Associate Principal, Speech-Language Pathologist, and Junior Reserve Officer Training Corps Instructor (JROTC). The Assistant Principal recalled one General Education Teacher sharing input and leaving, and the JROTC Instructor asking to step out at the end of the meeting. At least one general education teacher and all other required participants attended the entire IEP meeting. Additionally, it was noted the IEP meeting was ended before completion, and the IEP was not discussed per the Complainant's request.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to include or appropriately excuse any required members of the IEP team for the October 22, 2025, IEP meeting.

Issue Three

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided progress monitoring information as required. K.S.A. 72-3429(c)(3); 34 CFR § 300.320(a)(3).

According to K.S.A. 72-3429(c)(3), an IEP must include a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided, such as through the use of quarterly or other periodic reports issued concurrently with general education report cards.

The Complainant alleged the LEA failed to provide accurate and complete progress-monitoring data and issued reports from personnel who did not directly serve the Student.

The LEA Response indicated progress reports were emailed to the Complainant on October 16, 2025. Prior progress reports were provided on May 21, 2025, March 13, 2025, and December 23, 2024, consistent with district and state policy requiring reports each academic quarter. The IEP does not require more frequent reporting, and any other information that needed to be provided to the Complainant was provided.

Progress monitoring methods included "Daily data collection." The four goals in the IEP were to be measured by "Anecdotal Records." The Teacher emailed the Complainant the Student's weekly grades and behavior report on September 19, 2025. A formal Progress Report dated October 8, 2025, indicated "Progress [was] adequate to meet annual goal" for all four IEP goals. This report was emailed to the Complainant on October 16, 2025, along with grades and behavior data. The Special Education Teacher confirmed collaborating with the PBS Teacher to complete the October 8, 2025, progress reports using the daily behavior checklists.

Behavior Tracking Sheets were collected daily, tracking "attendance, argue, avoid task, profanity, provoke." The Complainant alleged the tracking tool lacked anecdotal data to measure all goals, specifically the breakfast and lunch manners goal. The Special Education Teacher confirmed the daily behavior checklists were used for the progress reports. Although the LEA did not provide data-collection sheets regarding the Student's goal around manners while eating, the Special Education Teacher provided anecdotal data for the goal on the Student's progress reports, which meets the reporting requirement.

Based on the foregoing, and in accordance with the IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to provide progress monitoring information as required.

Issue Four

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided adequate notice for the October 22, 2025 IEP meeting and afforded the Complainant the opportunity to participate. K.A.R. 91-40-17(a)(b)(1), K.A.R. 91-40-25(a)(2)(b)(c); 34 CFR § 300.322(a)(b).

According to K.A.R. 91-40-17(a)(b)(1), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include scheduling each IEP meeting at a mutually agreed-upon time and place and providing written notice to the parents at least 10 days in advance of any IEP meeting. The notice shall indicate the purpose, time, and location of the IEP team meeting and the titles or positions of the persons who will attend on behalf of the agency, including, if appropriate, any other agency invited to send a representative to discuss needed transition services.

According to K.A.R. 91-40-25(a)(2)(b)(c), each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the provision of FAPE to the child. Each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each meeting concerning their child or are afforded the opportunity to participate. These steps shall include scheduling the meeting at a mutually agreed-upon time and place and providing PWN of any meeting to the parents of the child. The notice required shall indicate the purpose, time, and location of the meeting and the titles or positions of the persons who will attend on behalf of the agency or at the agency's request.

The Complainant alleged the LEA failed to provide timely notice for the October 22, 2025 IEP meeting, and failed to schedule a requested pre-IEP meeting.

The LEA Response stated the Notice of Meeting for the October 22, 2025, IEP was sent on September 26, 2025. The Complainant signed an acknowledgment of attendance on September 30, 2025. On October 14, 2025, the Complainant requested a meeting before the IEP. The Special Education Director responded on October 17, 2025, offering to coordinate directly with the Complainant and the case manager to address any questions or concerns. This response was consistent with the communication plan established on October 14, 2025. The Complainant did not reply to this offer.

Facts showed a Notice of Meeting dated September 26, 2025, for the October 22, 2025, IEP meeting was signed by the Complainant on September 30, 2025, indicating they planned to attend. This provided at least 22 days' notice. The Complainant participated in the meeting virtually. The IEP team offered to reschedule when the Complainant stated they did not feel "prepared" to discuss a draft IEP sent that morning. The team instead agreed to address questions regarding the currently implemented IEP. The Complainant had an opportunity to participate until the meeting ended prematurely due to the Complainant's behavior.

Facts indicate the Director of Secondary Special Services emailed the Complainant on October 16, 2025, to inquire about legal representation for meeting planning. The Complainant had also formally requested a meeting before the IEP meeting, and the Director of Secondary Special Services had agreed. Still, facts indicated the Complainant never responded to confirm.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to provide adequate notice for the October 22, 2025, IEP meeting or failed to allow the Complainant to participate.

Issue Five

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided required PWN before changing the delivery of the Student's paraprofessional services when they transitioned from middle to high school. K.A.R. 91-40-26(a); K.S.A. 72-3430(b)(2); 34 CFR §300.503(a)(b).

According to K.A.R. 91-40-26(a), in providing any notice to the parent or parents of an exceptional child regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes a description of other options that the agency considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal.

According to K.S.A. 72-3430(b)(2), the parents of exceptional children shall have the right to PWN whenever an agency proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child.

The Complainant alleged the LEA failed to provide PWN before changing the Student's paraprofessional service, when they did not allow the Student's assigned, trained paraprofessional to move with the Student from middle school to high school.

The LEA responded that a change in individual paraprofessional staffing does not require PWN because it does not alter the student's identification, evaluation, placement, or provision of a FAPE. They added a notice is required only when the District proposes or refuses an action in these areas. The staffing adjustment did not modify the IEP; all paraprofessional support continued exactly as written.

When the Student transitioned from middle to high school, the Paraprofessional at the High School was different from the one in the Middle School. The change in the individual providing the service was not considered a change in service delivery by the LEA; therefore, a PWN was not required, as the Student's services did not change during the transition between schools.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide a PWN before changing the delivery of the Student's services when they transitioned from middle to high school, because services did not change; only the staff providing services changed.

Issue Six

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant access to inspect or review educational records related to the Student prior to the October 22, 2025, IEP meeting, and when requested by the Parent. K.S.A. 72-3430(a)(b)(1); K.A.R. 91-40-50(2); 34 CFR § 300.613.

According to 34 CFR § 300.613, each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency. The agency must comply with a request without unnecessary delay, before any meeting regarding an IEP, and in no case more than 45 days after the request has been made. The right to inspect and review education records includes the right to a response from the participating agency to reasonable requests for explanations and interpretations of the records, the right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records, and

the right to have a representative of the parent inspect and review the records. An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters.

According to K.A.R. 91-40-50(a)(2), "Education records" means any document or medium on which information directly related to one or more students is maintained by a participating agency. According to K.S.A. 72-3430(b)(1), the parents of exceptional children shall have the right to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a FAPE to such child.

The Complainant alleged the LEA failed to provide IEP materials when requested before the October 22, 2025, IEP meeting, and failed to produce other educational records, including IEP recordings, bus video and audio, and related communications when requested.

The LEA responded that the only time the Complainant made a request for records between September 11 and October 30 was at the October 22, 2025, meeting, when they requested a copy of the IEP. The IEP was sent to the Complainant at that time.

Facts show the Complainant emailed the LEA on October 30, 2025, requesting all educational records related to the Student and the October 22, 2025, IEP meeting. The Director of Secondary Special Services confirmed receiving the request but did not send anything to the Complainant because they

were “uncomfortable” sending records, having been informed of the termination of the Complainant's educational advocacy status and the Student's removal from the home for a week. The Complainant stated the LEA refused to acknowledge their request and did not provide documentation. Facts indicate the LEA did not provide the records and did not provide a PWN indicating why they were refusing the Complainant’s records request.

Based on the foregoing, according to IDEA and Kansas special education regulations, i***t is not substantiated*** the LEA failed to provide the Complainant access to inspect or review educational records related to the Student as the LEA had been notified the Complainant’s educational rights for the Student had been terminated.

However, the LEA violated K.A.R. 91-40-26 and 34 CFR §300.503 when written notice about the LEA’s refusal to provide the requested records to the Complainant at the time they were in the role of parent for special education decision making rights.

Issue Seven

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, maintained confidentiality of personally identifiable information related to an audio recording of an IEP meeting by naming a student who was not the subject of the meeting; and additionally, by disclosing confidential information, including portions of the audio recording containing personally identifiable information regarding the Complainant and the Student, to unauthorized agencies without obtaining written consent. K.A.R. 91-40-50(a)(2-3)(b); K.S.A. 72-6311(b); 34 C.F.R. §§ 300.610, 300.611, 300.622(a)(b)(1), 300.623(a); 34 C.F.R. §§ 99.30, 99.31(a)(10).

According to K.A.R. 91-40-50(a)(2-3)(b), "education records" means any document or medium on which information directly related to one or more students is maintained by a participating agency, and "participating agency" means any educational agency or institution that collects, maintains, or uses personally identifiable student information to provide special education and related services to children with disabilities.

According to K.S.A 72-6311(b), every board shall adopt a policy in accordance with the student data privacy act and applicable federal laws and regulations to protect the right of privacy of any student, or pupil and such pupil's family regarding personally identifiable records, files and data directly related to such student or pupil. Such procedures shall provide for means by which any student or parent of a pupil, as the case may be, may inspect and review any records or files directly related to the student or pupil, and restricting the accessibility and availability of any personally identifiable records or files of any student or pupil and preventing disclosure thereof unless made upon written consent of such student or parent of such pupil.

According to 34 C.F.R. § 300.622(a)(b)(1), parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with the law, unless the information is contained in education records, and the disclosure is authorized without parental consent under the Family Educational Rights and Privacy Act (FERPA).

Except as provided by law, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of the law.

According to 34 C.F.R. § 300.623(a), each participating agency must protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages.

According to 34 C.F.R. § 99.30, the parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided by law. The written consent must specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made. When a disclosure is made, if a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed, and if the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

“Signed and dated written consent” under this part may include a record and signature in electronic form that identifies and authenticates a particular person as the source of the electronic consent, and indicates such person's approval of the information contained in the electronic consent.

According to 34 C.F.R. § 99.31(a)(10), an educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by law if the disclosure is in connection with a health or safety emergency.

The Complainant alleged that during an audio-recorded IEP meeting, the LEA named a student who was not the subject of the meeting. Additionally, the Complainant alleged the LEA disclosed confidential information, including a portion of the audio recording containing personally identifiable information related to the Complainant and the Student, to outside agencies without written consent.

The LEA denied any allegation of violating any federal or state student privacy laws. It made no unauthorized disclosures of student information and maintains student confidentiality. The Complainant alleged the team discussed another student during the meeting. As introductions were being made, one teacher introduced themself and mentioned to the Complainant that “we met at [student’s first name] meeting last year.” Nothing more was said, and the last name of the student was not mentioned.

During the October 22, 2025, IEP meeting, an IEP Meeting Transcription indicated the Complainant mentioned a teacher stating they met the Complainant at an "[Unknown Student]'s meeting," and the Complainant denied having a student by that name. The Director of Secondary Special Services recalled the teacher only mentioning meeting the Complainant at a "student's meeting" without using a last name or other identifiable information, intending to "simply mak[e] a connection." The teacher the Complaint claimed made the comment was not in attendance at the IEP meeting on October 22, 2025, and the Complainant is the only one who mentioned the [unknown student’s] name during the meeting.

The Complainant alleged the LEA "released" the audio recording of the Complainant in "medical distress" to DCF and described it as "retaliation." The Complainant stated they did not provide a release. The Assistant Principal, Special Education Teacher, and Director of Secondary Special Services were unaware of any release to DCF. The Director of Secondary Special Services confirmed communicating with KVC (a foster agency) with a release of information while gathering information on the Student's living arrangements. An undated Recording Communication document specified the recording was given to

the Board Clerk for "transcription" and was accessed only by LEA personnel and legal counsel "acting in official capacity." An undated Consent for Release to Third Party document stated no written consent was needed and that the recording was not "released" or "shared" with any third-party entities.

Based on the foregoing, and in accordance with the IDEA and Kansas special education regulations, it is not substantiated the LEA failed to maintain the confidentiality of personally identifiable information related to an audio recording of an IEP meeting by naming a student who was not the subject of the meeting. Additionally, based on the foregoing, according to IDEA and Kansas special education regulations*, it is not substantiate*d the LEA failed to maintain confidentiality of personally identifiable information to unauthorized agencies without obtaining written consent.

Issue Eight

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Student a FAPE, specifically related to the implementation of the IEP as written, and training the paraeducator on the IEP contents and their responsibilities for implementation. K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-1(z), a FAPE means special education and related services are provided at public expense, under public supervision and direction, and without charge, meet the standards of the state board, include an appropriate preschool, elementary, or secondary school education, and are provided in conformity with an individualized education program.

According to 34 CFR § 300.101, a FAPE must be available to all children residing in the State between the ages of 3 and 21. Each State must ensure that the obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday and an IEP or an IFSP is in effect for the child by that date. Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade. The determination that a child is eligible must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

The Complainant alleged the LEA failed to provide a FAPE by not implementing the IEP as written and not training the paraeducator on the IEP contents and their responsibility for implementing it.

The LEA responded it continues to implement the IEP with fidelity. The assigned paraprofessional had received appropriate training and support to carry out IEP requirements. The Student has not been denied a FAPE. The LEA affirmed that all services, supports, and procedural requirements under the IDEA have been implemented as written. The LEA responded it remained in full compliance with the corrective actions from previous investigations and continued to ensure that all staff were trained and all IEPs were implemented with fidelity. The LEA was committed to maintaining transparent, lawful, and collaborative practices in support of every student’s access to a FAPE.

The provided facts show the IEP was in place, services were provided, and the LEA documented daily progress tracking for selected behaviors and provided progress reports indicating adequate progress toward all goals. LEA staff interviews generally confirmed the training of the Paraeducator. Although the findings suggest the LEA failed to provide a PWN when it refused to provide records due to the Complainant's guardian status change, this did not affect the Student’s access to a FAPE.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Student a FAPE, specifically regarding the implementation of the IEP as written and training the paraeducator on the IEP contents and their responsibilities for implementation.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at K.A.R. 91-40-26 and 34 CFR §300.503; specifies each participating agency must provide a PWN to the parent when taking action, including refusing a parent request. In this case, the evidence supports the finding that USD # 437 did not provide a PWN to indicate they were refusing the Complainant's request to access to the Student's records.

Based on the foregoing, USD #437 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #437 shall submit a PWN to the Complainant, which indicates the LEA's refusal to provide the requested documentation due to the Complainant's change in educational decision-making status.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 437
Auburn-Washburn Public Schools: 26FC437-005

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on October 30, 2025 on behalf of -------, by --------, the student's former Education Advocate. In the remainder of this decision, Ms. Hall will be referred to as "the complainant," and Trevor will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on December 1, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, and the school district's notice of appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

There were seven issues presented in the complaint. A violation was substantiated for only Issue 6. The district filed an appeal to address that issue.

Issue Six

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant access to inspect or review educational records related to the Student prior to the October 22, 2025, IEP meeting, and when requested by the Parent. K.S.A. 72-3430(a)(b)(1); K.A.R. 91-40-50(2); 34 CFR § 300.613.

The investigator concluded as follows:

> Based on the foregoing, according to IDEA and Kansas special education regulations, it is not substantiated the LEA failed to provide the Complainant access to inspect or review educational records related to the Student as the LEA had been notified the Complainant's educational rights for the Student had been terminated.

The investigator then added:

> However, the LEA violated K.A.R. 91-40-26 and 34 CFR §300.503 when written notice (PWN was not provided) about the LEA's refusal to provide the requested records to the Complainant at the time they were in the role of parent for special education decision making rights. (Report, p. 38).

The district's appeal asserted that:

1. The District was informed by the foster agency that the student was living in a different home, and that the Complainant was no longer the educational advocate, and
2. A PWN's function is to inform a parent, guardian or educational advocate of proposed changes to identification, evaluation, placement or implementation of the IEP… Prior written notice is not required in relation to access to records under IDEA or Kansas regulation.

The Appeal Committee agrees with the district.

The complainant made a request for a copy of the student's IEP at an October 22, 2025 meeting and the district promptly provided that IEP (Report, p. 38). On October 30, 2025, the complainant requested all of the student's education records. The complaint report gave this summary:

> *Facts show the Complainant emailed the LEA on October 30, 2025, requesting all educational records related to the Student and the October 22, 2025, IEP meeting. The Director of Secondary Special Services confirmed receiving the request but did not send anything to the Complainant because they were "uncomfortable" sending records, having been informed of the termination of the Complainant's educational advocacy status and the Student's removal from the home for a week. (Report, p. 38)*

The investigator found a violation only because the district did not use a PWN when it refused to provide the complainant with requested records.

As the district asserted in its appeal, a PWN is required whenever a district proposes, or refuses, to initiate or to make a change involving the identification, evaluation, educational placement, or a change in services for a child with a disability. A request for access to education records is none of those. Accordingly, the district's obligation is to respond to such requests within 45 days (34 C.F.R. 300.613), but there is no requirement to respond with a PWN.

For these reasons, the Appeal Committee finds that a PWN was not required to refuse the complainant's request for the student's education records.

Conclusion

For the reasons stated herein, the conclusion in the Complaint Report that a violation occurred when the district failed to use a PWN to respond to a records request is overturned. The Corrective Action is rescinded.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 23rd day of December, 2025.

Appeal Committee

Hannah Miller
Brian Dempsey
Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #418
ON OCTOBER 30, 2025

DATE OF REPORT: DECEMBER 4, 2025

This report is in response to a complaint filed with our office by ----- on behalf of her daughter, -----. For the remainder of this report, ----- will be referred to as "the parent" or the "complainant." ----- will be referred to as "the student."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. For the remainder of this report, USD #418 and the McPherson County Special Education Cooperative will be referred to as "the LEA."

Investigation of Complaint

The investigator spoke by telephone with the Executive Director for the special education cooperative on November 3, 2025.

The investigator spoke by telephone with the parent on November 6, 2025.

In completing this investigation, the complaint investigator reviewed the following materials:

- IEP for the student dated October 8, 2024
- IEP Amendment for the student dated September 2, 2025
- IEP for the student dated October 2, 2025
- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent dated October 2, 2025
- 2025-26 Public School Calendar for the LEA
- PowerSchool SIS Log Entries regarding the student's attendance during the period of September 2 through October 23, 2025
- Request for Medication to be Administered at School dated October 15, 2025

Background

This complaint involves a 7-year old girl who - between September 2 and October 24, 2025 - attended her neighborhood elementary school as a second grader.

According to the parent, the student has been given diagnoses of both Autism and ADHD. The student received special education services in both general and special education settings and had attendant care services during lunch and recess and when toileting. Additionally, she received both speech/language and occupational therapy services.

The parent has withdrawn the student from school and is now providing home-schooling for her daughter. The student is not currently receiving any special education services from the LEA.

Issues

Formal complaint is one of the methods available to parents of children with exceptionalities or others when trying to resolve special education disagreements with an LEA. A formal complaint must allege that - within the 12-month period prior to the receipt of the written complaint by the Kansas State Department of Education - a violation has occurred with regard to the requirements of the Individuals with Disabilities in Education Act (IDEA), the Kansas Special Education for Exceptional Children Act, or the corresponding federal or state regulations. A complaint investigator is only authorized to investigate violations covered under these laws.

Not every issue that arises with regard to a student who receives special education services will be covered under special education statutes and regulations. There may be times when an allegation may involve more than one law. In those situations, the complaint process will address only those aspects of the allegation that are covered under special education statutes and regulations. If an allegation is not covered under special education laws, that allegation will not be addressed by the investigator.

In her complaint, the complainant identified three issues.

Issue One

The parent suspects that the student has been abused while at school.

Position of the Complainant

It is the position of the parent that the student has on more than one occasion been physically abused while at school. The parent alleges that staff has physically abused the student or has allowed other students to physically abuse her. According to the parent, when she asked the teacher about the bruising she had observed on the student, the teacher brushed it off" and

assured the parent that someone was always with the student and stated that staff would "keep more of an eye on her."

Applicable Statutes and Regulations

In Kansas, allegations of child abuse are investigated by the Kansas Department for Children and Families (DCF) and law enforcement agencies. The primary point of contact for reporting suspected child abuse is the Kansas Protection Report Center (1-800-922-5330). Reports can be made electronically through the Kansas Intake/Investigation Protection System (KIPS).

A complaint investigator does not have the authority to investigate allegations of abuse. Therefore, *this issue was not investigated*.

Issue Two

The parent believes that the building principal did not respond properly to the parent's request to observe the student in the classroom setting.

Position of the Complainant

According to the parent, she went to the student's school to speak with the nurse and to inquire about the possibility of sitting in class with the student to observe her. The parent asserts that when the student's teacher came out to speak with the parent, the teacher told the parent that the principal would have to be consulted regarding an observation. The parent reports that when the principal came to meet her, the principal told the parent that she would have to "schedule an observation."

It is the position of the parent that the principal treated her rudely and denied the parent's request for an observation stating it was a "breach of confidentiality for other students" in the classroom.

Applicable Statutes and Regulations

The Elementary and Secondary Education Act (ESEA), currently reauthorized as the Every Student Succeeds Act (ESSA), includes, in Section 8101, the following:

> *(39) PARENTAL INVOLVEMENT - The term 'parental involvement' means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring -*
>
> *(A) that parents play an integral role in assisting their child's learning;*
>
> *(B) that parents are encouraged to be actively involved in their child's education at school;*
>
> *(C) that parents are full partners in their child's education and are included, as appropriate, in decision making and on advisory committees to assist in the education of their child;*
>
> *(D) the carrying out of other activities, such as those described in Section 1116.*

Section 1116 (Parent and Family Engagement) includes the following statement:

> *"(d) SHARED RESPONSIBILITIES FOR HIGH STUDENT ACHIEVEMENT*
>
> *...each school served under this part shall jointly develop with parents for all children serviced under this part a school-parent compact...Such compact shall -*
>
> *(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum -*
>
> *(A) parent-teacher conferences in elementary schools, at least annually ...*
>
> *(B) frequent reports to parents on their children's progress;*
>
> *(C) reasonable access to staff, opportunities to volunteer and participate in their child's class and* ***observation of classroom activities*** *(emphasis added); and*
>
> *(D) ensuring regular two-way, meaningful communication between family members and school staff..."*

ESSA does not offer any rules regarding parents visiting classrooms. IDEA does not specifically address classroom visits (although the law does support the empowerment of parents in the special education process), nor does FERPA (the Family Educational Rights and Privacy Act) - a law addressing the protection of student privacy. The development of policies and procedures regarding classroom observations by parents is, therefore, left to school districts.

Investigative Findings

In Section K (General Public Relations) of its Board of Education Policies, the LEA includes information with regard to "Visitors to the Schools:"

> *"The board encourages patrons and parents to visit district facilities. Patron visits shall be scheduled with the teacher and the building principal.*
>
> *Notices shall be posted in school buildings to require visitors to check in at the office before proceeding to contact any other person in the building or on the grounds.*
>
> *Any person who visits a building and/or grounds of the district will be under the jurisdiction of the building principal who shall be responsible for developing rules and regulations governing the presence of visitors in the buildings."*

The "Elementary School Handbook (Pre-K - 5th) for Students and Parents" for the 2025-26 school year includes the following statement under the section entitled "Visitors at School:"

> *"Parents are welcome to visit classrooms or eat lunch with their child. Please check into the office and receive a visitor badge. The suggested time length for classroom visits is 30 minutes or less. In order to protect the educational programs from undue disturbance, visitors are requested to make visitation arrangements in advance through the classroom teacher...For student safety, all visitors must check in the office upon entering the building."*

Summary and Conclusions

Once the investigator confirmed that this allegation did not involve a violation of FAPE (free appropriate public education)*, this issue was not considered further*. While encouraging active parental involvement with regard to the provision of special education services for their children, special education statutes and regulations do not address policies and practices related to classroom observations by parents. The development and implementation of these policies are left up to the district. A complaint regarding the administration of the LEA's Board policies regarding classroom visits by parents would be properly directed to district administration or to the Board of Education for the district.

Issue Three

The LEA has not followed doctor's orders when administering medications to the student at school.

Parent's Position

While unable to identify any specific dates, the parent asserts that on more than one occasion when she had gone to the school between 1:00 and 1:20 PM to pick the student up from school for outside speech services, staff was unsure as to whether the student had received her medication. The parent states that the student was to receive her medication after lunch which, according to the parent, is at or before 11:40 AM.

Position of the LEA

It is the position of the LEA that while the student's IEP does not include a Health Care Plan and did not require that the student receive any specialized nursing services, the LEA did comply with the provisions of a medication plan - a plan required for any student who receives medication at school. The LEA contends that the student's medication plan was followed by building staff and that medications were administered appropriately on all days when the student was in attendance and present during the portion of the school days when medication was to be administered.

Applicable Statutes and Regulations

At 34 C.F.R. 300.8, federal regulations define a "child with a disability" in part as a child with "an other health impairment." "Other health impairment" is defined as "having limited strength, vitality, or alertness, including a heightened alertness to environment, that—

- Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and
- Adversely affects a child's educational performance.

The IEP Team for a student must identify each of the child's educational needs that result from their exceptionality and determine how to address those needs in order to ensure that he or she receives educational benefit.

Investigative Findings

When developing the October 8, 2024 IEP for the student, her IEP Team - which included the parent - considered her health needs. In response to the question "Does this student take Medications? If yes please explain below," the team wrote

> *"...[The student] takes medicine to help her sleep and for mood regulation..."*

A question in the "Health" section of the student's October 8, 2024 IEP reads, "Does this student require a Health Care Plan?" That question was answered, "No."

No changes were made to these entries when the student's IEP was amended on September 2, 2025 or at the annual IEP review on October 8, 2025. The parent was in attendance for both of these meetings.

The "Medication" section of the LEA's Elementary School Handbook (Pre-K - 5th) for Students and Parents contains the following statement:

> *"When medication is necessary in order that the student remain in school, a "Permission to Medicate" form signed by the family physician must accompany the medication or treatment to be administered by school personnel. All medications, including prescribed and over-the-counter (e.g. aspirin, cough drops) are to be brought to school office in the original container, so that the "Permission to Medicate" procedures can be followed."*

According to the LEA, a doctor's order for the administration of medications to the student while at school was received and a "Nursing Care Plan" for the student was developed by the school nurse on September 3, 2025. The care plan for the student provided by the LEA shows that "5 ml" of Methylphenidate was to be administered to the student "after lunch." That dosage was reduced to 3.75 ml on October 20, 2025 after the LEA received a form signed by the parent and the student's physician approving that change.

Medication was administered to the student before school by her mother. By report of the school nurse, the student's medication was administered at school around 1:00 PM each day approximately 60-90 minutes after the student's 11:20 AM to 11:40 AM lunch. A staff member brought the student to the nurse's office each day; two people (a nurse and another staff member) were always present when medication was given.

The "Medication Administration Record" maintained by the LEA shows that a Licensed Practical Nurse and two other "non-nursing school personnel" had been trained in the administration of the student's medication and, "at the discretion of the school nurse (RN)" could carry out the task of administering the student's medication.

Based upon the school district calendar, school was in session on 34 days between September 3 and October 24, 2025. The medication record shows that the medication was administered to the student by the school nurse (RN) on 17 of these 34 days. She received medications from other designed staff on 10 days.

The attendance record for the student shows that the student missed all or part of 16 school days during that same time period. According to the record, the student had a "weekly standing appointment" for an outpatient therapy session conducted between 10 and 11 AM on Thursdays; the parent brought the student to school following those sessions, typically arriving between 11:45 AM and noon. The parent also picked the student up from school on a weekly basis on Tuesdays for an out-of-town speech therapy appointment at 2:30 PM. According to the parent, she typically arrived at the school between 1:00 and 1:30 PM; the student did not return to school following those sessions.

On 7 of the 16 days when the student missed all or part of her school day (September 4, 10, 11, and 22 and October 1, 6 and 14, 2025), attendance log entries for the student show that she was not present to receive her medication after lunch during the 1:00 to 1:30 time frame. The medication record shows that the student was absent and did not receive her medication on Thursday, September 4, 2025. While it was standard practice for the parent to bring the student to school after her outpatient therapy session, the log entry regarding attendance for that date indicates that the student was absent for "appointments."

Summary and Conclusions

When developing IEPs for the student in October 2024 and September and October 2025, the student's IEP Team - which included the parent - did not address the administration of prescription medications to the student during the school day. The student's IEPs did not during the period of October 8, 2024 and October 25, 2025 require the LEA to provide daily medication to the student during the school day.

General school policies allow for a student to be given such medications so long as established procedures are followed. With the permission of the student's physician and the parent, a plan was developed which allowed the school nurse and other trained staff to provide daily medications to the student during school hours - "after lunch." These medications were administered to the student around 1:00 PM daily.

While the parent asserted that staff sometimes seemed unclear as to whether or not the student had received her daily medications, records provided by the LEA show that the medication plan was followed and the student received her medications every day that she was in school at the designated time - which sometimes coincided with the arrival of the parent to pick the student up to take the student to outside speech/language therapy.

Under the circumstances described above, a violation of special education statutes and regulations *is not substantiated* with regard to this issue.

Corrective Action

Information gathered in the course of this investigation has not substantiated noncompliance with special education statutes and regulations on issues presented in this complaint. Therefore, no corrective actions are ordered.

Diana Durkin

Diana Durkin

Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON NOVEMBER 5, 2025

DATE OF REPORT: DECEMBER 10, 2025

This report is in response to a complaint filed with our office on behalf of a student, -----, by the Complainant, -----. In the remainder of the report, the student will be referred to as "the Student" and the complainant as "the Complainant."

The Complaint is against USD #437 Auburn/Washburn Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #437.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on November 5, 2025, and the 30-day timeline ended on December 5, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's Individualized Education Plan (IEP), including the specific accommodations, modifications, and supports that must be provided in accordance with the IEP. K.A.R. 91-40-16 (b)(2)(3)(4)(5); 34 CFR § 300.323 (a)(c)(1)(2)(d)(1)(2).

NOTE: The Complaint Investigator reviewed the core issues presented in KSDE 26FC437-002 and in this Complaint, KSDE 26FC437-007, which both alleged the LEA's failure to implement the Student's IEP pursuant to the IDEA. However, the scope of this particular review focused solely on the language of the KSDE 26FC437-007's allegation regarding accommodations, modifications, and supports and was confined to the timeframe of September 12, 2025, through November 5, 2025.

ISSUE TWO: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the Student's IEP when the Complainant provided documentation regarding medication to support the Student's behavior in school. K.A.R. 91-40-16 (a), K.A.R. 91-40-18(b); K.S.A. 72-3429 (B)(b)(1)(4)(B)(c)(4); 34 CFR § 300.324 (a)(6)(b)(1)(ii)(C)(D)(E).

NOTE: The Complaint Investigator determined during the interview process the "documentation" referred to in this allegation was the October 27, 2025 physician's note.

ISSUE THREE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant with a Prior Written Notice (PWN) when there were changes to the Student's health plan needs that affected the identification, evaluation, or educational placement of the Student, or the provision of a free appropriate public education (FAPE). K.A.R. 91-40-26 (a)(1)(2)(c)(3); 34 § CFR 300.503(a)(1)(b).

NOTE: The Complaint Investigator determined during the interview process this issue referred to the provision of the physician's note on October 27, 2025 and the administration of the "as needed" (PRN) medication.

ISSUE FOUR: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, denied the Student access to a FAPE when they failed to provide the services and accommodations listed in the Student's IEP. K.A.R. 91-40-2 (a)(1)(2)(e); 34 CFR §§ 300.17, 300.101.

NOTE: As this allegation is related to Issue One, the Complaint Investigator determined the investigation of this issue was confined to the timeframe of September 12, 2025 to November 5, 2025.

Investigation of Complaint

The Complaint Investigator interviewed the Resource Parent on November 24, 2025 and the Complainant on November 25, 2025. The following LEA staff were interviewed on December 4, 2025: The Director of Special Education, the Case Manager, the Nurse, and the School Psychologist.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

LEA Materials

1. PWN, 09/29/25
2. Notice of Meeting, 10/21/25
3. IEP, 12/17/24

4. Attendance Summary by Term, 2025-26 School Year
5. Authorization for Administering Medications to Children and Youth Long-Term Medications (Prescription and Non-Prescription), 11/03/25
6. Agenda for Parent Meeting on 10/28/2025, 10/28/25
7. Progress Report, 10/08/25
8. Authorization for Administering Medications to Children and Youth Long-Term Medications (Prescription and Non-Prescription), 07/30/25
9. Authorization for Administering Medications to Children and Youth Long-Term Medications (Prescription and Non-Prescription), 06/01/25
10. Authorization for Administering Medications to Children and Youth Long-Term Medications (Prescription and Non-Prescription), 12/10/24
11. Request to Administer Medication, 08/14/24
12. Request to Administer Medication, 08/13/24
13. Nursing Care Log, 2024-25 School Year
14. Nursing Care Log, 2025-26 School Year
15. High School Transcript, 11/14/25
16. PWN, 10/16/25
17. IEP Amendment Between Annual IEP Meetings, 09/29/25
18. [The Student's] Schedule, 08/29/25
19. Title Page - Training Plan, no date
20. IEP Fidelity & Support System for [the Student], no date
21. Fidelity Conversation Log, 10/28/25-11/19/25
22. IEP Amendment Between Annual IEP Meetings, 11/19/25
23. PWN, 11/19/25
24. Daily Data Sheets, 09/12/25-11/05/25
25. Emails from September 10, 2025 through November 3, 2025

Complainant Materials

1. Parent Authorization to Administer Medication at School, 10/27/25
2. Emails from October 27, 2025 through October 29, 2025

Background Information

This investigation involved a tenth-grade student enrolled at a School in USD #437. The Student is currently receiving special education or related services as a child with autism per the IDEA. The Student was described as being observant and relational.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant, the Resource Parent, and staff in the LEA.

1. An IEP dated December 17, 2024, indicated:
    a. Present levels were described and goals were written for academic and functional needs.
    b. The Student's behavior impeded their learning or that of others, and the behaviors were addressed by a Behavior Intervention Plan (BIP) and goals/accommodations. The Student experienced communication/assistive technology needs.
    c. A checkmark indicated the Student did not have a documented health condition that impacted their involvement and progress in the general education curriculum, the general education setting, and other education-related settings.
    d. A BIP and Positive Behavior Support (PBS) plan dated May 24, 2024, was incorporated into the IEP and included:
        i. Problem and precursor behaviors.
        ii. Precursor behaviors included: "Anxious vocal sounds (ie: whining, crying[,] grumbling), face scrunching, hit[ting] the table, grabbing staff's hand, forceful high-5, heightened vocal pitch and point to what [the Student] sees as wrong, restlessness, requests to leave the area for a preferred area to straighten up or pick (bathroom, kitchen, cluttered area). [The Student] sees replacement clothing, laundry[-]related items (basket, washer/dryer, laundry soap, dryer sheets, etc. [The Student] notices an imperfection in [their] clothing, such as a tiny hole in [their] shirt. [The Student] will point to the sink and [their] cup. [The Student] will use [their] talker to tell staff that [the Student] needs water, beyond the water intake of [their] same[-]age peers. [The Student] will watch to see if [their] staff is paying attention to [them]."
        iii. Setting events and antecedents included the following: hunger, a staff change, sensory needs, non-preferred tasks, new tasks or a change in routine, unclear expectations, unstructured time, not being offered choices, being told no, hearing laundry discussions or discussions about bathroom incidents, had uncomfortable clothing or diarrhea, a lack of staff engagement, and a new/different setting.
        iv. Hypotheses were listed.
        v. According to the BIP, "As soon as precursor behaviors are displayed, staff should refer [the Student] to the icons on [their] desk for break, calm down room, help and then immediately provide what [the Student] requests (ie. 'What do you need/want?')." The following replacement behaviors were listed:
            1. "If [the Student] chooses a break, provide [them] with a choice board (array of 5 sensory choice icons or less)."
            2. "If [the Student] chooses the break area, offer the door to be open or shut then provide [the Student] space."

3. "If [the Student] does not choose an icon, staff will point to the calm down icon and say, 'Do you need the break [sic]?' If yes, walk with [the Student] to the calm down space and say, 'Open or shut?' while presenting icons of open[,] then set a timer for 3 minutes[.] [S]hut and provide space."
4. "If [the Student] does not choose the break on [their] own, staff will say, 'Are you ready to work or do you need a break?' [The Student] will use [their] communication device to say 'I need a break' or 'ready to work.' If [the Student] says [the Student] needs a break[,] [the Student] is guided to the break area. If [the Student] says [the Student] is ready to work, [the Student] is then reminded[,] ['W]hen we work[,] we have nice hands, feet, and body.'"
5. "Teach [the Student] the process of asking for a break with modeling."
6. "Teach flexibility of thought, boundaries, my turn your turn language."
7. "Two rooms will be available to [the Student]. One is a calm[-]down room and one is for seclusion following district guidelines."
8. "If [the Student] begins to engage in escaping behavior, staff should refer to [the Student's] visuals and/or timer to remind [the Student] of expectations. Staff should continue to show [the Student] the visual of expectations and engage with [the Student] in a positive manner. [The Student] should also be offered sensory items that relate to given activities that [the Student] can be shown how to request."
9. "If [the Student] is obsessing over the restroom or laundry, staff should redirect [the Student] to [the Student's] scheduled activity. [The Student] should not be given choices. Staff should use common language, such as '[W]e are working.' Remove as many precursors and/or settings. For example, do not let [the Student] … see or hear discussions regarding the bathroom or laundry. Do not let [the Student] see [their] dirty clothes. Engage with [the Student] and maintain a safe, close proximity."

vi. Proactive strategies for staff were described:

1. "Ensure that [the Student] has access to two staff members who are trained in de-escalation strategies and who are familiar with [the Student's] routines and behavior plan."
2. "Ensure that [the Student] has access to two staff members who know how to access additional help for emergent situations, such as knowing the number for the office and knowing the location of the intercom button."
3. "Ensure that staff are aware of the [Lorazepam] PRN medication that the nurse keeps available to [the Student]."
4. Stimulate and engage the Student, pre-teach routines, and educate in a familiar setting with familiar staff, preferably a large male.
5. Provide the Student with a cubicle or partition to visually separate them, and pre-teach common phrases, including:

   a. "'Ready hands,' means to have [the Student's] hands folded and on the table."
   b. "'We are ___.' stated firmly is a reminder of the expectation."
   c. "'Stop,'"stated with the ASL sign, is a firm way to remind [the Student] to stop straying from the expectation."
   d. ""'I do'" or 'You do,' to indicate who is supposed to do the current task."
6. Provide verbal expectation reminders before and during transitions, and praise the Student during and after the expectation.
7. "Embed frequent non-contingent structured breaks doing preferred activities … using a structured mini schedule."
8. Reinforce with a thumbs up or verbal praise rather than items or physical handshakes or high-5s.
9. Offer choices, hallway walks (not during passing period), and social stories.
10. "Describe, Name, Acknowledge when [you] see aggressive behavior; Describe - name what [the Student] did; Name - how [the Student] feels; Acknowledge - what it is [the Student] wants to do."
11. Refer to the accommodations list, engage with the Student during breaks, provide icons for communication, and for known tasks, use least-to-most prompting.
12. For new targets and when precursor behavior occurs, use most-to-least prompting.
13. Utilize a finish tub for completed work tasks, increase age-appropriate structured activities, and rotate activity options frequently.
14. Teach what on-task behavior looks like, boundaries, and turn-taking language.
15. "SLEEP: bright lights, high rates of engagement, novel and engaging tasks, high rates of reinforcement, remove access to the area that [the Student] sleeps in."
16. "BATHROOM: visual instruction, visual schedule to show when [the Student] can have access, clear expectation, precorrection; supervision; special education bathroom should be used primarily when it is available. In the event it is unavailable, the general education restroom will be utilized. Staff need to provide supervision while [the Student] is in the restroom. Staff should provide assistance with cleaning self and properly washing and drying hands until [the Student] [is] able to successfully complete those tasks without assistance. Staff will take paper towels to the bathroom with them for [the Student] to use."
   a. "Staff will perform expected bathroom behaviors, call out to see if the bathroom is occupied, perform a toilet/trash check, stand in the doorway to supervise, and refer to the reactive strategy section for bathrooming."
17. For the gym and eating inedible objects, provide sensory needs/opportunities, clear expectations, visual supports, and precorrection.

18. For bussing, provide social reinforcement or a book, and pair positives with the driver and the paraprofessional.
    The Student should sit on an aisle away from the window and peers, and a staff member will ride the bus with the Student. A copy of the BIP should be on the bus.
19. Soiled clothing storage should be in an area the Student is not able to access. Communicate restroom and laundry issues via email so the Student does not see or overhear.

vii. Regarding reactive staff strategies, "At first indication of aggressive behaviors such as head banging and whining, contact the nurse to administer PRN medication. This should be a known procedure by [the Student's] staff, administration, and the nursing staff to prevent questions during a time of crisis." Reactive Strategies included the following:

1. Expectation reminders, showing visuals, changing activities, and offering preferred items and breaks.
2. "If [the Student] displays aggression, staff will say[,] 'Go to the calm down space' and guide [the Student] while using protective mats. Staff will offer the door to be open or shut with icons[.] [T]hen set the timer for [three] minutes and provide space. If [the Student] continues to be aggressive towards staff, and [the Student] is unsafe, administration will be called to support for seclusion."
3. "SLEEP: only there for a short period of time and have engaging activities available in another area of the room."
4. "BATHROOM: visuals of expectations and schedule, redirect attention to engaging and preferred activities. If clothing is ripped or soiled, change immediately and quickly. Remove dirty clothes from sight."
5. "GYM EATING NONEDIBLE OBJECTS: remind with visual instruction storyboard, redirect attention to engaging and preferred activities."
6. For aggressive behaviors inside the classroom:
    a. "Staff will say and sign[,] '[S]top/no' and 'I don't like hitting/kicking/head butting' in a firm tone of voice and a firm stop sign."
    b. "Staff will move away from [the Student], arm out to indicate space needed and stay an arms length away [sic]. If [the Student] tries to grab at staff's hand, staff will say[,] '[T]his is my hand.'"
    c. "Staff will provide expectations and say[,] 'I need your hands down;' 'Here is something you can sort;' 'I need your feet on the floor,' etc."
    d. If the Student "… has 2nd aggressive behavior or 1st intense behavior, staff need to remove other students in the classroom and give [a] directive to '[G]o to the blue room' and point to where [the Student] needs to go. Keep space/furniture between you and [the Student] … . Alert administration utilizing the walkie[-]talkies."
7. For aggressive behaviors not in the classroom:

a. "Staff will say and sign '[S]top/no' and 'I don't like hitting/kicking/head butting' in a firm tone of voice and a firm stop sign. Staff will walkie administration - 'I'm in this location and I need support.'"

b. "Staff will move away from [the Student], arm out to indicate space needed and stay an arms length away [sic]. If [the Student] tries to grab at staff's hand, staff will say[,] '[T]his is my hand.'"

c. "Staff will provide expectations and say[,] 'I need your hands down;' 'We are walking;' 'I need your feet on the floor,' 'First Walk, then _____ (puzzle, match, something reinforcing) etc. Walk back to class.'"

8. For behaviors in the hallway with other students:

a. Proactively teach the strategy, positive distraction, avoid sitting, and follow the "aggressive behaviors not in the classroom" section of the BIP.

9. For behaviors in the bathroom and on the bus, the "aggressive behaviors not in the classroom" section of the BIP should be followed.

viii. Data collection methods included daily data collection, Antecedent/Behavior/Consequence (ABC) data, and "data will be shared with family on a daily basis; a daily sheet outlining [the Student's] schedule and providers [the Student] is working with will be sent home daily."

ix. The "staff training" section noted the Student's need for PRN medication, [Crisis Prevention Institute] CPI training, de-escalation training, strategies that work best for the Student, and access to the BIP.

e. Extended School Year (ESY) services included instruction, special transportation, and related services.

f. Program modifications and supports included the following:

i. For all subjects, throughout the entire day, for the duration of the IEP:

1. Study carrel, reinforcement system, PBS system, weighted vest/blanket, other Augmentative and Alternative Communication (AAC) device, other mini schedules, fidgets, alert the Student to transitions, and frequent reminders of rules.

ii. Read aloud for all subjects throughout the entire day during reading tasks and during assessments for the duration of the IEP.

iii. Frequent breaks for all subjects as needed while/after completing a work session, for the duration of the IEP.

iv. A visual schedule for "other," the special education classroom, hallway, gym, and bathroom, throughout the entire day, for the duration of the IEP.

v. Other scheduled sensory movement breaks in "other," the special education classroom/hallway and/or gym, twice each day for 15 minutes.

vi. Other scripting for all subjects during instruction until the Student no longer needed scripting to prepare them for the activity.

vii. Other prompting/errorless teaching for all subjects during instruction until the Student completed the task without the use of prompting/errorless teaching.

viii. Other social story for all subjects during instruction and prior to transitions until the Student was able to complete transitions and no longer required social stories to assist with activity structure.

ix. Use of a calculator during math assignments until the Student no longer needed to use it.

x. Other supervision for all subjects because the Student required adult supervision for safety reasons, including in the restroom, transitions, and the classroom, until no longer needed for safety.

xi. Other headphones for all subjects throughout the duration of the day, as needed for the duration of the IEP.

g. Supports for school personnel included indirect occupational therapy services for 15 minutes every four weeks to observe the Student and collaborate with staff regarding the Student's needs. Additionally, instructional facilitator consultative services for 20 minutes per month, as well as engagement between the LEA and state and local organizations, were included.

h. Special transportation was required to, from, and between schools. A one-on-one bus aide, a safety vest/harness, fewer people aboard the bus, and seating on the aisle, away from students, were noted. Training for bus personnel included de-escalation and CPI training.

i. The service chart listed the following for all services at the School from December 17, 2024 through December 16, 2025:

i. Indirect special education services by an instructional facilitator for 20 minutes, every four weeks.

ii. Direct special education services in a regular education classroom by a special education classroom teacher for 144 minutes, 5 days per week.

iii. Direct special education school nurse services outside the regular education classroom by a school nurse for eight minutes, five days per week.

iv. Direct special education attendant care (non-instructional paraeducator) services outside the regular education classroom by a special education classroom teacher for 27 minutes, five days per week.

v. Direct special education attendant care (non-instructional paraeducator) services in a regular education classroom by a special education classroom teacher for 64 minutes, five days per week.

vi. Direct special education occupational therapy services outside the regular education classroom by an occupational therapist (OT) for 20 minutes one day per week.

vii. Indirect occupational therapy services provided by an OT for 15 minutes, one day per week, every four weeks.

viii. Direct special education services outside the regular education classroom by a special education classroom teacher for 149 minutes, one day per week.

ix. Direct special education services outside the regular education classroom by a special education classroom teacher for 169 minutes, two days per week.

x. Direct special education services outside the regular education classroom by a special education classroom teacher for 184 minutes, two days per week.

xi. Extracurricular special education transportation by a special education classroom teacher for 50 minutes, five days per week.

xii. Indirect adapted physical education services by a special education classroom teacher for 20 minutes, one day every two weeks.

xiii. Direct special education services of the related service of speech and language outside the regular education classroom provided by a Speech-Language Pathologist (SLP) for 15 minutes three days per week.

j. The Service Delivery Statement indicated the Student would have a one-on-one behavior technician and an additional adult during instructional and non-instructional time.

2. A schedule with photographs of the teacher and the behavior technician for each class, as well as goals, breaks, medication, bus, and service times was provided for August 29, 2025. A space for notes documented the Student's meals, specific activities, breaks, bathroom breaks, and nurse visits.
3. On September 9, 2025, the School Psychologist shared a document with the Complainant titled "[The Student's] Next Steps - Plan Proposal Draft." On September 18, 2025, the School Psychologist invited the Complainant to a meeting titled "[The Student's] plan proposal" scheduled for September 24, 2025. On September 25, 2025, the School Psychologist and the Complainant exchanged emails regarding a meeting for September 29, 2025 to review the Student's typical day and data sheet. The Complainant confirmed the following day.
4. From September 21, 2025 through September 25, 2025, the Complainant and the Case Manager exchanged emails regarding the Student holding hands with another student on the bus and the Bus Aide's training.
5. The undated draft "IEP Fidelity & Support System for [the Student]" described the purposes as creating systems to ensure consistency for the Student, providing accountability for the Complainant and Resource Parent, administration, and building staff capacity via training. The draft plan detailed weekly staff actions, including a "Weekly Fidelity Check-In Form," micro trainings, communicating barriers to administration and the Case Manager, administrator oversight, Complainant/Resource Parent communication, the training cycle, and the flow of support. Eight weeks of training were described, with the School Psychologist listed as the facilitator.
6. A PWN dated September 29, 2025, indicated the Student's IEP team met to review evaluation/assessment information to determine if there were additions, changes, or modifications needed to the special education or related services in the Student's IEP. It

was noted that changes to the IEP that did not involve services or placement were discussed. The proposed action included a "fidelity and support system" comprising daily data sheets and weekly fidelity forms, reviewed by a case manager and an assistant principal. Additionally, support sessions would be held for members of the Student's team "to help support current services … ." The plan was proposed to support the Student's special education team and "as a response to parent concerns." The team considered conducting an early evaluation or an FBA, but this was rejected because "parent concerns" were related to the fidelity of the Student's plan. For this proposal, the team reviewed evaluation reports, IEPs, Functional Behavior Assessments (FBA), medical reports, daily sheets, observations, and reports from staff.

7. On September 29 and 30, 2025, the Case Manager and the Complainant exchanged emails clarifying the Student's water consumption. The Case Manager indicated they would add the information to an IEP amendment.
8. An IEP amendment dated September 29, 2025, described the proposed IEP changes with an effective date of October 20, 2025:
    a. Description of the proposed action: "The Student will receive attendant care services for breakfast (30 minutes) and lunch (30 minutes) in the resource/Sped setting (G). This is a change from the previous inclusion setting (C). These minutes are considered attendant care due to it being non-instructional minutes[.] The Student will be in a setting that is supervised by Special Education Teachers or Behavior Technicians."
    b. Proposed accommodations:
        i. "The accommodation line previously listed as study carrel will be changed to designated work space within each classroom due to safety for [the] [S]tudent and staff. [The Student] will have a designated spot in each classroom that does not change with new seating arrangements and allows space for [the Student's] Behavior Technician to sit next to [the Student] in order to keep [the Student] and other students safe."
        ii. "An accommodation will be added regarding [the Student] receiving an alternative activity when [the Student's] class will be going outside due to safety for [the] [S]tudent and staff."
        iii. "An accommodation will be added regarding [the Student's] meal modification plan which includes prepackaged meals due to health and well[-]being of [the] [S]tudent."
        iv. "An accommodation will be added for [the Student's] specified amount of water intake per parent request regarding [the] [S]tudent['s] medication."
        v. "Add water consumption plan and reference it like [a] meal plan":
            1. "[The Student] is not to have a water bottle in [their] workspace or unsupervised access to water; water must be brought to [the Student], kept out of sight to prevent obsessive requests and behaviors, and [the Student] is not permitted to drink from the drinking fountain."

vi. "The following information will be added to the current Behavior Intervention Plan in the replacement behavior section":

1. "It is imperative to follow [the Student's] doctor[-] recommended meal modification plan and water intake plan with fidelity due to [the Student's] health and medication. This includes prepackaged meals and one standard white milk carton for breakfast and lunch. [The Student] will have no access to any extra food, water, or liquid and will not go through the cafeteria or have access to the drinking fountain."

vii. The amendment was not signed by any party.

9. On September 30, 2025, the Complainant emailed the Case Manager regarding a conversation with the Student's bus driver, "When I asked the bus driver if they had a copy of [the Student's] Behavior Intervention Plan (BIP) on the bus, [the Bus Driver] told me no … legally they are not allowed to have a copy of [the Student's] BIP on the bus due to confidentiality reasons. [The Bus Driver] then added … [they] could pull it up on [their] cell phone, and … [the Bus Driver] has seen it there." According to the Complainant, "[the Student's] IEP specifically states that 'a copy of the Behavior Intervention Plan will be kept on the bus.'"
10. On September 30, 2025, the Case Manager emailed the Complainant, "To follow-up [sic] from our conversation in our meeting yesterday … I have created an amendment that could update [the Student's] IEP. As [the Student's] case manager, it is very important to me to get everything we discussed included in [the Student's] documentation. Please look over this amendment proposal. Please let me know if you have any questions, concerns, or changes you wish to make by the end of this week." The Complainant responded on October 3, 2025, with clarifications and additions regarding behavior technician vs. attendant care, the designated workspace, and accommodations. The Case Manager responded with comments on October 6, 2025.
11. On October 1, 2025, the School Psychologist emailed the Complainant and attached a copy of the PWN that outlined the IEP fidelity and support plan, indicating it was a draft that did not need to be signed because it did not propose changes to the Student's current services.
12. On October 6, 2025, the Nurse emailed the Complainant to alert them the Student was out of medication, and the medication bottles had been sent home several days ago. The Complainant replied the Student's medication was sent with the bus driver that day, and the Nurse confirmed receipt.
13. On October 7, 2025, the School Psychologist emailed the Complainant to "check in to see if you wanted to meet to talk about how things are going with [the Student's] day-to-day and check in about any of the paperwork changes we are working on. Once we have all of the amendment paperwork up to [date], then we hope to start diving into the current IEP[,] so we have plenty of time to work through it all before the December due date." The following day, the Complainant agreed to a check-in meeting.

14. Progress reports dated October 8, 2025 and October 9, 2025, showed annual progress report dates and progress for the Student's measurable annual goals. All dates for all goals indicated the Student's progress was adequate to meet their annual goals.
15. On October 9, 2025, the Complainant emailed the Case Manager requesting bus footage from that day, citing the Student was "out of control" during the ride home and was "physically aggressive toward [the Bus Aide]." The Complainant indicated the Student was escalated when they entered the bus, and no one contacted the Complainant to indicate assistance was needed. According to the Complainant, "This incident raises serious concerns about student and staff safety as well as adherence to [the Student's] Behavior Intervention Plan." The Complainant wrote, "It is also evident … the current plan and training approach are not working. [The Student] requires a certified behavior technician on the bus, and for safety reasons, this should be a male staff member, consistent with what has proven most effective for [the Student] at school." The Assistant Principal responded the following day, indicating they would contact the School Psychologist and the Case Manager to problem-solve.
16. On October 14, 2025, the Complainant accepted a follow-up meeting invitation scheduled for October 16, 2025.
17. On October 16, 2025, the Director of Special Education emailed the Complainant and attached a PWN and an amendment document.
18. The PWN dated October 16, 2025, described on September 29, 2025, the team met to review the Student's evaluation and assessment data and additions, changes, or modifications to the special education, related services, or placement needed for the Student to meet their goals. It was noted, "Other changes to the IEP, not involving services or placement," for which parental consent was not required, were discussed. The proposed actions matched the language from the September 29, 2025 amendment and indicated the team used ABC data, input from staff, and the Complainant/Resource Parent, previous evaluations, and the physician's notes, to propose the additions/adjustments for the Student's health and safety, noting the Student would not be eating meals with peers. The Consent/non-consent page was unsigned.
19. A Notice of Meeting dated October 21, 2025, indicated a virtual team meeting was scheduled for October 28, 2025.
20. On October 27, 2025, a physician's note described the Student's date of visit as October 26, 2025, and included the Complainant's signature and a "Parent Authorization to Administer Medication At School." In the section entitled "Healthcare Provider Authorization to Administer Medication at School," the physician's message said, "As of today, 10/27/25, the following medication has been prescribed for [the Student] … . In my opinion, this medication is necessary during the school day." Lorazepam and the dosage were noted, and the time for the provision of the medication indicated, "PRN-it must be given at the first sign of agitation, defined as whining, crying, restlessness, facial tension, and any other precursor behaviors listed in [the Student's] IEP."

21. On October 27, 2025, the Complainant emailed the Nurse to state they were recently informed the Student's PRN medication had been administered "later than intended" after signs of physical aggression, rather than at the "first signs of agitation." They added their understanding was the IEP team made the decision "based on what was interpreted as medically necessary." The Complainant indicated the prescribing physician's orders were inconsistent with both staff practices and the Complainant's communication. The Complainant wrote, "The physician's intent is clear: the PRN is to be administered at the first sign of agitation, not at the point of aggression. Delaying administration placed [the Student] and others in unsafe situations and is inconsistent with medical direction." According to the Complainant, the physician provided written clarification defining agitation as, "whining, crying, restlessness, facial tension, and any other precursor behaviors listed in [the Student's] IEP." On October 29, 2025, the Director of Special Education attached a medication form and wrote, "… we do not have any of the medication mentioned in the doctor's note, so if this form is completed and returned, we will also need the medication."
22. From October 28, 2025 through November 6, 2025, the following conversations were documented between the Case Manager and staff:
    a. October 28, 2025: "Talked to the SLP about getting updates every 2 weeks on progress and notes. Also discussed impromptu meetings if they are necessary for any major changes."
    b. October 29, 2025:
        i. "Spoke with BT [Behavior Technician] about [the] 7th hour and the expectation of minutes."
        ii. "Talked to APE [Adaptive Physical Education] teacher about getting updates 1 time a month. APE is on consult, meets with [the Student]/BT once every 2 weeks. Discussed increasing frequency if needed, but starting with 1 update a month."
        iii. "Talked to the SLP about the verbiage of 'talker' when we reference [the Student's] iPad."
    c. October 31, 2025: "[T]alked to BT to make sure food policies were followed on Halloween."
    d. November 6, 2025: "[T]alked to BT about daily sheets and notes."
23. On October 29, 2025, the Resource Parent emailed an attachment (agenda) which included items they "had wanted to discuss." The agenda included various verbiage changes and requests, including "Contact the nurse for the PRN medication as it must be given at the first sign of agitation, defined as whining, crying, restlessness, facial tension, and other precursor behaviors listed in this IEP." The Director of Special Education acknowledged receipt on October 30, 2025, and indicated, "The team will be working on updating the amendment and will send it to you to review once drafted."
24. On November 2, 2025, the Resource Parent emailed a replacement medication form for the one "… the school misplaced, as we provided one at enrollment for the 2025-

2026 school year." The Director of Special Education confirmed receipt of the form the following day but noted the end date was listed as June 30, 2025, and asked that the date be corrected. The same day, the Resource Parent emailed the corrected form and confirmed the Student's medications had been delivered to the School that morning. The Authorization for Administering Medications to Children and Youth described the medication, Lorazepam, should be given "at initial sign of agitation." The following medications were authorized via several different forms:

a. Risperidone, Olanzapine, Lithium, Lorazepam, Clonidine: Start: August 13, 2024; End: "school year"; signed by the Resource Parent on August 13, 2024.
b. Mupirocin: Start: August 14, 2024; End: May 20, 2025; signed by the Complainant on August 14, 2024.
c. Olanzapine: Start: December 10, 2024; End: July 1, 2024 [sic]; signed by the Resource Parent on December 10, 2024.
d. Lithium: Start: June 3, 2025; End: June 30, 2025; signed by the Resource Parent on June 1, 2025.
e. Olanzapine: Start: August 11, 2025; End: June 30, 2026; signed by the Resource Parent on July 30, 2025.

25. An IEP Amendment dated November 19, 2025, and effective the following day, was signed by the Case Manager on November 21, 2025. The PWN, dated November 19, 2025, described the LEA's proposals and refusals for changes to the Student's IEP that did not require parental consent. Both the amendment and the PWN include the language. "Adjust language related to PRN medication mentioned in BIP to reflect that the nurse will be called to consider use of PRN medication if behavior that is self-injurious (imminent danger to self or others) is present once all other reactive strategies have been attempted."
26. The Student's daily schedule listed the teacher, the behavior technician, activities, and included a space for notes for each hour/class period. The "Activities" section included when the Student exited the bus in the morning, breakfast location, bathroom break times, water consumption, Nurse visits for medication, a description of the OT and SLP schedule, lunch location, and bus entry times. The space for notes included notes from each hour/class period, including the Student's meals, topics of study, breaks, water, Nurse, Speech, and OT visits. An ABC and Intensity/Duration checklist was attached to each daily schedule. The following schedules were provided:
    a. 12 daily schedules from September 12, 2025 to September 30, 2025.
    b. 19 daily schedules from October 1, 2025 to October 31, 2025.
    c. 3 daily schedules from November 3, 2025 to November 5, 2025.
    d. Of the 34 schedules provided, only the October 30, 2025 document, included a completed ABC data form.
    e. Each daily schedule/ABC data sheet indicated the document was "checked by" the Case Manager.

27. The Student's transcript listed "A's" in all courses for the 2024-25 school year when the Student was a 9th grader. For the 2025-26 school year, the Student's "In-Progress Grades" report noted the Student was absent from six periods during the first semester. Additionally, the Student's "in-progress grades," reported for six courses included five "A's" and one "B."
28. The Student's 2024-25 Nursing Care Plan, dated September 9, 2024, and the 2025-26 Nursing Care Plan, dated August 20, 2025, included categories for assessment data, nursing diagnoses, outcome/goals planning/implementation, and evaluation. Both plans included symptoms of aggressive behaviors in the "assessment data" section. In the "planning/implementation" section for both plans, it was noted the Student should be monitored for inappropriate aggression, and intervention should occur "before exacerbation." Additionally, both plans described the supervised administration of the Student's medication, "according to written physician's orders," would occur in the Nurse's office. Four medications and their administration schedule were noted.

Interview Summaries

The Complainant Interview

29. When asked by the Complaint Investigator which accommodations, modifications, and supports they believed were not implemented after September 12, 2025, the Complainant shared they felt the food plan and the health and medication plans had not been implemented. Additionally, they shared, "I believe … the whole IEP is not being implemented. I have no verification or proof that it is." According to the Complainant, " … there is a piece of paper that comes home daily that kind of talks about activities … [the Student's] done … . And I know for sure … they're not implementing the food plan or the water plan … we agreed upon because it's not written on there as being implemented with how we agreed to it. And then I know the medication wasn't being implemented and services weren't being provided because in the report of the investigation, it said … they had changed the doctor's orders and were not implementing [the Student's] positive behavior support plan with the medication." The Complainant also indicated the Student's IEP was not being followed on the bus, "… whenever [the Student] has a behavior on the bus … I'm supposed to get ABC data and then there's a whole intervention that's supposed to be done on when [the Student] does A or B. This is supposed to happen, and I have no documentation … it's even happened, and I've never had the ABC data." The Complainant described an "extreme" incident where the Complainant had to help the Student off the bus, for which they did not receive ABC data. Additionally, the Complainant indicated they did not believe the study carrels were in place in each classroom before the change regarding a designated workspace.
30. The Complainant described they met with the School Psychologist on September 24, 2025 and on other occasions to discuss the School Psychologist's proposal for an IEP fidelity plan. According to the Complainant, the training plan and proposed actions from the School Psychologist were "stopped" by the Director of Special Education.

31. The Complainant indicated they agreed with the food and water sections of the September 29, 2025 amendment, but "the other things we were still working through. So I wasn't satisfied … I needed clarity …" regarding the Student's designated workspace. When asked if the amendment went into effect on October 20, 2025, the Complainant said, "My understanding is it did, but there was a couple of things … I still wanted." The Complainant shared they wanted a list of the food choices the Student would have for breakfast and lunch. The Complainant alleged the Student received the regular cafeteria food that did not meet the meal plan criteria. Additionally, the Complainant indicated the agreed-upon water consumption of eight ounces of water at each meal and with the Student's medicine was not implemented or properly tracked.
32. According to the Complainant, the School Psychologist and the Case Manager were working on accommodations when an October communication protocol was instituted. The Complainant shared the Director of Special Education "… sent something back that was different than what [the School Psychologist] and [the Case Manager] and I had been talking about, and [the Director of Special Education] sent something back that said it's all being implemented and … I didn't have any say in it, but that's not what we had agreed upon. So [the Director of Special Education] changed the accommodations … [the School Psychologist] and I had talked about."
33. The October 28, 2025 meeting, according to the Complainant, was a combined corrective action and IEP meeting. The Complainant indicated the subsequent amendment did not reflect the content of the meeting, and the PWN they received indicated parent permission was not required for implementation.
34. According to the Complainant, during the October 28, 2025 IEP meeting, the Nurse stated they did not have a current release on file for the Student's PRN medication, which had expired in early September and had been discarded. The Complainant indicated the information regarding both the expired medication and the missing release was new to them, noting they believed they had provided the release at the time of enrollment. The Complainant described being "shocked" to learn the LEA had not raised the issues sooner. The Complainant indicated the new release was provided at the time they provided the physician's definition of "agitation."
35. Regarding the administration of the Student's PRN medication, the Complainant shared, "… my understanding and what I expected was … they would give [the Student] [their] PRN at the first sign of agitation. That's what the doctor said. … "You can't wait until [the Student's] hitting and you have to put [them] in seclusion, then that's too late. The PRN is supposed to … prevent aggression." When asked if there were situations after they received the findings from a previous complaint in which they believed the Student required the PRN medication, the Complainant shared, "So my understanding is yes, definitely. But like I said, they're not following the behavior intervention plan on the bus at all … ." The Complainant was not aware of an occasion on which the Student was restrained or secluded after September 12, 2025.
36. When asked about the LEA's refusal to accept updated medical information from the Student's physician, the Complainant indicated the Director of Special Education would

not accept the original form they submitted authorizing the School to administer medication and required a different one. The Complainant indicated the Resource Parent then submitted the requisite document.

The Resource Parent Interview

37. When asked by the Complaint Investigator which accommodations, modifications, and supports they believed were not implemented, the Resource Parent indicated the LEA was not administering the PRN medication as directed, "… [the LEA] is waiting until [the Student] gets completely physically aggressive … and it's supposed to be as soon as [the Student] starts getting agitated, they're supposed to administer [the Student's] PRN … helps [the Student] calm down … ." According to the Resource Parent, the intent was to use the PRN medication at the point of agitation to prevent restraint or seclusion. The Resource Parent indicated they were made aware of the LEA incorrectly administering the PRN medication at the October 28, 2025 meeting and from findings from previous complaints they had filed.
38. The Resource Parent indicated they had no knowledge of the Student being restrained or secluded between September 12, 2025 and the filing of this Complaint.
39. According to the Resource Parent, they initially provided the Nurse with paperwork for the Student's five medications, which included four daily doses and PRN medication, before the start of the 2025-26 school year. Additionally, at an IEP meeting on October 28, 2025, the School claimed they did not have the form specifically for the administration of the PRN medication. At the same meeting, according to the Resource Parent, the School noted they also needed more medication, which required the Resource Parent to obtain a new prescription and a physician's order from the psychiatrist. To resolve the issue, the Resource Parent signed and hand-delivered a new PRN medication form on November 3, 2025, after correcting a date error the School had pointed out on the previous form.
40. When asked if the Resource Parent or the Complainant requested an IEP meeting to discuss the PRN medication, the Resource Parent indicated the meeting was called by the LEA for "IEP corrections or corrective actions."
41. When asked about the LEA's refusal to accept updated medical information from the Student's physician, the Resource Parent shared before the October 28, 2025 IEP meeting, they provided a letter "… that said 'Parental Authorization to Administer Medication' signed by, not only [the Complainant], but [the Student's] treating psychiatrist, and the School refused to accept that. Instead … they stated we needed to put it on a form … they provided, which was a District form that was also requiring a physician's signature and also said something about mediation instead of medication."
42. According to the Resource Parent, the October 28, 2025 IEP meeting resulted in "Nothing really. The Prior Written Notice … they provided is … they were refusing to implement just about everything … we talked about."
43. The Resource Parent indicated they received a copy of the October 28, 2025 amendment on November 19, 2025.

Director of Special Education

44. In an interview with the Complaint Investigator, the Director of Special Education described the September 24, 2025 meeting between the Complainant and the School Psychologist as an informal opportunity for the Complainant to share their concerns about the Student and brainstorm how the LEA could provide support. For example, the School Psychologist and the Complainant concluded an FBA was not the necessary course of action. The Director of Special Education indicated the Student Plan Proposal was another attempt to address the Complainant's concerns and determine who needed more training or support around a particular topic. Following a meeting with the Complainant, the School Psychologist would report to the Case Manager any topics requiring staff training or clarity for those supporting the Student, "Then … the Case Manager would connect with that team member who is in need of … additional clarity or training … and ensure that … is provided" and document accordingly.
45. The Director of Special Education indicated a copy of the Student's BIP was provided to the bus driver on September 30, 2025, the day they were made aware of the absence of a physical copy. According to the Director of Special Education, the Student's BIP described daily data collection to be shared with the family on a daily basis, but, "… there is nothing that would lead anybody to believe … data would need to be collected based on the bus ride."
46. The Director of Special Education explained the amendment dated September 29, 2025, with an implementation date of October 20, 2025, did not go into effect. They shared the amendment and a PWN to review and provide feedback with the Complainant on October 16, 2025 to which the Complainant never responded. The Director of Special Education explained, "We had a meeting 12 days later to gather more information. … So then the eventual amendment … I sent at a later date was this information here [on the September 29, 2025 amendment] plus more."
47. Regarding the medical documentation and the PRN medication, the Director of Special Education shared they received a physician's note on October 27, 2025 regarding the Student's PRN medication, the day before a scheduled IEP meeting. The Director of Special Education indicated they used the meeting on the 28th to get "more clarity because some of it felt unclear to us." According to the Director of Special Education, "We shared with [the Complainant and Resource Parent] at the time … regarding the PRN and the doctor's note, we did not have a form on file related to us being able to administer the PRN, nor did we even have that medication." The Director of Special Education recalled the family suggesting the authorization form had been provided at the start of the year, but the Nurse did not have it on file. According to the Director of Special Education, the form was signed and returned three days later with an incorrect date. The family resubmitted the proper documentation on November 3, 2025, two days before the filing of this Complaint.
48. The Director of Special Education was not aware of the PRN medication being administered between September 12, 2025 and November 5, 2025, nor were they aware of the Student being restrained or secluded during that timeframe.

Case Manager Interview

49. In an interview with the Complaint Investigator, the Case Manager explained the fidelity and support plan had been implemented since they were assigned as case manager in September 2025. The plan required the Student's behavior technician to compile and submit daily activity sheets, which the Case Manager then reviewed and signed. They submitted the documents to an administrator every two weeks for the record. The Case Manager described communicating regularly with teachers and service providers to maintain consistent implementation of the plan. The Case Manager indicated the daily sheets were scanned and the original copies were sent home. The Case Manager described the ABC section of the daily sheet was blank if there were no problem behaviors identified that day.
50. The Case Manager indicated the amendment dated September 29, 2025, originated after meeting with the Complainant to address concerns about the Student's IEP. However, the amendment never went into effect because it was never signed. The Case Manager indicated the amendment kept getting revised after further family requests were added, preventing its finalization.
51. The Case Manager shared the Student has had a "fantastic" year and could only think of two instances in which the ABC chart was used to log problem behaviors. The Case Manager shared the following regarding the Student's BIP, and confirmed the utilization of these strategies from September 12, 2025 to November 5, 2025:
    a. Visuals and schedules, used daily.
    b. Proactive Strategies:
        i. Two staff members trained in de-escalation (a teacher and a behavior technician) who could contact the office in an emergent situation, and who were available at all times except transitions.
        ii. PRN medication information provided by special education case managers, including access to a copy of the Student's highlighted medication list.
        iii. Pre-teaching routines, easing of prompting, modeling, and education in a familiar setting were described.
        iv. A male staff member with a large stature was preferred by the family.
        v. Pre-teaching common phrases.
        vi. Verbal reminders, praise, non-frequent contingent structured breaks with preferred activities, reinforcement, choices, hallway/track walks not during passing period, social stories, describe and acknowledge aggressive behavior, engage during breaks, icons, errorless teaching, finish tub (not used much), age-appropriate structured activities with rotating options, teach on-task behavior and boundaries, and my turn-your turn language.
        vii. For sleep, bright lights, engagement, novel tasks, reinforcement, and the removal of sleep locations.
        viii. All bathroom and gym/inedible objects strategies.

ix. A copy of the BIP on the bus.

x. Storage for soiled and replacement clothing, and communicate laundry and restroom procedures out of the Student's earshot.

c. Reactive Strategies:

i. Expectation reminders, showing visuals, changing activities, and offering preferred items and breaks.

ii. Pair aggression with "Go to the calm place" and guide the Student, offering the door.

iii. All sleep, bathroom, and gym/inedible objects reactive strategies.

iv. All strategies were implemented as needed for aggressive behaviors in and out of the classroom.

Specifically regarding the provision of a cubicle or partition as a proactive strategy to separate the Student from distractions, in the BIP, the Case Manager shared the current School setting necessitated changing an accommodation from the Student's middle school IEP. Previously, the Student had a partition in [their] eighth-grade classroom to reduce distractions. Due to the different layout and size of multiple high school classrooms, this partition was impractical and created a safety hazard. Therefore, the proposed amendment removed the partition requirement and instead emphasized the Student having a designated, consistent seating spot in each classroom. The Case Manager reported a cubicle or partition was not consistently available in all of the Student's locations between September 12, 2025, and November 11, 2025.

Specifically regarding reacting to aggressive behaviors, including headbanging and whining, and the use of the PRN medication as noted in the BIP, the Case Manager shared, "[The Student's] biggest self-injurious behavior is the headbanging. So when [the Student] would get to the point of the self-injurious behavior, that was the time [when] we called the Nurse to get … PRN medication."

52. The Case Manager confirmed the utilization of the Student's program modifications and supports of reading aloud, frequent breaks, and a reinforcement system from September 12, 2025 to November 5, 2025. The Case Manager reiterated the study carrel was not implemented, but there was an amendment proposing to eliminate it. Additionally, the Case Manager confirmed the following were implemented, as needed, according to the location, frequency, and duration noted on the IEP from September 12, 2025 to November 5, 2025: PBS, weighted vest/blanket, visual schedule, other AAC device, mini schedules, fidgets, transition alerts, reminders of rules, other scheduled sensory breaks, other scripting, other prompting, errorless teaching, social stories, use of calculator and headphones, and supervision. The Case Manager confirmed all items under the "Transportation Options" section of the IEP were provided for the Student's specialized transportation.

53. According to the Case Manager, all services and supplementary aids on the IEP were implemented from September 12, 2025 to November 5, 2025.
54. When asked about the provision of ABC data for the Student's bus journeys, the Case Manager shared they created a Google Form for the bus aide to complete if there were problem behaviors exhibited on the bus. When the form was completed and submitted, the Case Manager forwarded it "on to the appropriate party."
55. The Case Manager was not aware of any occasions between September 12, 2025 and November 5, 2025 in which the Student needed the PRN medication or was restrained or secluded.

The School Psychologist Interview

56. The School Psychologist, in an interview with the Complaint Investigator, described the September 24, 2025 meeting with the Complainant as a meeting to hear the Complainant's concerns and exchange ideas. They described the October 16, 2025 meeting as an informal check-in and "trying to find a place between the District and [the Complainant]" regarding amendment paperwork. The School Psychologist recalled talking with the Complainant about their vision for the Student's next IEP.
57. The School Psychologist described the Student Plan Proposal as a "series of steps to help support the IEP fidelity and the IEP team" that did not have concrete start and end dates.

The Nurse Interview

58. During an interview with the Complaint Investigator, the Nurse shared they administer medications to the Student twice each day, around 10:00 a.m. and 2:00 p.m.
59. When asked how staff were made aware of the Student's PRN medication, the Nurse said they "are made aware by the care plans … we put together at the beginning of the year … we make copies … and give it to all our Sp[ecial] Ed[ucation] teachers so everybody knows exactly what their medications are … what they're used for." The Nurse shared, "… I didn't find out about the PRN medication until October … ." The Nurse mentioned in October, on or about the 27th, they received correspondence from the Student's physician for the PRN medication indicating, "PRN must be given at the first sign of agitation … defined as whining, crying, restlessness, facial tension, and any other precursor behaviors listed in [the Student's] IEP." The Nurse shared the Case Manager was aware of the medication and "I'm not going to do anything unless I'm phoned by the staff saying … [the Student] is displaying these behaviors. And at that time, if that meets [the] criteria to administer this Lorazepam, then I would do that at that time."
60. The Nurse indicated they did not administer the PRN medication between October 27, 2025 and November 5, 2025. The Nurse said, "I didn't even have that medication to administer." The Nurse shared they alerted the family at the meeting (October 28, 2025) about the paperwork and lack of medication, and the Resource Parent disagreed. The

Nurse shared the Resource Parent only provided paperwork for the scheduled medications, not the PRN medication.

The October 28, 2025 Meeting

The Complaint Investigator reviewed a transcript of the October 28, 2025 meeting and included the following relevant information:

a. The Case Manager indicated the purpose of the meeting was to "review the findings" (from a previous complaint) and provide "next steps for [the Student's] IEP implementation." The Case Manager shared the Student's "… new health plan will be added to the IEP. That includes the meal plan, the new doctor's note, and [the Student's] water consumption plan."

b. Regarding the BIP, the Case Manager shared an amendment was provided, and additional items were needed, including the new physician's note. The Team discussed the physician's note, the Student's precursor behaviors, and the definition of restlessness. Additionally, they discussed when to use de-escalation strategies and the PRN medication.

c. The Nurse stated they had the necessary documentation for the Student's daily medications for the current year, but lacked the required forms for PRN medication, and requested the Complainant/Resource Parent provide them. The Nurse also shared the Student's existing PRN medication had expired and was subsequently discarded, necessitating a new supply.

d. The IEP team discussed the School Psychologist's fidelity proposal, and the Resource Parent requested it be added to the IEP. The Director of Special Education clarified the "daily sheet component" was already a part of the IEP, and the proposal was a planning document. The Director of Special Education described the PWN "spells things out a little bit differently."

e. The Special Education Director clarified there were three components to the fidelity plan: the daily sheets, the administrative overview, and the support sessions, and indicated the support sessions had already begun.

f. The Complainant shared the meetings with the School Psychologist were helpful.

g. The Case Manager explained the Student's daily sheet outlined the Student's routine, but not their progress, and explained the proposed meetings with related service providers would be for the Case Manager to review the providers' progress notes over a two-week period.

h. The Case Manager explained the coding related to "attendant care," and the Resource Parent shared, "We're saying we want in the IEP … delineating that it's covered by special ed[ucation] teachers and the behavior technician." The Case Manager confirmed, "… that's exactly how it's listed" in the amendment.

i. The Director of Special Education shared while it was noted in the Student's behavior plan that males of a certain stature worked best with the Student, the LEA was not going to delineate the sex of the Student's supporter in the IEP.

j. The Resource Parent shared their preference for calling the Student's communication device a "talker" to provide continuity of vocabulary. Additionally, the Resource Parent requested the School-based SLP and the private provider collaborate regarding the Student's communication. The Director of Special Education indicated there was a Release of Information (ROI) for the private provider, and collaboration could continue.

k. The Resource Parent requested an additional iPad with preloaded videos for the Student to use on the bus to enhance engagement.

l. The Resource Parent said, "I think the only other issue, that's the last one … I've got … has to deal with an accommodation regarding remaining in [the Student's] seventh hour instructional setting until the end of the scheduled class period."

m. The Director of Special Education indicated the PWN for the fidelity plan had already been provided and stated, "… the components … we're desiring to add to the IEP, once we receive the information from you all, then we can put together what would be our proposed amendment in PWN, and we will send that to you to review. Not asking for consent at that point, but sending it to you to review. And then, if there is a need to meet again, we certainly can."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's IEP, including the specific accommodations, modifications, and supports that must be provided in accordance with the IEP. K.A.R. 91-40-16)(b)(2)(3)(4)(5); 34 CFR § 300.323 (a)(c)(1)(2)(d)(1)(2).

According to K.A.R. 91-40-16 (b)(2)(3)(4)(5) and 34 CFR § 300.323 (a)(c)(1)(2)(d)(1)(2), Each agency shall ensure those services for which written consent has been granted, as specified by law, are implemented not later than 10 school days after parental consent is granted unless a reasonable justification for a delay can be shown. Additionally, each agency shall ensure an IEP is in effect for each exceptional child at the beginning of each school year, the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and each teacher and provider is informed of their specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Complainant alleged the LEA substituted the physician's orders to administer PRN medication "at the first sign of agitation" with a school policy only to provide it to the Student once they became "aggressive." The Complainant alleged this resulted in behavioral escalation requiring seclusion or restraints and unsafe behaviors, which violated the LEA's responsibility to implement all services as written in the IEP and health plan.

The LEA asserted the current Complaint repeats claims already investigated in KSDE 26FC437-002. Since that time, the LEA has taken all required corrective actions, and the Student's IEP continues to be implemented with fidelity. The Student received all mandated accommodations, modifications, and supports, including a 1:1 behavior technician and a 1:1 transportation paraeducator, both of whom share responsibility for ensuring the Student's supports are in place.

The LEA implemented most of the Student's documented accommodations, services, and supports between September 12, 2025 and November 5, 2025. Implementation concerns raised by the Complainant centered around five areas: the administration of the Student's PRN medication, the provision of a copy of the BIP on the bus, data collection on the bus, the food and water plan, and the provision of a study carrel/partition in all subjects throughout the day. The investigation revealed the following regarding each of those concerns:

1. Administration of the PRN medication: The BIP's "reactive strategies" required contacting the Nurse to administer the PRN medication at the first indication of aggressive behaviors. However, the Nurse was not in possession of the medication or the proper authorization until November 3, 2025, two days before the filing of this Complaint. There was no indication in the record the Student's behavior necessitated the administration of the PRN between November 3, 2025 and November 5, 2025. This allegation is not substantiated.
2. BIP on the bus: The IEP required a copy of the BIP on the bus. The Director of Special Education was notified on September 30, 2025 that the bus driver only had electronic access and promptly provided a physical copy that same day. This allegation is substantiated between September 12, 2025 and September 30, 2025.
3. Bus data: The IEP did not mandate specific data collection on the Student's bus journeys. The Case Manager proactively created a Google Form for the bus aide to track behaviors as needed, which were provided to the necessary party. This allegation was not substantiated.
4. Food and water plan: The December 2024 IEP did not contain provisions for the Student's food and water intake. While an amendment addressing these issues was drafted on September 29, 2025, it was never signed by a Legal Education Decision Maker (LEDM) or implemented during the complaint period. This allegation was not substantiated.
5. Study carrel: The IEP mandated a study carrel/partition. The Case Manager confirmed the study carrel was neither practical nor safe in the School setting and was not consistently available. Regardless of the rationale for the lack of provision, this allegation is substantiated.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is partially substantiated* the LEA failed to implement the Student's IEP during the period of September 12, 2025 to November 5, 2025.

Issue Two

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the Student's IEP when the Complainant provided documentation regarding medication to support the Student's behavior in school. K.A.R. 91-40-16 (a), K.A.R. 91-40-18(b); K.S.A. 72-3429 (B)(b)(1)(4)(B)(c)(4); 34 CFR § 300.324 (a)(6)(b)(1)(ii)(C)(D)(E).

According to K.A.R. 91-40-16 (a), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency.

According to K.A.R. 91-40-18(b) and 34 CFR § 300.324 (a)(6)(b)(1)(ii)(C)(D)(E), if an IEP team determines a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive a FAPE, the IEP team shall include those items in the child's IEP. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting or by amending the IEP rather than by redrafting the entire IEP. Each public agency must ensure the IEP team revises the IEP, as appropriate, to address information about the child provided to, or by, the parents, the child's anticipated needs, or other matters. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

According to K.S.A. 34-72-3429 (b)(1)(4)(B)(c)(4), each IEP of an exceptional child and any amendment or modification of an IEP shall be made by the child's IEP team. Upon agreement of the parent and the agency, an IEP team can meet in person or by alternative means, including telephone conference calls and video conferences. If the parent and agency representative develop a written document amending or modifying a child's current IEP, the document shall be dated and signed by the parent and the agency representative. The parent and the agency shall be provided a copy of the document.

The Complainant alleged the LEA refused to accept updated medical information from the Student's pediatrician and used an "outdated form" to avoid providing required health services.

The LEA stated it did not refuse to consider the Complainant's medical documentation, which was provided just before the October 28, 2025 IEP meeting. The full implementation of the requested PRN medication was delayed until November 3, 2025 when the corrected authorization form and medication were received by the District. The Complainant's extensive requests for IEP changes, received shortly after the meeting, necessitated internal deliberation to draft an amendment. The District argued that the Complaint, filed only two days after the medication was received, during the amendment drafting process, did not constitute a failure to revise the IEP.

The LEA received the physician's note on October 27, 2025, followed immediately by an IEP meeting on October 28, 2025, which initiated the review process. Full implementation of the

PRN medication occurred on November 3, 2025, after administrative delays related to receiving the correct forms and the medication. Following this implementation and incorporating the Complainant and Resource Parent's requests, the LEA began drafting the required IEP amendment. The Complainant filed the Complaint only two days later, during the active revision process. An amendment and PWN were drafted on November 19, 2025.

Based on the foregoing, according to IDEA and Kansas special education regulations, i*t is not substantiated* the LEA failed to review and revise the Student's IEP after receiving medical documentation on October 27, 2025.

Issue Three

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant with a PWN when there were changes to the Student's health plan needs that affected the identification, evaluation, or educational placement of the Student, or the provision of a FAPE. K.A.R. 91-40-26 (a)(1)(2)(c)(3); 34 § CFR 300.503(a)(1)(b).

According to K.A.R. 91-40-26 (a)(1)(2)(c)(3) and 34 § CFR 300.503(a)(1)(b), in providing any notice to the parent or parents of an exceptional child and amendments thereto regarding any action proposed or refused by an agency, each agency shall ensure the notice includes a description of other options the agency considered the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal. Written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child.

The Complainant alleged the LEA failed to notify the Complainant when the Student was out of the PRN medication and destroyed the medication without informing them. The Complainant believed the LEA failed to administer the PRN medication "at the first sign of agitation" as defined by the physician on October 27, 2025, and refused to accept the updated order.

The LEA claimed the PRN medication information provided on October 27, 2025, pertained to health-plan procedures and did not impact the Student's special education identification, evaluation, placement, or related services.

No documentation exists in the 2025-26 nursing plan or medication authorization records indicating that the PRN medication was provided before October 27, 2025, or authorized before November 3, 2025. A PWN regarding the destruction of the previous medication and the cessation of the provision of the medication would only be necessary if the Student's health plan were incorporated into their IEP and the administration of this specific medication was required as a related service or accommodation essential for the Student to attend school and benefit from their education.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to provide a PWN for the lack of medication and destruction thereof.

Issue Four

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, denied the Student access to a FAPE when they failed to provide the services and accommodations listed in the Student's IEP. K.A.R. 91-40-2 (a)(1)(2)(e); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2 (a)(1)(2)(e), 34 CFR §§ 300.17, and 300.101, a FAPE must be available to all children residing in the State between the ages of 3 and 21, including children with disabilities who have been suspended or expelled from school. An IEP must be in effect for each exceptional child at the beginning of each school year. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

The Complainant alleged the Student's IEP and health plan were not followed, and the Student lost access to their education due to seclusions and restraints.

According to the LEA, all supports, including behavior intervention strategies, related services, and modifications, were implemented consistently and without interruption as required by the IEP.

The Supreme Court in Endrew F. v. Douglas County School District (2017) clarified that a child's IEP must be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." Crucial to achieving this progress is the faithful implementation of the IEP's core components. The LEA's failure to implement the study carrel/partition and the initial absence of the Student's BIP on the bus resulted in material omissions that undermined the Student's right to a FAPE. The study carrel/partition was a mandated program modification intended to manage the Student's sensory needs and behaviors by reducing visual distraction, a functional area where the Student required support. The LEA's unilateral determination that this measure was impractical or unsafe in the School setting, without a team meeting and proper amendment, constituted a material failure of implementation. This failure deprived the Student of the necessary environment to access their education as calculated by the IEP team, thereby impeding their ability to make progress appropriate to their circumstances, as required by the Endrew F. standard. The initial failure to have a physical copy of the BIP on the bus similarly represented a material failure. Given the Student's severe behavioral needs, the BIP and its reactive strategies were a critical safety and de-escalation protocol, especially during high-risk transitions like bussing.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** the LEA denied the Student a FAPE from September 12, 2025 to November 5, 2025.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at 34 CFR § 300.323 (a)(c)(1)(2)(d)(1)(2) and K.A.R. 91-40-16 (b)(2)(3)(4)(5) specify the implementation of a student's IEP.

In this case, the evidence supports the finding that USD #437 did not implement the Student's IEP, including the accommodations, modifications, and supports that must be provided. Materials and interviews document this.

B. B. Federal regulations at 34 CFR §§ 300.17, 300.101 and K.A.R. 91-40-2 (a)(1)(2)(e) specify a FAPE must be available to all eligible children with disabilities.

In this case, the evidence supports the finding that USD #437 did not implement parts of the Student's IEP, which resulted in a denial of a FAPE from September 12, 2025 to November 5, 2025.

Based on the foregoing, USD #437 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #437 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 CFR § 300.323 (a)(c)(1)(2)(d)(1)(2) and K.A.R. 91-40-16 (b)(2)(3)(4)(5) by implementing the Student's IEP, including all noted accommodations, modifications, and supports to ensure the Student's access to a FAPE.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #481
ON NOVEMBER 14, 2025

DATE OF REPORT: DECEMBER 15, 2025

This report is in response to a complaint filed with our office by ----- on behalf of her sons -----. For the remainder of this report, ----- will be referred to as "the parent." ----- will be referred to as "student 1" in the remainder of this report, and ----- will be referred to as "student 2" or "the student."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" as used in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. The Central Kansas Cooperative in Education (CKCIE) provides special education services for USD #481. For the remainder of this report, CKCIE and USD #481 and will be referred to collectively as "the LEA."

Investigation of Complaint

The investigator spoke by telephone with the Executive Director for the CKCIE on November 21, 2025. On December 1, 2025, the investigator spoke with the General Counsel for the LEA. On December 11, 2025, the investigator spoke via conference call with the building principal, the superintendent for the school district, the general counsel for the LEA, the special education coordinator, the special education teacher for student 2, the student's Animal Science instructor, the student's English teacher, and the student's World History teacher.

The investigator spoke by telephone with the student's mother on November 28, 2025.

In completing this investigation, the complaint investigator reviewed the following materials:

- Prior Written Notice for Evaluation or Reevaluation and Request for Consent for student 2 dated Au-----t 14, 2024
- Notice of Meeting dated Au-----t 11, 2024
- Evaluation/Eligibility Team Report regarding student 2 dated October 6, 2024
- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent regarding student 2 dated October 16, 2024

- Screenshot of text exchanges dated Au-----t 18 through Au-----t 27, 2025 between the parent and student 2's Animal Science teacher
- Screenshot of text exchange dated Au-----t 28, 2025 between the parent and student 2's special education teacher
- Email exchange dated September 9, 2025 between the parent and the building principal
- Email exchange dated September 15 and 16, 2025 between the special education teacher for student 2 and the parent
- Email exchange dated September 16, 2025 between the parent and the special education teacher for student 2
- Notice of Special Education Meeting regarding student 2 signed by the parent on September 16, 2025
- IEP for student 2 dated October 14, 2025
- Conference Summary regarding student 2 dated October 14, 2025
- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent regarding student 2 dated October 14, 2025
- Text message exchange between the parent and student 2's special education teacher dated October 16, 2025
- Email dated November 15, 2025 from student 2's special education teacher to the parent
- Notice of Special Education Meeting on November 25, 2025
- Notice of Special Education Meeting on November 24, 2025
- Agenda dated November 24, 2025
- IEP Amendment for student 2 dated November 24, 2025
- IEP Amendment Between Annual IEP Meetings for student 2 dated November 25, 2025
- Conference Summary dated November 24, 2025
- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent regarding student 2 dated November 24, 2025
- Email dated December 1, 2025 from the parent to the complaint investigator
- Examples/samples of classroom modifications

Issues

In her complaint, the parent identified two concerns. The first concern focused on student 1 and the second concern focused on student 2. The investigator discussed both concerns with the parent during a telephone call on November 28, 2025. The parent determined that she would withdraw the first concern specified in her written complaint - issues related to student 1. That decision was confirmed in an email from the parent to the investigator dated December 1, 2025.

The parent wrote:

> *"...I do not wish for the state to expend resources to pursue the events last year of which my son [student 1] did not receive pull out for testing and para support on multiple occasions in a week or so time span. This happened last year and he was able to pass the courses. I wanted it on record and I was glad to have brought these concerns up with [the district] admin again on record at the IEP mtg for [student 2] on Nov 24th that started with complaint form issues."*

This investigation, therefore, addressed the three issues related to student 2 which were specified under Concern 2 in the parent's written complaint and one additional issue raised by the parent during the telephone call with the investigator.

A formal complaint must allege that a violation of special education laws or regulations has occurred within the 12-month period prior to the date the complaint is received and filed by the commissioner of education (K.A.R. 91-40-51(a) and (b)). In her written complaint the parent raised issues that are not covered by special education laws or regulations. Specifically, the parent objected to what she felt was an intimidating telephone call which she says she received from the president of the Board of Education for the district directing her to stay away from the school. She also objected to the manner in which information about student 2 was presented during an IEP team meeting with the student present. Neither of these issues were investigated since neither would be deemed a violation of special education laws and therefore fall outside of the authority of the investigator.

Background

These concerns involve a 15-year-old boy who is enrolled in the 10th grade in his local high school. At the time of his most recent reevaluation in October 2024, the student was determined to be eligible for special education support under the categorical designation of Specific Learning Disability in the areas of reading (basic reading, reading fluency, and reading comprehension), written expression, and math problem solving and calculation. The student has received special education services from the LEA since preschool.

In a telephone call with the investigator on November 28, 2025, the parent stated that she was exploring options to enroll the student in a virtual school for the second semester of the 2025-26 school year.

Issue One

Failure to provide student 2 with accommodations/modifications specified in his IEP(s)

Position of the Complainant

The parent reports that on Au-----t 18, 2025 she was told by student 2's "Ag teacher" (Animal Science class) that the teacher did not know what an IEP was and was unaware that student 2

had an IEP. It is the position of the parent that the student has not been afforded the accommodations/modifications specified in his IEPs.

The parent also asserts that a paraeducator was not available to support student 2 in his Driver's Education class.

Position of the LEA

The LEA asserts that the teachers of student 2 have been trained on the requirements of the IEPs in place for the student over the 12-months prior to the date of this complaint. The LEA further contends that student 2 has been afforded the accommodations/modifications specified in those documents.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

Once an IEP has been completed and consent for services has been obtained from the parents, the child's IEP must be accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. Regardless of whether an individual participates in the IEP meeting, all individuals who are providing education to the child (regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementation of the IEP) must be informed by the IEP team of

1. his or her specific responsibilities related to implementing the child's IEP, and
2. the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP (K.A.R. 91-40-16(b)(5); 34 C.F.R. 300.323(d)(2)).

Investigative Findings

The "Special Education Services" section of student 2's October 16, 2024 IEP contained the following statements:

> *"Beginning 10/16/24, [student 2] will be provided Direct Special Education Services in the Special Education classroom (location) 5 days a week (frequency) for 135 minutes per day (Duration) for ELS, math and study skills.*
>
> *Beginning 10/16/2024, [student 2] will be provided Direct Special Education services in the General Education classroom (location) 5 days a week (frequency) for 45 minutes per day (Duration) for Science.*

For the 2025-26 school year, the October 2024 IEP for student 2 outlined service changes. According to a prior written notice form dated October 14, 2024, the student would be placed in a special education setting for Science because

> *"most science textbooks are written above the level they are intended for so a 10 grade level science text will be at the 11th grade + reading level. [Student 2] is at a frustration level in a 4th grade level passage and a 10th grade level science book will not be something he can comprehend even with support."*

The October 14, 2024 prior written notice form also stated that the student would begin to receive special education support in a general education setting for World History because

> *"As a 9th grader [the student] does not have a history class, [but] as a 10th grader he will be receiving special education support [in the general education setting] when he takes world history."*
>
> *The team talked about how [student 2] is very confused in science at this point and decided that with the support he can make it through the freshman 9th grade year. As a team we rejected the idea of removing him at this point as he is passing and learning with special education support, accommodations and modifications (including notes support, modified scope, modified worksheets, modified tests, open note/book tests and reduced workload in the class).*

The "Accommodations and Modifications" section of the student's October 16, 2024 IEP contained the following statements:

> *"Beginning 10/16/24 through 10/15/25, when given an assessment (frequency) in a general education (location) (sic), [student 2] will be provided a separate, quiet or individual setting for the length of each individualized testing session (duration).*
>
> *Beginning 10/16/24 through 10/15/25, when [student 2] is given an assignment, quiz, test, and/or assessment (frequency) across all education settings (location)...[the student] will use TTS to access the information until the assignment, quiz, test, and/or assessment has been completed in its entirety (duration). This should be computerized when possible to make him more independent but can be read aloud by a human reader if TTS is not possible.*
>
> *Beginning 10/16/24 through 10/15/25, when given an assessment, assignment, or project (frequency) in a general education (location), [student 2] will be provided (frequency) (sic) he will be given the directions in a variety of ways (verbal, written, etc.) and the directions will be broken down into steps, using visual supports, when available, until the assignment, quiz, activity or assessment has been completed in its entirety (duration).*
>
> *Beginning 10/16/24 through 10/15/25, when expected to take notes (frequency) in a general education setting (location) (sic), the scope and sequence will be modified for the entire length of the assignment or project (duration) to match his notes and prepare him for his assessment.*

Beginning 10/16/24 through 10/15/25, when given an assessment or quiz (frequency) in a general education (location), [student 2] will be allowed to use his notes or his book to answer the questions until he completes the assessment or quiz (duration).

Beginning 10/16/24 through 10/15/25, when given an assessment (frequency) in a general education (location) (sic), [student 2] will be provided a modified assessment (Shorten, only most important parts, wordbank, limited matching to 10 words per section, and reduce multiple choices to 3 options) for the length of each individualized testing session (duration).

Beginning 10/16/24 through 10/15/25, when [student 2] is given a writing task (frequency) across all educational settings (location), [the student] will be allowed up to 15 extra minutes to complete the writing task (duration).

Beginning 10/16/24 through 10/15/25, when given an assessment (frequency) in a general education (location) (sic), [student 2] will be provided a separate, quiet or individual setting for the length of each individualized testing session (duration)."

According to the LEA, the general education teachers for student 2 were on Au-----t 11, 2025 sent digital copies of the "At a Glance IEP" for the student which outlined his accommodations and modifications. On Au-----t 13, 2025, the special education teacher met with these general education teachers to discuss IEPs for this student and others. Additionally, the district maintains an internal link where teachers can access IEP information.

The parent sent a text message to student 2's general education Animal Science teacher on Au-----t 21, 2025 offering to come to the school to talk about "IEPs for students." Having received no offer of a time for that conversation by Au-----t 28, 2025, the parent texted student 2's special education teacher who replied that the Animal Science teacher "had the iep stuff all along. She just knows she can't talk confidential information with you..."

In a telephone conference call on December 11, 2025, the student's ELA, Animal Science, and World History teachers confirmed to the investigator that they had been provided with information regarding the IEP for student 2 at the beginning of the 2025-26 school year, shared examples of how they had worked with the special education teacher to modify coursework for the student, and explained how they were able to access the student's IEP.

The Animal Science teacher is new to the teaching profession and to IEPs, but during the telephone call of December 11, 2025, she provided the investigator with multiple examples of how she has worked with the special education teacher to implement a variety of modifications to help the student succeed in her classroom.

During the December 11, 2025 telephone conference call, the World History and ELA teachers also told the investigator how they had worked with the special education teacher for student 2 to design modifications for the student.

Examples of the implementation of accommodations/modifications for student 2 were provided to the investigator in written form for the student's Mechanical, Electrical, Plumbing (MEP) class, ELA, Geometry, Animal Science, and World History classes.

The annual review of the student's IEP was conducted on October 14, 2025. The IEP team determined that student 2 would need 144 minutes per day of special education service 5 days per week in a special education setting for math, study skills, and science. According to student 2's IEP, he would receive 45 minutes per day of special education services 5 days per week in the general education setting for ELA and 90 minutes of special education services in the general education setting every other day for history.

According to the "Accommodations/Modifications" section of student 2's October 14, 2025 IEP, he would be afforded the following accommodations in the general education setting:

- pull-out setting for tests;
- modified assignments and assessments to his abilities;
- cloze notes provided prior to lesson to keep student 2 engaged;
- permission to use open note and book for tests;
- frequent checks for understanding;
- text to speech and speech to text; and
- chunking of projects and large assignments.

An additional hand-written accommodation ("50% on timed tests") was added at the bottom of the section.

The parent was given prior written notice of the LEA's proposed changes in special education services for the student and gave her written consent for the implementation of those changes on October 14, 2025. The parent was not provided with notice of changes to the accommodations/modifications that would be provided to the student.

On November 25, 2025, the IEP for student 2 was amended. The parent provided written consent for the amendment.

The amendments to the accommodations/modifications of student 2's IEP included:

- noting that prior to lesson presentation, student 2 would be provided with cloze notes that were modified to include only the information the student would be tested on;
- formalizing the inclusion of an accommodation allowing 50% more time on all timed tests; and
- provision of preferential seating near the instructor and away from environmental distractions.

The amendment also noted that student 2's class schedule would be modified, dropping a Yearbook class and designating the student as a teacher's aide during that block.

The parent was provided with prior written notice of these changes and gave her written consent for their implementation.

During the telephone call of December 11, 2025 discussed above, the World History, ELA, and Animal Science teachers told the investigator that they had been informed of changes to the student's IEP made through both the annual review process and through the IEP amendment.

Neither the October 16, 2024 IEP for student 2, nor his October 14, 2025 IEP, nor the subsequent November 2025 amendment require special education support for the student in his Driver's Education class. According to the LEA, a district paraeducator had been employed to transport students from this district to a neighboring district for the class. That individual had at times acted as a monitor in the classroom when students were being tested but was not providing special education services to the students.

Summary and Conclusions

Ample evidence was provided by the LEA to show that the general education teachers for student 2 have been informed of their responsibilities with regard to the implementation of the accommodations and modifications specified in the student's IEPs over the past 12 months. Physical examples of modifications were provided, and the student's ELA, Animal Science, and World History teachers spoke at length about how they had worked with the special education teacher to provide the supports the student needed. A violation of special education statutes and regulations *is not substantiated* on this aspect of this issue.

Additionally, there is no requirement that the student be provided with special education support by a paraeducator for his Driver's Education class in any IEP for the student that has been in effect during the 12-month period prior to the filing of this complaint. A violation of special education statutes and regulations *is not substantiated* on this aspect of this issue.

Issue Two

Inadequate Notice Regarding Participants in an IEP Team Meeting

Position of the Complainant

During her telephone conversation with the investigator on November 28, 2025, the parent stated that the LEA had not consistently provided her with 10-day notice of IEP team meetings regarding student 2.

Position of the LEA

The LEA denies this allegation and asserts that the parent has been given proper notice of the three IEP team meetings regarding student 2 that have been conducted during the 2024-25 and 2025-26 school years.

Applicable Statutes and Regulations

To address the requirement to strengthen the role of parents in the special education process, Congress mandated that schools afford parents the opportunity to be members of any decision-making team for their child, including eligibility, initial evaluation and reevaluation, and development of an individualized education program (IEP) for the provision of a free appropriate public education (FAPE). Schools are to ensure that parents have the opportunity to be members of the IEP team that makes decisions on the educational placement of their child (K.A.R. 91-40-17).

Parents are to be provided with written notice of an IEP meeting regarding their child at least 10 days in advance of the meeting (K.A.R. 91-40-17(b)(2)), but may waive their right to 10-days prior notice in order to expedite the scheduling of a mutually agreed upon IEP team meeting.

Investigative Findings

The triennial review of student's IEP was conducted during the 2024-25 school year. The parent was, on September 11, 2024, emailed notice of the proposed October 16, 2024 meeting for the purpose of reviewing the results of the required reevaluation and conducting an annual review of the student's IEP.

The LEA has convened two IEP team meetings regarding student 2 between the start of the 2025-26 school year and November 24, 2025. The first of these meetings was held on October 14, 2025, and the second on November 24, 2025.

The October 14, 2025 meeting had originally been scheduled for earlier in October 2025. However, on September 15, 2025, the special education teacher for student 2 sent an email to the parent asking:

> *"Can we move [student 2's] IEP to October 13 or 14th so he can get 3 full weeks of the trial in ELA and Geometry?"*

The parent agreed to the change in the date of the meeting.

Notice of the October 14, 2025 IEP team meeting was sent to the parent via the student on September 16, 2025. On that same date, the parent signed the form indicating that she planned to attend the meeting.

Shortly after the October 14, 2025 annual IEP review meeting, the parent raised concerns regarding the content of the document and asked for another IEP team meeting. In an email to the parent dated November 15, 2025, student 2's special education teacher proposed that an IEP team meeting requested by the parent be conducted on November 25, 2025 at 2:00 PM. However, extenuating circumstances surrounding educational records led to the meeting being rescheduled to November 24, 2025.

The parent had signed a notice of the proposed November 25, 2025 meeting on November 17, 2025. On November 18, 2025, the parent was at the school to pick the student up for an appointment. According to the special education teacher, she explained to the parent that the meeting would have to be moved to the morning of November 24, 2025. The special education teacher had not yet developed a revised notice of meeting form. The special education coordinator states that in a phone call on November 18, 2025, she confirmed with the parent that the IEP meeting would be held on November 24, 2025 at 9:30 AM.

The parent contends that it was only when she received a text from the special education teacher at 8:00 AM on November 24, 2025, that she learned of the time of the upcoming meeting at 9:30 AM. The parent states that she changed her plans for the morning and went to the meeting as scheduled. At the meeting, the parent signed the notice of meeting form indicating that she agreed to waive her right to 10-day prior written notice of the meeting.

Summary and Conclusions

The parent was provided with more than 10-day prior notice of IEP team meetings held on October 16, 2024 and October 14, 2025. While she was not afforded 10-day prior notice of the IEP team meeting held on November 24, 2025, the parent waived her right to that notice at the time of the meeting. Under these circumstances, a violation of special education statutes and regulations *is not substantiated* on this issue.

Issue Three

Failure to Inform the Parents of the Attendees at a Meeting

Position of the Complainant

The parent asserts that she had not been informed that the student's former third grade teacher would be attending a meeting regarding student 2.

Position of the LEA

The LEA acknowledges that the former third grade teacher for student 2 did attend a meeting regarding the student but contends that this was not an IEP team meeting which required that the parent be informed of who would be in attendance on behalf of the LEA.

Applicable Statutes and Regulations

Written notice of an IEP Team meeting must indicate - among other things - the titles or positions of the persons who will attend the meeting on behalf of the school. The school may elect to identify participants by name, but the LEA is under no obligation to do so and may refer to a participant by title only (K.A.R. 91-40-17(b)(1)).

Investigative Findings

On September 9, 2025, the parent sent an email to the building principal writing:

> *"...I'm requesting to come up and review [student 2's] IEP and the modifications he's receiving. [I] would like to see the work he's had modified thus far. I'd also like to set up a convenient time to observe in all his classes with new teachers..."*

The building principal responded on September 9, 2025, writing:

> *"I sent you another email in regards to a meeting about [student 2] and his IEP/modifications...Let's meet with the teachers and go from there about visiting the classroom. You and I can discuss this more on Thursday [September 11, 2025] if you'd like. It looks like [there are only two] 'new teachers'. We can include [the student's World History teacher] as well if you'd like since he will be here Thursday."*

On September 11, 2025, the parents met with the building principal, the student's special education teacher, the student's World History teacher, and the student's Animal Science teacher for what was described by the parent and the LEA as a "planning meeting." Also in attendance at that meeting was a third grade teacher from the district who is the designated "mentor teacher" for the student's Animal Science teacher who is new to the teaching profession and asked her mentor to attend as support.

Summary and Conclusions

While special education statutes and regulations establish a number of notice requirements related to IEP team meetings, not every meeting of parents and school staff held to discuss a student's needs is an IEP team meeting. Special education laws do not require districts to provide the parent with prior notice of who will be attending every meeting – though it might well be considered courteous to do so.

The meeting of September 11, 2025 was not intended to be an IEP team meeting but rather an opportunity to provide the parents with information regarding how new teachers were addressing his need for curricular modifications. During the meeting, the Animal Science teacher shared with the parents how the student's classwork and assessments had been modified and how future assignments would be adjusted as well.

While in the opinion of the investigator the parent should have been afforded the opportunity to ask that the mentor be excused, the district's failure to alert the parent to the fact that the mentor would be present for this discussion is not a violation of special education laws. A violation of special education statutes and regulations *is not substantiated* on this issue.

Additional Comments

At the meeting described above, the parent told the school staff that the student wanted to return to all of his general education classes. In preparation for the upcoming annual IEP

review, a plan was developed to allow the student to attend general education ELA and math classes for 3 weeks. Data would be taken on how the student performed in those settings with unmodified requirements. That data would then be used to make decisions regarding the student's educational placement during the upcoming IEP year.

Special education statutes and regulations require an LEA to obtain the written consent of the parent before making a substantial change to the educational placement (more than 25% of the school day) of a student or a material change in services (25% or more of the frequency or duration of any one service) (K.A.R. 91-40-27(a)(3)). In this case, the decision was made to have the student return to the general education classroom for his math and ELA instruction for a three-week period prior to his upcoming annual IEP review. The student's instruction in these courses was at that time being provided in a special education setting per his October 16, 2024 IEP.

In an email to the parent dated September 16, 2025, the special education teacher outlined the plan:

> *"Proposed changes:*
>
> *Math in class for lecture (2/3) pulled to work on the assignment (1/3). Modified scope and sequence. Lower level work based on his level of understanding but still on the same topic and concepts.*
>
> *ELA Modified writing to 1/3 of peers writing, modified assignments to his levels, modified assessments.*
>
> *Accommodations for both:*
> - *Calculator*
> - *notes provided before lesson so he can follow*
> - *pull-out testing*
> - *Modified assignments and assessments*
> - *read-aloud*
> - *open-note and open book for assessments*
> - *Wordbank (max 10 per section)*
> - *Reduced options on multiple choice to 3*
>
> *We will let [student 2] try this for 3 full weeks and push the IEP back. If at any time he wants to stop the trial we can stop and go back to the pull-out setting. If it goes well and he is making progress we will move forward with the possible changes in setting on the IEP."*

By changing the student's placement for these two courses from the special education setting to the general education setting, the LEA made a substantial change in placement for the student and a material change in services. The parent was not provided prior written notice of that proposed action, she did not provide her written consent for that change, and the

student's IEP was not amended. She did, however, respond to the special education teacher's email writing:

> *"Looks good to me."*

The parent did not contest the implementation of this 3-week trial period in her complaint (though she objected to the manner in which data collected during the trial period was shared with the student). Therefore, the investigator has opted not to identify a violation related to these facts. However, the LEA is advised that making a substantial change in the placement of a student or a material change in services – even for a short period of time and even when done with good intent – could result in a finding.

Issue Four

Failure to Timely Respond to the Parent's Request for an IEP Team Meeting

Position of the Complainant

It is the position of the parent that the LEA did not promptly respond to her September 9, 2025 telephone and email requests for an IEP team meeting to discuss the needs of student 2 and her request to observe the student in some of his classrooms. The parent also asserts that the LEA did not timely convene a second IEP team meeting to address her continued concerns regarding the student's October 14, 2025 IEP.

Position of the LEA

The LEA contends that it responded in a timely manner to the parent's concerns.

Applicable Statutes and Regulations

In a January 8, 2002 letter to state special education directors, guidance was provided by the Kansas State Department of Education (KSDE) regarding what would be considered a "reasonable time" for a district to respond to a parent's request regarding such special education actions as evaluation or the provision of a free appropriate public education (FAPE). That guidance – which is generally applied to any request from a parent – established "15 school days" as a "reasonable time" in which to respond "unless there is some unusual circumstance."

Investigative Findings

On September 9, 2025, the parent sent an email to the building principal writing:

> *"...I'm requesting to come up and review [student 2's] IEP and the modifications he's receiving. [I] would like to see the work he's had modified thus far. I'd also like to set up a convenient time to observe in all his classes with new teachers..."*

The building principal responded on September 9, 2025, writing:

> *"I sent you another email in regards to a meeting about [student 2] and his IEP/modifications...Let's meet with the teachers and go from there about visiting the classroom. You and I can discuss this more on Thursday [September 11, 2025] if you'd like. It looks like [there are only two] 'new teachers'. We can include [the student's World History teacher] as well if you'd like since he will be here Thursday."*

A meeting was held on September 11, 2025. As noted above under Issue Three, both parties described that discussion as a "planning meeting" where participants addressed the modifications being provided in two of his general education classrooms.

At the time of the planning meeting, an annual IEP review meeting for the student had already been scheduled for early October 2025. Because the decision had been made to implement a 3-week trial period of general education instruction for the student, the LEA proposed that the annual review be rescheduled for October 14 to allow for that 3-week trial.

The parent also states that, during a telephone call with the principal on November 12, 2025, she asked for another IEP meeting to discuss the provision of accommodations/

modifications for student 2. The student's special education teacher sent the parent an email on November 13, 2025 proposing a meeting for November 25, 2025. That meeting was ultimately held on November 24, 2025.

Summary and Conclusions

The parent received a written response to her September 9, 2025 request to observe the student and discuss his coursework modifications on the day her request was made. A meeting to discuss the parent's concerns was held within 2 school days.

After receiving a request for an IEP team meeting from the parent on November 12, 2025, the LEA responded the following day, and an IEP team meeting was scheduled for November 25, 2025 – 9 school days later. That meeting was ultimately held on November 24, 2025 – 8 school days after the parent's request.

Because the LEA responded in a timely manner to these parent requests, a violation of special education statutes and regulations i***s not substantiated*** on this issue.

Corrective Action

Information gathered in the course of this investigation has not substantiated noncompliance with special education statutes and regulations on issues presented in this complaint. Therefore, no corrective actions are required.

Diana Durkin

Diana Durkin
Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON OCTOBER 21, 2025

DATE OF REPORT: DECEMBER 8, 2025

This report is in response to a complaint filed with our office on behalf of a student, --------, by their guardian, --------. In the remainder of the report, the student will be referred to as "the Student" and the guardian as "the Parent."

The Complaint is against USD #437, Auburn/Washburn Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #437.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on October 21, 2025, and the 30-day timeline ended on November 20, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented a unilateral restricted communication plan without providing the Parent with a Prior Written Notice (PWN). K.A.R. 91-40-26; 34 CFR § 300.503.

ISSUE TWO: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, imposed a communication restriction that denied meaningful parent participation by preventing the Parent from participating in Individualized Education Program (IEP) implementation and educational decision-making. K.A.R. 91-40-17(a), K.A.R. 91-40-25; 34 C.F.R. § 300.322, 34 C.F.R. § 300.501.

ISSUE THREE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, blocked communication necessary for coordination of services and

access to the IEP team, thereby denying the Student a Free Appropriate Public Education (FAPE). K.A.R. 91-40-2; 34 § C.F.R. 300.101, 34 C.F.R. § 300.17.

Investigation of Complaint

The Complaint Investigator interviewed the Parent by video conference on November 12, 2025, and Parent 2 on November 6, 2025. The following LEA staff were interviewed on November 12, 2025: The Director of Secondary Special Services and the Former Case Manager.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Complaint, no date
2. LEA Response, no date
3. Email correspondence dated 10/17/2025 through 10/20/2025, between the Parent and the LEA
4. PWN for Evaluation or Reevaluation, 06/04/25
5. Request for Consent for Special Education Action, 06/06/25
6. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent, 09/29/25
7. IEP, 12/17/24
8. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent, 12/17/25
9. Request for Consent for Special Education Action, 03/07/25
10. Email, re: Immediate Preservation of All Educational Records Pursuant to IDEA, Section 504, ADA [Americans with Disabilities Act], and Federal Civil Rights Law, 10/21/25
11. List of Times Staff Met with the Parent, 09/02/25-10/16/25
12. [The Student's]. IEP Meeting Transcript, 10/22/25

Background Information

This investigation involved a high school-aged student enrolled at Washburn Rural High School in USD #437. The Student was receiving special education or related services as a child with a disability under the categories of Autism and Intellectual Disability per the IDEA. The Student is very observant and enjoys building relationships with staff. The Student requires an Augmentative Alternative Communication (AAC) device for communication. The child lives at home with their foster parents.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. On December 16, 2024, an annual IEP meeting was held. The Parent participated in the meeting. The Student's goal areas were identified as mathematics, functional reading, communication, following directions, emotional regulation, social skills, spelling, daily living skills, and personal hygiene skills. Related services included adaptive P.E., speech and language, occupational therapy (OT), and transportation. Accommodations listed behavioral supports, visual schedules, a behavior support plan, use of an AAC device, sensory breaks, and supervision for safety.
2. On June 4, 2025, a PWN was issued indicating the LEA's proposal to conduct a reevaluation specifically for a Functional Behavior Assessment (FBA), using existing observations, records, and doctors' notes. The Parent provided consent for the evaluation on June 6, 2025.
3. On September 29, 2025, the LEA issued a PWN documenting the IEP team met to review the Student's evaluation and assessment data. The notice stated the LEA would not complete an FBA and would instead develop a "comprehensive IEP fidelity and support system" plan.
4. On September 29, 2025, the LEA issued an IEP Amendment Between Meetings to update accommodations, including support during meals and academic accommodations.
5. On October 14, 2025, the Attorney for the LEA notified the Parent of the plan to have all communication sent to the Director of Secondary Special Services, except for direct communication with the School Psychologist. The LEA stated the reason for the plan was due to "frequent intimidating, aggressive, threatening, and abusive" communications from the Parent. They indicated the Parent threatened staff with reporting them to the "district and beyond" if they didn't "comply with [the Parent's] demands." The LEA stated the plan was a "reasonable and necessary" response to protect staff, "maintain confidentiality, and provide clear communication channels." According to the LEA, the communication plan did not change the Student's "identification, evaluation, placement, or the provision of FAPE", so a PWN was not issued. The LEA further described the plan as "not restrict[ing]" the Parent's participation in the IEP process because the Parent was able to receive "all required notices, progress reports, and invitations to meetings" and maintained their ability to request a meeting or propose revisions.
6. According to the Parent's documentation, they discovered a communication restriction was in place on October 14, 2025, when they visited the School to coordinate a medical appointment for another child residing in their home. The Parent noted on the same date, their attorney formally notified the LEA's legal counsel of the Parent's lack of consent to any "unilateral communication restriction plan" for the Student. The Parent also noted they submitted their own written documentation confirming their dissent on

October 18, 2025, and claimed they were not provided procedural safeguards, or any PWN explaining the LEA's decision or rationale for the restricted communication plan.

7. According to a communication log, the following communications occurred from October 14, 2025 through October 20, 2025 between the Parent and the LEA regarding the Student:
    a. The Attorney for the LEA contacted the Parent Advisor to inform them of the communication plan.
    b. The Director of Secondary Special Services emailed a draft amendment and PWN to the Parent for review.
    c. The Director of Secondary Special Services emailed the Parent quarterly progress reports. The Director of Secondary Special Services sent an additional email notifying the Parent of the Director of Secondary Special Services' upcoming absence and providing an alternative contact.
    d. The Parent emailed "multiple staff" to state disagreement with the communication plan.
    e. The Attorney for the LEA emailed the Parent Advisor to clarify the communication plan would remain in place.
8. On October 15, 2025, the Parent Advisor emailed the Attorney for the LEA and indicated the Parent preferred to work through the Parent Advisor to schedule the IEP team meeting. The Parent Advisor indicated the Parent requested their attendance at the meeting.
   The Parent Advisor stated the Parent expressed "significant concerns" about communicating through only one LEA contact. The Parent commented they did not feel the Former Case Manager was adequately informed of the Student's specific special education needs and indicated they required an "open line of communication" with the Student's IEP team. The Parent Advisor indicated the Parent had the right to participate as a "full member of the IEP team," which required "direct and open communications with key staff."
   The Attorney for the LEA emailed the Parent Advisor to state they preferred the Parent to schedule the meeting directly with the Director of Secondary Special Services to avoid delays caused by using a "middleman." The Attorney for the LEA confirmed the Parent could continue to communicate with the School Psychologist.
9. On October 16, 2025, the Director of Secondary Special Services emailed the Parent a copy of the PWN related to an IEP amendment and the amended IEP, October 16, 2025.
10. On October 17, 2025, the Director of Secondary Special Services emailed the Parent a copy of the Student's first-quarter progress reports. They sent an additional email to the Parent stating they would be out of the office and provided the name and contact information for the substitute point of contact.
11. On October 18, 2025, the Parent emailed the Director of Secondary Special Services and seven additional staff, including the Former Case Manager, expressing their

disagreement with the "communication restriction" and indicated it was "inappropriate, unreasonable, and unlawful." Additionally, the Parent described the communication restriction constituted retaliation as it blocked communication and isolated the Parent from the IEP team. The Parent stated if the directive was not "immediately rescinded," they would file additional complaints with the KSDE.

12. On October 20, 2025, the Attorney for the LEA emailed the Director of Secondary Special Services and the Director of Elementary Special Services to state they spoke with the Parent Advisor and the communication plan would "remain in place" at that time.
13. On October 21, 2025, the Parent emailed the Executive Director of Learning Services and the Assistant Principal to request the LEA "immediately preserve" all educational documents and related records for the Student. They specified they wanted all investigation materials, including "any redacted or unredacted documents," preserved and added the LEA was on "formal notice" of its obligation to preserve evidence. They stated they requested all parties included in the email respond with their understanding of who the "individual designated as custodian of these records" was. The Parent added they felt the Director of Secondary Special Services had interfered with the Parent's ability to access educational records and related material.
14. On October 22, 2025, an audio-recorded IEP team meeting with the Parent and school staff recorded the Parent screaming at staff using expletives. The meeting was held via video conference for the Student's sibling. Prior to the Parent's outburst, the team had been getting the Parent access to the Student's sibling's current IEP. While the team was waiting for the Parent to receive the emailed IEP, a classroom teacher stated they needed to check on something with their class and would be back in a couple of minutes.

    The Parent stated, "I just proved there was a God. I'm going to Hawaii." The Director of Elementary Special Services and the Associate Principal asked, "What?" The Parent screamed, "I just fucking proved there was a God! I'm going to Hawaii!" The Associate Principal asked the Parent if they were ok. The Parent yelled, "No. Are you okay?". When the Associate Principal started to speak to the Parent, they were interrupted by the Parent yelling, "You mother fuckers!" The Director of Elementary Special Services stated, "We're going to go ahead and hang up right now." The Parent yelled, "No, you're going to hell. You're fucking going to hell!" The Parent continued to yell expletives at the staff until they were all able to leave the virtual meeting. The Associate Principal told the Parent they would try to reconnect with them at a later time.
15. On October 28, 2025, the Assistant Principal documented the impact of the Parent's treatment of staff through observations, which indicated:
    a. The Former Case Manager stated they felt overwhelmed by constant emails, unable to keep up with the Parent's request, and the Parent did not believe the Former Case Manager. They added the Parent's request for "constant confirmation and documentation" about the Student's day.

b. The Teacher stated they were verbally assaulted in an IEP meeting. They stated the Parent sent "constant" emails and did not believe the Teacher when they reported incidents. The Teacher stated the Parent was "rude and dismissive" in emails.
c. The Current Case Manager stated they "fundamentally disagreed" with parts of the IEP the Parent requested. They added the Parent was rude and dismissive toward them. They stated they were verbally assaulted during an IEP meeting.
d. The Food Services Manager stated they were frustrated the Parent never completed the school paperwork for meal plans. They added the Parent "sends doctor's notes and expects it to be followed." They added the Parent was "always critical" of food choices.
e. The Associate Principal detailed being verbally assaulted during an IEP meeting. They added they did not feel the Parent should be the Student's advocate.

16. In an undated statement from the Former Case Manager, they documented the following experiences with the Parent that led to the request for a communication plan.
    a. The Parent's emails, beginning at the start of the 2025-26 school year, demonstrated "citing regulations" and referencing "non-compliance" and a change in tone to "directing, accusing, and threatening."
    b. The Former Case Manager received 25 emails from the Parent within the first 13 days of school, with "strongly worded or demanding" content.
    c. The Parent threatened to take action with KSDE and file complaints against the Former Case Manager.
    d. The Parent claimed they had access to information from the complaint responses, giving them a "one-up" position.
    e. The Former Case Manager felt they needed to monitor emails "constantly" and respond "immediately" out of fear of "escalation or complaints to the LEA."
    f. Staff recalled reluctance to communicate with the Parent due to feeling "heightened anxiety" and a "fear of being named in a complaint."
    g. The Former Case Manager noted reduced time for collaboration due to increased time "managing and debriefing" accusations among staff.

    The Former Case Manager requested "concrete support" to protect staff and allow them to do their jobs, including a communication protocol, facilitated meetings, staff protection, and boundary/confidentiality reminders. They added the patterns they described were "sustained and harmful" to their well-being, staff morale, and their ability to function "confidently and efficiently."

17. An undated document listed the times the Parent interacted with staff, virtually, in person, or by phone during the 2025-26 school year.
    a. September 2, 2025, with the School Psychologist for one hour virtually.
    b. September 10, 2025, with the School Psychologist for one hour virtually.

c. September 25, 2025, with the School Psychologist for one hour virtually.
d. September 29, 2025, with the School Psychologist, the Assistant Principal, and the Current Case Manager for one hour in person.
e. October 16, 2025, with the School Psychologist for one hour virtually.

The document described the Parent's emails as "increasingly adversarial and unconstructive." The document confirmed "several staff members" had reported the communications were "harsh and accusatory," which made it difficult for "direct engagement." It added no "direct physical threats" were made, and clarified the result of the tone and frequency of the Parent's emails led staff to request all communication be routed through administration for "safety, professionalism, and efficiency."

18. According to the Student's Daily Schedule, which was sent home to the Parent, the team listed the foods the Student ate for breakfast and lunch in detail. In addition, the schedule included detailed descriptions of the activities the Student participated in during each class period. It included when the Student went for walks and took a bathroom break, as well as the specific activity/topic for each class period.
No incidents were documented from August 13, 2025, to November 14, 2025. The data recorded on the daily schedule remained consistent throughout the school year, including after the communication plan was implemented.

Parent Interview

19. In an interview with the Complaint Investigator, the Parent described their role with the Student as "parent representative."
20. The Parent stated they learned about a restrictive communication plan with the School when they came to pick up the Student's sibling for a medical appointment on October 14, 2025. They stated the office staff was unable to use the intercom to call the Student down due to statewide testing and were told to call the Current Case Manager directly. The Parent indicated they left a voicemail on the Teacher's phone and followed up with an email. They stated they did not hear back and had to wait in the office until the end of that class period. The Parent recounted they were "almost late" for the appointment. The Parent recalled the Teacher never called them back and stated they realized the School had put a restriction on them and they'd extended it to a "second one of [their] students."
The Parent stated the office secretary did not mention the communication plan to them when they came to pick up their student. The Parent stated she did not think the secretary knew about the plan.
21. The Parent stated the Attorney for the LEA had emailed the Parent Advisor on October 13, 2025, notifying the Parent that all correspondence from the Parent would be channeled through the Director of Secondary Special Services as the "point of contact." The Parent stated the Complaint Advisor emailed them back to say they disagreed with the plan and it was a "violation of my parental safeguards." They added the plan also included "safety, wellness, and health," which limited the Parent's ability to "coordinate

doctors' appointments or any type of health and safety things," which had nothing to do with an IEP. They added, "They blocked me from everything."

22. The Parent shared the communication plan was never explained to them in person, adding it was given to the Complaint Advisor. They stated the Complaint Advisor showed them the email and explained the plan's conditions to the Parent. The Parent expressed they felt it was "retaliatory" because they had filed complaints and hired an attorney.
    The Parent stated the Parent Advisor emailed the LEA to state they disagreed with the plan, and the LEA replied, they would be continuing the plan because their client was "abusive.
23. The Parent shared their understanding of the plan, which indicated they were to send any questions about the IEP or issues related to the Student's health, safety, or wellness to the Director of Secondary Special Services, who "was in control of it." They added if they emailed the teachers directly, the teachers were directed to forward the emails to the Director of Secondary Special Services, who would "respond if [they] saw appropriate." (P3, 08:25) The Parent indicated they were permitted to communicate directly with the School Psychologist.
24. The Parent noted the School psychologist told them they could not provide the amendments to the IEP directly to the Parent because of the communication plan, and instead had to give them to the Director of Secondary Special Services to review before sending them to the Parent.
25. The Parent explained they felt the LEA was "filtering everything" through the Director of Secondary Special Services because they didn't want the Parent to know "what's going on or not going on" with the Student's IEP. Before the communication plan, the Parent said the conversations with the Director of Secondary Special Services were "cordial" and gave "a little bit more information." Afterward, the conversations were "definitely one of power and control." They stated it was retaliatory and "not collaborative." The Parent stated they felt the LEA was withholding information before the plan, too, but was more "cordial."
26. The Parent stated communication with the IEP team was "collaborative" before the plan, even when they had to have "difficult conversations." They added it was "how it should be," meaning the Parent was able to "get information and participate." They stated they were a "collaborative team member." The Parent felt the communication with the team was "respectful," "friendly," and "collaborative." They stated they could come to the School to set up a meeting or, if they preferred, call.
27. The Parent stated they felt IEP amendments were not happening because the Director of Secondary Special Services "took over." They added the Student's food plan was not "being followed." The Parent described the Assistant Principal providing them with the menu so the Parent could choose food for the Student and stated the Director of Secondary Special Services said it was "being followed," but the Parent reported, "it's not."

28. The Parent stated services were delayed after the IEP meeting on October 28, 2025. They stated the changes were supposed to have already been made, and nothing from that meeting was "set in stone." They added the Director of Secondary Special Services was supposed to coordinate it. They expressed there were five staff members at the IEP.
29. The Parent recalled since the communication plan was implemented, they have not been able to "check in" on the Student and their services or ask questions directly to the IEP team. They stated they couldn't get "real-time" information. The Parent stated the Director of Secondary Special Services sent the Student's Progress Reports and the Parent had questions, but, "[the Director of Secondary Special Services] can't answer." They added they didn't have questions for the Director of Secondary Special Services; they had questions for the IEP team. The Parent confirmed the plan restricted them from talking with the people who were providing the "service delivery."
30. The Parent stated an example of an alternate method for providing timely information was when they were given the name of a new point of contact when the Director of Secondary Special Services was going to be out of town.
31. The Parent described the communication plan as preventing the Parent from advocating for the Student and from keeping the Student safe. They stated they were concerned for the Student's safety and welfare because the Student is non-verbal.

Parent 2 Interview

32. In an interview with the Complaint Investigator, Parent 2 stated they were informed of the restricted communication plan on October 14, 2025. They reported the Parent was told in person by the LEA to communicate with the Director of Secondary Special Services regarding any student in the Parent's care. Parent 2 reported the LEA's attorney sent an email to the Parents' attorney on the morning of October 14, 2025. However, neither the Parent nor Parent 2 received this communication until after LEA staff informed the Parent.
33. Parent 2 acknowledged the Parent was the primary communicator with the LEA and to their knowledge, the restrictions only covered the Parent. They stated their attorney said "any contact between specifically [the Parent] and the district needed to be directed to [the Director of Secondary Special Services]."
34. Parent 2 stated, "[The Student] has got so many special needs … it's imperative that we have constant contact with [the Student]." They shared ongoing concerns about IEP implementation, including the Student's Behavioral Intervention Plan (BIP) and AAC access. Parent 2 stated that, before October 14, 2025, both Parent 2 and the Parent went to the School to speak directly with staff regarding the Student.
35. Due to the Student's history of Emergency Safety Intervention (ESI), Parent 2 expressed concern about the LEA's response time, given the restrictions. They stated they believed it was a safety issue, "that's why it's important for us to continue to work with the direct staff." Parent 2 reported, "[O]ur attorney said that this prevents meaningful …

and timely communication." They were unaware of any ESI events since the restrictions were put in place.

36. Parent 2 stated the Student was on "a very restrictive [diet] plan, … per [their] physician's orders." They stated the food plan was written into the Student's IEP and reported they had data showing it was not strictly followed. They indicated the communication plan hindered their ability to monitor food intake and, therefore, the Student's overall health.
37. Parent 2 stated the Student's IEP required daily data sheets, including behavior data. They reported the present data sheets were "… very nonspecific. They're very generic, … not really about [the Student's] day." They expressed they believed the daily data should be much more detailed, including information about academic activities and progress. Parent 2 shared, "We're not getting any data [about] … IEP goals … some of that we're able to get through direct contact with … staff and now we don't … because everything's got to go through [the Director of Secondary Student Services]."

Director of Secondary Special Services Interview

38. In an interview with the Complaint Investigator, the Director of Secondary Special Services stated they were the Director of Secondary Special Services for the LEA.
39. The Director of Secondary Special Services shared the volume of communication from the Parent was "overwhelming." They recalled "one individual" received 25 emails from the Parent in "a span of a few days." The Director of Secondary Special Services stated the Parent also emailed with "non-IEP requests." They shared staff felt a "sense of fear" based on comments the Parent had made during conversations via email, phone, and during in-person meetings. The Director of Secondary Special Services noted staff had received information requests from outside organizations that the Parent was not aware of, leading the Parent to retain an attorney.
    The Director of Secondary Special Services stated staff were saying they couldn't work with the students because of the Parent. They added, "multiple staff members" told the Director of Secondary Special Services they would quit if they had to "continue working with the Parent." The Director of Secondary Special Services stated they initially placed the Student with a case manager who was strong in communication, collaboration, working with kids, and IEP writing. When a case manager said they would quit if they had to continue working with the family, the Director of Secondary Special Services switched case managers. They stated they became fearful they would eventually "run out of options" with staffing.
40. The Director of Secondary Special Services explained the communication plan did not restrict participation but instead "funneled" the communication "differently." They stated since the plan was implemented, the volume of communication had not changed; however, the "type of communication" did. They added the Parent continued to email staff, and staff forwarded the emails to the Director of Secondary Special Services, but did not respond. The Director of Secondary Special Services added the Parent had not answered the Director of Secondary Special Services' phone calls, so communication

had occurred via email.

The Director of Secondary Special Services stated the Parent had a good relationship with the School Psychologist, and the communication plan allowed the Parent to have direct contact with them. The Director of Secondary Special Services confirmed there had been "quite a few" informal meetings between the Parent and the School Psychologist since the communication plan was enacted.

41. The Director of Secondary Special Services reported they held an IEP meeting with the Parent in October 2025. They stated they met as a team to discuss a previously filed complaint and also held a formal IEP meeting, with a notice of meeting and "all the appropriate pieces in place." In addition, because the Parent had retained an attorney, the LEA also had its attorney present. The Director of Secondary Special Services clarified during the IEP meeting, the Current Case Manager led the meeting, and the Director of Secondary Special Services participated as an IEP team member.
42. The Director of Secondary Special Services compared the current level of communication with a student who had similar needs to the Student. They stated communication is typically collaborative; if a teacher wasn't able to respond within a few hours, a parent wouldn't email, then call, and then email the teacher's supervisor to report they hadn't been responded to. The Director of Secondary Special Services noted when there were incidents that required immediate communication, such as an ESI incident, the Parent would be called immediately.

    The Director of Secondary Special Services clarified the Parent often emailed what they felt was "urgent," but clarified "the nature of the question" was not truly urgent or related to the IEP process. They added, the team could take up to 48 hours to respond to "collaborate with others" before replying to the Parent.

    The Director of Secondary Special Services described a daily sheet that goes home with the Student, detailing the Student's day. They stated this system is "fairly standard" for students with "complex needs." They added it was a "tremendous" amount of communication, and it would not be typical to provide communication "beyond that."
43. The Director of Secondary Special Services stated the team did not provide a PWN for the communication plan because it did not impact the Student's "identification, evaluation, placement, [or] provision of [a] FAPE." The Director of Secondary Special Services added the Parent requested an annual IEP meeting before the scheduled meeting was due, and the Director of Secondary Special Services told the Parent they would work with them to get it scheduled, but the Parent did not respond.
44. The Director of Secondary Special Services stated since they are not always in the building with the IEP team, they will seek guidance from team members before responding to the Parent. They confirmed they had responded to every email the Parent had sent.

Former Case Manager Interview

45. In an interview with the Complaint Investigator, the Former Case Manager stated they were a special education teacher at the High School. The Director of Secondary Special

Services, who is the Director of Secondary Special Services for the LEA, was also in attendance.

46. The Former Case Manager stated their current role is to support other case managers and support staff with their "day-to-day needs." They explained they were the Student's case manager for the previous school year and for the "very beginning" of this school year. They stated they were no longer the Student's case manager because it felt "impossible" to have their job and be a case manager when it came to the Parent. The Former Case Manager recalled feeling there was a "constant, looming, ever-present expectation" the Parent was trying to find "something that was always wrong."
47. The Former Case Manager recalled meeting with the Parent and Parent 2 over the summer, during which the Parent "demanded" the Former Case Manager serve as the Student's case manager and the case manager for the Student's two siblings. The Former Case Manager stated the Parent accused "everybody" on the Student's team of "doing something wrong." They added the Parent was "angry and upset" before the school year started.
48. The Former Case Manager described the threatening behavior the Parent demonstrated, including a conversation in which the Parent stated they could access the "depositions" and read everything that everybody had said. The Parent told the Former Case Manager they had made a list of "bad people" and proceeded to list off the names. The Parent told the Former Case Manager they could go back 365 days from the date they filed the complaint.
49. The Former Case Manager recalled feeling "intimidated" and added they worked "really hard" to do what's best for kids and stated they realized at that point, "nothing was ever going to be good enough." The Former Case Manager stated they had worked with most of the Parent's children "for years" and said no matter what they did, "it was never good enough."
50. The Former Case Manager stated there wasn't much need for "direct contact" with the Parent. The Director of Secondary Special Services added, the team got used to responding to non-IEP-related comments and being "really accessible" to the Parent because of "intimidation and threatening" requests from them.
    Additionally, the Former Case Manager stated communication was not reciprocal, as the Parent "never answered a phone call" from the Former Case Manager. They said the Parent would "constantly" email them and was demanding "all the time." They shared the communication did not feel collaborative.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, implemented a unilateral restricted communication plan without providing the Parent with a PWN. K.A.R. 91-40-26; 34 CFR § 300.503.

According to K.A.R. 91-40-26, each agency in providing any notice to the parent or parents of an exceptional child and amendments thereto regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes a description of other options that the agency considered and the reasons why those options were rejected and a description of other factors that are relevant to the agency's proposal or refusal. The notice shall be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

According to 34 CFR § 300.503, written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes to or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The notice must include a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action, a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained. The notice must also include sources for parents to contact to obtain assistance in understanding the provisions of this part, a description of other options that the IEP Team considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal.

The Parent alleged the LEA implemented a unilateral restricted communication plan without providing the Parent with a PWN.

The LEA responded the communication plan did not propose a change to the Student's identification, evaluation, placement, or the provision of a FAPE, so a PWN was not required. Additionally, the LEA stated the plan did not make any changes to the Student's IEP. All communications contemplated by the IEP would be provided through the Director of Secondary Special Services. The Parent's questions, complaints, and concerns could be expressed to a singular point person, rather than through separate staff members.

The LEA, through the Attorney for the LEA and the Director of Secondary Special Services, implemented a restricted communication plan on October 14, 2025, which routed all Parent correspondence regarding the Student to the Director of Secondary Special Services, except for direct communication with the School Psychologist. The LEA justified this action by stating it was "reasonable and necessary" to protect staff from the Parent's "frequent intimidating, aggressive, threatening, and abusive" communications, which included verbal assaults and threats to file complaints, leading staff to fear escalation and consider quitting. The LEA did not issue a PWN for this restriction, asserting the plan was an administrative boundary that did not constitute a change to the Student's "identification, evaluation, placement, or the provision of

FAPE." The Parent formally disagreed with the "unilateral communication restriction plan" on the same day, claiming it was "unlawful" and the LEA had failed to provide procedural safeguards or a PWN explaining the decision and rationale.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to provide the Parent with a PWN after initiating a unilateral restricted communication plan. This finding confirms the restriction was a reasonable procedural boundary rather than a substantive change to the Student's program.

Issue Two

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, imposed a communication restriction that denied meaningful parent participation by preventing the Parent from participating in IEP implementation and educational decision-making. K.A.R. 91-40-17(a), K.A.R. 91-40-25; 34 C.F.R. § 300.322, 34 C.F.R. § 300.501.

According to K.A.R. 91-40-17(a), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate.

According to K.A.R. 91-40-25, each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child and the provision of a FAPE to the child. Each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each meeting concerning their child or are afforded the opportunity to participate. These steps shall include scheduling the meeting at a mutually agreed-upon time and place, informing the parents of the information, and providing prior written notice of any meeting to the parents of the child.

The notice shall indicate the purpose, time, and location of the meeting and the titles or positions of the persons who will attend on behalf of the agency or at the agency's request. If neither parent of an exceptional child can be physically present for a meeting concerning the child, the agency shall attempt other measures to ensure parental participation, including individual or conference telephone calls. A meeting shall not include the informal or unscheduled conversations involving agency personnel and conversations on issues including teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP, and preparatory activities that agency personnel engage in to develop a proposal or response to a parent's proposal that will be discussed at a later meeting.

The Parent alleged the LEA imposed a communication restriction, which prevented the Parent from participating in the IEP implementation and education decision-making processes.

The LEA responded the communication plan did not deny the Parent meaningful participation in the IEP process. The LEA indicated the plan was implemented on October 14, 2025, and was established due to a pattern of communication that had become excessive, aggressive, and threatening toward staff members, resulting in multiple employees expressing concern for their safety and requesting not to be assigned to continued direct contact with the Parent. Additionally, the LEA indicated they had been contacted by outside agencies seeking information without appropriate releases, creating additional confidentiality risks. The LEA determined routing all communication through a single administrative point of contact was the most appropriate, professional, and legally sound approach.

The LEA continued, the Parent received all required notices, progress reports, and invitations to meetings. The Parent was able to request an IEP meeting or propose revisions, which does not restrict their participation in the IEP process.

The Parent argued the restricted communication was retaliatory and prevented them from participating as a "full member of the IEP team," citing a denial of an "open line of communication" and the inability to get "real-time" information or ask specific questions directly to the service providers about progress reports. They felt the Director of Secondary Special Services was "filtering everything," and the communication was no longer collaborative. Conversely, the LEA maintained the restriction did not deny meaningful participation because the Parent continued to receive all legally required information, including notices, progress reports, and invitations to meetings, and still had the ability to request a meeting. Furthermore, the Parent attended an IEP meeting held in October 2025 and retained the right to direct contact with the School Psychologist and an alternative contact when the Director of Secondary Special Services was unavailable.

Based on the foregoing, according to IDEA and Kansas special education regulations, i***t is not substantiated*** the LEA denied meaningful parent participation by preventing the Parent from participating in IEP implementation and educational decision-making by enacting a communication plan.

Issue Three

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, blocked communication necessary for coordination of services and access to the IEP team, thereby denying the Student a FAPE. K.A.R. 91-40-2; 34 § C.F.R. 300.101, 34 C.F.R. § 300.17.

According to K.A.R. 91-40-2, each agency shall provide a FAPE. Each agency shall make a FAPE available to each child with a disability residing in its jurisdiction.

Each agency shall make a FAPE available to any child with a disability, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination of whether a child who is advancing from grade to grade is a child with a

disability shall be made on an individual basis in accordance with child find activities and evaluation procedures required by this article.

Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality. An agency shall not be required to provide a FAPE to any exceptional child who has graduated from high school with a regular high school diploma. Each exceptional child shall be eligible for graduation from high school upon successful completion of state and local board requirements and shall receive the same graduation recognition and diploma that a nonexceptional child receives. The IEP of an exceptional child may designate goals other than high school graduation.

The Parent alleged by blocking real-time communication necessary for coordinating services and access to the IEP team, the LEA denied the Student a FAPE.

The LEA responded the communication plan did not interfere with service coordination or deny the Student access to the IEP team. All services continued as written in the IEP, with no interruptions, delays, or missed services. At no time was the Parent denied access to IEP records, updates, or decision-making opportunities. The communication plan did not impede IEP access or services and ensured the continued provision of a FAPE for the student.

The Parent alleged the communication restriction denied the FAPE by hindering their ability to advocate for the non-verbal Student's safety, welfare, and health, and expressed concern that the delay in communication could affect timely responses to potential ESI events. They cited a problem: the Student's restrictive food plan was not being strictly followed, and the restriction prevented them from monitoring food intake and general health. The LEA countered the plan did not deny a FAPE, noting its protocol required immediate communication with the Parent for critical incidents such as ESI, and Parent 2 confirmed being unaware of any ESI events since the plan was enacted. The LEA further noted they provided the Parent with a standard daily data sheet detailing the Student's day, which they considered sufficient, and the nature of many of the Parent's questions was not urgent or related to the IEP process. The facts do not provide the necessary evidence of harm caused by the restriction.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA denied the Student a FAPE by blocking communication necessary for coordinating services and access to the IEP team.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #383, MANHATTAN/OGEDEN PUBLIC SCHOOLS
ON NOVEMBER 10, 2025

DATE OF REPORT: DECEMBER 17, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #383 Manhattan/Ogden Public Schools on behalf of ------- by her parents -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the parents" or "the complainants".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. In this case, the complaint is against USD #383 Manhattan/Ogden Public School; this district provides its own special education services. During the 2025-2026 school year the student is attending 4th grade at Oliver Brown Elementary School which will be referred to as "the elementary school" in the remainder of the report. Messages sent through Parent Connect, the LEA's communication system will be referred to as "the communication platform" in the remainder of this report. School and LEA staff will be referred to In the remainder of this report as follows:

- Jessica Nelson, director of special education
- Amber Cook, elementary school principal
- Abby Bowen, director of human resources & nursing supervisor
- Kristina Stonebraker, nurse #1 who resigned mid-October 2025
- Jamie Mool, nurse #2
- Kristi King, physical therapist
- Sally Hawkins, LEA nurse #3
- Mindi Sturm, LEA's head nurse
- Mrs. Kim, paraprofessional #1
- Emilia Farr, paraprofessional #2

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. In this case, a one week extension was requested and approved. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on November 10, 2025.

Evidence Reviewed

USD #383 made the following staff available for phone interviews on December 1, 2025 as part of this investigation.

- Director
- Principal
- Nurse #2

During the investigation, the complaint investigator reviewed all evidence and documentation provided by the LEA and the parent. Additionally, the complaint investigator contacted the parents, director and/or school nurse on November 11, 12, 14, 15, 17, 18, 19, 20, 21, 24, 25, December 1, 2, 3, 4, 5, 7, 8, 9, 10 and 11, 2025 by phone and email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents

1. Student's most recent reevaluation report dated February 20, 2025.
2. Student's IEP dated February 21, 2025.
3. Related Services Facts Sheet from KSDE dated February 2025.
4. IEP meeting attendance sheet dated February 21, 2025.
5. Student's schedule for fall 2025.
6. Student's attendance record for fall 2025.
7. Health Office Visit report for the 2025-2026 school year.
8. Formal Complaint 25FC383-004 Final Report dated May 29, 2025.
9. Decision of the Appeal Committee for 25FC383-004 dated June 18, 2025.
10. Email from the principal to the parents on August 12, 2025 asking for the most current medical related information in order for nurse #1 to update the IHP.
11. Paraprofessional schedules dated the weeks of August 12, 22, and 25; September 2, 10 and 29; October 12, 2025.
12. The document, Authorization for Medication/Procedure to be Administered at School and Field Trips, states that catheterization is to be either nurse-assisted or self-performed, is signed by the student's physician, and dated August 13, 2025.
13. Photograph of paraprofessional #2 and student on the playground dated August 19, 2025.
14. Student's Individual Health Plan (IHP) dated August 19, 2025
15. Orthopedic School Release dated August 26, 2025 sharing post-operative instructions for the September 18, 2025 surgery.

16. School Release from the student's doctor dated September 18, 2025.
17. Letter of medical necessity from physician related to catheterization, arms length adult support and therapeutic weight bearing dated September 2, 2025.
18. Notice of meeting for the September 17, 2025, IEP meeting.
19. LEA Staffing and Discussion Summary of the September 17, 2025, IEP team meeting.
20. Parent's audio recording of the September 17, 2025 IEP team meeting
21. September 17, 2025 IEP team meeting PWN dated September 18, 2025.
22. A message from principal to all parents, via the communication platform on October 21, 2025 addressing nursing coverage.
23. Four weekly emails from the LEA's head nurse to the principal addressing nursing coverage.
24. Parent's email to the principal raising concern about the student's self-cathing support on November 5, 2025.
25. The principal's reply to the parents on November 6, 2026.
26. The parent's reply on November 6, 2025.
27. Principal's email to the parents November 7, 2025, suggesting they meet.
28. In the parent's response on November 9, 2025, declining the offered meeting
29. Principal's message to all parents via the communication platform on November 13, 2025 sharing that a school nurse had been hired.
30. Message sent by parent to principal via the communication platform regarding missed paraeducator support sent on November 20, 2025.
31. Response from principal via the communication platform on November 21, 2025.
32. Image of nurse #2's nursing license.
33. LEA response to the formal complaint allegations sent November 25, 2025.
34. Letter from the LEA's Director of Human Resources confirming that paraprofessional #2 has the appropriate qualifications and attended all required training for the 2025-2026 school year dated December 3, 2025.
35. Email from the LEA's Director of Communications who oversees the nursing staff clarifying the LEA's practice related to revisions of Individualized Health Plans (IHPs) dated December 3, 2025.
36. Email from nurse #2 describing the training they received to support the student dated December 8, 2025.

Background Information

The student named in this complaint is currently attending the fourth grade at one of the LEA's elementary schools. According to the LEA, the student attended early learning services in the current district and first qualified for IEP services in 2019. The student uses a wheelchair and walker due to spina bifida.

The IEP provided by the LEA is dated February 21, 2025 and includes the following:

Goals

1. Safety related to clearing the environment of mobility hazards, safe sitting and walker use
2. Independently open exterior doors from walker level
3. Catch a small ball thrown overhanded

Special Education and Related Services

1. Physical Therapy direct services for 25 minutes, one day per week.
2. School Nurse Services - Services provided by a qualified nurse in accordance with the IEP for 15 minutes.
3. Attendant Care - a noninstructional paraeducator for lunch coverage, 10 minutes, daily.
4. Special Education Services- adult support for mobility in specials, recess and classroom for 245 minutes, one day per week.
5. Special Education Services- adult support for mobility in specials, recess and classroom for 270 minutes, four days per week.

Support for School Personnel

1. Teacher consultation (Physical therapist and special education teacher will consult with classroom teacher, specials teachers, and other staff members regarding the student's needs, 5 minutes, monthly in the special education classroom).

Modifications/Accommodations

1. Adult check In/Check Out for organization.
2. Alternative seating, activities, etc., may be needed in order for the student to be most successful at school.
3. Visual organizational prompt on student desk.

Issues Investigated

Based on the written complaints and interview with the complainants, two concerns that fall under IDEA or Kansas regulations were identified and investigated.

Issue One

Did USD #383 fail to implement the student's IEP specific to nursing services and adult support in the 2025-2026 school year as required by 34 CFR §300.323(c)(2)?

Applicable Law

Federal regulations at 34 CFR §300.323(c)(2) require that the LEA must ensure that as soon as possible after the development of the IEP, special education and related services are available to the student.

Parent Position

School Nurse Services - The parent complaint states, "On November 5, 2025, the district failed to provide a qualified nurse and instead instructed an untrained para-educator [paraprofessional #1] to assist [the student] with [the student's] catheterization. The parents were not notified and learned of the incident from [the student], reporting it to the principal immediately." The parents also shared in their complaint that the nursing minutes noted in the IEP are for "School Nurse Services" which include monitoring for shunt malfunctions and assessment for signs of infection as noted in the 2025-2026 IHP. The parents feel these services were not performed on November 5, 2025.

IHP- The parent's complaint notes a concern that the LEA updated the student's Individual Health Plan (IHP) without their consent, "The district cannot unilaterally alter a component of an IEP outside of a team meeting."

Adult support - The parent's complaint states, "The district has demonstrated a chronic and systemic failure to implement the "Adult Support" services as mandated in [the student's] IEP. This constitutes a denial of FAPE by failing to provide for [the student] safety, despite the district being formally put on notice of this exact violation in a previous IDEA complaint."

LEA Position

School Nurse Services - The district response states, "The student's IEP specifies 15 minutes per day of nursing support for catheterization and medical monitoring. The Nurse Office Visit Report demonstrates that catheterization occurred twice daily on every school day (when the student was in attendance) from August 13 through November 16, 2025, in the nurse's office by or under the supervision of a licensed nurse." Additionally the LEA shared, "The Emails (IHP, Minutes, Cathing) include communication between nursing staff and administrators verifying that the catheterization schedule and adult supervision procedures matched the IEP and medical orders which are used to create the IHP.

Individualized Health Plan (IHP) - The IHP is separate from the IEP document to ensure current medical orders can be followed immediately. These records collectively demonstrate that [the LEA] implemented all nursing services as written and in full compliance with 34 C.F.R. § 300.34(a) and Kansas Process Handbook Ch. 5, which recognize school-nurse services as a related service supporting FAPE."

Adult support - The district response states, "The Staffing Summary (Sept 19, 2025) documents that trained paraeducators were assigned under the supervision of the special-education teacher, principal, and nurse. The IEP team considered parental requests for "arm's-length"

proximity but determined this would be overly restrictive and inconsistent with IDEA's LRE mandate (34 C.F.R. § 300.114)."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

School Nurse Services

1. The LEA response states, "The student's IEP specifies 15 minutes per day of nursing support for catheterization and medical monitoring." However, the IEP states "School Nurse Services - Services provided by a qualified nurse in accordance with the IEP", and offers no further guidance on the nature of the school nurse supports, including what these services are or when they should be offered. The IEP does note that the student requires an Individualized Nursing Care Plan.
2. The document, Authorization for Medication/Procedure to be Administered at School and Field Trips, notes that catheterization is either nurse assisted or self-performed. This document is signed by the student's physician and dated August 13, 2025.
3. Nurse #1 resigned as the elementary school's nurse mid-October, 2025.
4. The principal sent a message to the parents, via the communication platform on October 21, 2025 which states, "Thank you for reaching out regarding [the student's] care. This week, our substitute nurse [Nurse #3], is providing nursing support at [the elementary school]. [They] have been given the necessary information and training to care for [the student] and all students. Please be assured that during this transition, our nurse's office will be staffed by highly trained and qualified nursing professionals. [Nurse #3] or another district nurse, will be on site to provide the care needed. Each nurse will also have the access and information necessary to contact parents and provide any needed communication. You are always welcome to contact me directly with any questions or information you would like shared with the nurse."
5. The LEA shared a number of emails from the LEA's head nurse with the name of the nurse assigned to the elementary school each day to cover the duties of the open school nurse's position.
6. The parents emailed the principal on November 5, 2025, stating that the student reported that their catheterization was supported by an untrained paraprofessional due to the school nurse's absence.
7. A review of the Health Office Visit report reflects that on November 5, 2025, the student visited the nurse's office twice to use the restroom. The first time was from 10:50-10:55 a.m. with "Nurse Substitute" noted but no name, and the second time at 2:10-2:15 p.m. assisted by nurse #2.
8. The principal replied on November 6, 2026, stating, "As shared in previous communication, during the transition of replacing our school nurse, our nurse's office will be staffed by highly trained and qualified nursing professionals and that staff will

have the access and information necessary to contact parents and provide any needed communication. On certain days, this has included the use of a district float nurse or substitute nurse to ensure coverage, or like yesterday, our current office professional, [nurse #2], who is a licensed Registered Nurse, has stepped in to provide services in the nurse's office as needed. All staff assisting in the nurse's office have been provided the appropriate training and access to necessary documentation, including Individualized Health Plans and communication protocols with parents. This process and coverage continues to be overseen by the district's Lead Nurse, to ensure continuity of care for all students at [the elementary school]."

9. The parents replied on November 6, 2025, stating that their child was certain that paraprofessional #1 was available for assistance and that nurse #2 was not present.
10. In an email sent by the principal to the parents November 7, 2025, the principal suggested they meet to discuss the issue.
11. In the parent's response on November 9, 2025, they declined the meeting and stated, "we believe it is best to address these matters through the Kansas State Department of Education's formal complaint process to ensure objectivity and an accurate review of the documentation."
12. The district response references the 2025-2026 Health Office Visit report, "Entries record that the student self-catheterized independently with the nurse nearby to answer questions and assess urine output, and that staff monitored for infection or abnormal results, these contemporaneous logs, spanning over 300 documented visits, confirm consistent provision of services in the location specified in the IHP and IEP. The data show no missed sessions except excused absences for medical appointments, which were promptly noted."
13. The principal sent a message to all parents via the communication platform on November 13, 2025 stating in part, "We're happy to share that [nurse #2], who many of you know as our Office Professional, will be stepping into the School Nurse role." "This will be starting on Monday, November 17, 2025…"
14. A review of nurse #2's qualifications revealed a temporary license on October 23, 2025 and an unencumbered license as of October 30, 20205.
15. In the interview with the principal on December 1, 2025, the principal confirmed that [Nurse #2], although not the nurse assigned to the school but rather office personnel at that time, had been trained and was the person who assisted the student on November 5, 2025.
16. In an email exchange with nurse #2, on December 8, 2025, they reported being trained to support the student by the LEA's lead nurse and granted access to relevant student records, including a packet provided by the parents, informed of the student's typical restroom routine and needed level of support.
17. Additionally the LEA provided the following information in their December 11, 2025 response, Under the Kansas Nurse Practice Act (K.S.A. 65-1113 et seq.) and related regulations (K.A.R. 60-15-101 through 60-15-104), a licensed registered nurse may

delegate certain health-related tasks to trained health aides, provided that those tasks do not require the professional judgment of a nurse and that the aides have been appropriately trained and are supervised by the delegating nurse." The LEA also stated, "This process follows both the Nurse Practice Act and the Kansas Special Education Process Handbook, which recognize that school health services can be provided by trained personnel under the supervision of a licensed nurse. The district's use of delegated health aides is a standard and lawful method to ensure continuity of nursing services, consistent with IDEA requirements and Kansas regulations."

18. In a December 11, 2025 email exchange with the director when asked if the student had school nurse support during the a.m. restroom visit to the nurses office on November 5, 2025 they replied, "We did not have a nurse present that morning. Self-catheterization is stated in the doctor's orders provided in the doctor's orders and in accordance with the Delegation of Specific Nursing Tasks in the School Setting does not require a nurse present. A para was provided for transition during this time to allow for this to take place in the nurse's office."

Individualized Health Plan (IHP)

1. In an email from the principal to the parents on August 12, 2025, the principal requested current medical information to aid the nurse in updating the student's IHP, "In reviewing [the student's] current IHP with Nurse [#1], we are needing to update her plan for this school year…"
2. In an August 13, 2025 reply from the parent to principal, the parent states that the student should be "cathing from the mitrofanoh. [The student] is doing catheterization independently but still needs standby assistance (outside the bathroom is fine) to help ensure [their] safety."
3. The director noted in their interview on November 14, 2025 that the IHPs are stored in the LEA's IEP system and that the LEA is clear that the IHP is a separate document, not part of the IEP.
4. The LEA's director of human resources who supervises the nurses shared the LEA's practice regarding IHPs on December 3, 2025:
    a. "Each nurse writes them [the IHPs] for the students that need them in their building. They are written and stored on the computer or in a binder (whatever the nurse chooses) for the student that year.
    b. At the end of each school year, nurses will pass on the IHP to the next nurse (early learning –elementary, elementary – middle, middle – high)
    c. IHP should be updated each year as needed.
    d. If a student moves or the plan is not needed, please shred the IHP."

Adult Support

1. The parents filed a formal complaint with KSDE on April 29, 2025 including alleging the lack of paraprofessional support throughout the 2024-2025 school year. The investigation found that although there were documented instances of lack of

paraprofessional support due to staffing shortages and unexpected absences, the impact to the student was not a material failure to implement the IEP. This decision was appealed by the parents. The KSDE appeal committee upheld the investigators finding but offered this caution to the LEA, "Again, with regard to the issue of implementation of the IEP, this was a difficult set of facts presented for appeal and could have gone either way. The school district should not interpret this decision as authority to remain understaffed. Proper staffing includes anticipating that there will be some level of staff absences throughout the school year and planning for those absences." page 6.

2. In correspondence with the parents and LEA the terms adult support, and paraprofessional support, were used interchangeably. The current IEP states, Special Education Services- "Adult support for mobility in special, recess, and classroom."
3. A photo taken by the parents on August 19, 2025 shows the student's paraprofessional sitting on a bench a distance from the student. While it is not possible to determine the distance exactly, it is clear that the paraprofessional is too far away to assist the student should the student lose their balance on the playground.
4. The parents requested and received from the student's doctor, a Letter of Medical Necessity. This letter states student needs related to catheterization, arms length adult support and therapeutic weight bearing dated September 2, 2025.
5. The parents emailed the investigator that on November 20, 2025, the student reported not receiving, "paraeducator support during Art, Library, Recess and transition from the nurse's office."
6. The parents messaged the principal via the communication platform of the missing paraeducator support on November 20, 2025 asking for an explanation as to why the student did not have adult support during specials, recess and walking back to class from the nurses office.
7. The principal replied to the parents on November 21, 2025 stating, "There was not a paraprofessional for parts of the day due to [staff] absence. During [the student's] catheterization time, a teacher was available and assisted [the student] to the nurse's office and then back to the classroom." The principal also added, "As stated in the IEP, services may be interrupted for a variety of reasons, including, but not limited to personal illness, professional staff obligations, field trips, school closures due to inclement weather and other instances beyond the control of the school system."
8. In the principal's interview on December 1, 2025, they confirmed that the student did not have adult support during the end of library (the student arrived at school near the end of that period) and did not have support during art or recess. However, the student did have support walking to and from the nurse's office, although this is not stated as a requirement in the current IEP. The principal had not figured the number of minutes of missed adult support but said they assumed the student had received all of the minutes due to the student's late arrival. Further, the principal asserted that the statement in the student's IEP under the header, Services, "Services may be interrupted for a variety of reasons, including, but not limited to personal illness, professional staff obligations, field trips, school closure due to inclement weather and other issues

beyond the control of the school system," covers any missed minutes due to staff illness.

Conclusion

34 CFR §300.323(c)(2) requires LEAs to implement the student's IEP as soon as possible, and in this case, specific to paraprofessional support.

The parent's complaint included the following school nurse services related concerns:

- Whether an unlicensed but trained staff can perform school nurse duties, which is the basis for the parent's November 5, 2025, concern.
- Whether the IHP is part of the IEP, which offers IDEA protections and guidance for updating the IHP and holds the LEA accountable for duties as written in the IHP.

School Nurse Services

The IEP states, "School Nurse Services- Services provided by a qualified nurse in accordance with the IEP". As noted in the Related Services Facts Sheet from KSDE dated February 2025, "School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person (34 C.F.R. 300.34(c)(13))." The student's IEP specifically states, "School Nurse Services" and does not include the term, "School health services" or mention delegation of services to unlicensed staff. A careful reading of the KSDE guidance for 34 C.F.R. 300.34(c)(13) clarifies that school nurse services are to be implemented by a qualified school nurse and does not allow for the delegation of duties. As to whether or not the school nurse duties were performed by an unqualified person on November 5, 2025, the LEA stated in the December 11, 2025 email that there was not a school nurse available to provide services for the student's a.m. restroom visit but did provide evidence that a qualified school nurse was available for the p.m. restroom visit.

The student's IEP requires 15 minutes of school nurse services per day and was provided only 5 minutes, according to the LEA's own record keeping on November 5, 2025. The LEA also stated that the a.m. services noted in the IHP were not provided by a licensed nurse, and although the investigator does not have the authority to make a finding outside of the IEP the LEA should be aware that it is not appropriate to delegate school nurse services to non licensed staff.

Individualized Health Plan (IHP)

The parents raised two related issues; the first is a concern that the IHP for the 2025-2026 school year was updated without their input. An email from the principal to the parents on August 12, 2025 requested updated medical information to enable nurse #1 to update the IHP. The parents responded on August 13, 2025, offering the requested information, demonstrating their input and awareness that the nurse was updating the IHP.

The second issue is whether the IHP is part of the IEP and so protected by IDEA. The IHP update by the nurse noted above was outside of the IEP team process and required no IEP team meeting or signatures. The IEP notes that the student has an IHP and nursing services; however, this alone does not automatically determine that the IHP is part of the IEP. The LEA's position is that the IHP is not part of the IEP and thus updates may be made without the IEP team input and signatures but rather are based on the physician's orders and recommendations with updates the responsibility of the nurse. The LEA followed their own process for updating IHPs as shared by the nursing supervisor in an email to the investigator. The investigator concurs with the LEA and finds that the IHP, although related to the IEP, is a separate document and not part of the IEP. Considering the IHP as a non-IEP document enables the IHP to be quickly revised based on the changing needs of the student without pulling together the IEP team. Because the IEP team has not been required to review and sign off on the IHP updates and the PWN did not reflect any IHP decisions made at the IEP meeting, the IHP will not be considered as part of the IEP. This is not a finding that the duties listed in the IHP are unimportant, only that as currently written, the IEP does not speak to the implementation of specific IHP duties. It is strongly encouraged that the IEP team clarify and document whether the IHP is indeed part of the IEP, as well as clarify the IHP to include a schedule of services, and which services may be performed by a non-licensed, but trained employee, based on what best serves the student.

Adult Support

Specific to the parent's concern that adult support was not available on the playground as evidenced by a photo taken on August 19, 2025. The determination of how close an adult must be to appropriately support the student is a decision to be made at the IEP team level with input from the student's doctors, parents and LEA staff. The content of the IEP determines what the LEA can be held accountable for in a complaint investigation. The current IEP simply states, "Adult support for mobility in specials, recess, and classroom." Without specificity in the IEP, this investigator has no basis to determine compliance.

In regards to the parent's concern that adult support was not available to the student on November 20, 2025 due to staff illness. The minutes of support required by the IEP include 245 minutes one day per week and 270 minutes four days per week. In the principal's interview they were not able to share if the student received these minutes on November 20, 2025, although they felt the minutes had probably been met due to the student's late arrival. The principal also shared that due to the following statement in the student's IEP, "Services may be interrupted for a variety of reasons, including, but not limited to personal illness, professional staff obligations, field trips, school closure due to inclement weather and other issues beyond the control of the school system," the student's minutes were met. It is appropriate to clarify in the IEP that services may be missed when the school is not in session (summer, spring/fall break, snow days, etc) or when school is open but classes are not held due to scheduled

events such (field trips, field day, assemblies). Kansas does not allow for situations where the student is at school and expects services and the provider is not in school to provide those services. When students are at school but do not receive IEP services because a provider is unavailable, LEAs are not excused from their obligation to implement the IEP and should plan in advance for those situations. The investigator did not conduct a random sample of IEPs; however, the investigator strongly recommends that the LEA review its IEP template to ensure that this inaccurate and misleading statement does not appear in IEPs across the LEA.

Additionally, it is noted that the parents filed a formal complaint on April 29, 2025 for this same concern. The investigator found there had been missing adult support minutes although they were not found to constitute a material failure to implement the IEP. The KSDE appeal committee upheld the investigators findings but also issued a warning to the LEA, "The school district should not interpret this decision as authority to remain understaffed. Proper staffing includes anticipating that there will be some level of staff absences throughout the school year and planning for those absences." (page 6).

Based on the foregoing, it is found that:

- The *LEA is OUT of compliance* due to missed school nurse minutes on November 5, 2025 as required by 34 C.F.R. 300.34(c)(13). Corrective actions are required.
- The *LEA is IN compliance* related to updating the IHP outside of the IEP team process. No corrective actions are required.
- The *LEA is OUT of compliance* for failing to provide adult support as required by the IEP. Corrective actions are required.

Issue Two

Did USD #383 fail to issue a complete PWN in response to the student's September 17, 2025 IEP meeting as required by 34 CFR §300.503(b)?

Applicable Law

Federal regulations at 34 CFR §300.503(b) require that PWNs included the following: (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and (7) A description of other factors that are relevant to the agency's proposal or refusal.

Parent Position

In the parent complaint and in the parent interview on November 13, 2025 the parents expressed concern that the PWN issued on September 18, 2025 was not reflective of the discussion at the IEP team meeting on September 17, 2025 and that the PWN did not include all of the information required by IDEA.

LEA Position

In the LEA's response it states, "The PWN dated September 18, 2025, meets every element required under 34 C.F.R. § 300.503(b) and K.A.R. 91-40-27.

1. It lists all actions proposed and refused (nursing location, adult support proximity, evacuation procedures);
2. States the reasons for each determination;
3. Identifies the data and records reviewed;
4. Provides procedural-safeguard information; and
5. Offers contact information for parent questions.

The LEA response also states, "The narrative section explicitly references parental input and provides a clear rationale grounded in student safety, independence, and IDEA compliance. Accordingly, [the LEA] issued a complete and legally sufficient PWN documenting every IEP team decision. At this time, parents have refused to sign consent or do not consent to adding the 'close proximity' accommodation that was discussed in the meeting."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. Specifically, this analysis includes the topics discussed in the September 17, 2025 IEP meeting, reflected in the LEA's September 18, 2025 PWN, the recorded audio of the IEP meeting and the following PWN requirements: (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) A description of other options that the IEP Team considered and the reasons why those options were rejected; and (5) A description of other factors that are relevant to the agency's proposal or refusal. Additionally, the findings of Issue One are incorporated herein by reference.

The remaining PWN requirements are present and include:

- A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

- Sources for parents to contact to obtain assistance in understanding the provisions of this part.

Paraprofessional at arm's length -

1. Description of action- The PWN states, "Request for a paraeducator to remain within 'arm's length' during the school day - [the LEA] is denying this request. The IEP team carefully considered the parent's request that [the student] requires a paraeducator to maintain 'arm's length' proximity throughout the school day. The team determined that this level of supervision would be unnecessarily restrictive and inconsistent with the Least Restrictive Environment (LRE). Instead, the IEP Team believes that close proximity support is an appropriate accommodation and will be added specifically for recess and physical education to promote safety while also supporting independence and peer interaction."
2. Explanation of refusal- The PWN states, "[The LEA] is denying this request. The IEP team determined that requiring a paraeducator to remain within 'arm's length' of [the student] at all times during the school day would be unnecessarily restrictive and inconsistent with the Least Restrictive Environment (LRE) mandate under IDEA and the Kansas Process Handbook. However, the team is proposing to add 'close proximity' support as an accommodation for recess and physical education, which ensures safety while fostering independence and appropriate peer interaction."
3. Options considered and why options were rejected-
    a. The PWN states, "Rejected as overly restrictive, inconsistent with LRE, and not supported by data."
    b. The parents reported in their complaint, and the IEP meeting audio recording confirms the parent's suggested "arms length" only for specific times of the day such as transitions, PE and the playground.
4. Description of the data used as basis for the proposed or refused action-
    a. The PWN states, "Student's current IEP, progress monitoring data, and staff observation records."
    b. This statement lacks a description of the data considered and only includes a list of data sources. This section needs to include a description of how this refusal is related to the student's current IEP, progress monitoring or staff observation records. Additionally, the student's relevant history of fractures due to osteopenia shared by the parents in the meeting is an important piece of data but was not noted as a consideration.
5. Other factors relevant to the proposal or refusal-
    a. The PWN states, "The district remains committed to providing FAPE in the LRE as required under IDEA, and the Kansas Process Handbook. All decisions are based on [the student's] individualized needs and the legal authority of the district to administer staffing, safety, and communication procedures. The IEP team remains committed to reconvening to discuss [the student's] goals once

updated data and team availability allow for meaningful review and input. Parents retain the right to request an IEP team meeting at any time to discuss proposed revisions."

b. The PWN includes the statement above for all of the actions proposed/refused discussed at the IEP team meeting. However, each action proposed/refused should include specific factors related to each topic discussed and decided upon. It is likely that factors considered for decisions such as how close adult support should be are likely different than those related to creating an individualized evacuation plan or increasing nursing minutes.

Additional related evidence

6. The LEA's response states, "The PWN clearly records the district's refusal to add constant arm's-length support, providing a detailed rationale: that the student already had adult supervision during medical and transition activities, and that constant physical proximity would impede independence and peer engagement."

Nursing service minutes -

1. Description of action- The PWN states, "The IEP Team agreed to continue including nursing minutes on the IEP at 15 minutes daily."
2. Explanation of refusal- The PWN states, "The IEP Team agreed that nursing minutes remain necessary on the IEP to ensure that [the student] receives the required health-related support for access to a Free Appropriate Education (FAPE)."
3. Options considered and why options were rejected-
    a. The PWN states, "Removing nursing minutes - Rejected because [the student] continues to require health-related support for self-catheterization."
    b. The parents clarified in their complaint and interview that the discussion also included their request to increase the nursing to 24 minutes which was echoed by the nurse explaining that this was typically the amount of time it required to support the student's needs. The audio recording of the IEP meeting confirms this.
4. Description of the data used as basis for the proposed or refused action-
    a. The PWN states, "Input from nursing staff and parents regarding medical needs."
    b. This section needs to reflect the content of the input from the nursing staff and parents and how this information was used to come to a decision, not simply that their input was considered.
5. Other factors relevant to the proposal or refusal- As noted previously, it is not sufficient to include a statement which does not address the specific decision.

Student specific evacuation plan -

1. Description of action- The PWN states, "[The LEA] is denying this request. [The student] will follow the district's building-wide evacuation plan, which is fully compliant with emergency management standards."

2. Explanation of refusal- The PWN states, "[The LEA] is denying this request. [The student] will follow the district's building-wide evacuation plan, which already meets emergency management requirements."
3. Options considered and why options were rejected-
    a. The PWN states, "Developing an individualized evacuation plan - Rejected as duplicative and unnecessary given a compliant building-wide plan."
    b. This explanation fails to note the considerations raised by the parents including the student's mobility challenges and vulnerabilities. The concerns raised by the parents were not related to whether the evacuation plan met emergency management requirements, but rather how the student's safety, given mobility challenges, would be addressed.
4. Description of the data used as basis for the proposed or refused action-
    a. The PWN states, "District building evacuation plan reviewed in consultation with administration."
    b. This is not a sufficient description of data which needs to include how the LEA believes the district building evacuation plan accommodates this student's needs..
5. Other factors relevant to the proposal or refusal- As noted previously, it is not sufficient to include a statement which does not address the specific decision.

Below are additional PWN related concerns.

Request to add/revise IEP goals: The parent's complaint included a concern that the discussion related to new IEP goals occurred after the meeting ended, but was included in the PWN. While the LEA was not required to reference this brief conversation, it is not inappropriate for them to have included a refusal given that the team was no longer gathered and clearly no team decision could be made. It is also noted that the LEA offered to schedule a continuation of the IEP meeting where IEP goals could have been discussed.

Weight bearing request: The parent's complaint included a concern that the IEP team discussed the student's need to be weight bearing post surgery. The audio recording confirms this. This discussion included the parent's request that the student stand at their desk post surgery and the LEA's request for physician guidance. When asked why this discussion was not included in the PWN, the principal replied on December 11, 2025, "Standing is something all students have access to. That is not an accommodation for an IEP. Students are able to stand and sit in any classroom at any time. I have included the doctor's orders, along with the [communication platform] messages between myself and the parents. Please note that in the doctor's orders, neither of which state anything about standing as an accommodation for [the student's] return to school following the surgery. The request for standing is a general education intervention, where if a student needs to stand, they would be allowed to stand. I am also including a message from our [physical therapist], that was sent to parents on October

20th following the surgery to note concerns and asking for guidance. Parents did not respond to this message."

The PWN also included issues which were proposed/refused that are not addressed by IDEA and thus not appropriate to include in the investigation but are personnel issues under the purview of the school board and could be directed there if the parents wish to do so. These include:

- Selection of paraprofessionals by the parents.
- Notification of paraprofessional schedule change.
- Restoring direct communication with school staff.

Conclusion

In this case, while there are some inconsistencies between the details reflected in the audio recording of the meeting and those documented in the issued PWN, IDEA does not specifically address the accuracy of the information included in a PWN. However, IDEA does address the completeness of the PWN which is discussed below.

Regarding the allegation that the PWN does not include all of the information required by IDEA. The following decisions included in the PWN do not include specific information as required by 34 CFR §300.503(b):

- Paraprofessional at arm's length, which lacks
    - Description of the data used as a basis for refusal, and
    - Other factors relevant to the refusal.
- Nursing service minutes, which lacks
    - Options considered and why rejected,
    - Description of the data used as a basis for refusal, and
    - Other factors relevant to the refusal.
- Student specific evacuation plan, which lacks
    - Options considered and why rejected,
    - Description of the data used as a basis for refusal, and
    - Other factors relevant to the refusal.

Please note, IDEA does not require each section of the PWN to be exhaustive, but does require there is enough information to help parents understand why an action was accepted or refused, not simply that an action is refused.

Specific to the allegation of refusal to revise IEP goals. It is appropriate for the LEA to have included this discussion and refusal to make changes to the IEP given the lack of team members after the meeting concluded.

Specific to the allegation of omitting the weight bearing discussion. The LEA's assertion that the discussion was not included in the PWN because standing is something available to any student at any time is appropriate, additionally there was not a team decision to do something different for this student. IDEA only requires that decisions made by the team are included in the PWN, not simply discussions.

Based on the foregoing, it is found that:

- The ***LEA is OUT of compliance*** due to the issuance of an incomplete PWN on September 18, 2025. Corrective actions are required.
- The ***LEA is IN compliance*** related to issuing a refusal to update the IEP in the September 18, 2025 PWN. No corrective actions are required.
- The ***LEA is IN compliance*** related to omission of the "weight bearing" discussion from the September 18, 2025 PWN. No corrective actions are required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §300.323(c)(2) was found based on evidence of the lack of IEP implementation. Corrective actions are required.

Adult support -

a. The LEA shall immediately, within 21 days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at Federal regulations at 34 C.F.R. 300.323(c)(2).

b. Within 40 school days of the issuance of this report, the LEA shall revise the following statement: "Services may be interrupted for a variety of reasons, including, but not limited to, personal illness, professional staff obligations, field trips, school closure due to inclement weather, and other issues beyond the control of the school system." Specifically, the LEA shall remove the phrases "personal illness" and "professional staff obligations." The revised statement may include only circumstances in which school is not in session or when services are impacted by a scheduled school activity (e.g., assemblies, field trips). Additionally, the LEA shall submit to SETS a proposed timeline for completing all IEP amendments related to this revision.

c. Within 55 school days of the issuance of this report, the LEA shall submit documentation of IEP edits to SETS.

School Nurse Services -

a. The LEA shall immediately, within 21 days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will

comply with state statutes and regulations at Federal regulations 34 C.F.R. 300.34(c)(13).

b. Within 40 school days of the issuance of this report the LEA shall provide training to nursing staff, SPED administrators and building leaders related to the provision of nursing minutes.

c. Within 55 school days of the issuance of this report, the LEA shall submit documentation of staff training to SETS.

2. ISSUE TWO: A violation of 34 CFR §300.503(b) was found based on an incomplete PWN issued September 18, 2025.

    a. The LEA shall immediately, within 21 days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at Federal regulations at 34 C.F.R. 300.503(b).

    b. Within 40 school days of this report, the LEA shall provide training to all LEA staff responsible for writing and reviewing PWNs as required by 34 C.F.R. 300.503(b). This training shall include, but is not limited to the following sections of the PWN:

        i. Options considered and why options were rejected;

        ii. Description of the data used as basis for the proposed or refused action; and

        iii. Other factors relevant to the proposal or refusal.

    c. Within 40 school days of this report, the LEA shall amend the student's September 18, 2025 PWN and send to the parents a thorough description of the following decisions: Paraprofessional at arm's length, nursing service minutes and a student specific evacuation plan.

    d. Within 55 school days of the issuance of this report, the LEA shall submit documentation of staff training and completed PWN amendments to SETS.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 383,
Manhattan/Ogden Public Schools: 26FC383-002

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on November 10, 2025, by ------- on behalf of their daughter, -------. In the remainder of this decision, ------- will be referred to as "the parents," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on December 17, 2025. That Complaint Report concluded that there were violations of special education statutes and regulations in Issue One and Issue 2.

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parents, the Complaint Report, the district's notice of appeal, and the parents' response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified two issues, both of which are under appeal. We start with Issue One:

Issue One

Did USD #383 fail to implement the student's IEP specific to nursing services and adult support in the 2025-2026 school year as required by 34 CFR §300.323(c)(2)?

The investigator concluded that the district was out of compliance for two reasons:

1. The LEA is OUT of compliance due to missed school nurse minutes on November 5, 2025 as required by 34 C.F.R. 300.34(c)(13). Corrective actions are required.
2. The LEA is OUT of compliance for failing to provide adult support as required by the IEP. Corrective actions are required. (Report, p. 15).

Conclusion 1 was based on the actual language in the student's IEP. In her interview with the principal, the principal "confirmed" that "Nurse #2 assisted the student on November 5, 2025, but, Nurse #2 was not an actual nurse. (Report Finding 15, p. 9). The investigator said school personnel reported that Nurse #2 was "trained to support the student by the LEA's lead nurse, was granted access to relevant student records, including a packet provided by the parents, informed of the student's typical restroom routine and needed level of support." (Finding 16, Report p. 9).

The investigator correctly noted that federal regulations define the terms "School Nurse Services" and "School Health Services" differently, and explained that:

> *"School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person (34 C.F.R. 300.34(c)(13))." The student's IEP specifically states, "School Nurse Services" and does not include the term, "School health services" or mention delegation of services to unlicensed staff. A careful reading of the KSDE guidance (the guidance was not cited but is presumably the guidance on page 102 of the current Special Education Process Handbook) for 34 C.F.R. 300.34(c)(13) clarifies that school nurse services are to be implemented by a qualified school nurse and does not allow for the delegation of duties. As to whether or not the school nurse duties were performed by an unqualified person on November 5, 2025, the LEA stated in the December 11, 2025 email that there was not a school nurse available to provide services for the student's a.m. restroom visit: (Report, p. 13 – Emphasis added)".*

The Appeal Committee agrees with this analysis. These definitions are consistent with the definitions in Kansas regulation K.A.R. 91-40-1(fff) and (ggg). When an IEP specifies "School Nurse Services," instead of "School health services," it means the services must be provided by a qualified school nurse and does not allow for the delegation of duties to "other qualified" persons. Whether this analysis amounts to a violation of law is addressed later in this decision.

With regard to Adult Support, the student's IEP specifies that "adult support for mobility" will be provided in specials, recess, and classroom for 245 minutes one day a week and for 270 minutes

four days per week (Report, p. 5). In correspondence between the parties the term "adult support" was used interchangeably with "paraprofessional support."

First, the investigator noted that a photo taken on the playground on August 19, 2025, may have indicated adult support was not close enough to be effective, adding that the IEP description of "Adult support for mobility in specials, recess, and classroom," was not specific enough to find a violation.

Second, the investigator noted that, on November 20, 2025, ten days after this complaint was filed, the student informed the parents that she did not have paraeducator support for Art, Library, Recess and transition from the nurse's office (Findings 5 and 6, Report, p. 11). The principal replied to the parents on November 21, 2025 stating, "There was not a paraprofessional for parts of the day due to [staff] absence, but that during [the student's] catheterization time, a teacher was available and assisted [the student] to the nurse's office and then back to the classroom." (Finding 7, Report p. 12). During the interview with the complaint investigator, the principal acknowledged that the student did not have adult support for a portion of the school day, although the student may have received a proportionate amount of services required by the IEP because the student came to school late that day ((Finding 8, Report, p. 12). The investigator concluded that these facts constituted a failure to implement the IEP and substantiated a violation of law for failing to provide adult support as required by the student's IEP.

In its appeal, the district argues that, the events of November20, 2025, occurred ten days after this complaint was filed and should not have been addressed by the investigator, at least not without informing the district that it would be added to the complaint filed on November 10, 2025. The Appeal Committee agrees. However, for the reasons stated below, the Appeal Committee believes it is appropriate to rule on this issue now, while these facts are under appeal, rather than wait for another complaint to be filed on this issue.

In its appeal, the district argues that to the extent it did not implement the student's IEP, with regard to nursing services and adult support, the failure to do so was not a material failure and should not require corrective action. The district cited several court decisions saying that the law does not require perfect implementation of an IEP and that to be actionable, a failure to implement an IEP must be a material failure.

A review of applicable case law supports the district's position. In Abigail P. v. Old Forge School District, 124 LRP 21769 (3d. Cir. 2024), the third circuit, joined the 4th, 5th, 8th, 9th, and 11th Circuits saying an implementation failure must be material to be actionable. This United States Circuit Court of Appeals decision explained the "material failure" standard, saying:

> *Indeed, a requirement of perfect adherence "would ignore the realities and the challenges that the IDEA was built to accommodate." "A materiality standard affords local agencies some flexibility while still holding those agencies accountable for*

> *material failures and for providing the disabled a meaningful education benefit…Several of our sister courts have held that "a party challenging the implementation of an IEP must show more than a de minimis failure to implement all elements of that IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP." We agree and hold as much here. (Citations omitted).*

In this complaint, we see one instance when, on November 5, 2025, the student did not receive "nursing services," as that term is defined by law, because the student was assisted by "Nurse #2, an "office personnel" who had been trained to "to support the student by the LEA's lead nurse and granted access to relevant student records, including a packet provided by the parents, informed of the student's typical restroom routine and needed level of support." (Findings 15 & 16, Report, p. 9.

Likewise, the student did not receive Adult Support for a portion of the day on November 20, 2025. Ten days after this complaint was filed, the student informed the parents that she did not have paraeducator support for Art, Library, Recess and transition from the nurse's office (Findings 5 and 6, Report, p. 11). This means the district failed to implement the student's IEP regarding Adult Support on one day. The Appeal Committee notes that holding a district to a standard of perfection in implementing an IEP is inconsistent with current legal standards set by the highest courts to consider this question, and it will not do so in this appeal.

In their response to the appeal, the parents argue that "physical safety services" are "not analogous to occasional academic service delays." The Appeal Committee agrees, but also recognizes that the law does not require a district to provide a risk free environment and that this student did not go completely unsupported by a health provider at any time while at school.

The parent's response to this appeal also alleges, that the incidents in this complaint are not the only instances of missed services and that there is a "historical pattern" of missed services. The Appeal Committee has jurisdiction only over the current complaint report and cannot consider other allegations that were not addressed in the complaint report.

The finding of a violation of law in Issue One is reversed and corrective action for this issue is rescinded.

Issue Two

> Did USD #383 fail to issue a complete PWN in response to the student's September 17, 2025 IEP meeting as required by 34 CFR §300.503(b)?

The parents alleged that the district did not include all of the information required by IDEA (Report, p. 16).

The investigator found that the district was out of compliance "due to the issuance of an incomplete PWN on September 18, 2025 (Report, p. 23)." That conclusion was based on the following:

> *Regarding the allegation that the PWN does not include all of the information required by IDEA. The following decisions included in the PWN do not include specific information as required by 34 CFR §300.503(b):*
>
> - *Paraprofessional at arm's length, which lacks*
> - *Description of the data used as a basis for refusal, and*
> - *Other factors relevant to the refusal.*
> - *Nursing service minutes, which lacks*
> - *Options considered and why rejected,*
> - *Description of the data used as a basis for refusal, and*
> - *Other factors relevant to the refusal.*
> - *Student specific evacuation plan, which lacks*
> - *Options considered and why rejected,*
> - *Description of the data used as a basis for refusal, and*
> - *Other factors relevant to the refusal.*
>
> *Please note, IDEA does not require each section of the PWN to be exhaustive, but does require there is enough information to help parents understand why an action was accepted or refused, not simply that an action is refused. (Report, p. 22).*

We examined each of these three findings:

Paraprofessional at arm's length – The investigator said the PWN was sufficient except for two required components:

4. Description of the data used as basis for the proposed or refused action-
   a. The PWN states, "Student's current IEP, progress monitoring data, and staff observation records."
   b. This statement lacks a description of the data considered and only includes a list of data sources. This section needs to include a description of how this refusal is related to the student's current IEP, progress monitoring or staff observation records. Additionally, the student's relevant history of fractures due to osteopenia shared by the parents in the meeting is an important piece of data but was not noted as a consideration,
5. Other factors relevant to the proposal or refusal-
   a. The PWN states, "The district remains committed to providing FAPE in the LRE as required under IDEA, and the Kansas Process Handbook. All decisions are based on [the student's] individualized needs and the legal authority of the district to

administer staffing, safety, and communication procedures. The IEP team remains committed to reconvening to discuss [the student's] goals once updated data and team availability allow for meaningful review and input. Parents retain the right to request an IEP team meeting at any time to discuss proposed revisions."

b. The PWN includes the statement above for all of the actions proposed/refused discussed at the IEP team meeting. However, each action proposed/refused should include specific factors related to each topic discussed and decided upon. It is likely that factors considered for decisions such as how close adult support should be are likely different than those related to creating an individualized evacuation plan or increasing nursing minutes.

The Appeal Committee agrees with the investigator's conclusion and her explanation of why this portion of the PWN was inadequate. We could not have said it better.

Nursing service minutes -

The investigator said the PWN was inadequate for this service with regard to the following components:

1. Options considered and why options were rejected-
   a. The PWN states, "Removing nursing minutes - Rejected because [the student] continues to require health-related support for self-catheterization."
   b. The parents clarified in their complaint and interview that the discussion also included their request to increase the nursing to 24 minutes which was echoed by the nurse explaining that this was typically the amount of time it required to support the student's needs. The audio recording of the IEP meeting confirms this.
2. Description of the data used as basis for the proposed or refused action-
   a. The PWN states, "Input from nursing staff and parents regarding medical needs."
   b. This section needs to reflect the content of the input from the nursing staff and parents and how this information was used to come to a decision, not simply that their input was considered.
3. Other factors relevant to the proposal or refusal- As noted previously, it is not sufficient to include a statement which does not address the specific decision.

The Appeal Committee agrees with the investigator's analysis. With regard to the data used as a basis for not removing nursing services, the PWN needs to "describe" the data it used as the basis for the refusal. What input from nursing staff and parents regarding medical needs was used? The Appeal Committee cannot find the answer to that question in this PWN.

Student specific evacuation plan –

The investigator found as follows:

1. Description of action- The PWN states, "[The LEA] is denying this request. [The student] will follow the district's building-wide evacuation plan, which is fully compliant with emergency management standards."
2. Explanation of refusal- The PWN states, "[The LEA] is denying this request. [The student] will follow the district's building-wide evacuation plan, which already meets emergency management requirements."
3. Options considered and why options were rejected-
    a. The PWN states, "Developing an individualized evacuation plan - Rejected as duplicative and unnecessary given a compliant building-wide plan."
    b. This explanation fails to note the considerations raised by the parents including the student's mobility challenges and vulnerabilities. The concerns raised by the parents were not related to whether the evacuation plan met emergency management requirements, but rather how the student's safety, given mobility challenges, would be addressed.
4. Description of the data used as basis for the proposed or refused action-
    a. The PWN states, "District building evacuation plan reviewed in consultation with administration."
    b. This is not a sufficient description of data which needs to include how the LEA believes the district building evacuation plan accommodates this student's needs..

The Appeal Committee finds this portion of the PWN to be responsive, but overly vague. Presumably, the district refused a specific evaluation plan for the student because it determined that the district's building-wide evacuation plan meets emergency management requirements including the individual needs of this student, making other options unnecessary. However, the explanation of refusal is the answer to a "why" or "how" question. it should explain why, or how, the district's building-wide evacuation plan meets the individual needs of this student. That's the issue confronting this team. The IEP team made the decision that the evacuation plan met this student's needs but did not say how or why it did so. The Appeal Committee should be able to answer that question after reading the PWN, but, even after a careful reading, it cannot.

The district's appeal asserts that any defect in the PWN did not adversely affect the parents ability to participate in the decision making process because the report did not identify anything that the parents failed to understand, any meeting they were prevented from requesting, or any service the student lost because of the wording of the PWN. Without that connection, the district argues, there is no legal basis for a noncompliance finding. it may be correct that any defect in the PWN did not adversely affect the parents' ability to participate in the decision making process because

these parents appear to be very knowledgeable about their rights under the law. However, parent sophistication does not excuse the district from following the law. The Appeal Committee agrees with the conclusion in the complaint report that the district is out of compliance with the law on this issue.

This conclusion may appear to be inconsistent with the conclusion in Issue 1. We do not think so because there is a separate element that arose in this appeal. After receiving the investigator's well written report, including a detailed explanation of the defects in the district's PWN, the district's appeal indicates that it has a significant misunderstanding of what constitutes a compliant PWN, saying:

> *4. The investigator imposed requirements not found in law*
>
> *The report effectively requires districts to include detailed explanations of how data were weighed and how each parental concern influenced every decision. That level of detail is not required by IDEA or Kansas regulations.*
>
> *Imposing such a standard creates an impossible moving target and converts subjective preferences into compliance findings. That is not how Prior Written Notice is evaluated under the law.*
>
> *5. At most, the report identifies a drafting preference*

Even taking the report at face value, the concerns raised relate to how the PWN was written, not whether it met legal requirements. IDEA does not authorize findings of noncompliance based on stylistic preferences absent harm.

The Appeal Committee disagrees with this description of the report. The deficiencies found by the investigator are not merely "drafting preferences" nor did they require "*detailed explanations of how data were weighed and how each parental concern influenced every decision*." The requirements for a compliant PWN are written in plain language, appropriately described in the complaint report.

The Special Education and Title Services (SETS) team has a "general supervision" responsibility to monitor and ensure that Kansas school districts know how to comply with state and federal regulations (34 C.F.R. 300.600). For that reason, like a hearing officer under 34 C.F.R. 300.513(a)(3), a state education agency may order a school district to comply with the law even when the violation is a procedural violation that did not deprive a student of a Free Appropriate Public Education (FAPE) nor a parent of meaningful participation.

For the reasons stated herein, the Appeal Committee affirms the conclusions of the investigator in Issue 2, that The LEA is out of compliance due to the issuance of an incomplete PWN on September 18, 2025, and that corrective actions are required.

Conclusion

For the reasons stated herein, the Complaint Report is reversed on Issue 1 and sustained on Issue 2. The corrective actions for Issue 1 are rescinded. The corrective actions for Issue 2 remain, except that the training activity required by corrective action 2 must include all of the required content of a PWN in conformance with the description provided in the complaint report and in this decision, specifically including:

(1) A description of the action proposed or refused by the agency;
(2) An explanation of why the agency proposes or refuses to take the action;
(3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
(4) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
(5) A description of other factors that are relevant to the agency's proposal or refusal.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 7h day of January, 2026.

Appeal Committee

Crista Grimwood - Brian Dempsey - Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON NOVEMBER 16, 2025

DATE OF REPORT: DECEMBER 10. 2-25

This report is in response to a complaint filed with our office on behalf of a student, ---------, by their guardian, ---------. In the remainder of the report, the student will be referred to as "the Student" and the guardian as "the Parent."

The Complaint is against USD #437, Auburn/Washburn Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #437.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on November 16, 2025, and the 30-day timeline ended on December 16, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), imposed a communication restriction that denied meaningful parent participation by preventing the Parent from participating in the Individualized Education Program (IEP) process and educational decision-making. K.A.R. 91-40-17(a), K.A.R. 91-40-25; 34 C.F.R. §§ 300.322, 300.501.

ISSUE TWO: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, implemented a unilateral restricted communication plan and a delayed start of the transition program without the provision of a Prior Written Notice (PWN). K.A.R. 91-40-26; 34 CFR § 300.503.

ISSUE THREE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided all required supplementary aids, services, and related

services as written in the Student's IEP, specifically regarding the provision of paraprofessional support, transportation, transition and vocational services, supervision, and behavioral supports. K.A.R. 91-40-16(b); 34 CFR § 300.323.

ISSUE FOUR: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the Student's IEP following a significant change in circumstances and a safety event. K.S.A. 72-3429(f)(2); 34 CFR § 300.324(b).

ISSUE FIVE: Whether USD #437, in accordance with state and federal regulations implementing IDEA, provided the Parent with the Student's quarterly IEP progress reports. K.S.A. 72-3429(c)(3); 34 CFR §300.320(a)(3).

ISSUE SIX: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Parent a copy of the Student's current IEP and educational records upon request. K.A.R 91-40-18(d), K.A.R. 91-40-25(a); 34 CFR §§ 300.322(f), 300.501(a).

ISSUE SEVEN: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, ensured the provision of a Free Appropriate Public Education (FAPE) in a safe environment after an alleged incident with a staff member. K.A.R. 91-40-2; 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Residential Caregiver on December 11, 2025 and the Parent on December 12, 2025. The following LEA staff were interviewed on December 17, 2025: the Transition Program Coordinator and the Director of Secondary Special Services.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Emails, 11/25/24 - 12/18/25
2. Student Account, 11/11/25
3. School Calendar for August and September, 2025-26 School Year
4. Individualized Education Program, 12/12/24
5. Notice of Meeting, 10/15/25
6. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent, 12/12/24
7. Student Schedule, 2025-26 School Year
8. Transition/Paraeducator Support Services, 12/2024-12/2025

Background Information

This investigation involved a 20-year-old student enrolled in their third year in the 18-21 transition program at a high school in USD #437. The Student is currently receiving special education or related services as a child with a disability under the categories of Autism and Emotional Disability per the IDEA. Their strengths are described as being personable, able to verbalize concerns in an appropriate manner, and able to identify emotions. The Student's functional needs reportedly align with their diagnoses. The Student will turn 21 on February 3, 2026.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. On November 25, 2024, at 11:26 a.m., the Parent emailed the Transition Program Coordinator to inform them the Student had not been picked up for class at the Technical School. The Transition Program Coordinator responded at 11:46 a.m. to apologize for the error and stated, "[The Assistant Principal] handles that on days off. … We will be there to get [the Student] asap."
2. On December 11, 2024, the Transition Program Coordinator emailed the Parent a list of program options for the Student:
    a. "Pre-ETS" was available to serve the Student while in the 18-21 program, providing once-a-month services at the High School, services outside of the High School, and over the summer months, but was unable to pay for courses at the University.
    b. Vocational Rehabilitation was able to pay for courses at the University if the Student exited the 18-21 program.
    c. An internship opportunity at the LEA print shop was secured for two days per week.
    d. An internship was also secured to assist the LEA athletic department with graphic design.
    e. Based on these options, the Student's schedule could be configured in multiple ways:
        i. Go to the print shop twice a week, the University to work on interview, social-emotional, and independent living skills, and the graphic design internship every afternoon.
        ii. Go to the print shop twice a week, a job site three days a week, and the graphic design internship every afternoon.
        iii. Go to the print shop twice a week, a job site three days a week, the graphic design internship three days a week, grocery shopping on Thursdays, and cooking a meal on Fridays.

3. An IEP dated December 12, 2024 and in effect until December 11, 2025 included the following relevant information:
    a. Participants were listed as the Student, the Parent, the Transition Program Coordinator, the Assistant Principal, and the School Social Worker.
    b. Post-School Goals:
        i. Education & Training: "After exiting school services, [the Student] will pursue training at a technical school with programs related to [their] career interests, particularly in the area of computer programming.
            1. Transition services needed: "[The Student] will be enrolled in courses which will provide skills supporting interests and needs toward future employment. Continue educational opportunities within Technical School curriculum."
            2. "Application to Vocational Rehabilitation Services will be made to provide additional training and services for future employment."
        ii. Employment: "After exiting school services, [the Student] will seek part-time employment within the community as [they] pursue training, [which] may include intern programs provided by support agencies."
            1. Transition services needed: "[The Student] will be instructed regarding behaviors and appropriate interactions related to the employment setting as well as explore various careers related to [their] interests."
        iii. Independent Living: "After exiting school services, [the Student] [would] continue living within [their] current foster home while within age eligibility."
            1. Transition services needed: "Instruction within the special education setting and the community will be provided to develop social interactions and emotional regulation in a variety of setting[s] providing skills to manage interactions within the community."
    c. Additional Course Information: "[The Student] will continue to attend school in the 18-21 program through the [20]25-26 school year when they] will age out of eligibility."
    d. Consideration of Kansas Vocational Rehabilitation: "With Parental consent, Vocational Rehabilitation will be notified when the Student is within three semesters of graduation or program completion."
    e. Goal Progress Reporting: "Parents will receive written reports of the student progress toward meeting annual IEP goals in accordance with the [LEA's] established grade reporting schedule."
    f. Goal 1: "When discussing post-high school decisions, specifically related to [their] transition for independence, [the Student] will be able to demonstrate emotional readiness for the transition by independently describing goals and needed support in all major life domains (Post-secondary Education/Training,

Employment, Independent Living/Community Participation) at at [sic] 5 out of 5 times [the Student] discusses these topics specific goals [sic] by [the] end of the IEP as measured by anecdotal records."

i. A Progress Report dated October 10, 2025 indicated "Progress adequate to meet annual goal" for three reporting periods. Additional comments noted the following:

1. March 14, 2025: The Student cultivated independence through the 18-21 program, balancing a college class with employment opportunities. The Student was learning to navigate a schedule, time meals, complete college-level homework, and develop self-advocacy amongst a variety of peers with varying abilities.
2. May 28, 2025: The Student demonstrated "significant and consistent" progress toward post-secondary transition goals, independently articulating needs regarding education, employment, and independent living at a rate of five out of five times. They successfully completed college-level coursework at the University and exhibited emotional growth by considering others' perspectives during conflict. Additionally, the Student maintained resilience and a positive attitude while navigating challenging real-world work environments, as confirmed by ongoing anecdotal records and documented observations.
3. October 10, 2025: The Student continued to make "significant progress" regarding understanding their limits and strengths in terms of their University classes and the work that it took to keep up with them and earn a passing grade. The Student had grown significantly in how they got the work done.

g. Goal 2: "When provided with weekly assignments related to [their] internship opportunities, [the Student] will be able to will [sic] independently complete tasks such as assembling print orders, organizing materials, or creating event programs at 90% accuracy and on-time submission in 8 out of 10 observed opportunities by [the] end of the school year as measured by Observation."

i. A Progress Report dated October 10, 2025 indicated "Progress adequate to meet annual goal" for three reporting periods. Additional comments noted the following:

1. March 14, 2025: The Student had been pursuing their academic experience and would increase their opportunities to complete orders and organize materials at the High School, and was doing a "good job" at the print shop twice a week.
2. May 28, 2025: The Student progressed toward the goal of independently completing internship assignments, despite limited access to the print shop caused by scheduling conflicts. When present, they demonstrated increased independence and accuracy

in assembling orders, organizing materials, and creating event programs. The team noted that upcoming schedule adjustments were expected to provide more opportunities for the Student to improve productivity and meet accuracy targets (8 out of 10 observed opportunities for on-time submission and 90% accuracy).

3. October 10, 2025: The Student demonstrated the following skills 100% of observed opportunities at both job sites in September and October 2025: on time and prepared, follows directions, demonstrates respect to everyone, stays on task, stays in assigned location, appropriate and clear communication, and demonstrates a positive attitude when at work. The Student achieved 100% for finishing assigned jobs for both job sites in September 2025, and one job site in October 2025. They achieved 83% for the other job site in October 2025 and needed some prompting. In the areas of asking for help when needed and accepting feedback or help, the Student achieved 100% for both job sites in September 2025 and 83% for both job sites in October 2025. Overall, the Student had increased their independent work, was able to complete tasks with three or more steps, and only required periodic supervision. Additionally, the Student was able to focus for two or more hours at a time and was completing a variety of tasks. Jobsite Monthly Progress Report and Job Coach Feedback forms from September and October 2025 recorded this data.

h. Goal 3: "When engaged in [their] internship assignments, [the Student] will be able to demonstrate appropriate workplace communication by engaging in professional interactions with supervisors and coworkers, including using email or verbal communication at 13 [out of] 15 on [their] performance rubric success in 4 out of 5 opportunities by [the] end of the school year as measured by Rubrics [sic]."

i. A Progress Report dated October 13, 2025 indicated the Student had reached their target of 13 on May 23, 2025 and referenced the aforementioned skill achievements. No other details were provided.

i. Parent Input section: "[The Student] needs monitoring around electronics so that [they don't] have the chance to play games when [the Student] isn't being directly monitored and is supposed to be doing work. [The Parent] will get [the Student] set up to take a class at [the] University during school hours in the Spring and the school will provide the support for that class."

j. Behavior Intervention Plan and Positive Behavior Supports

   i. Problem Behaviors: "[The Student] may shut down and refuse to work, putting [their] head down on [the] desk upon correction or intervention of [their] behaviors. During these behaviors, [they] may purposely interfere with the engagement of other students."

ii. Precursor Behaviors: "[The Student] will be observed [to be] inattentive to assigned task, using [their] fidget inappropriately, or ask for a privilege [they have] not earned. This occurs most often when [they do] not see the relevance of content and [have] been instructed to engage in the activity."

iii. Setting Events and Antecedents: "Identify Circumstances that appear to come before the behavior or make the problem behavior more likely. [The Student] responds negatively when not given [their] way (told no) or does not easily understand a new concept [they have] been given. [The Student] becomes overwhelmed when [they are] unable to be successful in tasks given [them] or believes content is too difficult for [them]. This most frequently occurs when [they have] been denied the use of [their] computer, interfering with [their] ability to play games."

iv. Hypothesis of Behavior Function: "Behaviors are believed to escape or avoid tasks, activities, or gain access to preferred activities, items, or people. [The Student] denies any need for social[-]emotional instruction, [and] therefore, refuses to engage. If [they] feel content is too difficult for [them] [the Student] may also respond negatively. [The Student] focuses on playing computer games and will react negatively when this is denied to [them]."

v. Replacement Behaviors: "[The Student] will be taught to evaluate the situation and identify the problem. [They] will determine the degree of the problem and identify possible solutions to resolve the situation. [They] will also be taught skills to self-regulate [their] behaviors."

vi. Proactive Strategies: "Positive Behavior is a small structured environment with a low student[-]to[-]adult ratio. When [the] [S]tudent need[s] to separate themselves from [a] large, more stimulating setting, options are provided to support the [S]tudent. Social skills instruction is provided during teachable moments and in role[-]playing and contrived situations."

    1. "Conflict resolutions and stress reduction strategies taught in small group setting, role[-]playing and contrived situations."
    2. "Teach appropriate communication skills, such as how to ask for clarification/assistance, request a break, move to more quiet setting to work, [and] advocate for [their] own needs."
    3. "Learn to identify triggers for undesired behaviors and how to respond in a more appropriate way."
    4. "Teach self-control and self-management skills in the areas of anger management and coping skills."
    5. "Teach replacement behavior for when [the Student] is frustrated/overloaded [of] [providing] an individual signal to [the]

teacher [when the Student] feels the need to leave the class. When [they are] overloaded, [the Student] needs to be directed to go to [Positive Behavior Support] PBS for a break."

6. "School staff will greet [the Student] positively and will provide [them] prompts (as [they] enter class) [on] what to expect each class period."
7. "Staff will seek opportunities to provide positive attention/reinforcement as checking for understanding and compliant behaviors."
8. "Teachers will provide non-verbal prompts (touch on the desk, nonverbal signal) to provide [an] opportunity to self-correct [the Student's] behaviors as they surface, prior to [their] participating in conflict."
9. "Provide early notifications of transitions within the class period."
10. "PBS is not to replace the consequences which occur when choices are made to violate [the] student code of conduct."

vii. Reactive Strategies: "[The Student] may request (or teacher may direct) a ten[-]minute break during an assigned task but return to tasks following the break. [They] may also request [an] opportunity to discuss [their] frustration. Upon communicating the need for a break, [the Student] may leave class for [a] short period to reflect on behavior or take a sensory break, then return to interact with others in [an] appropriate manner. Removal may include [the Student] stepping outside [the] classroom with staff. [The Student] will indicate [their] preference for break location prior to leaving the class."

viii. Data Collection Method: "Daily Data Collection"

1. In their written response to interview questions, the Transition Program Director stated behavior progress was tracked daily through collaborative staff consultation, internal communications, job skills evaluations, and course grades. Progress monitoring shifted to a narrative data collection format to better capture vocational growth and behavioral successes. The Student's behavioral presentation was consistently low-intensity or non-existent. Consequently, the team's focus shifted to maintaining stability rather than intervention.
2. Additionally, the Transition Program Director noted, the Student successfully attended college-level courses on Tuesdays and Thursdays with LEA staff support, and achieved an American College Testing (ACT) score of 21, demonstrating high-level academic capability. Data suggested the Student's primary need

was for academic testing accommodations rather than behavioral supports.

3. Responsibility for monitoring was shared between classroom teachers and support staff, who provided weekly or bi-weekly updates to ensure the effectiveness of the Student's highly individualized program.

ix. Staff Training Procedures: "Include necessary staff training in the IEP. Staff training will occur within program[.]"

k. Program Supports and Modifications in all subjects included:

i. Extended time when given an assignment to complete independently, to show mastery of a skill, not to exceed 1.5 to 2 times of allotted time to accommodate breaks.

ii. Alternate setting when given an assignment/assessment to complete to minimize distractions, until completion of the task.

iii. Allow frequent breaks when the Student demonstrates difficulty with self-regulation; may be student-initiated or staff-directed.

iv. Use of a calculator when given math operations to complete; not to include basic math operations or assessment.

l. A disclaimer in the Services and Supplementary Aids section read in part: "The school is unable to provide regularly scheduled special education and/or related services in the following situations: inclement weather closures, scheduled school closures, unforeseen emergencies, student absences, school field trips, assemblies, late arrival weeks, emergency drills, summer break, and other unplanned school or partial closures."

m. Direct services included:

i. Vocational Special Education in a community[-]based direct instruction setting with "job coach support" for 120 minutes a day, five days a week.

ii. Special Education Services for "job prep" outside the regular education classroom at the High School for 45 minutes a day, five days a week.

iii. Specialized Transportation for "extracurricular" activities for 30 minutes a day, five days a week.

iv. Specialized Transportation to and from the Student's job site for 40 minutes a day, five days a week.

v. Special Education Services at non-school locations (inclusion setting for the Technical School) for 192 minutes a day, five days a week.

vi. Social Work Services in a Special Education setting for 20 minutes a day, one day every four weeks. Notably, in a different section of the IEP, this service was listed to occur for 20 minutes every two weeks.

4. A PWN was issued on December 12, 2024 outlining the IEP services for the Student. The explanation of action stated, "It is proposed for [the Student] to receive the services

outlined above because [they continue] to show success and improvements when provided the services as stated." The options considered and rejected section noted "It was considered reducing [the Student's] services for class at [the Technical School], but that was rejected because the team agrees that [the Student] continues to require supervision and access to adult guidance and accountability around electronic use, staying in the classroom, and appropriate behaviors around food and prefered [sic] objects." The PWN noted the proposed changes did not require parental consent, however, the parental consent section was electronically signed by the Parent and dated March 7, 2025.

5. On January 16, 2025, the Parent requested copies of the Student's current IEP and progress report from the previous semester in an email to the Transition Program Coordinator. The Parent requested a copy of the Student's IEP via email to the Transition Program Coordinator again on January 27, 2025 and January 30, 2025, stating they also left a voicemail.
   In an email to the Transition Program Coordinator and the Assistant Principal on January 30, 2025, the Parent requested the Assistant Principal send a copy of the Student's IEP, mentioning the Transition Program Coordinator was having technical issues. The Assistant Principal replied on February 3, 2025 with a copy of the IEP, and expressed further technical difficulties obtaining progress reports.
6. On February 14, 2025 at 7:56 a.m., the Parent emailed the Transition Program Coordinator to let them know the Student had not been picked up for their 8:05 a.m. class at the University. The Transition Program Coordinator responded at 8:10 a.m. to apologize, stating "… the off days weren't set up like they had been last semester. … I will look at the calendars myself and arrange transportation for the rest of the semester." The Transition Program Coordinator indicated there was no transportation available for that day, and they would have the Assistant Principal send a message to the University professor.
7. On February 28, 2025, the Parent emailed the Transition Program Coordinator, stating the Student had no paraeducator support at the University that day and escalated during class. In an interview with the Complaint Investigator, the Transition Program Coordinator and the Director of Secondary Special Services were unable to confirm or refute this claim.
8. On March 4, 2025, the Parent emailed the Transition Program Coordinator, stating, "[The Student] reports that there was no class yesterday at [the] University when [they] got there. [They] said [their] para[educator] left home [sic] there alone at [the] University for an hour … with no support or ride back to the [School]." The Parent reported the Student indicated neither their work study nor internship accommodations had begun. The LEA indicated they had no record of this communication.
9. On March 5, 2025, the Parent emailed the Transition Program Coordinator to report the Student was frequently late to the University class due to inconsistent transportation from the LEA. The Parent stated they were unavailable to drive the

Student to the University "as [the Student's] IEP designates [transportation] as the responsibility of the [S]chool."

10. On April 7, 2025, the Parent emailed the Transition Program Coordinator inquiring about the Student's work-study assignment. They stated the assignment was supposed to start in January 2025 and there had been no updates. The Parent requested more support for the Student during their class at the University and an update regarding the Vocational Rehabilitation program support discussed at a previous IEP meeting. No evidence of a response from the LEA to this email was provided.
11. In an email to the Parent dated April 18, 2025, the Transition Program Coordinator noted they discussed the following accommodations for the Student for their class at the University:
    a. Extended time (1.5 times) for assessments.
    b. Extra three days for assignments.
        i. The Student needed to tell the professor in an email if they were going to need the extra time.
        ii. Extra time could not be used for every assignment so the Student did not get backed up.
        iii. The Student needed to tell the professor the date they intended to turn the assignment in.
        iv. Assignments due on the last day of class could not be extended.
    c. No extra time on "long" assignments, i.e., a paper with a due date a month away.
    d. The Student would have a note taker.
    e. These accommodations could be adjusted any time in the semester.

    The Transition Program Coordinator indicated they would send formal documentation for the Student to sign and return. They stated they would help the Student turn in the paperwork. The Parent thanked the Transition Program Coordinator for the information and asked if they had received the Parent's previous emails. No response from the LEA to this email was provided.

12. In an email exchange with the Parent on May 14 and May 16, 2025, the Transition Program Coordinator said, "You're right, you have all the right to be irritated and it's my fault. It's been a year and in the last month, more exhausting than I have the capacity to carry on my own. … those were valid concerns and completely a result of my lack of communication. … I dropped the ball with you and I am honestly so sorry." They also explained things that had made it challenging for them to "catch up."
    The Parent thanked the Transition Program Coordinator for their response and expressed concern regarding the Student not receiving necessary support and what they considered to be stagnant progress during the semester. Specifically, the Parent mentioned plans that were discussed to transition the Student to a new job site placement out of their current one, which never materialized, despite the Parent following up multiple times. Additionally, the Parent contacted the Vocational

Rehabilitation Program directly due to a lack of updates. The Vocational Rehabilitation Program reportedly informed the Parent they had attempted to contact the High School staff multiple times, most recently in April 2025, but received no response. Finally, the Parent emphasized the Student required more structured planning and was discouraged by the lack of follow-through on their transition goals.

In their written response to interview questions, the Transition Program Coordinator clarified, "The phrasing 'dropping the ball' was used as a professional de-escalation strategy. At that time, the [Parent's] communication style and frequency had created a high-intensity environment. My comment was intended to validate [the Parent] and maintain a collaborative tone despite the challenging nature of the exchange. It was a gesture of professional transparency regarding communication timelines and was not an admission of a failure to implement the Student's IEP or provide required services. We remained in compliance with all service delivery throughout this period." Notably, no concrete evidence was provided to contradict the Parent's claims regarding the Student not receiving necessary supports for the second term of 2024-25.

13. A letter to all parents dated August 6, 2025 stated the 18-21 Transition Program would begin on September 2, 2025. Attached was a school calendar, showing "9th/New" students beginning school on August 12, 2025 and "10-12th" students beginning school on August 13, 2025.

    The Parent replied to this letter on August 11, 2025 asking, "For [the Student], how will this work since [they attend] the [University] and need [their] IEP services prior to September 2, 2025?"

14. In an email to the Parent dated August 14, 2025, the Transition Program Coordinator stated, "[The Student] can plan to ride the bus to school in the mornings on Tuesdays and Thursdays … or we can come pick [them] up on the 16 – whatever you prefer. If you would like [the Student] to come the other days as well, [they're] welcome to … but we're not ready to start any 18-21 content yet because of all the other classes we have to get started first with this huge freshman class and the late start for both teachers and support staff. If you'd like [the Student] to come afterwards, then we can bring [them] home after class on those days."

    During an interview with the Complaint Investigator, the Transition Program Coordinator confirmed they provided transportation services to the Student for their University class beginning the first day, which was Saturday, August 16, 2025.

15. On October 13, 2025, the Director of Secondary Special Services emailed the Principal and the Assistant Principal of Student Services stating, "Beginning Tuesday, October 14, [2025] all communication between [the Parent] will need to go through me. This is for any student who resides with [them]. … Please make appropriate staff aware of this change effective Tuesday, October 14 [2025]." The Director of Secondary Special Services also relayed they would be out of the office from October 20 to October 24, 2025, and for that week, communications should go through the Director of Elementary Special Services.

16. According to the LEA, they informed the Parent of the communication plan through the Parent's attorney on October 14, 2025. The plan required all communications from the Parent to route through the Director of Secondary Special Services. Regarding the Student, "The Parent continues to receive all required IDEA notices and meeting invitations. The Parent remains able to request IEP meetings, propose revisions, and participate in decision-making. The [Director of Secondary Special Services] coordinates all information with the case manager and service providers to ensure accuracy and timeliness. No meetings have been denied, delayed, or limited due to the communication plan." (
17. A Notice of Meeting dated October 15, 2025 showed a proposed virtual meeting date of December 5, 2025 for an annual IEP review.
18. On October 17, 2025, the Director of Secondary Special Services emailed the Student's progress reports for October 2025 to the Parent.
    In their written response to interview questions, the Transition Program Coordinator stated "[The LEA] identified a procedural communication gap" regarding delivering the Student's progress reports for March 14, 2025 and May 28, 2025. They stated while data was collected and recorded, it was not properly distributed to the Parent until October 10, 2025. The Transition Program Coordinator reported the LEA has since "established a new 'Primary Reporter' protocol to ensure clear accountability for future document delivery and designated scheduled dates and times to meet and guarantee the team has all progress reported successfully sent and documented."
19. In an email to the Parent on October 17, 2025, the Director of Secondary Special Services stated they would be out of town for the next school week, therefore, the "primary point of contact" for the Parent would be the Director of Elementary Special Services.
    The Parent replied on October 18, 2025 and said, "I do not consent to this ongoing communication restriction[.]" They described communicating through the Director of Elementary Special Services as "inappropriate, unreasonable, and unlawful" because the Student attended the High School. They expressed the restriction resulted in a denial of parent participation.
20. Emails were exchanged between November 11, 2025 and November 13, 2025 regarding a safety incident involving the Student and Instructional Aide 1. Relevant information included the following:
    On November 11, 2025, the Parent emailed the Student's written account of a "serious safety concern" to the Assistant Principal of Student Services. The Student wrote, "During lunch, I playfully threw a ranch packet at [Instructional Aide 1], which [they] then yelled 'that's the last time you will ever throw anything at me,' then [they] pulled out a butter knife and pointed it at me. I personally took that as a threat, and feared for my safety for 15-20 minutes." The Student indicated there were multiple witnesses and described wanting to leave after the incident, but decided not to. The Parent reported the Student was also uncomfortable because Instructional Aide 1 knew where they lived due to transporting the Student home from a job site the previous year. The

Parent requested an investigation of the incident and "no further unsupervised contact" between the Student and Instructional Aide 1. They also requested confirmation of the Student's report being documented.

On November 12, 2025, the Director of Secondary Special Services confirmed receipt of the email detailing the Student's concerns and stated the High School staff were "actively looking into those concerns," and the Director of Secondary Special Services would share more information as soon as they received it.

Later that day, the Parent sent their request to the Principal because they believed the situation had "escalated." They provided an update stating the Student had reported Instructional Aide 1 treated them "worse than yesterday by being hostile around [them]" and Instructional Aide 1's sibling, Instructional Aide 2, treated the Student differently and would not speak to them. The Student also reported they avoided the lunchroom since Instructional Aide 1 was in there alone, and the Student did not feel safe being alone with Instructional Aide 1. Instead, the Student claimed they went to the bathroom and sat there for approximately 30 minutes. According to the Student, they reported their experiences to the Transition Program Coordinator, who allegedly was not informed of the November 11, 2025 incident or the email the Parent sent to the Assistant Principal outlining the concerns. The Parent also claimed the email was instead forwarded to the Director of Secondary Special Services, who did not communicate with the staff in charge of supervising the Student and providing their IEP services.

On November 13, 2025, the Director of Secondary Special Services replied, "We have visited with the staff members involved and put measures in place to support [the Student] and ensure [the Student] continues to feel safe in [their] school environment. We take all concerns seriously and have addressed this matter appropriately. Because this involves personnel, we are not able to share specific details about our review or any resulting actions." The Residential Caregiver responded, "Exactly what measures are being put in place with regard to [the Student's] school environment and [their] safety?" The Director of Secondary Special Services reiterated, "While I cannot share details related to personnel or internal staffing actions, I can confirm that all appropriate measures have been taken to support [the Student] and ensure [their] continued safety and well-being at school. This includes reviewing the situation with the necessary staff, reinforcing expectations, and ensuring [the Student] has consistent adults available to support [the Student] during the school day."

21. According to the LEA, the timeline of actions regarding the November 11, 2025 safety incident was as follows:
    a. "11/11/25 at 7:03 p.m.: [The LEA] received the [Parent's] initial email."
    b. "11/12/25 at 1:22 p.m.: [The LEA] responded to acknowledge the concern and confirm that a review was underway."
    c. "11/12/25 at 4:24 p.m.: [The Parent] sent additional concerns."
    d. "11/12/25 at 4:27 p.m.: [The LEA] provided additional context after reviewing the situation and conducting an internal personnel investigation."

e. "11/13/25 at 5:16 p.m.: [The Parent] inquired about the specific safety measures being implemented."

f. "11/14/25 at 3:53 p.m.: [The LEA] responded, confirming that appropriate steps had been taken to ensure the Student's safety, including reviewing expectations with staff and ensuring consistent adult support during the school day. [The LEA] also confirmed ongoing monitoring and willingness to adjust supports if needed."

In their written response to interview questions, the Transition Program Coordinator stated as part of the LEA's investigation, they reviewed the Student's Behavior Intervention Plan (BIP). The LEA determined the safety incident "was an isolated event involving a staff member and did not stem from a deficiency in [the Student's] specific programming or behavior support."\

22. A 2025-26 Student Schedule for the Student indicated the first semester spanned August 1, 2025 through January 3, 2026. The schedule listed periods 1 through 4 and the "Advisory" period as being in the "Transition Skill 1" class, periods 5 through 7 being in "Job Experience," and the "Activity" period being in "Instructional Management," all under the supervision of the Transition Program Coordinator. Additionally, an Official Transcript dated December 3, 2025 showed the Student's enrollment date for the 2025-26 school year was August 12, 2025.
23. An undated typed document titled "Transition/paraeducator support services" included the Student's IEP services as outlined in their service summary, and contained the following note:
    a. "We provide coverage for all the days the [S]tudent attends [the Technical School]. [Instructional Aide 3] is the primary individual who supports the [S]tudent at [the Technical School]. On the days [Instructional Aide 3] is absent, [Instructional Aide 4] provides support for the student."
24. A data report indicated the Student utilized transportation services provided by the LEA between August 19, 2025 and December 3, 2025. The report recorded a total of 266 "RFID" scans on Vehicle 11 for runs designated as "HS/MS AM" and "HS/MS PM." The Student consistently boarded at the same stop in the morning, typically between 7:00 a.m. and 7:16 a.m., and traveled to the High School, arriving around 7:30 a.m. Afternoon return trips generally departed the High School between 3:00 p.m. and 3:08 p.m., arriving back at the morning boarding spot around 3:18 p.m. Throughout the reporting period, the Student was consistently picked up from school earlier on Wednesdays, between 2:38 p.m. and 2:45 p.m. The schedule indicated several days with significantly earlier afternoon pickups at approximately 1:40 p.m. (September 17, October 1, and November 5, 2025). One unique drop-off occurred on October 31, 2025 to a different location.

Residential Caregiver Interview

25. In an interview with the Investigator, the Residential Caregiver stated they "met with a lot of resistance from the school" for wanting the Student to participate in the Transition Program. They shared the Student was highly adaptable and "people think that [the Student is] a little more … intelligent than what [the Student] is. " Therefore, the LEA told the Residential Caregiver the Student "wasn't disabled enough" for the Transition Program.
26. According to the Residential Caregiver, the LEA based its resistance on the Student's ability to take a college-level course at the Technical School. However, the Residential Caregiver stated the Student was failing the class before they had paraeducator support.
27. The Residential Caregiver believed the Student should have job coaching, transportation services, and paraeducator support for their class at the Technical School through the Transition Program. They believed the job coaching should include learning to handle money. They recalled at least two occasions when the LEA did not transport the Student, but did not specify dates. The Residential Caregiver stated, "It's not until we start filing complaints that they kind of changed their tune as far as para[educator] support." They indicated the LEA was slow to provide the Student's supports.
28. Regarding the November 11, 2025 incident involving Instructional Aide 1 brandishing a butter knife at the Student, the Residential Caregiver clarified they were not asking the LEA to share staff disciplinary information. Rather, they wanted to know "What exactly are the safety measures you're putting in place to ensure [the Student] feels safe … What safety measures are you putting in place to ensure that it doesn't happen again?" They stated they were not provided any safety measures for the Student.

Parent Interview

29. In an interview with the Complaint Investigator, the Parent stated their understanding was the Transition Program services were individualized "to [the Student's] specific needs and to [their] specific education and goals that [they] wanted to work on, … going to [the Technical School] and just independent type living skills so that [the Student] can go out in the workforce and look for employment." They stated they understood the High School would facilitate "opportunities and supports and services … to meet those goals."
30. The Parent stated the Student needs one-to-one support to stay on task, assist in self-regulation, and "to make sure that [the Student is] successful and has the accommodations and supports that [the Student] needs to get those skills that [the Student] wants."
31. The Parent described the Student's offsite services as a collaboration between the Transition Program and the offsite providers. They reported the High School provided a paraeducator to work with the Student at the Technical School and the University and collaborate with the Technical School or University staff on behalf of the Student. The

Parent reported the Student worked directly with a supervisor at their job and also had a one-to-one job coach supplied by the High School at their job site.

32. The Parent stated since the communication plan was put in place, "I can't find out anything that's going on or do any troubleshooting like I used to do. I'm not allowed to talk to anybody, [and] they're not allowed to talk with me." Before the communication plan, the Parent directly consulted building staff to make sure the Student had their required IEP services. They noted this collaboration ensured the Student felt safe, and received timely adjustments and support, including addressing emotional and behavioral problems to prevent recurrence.
33. Regarding the safety incident involving a butter knife, the Parent shared the Student asked them to intervene with the LEA, which they perceived meant the Student viewed the incident as serious. The Parent stated they emailed the Principal and the Assistant Principal regarding the incident, who forwarded the emails to the Director of Secondary Special Services, per the communication plan. They shared the Residential Caregiver also reached out to the High School staff and was told the situation was "a personnel issue." The Parent expressed, "We understand that aspect of it, but we need to understand the aspect of what are you doing to support [the Student] because [the Student] feels unsafe." They asserted no administrator ever responded to their concerns for the Student's safety. The Parent viewed the lack of direct response as "they're just blowing all of us off and not taking any of us seriously and just shutting us all down." They indicated the Student was told by staff they should not have reported the incident, and no administrator asked the Student for their account.
34. The Parent expressed the Student continued to feel unsafe at the High School after the incident. They stated the lack of a feeling of safety prevented the Student from interacting with staff, therefore the Student lost access to their services and supports. They indicated the Student wished to drop out of the Transition Program.
35. Regarding transportation, the Parent confirmed a special education bus picked up and dropped off the Student between their home and the High School in the morning and afternoon. The Parent understood the LEA was responsible for the Student's transportation to offsite activities, but did not know what type of transportation was used. They stated the Student was dropped off at the High School at approximately 7:30 a.m. every morning, ate breakfast, and then waited for their transportation to the University. The Parent indicated the Student's University class began at 8:00 a.m., it was a 15-minute ride to the University, and the Student reported being late to the University 50% of the class days. They stated a staff member told the Student "if [the Student] wants to be on time, that [they] should have me take [them] and not take the bus." The Parent stated the Student had not been picked up in the morning at all on more than one occasion, but did not specify dates. They stated their inquiries about transportation for the Student went unanswered.
36. Regarding progress reports, the Parent stated they typically received them by email. They confirmed they did not receive any progress reports after their request in January 2025, and indicated they did not receive any subsequent progress reports for the

2024-25 school year. They stated they only received the 2024-25 progress reports when they received the October 10, 2025 report.

Transition Program Coordinator Interview

37. In an interview with the Complaint Investigator and the Director of Secondary Special Services, the Transition Program Coordinator stated the Student's IEP was written before they were the Student's case manager. They stated they continued to provide and manage the supports as written in the IEP.
38. The Transition Program Coordinator reported the start date for the Transition Program was "… pretty nonchalant. It's not a hard line." They stated the September 2, 2025 start date depended on access to offsite buildings, therefore, jobs and routines began when those facilities were available. The Transition Program Coordinator stated, "… kids do better when they start in their routine right away," therefore, while the Transition Program students were welcome to attend when the High School began, there would not be any programming ready for them until September 2, 2025. They reported this was a typical timeline for the Transition Program, and the Student consistently received their IEP services before the Transition Program start date.
39. The Transition Program Coordinator asserted all students and families were informed of the Transition Program timeline during IEP meetings the previous year. They reported a different staff member was responsible for providing written notification. The Director of Secondary Special Services stated the progress reporting for the Transition Program remained on schedule with the High School, regardless of the start date.
40. Regarding the August 14, 2025 email about the Student's schedule, the Transition Program Coordinator stated they wanted to confirm to the Parent the Student would receive services for the University beginning August 16, 2025, but "routines" would not start yet. They reiterated the Student was welcome at the High School on non-University days, or the LEA could transport them between home and the University until the Transition Program content began. The Transition Program Coordinator confirmed the Student was attending the University and not the Technical School for the Fall 2025 term. They stated IEP services began on August 16, 2025 when University classes started.
41. When asked if the Student received their direct services for the times explicitly listed on the IEP between August 13 and September 2, 2025, the Transition Program Coordinator said, "[The Student] was going to [the] University, and so [they] should have been having that when the classes started. [The Student] was doing all kinds of jobs and vocational things for us. [The Student's] the easiest one to have a routine with and do things with from day to day, so we kept the Student very busy."
42. Regarding communication, the Transition Program Coordinator stated they did not have any emails from January 16 or January 27, 2025 from the Parent in their records. They reported an email from January 21, 2025 discussing the Student's class at the University. They shared enrollment at the University was typically the responsibility of the Parent, but they "didn't mind helping with … enrollment if [they] needed it." The

Transition Program Coordinator stated they shared the enrollment assistance request with the Assistant Principal, who reached out to the University the same day.

43. Regarding transportation, the Transition Program Coordinator confirmed the IEP listed home-to-school round-trip busing as well as intra-day bussing to offsite services. They stated there were records for every time the Student was transported. They did not believe the Student was late to their University class 50% of the time or more. The Transition Program Coordinator explained "days off" or "off days" meant days when the High School was not in session. The Director of Secondary Special Services added no students received services on days the High School was not in session. However, the Assistant Principal planned transportation alternatives for the Student on those days. The Transition Program Coordinator reported November 25, 2024 and February 14, 2025 were non-school days for the High School. They did not have information for February 28, 2025 and were unclear about the March 3, 2025 concern from the Parent.

Directory of Secondary Special Service Interview

44. In an interview with the Complaint Investigator, the Director of Secondary Special Services stated the LEA had "the right to determine how communication is funneled." They stated the communication plan did not deny the Parent their right or access to participation, rather "funneled the communication differently." The Director of Secondary Special Services stated the Parent was able to communicate with staff through them, and they relayed any messages from staff to the Parent. They reported all parties "have been doing that successfully the last few weeks."
45. The Director of Secondary Special Services stated their records indicated all transportation concerns received a response.
46. Regarding the November 11, 2025 safety incident, the Director of Secondary Special Services confirmed the High School investigated the matter, and they communicated to the Parent the situation was "handled in full." They reiterated they were "not able to share details because it was a personnel matter." The Director of Secondary Special Services indicated while the Parent did not receive responses directly from High School staff, the Parent did receive multiple responses from the Director of Secondary Special Services per the communication plan.
47. Regarding the Student's safety, the Director of Secondary Special Services stated the LEA "followed our basic policy of if somebody reports something that is concerning, then we begin our investigation … ." While they did not share any specific safety measures, they stated "we did ensure that the Student would be able to be safe moving forward, that there was not a concern to [their] safety and that [they] would be able to participate there and there was no lapse in services or supports during this time." The Director of Secondary Special Services reported the Student did not miss any school days or stop attending due to the incident.
48. The Director of Secondary Special Services confirmed the December 5, 2025 IEP meeting was held. They stated the Parent joined virtually and was able to fully

participate. They reported the Parent was given the opportunity to add a written Parent Input Statement to the IEP, which they submitted a week later.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, imposed a communication restriction that denied meaningful parent participation by preventing the Parent from participating in the IEP process and educational decision-making. K.A.R. 91-40-17(a), K.A.R. 91-40-25; 34 C.F.R. §§ 300.322, 300.501.

According to K.A.R. 91-40-17(a), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place and providing written notice to the parents of any IEP team meeting at least 10 days in advance of the meeting.

According to K.A.R. 91-40-25, each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child, and the provision of a FAPE to the child.

The Parent alleged denial of meaningful parental participation in the IEP process, stating “Parents must be involved whenever the student's safety, services, or placement are impacted. Refusing communication and hiding behind personnel policy is an IDEA violation." However, the LEA maintained, “Communication routing does not prevent meaningful participation. It provides structure, FERPA compliance, and safety for staff while maintaining full parent access to the IEP process.” The plan implemented a single administrative point of contact for communication and did not alter the Student’s identification, evaluation, placement, or FAPE. The LEA stated this was necessary due to "intimidating, aggressive, threatening, and abusive communications" from the Parent that placed staff in fear.

Evidence showed the LEA implemented a restricted communication plan on October 14, 2025, requiring all correspondence from the Parent to be routed through the Director of Secondary Special Services. While the Parent alleged this restriction hindered their ability to troubleshoot issues and prevented collaboration, state and federal regulations define "meaningful participation" as being afforded the opportunity to attend IEP team meetings scheduled at mutually agreed-upon times, inspect and review all educational records, and participate in meetings concerning the identification, evaluation, or placement of the child.

Evidence demonstrated that despite the communication plan, the Parent remained involved in the formal IEP process. Specifically, a Notice of Meeting was sent on October 15, 2025 , and the

Parent participated in a virtual annual IEP review on December 5, 2025. Furthermore, the Parent was given the opportunity to submit a written Parent Input Statement, which was subsequently added to the IEP. Because the LEA maintained the Parent's access to meetings and decision-making, the funneling of communication did not constitute a denial of participation.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA imposed a communication restriction that denied meaningful parent participation by preventing the Parent from participating in the IEP process and educational decision-making.

Issue Two

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, implemented a unilateral restricted communication plan and a delayed start of the transition program without the provision of a PWN. K.A.R. 91-40-26; 34 CFR § 300.503.

According to K.A.R. 91-40-26 and 34 CFR § 300.503, written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The notice must include a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action, a statement that the parents of a child with a disability have protection under procedural safeguards, and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained. The notice must also include sources for parents to contact to obtain assistance in understanding these requirements, a description of other options that the IEP Team considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal. The notice shall also be written in language understandable to the general public.

The Parent alleged the LEA implemented a unilateral communication plan and delayed the start of a transition program, as well as made changes in services, timelines, and implementation without required PWNs. The Parent claimed since the Transition Program did not start until September 2, 2025, the Student received fewer days of transition services compared to their non-disabled peers who started school on August 13, 2025. The LEA contended neither the communication plan nor the start of the Student's transition program triggered a PWN because there was no revision to the IEP proposed or implemented. The LEA maintained there was no change to the Student's service start date, and the Student received services consistent with their IEP.

A Prior Written Notice (PWN) is required only when an agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student, or the provision of a FAPE. Regarding the communication plan, the implementation of a single administrative point of contact for communication is a procedural routing decision rather than a change in the Student's identification or placement. Therefore, it does not trigger the legal requirement for a PWN.

The Parent alleged the Student received fewer days of service because the 18-21 Transition Program "content" did not begin until September 2, 2025, while non-disabled students started on August 13, 2025. However, investigation records showed the Student's official enrollment date was August 12, 2025. The Student began receiving specialized transportation for their University class on August 16, 2025, the first day of class at the University. While the "content" of the 18-21 program at the High School did not begin until September 2, 2025, the Student was receiving their IEP-mandated support (transportation and access to the University course) starting in mid-August. Additionally, the Transition Program Coordinator offered the Student the option to attend the High School on non-University days or be transported home, ensuring the Student was not barred from the educational environment. Because the Student's individualized services commenced in accordance with the schedule of their community-based placement (the University), the Student was enrolled and receiving benefits as of August 16, 2025, and was offered access to the High School or alternative transport during the gap period, the administrative start date of the High School's internal transition curriculum did not constitute a "change in placement" or a refusal to initiate services. Therefore, the PWN requirement was not triggered.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is not substantiated* that the LEA implemented a unilateral restricted communication plan and a delayed start of the Transition Program without the provision of a PWN.

Issue Three

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided all required supplementary aids, services, and related services as written in the Student's IEP, specifically regarding the provision of paraprofessional support, transportation, transition and vocational services, supervision, and behavioral supports. K.A.R. 91-40-16(b); 34 CFR § 300.323.

According to K.A.R. 91-40-16(b), an IEP must be in effect for each exceptional child at the beginning of each school year. The child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider must be informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific

accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged the LEA failed to implement the IEP as written, with specific respect to transportation, aide support, supervision, behavioral supports, and transition services. Additionally, the Parent stated they had to initiate all contact with the Vocational Rehabilitation Program to set up the Student's transition services, and none of the Student's other transition services, such as internships, began on time. The Parent also claimed the Student's IEP required "continuous one-on-one" paraeducator support, but the Student was left without this support on "multiple occasions."

The LEA contended they consistently provided all required supplementary aids, services, and related services outlined in the Student's IEP throughout the complaint period. The LEA fully implemented all mandated supports, including paraprofessional support, transportation, transition and vocational services, supervision, and behavioral supports, exactly as written in the IEP. The LEA maintained there is no evidence that they failed to provide any service, implemented services inconsistently, or made unauthorized changes to service delivery.

In determining whether the LEA failed to implement the IEP, the standard applied within the Tenth Circuit evaluates whether the failure resulted in a denial of a FAPE. Kansas courts review the totality of the circumstances to determine if the deviation from the IEP was significant. While a district is generally not liable for de minimis, or minor, deviations from an IEP, a violation occurs when the failure to provide services is significant enough that the student is no longer receiving an "appropriately ambitious" education in light of their circumstances. In this case, the investigation identified discrepancies in vocational services that were more than de minimis and resulted in a substantive denial of FAPE, corroborated by additional non-compliance in the areas of transportation and transition coordination.

The most significant discrepancy involves the provision of "Vocational Special Education." The Student's IEP explicitly required this service to be provided in a "community-based direct instruction setting" for "120 minutes a day, five days a week." Listed as separate services, the IEP also stipulated Special Education Services for "job prep" outside the regular education classroom at the High School for "45 minutes a day, five days a week," and Special Education Services at non-school locations (inclusion setting for the Technical School) for "192 minutes a day, five days a week." Progress report information from March 14 and May 28, 2025 and internal communications indicated the Student only attended the print shop placement twice a week. Mention of job site performance and progress did not appear on the progress report until the October 10, 2025 reporting period. Furthermore, the print shop was located at the High School, which calls into question whether the "community-based" setting requirement was met for any portion of the week. Regardless of the setting definition, the quantitative failure is substantial: by providing vocational instruction only two days a week instead of the mandated five, the LEA failed to deliver approximately 60% of the required weekly service

minutes, at least for the second semester of the 2024-25 school year. Rather than a minor administrative error, it is a failure to provide the majority of a core special education service designated in the IEP.

This failure was compounded by a lack of coordination regarding transition services. The Parent alleged plans for a new job site placement, which would have presumably filled the gap left by the limited print shop schedule, "never materialized." The Transition Program Coordinator did not refute this. Instead, in an email dated May 14, 2025, they admitted, "I dropped the ball with you," acknowledging that valid concerns about the lack of progress were the result of their own "lack of communication" and exhaustion. Additionally, the IEP stated that "Application to Vocational Rehabilitation Services will be made" to provide additional training. However, the investigation revealed the Parent had to contact the agency directly because the LEA failed to do so. The Vocational Rehabilitation Program reported to the Parent that they had attempted to contact High School staff multiple times without receiving a response. This failure to coordinate with outside agencies, as written in the IEP, further impeded the Student's transition goals.

Additionally, the investigation revealed failures in transportation that corroborated a pattern of non-compliance. The LEA failed to provide specialized transportation on November 25, 2024, and February 14, 2025, effectively denying the Student access to their off-site educational placement on those days. While the LEA's IEP template contains a disclaimer stating the school is unable to provide services during "scheduled school closures," and investigation interviews confirmed that November 25, 2024, and February 14, 2025, were days when the High School was not in session, the investigation also revealed the LEA had established an obligation to transport the Student to their off-site placements even when the High School was closed. The Transition Program Coordinator admitted the Assistant Principal "handles that on days off" and apologized for the error on November 25, 2024 stating they would get the Student "asap." Regarding the February 14, 2025 incident, the Transition Program Coordinator admitted, "the off days weren't set up like they had been last semester."

The Director of Secondary Special Services also confirmed that while general students do not receive services on days off, the Assistant Principal specifically "planned transportation alternatives for the Student on those days." Therefore, despite the IEP disclaimer regarding closures, the LEA's specific admissions and established practice confirmed that transportation to the off-site placement was a required service that the LEA failed to provide on those dates. Notably, the Parent was unable to transport the Student on these occasions, resulting in the Student missing class. While these two isolated instances of missed transportation may be considered de minimis on their own, they corroborate the broader pattern of material failure to implement the IEP's off-site and transition services.

Finally, the Parent reported instances where the Student was left without paraprofessional support at the University, leading to behavioral escalation. While the LEA claimed to have no

record of these specific communications, the confirmed pattern of noncompliance regarding scheduling and coordination lends credibility to the claim that support was inconsistent. Although the IEP did not use the specific title "paraprofessional" in the service lines, the provision of such support was implicitly and explicitly mandated through the designation of "job coach support" and "inclusion setting" services. Additionally, an internal LEA document titled "Transition/paraeducator support services" clarified these inclusion services were fulfilled by specific staff members, noting "[Instructional Aide 3] is the primary individual who supports the [S]tudent" at the off-site location. Furthermore, the PWN issued by the LEA acknowledged the Student's continued need for "supervision and access to adult guidance," and the LEA's own response to the complaint asserted they had "fully implemented … paraprofessional support," confirming their understanding that such support was a required component of the Student's IEP.

It should be noted, in their written response to interview questions, the Transition Program Coordinator contended their previous admission of "dropping the ball" was utilized as a "professional de-escalation strategy" rather than an admission of failure. The LEA asserted they "remained in compliance with all service delivery throughout this period." However, this assertion was not supported by the evidentiary record. The finding of non-compliance was not based solely on the Coordinator's email, but on the LEA's own Progress Reports, which documented the Student attended the print shop (relevant to vocational service) only "twice a week" during the Spring 2025 semester. Because the IEP mandated vocational services "five days a week," there remained an unexplained deficit of three service days per week. The LEA failed to provide service logs, job coach records, or attendance data to substantiate their claim that vocational instruction was provided on the remaining days or that the "new job site" referenced by the Parent as being discussed in January 2025 ever materialized.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA failed to provide all required supplementary aids, services, and related services as written in the Student's IEP, which thereby also denied the Student a FAPE for the Spring 2025 semester.

Issue Four

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the Student's IEP after following a significant change in circumstances and a safety event. K.S.A. 72-3429(f)(2); 34 CFR § 300.324(b).

According to K.S.A. 72-3429(f)(2), each agency shall ensure the IEP team revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals, the results of any reevaluation conducted, information about the child provided by the parents, the child's anticipated needs, or other matters.

The Parent alleged the LEA failed to convene the IEP team to review and revise the IEP after a significant safety event involving the Student and a staff member on November 11, 2025. The LEA asserted they responded promptly, investigated immediately, and provided timely communication throughout the days following the safety incident. The LEA addressed the concern through internal personnel actions and reinforcement of staff expectations. They maintained the incident did not result in any change to the Student's needs, services, placement, or behavior profile, and the Student continued to receive all IEP services as written, without interruption. They stated no new concerns arose that required revision of goals, services, behavioral supports, or placement, therefore, there was no need to review or revise the Student's IEP.

The investigation confirmed the LEA took immediate administrative action to neutralize the safety threat by addressing the specific staff member's conduct, ensuring the Student's placement remained available. Regarding the obligation to review the IEP, the LEA utilized the Annual Review meeting scheduled for December 5, 2025, which had been noticed to the Parent on October 15, 2025, to address the Student's needs. The fact that this meeting was scheduled prior to the incident did not invalidate it as the appropriate forum for review. Under 34 CFR § 300.324(b), an Annual Review is designed to address all "information about the child provided by the parents" and any "anticipated needs." Because the threat was external (a staff member's behavior) rather than internal (the Student's disability-related behavior), an immediate change to the IEP document was not required to ensure safety on the very next day. The removal or management of the staff member resolved the immediate "change in circumstance," allowing the IEP team to discuss the educational impact or long-term adjustments at the December 5, 2025 meeting. Given the LEA resolved the immediate physical safety concern through personnel measures, waiting 24 days to convene the formal IEP team was reasonable and did not deny the Student a FAPE. The Parent participated in this meeting and submitted written input, proving the team did consider the circumstances.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to review and revise the Student's IEP following a safety event.

Issue Five

Whether USD #437, in accordance with state and federal regulations implementing IDEA, provided the Parent with the Student's quarterly IEP progress reports. K.S.A. 72-3429(c)(3); 34 CFR §300.320(a)(3).

According to K.S.A. 72-3429(c)(3), the IEP for each exceptional child shall include a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided, such as through the use of quarterly or other periodic reports issued concurrently with general education report cards.

The Parent alleged the LEA failed to provide quarterly progress reports for March and May 2025. The LEA contended they complied with all IDEA and state requirements regarding the provision of quarterly IEP progress reports. They maintained the Student's progress reports for the 2024–25 and 2025–26 school years were completed and provided to the Parent in accordance with the LEA's quarterly reporting schedule.

The Student's IEP specifically stated the Parent would receive written reports in accordance with the LEA's established grade reporting schedule. During the investigation, the Parent confirmed they did not receive any progress reports after their initial request in January 2025 and did not see the reports for the remainder of the 2024-25 school year until they were provided with the October 10, 2025 report.

While the LEA initially asserted all progress reports had been provided to the Parent according to the reporting schedule, the investigation revealed significant evidence to the contrary. Notably, the Transition Program Coordinator admitted the LEA "identified a procedural communication gap" regarding the delivery of the March and May 2025 reports. They confirmed that while data was collected, it was not properly distributed to the Parent until October 10, 2025. To rectify this, the Transition Program Coordinator reported the LEA has since established a "Primary Reporter" protocol to ensure clear accountability for future document delivery. Although the LEA eventually provided the progress data in October 2025, the evidence supported the Parent's claim the LEA failed to provide the quarterly IEP progress reports for March and May 2025 in a timely manner as required by the Student's IEP and state regulations.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is substantiated* that the LEA failed to provide the Parent with the Student's quarterly IEP progress reports for the March and May 2025 reporting periods.

Issue Six

> Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Parent a copy of the Student's current IEP and educational records upon request. K.A.R 91-40-18(d), K.A.R. 91-40-25(a), K.A.R 91-40-50(a)(2)(b); 34 CFR §§ 300.322(f), 300.501(a), 300.613(a).

According to K.A.R 91-40-18(d), each agency shall give the parent a copy of the child's IEP at no cost to the parent.

According to K.A.R. 91-40-25(a), each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child, and the provision of a FAPE to the child. Additionally, according to K.A.R. 91-40-50(a)(2)(b) and C.F.R. § 300.613(a), "Education records" means any document or medium on which information directly related to one or more students is maintained by a participating

agency. The agency must comply with a request without unnecessary delay and in no case more than 45 days after the request.

The Parent alleged the LEA failed to provide a copy of the IEP upon request. Further, they stated, "Safety issues are educational records and must be shared with the parent." The LEA responded they did not receive any request from the Parent for copies of the Student's IEP or educational records during the complaint period.

Regulations require the LEA to comply with a records request without unnecessary delay and in no case more than 45 days after the request. The Parent requested the IEP on January 16, 2025. The Assistant Principal provided the copy on February 3, 2025. The time elapsed between the initial request and the provision of the record was approximately 18 days. This falls well within the 45-day statutory limit.

The Parent further alleged that "safety issues are educational records" and contended that the LEA failed to provide documentation regarding the investigation of the November 11, 2025 safety incident involving a staff member. The LEA treated the incident review as a "personnel matter" and informed the Parent they could not share specific details regarding the internal staff investigation or resulting actions. No educational records were created for the Student based on the incident. Under K.A.R. 91-40-50(a)(2)(b) and 34 C.F.R. § 300.613(a), "education records" are defined as documents directly related to a student and maintained by the agency. Records created for the specific purpose of evaluating a staff member's conduct or employment status (personnel records) are distinct from the student's educational records. Consequently, the LEA's refusal to produce internal personnel investigation notes or disciplinary records did not constitute a violation of the Parent's right to access their child's educational records.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to provide the Parent a copy of the Student's current IEP and educational records upon request.

Issue Seven

> Whether USD #437, in accordance with state and federal regulations implementing the IDEA, ensured the provision of a FAPE in a safe environment after an alleged incident with a staff member. K.A.R. 91-40-2; 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2, each agency shall provide a FAPE in accordance with the law. Each agency shall make FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday. Each agency shall make a FAPE available to any child with a disability even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination of whether a child who is advancing from grade to grade is a child with a disability shall be made on an individual basis in accordance with child find activities and evaluation procedures required by this article. Each

agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

The Parent alleged the LEA failed to provide the Student a FAPE in a safe environment and claimed the Student could not access their FAPE if they felt unsafe, threatened, or unable to attend or participate due to “fear or trauma from a staff member.” The LEA maintained that they guaranteed the Student received a FAPE and was in a secure learning environment during and after the reported incident. Following receipt of the complaint, the LEA immediately conducted an internal review, met with the involved staff, and implemented all necessary personnel and supervisory measures. These steps successfully protected the Student's safety and well-being, ensuring no interruption to services or alteration in the provision of a FAPE.

Evidence confirmed the LEA took immediate and appropriate administrative action to address the safety concern. The Parent reported the incident on the evening of November 11, 2025. By November 12, 2025, the Director of Secondary Special Services acknowledged the concern and confirmed a review was underway. By November 13, 2025, the Director confirmed the LEA had "visited with the staff members involved" and "put measures in place" to ensure the Student’s safety. While the LEA reasonably withheld specific disciplinary details as confidential personnel matters, the Director of Secondary Special Services confirmed "appropriate measures" were taken to support the Student, including ensuring "consistent adults" were available and reinforcing expectations with staff. The Director of Secondary Special Services reported, and the Parent did not provide refuting evidence, that the Student did not miss any school days or stop attending the program as a result of the incident.

A single instance of staff misconduct does not constitute a denial of a FAPE if the school district takes prompt and effective corrective action to remedy the situation and prevent recurrence. In this case, the LEA acted within 48 hours to investigate the allegation and address the staff member's conduct. Although the Student experienced subjective fear immediately following the event, the LEA’s objective actions successfully preserved the Student's access to their educational placement.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure the provision of a FAPE in a safe environment after an alleged incident with a staff member. However, it is noted that while the safety incident itself did not result in a denial of a FAPE, the investigation separately confirmed the Student was denied a FAPE during this same period due to the material failure to implement vocational special education services. This denial of FAPE is addressed under the findings and corrective actions for Issue Three.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at 34 C.F.R. § 300.323 and K.A.R. 91-40-16(b) specify the LEA must ensure an IEP is in effect for each child with a disability and that the services, supplementary aids, and supports listed in the IEP are provided. In this case, the evidence supports the finding that USD #437 failed to provide "Vocational Special Education in a community-based direct instruction setting" for 120 minutes a day, five days a week, and specialized transportation as required by the Student's IEP. Evidence established that during the Spring 2025 semester, the Student only attended a vocational placement (print shop) two days per week, resulting in a deficit of 109.2 hours of vocational instruction. Progress reports, Parent emails, and the Transition Program Coordinator's email on May 14, 2025, corroborate this.

B. Federal regulations at 34 C.F.R. § 300.320(a)(3) and state statutes at K.S.A. 72-3429(c)(3) specify the IEP must include a description of when periodic reports on the progress the child is making toward meeting the annual goals will be provided to the parents. In this case, the evidence supports the finding that USD #437 failed to provide the Parent with the Student's quarterly IEP progress reports for the March and May 2025 reporting periods. While the LEA eventually provided these reports on October 10, 2025, they were not provided in accordance with the periodic schedule established in the IEP.

During the investigation, the LEA acknowledged a "procedural communication gap" regarding the delivery of these reports and reported that they have since "established a new 'Primary Reporter' protocol to ensure clear accountability for future document delivery." To ensure this self-correction is fully implemented and effective, the required verification is listed below.

Based on the foregoing, USD #437 is directed to take the following actions:

1. Within 30 days of the date of this report, the LEA shall send a letter to the Parent offering 109 hours of compensatory "Vocational Special Education" services.
    a. These services must be provided in a community-based setting outside of the high school.
    b. The LEA and Parent shall agree upon a schedule for delivery, to be completed within one calendar year. The LEA's obligation to provide these compensatory hours continues notwithstanding the Student reaching the maximum age of eligibility (21) or graduating from the program during the implementation period. If the Student is no longer enrolled, the services shall be provided by a qualified provider at a community site or via reimbursement to the Parent for private vocational services.
    c. Within 45 days, submit a copy of the offer letter and the finalized plan signed by the Parent to SETS.

2. Within 60 days of the date of this report, the LEA shall provide training to all high school special education case managers and transition coordinators and submit agenda, training materials, and sign-in sheets to SETS regarding:
    a. The obligation to provide transition services and job placements as written in the IEP.
    b. The requirement to coordinate with outside agencies (e.g., Vocational Rehabilitation) when specified in the IEP.
    c. Procedures for ensuring transportation to off-site placements on days when the high school is closed but the off-site program is open.
3. Within 30 days of the date of this report, the LEA shall submit a written copy of the "Primary Reporter" protocol referenced in the investigation to SETS. This document must detail:
    a. The specific staff member(s) (by title) responsible for collecting data.
    b. The specific staff member(s) (by title) responsible for physically sending the report to the parent.
    c. The timeline/deadline for sending reports following the close of a grading period.
    d. Within 45 days of the date of this report, the LEA shall provide evidence that this protocol has been disseminated to all special education staff within the Transition Program by submitting a copy of the email, memo, or meeting agenda/sign-in sheet confirming that the relevant staff have been trained on or informed of the new "Primary Reporter" accountability measures.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512
ON NOVEMBER 21, 2025

DATE OF REPORT: DECEMBER 22, 2025

This report is in response to a complaint filed with our office on behalf of a student by their parent, ------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #512, Shawnee Mission Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #512.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on November 21, 2025, and the 30-day timeline ended on December 21, 2025.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #512, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), afforded the Parent an opportunity to participate in the November 12, 2025 IEP meeting, and followed parent participation procedures when a new Individualized Education Program (IEP) meeting was scheduled for December 2, 2025, which was not a mutually agreeable date for the Parent. K.A.R. 91-40-17(a)(b)(1)(c-e); 34 CFR § 300.322(a)(b)(1)(c-d).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on December 11, 2025. The Associate Director of Special Education was interviewed on December 12, 2025.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

LEA Materials

1. District Response, 12/5/25
2. Notice of Meeting, 11/12/25
3. Email, re: [the Student], 11/07/25
4. Email, re: Parent Accommodation Request, 11/12/25-11/13/25
5. Email, re: Formal Notice - [the Student's] Upcoming IEP Meeting, 11/07/25
6. Email, re: Meeting Re-Schedule, 11/17/25-11/20/25
7. Email, re: KSDE 26FC512-006 Additional Materials, 12/14/25-12/15/25

Parent Materials

1. Screenshot of Email, re: Meeting Re-Schedule, 11/17/25-11/20/25
2. Screenshot of Email, re: Parent Accommodation Request, 11/12/25-11/14/25
3. Screenshot of Email, re: Statement, 11/13/25

Background Information

This investigation involved a fifth-grade student enrolled at an elementary school in USD #512. The Student is currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA).

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. On November 7, 2025, the following email exchanges occurred between the LEA and the Parent:
    a. 12:16 a.m.: The Parent requested an IEP meeting for the Student. (D6)
    b. 6:16 a.m.: The Principal replied and indicated the Case Manager would follow up with the Parent. (D6)
    c. 7:01 a.m.: The Case Manager proposed a date and time. (D5)
    d. 9:09 a.m.: The Parent confirmed the date and time. (D5)
    e. 9:38 a.m.: The Case Manager emailed a copy of the Parent Rights and formal notice of the meeting on November 12, 2025 at 1:00 p.m. (D13)
        i. The Notice of Meeting dated November 12, 2025, proposed the aforementioned meeting date and time, noted the meeting was requested by the Parent, and documented the notice was emailed to the Parent on November 7, 2025. The Parent acknowledged their plan to attend the meeting and also waived their right to a 10-day notice prior to the meeting by signature and date of November 12, 2025. (D39-D40)
2. On November 12, 2025 and November 13, 2025, four participating staff members submitted statements documenting the events and interactions that occurred at the November 12, 2025 IEP meeting. The accounts described a parent-requested meeting

that escalated rapidly into a verbal confrontation. The staff reported multiple attempts by administrative staff to de-escalate the situation, confirmed the Parent directed profanities at the 5th Grade Teacher and the Principal, and the meeting eventually terminated. (P161-P164)

3. On November 13, 2025, the Principal emailed the Parent and stated the IEP meeting would be rescheduled and facilitated by the Special Education Coordinator and would include norms, opportunities for pauses, and procedures for sharing information. (D7; P32)
4. Between November 17, 2025 and November 20, 2025, the following email exchanges occurred between the LEA and the Parent regarding the rescheduling of an IEP meeting for the Student:
    a. November 17, 2025: The Special Education Coordinator emailed to propose a virtual IEP meeting on December 2, 2025 and wrote, "The Notice of Meeting is attached to this e-mail. Please let me know if this date/time does not work for you and we will work to re-schedule." (D25)
    b. On November 17, 2025: The Parent wrote, "During the recent IEP meeting, my right to meaningfully participate was compromised. My concerns were not acknowledged, I was not given adequate opportunity to contribute, and the meeting escalated instead of being managed through appropriate, supportive procedures. This violates my protected participation rights and the legal requirements governing the IEP process." (D31; P5)
    c. November 18, 2025: The Parent emailed, "I'm not signing the notice of meeting until I get acknowledgement of wrongdoing, a sincere apology[,] and everything I asked for in my previous email." (D18; P11)
    d. November 19, 2025: The Special Education Coordinator wrote, "The IEP team is ready and willing to meet with you via WebEx at 10:00 [a.m.] on the proposed date of 12/2/25 and looks forward to working collaboratively to support your student. As the school team proposed the meeting date more than 10 days in advance, there is no signature needed on the Notice of Meeting." (D17; P1)
    e. November 19, 2025: The Parent responded, "I already told you the disability requests and I told you that I need acknowledgement of wrongdoing on your guys part and a proper apology [sic]." On the same date, the Parent also wrote, "I also didn't agree to the date." (D17; P13)
    f. November 20, 2025: The Special Education Coordinator responded, "The school team proposed December 2nd[,] [2025] at 10 [a.m.] more than 10 days prior to the meeting, therefore, at this time the meeting is scheduled to occur on this date and time. As outlined in the Notice of Meeting, if you're unable to attend this scheduled time and would like to schedule the meeting at another date or time, please share dates and times, within our teacher contract day, that you are available on the Notice of Meeting document." (D16; P14)
    g. November 20, 2025: In two separate emails, the Parent wrote they expected an apology, and "The meeting is not scheduled on that date because I never agreed to

the date. You asked me if it worked for me and I never said anything. You didn't give me a variety of dates to see what worked with my schedule. You decided what worked for you and that was that." (D15; P15) In a third email, the Parent wrote, "I want to be clear that I am not refusing to meet. I am refusing to participate in a meeting scheduled without my agreement, which is my right under [the] IDEA and KSDE Procedural Safeguards. A meeting date is not valid simply because it was proposed more than 10 days in advance. [The] IDEA requires the school to make multiple attempts to find a mutually agreeable time and to meaningfully include the parent in scheduling. I was asked if December 2nd worked, and I never confirmed. Therefore, the meeting is not agreed upon and cannot move forward on that date." The Parent listed five items they indicated they needed "Before I can participate in any future meeting … ." The Parent also requested a response confirming "… the December 2nd date is not set," and requested "three alternative dates and times within the teacher contract day for me to choose from." The Parent closed with, "I remain willing to participate once these issues are addressed." (D14; P18)

5. In an email to the Complaint Investigator on December 3, 2025, the Parent wrote, "While it is accurate that I originally requested the November 12, 2025 IEP meeting due to urgent concerns about … [the Student's] declining math performance, the meeting was not completed due to the school's actions - not mine. … Because the meeting was stopped prematurely, parent participation did not occur as required under [the] IDEA. … The district did not respond to these concerns, did not engage in the ADA/504 interactive process, and instead scheduled a new meeting date on December 2, 2025 without my input or agreement. Despite me clearly stating that: I did not agree to December 2[;] The matter was not resolved[;] [and] I was not refusing to meet, only to participate without disability safeguards. … I remain willing to participate and collaborate, but my participation cannot occur while I am being treated as a threat for expressing disability-related distress." (D68-D69)

Interview Summaries

The Parent

6. In an interview with the Complaint Investigator, the Parent shared they called the IEP meeting on November 12, 2025 because they were concerned about the Student's progress, "An[d] during the meeting, I kept getting interrupted repeatedly by [the Student's] teacher … . And I had stated, 'Please stop interrupting me.'" Instead of addressing the teacher's interruptions, the Parent said, "[The LEA] refused to address the problem and … it basically just escalated me." (P1, 01:43) The Parent described that while they were present for the hour-long IEP meeting, the team spent approximately ten minutes discussing the Student and their needs. According to the Parent, when "it became about me showing the teacher respect, there was no more discussion about [the Student]." (P5, 18:53)

7. According to the Parent, the Special Education Coordinator sent a Notice of Meeting for a December 2, 2025 virtual meeting and "… never asked what worked with my schedule or anything. We never discussed times or dates." (P2, 07:58)
8. On November 18, 2025, the Parent indicated they refused to sign the December 2, 2025 meeting notice, demanding an apology and an acknowledgment of wrongdoing. On November 19, 2025, the Special Education Coordinator informed the Parent their signature was not required because the meeting had been proposed more than ten days in advance. The Parent responded via email on the same day to dispute the date, asserting they had never agreed to the December 2, 2025 date. Additionally, the Parent shared the school team failed to inquire about the Parent's availability or offer alternative options. (P3, 12:35)
9. When asked by the Complaint Investigator if they provided alternative dates and times to the school team, the Parent said, "I didn't because [at] that point, I was trying to get an apology from them." (P6, 25:56) The Parent also shared, "I told them repeatedly, we are not scheduling any more meetings until the investigation is over. Stop asking me to schedule meetings because it's not happening. And they keep doing it." (P7, 28:30)

Associate Superintendent of Special Education Interview

10. In an interview with the Complaint Investigator, the Associate Superintendent of Special Education shared at the November 12, 2025 meeting, "… there was a situation where law enforcement was needing to come because of threats that were made by the Parent, and we had to have [the Parent] escorted out of the building." (P1, 02:15)
11. In a written response after the interview with the Complaint Investigator, the Associate Superintendent of Special Education described the following related to the November 12, 2025 IEP meeting:
    a. The meeting was scheduled for 30 minutes, began at 1:00 p.m., and was ended at 1:10 by the Principal because the Parent "… made several threats and was verbally attacking staff. [The] Parent would not allow staff to answer questions. [The] Parent stood up and was hovering over [the] [P]rincipal and made a threat to punch [the Principal] in the face." (D52)
12. The Associate Superintendent of Special Education shared in a written response after their interview that regarding the December 2, 2025 IEP date proposed by the LEA, "the [Parent] did not provide an alternative date" during the Complaint period for this Complaint. The Associate Superintendent of Special Education shared, "The only feedback provided was not wanting a virtual meeting or when an in[-]person meeting option was offered with law enforcement present. Given we had a request for a parent meeting[,] we scheduled 10 days out [and] asked for other options if that didn't work for [the Parent's] schedule. No other dates or times were offered. The team errored [sic] on the side of reviewing information the [P]arent voiced concerns about and followed up with information discussed and inquired about meeting times." (D53)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, afforded the Parent an opportunity to participate in the November 12, 2025 IEP meeting, and followed parent participation procedures when a new IEP meeting was scheduled for December 2, 2025, which was not a mutually agreeable date for the Parent. K.A.R. 91-40-17(a)(b)(1)(c-e); 34 CFR § 300.322(a)(b)(1)(c-d).

According to K.A.R. 91-40-17(a)(b)(1)(c-e), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place and providing written notice to the parents of any IEP team meeting at least 10 days in advance of the meeting. The notice required shall indicate the purpose, time, and location of the IEP team meeting and the titles or positions of the persons who will attend on behalf of the agency, including, if appropriate, any other agency invited to send a representative to discuss needed transition services.

The Parent alleged, during a November 12, 2025 IEP meeting, the LEA failed to allow the Parent meaningful participation in the IEP process by repeatedly interrupting them, dismissing their concerns, and ending the meeting against their wishes. Additionally, the Parent alleged the LEA unilaterally scheduled a new IEP for December 2, 2025, which was not a mutually agreeable date for the Parent.

The LEA maintained it made reasonable efforts to respond to the Parent's November 7, 2025 request to schedule an IEP meeting. This meeting was scheduled for November 12, 2025, and included the provision of a Notice of Meeting and parental rights documents. Furthermore, the LEA indicated that at the start of the November 12, 2025 IEP meeting, the Case Manager invited the Parent to share their concerns. However, the LEA reported that the Parent escalated the situation, refused efforts to "reset the meeting," and "made threatening statements toward the staff," ultimately resulting in the meeting being terminated. The LEA indicated they proposed a virtual December 2, 2025 with a facilitator and requested alternate times if the Parent was not agreeable to the proposal.

The November 12, 2025 IEP meeting was scheduled at a mutually agreed-upon time with appropriate notice, which the Parent acknowledged by attending and waiving the 10-day notice requirement. While the Parent alleged they were denied meaningful participation due to staff interruptions and the early termination of the meeting, the core mandate of K.A.R. 91-40-17 is to afford the opportunity to participate, not to dictate the quality or content of the interactions. The meeting was terminated as a result of the Parent's escalations, not due to the LEA's refusal to afford the Parent the opportunity to participate. The second part of this allegation, concerning the scheduling of the December 2, 2025 IEP meeting being scheduled at a mutually agreed-upon date and time, fell outside of the complaint timeline, and a decision was not rendered on that issue. The Parent filed an additional complaint addressing their concern about the December 2, 2025 IEP meeting.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to afford the Parent an opportunity to participate in the November 12, 2025, IEP meeting.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 512,
Shawnee Mission Public Schools: 26FC512-006

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on November 21, 2025, by ------- on behalf of her child, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on December 22, 2025. That Complaint Report concluded that there was no violation of special education statutes and regulations.

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified one issue: Whether USD #512, afforded the Parent an opportunity to participate in the November 12, 2025 IEP meeting, and followed parent participation procedures when a new IEP meeting was scheduled for December 2, 2025, which was not a mutually agreeable date for the Parent.

The report contained the following findings:

> 2 On November 12, 2025 and November 13, 2025, four participating staff members submitted statements documenting the events and interactions that occurred at the November 12, 2025 IEP meeting. The accounts described a parent-requested meeting that escalated rapidly into a verbal confrontation. The staff reported multiple attempts by administrative staff to de-escalate the situation, confirmed the Parent directed profanities at the 5th Grade Teacher and the Principal, and the meeting eventually terminated. Report, p4.
>
> 11a The meeting was scheduled for 30 minutes, began at 1:00 p.m., and was ended at 1:10 by the Principal because the Parent "… made several threats and was verbally attacking staff. [The] Parent would not allow staff to answer questions. [The] Parent stood up and was hovering over [the] [P]rincipal and made a threat to punch [the Principal] in the face." Report, p. 8
>
> 4b On November 17, 2025: The Parent wrote, "During the recent IEP meeting, my right to meaningfully participate was compromised. My concerns were not acknowledged, I was not given adequate opportunity to contribute, and the meeting escalated instead of being managed through appropriate, supportive procedures. This violates my protected participation rights and the legal requirements governing the IEP process." Report, p. 4.

As for the allegation that the December 2, 2025 IEP meeting was not scheduled at a mutually agreed-upon date and time, the investigator found that allegation fell outside of the complaint timeline, and a decision was not rendered on that issue. The Parent later filed an additional complaint addressing their concern about the December 2, 2025 IEP meeting. Report, p. 9-10.

Thus, the sole issue under appeal is whether USD #512, afforded the Parent a meaningful opportunity to participate in the November 12, 2025 IEP meeting. in her appeal, the parent states:

> *"Despite my presence, the meeting failed to fulfill its purpose due to repeated interruptions, redirection away from my concerns, and premature termination of the meeting. As a result, no meaningful discussion of services, accommodations, or instructional supports for (the student) occurred."*

This description by the parent of the November 12 12 meeting directly contradicts the information provided to the investigator in Findings 2 and 11a. Those findings were based on statements made to the investigator by the principal and separately submitted statements from four participating staff members documenting the events and interactions that occurred at the November 12, 2025 IEP meeting.

In such instances, where there are conflicting statements about what occurred at a particular event and there are no non-partisan witnesses, an investigator must sometimes determine what evidence is most credible. This investigator found the description of events at the November 12 meeting by school staff members was more credible than the description provided by the parent. The Appeal Committee normally will not disturb credibility determinations because the investigator often bases such determinations on personal interviews. In this case, the Appeal Committee does not merely defer to

the investigator's. the Committee agrees that the description provided by school personnel is more credible than that provided by the parent because all of the school personnel interviewed by the investigator presented a consistent account of what happened and because school officials called police who responded by arriving at the school. Obviously, something unusual happened.

The parent asserted in her appeal of this decision that she has a right to have an opportunity to participate in educational decision making for her child, which includes the right to have meaningful participation. She had that opportunity at the November 12 IEP meeting, but there is no dispute that a disturbance of some kind arose and that meeting was ended by school officials and the police were called.

A decision to end an IEP meeting and attempt to reschedule under such circumstances is not a failure to provide parents with an opportunity for meaningful participation. See, Sacramento City Unified Sch. Dist., 114 LRP 6937 (SEA CA. 2014), where a hearing officer explained that:

> *The heart of Father's disagreement was his belief that Student was not academically prepared for middle school. Instead of adhering to District's request to cooperate and conduct the IEP team meeting, and hear the information gathered by those who were teaching and working with Student, Father obstructed the meeting and would not refrain from the subjects of his accusations, in a confrontational and aggressive manner. Under these circumstances, after over an hour, District was justified in terminating the meeting. By then, Student's annual IEP, required by law, was almost three months overdue. However, Father did not permit the IEP team process to function. Since Father's noncooperation obstructed the IEP process, Student forfeited any claim that the termination of the meeting denied him a FAPE.*

The Appeal Committee has not been informed of the extent of the disturbance at the November 12, 2025 IEP meeting, and makes no judgement as to whether the disturbance was similar to the cited case. The Appeal Committee is merely acknowledging that there is no provision in law that prevents a school district from canceling an IEP meeting and then re-scheduling the meeting for any of a number of reasons, including the reasons provided in this complaint.

The Appeal Committee finds that sufficient evidence exists to support the findings and conclusions in the Complaint Report

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 7th day of January, 2026.

Appeal Committee

Crista Grimwood - Brian Dempsey - Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #465
ON NOVEMBER 19, 2025

DATE OF REPORT: DECEMBER 22, 2025

This report is in response to a complaint filed with our office on behalf of a student, -------, by their advocate, -------. In the remainder of the report, the student will be referred to as "the Student" and the advocate as "the Complainant."

The Complaint is against USD #465, Winfield Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #465.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special

education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to

investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the

complaint on November 19, 2025, and the 30-day timeline ended on December 19, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #465, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the Student's Individualized Education Program (IEP) during their suspension/expulsion. K.A.R. 91-40-16(b)(3); 34 CFR §300.323.

ISSUE TWO: Whether USD #465, in accordance with state and federal regulations implementing the IDEA, provided documentation to the Student's caseworker and home/foster care organization about their suspension/expulsion. K.S.A. 72-3433(d)(1); 34 CFR § 300.530(h).

ISSUE THREE: Whether USD #465, in accordance with state and federal regulations implementing the IDEA, changed the Student's placement as a result of their

suspension/expulsion, and if the IEP team failed to meet and determine services for the Student. K.S.A. 72-3433(c); 34 CFR §300.536.

ISSUE FOUR: Whether USD #465, in accordance with state and federal regulations implementing the IDEA, failed to provide educational supports and services to the Student during their suspension/expulsion. K.A.R. 91-40-35(c); 34 CFR §§300.530(b)(c)(d).

ISSUE FIVE: Whether USD #465, in accordance with state and federal regulations implementing the IDEA, denied the Student a Free Appropriate Public Education (FAPE) during their suspension/expulsion. K.A.R. 91-40-2; 34 CFR §§300.17, 300.101.

Investigation of Complaint

The Complainant did not respond to requests from the Complaint Investigator to schedule an interview and was not interviewed. The following LEA staff were interviewed on December 10, 2025: the Director of Special Education.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Response to Issues Regarding [the Student] (Case No. KSDE 26FC465-001), no date
Response to Complaint and Attempt to get [the Student] to Attend School, no date
Revocation of Consent, 11/20/25
Prior Written Notice (PWN) (Due to Legal Education Decision-Maker's Revocation of Consent) for Termination of, 11/21/25
IEP Amendment Form for Changes not Requiring a Full IEP Team Meeting, 11/08/24
Suspension Letter, 12/02/24–12/05/24
Emails, dated 12/06/24–12/18/24
Manifestation Determination Review (MDR), 12/13/24
Signed Consent Form, 12/12/24
Notice of Meeting Acknowledgement, 12/13/24
Notice of Special Education Meeting, 12/13/24
Authorization to Release Information, 02/03/25
IEP, Amended 11/08/24
Enrollment History, 12/10/25
Background Information

This investigation involved a high school student enrolled at Arkansas City Day School in USD #465. The Student is not currently receiving special education or related services as a child with a disability per the IDEA. Prior to the Student opting out of Special education services, the Student was receiving services under the category of Emotional Disability (ED).

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant and staff in the LEA.

On November 8, 2024, an IEP amendment was completed and indicated the following:

The Student would attend full days at the Day School.
Transportation would be provided.
Social Work Services were added for individual therapy, 30 minutes, two times a week, and group therapy, 30 minutes, five days a week.
A goal for social work services was added.
The Student's Behavior Intervention Plan (BIP) was updated with the "level system" and behavioral interventions.
The effective date was November 8, 2024.

The General Education Teacher provided the Document to Foster Parent 2 in person on November 8, 2024. (D12-D14)

The November 08, 2024, IEP amendment contained the following additional information:

The Student had a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD). (D74)
The Student's strengths included interacting with peers and being considerate and helpful to staff and peers. (D74)
The Student had needs in the area of social-emotional skills and had behavior that impeded the learning of others or self. (D74)
Staff were concerned the Student would shut down and not share why they were bothered. Additionally, the Student would walk out of class, but not leave the building.
The Student was easily distracted and didn't give their full effort; could be defiant and struggled with language. (D74)
The Student had four major and four minor referrals for low work completion, defiance, and "abusive language." (D75)
The Student did not have areas of concern in reading, written language, math, communication, or general intelligence. (D75-D76)
A behavior goal indicated the Student needed to demonstrate and maintain appropriate classroom behavior and stay focused 85% of the time across all settings. (D78)
A behavior goal indicated the Student needed to self-monitor, with instruction from the social worker, when they became frustrated and needed to choose an appropriate option, such as relaxation, exercise, or leaving the area. (D79)
Social work would be provided in group therapy five times weekly for 30 minutes, and individual therapy two times weekly for 30 minutes. Additionally, special education services would be provided each day school was in session for 410 minutes, minus social work service time. (D84)
The Student received transportation each day the school was in session. (D84)

The Student's Positive BIP was revised on November 8, 2024, to include the following supports:
Behavior concerns included disrespectful classroom behaviors 50% of the time.
Replacement behaviors were described as appropriate and respectful classroom behavior, such as responding to staff requests and directives in all settings, working cooperatively with peers in the group setting, accepting feedback, and completing work. Additionally, the Student needed to maintain the ability to stay focused and on task. (D80)
Instructional methods listed anger management, behavior contract, decision-making skills, modeling, direct instruction, providing cues, role-playing, social skills training, and stress management. (D80)
Prevention strategies included avoiding physical contact, avoiding power struggles, providing clear directions, parent communication, frequent breaks, reminders and prompts, assignment modification, a predictable routine/schedule, preferential seating, structured environment, private student redirection, and reviewing the rules and expectations. (D80)
Interventions included redirection, providing prompts/cues, repeating expectations, offering a break, giving physical space, and reminding the Student of coping skills and timeout/break choice. (D81)
Positive consequences included earning a token/ticket or points, verbal/non-verbal praise, or a note or call home. (D81)
Negative consequences included loss of privilege(s), loss of token/ticket or points, or a note or call home. (D81)
Triggers included the Student holding on to something that is bothering them until they have an outburst. The Student will walk out of class. (D81)
During the escalation stage, the Student will pick at their fingernails, become defiant, mouth answers, look straight ahead, or pretend to do work. (D81)
The Student attends a program with a behavioral component to help each student focus and improve behaviors that interfere with learning. (D81)

bb.The following strategies were recommended for use when the Student needed "more assistance."

Verbal redirection should be used when the Student shows a lack of awareness as to a behavior that is inappropriate or harmful to self or others.
Redirection and positive practice should be used when the Student shows a lack of needed skills.
Sensory strategies included using fidgets, taking a walk, getting a drink, breathing, stretching, and accessing a quiet space.
When adults are aware of triggers, they should provide choices, space, and time for the Student.
Use the room chill-out strategy when the Student persists in misbehaving despite trying other methods.

> The quiet room time-out should be used when the Student demonstrates noncompliance or disruptive behavior after other strategies have been used.
> Use on-site suspension when the Student exhibits behavior that is disruptive to the extent the teacher is unable to teach and the students are unable to learn.
> Therapeutic holds may be used when the Student threatens to injure themselves, others, or property, and when physical guidance is necessary to stop the behavior. (D82)

A letter dated December 2, 2024, described the LEA's decision to "honor the long-term suspension-expulsion recommendation" for the Student based on evidence presented at the December 17, 2024, hearing. The letter indicated the Student would be long-term suspended-expelled through May 23, 2025. (D89)

On December 5, 2024, a letter signed by the Director of Special Education described actions that led to the Student's 10-day suspension from December 5 through December 18, 2024. The Letter was addressed to Foster Parent 2 and the Parent.

The Letter indicated the Student had brought a vape, Tetrahydrocannabinol (THC), and a 12-inch sword with a 5-inch blade. The Student was handcuffed and removed from the building. The letter indicated an MDR would be scheduled, and they would be notified of the date. Additionally, the letter noted, based on the outcome of the MDR, the LEA may "choose to conduct" a long-term hearing. (D17)

On December 6, 2024, the Special Education Provider emailed the Director of Special Education to provide details of the incident involving the Student on the previous day. The Special Education Provider provided additional details, including a comment the Student had made in a group chat with other students regarding a threat to kill another student. The Director of Special Education confirmed receipt of the email the same day. (D18)

On December 12, 2025, a Notice of Meeting Acknowledgement was delivered to the Parent, indicating they planned to attend, waived their right to a 10-day PWN, and were provided with a copy of the Parent Rights/Procedural Safeguards. (D24)

A December 13, 2024, Notice of Special Education Meeting indicated a meeting was scheduled for that day at 11:00 a.m. and would be held either virtually or in person. The Purpose of the meeting was to discuss possible changes in the Student's IEP and to hold an MDR before the long-term suspension hearing. (D25)

On December 13, 2024, an MDR form documented the following information:

> The Student showed a picture of a gun and was threatening other students the night before.
> Police charges were pending
> The IEP review indicated that the Student experienced ED.
> The Student was placed in the most restrictive placement of the Day School.
> The Student's IEP was offered and provided to the Student.

The Student often slept during the school day and did not complete academic work.
The Student reported they had no intention of harming anyone and had only wanted to show it off.
The conduct in question was determined not to be caused by the Student's disability.
The conduct in question was determined not to be a result of the school's failure to implement the IEP.
It was determined the Student's behavior was not a manifestation of their disability, and disciplinary removal may occur.

Participants included the Parent, the Student, the General Education Teacher, the Special Education Provider, the Assistant Director, Foster Parent 2, and the Special Education Coach. (D19-D21)

On December 16, 2024, the General Education Teacher emailed the Assistant Director to share the Student's attendance and grades. According to the email, the Student had started at the Day School on November 12, 2024.

They were absent on November 14 due to court. On December 21, the Student left for a visit at 11:30 a.m. and was absent without calling on November 26, 2024. They left school without permission at 9:30 on December 3, 2025. On December 5, 2024, the Student was taken into custody by police due to unsafe objects they brought to school (D98)

On December 18, 2024, the Principal emailed the Assistant Director to confirm the hearing committee upheld the suspension and to explain the Student would be suspended through "May 23, 202[5] ." The Principal added the team would need to convene to determine how the Student would be educated during the suspension. (D28)

A Drop Form dated December 19, [20]24 indicated the Student had been dropped from the Day School because they "left the area." The form indicated the Student would be located in another city in the state. (D27)

On January 27, 2025, the LEA received a records request from another LEA in the state for records regarding the Student. Notes on the form indicated records were emailed on February 3, 2025. (D30)

On November 20, 2025, the Director of Special Education and the Assistant Director made a home visit to the residence after the LEA became aware the Student had enrolled for the 2025-26 school year and phone calls and texts to the Parent had gone unanswered. They spoke with the Student and the Foster Parent and indicated the Student could attend the Day School. The Student stated they did not want to go back to that school and opted out of Special Education Services. The Student was told to contact the High School to get a schedule and begin attending there. (D5)

On November 20, 2025, the Student signed a Revocation of Consent document, indicating they were revoking consent for "all [special education] services." The Foster Parent also signed the Document. (D6-D7)

On November 20, 2025, a PWN was created, which stated the Student had revoked consent for all special education services, related services, supplementary aids and services, and placements. The PWN noted the decision was based on a request from the Student, after a discussion with the Student and the Foster Parent. Additionally, no other options were considered because it was not a team decision and was described as a "unilateral action of the legal decision-maker." (D9-D10)

According to an Enrollment History document, the Student transferred from the High School to the Day School on November 12, 2024. The Student exited the Day School on December 16, 2024, with a comment of "no show." (D96)

The enrollment history note stated "No show at [the Day School] per [the General Education Teacher] on February 14, 2025." (D97) Director of Special Education Interview

In an interview with the Complaint Investigator, the Director of Special Education stated the Student initially enrolled in the LEA on November 8, 2024. That same day, the Director of Special Education held an IEP meeting with the Student, the Parent, and Foster Parent 2 present. Placement for the least restrictive environment (LRE) was determined to be the Day School. Based on information available at the time, the Director of Special Education believed the Parent and Foster Parent 2 had educational rights for the Student for the 2024-25 school year. (P2, 07:33; P4, 13:26; P4, 16:03)

The Director of Special Education shared on December 5, 2024, the Student brought a vape and a sword to school. Law enforcement became involved, and the Student was placed on a 10-day suspension. They stated during the suspension, an MDR was held. Based on that meeting, the Director of Special Education reported a long-term hearing was conducted, resulting in a long-term suspension through the end of the 2024-25 school year. The Director of Special Education reported they were not invited to, nor did they attend, the long-term hearing, as it was not a special education proceeding. (P1-P2, 03:48; P2-P3, 09:09; P3, 11:10)

The Director of Special Education stated they received the results of the long-term hearing in a letter dated December 18, 2024. They reported the Student was unenrolled from the LEA on December 19, 2024, by their educational advocate. The Director of Special Education stated they were unclear of the exact person who unenrolled the Student, as they did so at the High School, not the Day School; therefore, they did not see or speak to the advocate. They shared "we were going to have a meeting to put services in place, and we never got to meet with them because [the Student] was withdrawn from school." (P1-P2, 03:48; P8, 29:07)

The Director of Special Education recalled on November 18, 2025, they became aware the Student reenrolled in the LEA. They immediately began reaching out to Foster Parent 1 to set

up a reentry meeting. As they were unable to reach Foster Parent 1 by phone, the Director of Special Education and the Assistant Director conducted a home visit on November 20, 2025.

They spoke to the Student and Foster Parent 1 in person. They offered to reinstate the Student's current IEP, including the Day School placement. The Student refused, and as they were then 18 years old, they were able to sign themself out of special education. The Director of Special Education made the Student and Foster Parent 1 aware they would have to reenroll the Student at the High School on their own. (P6, 18:13-P7, 26:30)

The Director of Special Education acknowledged they brought only the forms they anticipated needing, not "the full complement of forms that we normally have online." They stated that although the Student was 18 and able to sign for themself, the Director of Special Education had Foster Parent 1 sign the forms as a witness. (P7, 25:10, 26:30)

The Director of Special Education expressed, "I feel like the allegations are a hundred percent unfounded … because we've done our best to serve this student. … If [the Student] would've stayed here, we would've done a [PWN] and designed services to take [them] through the year, and they would've been reasonable, appropriate, but we never had the opportunity to do so because [the Student] was withdrawn." (P10, 36:21)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #465, in accordance with state and federal regulations implementing the IDEA, failed to implement the Student's IEP during their suspension/expulsion. K.A.R. 91-40-16(b)(3); 34 CFR §300.323.

According to K.A.R. 91-40-16(b)(3), an IEP must be in effect for each exceptional child at the beginning of each school year.

The Complainant alleged the Student's IEP was not implemented when they could not be monitored during their online work, as stated in their IEP.

The LEA maintained, since the Student was not a student in USD 465, there was no obligation to provide special education services.

The Student was removed on December 5, 2024. The long-term expulsion was finalized on December 18, 2024. The Director of Special Education reported the Student was unenrolled on December 19, 2024, by their educational advocate. The Director of Special Education stated they were going to have a meeting to put services in place, but never were able to meet with the family because [the Student] was withdrawn from school. A Drop Form dated December 19, 2024, indicated the Student was dropped because they "left the area" and would be located in another city.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to implement the Student's IEP during the Student's suspension/expulsion.

Issue Two

Whether USD #465, in accordance with state and federal regulations implementing the IDEA, provided documentation to the Student's caseworker and home/foster care organization about their suspension/expulsion. K.S.A. 72-3433(d)(1); 34 CFR § 300.530(h).

According to K.S.A. 72-3433(d)(1), if a disciplinary action is contemplated, not later than the date on which the decision to take that action is made, the agency shall notify the parents of that decision and of all procedural safeguards afforded under the law.

The Complainant alleged the Student's caseworker and home/foster care organization did not receive documentation of the Student's suspension/expulsion.

The LEA affirmed documentation was provided to the Student's caseworker and home/foster care organization.

The initial suspension letter on December 5, 2024, was addressed to Foster Parent 2 and the Parent. The participants listed on the December 13, 2024, MDR form included the Parent and Foster Parent 2. The facts do not include documentation of whether the LEA provided information directly to a caseworker or to the foster care organization specifically regarding the suspension/expulsion, only that they communicated with the Parent and a Foster Parent, and that records were later sent to another LEA. Evidence that a specific state-mandated caseworker or foster organization had distinct legal notification rights that were bypassed, or a showing that Foster Parent 2 was not the appropriate legal representative for notices, was not provided.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide documentation to the Student's caseworker and home/foster care organization regarding the Student's suspension/expulsion.

Issue Three

Whether USD #465, in accordance with state and federal regulations implementing the IDEA, changed the Student's placement as a result of their suspension/expulsion, and if the IEP team failed to meet and determine services for the Student. K.S.A. 72-3433(c); 34 CFR §300.536.

According to K.S.A. 72-3433(c), an alternative educational setting shall be determined by the IEP team.

According to 34 CFR §300.536, for purposes of removals of a child with a disability from the child's current educational placement, a change of placement occurs if the removal is for more than 10 consecutive school days, or the child has been subjected to a series of removals that constitute a pattern. The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.

The Complainant alleged the LEA provided conflicting information about the Student's length of suspension/expulsion, resulting in a change of placement.

The LEA confirmed the Student was immediately withdrawn by the Foster Parent from USD 465 upon the conclusion of the Student's long-term hearing. Because the Student was no longer enrolled, there was no opportunity to meet to change the placement and/or to determine special education services.

Based on the Student's enrollment timeline, the LEA did not violate procedural requirements for a change of placement. Although the disciplinary action was moving toward a long-term expulsion, the Student's voluntary unenrollment occurred at the precise legal threshold, alleviating the LEA of the obligation to convene a team to determine ongoing services.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA changed the Student's placement as a result of their suspension/expulsion without meeting as a team to determine services for the Student through a placement meeting.

Issue Four

Whether USD #465, in accordance with state and federal regulations implementing the IDEA, failed to provide educational supports and services to the Student during their suspension/expulsion. K.A.R. 91-40-35(c); 34 CFR §300.530(b)(c)(d).

According to K.A.R. 91-40-35(c), if a child with a disability is placed in an interim alternative educational setting, the agency shall provide special education and related services to the child that shall enable the child to continue both to progress in the general curriculum, although in another setting, and to receive those services and modifications, including those described in the child's IEP, that will enable the child to meet the goals set out in the IEP. The services shall include services and modifications that address the child's misbehavior and that are designed to prevent the misbehavior from recurring.

According to 34 CFR §300.530(b)(c)(d), school personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not

constitute a change of placement). After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal, the public agency must provide services to the extent required by law.

For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities.

A child with a disability who is removed from the child's current placement must continue to receive, as appropriate, a functional behavioral assessment, and behavioral intervention services, and modifications that are designed to address the behavior violation so that it does not recur. These services may be provided in an interim alternative educational setting. A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP. If the removal is a change of placement, the child's IEP Team determines the appropriate placement.

The Complainant alleged the Student did not receive educational services or support during their suspension/expulsion, nor did the LEA communicate with the Student during this time.

The LEA asserted the Student was unenrolled, withdrawn, and had moved away beginning December 19, 2024. Since the Student was not enrolled in USD 465, there was no obligation to provide special education services.

The Student was removed from school on December 5, 2024. The long-term suspension was finalized on December 18, 2024. On December 18, 2024, the Principal noted via email that the team "would need to convene to determine how the Student would be educated during the suspension." The Student was unenrolled on December 19, 2024, relieving the LEA of the responsibility to provide special education services.

Based on the foregoing and in accordance with IDEA and Kansas special education regulations, *it is not substantiated* that the LEA failed to provide educational support and services to the Student during the Student's suspension/expulsion.

Issue Five

Whether USD #465, in accordance with state and federal regulations implementing the IDEA, denied the Student a FAPE during their suspension/expulsion. K.A.R. 91-40-2; 34 CFR §§300.17, 300.101.

According to K.A.R. 91-40-2, each agency shall provide a FAPE in accordance with the law. Each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday. Each agency shall make a FAPE available to any child with a disability, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination of whether a child who is advancing from grade to grade is a child with a disability shall be made on an individual basis in accordance with child find activities and evaluation procedures required by this article. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

The Complainant alleged the Student was denied a FAPE when they did not receive services during their suspension/expulsion.

The LEA affirmed that the Student was no longer enrolled in USD 465 and there was no obligation on the part of the LEA to provide special education services.

The Student's suspension began on December 5, 2024. The legal mandate to provide a FAPE during a period of disciplinary removal, specifically for behavior determined not to be a manifestation of the disability, is triggered on the 11th school day of removal in a school year.

The Student was serving a standard short-term suspension from December 5, 2024 to December 18, 2024. During this window, the LEA held a timely MDR on December 13, 2024, and a long-term hearing on December 17, 2024. December 19, 2024, was the first day the LEA was legally required to have alternative services in place for a long-term removal. The Student was officially dropped from the LEA on December 19, 2024, because they "left the area" and moved to another city.

Because the Student was no longer enrolled in the LEA as of the 11th day, the LEA's responsibility to provide special education services and a FAPE ceased.

While the Student did not receive services during the 10-day suspension, the LEA was within the legal "10-day window" allowed for disciplinary removals. The LEA demonstrated an intent to provide a FAPE by noting the team "would need to

convene to determine how the Student would be educated," but the Student was withdrawn by their advocate before the legal obligation to implement those services began. Therefore, no denial of a FAPE occurred.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Student with a FAPE during the Student's suspension/expulsion.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #229
ON NOVEMBER 13, 2025

DATE OF REPORT: DECEMBER 22, 2025

This report is in response to a complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #229 Blue Valley Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #229.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on November 13, 2025, and the 30-day timeline ended on December 13, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #229, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented comparable special education services upon transfer, specifically transportation services from home to school, as mandated by the active IEP. K.A.R. 91-40-1 (ccc)(W)(vvv)(1)(3), K.A.R. 91-40-16(b)(3); CFR § 300.323 (a)(e)(g).

ISSUE TWO: Whether USD #229, in accordance with state and federal regulations implementing the IDEA, declined to implement services upon transfer, thereby denying the student a Free Appropriate Public Education (FAPE). K.A.R. 91-40-2; CFR 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on December 5, 2025 and the Assistant Superintendent of Special Education on December 1, 2025.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the LEA. The Parent did not provide materials for review. The following materials were used as the basis of the findings and conclusions of the investigation:

1. Interim Process Documentation, 12/02/24
2. PWN, 08/13/25
3. Another PWN, 08/13/25
4. PWN, 09/17/25
5. IEP Progress Report - Annual Goal, 10/09/25
6. Meeting Notes, 10/13/25
7. IEP, 10/13/25
8. Transportation Eligibility, 10/13/25
9. PWN, 10/13/25
10. Meeting Notes, 11/04/25
11. IEP, 12/02/24
12. PWN, 12/02/24
13. Emails from August 19, 2025 through December 1, 2025

Background Information

This investigation involved a fourth-grade student enrolled at an elementary school in USD #229 who transferred into the LEA from the Previous District for the 2025-26 school year. The Student is currently receiving special education or related services as a child with a learning disability as their primary exceptionality and emotional disability as their secondary exceptionality per the Individuals with Disabilities Education Act (IDEA). The Student enjoys learning and participating in class and responds well to routines and activities. The Student is motivated by relationships with their teachers.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. The Student's IEP from the Previous District, dated December 2, 2024, indicated:
    a. Parent concerns: Academic performance and learning barriers.
    b. Goals: Occupational therapy, social/emotional learning, reading (two goals), and math (two goals).

c. Accommodations/Modifications/Supportive Aids: "[The Student] needs assistance at arrival and dismissal to ensure safety to and from transportation," daily, in the general education setting, for arrival and dismissal, from December 2, 2024 to December 1, 2025. Transportation:

i. "Does the student require transportation this year?" Answer: "Yes."

ii. "Does the student require transportation next year?" Answer: "Yes."

iii. "Does the student require transportation for ESY?" Answer: "Yes."

iv. "The student qualifies for special education transportation services, but the parent chooses to transport" from December 2, 2024 to December 1, 2025.

2. The PWN dated December 2, 2024, indicated the IEP team met to review evaluation data to determine the Student's eligibility for special education, appropriate special education and related services, and any changes needed for the Student to meet their annual goals.

a. Relevant actions proposed: specialized transportation.

b. Consent was provided by the Parent via signature and dated January 10, 2025.

3. On August 13, 2025, the LEA created Interim Process Documentation for a Transfer IEP upon the Student's transfer to the LEA. The relevant information indicated:

a. Goals: Occupational therapy, social/emotional learning, reading (two goals), and math (two goals).

b. Description of related service, Transportation: As an answer to the question, "Based on the IEP team determination of eligibility, does the student qualify for special education transportation as a related service for the duration of the IEP? The document indicated, "Yes." According to the document, "If the student does qualify, curb[-]to[-]curb transportation would be provided to address the needs that are indicated in the IEP."

c. LRE: The Student transferred to the School in the LEA from the Previous District.

4. A PWN dated August 13, 2025, was emailed to the Parent on August 19, 2025, and described the changes in services and placement, and indicated the interim IEP was based on the Student's December 2, 2024 IEP from the Previous District. Descriptions, explanations, and options were noted. No information regarding transportation was included in the PWN. The Parent consented to the special education placement and services on October 1, 2025. Another PWN with the same creation and distribution dates contained the same language as the other PWN, and also included the following:

a. Description of action: "[The Student] continues to be eligible for transportation, as outlined in [their] [LEA] IEP. Transportation will be provided to and from [the School] and a mutually agreed-upon location within the [LEA] boundaries."

b. Explanation of refused action: "The district is declining to provide transportation from your home in [City 1] to the [LEA] boundaries for the following reasons: 1. Transportation as a part of [a] FAPE is available within the resident district boundaries to a resident district school. Parents have opted to initiate a voluntary transfer to a school outside the resident district boundaries. 3. The law does not require that school districts provide transportation outside of the district boundaries when parents initiate a voluntary transfer."

c. The PWN was neither signed nor dated by the Parent.

5. In a written response to the Complaint Investigator, the Assistant Superintendent of Special Education clarified the District's rationale for two PWN's with the same date, "… the original PWN … was issued immediately following the transition meeting into [the LEA]. However, [the Parent] declined to sign it because door-to-door transport was not included. To obtain consent for the other IEP services, we decided to split the PWN into two separate PWNs. [The second PWN] (reissued with modifications on 9/17[2025]), the transportation discussion was removed, and a second PWN (9/17[2025]) was issued specifically for transportation. Instead of creating an entirely new PWN, we updated [the original to the new], which explains why they share the same date."

6. On August 19, 2025, the School Psychologist emailed the Student's Interim IEP to the Parent and shared, "This IEP is very similar to [the Student's] previous IEP with the same goals and just a few small changes to services" and explained how to sign the documentation. On August 25, 2025, the School Psychologist reminded the Parent to sign the IEP.

   The Parent replied on August 26, 2025, requesting "specific elements" from the Student's IEP in the Previous District be carried forward to the LEA "before signing the IEP." The Parent wrote, "… the interim IEP indicates [the Student] does not qualify for transportation, but [the Student's] [Previous District] IEP stated [the Student] did qualify for special education transportation. At that time, I chose to provide transportation myself; however, I am no longer electing to waive that service. I am requesting that [the LEA] provide comparable transportation either by bus, or more practically, through parent mileage reimbursement." The Parent reiterated their requests and indicated that retroactive reimbursement should be provided from the first day of school, August 13, 2025, and continue thereafter at the standard IRS rate for the 53-mile round trip.

7. On September 2, 2025, the Special Education Administrator emailed the Parent regarding the Parent's request for transportation, " … because the law does not require school districts to provide transportation outside the school district when attendance is based on a parent[-]initiate[d] transfer, we are declining to provide transportation from your home in [City 1] to [the School]. We will however [sic] offer district transportation within [the LEA] boundaries to and from [the School] and a mutually agreed-upon [LEA] [s]chool. … Secondly, we recognize that [the Student] is

eligible for transportation on the [Previous District's] IEP, but you had declined that service. Because we were not notified of your request to initiate transportation until August 28, 2025, we decline to provide transportation reimbursement prior to that date."

8. From September 2, 2025 through September 4, 2025, the Assistant Superintendent of Special Education, the Special Education Administrator, and the School Psychologist exchanged internal emails regarding transportation and the PWN:
    a. September 2, 2025 from the Special Education Administrator, "I called [the Parent] … and we spoke about the transportation. [The Parent understands that transportation is not applicable to an out[-]of[-]district transfer but doesn't understand how this does not deny [the Student's] transportation under [the] IDEA. [The Parent] requested … this rejection to be submitted through a PWN and I told [the Parent] we could follow up with one tomorrow. Do we want it to be separate or a part of the interim IEP PWN?" September 3, 2025 from the Special Education Administrator, "To me it makes sense to capture all interim IEP responses in one PWN so including our response to transportation would go within the same PWN as [the Student's] interim IEP … ." The Special Education Administrator wrote that transportation would be provided within the LEA's boundaries and asked the School Psychologist to update the PWN and send it to the Parent.
    b. On September 4, 2025, the School Psychologist sent an internal email indicating they updated the IEP and PWN, "I changed the verbiage on the PWN to reflect that transportation will continue to be provided within district boundaries."
9. On September 4, 2025, the School Psychologist emailed the Parent to communicate they had updated the Interim IEP to include the Student's eligibility for transportation. A corresponding PWN was issued, specifying that this eligibility covered transport to and from the School within the LEA's boundaries. On the same day, the Special Education Administrator shared a building list and an LEA map via email, and offered to establish transportation to and from the Parent's preferred location within the LEA's confines. In a December 1, 2025 email to the Complaint Investigator, the Assistant Superintendent of Special Education shared the Special Education Administrator also called the Parent on September 2, 2025 to discuss transportation and the LEA's offer for transportation within the LEA's boundaries.
10. In a September 10, 2025 email, the Parent challenged the LEA's stance on their offer of transportation within the LEA boundary and argued the most recent IEP from the Previous District included transportation based on an IEP team determination. They believed, "Once [the LEA] accepted [the Student] under voluntary transfer, the district assumed full responsibility for delivering FAPE - including existing implementing [the Student's] existing IEP in full. This obligation exists regardless of district boundaries. Offering transportation 'from a location within district boundaries' does not meet the IEP requirement. That is not a service

listed on [the Student's] IEP. If the district refuses to bus from our home and refuses mileage reimbursement, then the service is not being provided at all." The Parent declined to sign the Interim IEP and the related PWN. On September 17, 2025, the Assistant Superintendent of Special Education provided the LEA's rationale for the provision of transportation within the LEA's boundaries.

11. In an email to the Assistant Superintendent of Special Education on September 17, 2025, the School Psychologist indicated the Student had been attending, and "We have been unable to finalize [the Student's] interim due to [the] parent not signing." The Assistant Superintendent replied on the same day, "We will split it into two PWN's. You can put all services except transportation on one PWN (this can include the parent consent for OT services). On the other put transportation a[s] Not a substantial change[,] not needing consent (we are still providing transportation within the school district."
12. On September 18, 2025, the School Psychologist emailed the Parent to share they had adjusted the paperwork and put transportation on a separate PWN to allow the Parent to consent to the Interim IEP.
13. A PWN dated September 17, 2025, was emailed to the Parent on September 18, 2025 and described a transportation change, "The Student continues to be eligible for transportation, as outlined in [their] [Previous District's] IEP. Transportation will be provided to and from [the School] and a mutually agreed upon location within the [LEA] boundaries." A "checkmark" indicated parental consent was not required. The following information was noted:
    a. Explanation: "[The Student] is eligible for transportation per [their] Previous District's] IEP."
    b. Options considered and rejected: "[The] Parent requested transportation to/from [the Student's] home in [City 1] … . The district is declining to provide transportation outside of the [LEA] boundaries for the following reasons: 1. Transportation as a part of [a] FAPE is available within the resident district boundaries to a resident district school. [The] Parent has opted to initiate a voluntary transfer to a school outside the resident district boundaries. 2. The law does not require that school districts provide transportation outside of the district boundaries when parents initiate a voluntary transfer."
    c. Data and other relevant factors were noted.
    d. The Parent acknowledged receipt of the PWN and added, "I acknowledge receipt of this PWN but do not consent. [The Student's] active IEP includes home-to-school transportation. This refusal does not meet [a] FAPE under [the] IDEA."
14. An IEP Progress Report dated October 9, 2025, indicated the Student made progress and was on pace to meet their goals in five of their six goal areas. The Student did not make progress on one of their reading goals.
15. The October 13, 2025 IEP indicated:

a. Goals: Social-emotional learning, reading (2 goals), math, writing, and occupational therapy.

b. Description of Related Service, Transportation: As an answer to the question, "Based on the IEP team determination of eligibility, does the student qualify for special education transportation as a related service for the duration of the IEP? The document indicated, "No."

16. The October 13, 2025 Transportation Eligibility document indicated the Student did not meet any of the transportation eligibility requirements determined by the following questions:

a. "Was the student administratively placed in a center-based classroom outside their school of residence? Note - if the student is at the school on a parent-initiated transfer, the student is unlikely to qualify for special education transportation." Answer: "No."

b. "Does the nature and severity of the student's disability make Sp[ecial] Ed[ucation] transportation necessary because the student cannot access the school building the same independent way (with or without accommodations) as non[-]disabled peers [?]" Answer: "No."

c. "Does the student exhibit significant and frequent behaviors that cannot be reasonably accommodated on gen[eral] ed[ucation] transportation, thus requiring special education transportation for safety?" Answer: "No."

d. "Does the student have physical disabilities or limitations that prevent the student from accessing school in the same independent way (with or without accommodations) as non-disabled peers?" Answer: "No."

e. "Does the student have other cognitive, medical, or safety needs that prevent the student from accessing school in the same independent way (with or without accommodations) as non-disabled peers? Answer: "No."

f. According to the document, if a "Yes" answer was noted for one or more of the questions, the Student would qualify for special education transportation.

17. The IEP Meeting Notes from October 13, 2025, noted the Parent's concern about the Student's progress in reading and the impact of the Student's transfer to the School. The Special Education Administrator discussed the possible impact and described the LEA's reading instruction. Regarding transportation, "… [the Parent] disagrees because if [the Student] were not taking medication then [the Student] would have more behaviors that would cause [the Student] to need transportation. Team shared that we have to consider [the Student's] current needs and we can always reconsider the transportation need if something changes."

18. The PWN dated October 13, 2025, described the special education, related services, and appropriate educational placement for the Student and any changes or modifications made to the aforementioned areas. A "Material Change in Services" for which parental consent was required, and a description of the actions proposed,

it was noted the "Team proposes to remove transportation service." The following information was noted:

a. Explanation: "Special education transportation is a related service that IEP teams evaluate to determine if it is required for the student to access their education services. Eligibility for special education transportation may arise if a student with a disability cannot arrive at school to access services, [in] the same way a similarly situated non-disabled peer arrives to school. When assessed [by] the 5 guiding questions proposed by the Transportation Eligibility, each response is no, non[-]eligible."

b. Option rejected: "The team considered continuing to qualify [the Student] for transportation. This was rejected as [the Student] does not currently meet [the] criteria to qualify for transportation."

c. Data and other relevant factors were noted.

d. The Consent/non-consent page was not signed by any party.

19. Meeting Notes dated November 4, 2025, indicated the Team discussed adjusting the SDI provided to the Student. The notes indicated the "Team will update [the] IEP with this change and send documents to [the Parent] … . Changes will not take effect until [the Parent] signs [the] paperwork."

20. The Student's Daily Attendance Profile 2025-26 listed five absences and one late from August 19, 2025 to November 6, 2025.

Interview Summaries

Parent Interview

21. In an interview with the Complaint Investigator, the Parent shared they applied for an out-of-district transfer for the Student to attend the LEA for the 2025-26 school year. The Parent expressed the Student's IEP from the Previous District indicated the Student needed specialized transportation to and from school, but it was "waived" because the Parent transported the Student daily.

22. The Parent recalled multiple conversations in August and September 2025 with LEA personnel regarding an Interim IEP. The Parent recalled the LEA sharing they would not provide transportation. Later, the LEA "came back" and said, "… We can offer transportation within district boundaries."

23. In late August 2025, the Parent, "… requested that in [the Student's] Interim IEP, that transportation be continued if busing isn't feasible. I offered alternative mileage reimbursement."

24. The Parent stated they transported the Student between the first day of School (August 13, 2025) and August 26, 2025 when they requested transportation be reinstated. The Parent estimated the Student missed three or four days of school because the Parent was unable to provide transportation.

25. At the October 13, 2025 IEP meeting, the Parent revealed the LEA did not believe the Student needed transportation services moving forward, and the Parent conceded, despite disagreeing.

Assistant Superintendent of Special Education Interview

26. In an interview with the Complaint Investigator, the Assistant Superintendent of Special Education indicated the Parent requested a transfer from their home school district in City 1 to the LEA during the open enrollment process. The Assistant Superintendent shared the LEA had a board policy that allowed them to provide transportation within their school district boundaries.
27. The Assistant Superintendent acknowledged in the Student's Interim IEP dated August 13, 2025, "It says transportation. Yes. And so did we accept door-to-door transportation? And we put down 'yes' on there because we're providing transportation to and from the edge of the district …" per board policy. In the same interview, the Special Education Administrator shared they offered transportation within the LEA boundaries because the Student qualified for specialized transportation per their previous IEP. They shared that until the team could determine whether the Student was eligible, they would provide comparable service from the edge of the LEA boundary.
28. The Special Education Administrator indicated they eventually split the PWN into two parts, one for the provision of comparable special education services and one for transportation within the LEA boundaries.
29. The Special Education Administrator indicated that at the October 13, 2025 IEP meeting, the team reviewed the transportation eligibility form, and the Parent shared that for the December 2024 IEP, they "felt like [the Student] qualified for it [transportation] because [the Student] was not on medication."
30. The Assistant Superintendent submitted this email after their interview with the Complaint Investigator. In an email to Assistant Superintendent of Special Education dated December 1, 2025, the School Psychologist wrote, "I originally spoke with [the Parent] on 8/7 [2025]. When we spoke, I shared that [the Student] would not get transportation since [the Student] is an out-of-district transfer. [The Parent] was okay with this at the time as [the Parent] already had [the Student] signed up for before and after school care at [the School]. The Original [Interim] IEP … listed transportation as 'No.' I do not have a copy of the original PWN as I did not email it to [the Parent] separately … . On 8/26 [2025][,] [the Parent] emailed and requested transportation be continued. On 9/4 [2025][,] after the Special Education Administrator and Parent talked, I sent a revised PWN that listed eligibility for transportation within district boundaries … . This was not saved in Synergy because we eventually split transportation out into a separate PWN."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #229, in accordance with state and federal regulations implementing the IDEA, implemented comparable special education services upon transfer, specifically transportation services from home to school, as mandated by the active IEP. K.A.R. 91-40-1(ccc)(W)(vvv)(1)(3), K.A.R. 91-40-16(b)(3); CFR § 300.323 (a)(e)(g).

According to 91-40-1(ccc)(W)(vvv)(1)(3), "related services" means developmental, corrective, and supportive services that are required to assist an exceptional child to benefit from special education, including transportation. "Transportation" means travel to and from school and between schools, and utilizing specialized equipment, including special or adapted buses, lifts, and ramps, if required to provide special transportation for a child with a disability.

According to K.A.R. 91-40-16(b)(3), an IEP must be in effect for each exceptional child at the beginning of each school year.

According to CFR § 300.323(e)(g), if a child with a disability (who had an IEP that was in effect in a previous public agency in the same state) transfers to a new public agency in the same state, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide a FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either adopts the child's IEP from the previous public agency; or develops, adopts, and implements a new IEP.

The Parent alleged the LEA failed to implement comparable special education services upon transfer, specifically transportation services from home to school, as mandated by the active IEP.

The LEA asserted that, under State law regarding out-of-district enrollment and special education, it was not required to provide transportation for nonresident students residing outside its boundaries. It stated that the responsibility for transportation to ensure a FAPE remained with the Student's Previous District. The LEA offered transportation from an in-district bus stop and noted that if transportation was a barrier to a FAPE, the Student's remedy was to return to their district of residence.

The Kansas legislature recently enacted a law permitting students to apply for attendance at a non-resident district. Under that statute, when there is space for more students at any particular grade level at the non-resident district, that non-resident district is required to enroll non-resident students, through a lottery process. (K.S.A. 72-3123). This is a general education statute and is the statute upon which the district relies for its assertion that it is not required to provide transportation to exceptional children, even if those exceptional children have transportation in their IEP.

Paragraph (j) of that statute says:

> *(j) Neither a resident school district nor a receiving school district shall be required to provide transportation to nonresident students unless otherwise required by applicable law. If space is available on school district transportation vehicles, a school district may provide nonresident students an in-district bus stop where transportation may be provided by such school district to and from such bus stop and the school for such nonresident students (emphasis added).*

The question of whether transportation is otherwise required by applicable law for these exceptional children who have transportation in an IEP and are enrolled in a non-resident district is a question of first impression in Kansas.

Prior to the enactment of K.S.A. 72-3123, school districts had discretion on whether they accepted non-resident students. Because districts had no duty to enroll non-resident students under any circumstance, they were allowed to set non-discriminatory conditions for non-resident students seeking admission, including a requirement that the non-resident parents provide transportation to and from school. This condition was considered to be non-discriminatory because it applied to all non-resident students, and was based on case law at the highest level at which this issue has been considered.

In Osseo Area Schools v. M.N.B. 120 LRP 22511 (8th Cir. 2020), the court considered this issue, which it titled "Inter-District transfers." The 8th United States Circuit Court of Appeals said that, even where a child's IEP includes transportation as a related service, a non-residential district which accepts a student from another district, is not required to provide transportation from outside the district to its programs inside the district. In this case, the court said the receiving district would have to provide transportation to the student once the student entered its district, but only because state law required that result. The court added that there is no opposing IDEA requirement.

The enactment of K.S.A. 72-3123 removed the voluntary nature of inter-district transfers in Kansas by compelling districts to accept non-resident applications to the extent they had the capacity at each grade level to do so. This change meant that an exceptional child who was selected to be enrolled in a non-resident district pursuant to this statute has a statutory right to attend school in the non-resident district. That necessarily includes the right to receive the related services (including transportation) in his or her IEP because the Kansas Special Education for Exceptional Children Act requires school districts to provide a free appropriate public education (FAPE), to exceptional children who are "enrolled in the school district," See K.S.A. 72-3410(a)(2). A FAPE includes all of the related services (such as transportation) that are in the IEP of a child with an exceptionality (K.S.A. 72-3404(p)). Because K.S.A. 72-3410(a)(2) requires only that an exceptional child be "enrolled in the school district," to be entitled to a FAPE, that statute makes no distinction with regard to the path the child, or the child's parents, took to enroll the child in the district. (emphasis added). Mere "enrollment," of an exceptional child in Kansas triggers the FAPE requirement.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** the LEA failed to provide comparable transportation services upon the Student's voluntary transfer from another district in the State.

Issue Two

Whether USD #229, in accordance with state and federal regulations implementing the IDEA, declined to implement services upon transfer, thereby denying the student a FAPE. K.A.R. 91-40-2; CFR 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2, each agency shall provide a FAPE in accordance with the law. Each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

According to CFR 34 § 300.17, a FAPE means special education and related services that are provided at public expense, under public supervision and direction, and without charge, meet the standards of the SEA, include an appropriate preschool, elementary school, or secondary school education in the state involved, and are provided in conformity with an individualized education program (IEP).

This is essentially the same as Issue 1, above. Issue 1 was addressed in full above. Accordingly, *there are no additional findings or conclusion* with regard to Issue 2.

Corrective Action

With regard to the amount of reimbursement for transportation expenses, the parent chose to provide transportation until August 26, 2025. On that date the parent notified the district that she was "no longer electing to waive that service, and added: "I am requesting that [the LEA] provide comparable transportation either by bus, or more practically, through parent mileage reimbursement." (Finding 6).

USD #229 is directed to take the following actions:

1. Submit to Special Education and Title Services (SETS) by no later than January 13, 2026, a written statement of assurance stating that it will comply with K.S.A. 72-3410(a)(2), which requires school districts to provide a FAPE to any exceptional child "enrolled in the school district," without distinction as to how the child enrolled or where the child lives.
2. Submit to Special Education and Title Services (SETS) by no later than January 13, 2026, a written statement of the amount the district currently reimburses parents for transporting students to and from school
3. No later than January 21, 2026, reimburse the parent for the cost of transportation for the student to and from school, beginning August 27, 2025 and extending to the date

the district begins providing transportation (if any), and notify SETS of the date that payments begin. The rate shall be the same as the rate that the district currently reimburses parents of resident children for transportation to and from school.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 229,
Blue Valley Public Schools: 26FC229-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on November 13, 2025, by -------- on behalf of her daughter, --------. In the remainder of this decision, -------- will be referred to as "the parent," and -------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on December 22, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations.

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the district's notice of appeal, and the parent's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Discussion of Issue on Appeal

The report found a violation with regard to Issue 1, stated as follows:

> ISSUE ONE: Whether USD #229, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented comparable special education services upon transfer, specifically transportation services from home to school, as mandated by the active IEP. *K.A.R. 91-40-1(ccc)(W)(vvv)(1)(3), K.A.R. 91-40-16(b)(3); CFR § 300.323 (a)(e)(g)*.

The investigator concluded that the district was out of compliance with law because it was required to provide transportation, at least for a limited time, and did not do so. The district submitted this appeal to contest this conclusion of the complaint investigator, based on several criteria which will be addressed in this decision.

The Appeal Committee first finds that the description of the facts presented in the district's appeal are accurate and those parts are succinctly stated as follows:

> *The material facts of this case are not in dispute. (The parent) lives within the boundaries of the Lansing School District. Through the 2024-25 school year, her daughter attended*

elementary school in Lansing and had been found eligible to receive special education services. Her IEP team determined that she required transportation as a related service, but (the parent) elected to transport her daughter to and from school in Lansing.

Just before the 2025-26 school year, (the parent) applied for her daughter to transfer to Blue Valley pursuant to K.S.A. 72-3123. That statute took effect in the 2024-25 school year and requires school districts to determine (a) their "capacity" for the following school year, (b) how many of their resident students will be attending schools in the district, and (c) the number of open seats available to nonresident students. K.S.A. 72-3123(b) and (c)(1). Nonresident students may apply to fill any of the open seats. If the number of applications is less than the number of open seats, those who applied must be admitted. If the number of applicants is greater than the number of open seats, then the school district conducts a lottery to determine who will fill the open seats. K.S.A. 72-3123(c)(4 and 5). (The parent's) daughter was accepted for admission into Blue Valley for the 2025-26 school year. (The investigator's) report details exchanges of Prior Written Notices between Blue Valley and (the parent) in which Blue Valley initially sent (the parent) a PWN that stated both the substantive services Blue Valley would provide and that Blue Valley would not provide transportation to and from Lansing. After (the parent) refused to sign that PWN, Blue Valley split the PWNs so that one detailed the substantive educational services Blue Valley would provide, with the other outlining Blue Valley's refusal to transport (the parents) daughter to and from Lansing to Blue Valley. (The parent) agreed to the first PWN but refused to consent to the second one. Blue Valley has since reviewed the IEP of (the parent's) daughter and determined that she does not require transportation at all in order to receive a free appropriate public education. (The investigator) did not address this issue in her report.

After reviewing the IEP that had been prepared by Lansing, Blue Valley agreed to provide the same substantive educational services to (the parent's) daughter with minimal revisions. But Blue Valley refused (the parent's) demand that Blue Valley transport her daughter between Lansing and Blue Valley each day (or pay (the parent) to do so), contending that such was not required under either Kansas law or IDEA. However, Blue Valley offered to provide transportation from any school within Blue Valley's boundaries to the school (the parent's) daughter would be attending. The parent refused Blue Valley's offer and filed her complaint.

Before doing so however, (the parent) gave her consent to the removal of transportation services from her child's IEP, as reflected in the Prior Written Notice enclosed with this notice of appeal. The PWN was delivered to (the parent) on October 13, 2025, and she signed the PWN on November 12, 2025.

With this background, the Appeal Committee reviews the district's various positions on appeal.

The committee first addresses the district's arguments under federal law.

The 8th United States Circuit Court of Appeals, in Osseo Area Schools v. M.N.B., 970 F.3d 917 (8th Cir. 2020), addressed a situation, where the state of Minnesota had adopted a similar statute allowing students to enroll in non-resident school districts. That statute specified that school districts accepting non-resident students were required to provide transportation to these non-resident students only within their boundaries. Although decisions of the 8th Circuit do not provide precedent in Kansas, they can act as a persuasive authority.

The Appeal Committee, however, finds that the district's appeal relies too heavily on the Osseo decision. In Osseo, the court gave considerable weight to

Minnesota statute § 124D.03, subdivision 8, saying that the nonresident school district must provide transportation only "within the district," and § 123B.88, subdivision 6, stating that "[i]f requested, a nonresident district shall transport a nonresident pupil within its borders and may transport a nonresident pupil within the pupil's resident district." This Minnesota statute is significantly different than the applicable Kansas statute at K.S.A. 72-3123(j), which states that:

> *(j) Neither a resident school district nor a receiving school district shall be required to provide transportation to nonresident students u**nless otherwise required by applicable law**. If space is available on school district transportation vehicles, a school district may provide nonresident students an in-district bus stop where transportation may be provided by such school district to and from such bus stop and the school for such nonresident students (emphasis added).*

The complaint investigator correctly noted that:

> *The question of whether transportation is otherwise required by applicable law for these exceptional children who have transportation in an IEP and are enrolled in a non-resident district is a question of first impression in Kansas.*
>
> *Prior to the enactment of K.S.A. 72-3123, school districts had discretion on whether they accepted non-resident students. Because districts previously had no duty to enroll non-resident students under any circumstance, they were allowed to set non-discriminatory conditions for non-resident students seeking admission, including a requirement that the non-resident parents provide transportation to and from school. This condition was considered to be non-discriminatory because: (1) it applied to all non-resident students, and was based on case law at the highest level at which this issue has been considered (the Osseo decision) and (2) a FAPE continued to be available at the district of residence.*

In Osseo, there was no provision qualifying the statutory language of "unless otherwise required by applicable law," as we see here in this Kansas statute. In addition, although the Osseo court

found no barrier in federal law or in Minnesota law to limiting IEP mandated transportation, that court, of course, did not consider Kansas law.

The complaint investigator correctly observed that:

> *The enactment of K.S.A. 72-3123 removed the voluntary nature of inter- district transfers in Kansas by compelling districts to accept non-resident applications to the extent they had the capacity at each grade level to do so. This change meant that an exceptional child who was selected to be enrolled in a non-resident district pursuant to this statute has a statutory right to attend school in the non-resident district. That necessarily includes the right to receive the related services (including transportation) in his or her IEP* ***because*** *the Kansas Special Education for Exceptional Children Act requires school districts to provide a* ***free appropriate public education (FAPE),*** *to exceptional children who are* ***"enrolled in the school district;"*** *See K.S.A. 72-3410(a)(2). A* ***FAPE includes all of the related services (such as transportation) that are in the IEP*** *of a child with an exceptionality (K.S.A. 72-3404(p)).* ***Because K.S.A. 72-3410(a)(2) requires only that an exceptional child be "enrolled in the school district," to be entitled to a FAPE, that statute makes no distinction with regard to the path the child, or the child's parents, took to enroll the child in the district.*** *Mere "enrollment," of an exceptional child in Kansas triggers the FAPE requirement for the district where the student enrolls (emphasis added).*

In short, the investigator found that whether the district was required to provide transportation to this particular student at any given time is not dependent on Minnesota or federal law, where, as here, Kansas statutes directly apply.

We note that the district's appeal says,

> *"the language of K.S.A. 72-3123(j) could not be a clearer sign of the Legislature's intent: Neither a resident school district nor a receiving school district shall be required to provide transportation to nonresident students unless otherwise required by applicable law. If space is available on school district transportation vehicles, a school district may provide nonresident students an in-district bus stop where transportation may be provided by such school district to and from such bus stop and the school for such nonresident students. A school district shall ensure that transportation for nonresident homeless students is provided comparably to that of housed students.*
>
> *Through this language, the Legislature warned parents that if they chose to enroll their children in a school district other than the one in which they reside, they would be responsible for, at a minimum, transporting their children to an in-district bus stop. Suggesting that this statute somehow increased a school district's transportation obligations couldn't be further from its plain language.*

The appeal committee agrees with this analysis for general education students, but disagrees that it also applies to exceptional children. The language in the statute did not warn parents of exceptional children that "they would be responsible for, at a minimum, transporting their children to an in-district bus stop," it warned school districts that when they "enrolled" these exceptional children they were required to provide them with a free appropriate public education (see K.S.A. 72- 3410(a)(2), which will be addressed later in this decision). A free appropriate public education (FAPE) is defined in Kansas as special education and related services that: (4) are provided in conformity with an individualized education program (K.S.A. 72-3404(p)(4)). Transportation is a related service, that when in an IEP, is literally part of the FAPE obligation (K.A.R. 91-40-1(ccc)(1)(W). The Appeal Committee was unable to discern a specific "legislative intent" behind this statute and so has applied a literal interpretation.

Next, the district asserts that K.S.A. 72-6494, with inapplicable exceptions, "flatly prohibits school districts from transporting nonresident students."

The district's interpretation of K.S.A. 72-6494 is unpersuasive. That statute is a general education statute that addresses the district's computation of its transportation weighting under K.S.A. 72-5131. It does not prohibit districts from meeting its transportation obligations to children with disabilities under K.S.A. 72-3404(p)(4), nor from applying for state aid for transportation services to exceptional children under K.S.A. 72-3422(b)(2), which allows reimbursement of "80% of the actual travel expense incurred for providing transportation for exceptional children to special education or related services," without any expressed limitation regarding where the service begins or ends (emphasis added). Likewise, transportation funding is available to locations outside of district boundaries for "severely handicapped" children under K.S.A. 72-3481.

Moreover, K.S.A. 72-3411(a)(6) specifies that a board of education "shall have the authority to furnish transportation for exceptional children, whether such children are residents or nonresidents of such school district, for the provision of special education or related services."

In the district's next argument, it says the Complaint Investigator's decision rests on a flawed premise, namely that the decision "misses a crucial point," that when parents of nonresident students apply for admission to school districts in which they do not reside," it is a voluntary choice on their part, and by doing so, all such parents—regardless of whether their children are disabled—forfeit their right to transportation to and from school."

The appeal committee finds that interpretation to be: (1) unsupported by any Kansas statute or regulation and (2) contrary to the plain language in K.S.A. 72-3410(a)(2), which requires only that an exceptional child be "enrolled in the school district," to be entitled to a FAPE, as that term is defined in K.A.R.91-40-1(z). These Kansas statute and regulation provisions do not distinguish whether a student is attending a school of residence or voluntarily attending school as a non-resident. This statute puts Kansas school districts on notice that if they enroll an exceptional child, they have a duty to make all of the special education and related services in the child's IEP

available to that child. This is particularly applicable to children who are attending school in a non-resident district pursuant to a statutory right provided to them under a state statute, such as K.S.A. 72-3123(j).

We have already addressed the district's argument in its Fifth objection, that: "the Complaint Investigator's decision is flatly contrary to Osseo Area Schools v. M.N.B., 970 F.3d 917 (8th Cir. 2020) and she made no meaningful effort to distinguish that case, perhaps because it can't be distinguished." The distinction is quite distinct. As we have indicated earlier K.S.A. 72-3410(a)(2), requires only that an exceptional child be "enrolled in the school district," to be entitled to a FAPE. We believe that had Minnesota statutes had that same requirement, the outcome in Osseo would have been different.

Next, the district argues that "construing the requirement for a free appropriate public education to include an obligation to transport an open-enrolled student regardless of where the student resides, as the Complaint Investigator did in this case, would exceed the requirements of IDEA and violate the Spending Clause, under which IDEA was enacted, and adds that "The Complaint Investigator provided no sound reason why Kansas stands on a different footing than Minnesota."

We already addressed the district's assertion that the investigator "provided no sound reason why Kansas stands on a different footing than Minnesota." The investigator clearly described how Kansas law differed from Minnesota law. With regard to the Spending Clause of the United States constitution, we need not address that issue because the Spending Clause only applies to obligations imposed upon states under federal law and has no application to statutory burdens a state imposes on itself.

Next, in its conclusion, the district speculates that:

> *The Complaint Investigator's decision would wreak havoc on school district transportation departments and would yield an absurd result. As KSDE is undoubtedly aware, school districts throughout the state are already faced with a shortage of bus drivers. Requiring school districts to develop bespoke transportation routes to pick up and return single students from as far away as parents are willing to tolerate, and to then staff those routes, would impose a monumental burden on school districts. The Legislature did not appropriate additional funding for such an extraordinary expense,… this doesn't suggest that the Legislature enacted K.S.A. 72-3123 to impose this specific specie of fiscal pain on Kansas school districts; rather, it leads to the conclusion that by disallowing transportation weighting for nonresident students, the Legislature didn't intend for school districts to bear this expense at all.*

The district added a footnote, saying that Kansas school districts are facing bus driver shortages and that KSDE "should also keep in mind that students with more severe disabilities require bus aides. So, the Complaint Investigator's decision, if upheld, would obligate school districts not just to

pay for additional drivers and the means of transporting students, but also for additional bus aides in many cases."

These concerns are genuine, but not relevant to the analysis of this appeal. The role of KSDE in these complaint investigations and appeals is to interpret the law (as it exists) and apply that interpretation to the facts presented in the complaint. KSDE cannot mitigate the effects of statutory provisions by imposing requirements that are not in the law nor by disregarding those that are.

Finally, the district requests that the corrective action requiring reimbursement of transportation expense be removed because on November 12, 2025, the parent consented to removal of transportation from the student's IEP. A copy of the electronically signed consent to remove transportation was attached to this appeal.

Finding 18(d) in the report confirms the content of this 10/13/25 PWN, but adds that the consent portion had not yet been signed. Perhaps this signed document had not been provided to the investigator or was overlooked by the investigator. In any event, the Appeal Committee will not revise the corrective action for two reasons.

First, K.A.R. 91-40-51(f) permits appeal of "the findings or conclusions of a compliance report." This regulation does not permit appeal of corrective actions, although the Appeal Committee may remove or alter corrective actions as appropriate when it concludes that findings and/or conclusions in the report are reversed or modified (which does not apply to this appeal).

Second, the Appeal Committee reads Corrective Action 3 to require the district only to pay for the cost of transportation actually provided (if any) for the student to attend school at USD 229. Inherent in this corrective action is the assumption that the student will continue to attend school in USD 229 and that transportation is provided in accordance with an IEP. This corrective action does not obligate the district to do anything with regard to transportation that is either: (a) not provided to or from a USD 229 school building or (2) that is not specified, or is no longer specified, in the student's IEP.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 22nd day of January, 2026.

Appeal Committee

Crista Grimwood
Brian Dempsey
Hannah Miller

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #450
ON NOVEMBER 21, 2025

DATE OF REPORT: DECEMBER 22, 2025

This report is in response to a complaint filed with our office by ------- on behalf of her son ------- For the remainder of this report, ------- will be referred to as "the parent." ------- will be referred to as "the student."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" as used in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. The Central Kansas Cooperative in Education (CKCIE) provides special education services for USD #450. For the remainder of this report, CKCIE and USD #450 will be referred to collectively as "the LEA."

Investigation of Complaint

The investigator spoke by telephone with the Director of Special Education on December 5, 2025. The investigator spoke by telephone with the student's mother on December 12, 2025.

In completing this investigation, the complaint investigator reviewed the following materials:

- Evaluation/Eligibility Report dated December 15, 2023
- IEP for the student dated November 26, 2024
- Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement and Request for Consent dated November 26, 2024
- Parent's Formal Complaint and attachments including:
    - Email exchange between the parent and the special education teacher dated February 20 through 24, 2025
    - Email exchange between the parent and the special education teacher dated April 1through 2, 2025
    - Email exchange between the special education teacher and the parent dated April 10, 2025
    - Text dated April 13, 2025 from a classroom paraeducator to the parent
    - Email dated April 17, 2025 from the parent to the special education teacher
    - Email exchange between the student's private speech therapist and the special education teacher dated April 21 through May 13, 2025

  - Email exchange between the parent and the special education teacher dated May 7, 2025
  - Email exchange between the special education teacher and the parent dated May 13, 2025
  - Email dated June 25, 2025 from the parents to the superintendent and the director of special education
  - Email exchange between the parent and the director of special education dated November 4 through 20, 2025
- Email dated November 20, 2025 from the director of special education to the parent
- IEP Progress Reports covering the period of December 20, 2024 through October 13, 2025

Background

This complaint involves a 5-year-old boy who is enrolled in a preschool program in his local school district. The student received support from the county Infant Toddler Services Tiny K program before transitioning to Early Childhood services at age 3. The parent states that the student has been diagnosed with childhood apraxia which is defined by the American Speech-Language-Hearing Association as a "motor speech disorder that makes it hard to speak." The student was determined to be eligible for special education services under the category of Developmental Delay because of his expressive communication and speech articulation delays.

The parents' application for an intradistrict transfer for the student was approved, and the student no longer is enrolled in the classroom he was attending at the time of the events described in this complaint.

Issues

A formal complaint must allege that a violation of special education laws or regulations has occurred within the 12-month period prior to the date the complaint is received and filed by the commissioner of education (K.A.R. 91-40-51(a) and (b)).

Issue One

Failure to provide Parents' Rights Notice upon disciplinary removal constituting a change in placement.

Position of the Parent

In her written complaint, the parent describes three occasions when the student "became emotionally escalated in class [and] was repeatedly removed and isolated in the back room of [the special education] classroom, separated from his peers." According to the parent, "these removals were not isolated incidents and represent a disciplinary pattern." It is the position of the parent that the LEA initiated disciplinary removals of the student without providing information to the parents about their rights.

Position of the LEA

The LEA asserts that the special education teacher's response to the student's dysregulation did not result in a disciplinary removal constituting a change of placement. Therefore, the LEA contends, there was no requirement for the provision of Parent Rights to the parent.

Applicable Statutes and Regulations

In this issue, the parent refers to a "disciplinary removal" of the student. "Disciplinary removals" generally fall under one of five categories:

1. In-school suspension: Instances in which the LEA temporarily removed a child or youth from his/her regular classroom(s) for disciplinary purposes but the child or youth remains under the direct supervision of school personnel. Direct supervision means school personnel are physically in the same location as the child or youth under their supervision.
2. Out-of-school suspension: Instances in which the LEA temporarily removed a child or youth from his/her regular school for disciplinary purposes to another setting (e.g., home, behavior center). This includes both removals in which no IEP services are provided by the LEA because the removal is 10 days or less as well as removals in which the child or youth continues to receive services according to his/her IEP.
3. Expulsion: An action whereby the LEA removes a child or youth from his/her regular school for disciplinary purposes for the remainder of the school year or longer in accordance with LEA policy. This can include removals resulting from violations of the Gun Free Schools Act.
4. Removal to an interim educational setting: An appropriate setting determined by the child or youth's IEP team in which the LEA placed the child or youth for no more than 45 school days. This setting enables the child or youth to continue to receive educational services and participate in the general education curriculum (although in another setting) and to progress toward meeting the goals set out in the IEP.
5. Removal by a hearing officer: Instances in which an impartial hearing officer orders the removal of a child or youth with disabilities from his/her current educational placement to an appropriate alternative educational setting for not more than 45 school days based on the hearing officer's determination that maintaining the child's or youth's current placement is substantially likely to result in injury to the child or youth, or others. The IEP team is responsible for determining the interim alternative educational setting.

The removals described above are applied when any student has violated a rule established by a district Code of Conduct which applies to all students enrolled in the LEA regardless of whether the student has or has not been determined eligible for special education services. However, a number of protections are afforded to students who receive special education services under an IEP when an LEA initiates a disciplinary removal.

Not every action taken by an LEA to address a student's behavior constitutes a disciplinary removal. Schools may use customary disciplinary techniques for all children, including those

with disabilities. For children with disabilities, traditional forms of discipline such as detention, or the restriction of privileges, can be used so long as these forms of discipline are also used with nondisabled children and do not violate the provisions of a child's Individualized Education Program (IEP or the child's right to a free appropriate public education (FAPE)).

Special provisions are applied in instances when the disciplinary removal results in a change of placement for a student. At K.A.R. 91-40-33 (a)(1), Kansas special education regulations define the phrase "change in placement for disciplinary reasons," stating that the phrase means that:

> *"…school personnel or a special education due process hearing officer has ordered any of the following changes in placement of a child with a disability:*
>
> *(A) The child is suspended or expelled from school for more than 10 consecutive school days.*
>
> *(B) The child is subjected to a series of short-term suspensions constituting a pattern that meets all of the following criteria:*
>
> *(i) The suspensions cumulate to more than 10 school days in a school year,*
>
> *(ii) Each incident of misconduct resulting in a suspension involved substantially the same behavior,*
>
> *(iii) The length of each suspension, the total amount of time the child is suspended, and the proximity of the suspensions to one another indicate a pattern.*
>
> *(C) The child is placed in an interim alternative educational setting."*

When a change of placement as defined above occurs, a number of requirements are triggered – including the requirement that parents be provided with a copy of the Parent Rights notice (K.S.A. 72-3433(d)(1)).

Investigative Findings

An annual review of the student's IEP was conducted on November 26, 2024. The parent participated in that meeting. According to the November 2024 IEP, the team did not believe that the student's behavior impeded his learning or that of others. Per the IEP, the student was placed in an Early Childhood Special Education (ECSE) classroom where peer models were also in attendance. On November 26, 2024, the parent provided her written consent for the LEA to implement the student's IEP.

Under the "Goals and Objectives/Benchmarks Present Levels" section of the November 2024 IEP, the IEP team included the following statement:

> *"When compared to typically developing children his age, [the student's] ability to respond appropriately to disappointment is considered delayed for a child of his age. Most children can accept minor disappointments and move on without getting upset or throwing a fit. When [the student] requests a change in routine or is wanting to avoid an activity [he] will stomp his feet and yell at teachers when what he wants to happen is not a choice. [The student] will often be given a choice of where to take a break so that instruction with his peers can continue with less*

disruption, [the student] often refuses and his behavior escalates to the point that he needs assistance to be moved from the learning area 75% of the times observed. [The student] is starting to understand that the Peace corner is not a time out but a place that it is safe for him to feel big emotions, without disrupting his peers' learning.]

…[The student's] delays in communication can cause him to become easily frustrated when communicating his wants and needs and advocating for what he wants. [He] often displays frustrations and approaches communication as if their [sic] is a miscommunication when he wants something to go his way, but does not get it…

[The student] loves school and learning, when prompted will take deep calming breaths when he is upset. He will also go to the peace corner when he is unable to calm down with prompting."

The IEP team developed the following goal to address the established need:

"When [the student] is faced with disappointment or something doesn't go the way he wanted, [he] will be able to utilize self-calming strategies (e.g. breathing techniques, problem-solving, calm-down area) after one verbal prompt at 80% of the times observed by the end of the IEP year as measured by observation."

In her complaint, the parent cites two instances (on February 20 and April 1, 2025) when the student was removed from the main Early Childhood classroom. The LEA reports that the student moved to the "calm-down area" of the classroom on 4 additional occasions (April 15 and May 6, 13, and 20, 2025). In her complaint, the parent cited excerpts from emails sent by the special education teacher to inform the parent of what had occurred in each of these instances.

The parent described another incident on April 10, 2025 when the student remained in the main classroom area while his classmates moved to the other space described above. Per the parent's complaint, she was informed by email from the special education teacher of the circumstances surrounding this event.

The Early Childhood classroom is made up of multiple areas – a main classroom where the majority of instruction is delivered and a separate space (the "calm-down area named above) that houses student cubbies for storing bookbags, jackets, and other items. The latter area also has a table and chairs used for small group activities, a mini-trampoline for sensory opportunities, and a refrigerator. The space is utilized for a variety of purposes including speech and occupational therapy, and provides a quiet environment where paraeducators can work with students in a quiet environment. The area leads to the restroom and has two exits, including one to the classroom. The second exit leads to the hallway outside of the classroom.

On the occasions when the student was moved to the "calm-down area" of the classroom, he was accompanied by the special education teacher who allowed time for the student to express his feelings and prompted his use of calming strategies while ensuring that the student did not injure himself. Once the student had calmed, he was encouraged to talk about why he was

upset. The special education teacher engaged with the student to reinforce positive behaviors. Per an email from the Director of Special Education to the parent dated November 20, 2025, the student was typically able to become regulated in "about 5 minutes."

Summary and Conclusions

One of the annual goals included in the student's November 2024 IEP specifically states that use of the calm-down space will be one of the strategies he can use when "faced with disappointment or something doesn't go the way he wanted." The special education teacher did not employ the calm-down space as a disciplinary consequence but rather a strategic intervention designed to provide the student with a safe, quiet space to become regulated. Movement of the student to the calm-down space is consistent with the implementation of the student's annual goal. The three examples provided by the parent do not meet the definition of a disciplinary removal of the student. A violation of special education statutes and regulations ***is not substantiated*** on this issue.

Issue Two

No Prior Written Notice (PWN) for initial provision of IEP services and placement was provided to the parent.

Position of the Parent

It is the position of the parent that – without notice and without her consent - the student was removed from the classroom for more than 25% of his school day.

Position of the LEA

It is the position of the LEA that the interventions implemented by the teacher in response to the student's dysregulation did not represent a change in placement for the student.

Applicable Statutes and Regulations

An LEA must obtain the informed written consent of the parent before initially providing special education and related services to an exceptional child (K.A.R. 91040-27(a)(2)) and must obtain the written consent of the parent before making a material change in services to, or a substantial change in the placement of, an exceptional child

(K.A.R. 91-49-27(a)(3)) thereafter.

A "substantial change in placement" is defined as movement of an exceptional child for more than 25% of the child's school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment (K.S.A. 77-3404 (aa)).

Investigative Findings

The initial evaluation of the student to determine his eligibility for special education services was conducted in December 2023 - more than 12-months prior to the date this complaint was received by KSDE.

Concerning the parent's allegation regarding a change in placement for the student, no evidence was provided by either party to show the precise amount of time the student spent in the calm-down area (cubby room) adjacent to the main classroom. In an email to the parent dated November 20, 2025, the Director of Special Education stated that she had determined that the student was typically able to become regulated after "about 5 minutes."

The LEA identified 6 occasions over 6 different days when the student and the teacher moved to the calm-down area to allow the student to focus on calming strategies.

At the time these interventions were implemented, the student's school day was 3 hours in length. The student's November 2024 IEP stated that the student would

> *"…participate in the general education setting more than 40% but less than 80% of the time due to receiving services in an ECSE class setting with limited access to general education [peer models] for a portion of the day…[and] receive services through the [speech language pathologist] 15 min, 3 times per week on 3 of 4 weeks and on the 4th week receives indirect services to the IEP team for 15 min…"*

Summary and Conclusions

The parent asserts that the student had been removed from a less restrictive environment to a more restrictive environment for more than 25% of his school day. Based on the student's November 2024 IEP, the student could – on a non-speech day - spend anywhere from 72 minutes to 144 minutes in the "less restrictive" main ECSE classroom area. Assuming the student spent 5 minutes in the calm-down area working exclusively with the teacher apart from his peers, that amount of time would represent approximately 7% of a day when the student was in the main classroom environment for 72 minutes. On a day when the student was spending 144 minutes in the main classroom, that 5 minutes would represent 3.5% of the student's day. Assuming that a move to the calm-down space actually does represent a move to a "more restrictive environment," the periods of time when the student was in the calm-down area would represent far less than the threshold 25% of the school day that would require the LEA to obtain written parental consent.

Under these circumstances, a violation of special education statutes and regulations ***is not substantiated*** on this issue.

Issue Three

Violation of the student's right to a free appropriate public education (FAPE)

Position of the Parent

The parent asserts that the student was moved outside of the main ECSE classroom without first exhausting less restrictive alternatives or utilizing positive behavior supports thereby denying the student access to a full continuum of behavioral support options.

Position of the LEA

The LEA asserts that the student's IEP was implemented as written and contends that a variety of options were utilized with the student to help him regulate when frustrated.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

Investigative Findings

The student's November 2024 IEP does not require the use of any specific positive behavior supports. Nonetheless, the special education teacher utilized a number of positive behavior supports to help the student including

- "warm fuzzies" to encourage pro-social behaviors;
- Making "green choices" with classmates to earn a class party;
- Verbal praise for appropriate behavior;
- Demonstrating strategies he could use with sensory toys;
- Use of a positive reward chart with a treasure chest or other identified rewards;
- Processing the student's feelings with classroom staff;
- Exploring with the student opportunities for him to get to do something he was not allowed to do at a given time;
- Offering the opportunity and staff support to move from a "red choice" to a "green choice; and
- Use of the "Peace Corner" – a space in the main ECSE classroom where the student could go when upset or frustrated.

The Peace Corner in the classroom housed a number of sensory toys which the student could use to regulate his emotions. The special education teacher demonstrated to the student how these toys could be used.

If the student became dysregulated, the special education walked the student through strategies he could use to calm himself. Once the student was calm, the special education teacher or paraeducator would validate his "big feelings" and talk with the student about why he was upset, about choices he had made, and how he might later have opportunities to access the item or activity he had wanted prior to becoming dysregulated.

Progress reports covering the period of March through November 2025 show that the student made gains on both his annual goals. At the time the student's IEP was written, he was responding to disappointment or a need for redirection by stomping his foot, crying, or yelling at teachers 70% of the time. By March 14, 2025, he was utilizing self-calming strategies after one verbal prompt 50% of the time and was "more willing to go to the Peace Corner…" When progress was monitored on May 23, 2025, the student was using self-calming strategies 55% of the time with one verbal prompt and was observed to be "mindful when given choices to take breaths when suggesting options to help himself feel better when he is upset or move to the peace corner when he is upset."

Summary and Conclusions

Evidence obtained during this investigation shows that positive behavior supports have been provided to the student. Between the time the November 2024 IEP was developed for the student and the end of the 2024-25 school year, the student was increasing in his ability to use self-calming strategies in the classroom. Because there is no evidence to show that the student has been denied a FAPE, a violation of special education statutes and regulations *is not substantiated* on this issue.

Issue Four

Failure to use a variety of assessment tools and resources.

Position of the Parent

The parent asserts that while the student's IEP was developed "for speech services," the special education teacher unilaterally identified behavioral issues without first conducting a Functional Behavioral Assessment (FBA) and without first consulting the school's care team thereby hindering the student's progress and creating unnecessary boundaries to his learning.

Applicable Statutes and Regulations

The purpose of an initial evaluation in special education is to determine if a child has a disability (by meeting one of the disability categories established by the Individuals with Disabilities Education Act or IDEA) and needs special education services. Once eligibility has been established, it is the job of the IEP team – at the time the first IEP for the student is developed and when reviewing/revising the student's IEP thereafter – to address each of the educational needs identified in the Present Level of Academic Achievement and Functional Performance

that results from the child's exceptionality. At K.S.A. 72-3429(d)(2), Kansas statutes state that it is the duty of the IEP team to consider the academic, developmental, and functional needs of the child at the time of the development of the initial IEP for the student and at each annual review and/or reevaluation.

Schools must ensure that a reevaluation of each child with an exceptionality is conducted if conditions warrant a reevaluation, or if the child's parents or teacher requests a reevaluation, but at least once every three years.

When developing an evaluation plan for an initial evaluation or a reevaluation, the evaluation team may determine that an FBA should be included. The development and/or review of an FBA is critical when a serious disciplinary consequence is being considered such as a removal from the educational environment of more than 10 school days or placement in an alternative educational setting for 45 school days. Certainly, an FBA can be a useful tool for an IEP team to use when a student with an IEP develops new, severe, or persistent behaviors, or when existing ones worsen. However, special education laws and regulations do not prohibit IEP teams from developing behavior related goals without first conducting an FBA.

Investigative Findings

In December 2023, shortly before the student's third birthday, he was evaluated by staff from the LEA to determine whether he was eligible for and in need of special education services. The evaluation team included a speech/language pathologist, a school psychologist, an Early Childhood teacher (who became the student's special education teacher), a representative of the agency that was providing services to the student at the time of the evaluation, and the student's parents.

Because at the time of the evaluation the student had limited expressive communication skills, a play-based evaluation of the student was conducted. At the time of the evaluation it was noted that the student "will get frustrated when he is not understood and will shut down and has bitten or hit others when he is frustrated and cannot get his message across to others." According to the report of the evaluation, the assessment team did "not have concerns regarding [the student's] cognitive, social/emotional, self-help or motor development" but did deem the student to be eligible for and in need of special education services due to delays in his speech and expressive communication development.

When the student's IEP team – which included the parent – conducted the annual review of his IEP in November 2024, they noted that – in addition to previously identified communication delays – the student was not responding appropriately to disappoint at a developmentally appropriate level, and they therefore developed an annual goal to address this identified need. According to the student's November 26, 2024 IEP, these behaviors were not impeding his learning or that of others at that time.

Both the parent and the LEA report that, beginning in the late third quarter of the 2024-25 school year, the student began to display an increase in the frequency of episodes when the student became frustrated. There is no evidence to show that the LEA or the parent felt that any additional testing was needed to address this change. Neither party asked for a review of the student's IEP.

In this district, the "CARE Team" is described as a "Mental Health Team." According to the Director of Special Education, this team has several responsibilities designed to ensure that students' basic needs are met, including working with families. The team may be called in if a teacher needs assistance with a student. However, the decision to call in the team is made by the teacher.

Summary and Conclusions

At the time of the student's initial evaluation to determine his eligibility for special education services in December 2023, the student was reported to have demonstrated some developmentally inappropriate responses to frustration. When the annual IEP review for the student was conducted in November 2024, the student was still demonstrating frustration when he perceived there had been "a miscommunication when he wants something to go his way, but does not get it." The IEP team – which included the parent – opted to develop a goal to address this need. There is no evidence to show that anyone on the team felt that additional testing was warranted or that any additional input from LEA staff outside of the IEP team was needed in order to address the student's behavior.

The decision to address an identified behavioral need was not made unilaterally by the special education teacher but rather was made by the student's IEP team – which included the parent. A violation of special education statutes and regulations **is not substantiated** on this issue.

Issue Five

Emotional and psychological harm inflicted on the student while in the ECSE program.

Position of the Parent

In this issue, the parent asserts that during the spring semester of 2025, the special education teacher routinely utilized Emergency Safety Interventions (ESI) by placing the student in a back room without witnesses and failed to provide the required documentation of these incidents. The parent contends that the student was "subjected to emotional abuse and the improper and illegal use of seclusion."

Position of the LEA

It is the position of the LEA that the special education teacher did not implement an ESI-defined seclusion because the teacher was present and meaningfully engaging the student at all times.

Applicable Statutes and Regulations, Investigative Findings, Summary and Conclusions

An ESI involves the use of a physical restraint or seclusion when a student presents an immediate danger to themselves or others. ESIs should be considered as a "last resort" after less restrictive interventions have been attempted and deemed ineffective. ESIs are not to be used for punishment or convenience.

The authority to investigate issues related to the implementation of ESIs fall outside the purview of a special education complaint investigator. Beginning at 91-42-1, Kansas Administrative Regulations address ESIs. At 91-42-3, regulations require districts to develop and implement written policies to govern the use of ESIs including the development of written policies to govern procedures for a parent to file a complaint with the local school board if a parent believes an ESI has been used in violation of state regulations. Regulations require districts to develop policies regarding a parent's right to request an administrative review by the state board as specified in K.A.R. 91-42-5.

If a parent believes that an emergency safety intervention has been used with the parent's child in violation of the State Board's emergency safety intervention regulations or the district's emergency safety intervention policy, the parent may file a complaint with the local board of education. The complaint must be filed within 30 days of the date on which the parent was informed of the use of that emergency safety intervention. The local board's final decision must be in writing and include findings of fact and any corrective action required by the district if the local board deems these actions necessary. The local board's final decision must be mailed to the parent and KSDE within 30 days of the local board's receipt of the complaint.

Any parent who filed a written complaint with their local board of education regarding the use of emergency safety intervention and is either not satisfied with the local board's final decision, or did not receive a final decision within 30 days, may request an administrative review by the Kansas State Board of Education.

While the investigation of the specific circumstances regarding the implementation of an ESI is the responsibility of a district's school board, investigation of allegations regarding the provision of a free and appropriate public education (FAPE) falls under the purview of a special education complaint investigator. FAPE ensures that children with disabilities receive specially designed instruction and related services that enable the student to make appropriate progress in light of the student's circumstances.

The issue of the student's right to a FAPE was addressed above under Issue Three. Because this investigation determined that the student's right to a FAPE was not violated, this issue was not investigated further.

Issue Six

Refusal to collaborate with private service providers during OT evaluation process.

Position of the Parent

It is the opinion of the parent that the special education teacher displayed a dismissive attitude toward outside professional input and was unwilling to engage meaningfully with outside providers regarding an Occupational Therapy evaluation of the student.

Position of the LEA

The LEA contends that while encouraged, collaboration with outside agencies by an individual teacher is not required. The LEA further asserts that the special education teacher did not refuse to collaborate with outside service providers but rather asked that a requested telephone call take place at a time that did not require the teacher to be absent from classroom instruction.

Applicable Statutes and Regulations

Parents have every right to pursue an outside evaluation to address the needs of their child. The LEA is obligated to consider the results of any outside evaluation presented by the parent. However, special education statutes and regulations do not address how an LEA must respond to a parent's request for LEA participation in an outside evaluation.

Investigative Findings

On April 17, 2025, the parent sent an email to the special education teacher telling the teacher that the student's private speech therapist had recommended an Occupational Therapy (OT) evaluation for the student. According to the email, the therapist would be reaching out to the teacher to schedule a three-party call including a private OT.

The private speech therapist sent an email to the special education teacher on April 21, 2025 with a release of information signed by the parents allowing the parties to speak and asking the teacher for a good time for a phone call. The teacher responded by email on April 22, 2025 stating that "any day between 11:20 and noon is my plan time." The speech therapist wrote back suggesting a call at 12:40 on April 29, 2025 and asking for a phone number for the call.

After being contact by the parent about the telephone call, the special education teacher sent an email to the speech therapist on May 13, 2025 apologizing for a delayed response. The teacher told the therapist that she had a break between 11:20 and 12:30 with no students when she would prefer to talk with the therapist and the OT. The parties agreed to speak on May 15, 2025 at 11:30 and the teacher provided a number for the therapist to call.

Summary and Conclusions

The evaluation process specified by the parent in her complaint was related not to an in-district assessment but rather to an outside OT evaluation suggested by the student's private speech therapist. On April 17, 2025, the parent notified the special education teacher the private

speech therapist would be in touch to set up a conference call to talk about the student. The teacher responded the next day to an April 21, 2025 email from the therapist which allowed the parties to share information about the student and told the therapist she would be available to talk any day during a specified 70-minute window. The speech therapist responded immediately but suggested holding the phone conference at a time the teacher was not available. There was no contact between the parties until May 15, 2025, when after prompting from the parent, the special education teacher reached out to the speech therapist and a time and date for the phone call was set.

While it would have been courteous for the special education teacher to have followed up with the outside speech therapist after having been offered a time for a conference call that did not work for her, the teacher was not under any obligation established by special education statutes and regulations to do so. Under these circumstances, a violation of special education statutes and regulations ***is not substantiated*** on this issue.

Corrective Action

Information gathered in the course of this investigation has not substantiated noncompliance with special education statutes and regulations on issues presented in this complaint. Therefore, no corrective actions are required.



Diana Durkin
Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512
ON SEPTEMBER 22, 2025

DATE OF REPORT: OCTOBER 19, 2025

This report is in response to a complaint filed with our office on behalf of a student, -------, by their parents, ------- and -------. In the remainder of the report, the student will be referred to as "the Student" and the parents as "the Parents."

The Complaint is against USD #512, Shawnee Mission Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #512.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on September 22, 2025, and the 30-day timeline ended on October 22, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #512, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provided the Parents with the criteria and reasons for its denial of homebound instruction. K.A.R. 91-40-26(a), K.S.A. 72-3430(b)(2), K.S.A. 72-3432; 34 § C.F.R. 300.503.

ISSUE TWO: Whether USD #512, in accordance with state and federal regulations implementing the IDEA, denied the Parents meaningful participation by limiting "communication to one-way written statements, not interactive dialogue." K.A.R. 91-40-17; 34 §§ C.F.R. 300.322, 300.501.

ISSUE THREE: Whether USD #512, in accordance with state and federal regulations implementing the IDEA, provided a free appropriate public education (FAPE) when it denied

homebound instruction and failed to provide the Student with tutoring, homework, or educational services for more than three weeks. K.A.R. 91-40-1(z); 34 §§ C.F.R. 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parents by video conference on October 7, 2025. The LEA's Special Education Teacher was interviewed on October 7, 2025.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parents and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. District Response, 10/01/25
2. District Letter to the Parent of [the Student], 09/12/25
3. Prior Written Notices, 09/12/25, 09/22/25
4. Communication Log, 09/01/25-09/30/25
5. Artifact 9: Work for [the Student], 09/23/25

Background Information

This investigation involved a seventh-grade student who was enrolled in a center-based classroom at a middle school in USD #512. The Student is currently receiving special education or related services as a child with a disability per the IDEA. In September 2025, following an incident involving Emergency Safety Interventions (ESI), the Parents notified the LEA the Student would no longer be attending the School due to concerns for their safety. Communication ensued between the Parents and the LEA regarding homebound instruction, interim homework, and alternative placement options.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parents and staff in the LEA.

1. On August 29, 2025, a Notice of Meeting indicated a virtual meeting had been scheduled for August 29, 2025, at 9:30 a.m. with the Parents. The notice indicated the meeting date was confirmed with the Parents on August 25, 2025, via electronic communication. The form indicated the purpose of the meeting was to "discuss possible changes in your child's" IEP. The form indicated it was hand-delivered to the Parents on September 3, 2025.
2. On August 29, 2025, according to the Special Education Teacher's Communication log, the Special Education Teacher emailed virtual meeting links to the Parents at 8:52 a.m. and 9:40 a.m. According to the log, the Special Education Teacher called Parent 1 at 11:46 a.m. to discuss an incident that occurred while they and the Parents were

meeting virtually. At 12:04 p.m., the Special Education Teacher texted the Parents stating the Student had requested a staff member, whom they had hit earlier in the day, to walk the Student out when it was time to leave. At 12:19 p.m., the Special Education Teacher called Parent 2 to let them know the Student "was escalating and had eloped outside of the building."

3. On September 1, 2025, a communication log belonging to the Secondary Special Education Coordinator indicated a meeting was scheduled by the Principal to discuss the behavior that was occurring at school. The meeting was scheduled for September 3, 2025, at 1:30 p.m. The Notice of Meeting was hand-delivered to the Parents on September 3, 2025, with the box checked acknowledging the Parents planned to attend the meeting.
4. On September 2, 2025, the Parents emailed the Secondary Special Education Coordinator, confirming the Student displayed behaviors when they were experiencing stress and anxiety. The Parents stated the start of the school year had been "challenging, stressful, and anxiety-inducing" for the Student. The Parents continued, due to the experiences thus far in the school year, they believed the School administration lacked "the capacity and understanding to support the Student's needs." The Parents stated they "communicated repeatedly with everyone involved about what to expect from [the Student] and how to prepare." The Parents explained the Student had not managed to complete a full school day.
   The Parents' concerns regarding the School's handling of the Student were reportedly heightened following the emergency meeting on August 29, 2025 where the Student exhibited troubling, recurring behaviors that continued throughout the day, culminating in a "complete meltdown and an aggressive attack." Upon Parent 1's arrival, the Student was emotionally distraught following an incident for which the Parents did not receive documentation, leaving the procedure for how the Student was handled unclear. Furthermore, communication was problematic when the Principal initially told Parent 1 they "preferred" the Student not return to school, only acknowledging it was an official suspension after Parent 1 asked directly.
   The Parents stated their priority was to keep the Student from hating school. They added that their second priority was keeping the Student from being labeled as someone "who has basically battered everyone" at the School. The Parents asked to open a discussion to find "what options there are and what support the district can/will provide." They stated the Student would not attend the School because the Parents believed there were "other places that can support [the Student's] needs."
5. On September 3, 2025, the Secondary Special Education Coordinator responded to Parent 2's email from September 2, 2025. The Secondary Special Education Coordinator stated they were agreeable to talk about their concerns. They stated they had left messages on both the home and work numbers. They provided their phone number. They stated they were happy to talk via phone or in person. The email ended by asking Parent 2 if they still planned on attending the meeting scheduled for that day at 1:30 p.m. or preferred to cancel.

6. On September 3, 2025, the Secondary Special Education Coordinator documented in their communication log a virtual meeting with the Parents in which they discussed the concerns outlined in Parent 2's email. Parent 2 asked about Off-Campus Educational Services (OCES), or homebound instruction. The Secondary Special Education Coordinator stated they would gather more information and get back to them.
7. On September 5, 2025, Parent 2 emailed the Secondary Special Education Coordinator stating they had not received the release of information form and questioned whether that would come "once a school [had] been identified." The Secondary Special Education Coordinator emailed Parent 2 stating they were sending the release of information form so they could identify potential out-of-district programs. Parent 2 emailed the signed release back to the Secondary Special Education Coordinator.
8. On September 9, 2025, the Secondary Special Education Coordinator emailed Parent 2 stating they forwarded the release to the Assistant Special Education Director, who would contact potential placements. The Secondary Special Education Coordinator explained the next steps in the process were to "stay put," which meant the Student could return to the School "between now and finding another placement." They stated they had looked into [OCES] but indicated the "guidelines [were] very specific and [did] not apply in this situation."

   Parent 2 emailed the Secondary Special Education Coordinator to state they were disappointed regarding their current "impasse." Parent 2 stated the Student would not be returning to the School and added, "This decision remains non-negotiable." They reiterated their primary concern was the safety of the Student. Parent 2 stated they are not willing to "take that risk" of having another incident like those that occurred on August 28 and August 29, 2025. Parent 2 stated those events posed a threat to the Student's physical and mental well-being and also the "staff members who may not be adequately prepared to handle the situation." Parent 2 also emailed the Secondary Special Education Coordinator to request a copy of the guidelines for homebound instruction.
9. On September 11, 2025, Parent 1 emailed the Secondary Special Education Coordinator requesting a response to the email that was sent on September 9, 2025.
10. On September 12, 202, the Parents emailed the Secondary Special Education Coordinator requesting a call back. The Secondary Special Education Coordinator emailed the Parents stating they could call them at 12:15 p.m. The Parents emailed the Secondary Special Education Coordinator, stating they tried to call and left a message. They confirmed they would be speaking at 12:15 p.m. The Secondary Special Education Coordinator called the Parents and documented they asked for homework to be sent home for the Student. The Secondary Special Education Coordinator documented how they discussed OCES and why it would not be appropriate for the Student.
11. On September 12, 2025, the LEA responded to the Parents' notification of their intent not to return the Student to the School by issuing both a letter and a PWN. The School Psychologist's letter referenced Kansas law, outlining the Parents' duty to ensure the Student attended school for IEP services or pay for them privately. The PWN

documented the Parents' "unilateral decision" made on September 2, 2025, and clarified that no other options were considered since the IEP team did not make the decision. Both communications stated the LEA "stands ready, willing, and able" to provide the special education services listed in the Student's IEP dated November 14, 2024. The PWN indicated it was emailed to the Parents.

12. On September 15, 2025, the School Psychologist emailed the LEA's "Ready, Willing, and Able" (RWA) Letter and the corresponding PWN. Parent 2 responded to the School Psychologist's email asking for clarification about the RWA letter. The School Psychologist responded to Parent 2, stating it was just for the interim, and they were looking at placement options in the meantime. They added the Secondary Special Education Coordinator would be able to give the Parents updates once they knew more.
13. On September 16, 2025, Parent 1 emailed the School Psychologist and asked when the Secondary Special Education Coordinator would be available to talk about the RWA and PWN. The Secondary Special Education Coordinator replied to Parent 1, stating they were out sick and could talk when they returned. Parent 1 emailed back and asked to speak with the School Psychologist since the Secondary Special Education Coordinator was not available.
14. On September 17, 2025, the School Psychologist emailed Parent 1 back and stated they were unable to talk with Parent 1 that day, and added the Secondary Special Education Coordinator would be back the next day.
15. On September 17, 2025, according to the Special Education Teacher's communication log, the Special Education Teacher emailed the Parents at 8:18 a.m. the work they had requested for the Student. Parent 1 replied at 2:10 p.m. with, "Thanks."
16. On September 19, 2025, the Secondary Special Education Coordinator emailed the Parents to inform them they had a meeting with Placement Option 1 on September 26, 2025, at 11:00 a.m. and asked if the Parents were available to meet virtually. The Secondary Special Education Coordinator added they were "also exploring other placement options." Parent 2 emailed back to say they were available.
17. On September 22, 2025, the LEA issued a PWN, which indicated the following:
    a. Proposed or refused action: The Parents had requested consideration of a homebound, OCES placement for the Student until an out-of-district placement could be secured. The LEA denied OCES.
    b. Explanation: The Student required "a highly structured setting with established routines and relationships." OCES would require the Student to change routines twice and work with unfamiliar staff. The Student could continue services at the School "pending an out-of-district placement."
    c. Options considered:
        i. Providing OCES to the Student, which was rejected because it would require a transition to a short-term placement during which the Student would work

with unfamiliar staff members and then would transition again to another placement.

ii. Return to the School for services outlined in the Student's IEP, which was rejected because the Parents elected to not access services at the School pending an out-of-district placement.

d. Basis for decision: IEP services, behavior intervention plan, and most current evaluation.

e. Other factors: The PWN reiterated the Student received services in a "Structured Learning Classroom (SLC)," per their IEP, due to their need for a "highly structured setting with established routines and relationships." The PWN also added the Student was not receiving services while they were not attending school.

f. Documentation indicated the form was emailed to parents.

g. None of the options requiring parental consent were selected on the form.

18. On September 22, 2025, the Parents emailed the School Psychologist regarding the PWN and RWA dated September 15, 2025, stating they disputed "the District's characterization that [the Student's] removal from [the School] was a unilateral decision." They stated the Student's removal was due to unsafe conditions at the School, "including inappropriate physical handling by staff." Parent 2 stated that because the LEA was looking for placement options, it contradicted the School, stating they were "ready, willing, and able" to implement the Student's IEP at the School. The Parents added their "requests for homebound services and written homebound guidelines" were denied or ignored. They stated they had not received the guidelines. Parents stated they requested homework to be sent home multiple times and had "finally received some," but stated the delay deprived the Student of access to educational materials. The Parents also stated the LEA limited communication to "one-way written explanations," which prevented the Parents from "engaging in a meaningful dialogue."
19. On September 23, 2025, the Parents emailed the Secondary Special Education Coordinator expressing their disagreement with the PWN rejecting OCES. The Secondary Special Education Coordinator documented in their communication log they had discussed those concerns the same day in a phone call.

Parent 2 Interview

20. In an interview with the Complaint Investigator, Parent 2 reported the District provided "one-way responses," meaning staff often responded to anticipated questions via email at the end of the day or failed to return voicemails, which prevented verbal conversation. Their primary concern involved an RWA form and a PWN sent by the LEA, stating the Parents had "unilaterally declined" services. Parent 2 explained the services were declined not due to the IEP itself, but because of safety concerns regarding the assigned school environment, a nuance they felt the document's language failed to capture. Despite multiple attempts through email and voicemail to discuss the language

of the form and gain clarity, the Parents were never afforded a direct conversation with any staff member to address their specific concerns about the documentation.

21. Parent 2 explained the Student was without educational services for a period of three weeks following the incident and a two-day suspension. Parent 2 reported the District initially declined their requests for supplemental homebound services and did not provide the guidelines or reasons for the denial. Parent 2 noted it was not until after they filed the complaint the LEA began sending homework, which they described as inadequate, consisting of printed-out, pre-answered computer slides, not suitable for the Student's learning needs. Parent 2 mentioned the LEA recently (after the complaint period range) offered off-site tutoring and questioned why that was not an option earlier when the Student had been out of school and they requested homebound services. Parent 2 expressed concern that the LEA only offered the Student services, despite an earlier denial, after the complaint was filed.

Special Education Teacher Interview

22. In an interview with the Complaint Investigator, the Special Education Teacher stated they had the Student in their structured learning classroom for the 2025-26 school year.
23. The Special Education Teacher recalled the meeting held on August 29, 2025, with the Parents and the School staff to discuss strategies for addressing the Student's behavior. They described the Parents' practice of picking the Student up early at 1:00 p.m., and a plan was verbally agreed upon to gradually increase the Student's time in school, with the goal of achieving full-time attendance after winter break. The Special Education Teacher shared they had completed the necessary paperwork after the meeting, which had not been signed or predetermined, and explained they had planned to present this documentation to the Parents at a follow-up meeting that ultimately did not occur.
24. When asked about the events that took place after the meeting, the Special Education Teacher recalled that behavioral incidents occurred immediately before and after the strategy meeting, which they believed contributed to the lack of signed agreement. During the meeting, a staff member activated an emergency alert when the Student was outside. Things escalated when the Student hit a staff member after returning indoors. The Student had also spat at a peer as they returned to the room. The Special Education Teacher recalled they informed the Parents of this incident via phone call. They recalled later that the Student asked for a specific staff member, whom they had aggressed toward, to walk them out for early pickup. When this request was denied, the Student eloped from the classroom and then eloped outside toward a busy street, necessitating staff intervention to block access and safely return the Student to the back of the building. The Special Education Teacher shared that at this point, they had texted and phoned Parent 2. Parent 2 responded they would be coming to get the Student.

25. When asked about the work being sent home to the Student on September 17, 2025, the Special Education Teacher shared that they were instructed to send homework on September 16, 2025. They began sending work home digitally on a weekly basis on September 17, 2025. The work was from an "adaptive curriculum" which included a chapter reader, a math activity (or two), and a reading activity related to the news. They were unsure when the official request for work was made, as they were not the person the Parents initially reached out to.
26. The Special Education Teacher stated the Student was still on their roster and each day the Student was excused as "Parent Request."
27. When asked about communication with the Parents, the Special Education Teacher stated, "I [had] a lot of communication with the [P]arents." When they found out Parent 1 had requested the Student no longer attend the School, they added, "… I was directed by the middle school coordinator to hold off on communicating with [the] [P]arents." The Special Education Teacher shared since being instructed to send work, all their communication was done via email.
28. The Special Education Teacher was unaware of the Parents' request for homebound instruction, as they were not part of that request. The Special Education Director clarified the Parents requested a "unilateral placement of homebound services" via an email, and the LEA responded with a PWN outlining the Student required the specialized classroom setting to meet their needs. The Special Education Director also noted the Parents requested and maintained the 1:00 p.m. pickup and later requested the Student be kept at home while the LEA actively worked on finding an out-of-district placement tailored to the Student's needs, during which time the LEA honored the Parents' request for homework materials. The Student remained an enrolled student and was welcome to attend school for the full day if the Parents chose that option.
29. When asked if there was anything else they'd like to share, the Special Education Teacher added the Student pick up time [of 1 p.m.] was, "[P]arent initiated."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, provided the Parents with the criteria and reasons for its denial of homebound instruction. K.A.R. 91-40-26(a), K.S.A. 72-3430(b)(2), K.S.A. 72-3432; 34 § C.F.R. 300.503.

According to K.S.A. 72-3430(b)(2), and 34 § C.F.R. 300.50 the parents of exceptional children shall have the right to written prior notice whenever an agency proposes to initiate or change or refuses to initiate or change, and/or the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child.

According to K.A.R. 91-40-26(a) and K.S.A. 72-3432, and 34 § C.F.R. 300.503, the notice shall include a description of the action proposed or refused by the agency, and an explanation of

why the agency proposes or refuses to take the action. The notice must contain a description of other options that the agency or IEP team considered, along with the reasons those options were rejected. Additionally, it must include a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action. The notice shall include a description of any other factors relevant to the agency's proposal or refusal, as well as a statement that the parents have protection under the procedural safeguards of this act.

The Parents alleged that on September 9 and 12, 2025 they requested homework and interim instruction be provided by the LEA while placement options were being determined. They alleged the LEA did not provide "an explanation of why our [child] did not qualify" despite the requests. The LEA stated they provided a PWN for the request for OCES.

Regarding the criteria and reasons for denying homebound instruction, the LEA did not violate the core PWN requirements. The PWN issued on September 22, 2025, provided a clear and explicit explanation for the refusal of OCES/homebound instruction. The LEA articulated the Student required a "highly structured setting with established routines and relationships," and that OCES was inappropriate because it would necessitate two disruptive transitions and placement with unfamiliar staff, which contradicted the Student's documented needs. Furthermore, the PWN documented the other options considered, OCES and the Student's return to the School, and the specific reasons why those options were rejected. Although the Parents repeatedly requested the separate written homebound guidelines and did not receive them (a procedural oversight), the PWN itself successfully articulated the specific criteria and rationale that governed the denial, thereby satisfying the essential regulatory mandate to communicate the reasons for its refusal.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Parents with the criteria and reasons for its denial of homebound instruction.

Issue Two

> Whether USD #512, in accordance with state and federal regulations implementing the IDEA, denied the Parents meaningful participation by limiting "communication to one-way written statements, not interactive dialogue." K.A.R. 91-40-17; 34 §§ C.F.R. 300.322, 300.501.

According to 91-40-17, and C.F.R. 300.322, 300.501, each agency shall take steps to ensure that one or both parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place, and providing written notice to the parents of any IEP team meeting at least 10 days in advance of the meeting. The notice shall indicate the purpose, time, and location of the IEP team meeting, the titles or positions of the persons who will

attend on behalf of the agency, and include, if appropriate, any other agency invited to send a representative to discuss needed transition services.

If a parent of an exceptional child cannot be physically present for an IEP team meeting, the agency shall attempt other measures to ensure parental participation, including individual or conference telephone calls. An agency shall take action to ensure that parents understand the discussions that occur at IEP team meetings.

The Parents alleged communication from the LEA was "one-way," consisting of written responses, and not via an "interactive dialogue." However, LEA staff asserted they have communicated with the Parents through a variety of formats, including in-person and virtual meetings, phone conversations, and email correspondence. Additionally, the LEA stated they responded to parental requests for information and clarification in a timely manner, and provided written documentation of decisions and proposals as required by the IDEA, to supplement, not replace, interactive discussions.

The District provided multiple, specific opportunities for interactive dialogue, particularly in the initial stages, including a meeting on September 3, 2025, to discuss the Parents' concerns, and numerous communication exchanges via email, text, and phone throughout September 2025. The Parents initiated the disruption in services by making the unilateral, "non-negotiable" decision to remove the Student from the School, which then shifted the nature of the District's obligation from providing a FAPE to documenting the new status (via the RWA letter and PWN) and exploring placement options. When the Parents sought further dialogue to challenge the specific language of the RWA and PWN on September 16 and 17, 2025, staff unavailability due to reasonable circumstances, such as illness or prior commitments, temporarily delayed the interactive follow-up. However, the Parents utilized the procedural rights afforded to them by disputing the documentation via email, and the District continued to engage in active steps to find a new placement and provide work for the Student. Given the frequency of overall communication and the reasonable justification for brief delays, the District met the requirement under IDEA to afford the Parents the opportunity to participate in decisions and communications regarding their child.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is not substantiated* that the LEA denied the Parents meaningful participation.

Issue Three

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, provided a FAPE when it denied homebound instruction and failed to provide the Student with tutoring, homework, or educational services for more than three weeks. K.A.R. 91-40-1(z); 34 §§ C.F.R. 300.17, 300.101

According to K.A.R. 91-40-1(z), and 34 §§ C.F.R. 300.17, 300.101, a "Free appropriate public education" and "FAPE" mean special education and related services that meet the following

criteria: are provided at public expense, under public supervision and direction, and without charge, and meet the standards of the state board.

The Parents alleged their child was without educational services for three weeks. They requested homework and interim instruction on September 9 and 12, 2025, while the LEA considered placement options, but, according to the Parents, these services were not provided.

The LEA maintained they remain "ready, willing, and able" to provide the Student with a FAPE in accordance with their current IEP at the School. The LEA stated, "The services and supports outlined in the IEP are available and have been offered consistently." Despite this, the LEA claimed the Parents have made the "unilateral decision" to keep the Student at home while the possibility of an alternative placement is explored. Still, the LEA stated they have provided homework for the Student as requested and have sought alternative placements to address the Parents' concerns.

The Student's lack of attendance from the beginning of September 2025 onward was the result of the Parents' unilateral decision to remove the Student from the School due to perceived safety concerns. The LEA correctly maintained that its FAPE obligation remained at the Student's existing placement and documented this position in the RWA letter and subsequent PWN. The denial of homebound/OCES was justified, as the LEA asserted the Student's documented need for a "highly structured setting with established routines and relationships" precluded the temporary, less structured OCES placement. According to the information provided, the Parents requested homework on September 12, 2025, the Special Education Teacher received instructions to send materials on September 16, 2025, and began doing so on September 17, 2025. Because the Parents unilaterally removed the Student, the District's primary FAPE obligation remained at the School with the existing IEP, and the denial of OCES was justified based on the Student's need for a structured setting.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide a FAPE to the Student.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233, OLATHE PUBLIC SCHOOLS
ON NOVEMBER 10, 2025

DATE OF REPORT: DECEMBER, 10, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #233 (Olathe Public Schools) on behalf of ------- by her mother -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the parent" or "the complainant."

The complaint is against USD #233 (Olathe Public Schools). In the remainder of the report, USD #233 will be referred to as "the Local Education Agency". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." Local Education Agency staff will be referred to In the remainder of this report as follows:

- Ashley Niedzwiecki, Assistant Director of Special Services
- Andy Heinicke, Special Education Coordinator
- Julie Lee, School Psychologist

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on November 10, 2025.

Evidence Reviewed

This complaint was originally assigned to another KSDE investigator, but was reassigned to Dr. Donna Wickham, when the previous investigator had to excuse herself from completion on November 19, 2025. During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent. The investigator interviewed the parent by phone on December 1, 2025 and the Assistant Director of Special Services, Special Services Coordinator, and School Psychologist for USD #233 on December 4, 2025 as part of this investigation.

The following materials predated the one-year consideration and were reviewed for context: 1) Academic Language–Reading Evaluation, dated February 10, 2022; 2) OT Outpatient Evaluation, dated March 23, 2022; and a letter from the Student's primary care physician, dated March 31, 2022 but were not used in consideration of the findings and conclusions of the investigation.

The following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. District Response dated November 21, 2025
2. Evaluation report, dated January 15, 2025
3. Individualized Education Program (IEP), dated January 24, 2025
4. Prior Written Notice and Request for Consent (PWN), dated January 24, 2025, signed consent by Parent on January 24, 2025
5. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, dated November 4, 2024, signed consent by Parent on November 11, 2024

Background Information

The subject of this complaint is a ten-year-old, fifth-grade student during the 2025-2026 school year who lives at home with their mother.

The Student's most current Evaluation Report date January 15, 2025 confirms the Student qualifies for special education services under the eligibility category of specific Learning Disability. The Student has been medically diagnosed with dyslexia, dysgraphia, and ADHD. The Student's most current IEP dated January 24, 2025 includes seven accommodations for learning and testing and four goals in reading, writing and mathematics. The IEP lists 60 minutes of special education services 5 days every week in the general education classroom, 60 minutes of special education services 5 days every week outside the general education classroom and 20 minutes of special education services 2 days every week outside the general education classroom. In addition, the Student receives 10 minutes of indirect Occupational therapy services one time every four weeks.

It is noted that the Student was initially diagnosed with dyslexia on February 10, 2022 during an Academic-Language-Reading evaluation at a Hearing and Speech Clinic at a hospital clinic. The Parents reported in the February 10, 2022 evaluation report that the Student was struggling with reading, spelling, math, and handwriting. The following findings were reported: 1) voice, articulation/phonology, phonological processing, phonological awareness, and receptive language were within normal limits. A mild deficit was found with phonological memory and rapid naming. As a result, the report stated, "Reading: Given findings from this evaluation, a diagnosis of dyslexia is appropriate." The report further stated the following areas of impaired reading: 1) phonological memory, 2) rapid naming, 3) sight word reading, 4)

phonemic decoding, 5) word reading accuracy, 6) word reading rate, 7) spelling regular words, 8) spelling irregular words, 9) paragraph reading accuracy, 10) paragraph reading rate, 11) reading fluency, and 12) reading comprehension. Educational recommendations were provided with the report. An occupational therapy evaluation was conducted on March 23, 2022 at an outpatient occupational therapy clinic at a hospital setting. Limitations were noted and outpatient therapy and a home exercise program were recommended. The Student was diagnosed with dysgraphia on March 31, 2022, based on the stated reason for the visit with the Student's primary care physician as, "Diagnosed with dysgraphia and needing the diagnosis from pcp as well." .

Issues Investigated

Issue One

Did USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to follow IDEA regulations when it did not identify the academic areas of Dyslexia and Dysgraphia in the exceptionality section on the student's current IEP?

Applicable Law

According to KA.R. 91-40-10(b) and KSDE guidance, districts are required to report eligibility within the evaluation report. There is nothing in state or federal regulation that requires eligibility categories or subcategories to also be reported on a student's IEP. To the contrary, a KSDE reference document states:

> *"When the initial evaluation and eligibility determination are completed, the evaluation team must prepare a written evaluation/eligibility report. The report must include not only the evaluation results but also document the eligibility determination. The evaluation report serves as the documentation of the child's eligibility. The evaluation report and the documentation of eligibility must be provided, at no cost, to the parent (KAR 91-40-10(b); 34 CFR 300.306(a)(2))." The document further states, "It is not required that the specific category of exceptionality be identified on any special education forms that parents would see." (KSDE Eligibility Indicators, version 5.9, pg. 54 (July 2025))*

The Kansas Special Education Process Handbook says, "Kansas regulations, at K.A.R. 91-40-10(a)(1)(A), require that the evaluation report include a statement as to whether the child has an exceptionality. These regulations do not require that the evaluation report include the particular category of exceptionality in which the child has been identified."

Parent Position

The child complaint stated that while the January 15, 2025 Evaluation Report of the Student confirmed Specific Learning Disability (SLD) as the eligibility category and explicitly stated the

Student "meets the criteria for Dyslexia" the Student's IEP does not list any SLD qualifying areas, does not list sub-areas, omits specific academic areas of impact. Specifically, the Student's mother alleged that the Student's confirmed diagnoses of Dyslexia and Dysgraphia are only listed under the parent report section, not under the exceptionality section. The Parent alleges that these errors prevent the IEP team from creating appropriate goals and supports for the Student's IEP.

Local Education Agency Position

The LEA responded in their November 21, 2025 response that the eligibility determination was written in the Evaluation Report dated January 15, 2025 documenting the Student's eligibility for special education services. The LEA further responded that there is nothing in the state or federal regulation that requires eligibility categories or subcategories to also be reported on a student's IEP.

Analysis: Findings of Fact

1. The Evaluation Report dated January 15, 2025 summary section documents, " …[Student] has an active IEP due to Dyslexia and a Specific Learning Disability in Math. Current data indicates that [Student] continues to qualify in these areas although [student] is making progress. [Student] has made significant progress in visual motor skills. [Student] will continue to benefit from consultative support through occupational therapy. [Student] would benefit from specially designed instruction." The evaluation team reached consensus that the Student exhibits the following exceptionality: Specific Learning Disability. The Specific Learning Disability Eligibility Determination documents that the Student was found eligible as a student with a Specific Learning Disability (SLD).
2. The Evaluation Report states that the Student has been diagnosed with ADHD, dyslexia, and dysgraphia in the Student Health Records section as reported by the Parents. The LEA staff stated during their interview with the Investigator on December 4, 2025 that they do not have documentation with the dysgraphia diagnosis but agreed the student had needs in writing and dysgraphia falls under the umbrella of dyslexia.
3. The IEP dated January 24, 2025 documents the Student qualifies for Special Education services under the exceptionality of specific learning disability (page 16) and refers to the impact of the Student's specific learning disability in the present level of academic and functional performance. Further, in the Relevant Medical Information section it is documented that the Student has been diagnosed with has been diagnosed with ADHD, dyslexia, and dysgraphia. The Math Current performance section (page 3) identifies gaps in 2nd and 3rd-grade math skills which lead to difficulty in understanding more advanced math concepts. struggles in organizing thoughts and complete word problems without help from the teacher. Further, this section states that the Student's specific learning disability (SLD) affects [student's] ability to retain and apply foundational math skills. Baseline reports Grades 2 and 3 numbers and operations and word problems. The Student's current performance in reading report struggles recognizing and applying various phonic patterns, which impact reading

fluency and writing abilities. It is written that the Student's specific learning disability significantly impacts the Student's ability to engage with the general curriculum, especially in reading and writing tasks. The inconsistency in understanding phonics patterns hinders the Student's ability to read fluently, comprehend texts, and express ideas effectively through writing. The current performance for spelling report difficulties with spelling that hinder the Student's writing fluency and ability to express ideas through writing with reported baseline. In writing, current performance records difficulties when expressing ideas through writing. When given writing prompts, the Student often rushes to complete responses, leading to simplified thoughts, spelling errors, and lack of details/vocabulary. Overall, the Student struggles to convey complex ideas and demonstrate writing skills at grade level.

4. The PWN dated January 24, 2025 section about a Description of Action Proposed or Refused records ," Continues to be eligible under the category of Dyslexia and Specific Learning Disability in Math Calculation." Parental Consent was signed on January 24, 2025.

Conclusion

Based on the foregoing, it is found that the Local Education Agency met the Kansas and federal regulations in writing the exceptionality section of the Student's current IEP and *is IN compliance*. No corrective action is required.

Issue Two

Did USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to follow the IDEA and KSDE regulations to develop an appropriate IEP, providing specially designed instruction aligned, services and supports to the student's disability needs?

Applicable Law

Federal regulation at 34 C.F.R. §300. 306(2) and state statute at K.S.A. 72-3429 state that when developing a child's IEP, the IEP team shall consider: (1) The strengths of the child and the concerns of the parents for enhancing the education of their child; (2) the results of the initial evaluation or most recent evaluation of the child; (3) the academic, developmental and functional needs of the child; (4) in the case of a child whose behavior impedes the child's learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior; (5) in the case of a child with limited English proficiency, the language needs of the child as such needs relate to the child's IEP; (6) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child's future needs for instruction in Braille or the use of Braille, that instruction in Braille or the use of Braille is not appropriate for the child; (7) the communication needs of the child, and in the case of a child

who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and (8) whether the child requires assistive technology devices and services.

KSDE reference documents note, "Once a child is identified as a child with a disability, determination of services to be provided are based on the child's needs, not on the child's label." The document continues, "For children determined to be eligible for special education and related services as a child with an exceptionality, the Present Levels of Academic Achievement and Functional Performance (PLAAFPs) of the IEP should contain the evaluation information that describes the child's needs." "The PLAAFPs must include information regarding academic achievement, functional performance, and the impact of the exceptionality on the child's ability to access and progress in the general education curriculum." (KSDE Eligibility Indicators, version 5.9, pg. 5 (July 2025))

Parent Position

The complainant alleged that while the evaluation showed significant deficits in foundational reading skills such as decoding, encoding, spelling, reading comprehension, handwriting and written expression with Dyslexia and Dysgraphia, the IEP goals does not include structured literacy, decoding, fluency, spelling, comprehension, spelling, or writing. Further, the goals are generic and unrelated to the Student's disability and provides minimal or inappropriate services. Finally, the accommodations do not target Dyslexia or Dysgraphia needs, and the specially designed instruction is not based on the Student's evaluation.

Local Education Agency Position

The LEA responded that following the reevaluation on January 15, 2025, the IEP team met to develop an IEP. The LEA contends that the Student's IEP contains a sufficient amount of information, from a variety of sources and includes information related to the Student's reading, writing, math, and spelling. It accurately reflects the Student's exceptionality as evidenced by the information contained within the Present Levels of Academic Achievement and Functional Performance on the IEP, which included information regarding the Student's strengths, weakness, baseline data, and impact of exceptionality related to reading, writing, math, and spelling. The LEA further responded that the IEP addresses the Student's unique needs through specially designed instruction and contains goals and accommodations for reading, spelling, math, and writing based on the Student's educational needs. The LEA stated that the IEP does not name a specific structured literacy program for reading, however that is not required to be included in an IEP, however, in the January 24, 2025 PWN the IEP team discussed structured literacy curriculums.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference.

The Evaluation Report dated January 15, 2025 presents the findings of the special education re-evaluation in the areas of reading, math, writing, spelling, and fine motor. The areas are evaluated through standardized testing, observation, and state assessments. As well, progress from the previous IEP are reported.

The IEP dated January 24, 2025 contains the following:

(1) The strengths of the child are categorized under the following headings: Math, Social/Emotional, Reading, Writing/Spelling, and Fine Motor. The concerns of the parents for enhancing the education of their child are recorded on page 6 as "[Parent] knows that [Student] needs support in phonics and Dyslexia. However, she is concerned that [Student] will not be making progress unless [Student's] goal is on grade level. She wants to ensure that fluency and comprehension are addressed through the IEP. She would like the team to review the recommendations from [2022 evaluation report] and ensure [Student] is receiving instruction through the correct curriculum. [Mother] is concerned about [Student's] progress in written language. She wants to ensure that [Student] works on [Student's] written language skills and does not rely too heavily on a speech-to-text device. [Mother] would like a goal to address [Student's] written expression skills to ensure [Student] is progressing. [Mother] shared that [Student] does have a lot of anxiety about testing and she knows this can impact [Student's] performance. [Mother] also requested that the math goal be specific and ensure it covers math application skills. Concerns for the amount of time spent out of the classroom were also addressed during the meeting.

(2) It is checked "yes" on page 6 that the team considered the results of the most recent evaluation of the child. (page 6)

(3) Pages 3-5 of the IEP list the "Needs as They Affect Learning" section as Current Performance, Impact of Exceptionality and Baseline for Math, Reading, Writing, and Fine Motor. They are copied and/or paraphrased from the January 15, 2025 report.

(4) It is checked "no" that the Student has behavior that impedes the child's learning or that of others in needing to consider positive behavior supports.

(5) It is checked "no" that the Student has limited English proficiency to consider instruction.

(6) It is checked "no" that the Student is blind or visually impaired to consider Braille or other vision accommodations or instruction.

(7) It is checked "no" that the Student is deaf or hard of hearing to consider sign language or other hearing accommodations.

(8) It is checked "no" that the Student requires assistive technology devices and services.

The IEP dated January 24, 2025 lists four goals,

1. When given a list of 30 words containing previously taught phonic patterns (examples below), [Student] will read the words with 85% accuracy across 2/3 data days by 1.14.26. The LEA staff stated that this goal addressed the Student's needs for phonemic awareness, decoding and fluency.

2. When asked to write 20 words that contain previously taught phonic patterns CVC, Digraphs/Blends, glued endings ng/nk, letter teams, silent e, open syllable, and suffixes (s, es, ed, ing, er, est, en, ish, ly, y, full, ness, less) [Student] will spell the words with 85% accuracy across 2/3 data days by 1.14.26. The LEA staff stated that this goal addressed the Student's needs for phonemic awareness, and writing skills (fine motor and legibility) as well as incorporating phonic basics with writing.

3. When given 10 two-step word problems using all operations, [Student] will accurately solve the problems independently using pre-taught strategies and manipulatives with 80% accuracy across 2/3 data days by 1.14.26. The LEA staff stated that this goal addressed the Student's needs for numerical operations and using math vocabulary to solve word problems. It focuses on application.

4. After reading a passage at her instructional level, [Student] will brainstorm (about 1 minute), write a response (3 minutes), and edit her work (about 1 minute) to write 22 correct writing sequences on 2/3 samples by 1.23.26. The LEA staff stated that this goal addressed the Student's needs for in executive functioning for organization, the conventions of spelling, writing, written expression and is consistent with many of the skills identified with a student with dyslexia.

The LEA staff stated that the District uses an Orton-Gillingham based reading program that is consistent with the 2022 initial dyslexia diagnosis, but the Student's foundation of specially designed instruction is the goals and special education services specific to the Student's identified needs as written in the IEP.

The IEP dated January 24, 2025 lists seven accommodations to include: 1) accommodated assignments and assessments (word work, Math Module assessments, reading responses, etc. since the Student's current math and reading levels are below peers. This accommodation in math, reading and writing may be needed to accommodate the current level. 2) additional adult support to assist with checks for understanding, attention to task, work correction, and completion during independent math, writing and reading activities. 3) alternative ways to respond to writing since the student's current phonic and encoding skills hinder quick rate of completing writing tasks and readable level. Speech-to-text, oral responses, word banks and other ways to respond to writing. 4) Read Aloud during reading tasks above grade level and for directions. 5) Extended Time on work tasks and tests. 6) Chunked/ work cut apart during math, reading, writing work and tests. 7) Occupational therapist consult with the team regarding

handwriting supports including using district device to access voice to text to support student's participation in writing tasks and activities.

Conclusion

It is found that the Local Education Agency developed an IEP that is based on the Student's most current re-evaluation and data and student performance. Further, it is found that the Student has goals developed for decoding or phonological instruction, writing, math, comprehension spelling, and writing. The Student receives structure literacy using a District program that is based on the Orton-Gillingham reading program, but more importantly receives specially designed instruction to support that program and address the Student's academic and functional needs. The Student's accommodations do address accommodations for the student's reading, writing, spelling, and math needs. According to federal and state regulation the LEA did develop an appropriate IEP, providing specially designed instruction, aligned services and supports consistent with the Student's disability needs and *is IN compliance*.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of KA.R. 91-40-10(b), K.A.R. 91-40-10(a)(1)(A) and KSDE guidance and was not found. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. §300. 306(2), state statute at K.S.A. 72-3429 and KSDE Eligibility Indicators, version 5.9 was not found. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON NOVEMBER 3, 2025

DATE OF REPORT: DECEMBER 8, 2025

This report is in response to a complaint filed with our office on behalf of a student, ------- by their guardian, -------. In the remainder of the report, the student will be referred to as "the Student" and the guardian as "the Parent."

The Complaint is against USD #437 Auburn/Washburn Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #437.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on November 3, 2025, and the 30-day timeline ended on December 3, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #437, in accordance with state and federal regulations

implementing the Individuals with Disabilities Education Act (IDEA), failed to ensure special education services were managed and delivered by licensed and qualified staff. K.A.R. 91-1-203, K.S.A. 72-3404(j) ; 34 § C.F.R. 300.156(a)(c)(1)(2).

ISSUE TWO: Whether USD #437, in accordance with state and federal regulations

implementing the IDEA, denied the Parent participation when the LEA switched the special education case manager immediately and without including the Parent in that decision. K.A.R. 91-40-17; 34 § C.F.R. 300.501(b).

ISSUE THREE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, failed to provide the Parent with prior written notice (PWN) when the

LEA changed the case manager. K.A.R. 91-40-26 (a)(b), K.S.A. 72-3430(b)(2); 34 § C.F.R. 303.421 (a)(b), 34 CFR §300.503(a)(b).

ISSUE FOUR: Whether USD #437, in accordance with state and federal regulations

implementing the IDEA, failed to provide the Student with a Free Appropriate Public Education (FAPE) due to the IEP allegedly being implemented by unqualified personnel. K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on November 21, 2025 and Parent 2 on November 20, 2025. The following LEA staff were interviewed on November 24, 2025: the Case Manager, the Assistant Principal, and the Director.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Program (IEP), 12/17/24
2. Email, re: Bus Incident 10/9/25: Request to Review Video and Address Safety Concerns, 09/30/25-10/10/25
3. Email, re: Amendment Proposal, 09/30/25-10/01/25
4. Email, re: Bus 9/19/25 [the Student] and [another student], 09/21/25-10/07/25
5. Email, re: New Case Manager, 09/18/25-09/21/25
6. Email, re: Email Forwards on my Complaints about [the Student], 08/11/25-09/02/25
7. Email, re: August 27 2025 Bus Event [the Student] Early Release and Behaviors, 05/09/25-08/28/25
8. Email, re: Course Selection for [another student], 05/22/25-06/04/25
9. Email, re: Urgent District-Level Concern: IEP Violations and Request for Immediate Action for [the Student], 05/09/25-05/28/25
10. Email, re: Follow up, 05/16/25
11. Email, re: I'm so Sorry, 05/14/25-05/16/25
12. Email, re: Updates [the Student]/Doctors Not[e] 4.24.25, 04/25/25-04/29/25
13. Email, re: Concerns Regarding [the Student's] Behavior Reports and Support, 03/07/25
14. Health Occupations Credentialing Verification of License, 06/24/21-10/31/26
15. American Speech-Language-Hearing Association Certification, 12/31/25
16. Emergency Substitute License, 02/06/25-06/30/26
17. Primary Source Verification, 06/21/21-03/31/26
18. Emergency Substitute License, 08/15/25-06/30/26
19. Occupational Therapist License, 03/30/25-03/31/26

20. QuickConfirm License Verification Report, 08/21/91-03/31/27
21. List of Staff Licenses Included, various dates
22. Staff and Training, no date

Background Information

This investigation involved a high school-aged student enrolled at Washburn Rural High School in USD #437. The Student is currently receiving special education or related services as a child with a primary disability of autism and secondary disability of intellectual disability, per the IDEA. Toward the beginning of the 2025-26 school year, the Parent was notified by the Assistant Principal the Student's case manager would be changing. Upon researching the Case Manager's teaching license, the Parent discovered it was an "emergency substitute license" through the Kansas State Department of Education and subsequently filed the Complaint.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parents and staff in the LEA.

1. The Student's December 17, 2024 IEP noted a primary disability of "Autism" and a secondary disability of "Intellectual Disability." IEP team meeting participants included the General Education Teacher, the Former Case Manager, the LEA Representative, the Former Occupational Therapist (OT), the Case Manager (in the role of behavior technician (BT)), the Parent, and the Adapted PE Teacher (in the role of Special Education Teacher). The following were relevant items included in the IEP:
    a. Transition services were present.
    b. Eight goals were included in the IEP, with four of them specific to Extended School Year (ESY). Goals were relevant to math, English Language Arts (ELA), communication, and fine motor skills.
    c. The parent input section noted the Parent's input would be emailed.
    d. The Behavior Intervention Plan (BIP) and Positive Behavior Supports included the following relevant items:
        i. Problem behaviors, precursor behaviors, setting events and antecedents, hypothesis of behavior function, and replacement behaviors were each outlined specifically to the Student's needs.
        ii. "Proactive strategies: What should staff do to prevent the problem behavior?" were noted as:
            1. "Ensure that [the Student] has access to two staff members who are trained in de-escalation strategies and who are familiar with [their] routines and behavior plan."
            2. "Ensure that [the Student] has access to two staff members who know how to access additional help for emergent situations, such

as knowing the number for the office and knowing the location of the intercom button."

3. "Ensure that staff are aware of the [Pro Re Nata or 'as needed'] PRN medication that the nurse keeps available to [the Student]."
4. Pre-teaching routines, educating the Student in a familiar setting, visual separation from distraction, pre-teaching common phrases for expectations, verbal reminders of expectations, frequent non-contingent breaks, choices, hallway walks, reinforcement, social stories, "describe, name, acknowledge," provide icons, least-to-most prompting, errorless teaching, teach on-task behavior, and teach boundaries were listed strategies to be used.
5. Instructions for sleep, bathroom, "gym eating inedible object," and bussing were included.

iii. "Reactive Strategies: What should staff do if the problem behavior occurs?" were noted as:

1. "At [the] first indication of aggressive behaviors, such as head banging and whining, contact the nurse to administer PRN medication. This should be a known procedure by [the Student's] staff, administration, and the nursing staff, to prevent questions during a time of crisis."
2. Reminders of expectations, visuals, changing the activity, offering preferred items, offering breaks, and a clear directive to go to the "calm down space" were included.
3. Instructions for sleep, bathroom, "gym eating inedible object," aggressive behaviors in and out of the classroom, and bussing were included.

iv. Data collection methods included daily data collection, Antecedent Behavior Consequence (ABC) data and "data will be shared with family on a daily basis; a daily sheet outlining [the Student's] schedule and providers [they are] working with will be sent home daily."

v. Staff training procedures were:

1. "Include necessary staff training in the IEP."
2. "[The Student] has a PRN medication kept by the nursing staff. This should be a known procedure by [the Student's] staff, administration, and the nursing staff, to prevent questions during a time of crisis."
3. "A staff member who is [Crisis Prevention Intervention] CPI trained should oversee de-escalation when [the Student] is in crisis."
4. "New staff working with [the Student] need to be trained on de-escalation strategies."

5. "At the beginning of the year, staff working with [the Student] will need to know the strategies [the Student] responds best to; how [they] learn, and information regarding [their] education."
6. "Staff will have access to [the Student's] behavior plan."

e. ESY was deemed necessary based on current and available data.
f. There were 19 program modifications and supports listed.
g. Special transportation was required, and considerations were outlined.
h. Relevant services listed were:
    i. "School nurse services," provided by the school nurse, 8 minutes per day for 5 days every week.
    ii. "Attendant Care- A non-instructional paraeducator," provided by the special education classroom teacher, 27 minutes per day for 5 days every week.
    iii. "Attendant Care- A non-instructional paraeducator," provided by the special education classroom teacher, 64 minutes per day for 5 days every week.
    iv. "Occupational Therapy," provided by the occupational therapist with direct service for 20 minutes per day for 1 day per week and indirect service for 15 minutes per day for 1 day every 4 weeks.
    v. "Adapted PE," provided by the special education classroom teacher 20 minutes per day for 1 day every 2 weeks.
    vi. "Speech and Language as a related service," provided by a [Speech Language Pathologist] SLP, 15 minutes per day for 3 days every week.
    vii. "Special Education Services" provided by a special education classroom teacher for the following:
        1. 144 minutes per day for 5 days every week.
        2. 149 minutes per day for 1 day every week.
        3. 169 minutes per day for 2 days every week.
        4. 184 minutes per day for 2 days every week.

2. In a March 7, 2025 email to the Former Case Manager, the Parent indicated they found out the BT for the Student was changing and noted they had "not received any communication regarding this transition." They inquired about the timeline of the transition, along with who it would be and what their training was, noting the Student's IEP "specifies [the Student] requires a trained [BT]."
3. In an April 29, 2025 email reply to the Parent who was inquiring about support staff following the Student's food plan, the LEA Representative relayed the Former Case Manager was not at work, "but in the meantime, I will connect with [the Student's] support staff to review their current procedures."

4. In a May 16, 2025 email to the Former Case Manager, the Parent stated "The [BT] working with [the Student] does not appear to understand [the Student's] IEP or how to implement it."
   The Former Case Manager replied to the Parent the same day and indicated they had a meeting with the Behavior Technician, the Former Behavior Technician, and the Principal to discuss "key details" about the Student's care, provide some insight, and "[The Behavior Technician] and [the Former Behavior Technician] very much care about doing a good job for [the Student]."
5. In a May 26, 2025 email to the Parent, the Former Case Manager mentioned "[the Case Manager] will be back at the high school next year to run the [behavior] classroom and has requested to be back in rotation with [the Student]."
6. In a May 28, 2025 email to the Director, the Parent requested an employee "not be involved in any part of the assessment process" for the Student due to "prior experience … that raised serious concerns, including a document [they] submitted to the [KSDE] that contained false information."
7. In an August 22, 2025 email to the Parent, the Director assured them the Student's Functional Behavior Assessment (FBA) would be "completed by a qualified school psychologist. The district determines which personnel conduct FBAs based on expertise, availability, and scheduling in order to make the best use of resources. For this FBA, a school psychologist who is employed by [the LEA] but does not work at [the School] will be assigned."
   The Parent replied the same day and noted their concern about the BT working with the Student, who "was not trained in restraints/CPI [and] is not supposed to be performing these actions. … [The Student's] BIP was not followed." They added on August 20, 2025, the Student "hit [the Bus Paraeducator] and became physically aggressive with [themself] while on the bus" and the Bus Paraeducator is "mostly on [their] phone or computer rather than supervising [the Student]" during bus rides.
8. In an August 27, 2025 email to the Parent, the Director relayed that on the afternoon bus, the Student engaged in "hitting and head-banging behaviors" and the support staff "provided reminders and reassurance and followed the behavior plan, and once the bus was headed home, [the Student] calmed and no further incidents occurred."
9. In a September 18, 2025 email to the Parent, the Assistant Principal stated they were changing the Student's case manager, it would begin immediately, and the Case Manager "is aware and ready to help support."
   The Parent replied the same day and asked who made the decision and why it was made. The Assistant Principal replied on September 21, 2025 and stated, "All case management assignments are determined by the special education assistant principal. This ensures that students' needs are best supported and that staff responsibilities are balanced appropriately across the building. The change was made in that context, and the new case manager will continue to coordinate services and serve as your main point of contact."

10. In a September 23, 2025 email to the Case Manager, the Parent shared concerns about the Bus Paraeducator's "training on [the Student's] needs." The Case Manager replied they were not sure about the Bus Paraeducator's training, "but I will be working with [the Bus Paraeducator] moving forward to make sure [they are] up to speed."
11. In a September 30, 2025 email to the Parent, the School Psychologist, and the Assistant Principal, the Case Manager informed them about the creation of an amendment as a follow-up from the September 29, 2025 meeting. "As [the Student's] case manager, it is very important to me to get everything we discussed included in [the Student's] documentation." They asked the Parent to review the amendment and let them know if there were questions, concerns, or changes.
12. In an October 1, 2025 email to the Parent, the School Psychologist attached the PWN for the fidelity plan, noted it was a draft that "outlines our plan moving forward from now until the annual IEP review in December," and invited the Parent to let them know if anything needs to be added or changed.
13. In an October 6, 2025 email reply to the Parent, the Case Manager answered questions regarding the Student's "attendant care" at meals and the bus, noting meals were covered by special education teachers and a BT, while the bus is covered by the Bus Paraeducator, "who is receiving continuous training to make sure [they are] supporting [the Student] as per [their] IEP.
14. In an October 9, 2025 email to the Assistant Principal, the Parent described a situation on the bus where the Student was "physically aggressive toward the Bus Paraeducator" and "learned that [the Behavior Technician] noted [the Student] was 'hot' when [they] put [the Student] on the bus, meaning [the Student] was already escalated before boarding." The Parent added the incident raised concern about staff adherence to the Student's BIP and "it is also evident that the current plan and training approach are not working."

    The Parent requested a "certified [BT] on the bus, and for safety reasons, this should be a male staff member." The Assistant Principal replied they would work to get more specific information and would be in contact.
15. The following is relevant information regarding LEA employee licensure:
    a. The SLP had a verified "Speech Language Pathologist License" with an expiration date of October 31, 2026.
        i. They were a member of the American Speech-Language-Hearing Association with an expiration date of December 31, 2025.
        ii. They held a license through the Kansas State Board of Education as an "Emergency Substitute Teacher" effective August 15, 2025, with an expiration date of June 30, 2026.
        iii. They had a "primary source verification" from the American Speech-Language-Hearing Association, verifying they held a "Certificate of Clinical Competence" in SLP with an expiration date of March 31, 2026.

b. The Case Manager held a license through the Kansas State Board of Education as an "Emergency Substitute Teacher" effective August 15, 2025, with an expiration date of June 30, 2026.
c. The School Nurse held a Registered Nurse (RN) license with an expiration date of March 31, 2027.
d. The OT held an authorization to practice through the Kansas State Board of Healing Arts with an expiration date of March 31, 2026.
e. The Adapted PE Teacher held a license through the Kansas State Board of Education as a "High-incidence Special Education" teacher, effective December 10, 2024, with an expiration date of December 14, 2025 and a "Physical Education" teacher, effective June 14, 2014, with an expiration date of December 14, 2025.

16. In a summary of staff and training for the LEA, the following relevant information regarding training was listed:
    a. The Case Manager- CPI training expires June 14, 2026, and de-escalation training completed in August of 2025.
    b. The Former Case Manager- CPI and de-escalation training completed May 1, 2025.
    c. The BT- CPI training completed September 23, 2025, and de-escalation training on August 5, 2025.
    d. The Bus Paraeducator completed CPI training on October 16, 2025, and de-escalation training on August 5, 2025.
    e. Also noted was, "when the Student is working with a staff member who is not CPI trained (i.e. SLP, OT), [they are] also with a staff member who is CPI trained in order to be in compliance with the student's BIP."

Parent Interview

17. In an interview with the Complaint Investigator, the Parent stated their concerns involved the Case Manager holding an emergency substitute teacher license and not having the certification to be "the special education implementer of [the Student's] IEP." In addition, the Parent stated they had asked for the credentials for the Paraeducator but had not received that information. The Parent added they were concerned they couldn't "talk to anybody" on the Student's IEP team to learn how the Student was doing and whether the IEP was being implemented with fidelity.
18. The Parent described an IEP meeting they attended, during which they discussed the Student's accommodations and explained they had not received any documents showing the items they agreed on were "being implemented." The Parent reported the food plan was not being implemented. Additionally, they were not getting documentation regarding the Student's water intake. The Parent also recalled the Student being released early from class, which was contrary to the LEA's corrective

action. The Parent confirmed that the Case Manager was supposed to implement the IEP changes.

19. The Parent recalled the change in case managers occurred in September, [2025], and said the Assistant Principal made the decision. The Parent added, they never received "anything."
20. The Parent shared they did not want School Psychologist 2 to be involved in the assessment process for the Student because they had "provided false information" and "said things in writing" that were not accurate for a different child. The Parent clarified that complaints against School Psychologist 2 were pending and added it as a "conflict of interest."
21. The Parent indicated the LEA was not in compliance because it did not implement the changes to the IEP discussed at the September 29, [2025] IEP meeting for the Student. The Parent added the Case Manager was supposed to check off everything the Paraeducator did to ensure compliance, but stated the accommodation changes were not included in what the Case Manager was signing off on.

Parent 2 Interview

22. In an interview with the Complaint Investigator, Parent 2 stated their concerns regarding the implementation of the IEP, specifically the case manager change without a PWN. Parent 2 stated they had "no part" in the decision-making. Additionally, Parent 2 said they were concerned because the Case Manager was listed as an "emergency substitute" according to the Kansas Department of Education, and added, "the credentialing [was] not there." Parent 2 described the Student's needs as "very specialized" and explained the Student needed to have somebody to "implement that IEP correctly."
23. Parent 2 stated they were concerned the IEP was not being implemented, "or very little of it." They added, the Case Manager was "not knowledgeable enough" to implement the Student's IEP. Parent 2 described the communication plan as affecting the LEA's ability to communicate directly with them and added, as a result, Parent 2 did not know what the LEA was doing when it came to implementing the Student's IEP.
24. Parent 2 recalled attending an IEP meeting for the Student on October 28, [2025], during which amendments were made, and confirmed they did not receive a copy of the changes until they emailed after 14 days had passed. Parent 2 added the IEP team members who were supposed to attend this meeting did not attend.

Case Manager Interview

25. In an interview with the Complaint Investigator, the Case Manager described their CPI training, "The majority of it is talking about de-escalation and methods to use before we need to get into any sort of restraint." They noted they have completed behavior courses through Kansas Technical Assistance System Network (TASN), which was 40 hours of training that covers "de-escalation, behavior management, data recording, and then collaborative problem-solving." They detailed the collaborative problem-solving

training as "solving problems with students versus just putting down our authority and will on them."

26. When asked about their role with the Student's IEP, they noted they had worked with the Student previously as their one-on-one paraeducator for "a year and three quarters" and this familiarity with the Student has facilitated better knowledge of the Student's needs and increased collaboration with service providers. "It was a pretty natural choice for me to be [the Student's] case manager." They indicated they facilitate the IEP meetings, reach out for parent input, adjust goals when needed, collect data, and ensure the Student can be successful at the School.
27. The Case Manager confirmed they had an emergency substitute teaching license and were finishing their degree at a university. They shared they have received "ongoing professional development through [the LEA]" and "[The LEA] has a very wonderful handbook that lays out anything and everything we need to do as a case manager, step-by-step."
28. The Case Manager stated, "I don't think there's really been a whole lot of change" in the quantity, quality, or consistency of the Student's special education and related services since changing case managers. "[The Student's] IEP has been followed through with from the start. … [The Student's] plan has been followed through with fidelity from the get-go."

Assistant Principal Interview

29. In an interview with the Complaint Investigator, the Assistant Principal explained the rationale for changing the Student's case manager. They cited the Case Manager's familiarity with the Student as the primary reason and noted the Case Manager "saw [the Student] through the day and interacted with the para[educator] that supported [the Student]. … [The Case Manager had] more contact through the day with [the Student]. So I thought it would be a good way to provide more cohesive support for [the Student] through the day."
30. When asked about the support the Case Manager received from the School as a new case manager, the Assistant Principal indicated there were people who support teachers for behavior, for IEP writing, for development of the IEP, and for supporting students medically.
31. The Assistant Principal recalled the October 9, 2025 bus incident with the Student "was actually handled quite appropriately" and the Bus Paraeducator "followed the plan." They noted the actual events were less escalated than the Parent claimed in their email and staff "were able to actually very much appropriately calm [the Student] down. … [The Student] actually had responded much better than in past incidents." They added the Bus Paraeducator had completed and was up-to-date on their CPI and de-escalation training.

Director Interview

32. In an interview with the Complaint Investigator, the Director reported that all classified employees participated in mandatory de-escalation training provided at the beginning of the school year. Additionally, any staff who worked with the Student were trained on "not just general de-escalation, but [de-escalation] specific to [the Student]." Additionally, the LEA held CPI training "at different times throughout the year. … CPI training is active for two years for our staff members, and so if they're needing to get trained again, we will get them slated into a time that is appropriate for them" prior to their training expiring.
33. The Director confirmed the LEA granted the Parent's request to have School Psychologist 2 removed from assessing the Student. However, the Director was uncertain about the specific details regarding events that led the Parent to make this request.
34. The Director explained the Student's case manager changed for the 2025-26 school year because the Former Case Manager needed a change in assignment. They chose the Case Manager because they "not only [have] been working with [the Student] the past several years, but [are] also now in a position [they are] able to function as a teacher." The reasons for their choice were, the Case Manager worked "extremely well" with the Student, and they previously had extensive one-on-one experience with the Student.
35. The Director provided an overview of the licensure procedures in the state of Kansas and the LEA. They explained a teacher with an emergency substitute license could be placed on a waiver if they provided the LEA with their course of study, enrollment details, and proof of making progress. This waiver would then require approval by the KSDE. "We have every reason to believe that an [emergency substitute] license on a waiver is able to function as a teacher of record and a special education teacher." They confirmed the Case Manager met this criteria and their waiver "is good for the [20]25-26 school year."
36. The Director expressed the challenges with hiring special education teachers, "Our first and best idea is to hire fully certified individuals who come in, and they have a [Special Education] SPED endorsement as part of their license, and they can step into the classroom and begin teaching and case managing right away. Unfortunately, that's not our reality." They elaborated on their collaboration with building principals and KSDE to ensure "we are putting appropriate people in positions who are appropriately licensed."
37. The Director indicated the process to share teacher licensure with families was outlined in the "Right to Know Act, which talks about if a family requests, how is my child's teacher licensed, … we share that information with them. We are not obligated to proactively share licensure information with families." When asked if the Parent requested teacher licensure information, the Director responded, "Only via formal complaint."

38. The Director outlined training and professional development for case managers who were new to the profession and noted a "robust" day at the beginning of the school year, with follow-up throughout the year. They added they have been a resource to the Case Manager, along with multiple "districtwide instructional facilitators" and an Assistant Director of Student Support Services who also have provided support.
39. When asked if it would be typical to issue a PWN for a case manager change, the Director stated, "No, that is not something that we would do. … It doesn't impact services or placement one bit, and so a [PWN] would not be appropriate, but informing the family would absolutely be appropriate so that they know who a point of contact could be."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, failed to ensure special education services were managed and delivered by licensed and qualified staff. K.A.R. 91-1-203, K.S.A. 72-3404(j) ; 34 § C.F.R. 300.156(a)(c)(1)(2).

According to 34 § C.F.R. 300.156(a)(c)(1)(2), the agency must establish and maintain qualifications to ensure that personnel are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

The qualifications must ensure that each person employed as a public school special education teacher in the State who teaches in an elementary school, middle school, or secondary school has obtained full State certification as a special education teacher (including certification obtained through an alternate route to certification as a special educator, if such alternate route meets minimum requirements), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the teacher must meet the certification or licensing requirements, if any, set forth in the State's public charter school law. The qualifications must also ensure that each person employed as a public school special education teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis, and holds at least a bachelor's degree.

A teacher will be considered to meet the standard if that teacher is participating in an alternate route to special education certification program under which the teacher receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching, participates in a program of intensive supervision that consists of structured guidance and regular ongoing

support for teachers or a teacher mentoring program, assumes functions as a teacher only for a specified period of time not to exceed three years, and demonstrates satisfactory progress toward full certification as prescribed by the State; and the State ensures, through its certification and licensure process, that the provisions of the regulations are met.

According to K.A.R. 91-1-203, each applicant for a substitute teaching license shall submit to the state board an official transcript from an accredited institution verifying the granting of a bachelor's degree, verification from an accredited institution of completion of an approved teacher education program, an application for substitute teaching license, and the licensure fee.

For a provisional teaching endorsement license, each applicant shall hold a currently valid initial teaching license or professional teaching license at any level and shall submit to the state board, verification of completion of at least 50 percent of an approved teacher education program in the requested endorsement field, a deficiency plan to complete the approved program requirements from the licensing officer of a teacher education institution, verification of employment and assignment to teach in the provisional endorsement area, an application for a provisional teaching endorsement license, and the licensure fee. Each applicant for a provisional teaching endorsement license for high-incidence special education, low-incidence special education, deaf or hard-of-hearing, gifted special education, or visually impaired shall hold a currently valid initial teaching license or professional teaching license and shall submit to the state board verification of completion of coursework in the areas of methodology and the characteristics of exceptional children and special education, and completion of a practicum in the specific special education field, a deficiency plan to complete the requirements from the licensing officer of a teacher education institution, verification of employment and the assignment to teach in the provisional endorsement area, an application for a provisional teaching endorsement license, and the licensure fee.

According to K.S.A. 72-3404(j), "Special teacher" means a person, employed by or under contract with a school district or a state institution to provide special education or related services, who is qualified to provide special education or related services to exceptional children as determined pursuant to standards established by the state board, or assist in the provision of special education or related services to exceptional children as determined pursuant to standards established by the state board.

The Parent alleged the LEA failed to ensure special education services were managed and delivered by licensed and qualified staff.

The LEA contended all staff members providing services to the Student hold the appropriate licensure or approval required by the KSDE. The Student's current case manager holds a valid Emergency Substitute License and is serving under a Special Education Waiver, which authorizes them to function as the teacher of record for the Student while completing

certification requirements. All other service providers assigned to the Student are traditionally licensed in their respective areas.

The Case Manager held an Emergency Substitute Teacher license, which the Parent believed was insufficient for implementing the specialized IEP. The Director, however, confirmed the Case Manager was operating under a KSDE-approved waiver for the 2025-26 school year, allowing them to function as a teacher of record and a special education teacher. The Director justified the appointment due to the Case Manager's prior experience as the Student's one-on-one paraeducator for almost two years, extensive training in de-escalation and behavior management, and compliance with state procedures for temporary licensure. Furthermore, the licenses for all other related service providers, including the SLP, OT, and School Nurse, were confirmed as current and appropriate.

The Parent noted in August 2025 that the BT "was not trained in restraints/CPI" and the BIP was not followed. However, the LEA asserted that all classified employees participate in mandatory de-escalation training, and any staff working with the Student were trained on "not just general de-escalation, but [de-escalation] specific to [the Student]." The Assistant Principal specifically indicated that the Bus Paraeducator had completed and was up-to-date on CPI and de-escalation training. The Case Manager also confirmed they were CPI trained. Ultimately, while the Case Manager lacked a standard special education endorsement, the LEA provided evidence that this was a temporary appointment covered by a KSDE waiver, which they deemed sufficient to meet the licensing requirements.

Based on the foregoing, *it is not substantiated* that LEA failed to ensure special education services were managed and delivered by licensed and qualified staff.

Issue Two

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, denied the Parent participation when the LEA switched the special education case manager immediately and without including the Parent in that decision. K.A.R. 91-40-17; 34 § C.F.R. 300.501(b).

According to K.A.R. 91-40-17, each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place and informing the parents of the information specified in this regulation, and except as otherwise provided by law, providing written notice, in conformance with this regulation, to the parents of any IEP team meeting at least 10 days in advance of the meeting. The notice required shall indicate the purpose, time, and location of the IEP team meeting and the titles or positions of the persons who will attend on behalf of the agency, including, if appropriate, any other agency invited to send a representative to discuss needed transition services. The notice shall inform the parent that the parent has the right to invite to

the IEP team meeting individuals whom the parent believes to have knowledge or special expertise about the child.

A regular education teacher of an exceptional child, as a member of an IEP team, shall participate to the extent appropriate in the development, review, and revision of the child's IEP. This participation shall include assisting in determining the appropriate positive behavioral interventions and strategies for the child, the supplementary aids and services needed by the child, and the program modifications or supports for school personnel that will be provided to assist the child.

According to 300.501(b), the parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child. Each public agency must provide notice to ensure that parents of children with disabilities have the opportunity to participate in meetings. A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

The Parent alleged the LEA failed to ensure parent participation when it switched the SPED case manager, and that the decision was made effective immediately without their participation.

The LEA contended personnel assignments, including case management, are administrative staffing decisions that do not require parental participation under state regulations. According to the Kansas Special Education Process Handbook (Ch. 5, p. 5–35), the IEP identifies the services necessary for a FAPE, not the specific personnel assigned to deliver them. Staffing and personnel assignments are administrative decisions made by the LEA, not determinations requiring parent participation. The change did not alter the Student's IEP, placement, or services. The Parent was appropriately notified once the case management change occurred, consistent with LEA procedure.

The selection and assignment of school personnel, such as a special education case manager, is an administrative staffing decision made by the LEA. The LEA is responsible for ensuring that all services outlined in the Student's IEP are implemented by appropriately qualified personnel. While parental input is vital regarding the services, placement, and content of the IEP, the assignment of a specific staff member to deliver those services is generally not considered a decision that requires parental participation under the procedural safeguards of IDEA, as it does not constitute a change in the identification, evaluation, or educational placement of the child, or the provision of FAPE. The LEA's actions and stated rationale focused on administrative needs and utilizing a staff member with a high degree of familiarity with the Student, which they believed would provide more cohesive support. The evidence indicates the

LEA made an administrative decision to change the case manager and properly notified the Parent.

Based on the foregoing, it is not substantiated that the LEA denied the Parent participation when the LEA switched the special education case manager immediately and without including the Parent in that decision.

Issue Three

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, failed to provide the Parent with PWN when the LEA changed the case manager. K.A.R. 91-40-26 (a)(b), K.S.A. 72-3430(b)(2); 34 § C.F.R. 303.421 (a)(b), 34 CFR §300.503(a)(b).

According to K.A.R. 91-40-26 (a)(b), in providing any notice to the parent or parents of an exceptional child regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes a description of other options that the agency considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal. The notice shall be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

According to K.S.A. 72-3430(b)(2), the parents of exceptional children shall have the right to written prior notice whenever an agency proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child.

The Parent alleged the LEA failed to provide a PWN, and was told the case manager change was already made.

The LEA contended a change in case manager does not constitute a change to the Student's identification, evaluation, educational placement, or provision of a FAPE. Therefore, PWN was not required. The staffing adjustment was administrative in nature and did not result in any change to the Student's IEP or the services provided.

The Parent indicated they should be proactively informed about staff changes with a PWN. The Director stated a PWN is not issued for case manager changes as it does not impact services or placement. This is corroborated by K.A.R. 91-40-26, which outlines a PWN is a formal communication used to inform parents whenever a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a child or the provision of a FAPE to the child.

Based on the foregoing, *it is not substantiated* that the LEA failed to provide the Parent with PWN when the LEA changed the case manager.

Issue Four

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, failed to provide the Student with a FAPE due to the IEP allegedly being implemented by unqualified personnel. K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-1(z), a FAPE means special education and related services are provided at public expense, under public supervision and direction, and without charge, meet the standards of the state board, include an appropriate preschool, elementary, or secondary school education, and are provided in conformity with an individualized education program.

According to 34 CFR § 300.101, a FAPE must be available to all children residing in the State between the ages of 3 and 21. Each State must ensure that the obligation to make a FAPE available to each eligible child residing in the State begins no later than the child's third birthday and an IEP or an IFSP is in effect for the child by that date. Each State must ensure that a FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade. The determination that a child is eligible must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

The Parent alleged the LEA failed to provide the Student with a FAPE due to the IEP being implemented by unqualified personnel.

The LEA contended they have continued to implement all components of the Student's IEP with fidelity. Services were delivered by appropriately licensed and supervised staff, ensuring compliance with the IDEA and state requirements.

The evidence indicates the LEA staff were either appropriately licensed under state waiver procedures or had received relevant training (CPI, de-escalation, behavior management) and extensive relevant experience with the Student, suggesting the Student was not denied a FAPE solely on the basis that the implementing personnel were unqualified.

Based on the foregoing, ***it is not substantiated*** that the LEA failed to provide the Student with a FAPE due to the IEP allegedly being implemented by unqualified personnel.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #501
ON OCTOBER 10, 2025

DATE OF REPORT: NOVEMBER 10, 2025

This report is in response to a complaint filed with our office on behalf of a student, ------- by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD # 501, Topeka Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD # 501.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on October 10, 2025, and the 30-day timeline ended on November 9, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #501, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), developed an Individualized Education Program (IEP) for the Student that included positive behavioral interventions, supports, and other strategies to address their behavior needs. K.A.R. 91-40-18(b); K.S.A. 72-3429(d)(4); 34 § C.F.R. 300.320(a).

ISSUE TWO: Whether USD #501, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP as written when addressing the Student's behavior needs, particularly when the Student was suspended or sent home instead of given space to calm down or access to other behavior support strategies. K.A.R. 91-040-16(a)(b)(3-5); 34 §§ C.F.R. 300.323 (a)(d).

Investigation of Complaint

The Complaint Investigator interviewed the Parent and the District's Interim Executive Director of Special Education on November 3, 2025. In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. District Response, 10/20/25
2. Daily Attendance Profile, 2025-26 School Year
3. Documentation Summary, 09/19/25-10/15/25
4. Positive Behavior Support Plan, no date
5. Blank Behavior Data Collection Form, no date
6. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 10/10/25
7. Data Collection as of 10/9/2025, 09/25/25-10/02/25
8. Behavior Incident Data Graphs, 10/03/25-10/09/25
9. GEI (General Education Intervention) Referral Plan, 10/06/25-05/21/26
10. Student Discipline Profile, 09/24/25-10/09/25
11. Neurodevelopmental Evaluation Report, 08/20/25

Background Information

This investigation involved a first-grade student enrolled at an elementary school in the LEA. The Student is not currently receiving special education or related services as a child with a disability per the IDEA. The Student enrolled at the School on September 19, 2025, which was not their neighborhood school, but due to late enrollment, was the school assignment closest to their home school with class availability. The Student was homeschooled for their kindergarten year.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. A Neurodevelopmental Evaluation Report from an outside agency dated August 20, 2025 showed the Student was evaluated on June 24 and July 28, 2025. The Parent arranged the evaluation due to "longstanding difficulties [for the Student] related to inattention, distractibility, emotion regulation difficulties, and hyperactivity." The evaluation recommendations included the following:
    a. A multi-faceted approach to address challenges with inattention, hyperactivity, and impulsivity consistent with an Attention Deficit Hyperactivity Disorder (ADHD) diagnosis.

b. A consultation between the Parent and a physician or psychiatrist to evaluate medication as part of the Student's treatment.
c. Therapeutic interventions for the family, specifically, continued individual therapy for the Student, Behavioral Parent Training (BPT) for the Parent to learn skills to manage problem behaviors, and the use of tools like The Zones of Regulation to teach self-regulation skills.
d. For the school setting, numerous accommodations and supports were advised, focusing on emotional and behavioral management, such as:
    i. Behavioral supports for emotion regulation;
    ii. Seating the Student near the teacher;
    iii. Reducing the length of assignments;
    iv. Providing scheduled "brain breaks";
    v. Strategies to manage the Student's difficulty with task-switching (e.g., chunking similar tasks and using transition time);
    vi. The use of visual supports and timers to aid attention and organization; and
    vii. Breaking down multi-step directions.

2. District documentation notes for the Student from September 19, 2025 through October 10, 2025, indicated the following:
    a. September 19, 2025: The Parent requested a special education evaluation for the Student due to behavior concerns, and noted the Student was homeschooled for kindergarten and early first grade.
    b. September 23, 2025: First day of school for the Student.
    c. September 25, 2025: A daily point chart was implemented. Focus areas included expected location, safe body/calm hands, following directions, a midday reward, and an end-of-day reward. The Mental Health Mentor also called the Parent on this day because the Student was "struggling in the classroom." The Parent stated the Student demonstrated the same behavior at home.
    d. October 2, 2025: The Assistant Principal called the Parent and discussed behavior concerns during school and on the bus. The Parent stated, "I have other kids to pick up; I can't come get [the Student]. … [the Student] has behavior problems at home too." It was also noted the daily point chart was deemed "ineffective."
    e. October 3, 2025: A token board with a behavior data collection form was implemented. It was noted the Student could earn preferred rewards throughout the day for following directions, completing work, using calming strategies, and staying with the class. The Student would earn a break for every 10 tokens earned, with no limit on the number of rewards the Student could earn each day.

f. October 6, 2025: An outside agency evaluation was received, including cognitive, social-emotional, behavioral, and attention/executive functioning data. It was determined that academic, motor, and speech areas still required evaluation.

g. October 7, 2025: A GEI meeting was held during which an intervention plan with a token board was developed. The hypothesis was listed as: "We believe [the Student] struggles to complete classroom assignments because of [their] behavior, seeking adult attention, work avoidance, and an inability to self-regulate." The goal was for the Student to elope fewer than three times per day. Additionally, it was noted the plan was to minimize time out of the classroom, ensure the Student returned promptly after eloping, and make any time out of class "unappealing" and focused on schoolwork.

    i. A GEI Referral Plan with a start date of October 6, 2025, also documented this and other contact log conversations and stated the plan would run concurrently with a special education evaluation.

h. October 7, 2025: An email from the School Counselor confirmed the "parent-initiated referral and ADHD diagnosis" and stated the suspected exceptionality was listed as Other Health Impairment (OHI). It was also noted the Parent mentioned the Student was already receiving therapy and was not interested in additional services.

i. October 8, 2025: It was noted a Behavior Support Plan (BSP) would be developed to ensure consistent staff responses.

j. October 9, 2025: School staff initially were unable to contact the Parent or the emergency contact regarding an active safety concern, as both voicemails were full at 11:04 a.m. When the Parent was reached at 11:12 a.m. concerning the Student's repeated elopement, the Parent refused to come to the School to assist with de-escalation and subsequently hung up. The School sent the suspension paperwork home with the Student at 3:25 p.m. A later attempt to verbally notify the Parent of the suspension was blocked by a full voicemail again. During a 5:30 p.m. call where staff discussed the Student's aggression and confirmed the suspension, the Parent threatened to contact KSDE.

k. October 9, 2025: The special education evaluation referral was processed, and the consent was ready to be signed. The Parent also notified the School they had submitted a formal complaint.

l. October 10, 2025: The School Psychologist contacted the Parent regarding their complaint and asked what support the Parent wanted. The Parent asked for another teacher to be added to the classroom to help and signed the consent for the special education evaluation.

3. An undated BSP for the Student documented the following:

    a. Targeted behaviors: Eloping, noncompliance, and physical aggression.

    b. Prevention strategies: Modified work, choices, a timer, frequent praise, additional reward "bucks," and a delayed start to assignments and tasks.

c. Teaching strategies: Calming strategies and asking for help.
d. Replacement behaviors: Using the classroom "Peace Corner" instead of running out of the classroom; using independent calming strategies; and asking for an adult to talk to or a break outside of the classroom if needed.
e. Reinforcement plan: Token board, check-in/check-out, a calming space outside of the classroom, and bus rewards.
f. Response plan: Detailed staff responses for the first incident and additional incidents for each target behavior.
g. Data collection: Behavior data collection form and a token board tracking form.
h. A data tracking form indicated columns to record the date, day of the week, time frame, location, activity, antecedent, behavior, staff response, and duration of behavior.

4. Behavior data collection for the Student from September 25, 2025 through October 9, 2025 indicated the School implemented a daily point chart from September 25 to October 2, 2025, after which they transitioned to a token board to provide more immediate reinforcement. During the initial period, the Student demonstrated inconsistent performance on behavioral goals, earning points for staying in the expected location most days, but scoring low in areas like "calm body / safe hands." Behavior incident data from October 3 through October 9, 2025, indicated that the primary challenging behaviors were noncompliance, elopement, and physical aggression, with the highest frequency of incidents occurring during whole-group instruction, within the general education classroom, and most often triggered by a task demand. Incident frequency peaked on October 8 and October 9, 2025 and a majority of incidents (over 80%) occurred between 9:30 a.m. and 11:30 a.m. In terms of staff response, verbal redirects were the most frequently used intervention, while alternate location and offering a break were used less often.
5. A Prior Written Notice for Evaluation or Reevaluation and Request for Consent (PWN) dated October 10, 2025 indicated:
    a. The PWN was hand-delivered to the Parent.
    b. The District proposed to conduct an initial evaluation, which required parental consent.
    c. New data would be sought for health and motor ability, social-emotional and behavioral status, general intelligence, academic performance, communicative status, and transition skills.
    d. Existing data would be reviewed for vision and hearing.
    e. Explanation: The Student was referred for a comprehensive evaluation by the general education team and the Parent to determine whether the Student would qualify for special education services.
    f. Options considered: Not conducting a comprehensive evaluation, which was rejected due to the need for a comprehensive evaluation to determine special education eligibility.

g. Data used: Parent information, teacher information, review of records, and GEI records.
h. Other factors: The Student would miss some class time for testing during the evaluation.
i. The consent form was electronically signed by the Parent on October 10, 2025 indicating receipt and understanding of the proposed action and parental rights, as well as giving consent for the evaluation.

6. A Student Discipline Profile for the 2025-26 school year documented the following:
    a. The student exhibited an escalation of "major" behavior incidents over a three-week period, with the key issues being:
        i. Elopement: This was the most frequent issue, with the Student leaving the classroom repeatedly (and up to five times a day).
        ii. Noncompliance/Refusal: The Student frequently refused to follow directions, participate, or complete work.
        iii. Physical Aggression: On the final documented day (October 9), the Student was recorded hitting and kicking staff members, resulting in a one-day out-of-school suspension.
    b. Frequency: There were 11 documented incidents (9 major, 2 minor) in the 12-day period.
    c. Intervention: "Conference with the student" was noted five times.
    d. Escalation: The severity escalated, moving from off-task behavior to refusal, then to frequent elopement, and finally to physical aggression against staff.
    e. Parent/Guardian Involvement: On October 6, 2025, the Parent could not be reached, but an emergency contact came to the School and took the Student home (no suspension).
7. A Daily Attendance Profile for the 2025-26 school year indicated the Student enrolled on September 19, 2025, and had one tardy, two 0.25 absences, one 0.50 absence, and one out-of-school suspension (October 10, 2025).

Parent Interview

8. In an interview with the Complaint Investigator, the Parent stated they were told by an Early Childhood Program employee that the District was "specialized in behavior problems" and by enrolling the Student there, the District had "two weeks or 30 days or something like that to get [the Student] an IEP, which still [had] not taken place." The Parent explained they enrolled the Student and immediately gave the School evaluation information from an outside agency and informed them the Student needed to be assessed for an IEP.
9. The Parent claimed they were unaware of a behavior support plan, and claimed the School did not communicate with them about interventions that were being used. Instead, they only communicated when the Student displayed negative behavior. The

Parent also shared that strategies from an outside therapist working with the Student had not helped the Student "at all" during the last six months.

10. The Parent explained they filed a complaint because they believed the Student's disabilities were being overlooked, the Student was suspended when the School "already knew that an IEP was going into place" for the Student's behaviors, and the Parent "was told from [the District] in the beginning that it would take no more than 30 days" for an IEP to be put in place.

Interim Executive Director of Special Education Interview

11. In an interview with the Complaint Investigator, the Interim Executive Director of Special Education stated they were not on the IEP team and so could not specify how the externally-submitted neurodevelopmental evaluation was used, but confirmed the team had considered the document. They noted the external report focused on medical and neurological needs, lacking an academic component, which necessitated the District's own academic evaluation within the ongoing 60-day window. The Student re-entered the school system on September 23, 2025 after being homeschooled, and the staff began monitoring their progress immediately. Prior to the Student's enrollment, the Parent had requested an evaluation, and the team subsequently implemented increasingly intensive positive behavior support interventions, such as point systems, which appeared unsuccessful as the supports became more focused. The team ultimately sought and received written permission from the Parent on October 10, 2025 to conduct their own full evaluation.
12. The Interim Executive Director of Special Education also stated the District staff developed a safety plan to address elopement and ensure the Student remained safely in the building. As a team, staff members discussed possible root causes for elopement, such as avoidance of work, to inform their response plan. On the day of the Student's suspension, the Student had a "very difficult day" and required direct adult supervision throughout. Staff called the Parent to request their presence and arranged for an outside mental health therapist to arrive early to help de-escalate the situation. Despite the therapist's intervention, the Student escalated again, attempted to elope, and ended up hitting and kicking staff members. The team tried unsuccessfully to reach the Parent by phone throughout the afternoon and finally communicated the suspension and incident via a note in the Student's backpack and a later phone call.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #501, in accordance with state and federal regulations implementing the IDEA, developed an IEP for the Student that included positive behavioral interventions, supports, and other strategies to address their behavior needs. K.A.R. 91-40-18(b); K.S.A. 72-3429(d)(4); 34 § C.F.R. 300.320(a).

According to K.A.R. 91-40-18(b) and K.S.A. 72-3429(d)(4), if an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive Free Appropriate Public Education (FAPE), the IEP team shall include those items in the child's IEP. In the case of a child whose behavior impedes the child's learning or that of others, the use of positive behavioral interventions and supports, and other strategies to address that behavior.

According to 34 § C.F.R. 300.320(a), the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting and that must include statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children).

The Parent alleged the School did not develop an IEP the Student needed for their behavior concerns. According to the Parent, the School told them they would do "other things" besides sending the Student home for behavior, but did not. The Student was also suspended.

In the District's Response, they noted the Student has not yet been evaluated for special education, and therefore, does not currently have an IEP in place. However, the Student has received general education interventions for behavior since their first attendance day, and consent for an evaluation was signed by the Parent on October 10, 2025, initiating a 60-day evaluation timeline.

Based on the evidence provided, the Student is not currently receiving special education services, and no IEP was in effect during the period of the complaint. IDEA's requirements for the contents of an IEP, including the provision for positive behavioral interventions and supports, only become binding after a student has been evaluated and determined eligible for special education, and the IEP has been formally developed.

However, the evidence shows the LEA did address the Student's behavior needs and outside evaluation. Upon the Student's enrollment, and following the Parent's referral request, the school team initiated a variety of behavioral supports under the GEI program. The LEA also obtained signed parental consent on October 10, 2025, to begin the initial comprehensive special education evaluation, which initiated the 60-day timeline to determine eligibility and, if eligible, develop the initial IEP.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to develop an IEP with the required positive behavioral supports.

Issue Two

Whether USD #501, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP as written when addressing the Student's behavior needs, particularly when the Student was suspended or sent home instead of given space to calm down or access to other behavior support strategies. K.A.R. 91-040-16(a)(b)(3-5); 34 §§ C.F.R. 300.323 (a)(d).

According to K.A.R. 91-040-16(a)(b)(3-5) and 34 §§ C.F.R. 300.323 (a)(d), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency is also responsible for ensuring that an IEP is in effect for each exceptional child at the beginning of each school year.

The child's IEP should be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider must be informed of that individual's specific responsibilities related to implementing the child's IEP and understand the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged the School suspended the Student and sent them home for behavior instead of giving the Student space to calm down or implementing other behavior support strategies according to the Student's IEP.

The regulations regarding the implementation of an IEP are not applicable because the Student was not yet determined eligible for special education, and there was no IEP in place for the District to implement.

Regarding the suspension, the evidence showed the incident on October 9, 2025 involved a sequence of progressively challenging behaviors (repeated elopement, noncompliance, and physical aggression toward staff). The out-of-school suspension was ultimately issued following the Student hitting and kicking staff members. While the Parent claimed the Student was suspended "instead of" being given space to calm down, the District's account demonstrated that a series of in-school de-escalation efforts had occurred prior to the physical aggression that resulted in the suspension. Since the Student did not have an IEP, the standard disciplinary procedures were reasonably applied.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to implement the IEP's behavioral strategies, particularly during the suspension incident.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #495
ON NOVEMBER 3, 2025

DATE OF REPORT: DECEMBER 8, 2025

This report is in response to a complaint filed with our office on behalf of a student, ------- by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #495, Larned Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #495.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on November 3, 2025, and the 30-day timeline ended on December 3, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #495, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), ensured, to the maximum extent appropriate, the Student was educated with children who were nondisabled, and special classes, separate schooling, or other removal of the Student from the regular educational environment occurred only when the nature or severity of the disability was such that education in regular classes with the use of supplementary aids and services could not be achieved satisfactorily. K.A.R. 91-40-21 (a)(b)(1)(2)(c)(1)(A)(B)(2); 34 CFR §300.114 (a)(1)(2).

ISSUE TWO: Whether USD #495, in accordance with state and federal regulations implementing the IDEA, initiated an abbreviated school day, resulting in a denial of a Free Appropriate Public Education (FAPE) for the Student. K.A.R. 91-40-2(a)(1)(b)(1)(e), K.A.R. 91-40-27(3); 34 CFR §300.101(a).

Investigation of Complaint

The Complaint Investigator interviewed the Parent by video call on November 24, 2025. The following LEA staff were interviewed on December 1, 2025: the Special Education Director and the Special Education Teacher.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

District Materials

1. LEA Response, no date
2. Student Profile, no date
3. Individualized Education Plan (IEP), 10/25/24
4. Prior Written Notice (PWN) for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 10/25/24
5. Meeting Notes, 10/25/24
6. PWN for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 01/09/25
7. Meeting Notes, 01/09/25
8. Progress Report, December 2024-25 School Year
9. Progress Report, May 2024-25 School Year
10. Evaluation/Eligibility Team Report - Reevaluation, 10/20/25
11. IEP, 10/20/25
12. PWN for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 10/20/25
13. Parent Communication Log, 2025-26 School Year
14. Student Schedule, 11/03/25-current
15. Weekly Provider/Parent Communication Log, 08/25/25-11/06/25
16. Progress Report, October 2025-26 School Year
17. Meet the Teacher Notes, 08/18/25
18. Tri-County Special Services Memo to File, 10/30/25

Parent Materials

1. Picture of PWN for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 11/19/25

Background Information

This investigation involved a kindergarten-aged student enrolled at Larned Elementary School in USD #495. The Student is currently receiving special education or related services as a child with a disability per the IDEA.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. Relevant information from the LEA's Response indicated:
    a. All regular education peers in four-year-old preschool attended 180 minutes per day, four days a week, as no classes occurred on Fridays.
    b. The LEA stated the preschool program operated from 8:00 a.m. to 11:00 a.m.
    c. The Student's kindergarten classroom had a demographic makeup of 81.25% nondisabled peers and 18.75% students with disabilities.
2. An undated screenshot of the Student's profile showed they had perfect attendance for the months of August, September, and October during the 2025-26 school year.
3. The Student's IEP, dated October 25, 2024, indicated:
    a. Based on the most recent evaluation and ongoing data collection, the Student had needs in the following areas which required special education or related services: communication, motor, adaptive/daily living skills, social emotional, reading, and math.
    b. The box stating "Yes - Placement is in the General Education Classroom" was checked.
    c. The box "Yes - Additional services/supports have been added to this annual IEP to ensure participation in the general educational environment to the maximum extent possible" was checked.
    d. Additional notes stated it was determined the Student needed one-on-one support to be successful in the preschool classroom. The Student would have limited time away from general education students when they received pullout services, which would lead to minimal harmful effects. Data used to support the least restrictive environment (LRE) decision included the Student's 2022 AEPS scores. It was found the Student qualified in all development domains, and the team felt they would benefit by placement in the general education preschool classroom with paraprofessional support throughout their entire school day.
    e. The "no" box was checked for the question "Will the benefits of a more restrictive setting outweigh the benefits of remaining in the general education classroom?"

f. The following items were checked for the question "As a result of the recommended placement, what potential harmful effects, if any, have been identified by the team?":
    i. Potential stigma associated with receiving special education support;
    ii. Lack of access to general education peers and/or curriculum/instruction when removed from the general education classroom to receive services;
    iii. Limited exposure to peer modeling when removed from the general education setting to receive services in the special education setting; and
    iv. Potential of student to become overly dependent on adult support for academics or behavioral reminders and prompts.

g. Placement options considered at the IEP meeting included full, partial, and no inclusion in the general education setting.

h. The Student would have the opportunity to participate in all non-academic and extracurricular activities to the same extent as non-identified peers.

i. Accomodations/Modifications/Supplementary Aids, located in the regular education classroom, special education/mixed abilities room, occupational therapy (OT) and speech language pathology (SLP), from October 25, 2024 through October 24, 2025 included:
    i. Visual Picture Flip Schedule for four days per week during the preschool year and five days per week upon transitioning into kindergarten for the duration of the school day;
    ii. Verbal and/or non-verbal prompts for a minimum of one prompt per activity after directions were given during the preschool day, for no less than 5-10 seconds for the Student to comprehend what is being asked of them; and
    iii. Attend a two-hour abbreviated school day "each day school is in session until which time the team determines that an increase in time at school is appropriate … commencing upon the Student's transition into Kindergarten in August 2025."

j. Special Education and Related Services for October 25, 2024 through October 24, 2025 included:
    i. OT services in the special education area, once a week for 15 minutes;
    ii. Physical Therapy in the special education area, once a week for 15 minutes;
    iii. Speech Language Therapy in the special education area, two times a week for 20 minutes; and
    iv. Special Education in the early childhood classroom, four times a week when school is in session for the duration of the day.

k. Special Education and Related Services for August 20, 2025 through October 24, 2025 included:
    i. Special Education services in the general education classroom setting/building, five days a week when school is in session for 30 minutes;
    ii. Special Education services for reading, math, social, and adaptive goals in the special education classroom, two days a week when school is in session for 130 minutes;
    iii. Special Education services for reading, math, social, and adaptive goals in the special education classroom, two days a week when school is in session for 135 minutes; and
    iv. Special Education services for reading, math, social, and adaptive goals in the special education classroom, one day a week when school is in session for 150 minutes.
l. The Parent signed the IEP on October 25, 2024.

4. A PWN, dated October 25, 2024, summarized the aforementioned IEP. Relevant additional information included:
    a. "The team will continue to work towards supporting [the Student] and integrating [the Student] through a full day of school."
    b. Upon transitioning into kindergarten in the fall of 2025, it was proposed for the Student to receive special education support services through the Mixed Abilities Special Education Resource Room, which was designed for students with a range of needs. The support would include front loading, visual supports, sensory accommodations, structured work systems, and social skills.
        i. "It is further proposed for [the Student] to attend a 3[-]hour abbreviated school day commencing upon [their] transition into Kindergarten in August 2025." On the PWN, it was originally typed as a two-hour abbreviated school day. The "2" was crossed out and "3" was handwritten in its place.
    c. Explanation of why the action was proposed or refused:
        i. "When [the Student] enters Kindergarten, changes to services and placement are necessary in order to address [their] individual IEP goals. The Mixed Abilities resource room and staff will be able to support [the Student] in making individual gains with supports tailored towards [their] individual abilities and needs."
    d. Options considered and why the options were rejected:
        i. The team considered full-day services, but determined the Student was not able to attend full-day kindergarten at the time. The team rejected leaving the services and placement the same for the 2025-26 academic year because the Student's educational programming would look different than preschool.

e. The team used the following data for their decision: classroom skills, current performance, teacher input and observations, therapy sessions/observations, special education provider input, parent input, and annual IEP and team discussion.
f. The team considered potential harmful effects, but determined the benefits of special education services outweighed the possible effects.
g. The Parent checked the "I give consent" box and signed the PWN on October 25, 2024.

5. Meeting notes dated October 25, 2024 indicated the Pre-K Special Education Teacher stated the Student would be attending three hours in kindergarten, and would like to increase the Student's time the second week after Christmas by 15-30 minutes.
6. The Student's progress report for the 2024-25 school year indicated:
    a. Adaptive Goal
        i. December 19, 2024 and May 22, 2025 - the Student made slight improvement.
    b. Social Emotional Goal
        i. December 19, 2024 and May 22, 2025 - the Student made slight improvement.
    c. Reading Goal
        i. December 19, 2024 - the Student made slight improvement.
        ii. May 22, 2025 - the Student made moderate improvement.
    d. Math Goal
        i. December 19, 2024 - the Student made slight improvement.
        ii. May 22, 2025 - the Student maintained performance.
    e. Motor Goal
        i. December 16, 2024 - the Student made moderate improvement.
        ii. May 20, 2025 - the Student made slight improvement.
    f. Communication Goal
        i. December 16, 2024 and May 13, 2025 - the Student maintained performance.
    g. Motor Goal #2
        i. December 16, 2024 - the Student maintained performance.
        ii. May 19, 2025 - the Student made slight improvement.
    h. Motor Goal #3
        i. December 16, 2024 - the Student maintained performance.
    i. Motor Goal #4
        i. December 16, 2024 - the Student maintained performance.
        ii. May 19, 2025 - the Student made slight improvement.

   j. Adaptive Goal #2
      i. December 19, 2024 - the Student had a slight regression.
      ii. May 22, 2025 - the Student maintained performance.

7. A PWN, dated January 9, 2025, documented changes to the Student's services.
   a. "It is further proposed for [the Student] to attend a 3[-]hour abbreviated school day commencing upon [their] transition into Kindergarten in August 2025."
   b. The Parent checked the "I give consent" box and signed the PWN on January 9, 2025.
8. Meeting Minutes dated January 9, 2025 indicated the Pre-K Special Education Teacher stated the only change to the Student's IEP was their preschool day minutes increased by 60 minutes. It was documented the Student would attend lunch with the class.
9. Relevant information from meeting notes dated August 18, 2025 included:
   a. There was an informal meeting scheduled by the Principal for a meet-the-teacher appointment. The purpose was to discuss the Student's schedule. The notes stated there were 180 minutes of IEP and three hours of Applied Behavior Analysis (ABA). It stated school time was from 9:00 a.m. to 12:00 p.m. and ABA was from 12:00 p.m. to 3:00 p.m. The Grandparent would transport the Student, and the Student would have paraprofessional support 100% of the time during school. The Other Parent was present at the meeting.
10. Relevant information from a reevaluation report dated October 20, 2025 included:
    a. The Parent reported the Student had problem behaviors at home and at school.
    b. The Student had been attending a special education preschool classroom with a child-to-adult ratio of 3:1.
    c. The Student's behaviors and characteristics relevant to autism eligibility consideration could be impacting their ability to access the general education curriculum.
    d. The report findings suggested the need for targeted interventions to support the Student's social communication, behavioral regulation, and sensory integration.
    e. Recommendations for educational planning included modifying the Student's environment to reduce sensory overload.
11. The Student's IEP, dated October 20, 2025, indicated:
    a. Based on the most recent evaluation and ongoing data collection, the Student had needs in the following areas which required special education or related services: communication, motor, adaptive/daily living skills, social emotional, reading, and math. It stated the Student's current levels would impact their progress in the general education curriculum.
    b. The "no" box was checked next to the question "Can the student be successful within the general education classroom and curriculum for the entire school day with services/supports provided?"

c. The "yes" box was checked next to the question "Are there additional service(s) or support(s) that can be provided that would enable the student to be successful in the general education classroom/curriculum?" A statement beside the "yes" box stated additional services/supports had been added to the IEP to ensure participation in the general education environment to the maximum extent possible.
    i. The document stated, "Attempts at inclusion: 1-2 attempts daily for at least 25 minutes. During recess [the Student] does a wonderful job playing with [their] peers. In the classroom, [the Student] is learning to work amongst [their] peers. At times … [the Student] is in need of a break or seeks out sensory breaks. Data to support LRE decision: In the preschool setting [the Student] was able to participate in classroom activities as they were center based and each activity was able to be modified to meet [the Student's] needs. In the kindergarten classroom, [the Student] is not able to focus long enough to engage [wholly] to whole classroom learning or discussions. [The Student] is always in need of a 1 on 1 paraprofessional or teacher to assist [them]. This allows [the Student] to take breaks as they are needed and to accommodate [their] needs in the general education setting."
d. The IEP team determined the benefits of the proposed service setting may have some potentially harmful effects, but due to the nature and severity of the Student's disability, the team determined the benefits of a special education placement outweighed any potential harmful effects.
e. The team identified potential harmful effects as potential stigma associated with receiving special education support, and limited exposure to peer modeling when removed from the general education setting to receive services in the special education setting.
f. Special Education and Related Services for October 20, 2025 through October 19, 2026 included:
    i. Occupational Therapy services in the special education area, once a week for 15 minutes;
    ii. Physical Therapy in the special education area, once a week for 15 minutes;
    iii. Speech Language Therapy in the special education area, two times a week for 20 minutes;
    iv. Special Education services in the general education classroom setting/building, five days a week when school was in session for 45 minutes;
    v. Special Education services for reading, math, social, and adaptive goals in the special education classroom, two days a week when school was in session for 175 minutes;

vi. Special Education services for reading, math, social, and adaptive goals in the special education classroom, two days a week when school was in session for 180 minutes; and

vii. Special Education services for reading, math, social, and adaptive goals in the special education classroom, one day a week when school was in session for 195 minutes.

g. The Student would have partial inclusion in general education.

h. The Student would have the opportunity to participate in all non-academic and extracurricular activities to the same extent as non-identified peers.

i. Accommodations/Modifications/Support Aids, from October 20, 2025 through October 19, 2026, in the regular education classroom, special education/mixed abilities room, OT, and SLP:

i. Visual schedule including three activities coming up, for four days per week during the preschool year and five days per week upon transitioning to kindergarten, for the the duration of the school day; and

ii. Verbal and/or non-verbal prompts for a minimum of one prompt per activity after directions are given during the preschool day, for no less than 5-10 seconds for the Student to comprehend what was being asked of them.

iii. The Parent signed the IEP on October 20, 2025.

12. Relevant information from a PWN, dated October 20, 2025, included:

a. For the remainder of kindergarten and anticipating starting first grade, it was proposed for the Student to receive special education support services through the Mixed Abilities Special Education Resource Room. The support would include front loading, visual supports, sensory accommodations, structured work systems, and social skills.

i. "It is further proposed for [the Student] to attend a 3[-]hour abbreviated school day considering [their] ABA schedule and data reporting, extending [their] day would not be in [the Student's] best interest as [the Student] [is] showing statistically that [they] [are] tired and ready for the change to ABA by 11:30 daily."

b. Explanation of why the action was proposed or refused:

i. "The team agrees that the services as proposed meet [the Student's] needs best at this time, taking into account [their] least restrictive environment."

c. The team used the following data for their decision: classroom skills, current performance, teacher input and observations, therapy sessions/observations, special education provider input, parent input, administrative input, formal assessments, and annual IEP and team discussion.

   d. The PWN stated the Student would miss instructional time with general education peers, but considering the Student's needs and the LRE, the team agreed the benefits outweighed the potential harmful effects.
   e. The Parent checked the "I give consent" box and signed the PWN on October 20, 2025.

13. Communication between the Parent and the Special Education Teacher on October 29, [2025] indicated:
   a. The Parent asked if the Student could stay at school until 3:00 p.m. because they would no longer have ABA services. They said, "I don't want [the Student] to scale back on time cause [they] really need the time at school to help [them] better acclimate so [they] can at some point do a full day."
   b. The Special Education Teacher replied, "As we discussed during the IEP meeting, we will wait to adjust [the Student's] school schedule until the [ABA program] is established and ready to begin. Making significant changes before that time would not be in [their] best interest. … we have observed that [the Student] becomes increasingly frustrated after about two and a half hours each day. At this time, I would not recommend increasing [their] classroom time."
   c. The Parent stated the Student would lose time and attend from 9:00 a.m. to 12:00 p.m.
   d. The Special Education Teacher reiterated the Student was not losing any school time, their schedule would not change, and they would continue to attend for the amount of time agreed upon in the IEP. They stated the team's goal was to work toward a full school day for the Student, but they would continue to follow the Student's pace. They said, "… [the Student] is showing us that three hours in the classroom is challenging enough without reaching a point of total frustration or meltdown. … For now, keeping [their] routine consistent is what's best for [the Student]."
14. A Memo to File, dated October 30, 2025, indicated that on the same day, the Grandparent visited the LEA office and expressed concern and dissatisfaction regarding the Student's shortened school day. The Special Education Director spoke to the Grandparent and learned they were upset because they believed the Student's school day was shorter due to their autism. The Special Education Director explained each student's schedule and programming were based on their individual needs, goals, and tolerance levels, and the decisions were made by the IEP team.
15. Relevant information from the Student's current schedule, dated November 3, 2025, included:
   a. Their schedule was from 9:00 a.m. to 12:00 p.m.
   b. The schedule detailed specific times the Student engaged in peer interaction.
16. A PWN, dated November 19, 2025, was regarding any additions to the Student's special education and related services or educational placement, to enable the Student to

meet their annual goals and to participate, as appropriate, in the general education curriculum. It included the following relevant information:

a. The Student would be educated, to the maximum extent possible, with other children in the general education classroom. The Student would be removed from the general education classroom only when the nature or severity of their disability was such that education in regular classes with the use of supplementary aids and services could not be achieved satisfactorily.
b. There would be a material change in services, which required consent.
c. The IEP team, including the Parent, proposed a 33% increase in the Student's day. The Student would attend school from 8:00 a.m. to 12:00 p.m. They had currently attended school from 9:00 a.m. to 12:00 p.m. during the 2025-26 school year. The IEP team proposed to meet quarterly to discuss adding more time to the Student's day based on the most current data. No changes were made to the Student's goals or accommodations. The proposed changes reflected an additional 60 minutes daily for special education services in the special education classroom.
d. Special Education and Related Services for November 19, 2025 through October 19, 2026 included:
    i. Occupational Therapy services in the special education area, once a week for 15 minutes;
    ii. Physical Therapy in the special education area, once a week for 15 minutes;
    iii. Speech Language Therapy in the special education area, two times a week for 20 minutes;
    iv. Special Education services in the general education classroom setting/building, five days a week when school is in session for 45 minutes;
    v. Special Education services for reading, math, social, and adaptive goals in the special education classroom, two days a week when school was in session for 175 minutes;
    vi. Special Education services for reading, math, social, and adaptive goals in the special education classroom, two days a week when school was in session for 180 minutes; and
    vii. Special Education services for reading, math, social, and adaptive goals in the special education classroom, one day a week when school was in session for 195 minutes.
e. The IEP team proposed the change in order to increase the Student's tolerance for school activities and allow more work toward their goals. The change allowed for more social interaction at meal times, school entry, and goal work.

f. The IEP team considered increasing the Student's time to a full day of 8:00 a.m. to 3:30 p.m., but determined the significant increase did not serve the Student's best interests at the time.

17. Relevant information from the Student's 2025-26 log included:
    a. September 2, 2025 - During snack time, the Student sat with their peers and attempted to share food. There was an incident of pinching staff after 11:00 a.m.
    b. September 3, 2025 - The Student pinched a paraprofessional and escalated quickly when given a non-preferred activity.
    c. September 4, 2025 - The Student had a pinching incident at 11:35 a.m.
    d. September 8, 2025 - The Student struggled from 11:00 a.m. to 12:00 p.m. and engaged in pinching, hitting, and self-injurious pinching.
    e. September 9, 2025 - The Student bit a staff member.
18. The Student's progress report for the 2025-26 school year indicated:
    a. Adaptive Goal
        i. October 10, 2025 - the Student made moderate improvement.
    b. Social Emotional Goal
        i. October 10, 2025 - the Student made slight improvement.
    c. Reading Goal
        i. October 10, 2025 - the Student made moderate improvement.
    d. Math Goal
        i. October 10, 2025 - the Student made slight improvement.
    e. Motor Goal
        i. October 8, 2025 - the Student made slight improvement.
    f. Communication Goal
        i. October 3, 2025 - the Student made moderate improvement.
    g. Motor Goal #2
        i. October 9, 2025 - the Student made moderate improvement.
    h. Motor Goal #3
        i. October 9, 2025 - the Student mastered the goal.
    i. Motor Goal #4
        i. May 19, 2025 - the Student made slight improvement.
    j. Adaptive Goal #2
        i. October 10, 2025 - the Student maintained performance.

Parent Interview

19. In an interview with the Complaint Investigator, the Parent stated the Student was enrolled for a full day of school when they started kindergarten in August 2025. They explained a full day was from 8:00 a.m. to 3:30 p.m., but the Student only attended

school from 9:00 a.m. to 11:00 a.m., and then was "handed off" to a separate entity which provided ABA services.

20. The Parent stated the School did not provide reasons for why the Student had a shorter day, "… other than they felt like [the Student] couldn't tolerate being up there all day" and the School wanted to incrementally ease the Student into more time. The Parent indicated that as of the time of the interview, the Student's time had increased and they were currently attending school from 8:00 a.m. to 12:00 p.m.
21. The Parent shared the Student spent about 20 minutes in the general education classroom. They indicated the School had recently increased that to 45 minutes, and considered lunchtime, recess, and general education with peers as part of that time. The Parent explained the Student was in the classroom for 20 minutes completing calendar time with their peers, and then was pulled out for services such as speech, PT, OT, and specialized education in another classroom.
22. The Parent explained they had initiated several IEP meetings, including one at the end of October [2025] in which they asked for the Student to have more time at school. They indicated the School told them they would "get there" and were going at the Student's pace. The Parent stated the School told them the Student did well with their peers during calendar time, but was pulled out during other times because they could not sit through the teacher's lesson and could not sit at the desk like the other students in the classroom. The Parent indicated the Student was pulled out to do "certain educational things" the way the Student wanted to do it and at their pace. Afterwards, the Student was "handed off" for ABA services. The Parent shared they learned in October [2025] the School was not going to give the Student anymore time because the School did not feel the Student was ready for it. The Parent perceived the Student was only participating in 45 minutes of regular school, at the time of the interview.
23. The Parent stated the Student attended a preschool in the LEA from 8:00 a.m. to 11:00 a.m. They indicated the Student completed two years of preschool because of their autism diagnosis. The Parent explained the Student only attended school for two hours during their first year of preschool, their time was increased in small increments, and the second year was when the Student was allowed to attend full time. The Parent expressed they were confused when the School did not start the Student's kindergarten day at 8:00 a.m. During the interview, the Grandparent shared that once the ABA provider arrived, the Student stayed at the School for another three hours with the provider. The Parent explained the ABA services were separate from the School, and the School only provided a place for the provider to facilitate the services.
24. The Parent perceived the Student spent only a small amount of time in the general education classroom with peers during preschool, and 90-95% of it was specialized instruction or receiving services such as speech, OT, and PT.
25. The Parent stated during the IEP meeting in October [2025], they realized the Student was only attending kindergarten from 9:00 a.m. to 11:00 a.m. The Parent perceived "normal kids" were being offered more time and education than the Student. They said, "… [the Student] is not even getting half a day, [they] [are] only getting 45 minutes … ."

The Parent expressed concern that the Student's only time with peers during the school day was during calendar time.

26. The Parent perceived the Student's IEP was "penalizing" them because the School was keeping the Student out of the classroom because they could not tolerate sitting at a desk during the teacher's lesson. The Parent indicated the Student was only in the general education classroom for 45 minutes, which was less than their peers. They indicated that while they were glad the Student was receiving needed services, they were concerned the School was not providing the type of education to which the Student was entitled. The Parent believed the Student would fall behind their peers if the School did not push them more.
27. The Parent said, "… I want [the Student] treated like a normal kid. Just because [the Student] [is] autistic doesn't mean [they] should be treated differently. And the school feels like they're not treating [the Student] any different, but they are. They're not allowing [them] to do a full day." The Parent explained the School's reasoning for the Student not receiving a full day was because they wanted the Student to start small and build up time, but that after several months, there had been no increase in time and the Student was still attending from 9 a.m. to 11:00 a.m.
28. The Parent said, "I feel like they're robbing [the Student] of [an education] every time that they cut [them] short because [the Student] [is] autistic. … but I don't think that they should penalize [the Student] like they are and say [the Student] doesn't deserve to be in the classroom."
29. The Parent explained the Student was offered speech, PT, OT, and specialized instruction in a specific classroom during preschool. They indicated the Student was currently receiving speech services twice a week for 15 minutes each day, in addition to PT, OT, and specialized instruction.
30. During the interview, the Grandparent stated the Student had attended preschool from 8:00 a.m. to 12:00 p.m., and was attending school for an hour less during kindergarten. The Grandparent perceived the School was cutting the Student's time, letting the Student "make the call" about their education, and not pushing the Student to succeed.
31. The Parent had the impression the School was only providing minimal services to the Student.

Special Education Director Interview

32. In an interview with the Complaint Investigator, the Special Education Director explained when the Student came to the LEA as a Part C to Part B transition student, they were on an abbreviated schedule as determined by their Individualized Family Service Plan (IFSP). They indicated the Student remained on a shortened day when they started preschool, as determined by the data and the IEP team. They stated the Student's preschool schedule was later increased to a full day.
33. The Special Education Director shared that during preschool, the Student attended from 8:00 a.m. to 11:00 a.m., Monday through Thursday, which was the same schedule as non-disabled preschool students. They explained throughout the 2024-25 school

year, the IEP team discussed what the Student's kindergarten year would look like, which was reinforced several times to the Parents. The Special Education Director explained the Other Parent met with an administrator on August 18, 2025 and agreed the Student would have a "soft start" to kindergarten, which was 9:00 a.m. to 11:00 a.m., and the IEP team would review the length of the Student's school day after nine weeks of data collection. The Special Education Director indicated the soft start was at the request of the Student's Parents because the Student also engaged in ABA services at the School from an outside provider. They shared the Student received ABA services at the School as a convenience for the Parents because the outside provider did not offer the service on weekends, after school, or in the home.

34. The Special Education Director stated there was no state requirement for all-day kindergarten. They shared it was an hour requirement and some LEAs did a shortened day. They said, "I can't say all other kindergarteners. A regular education student would presumptively go from eight [sic] to 3:30."
35. The Special Education Director explained that during the 2024-25 school year, the Student was in a mixed classroom, with about 89% of the peers being non-disabled and 11% were students with IEPs. They stated the Student attended from 8:00 a.m. to 11:00 a.m. and other than time spent on pull-out services, OT, PT, and speech services, the Student was with their non-disabled peers.
36. Regarding the 2025-26 school year, the Special Education Director said, "... we're continuously adding time as [the Student] goes into a general education kindergarten classroom, it's very overwhelming for [them]. So they've started off slowly and continuously added time as they've collected data. [The Student] is with [their] regular education teacher 25 minutes out of the time that [the Student] is there. And ... 81% of the students in that classroom are non-disabled peers. [The Student] also has full access to [their] non-disabled peers at recess."
37. According to the Special Education Director, for the 2025-26 school year in the general education setting, the Student had a one-on-one paraprofessional, ate lunch with their peers, had pull-out time with the Special Education Teacher, and received additional related services. When asked how effective the supports had been for the Student, the Special Education Director indicated they had seen "tremendous growth and progress" with the Student. They indicated the Student's Parents had also commented on the Student's growth.
38. When asked about the data used to determine the Student's abbreviated school day for 2024-25 school year, the Special Education Director explained they used the Peabody Motor Scales, a FastBridge screening and testing, a preschool assessment diagnostic program, and observational data from teachers and paraprofessionals. For the 2025-26 school year, the Special Education Director stated the IEP team reviewed the Student's progress on their goals and their most current progress report. They explained observational data showing when the Student reached a threshold of frustration was a factor in determining the length of the Student's day in kindergarten. They stated the IEP team was concerned the Student transitioning from a center-based preschool

classroom to an instructional kindergarten classroom was a "dramatic jump." They said, "… the team was concerned that the threshold point for frustration and observational data, the self-interest behavior, et cetera, was the determining factor. The team had always looked at adding on slow increments of increasing time … ."

39. The Special Education Director stated there had been a request from the Parent to increase the Student's day from 8:00 a.m. to 3:00 p.m., which would have been a 133% increase. They indicated the Special Education Teacher and the IEP team were concerned the request was not based on the data.
40. The Special Education Director indicated the Grandparent was unhappy the Student was not attending a full day, and was unhappy the Student was receiving speech services, physical therapy, and occupational therapy. They said, "[The Grandparent] just wanted [the Student] to be in a kindergarten classroom and not receive that." In response to the Grandparent's perception the LEA did not have appropriately trained staff, the Special Education Director shared the LEA had a full autism team which received technical assistance from the state. They explained the head of the autism team gathered observational data of the Student, which was used to help the IEP team make decisions about extending the Student's day. They said, "It is always our goal to extend that school day. We just wanted to do that with appropriate data … ."
41. The Special Education Director indicated a PWN from October 25, 2024 proposed the Student would have a two-hour day upon starting kindergarten, but then the IEP team determined it should be three hours.
42. When asked why the Student's day did not start at the same time as their regular education peers, the Special Education Director explained on November 19, 2025, the IEP team decided to increase the Student's day to 8:00 a.m. to 11:00 a.m. They indicated the Student started the day at the same time as their peers.
43. The Special Education Director said, "… [the Student] has made tremendous progress. But that time has been built slowly based on data decisions to add those increments to where we are today."

Special Education Teacher Interview

44. In an interview with the Complaint Investigator, the Special Education Teacher explained minutes were continually added to the Student's day as they progressed through the 2024-25 school year. They explained the Student's IEP team met in October 2024 and agreed to meet after the winter break and review the data to see whether the Student's day should be extended. They stated the team met in January 2025 and determined the Student would attend preschool from 8:00 a.m. to 11:00 a.m. four days a week, which was the same as their regular education peers.
45. The Special Education Teacher explained there was a meeting on August 18, 2025, called by the building administrator, to discuss the Student's plan for the 2025-26 school year and the Student having a three-hour school day. They indicated the Student's parents requested the Student start school at 9:00 a.m. due to a daycare situation, so the School had the Student attend from 9:00 a.m. to 12:00 p.m. They

explained this schedule was an extension of the Student's school minutes from the 2024-25 school year because the Student would now be attending school five days a week. They stated the Student participated in ABA services at the School from an outside provider from 12:00 p.m. to 3:00 p.m.

46. When asked what data supported the Student receiving three hours of instruction, the Special Education Teacher explained the data they collected showed a nearly daily trend of the Student having a strong start to the day, completing their academic tasks, and taking some sensory breaks, but still showing several refusals. They stated the Student would have meltdowns generally between 11:00 a.m. and 12:00 p.m. They indicated they tried redirection to be able to get the Student to stay that amount of time without having meltdowns, but it was not successful. The Special Education Teacher described they scaled back on the Student's academics and changed to doing more functional work between 11:00 a.m. and 12:00 p.m., but the Student still struggled.

    The Special Education Teacher indicated the Student had fewer meltdowns over the course of nine weeks and the data showed the Student was improving, but they continued to observe the Student having meltdowns between 11:30 a.m. and 12:00 p.m. They explained the Student was going to recess and receiving preferred time at the start of the 11:00 a.m. hour. They said, "We do have [the Student] going with peers that entire 11 to noon hour as much as we possibly can. However, if [the Student] [has] shown that [the Student] [is] not regulated, if [the Student] [is] showing that [they] [are] not able to sit at a table safely, then we do have to redirect [them] to our classroom to finish [their] lunch just due to safety precautions. [The Student] will run … elope … try and go into classrooms and it's not in [the Student's] best interest to constantly be having to be redirected for those kinds of behaviors, but we are still … working on them."

47. The Special Education Teacher stated the Student had three instructional hours during the 2025-26 school year, and was physically at the School until 3:00 p.m. They shared the Student participated in ABA services from 12:00 p.m. to 3:00 p.m. at the School. They explained an IEP team meeting was proposed for October 2025 to review adding time to the Student's day. However, due to issues regarding the Student's ABA services, the Special Education Teacher felt it was in the Student's best interest to have continuity in their schedule and wait on adding time to their school day until the IEP team had more information. They elaborated the additional information they wanted to receive was the dates, times, and duration of how long the Student would be engaging in ABA services with a new provider. The Special Education Teacher stated once they had this information from the new provider, then the IEP team would look at changing the Student's minutes at school. They said, "It was always our intention every nine weeks to look at adding minutes to [the Student's] daily schedule if [the Student] was not already attending in the building a full day between our classes and ABA, but … I just did not have the information as to the days, times and duration that [the Student] would be attending with [their] new ABA."

48. The Special Education Teacher described the Student as "a very schedule-based child" and said, "[The Student] [is] very scheduled and so I did not feel it was in [their] best interest to change [their] day multiple times if we did not have to."
49. The Special Education Teacher stated the Student was with their non-disabled peers during the 2025-26 school year. They explained the Student started off with ten minutes in the classroom, "just being around [their] peers … . [The Student] does attend [recess] and … lunch … preparing for the lunch hour … ." They indicated the Student was currently in the classroom for 20 minutes every day with their non-disabled peers, in addition to recess and lunch. They said, "But as far as academic and cognitive education, [the Student] is at that 20 minutes during [their] three hours and then [the Student] attends recesses and lunch and we work on other things within the classroom as well. … [the Student] [is] around other kids a predominant part of [their] day."
50. According to the Special Education Teacher, during a meeting in August 2025, it was determined they would review the data in nine weeks regarding increasing the Student's school day. They indicated it was always their intention to add minutes to the Student's day and get them as close to a full day as the data indicated was possible. They stated since the meeting in August 2025, another hour had been added to the Student's school day.
51. The Special Education Teacher stated at the start of the 2025-26 school year, the Student's day was from 9:00 a.m. to 12:00 p.m., Monday through Friday. They indicated on November 20, 2025, the Student's day was increased by one hour, and currently started at 8:00 a.m.
52. When asked what supports the Student was offered in the general education setting, the Special Education Teacher stated they remained with the Student on a one-on-one basis. They explained the Student had a portable visual schedule carried with them at all times, and the Student was offered a copy of the work being completed on the board, sitting in a preferential chair, having fidgets available, and the Student was allowed to stand to "get those wiggles out a little bit … ." They said, "… we do everything we can to be able to keep [the Student] in the classroom as much as possible. It's always my hope to be able to add more time. … we've already added 50% more time from the beginning of the year."
53. In the special education setting, the Special Education Teacher explained the Student had a curriculum based on their individual needs and received accommodations for academics. They explained the Student had preferential seating, sensory areas, sensory breaks, and a visual schedule. The Special Education Teacher indicated the visual schedule had been effective and the Student was currently modulating their own schedule. They said, "[The Student] is also having so many more words. [Their] verbalizations are up. [The Student] is talking to us more. [The Student] is sharing [their] refusals … likes, dislikes, preferreds and non-preferred. So we're seeing a lot more back and forth communication with [the Student] … . [The Student] [is] also starting to do some fine motor tasks that we did not see at the beginning of the year."

They added, "… I feel like all of the modifications that we are doing to [the Student's] academics are providing [them] this success."

54. The Special Education Teacher described the Student's preschool experience as more center-based and play-based, but the structure of the kindergarten classroom was not. They explained that was why it was important to have the Student complete some of their learning in the resource room, where the Student could learn through an activity rather than a "pen and paper activity". They explained the Student was learning the same things as their peers, but was doing it in the resource room in a way that helped the Student be more successful.
55. The Special Education Teacher explained the nature of the Student's disability sometimes resulted in them being more verbal than their peers and occasionally eloping. They described the Student's behaviors could become a distraction to themselves and other students. The Special Education Teacher explained a curriculum was developed to work with the Student so they were able to be more successful than if they were "just sitting and listening in [their] classroom without someone with [them]." They stated the IEP team felt the Student's disability facilitated the Student needing someone working with the Student one-on-one, in order for the Student to remain safe within a classroom and be able to work to their best ability.
56. The Special Education Teacher explained the IEP team discussed and rejected the Student spending their entire day in the regular education classroom, and rejected the Student spending their entire day in the resource room. They stated it was determined neither option was in the Student's best interest because they wanted the Student to get as much education from the regular education classroom as possible, but that the Student would not learn to their "best extent" if they were entirely in the general education classroom due to how the material was delivered. They explained data was collected to help in deciding how much time the Student would spend in the general and special education settings. The Special Education Teacher explained it started with the Student spending ten minutes in the general education setting for academic time, and later increased to 20 minutes. They stated the Student also had other peer interactions during recess, lunch, and now, during breakfast.
57. The Special Education Teacher described the Student had progressed, including speaking in phrases and being able to do some academic work independently. They indicated it was never the IEP team's intention to keep the Student's school day abbreviated and they always wanted to add more time. They stated it was more difficult to determine when to make decisions regarding increasing the Student's school day when they did not know the days and times the Student would be working with the ABA provider.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #495, in accordance with state and federal regulations implementing the IDEA, ensured, to the maximum extent appropriate, the Student was educated with children who were nondisabled, and special classes, separate schooling, or other removal of the Student from the regular educational environment occurred only when the nature or severity of the disability was such that education in regular classes with the use of supplementary aids and services could not be achieved satisfactorily. K.A.R. 91-40-21 (a)(b)(1)(2)(c)(1)(A)(B)(2); 34 CFR §300.114 (a)(1)(2).

According to K.A.R. 91-40-21 (a)(b)(1)(2)(c)(1)(A)(B)(2), each agency shall ensure that the children with disabilities served by the agency are educated in the least restrictive environment. Each agency shall ensure that a continuum of alternative educational placements is available to meet the needs of children with disabilities. These alternative educational placements shall include instruction in regular classes, special classes, and special schools, instruction in a child's home, and instruction in hospitals and other institutions. Each agency shall make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement.

In determining the educational placement of a child with a disability, including a preschool child with a disability, each agency shall ensure that the placement decision shall be made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options. Each agency will ensure the decision shall be made in conformity with the requirement of providing services in the LRE.

The Parent alleged at the October 20, 2025 IEP meeting, no staff from the LEA were at the meeting to discuss extending the Student's school day.

The LEA stated the Student's IEP teams met on October 25, 2024 and October 20, 2025, and made placement decisions based on current, individualized data. At each meeting, the team examined the full continuum of placement options, considered potential harmful effects, and documented the supports necessary to maintain the Student in the general education environment.

According to the LEA, the Student's kindergarten classroom demographic makeup was 81.25% non-disabled students and 18.75% students with disabilities, indicating the Student interacted with a large percentage of non-disabled peers in that classroom. The Student's IEPs from October 2024 and October 2025, in addition to the accompanying PWNs, documented the IEP team's consideration and determination of the Student's least restrictive environment. The IEP team considered full, partial, and no inclusion options in the Student's October 2024 IEP, and in the October 2025 IEP, determined the Student would have partial inclusion in the general

education classroom. The Student's IEPs also included supplementary services to support them in the general education classroom, which showed the IEP team reviewed a variety of educational placements for the Student to meet their specific needs.

The Student's October 2025 IEP indicated their current levels would impact their progress in the general education curriculum, and included documented attempts at inclusion (1-2 attempts daily for at least 25 minutes). The IEP indicated the Student played with their peers during recess and was learning to work with peers in the classroom. The IEP team proposed a placement which included special education services in the general and special education classrooms, while ensuring the Student had the opportunity to participate in non-academic and extracurricular activities with their peers. A PWN from October 20, 2025 indicated the IEP team used the several forms of data to support their decision regarding the Student's least restrictive environment. The evidence demonstrated the IEP team, including the Parent, participated in the decision-making process regarding the Student's least restrictive environment.

According to the Special Education Teacher, and corroborated by a portion of the Student's log for the 2025-26 school year, there was evidence the Student had behavior incidents which often occurred between 11:00 a.m. and 12:00 p.m. The Special Education Teacher indicated this was a factor in determining the Student's placement and length of school day. The Parent perceived "normal kids" were being offered more time and education than the Student and believed the Student's IEP was penalizing them. However, the Special Education Teacher described the Student's preschool experience as more center-based and play-based, but the structure of the kindergarten classroom was not. They explained this difference was a factor in why it was necessary to have the Student complete some of their learning in the resource room, where the Student could learn through activities. They explained the Student was learning the same things as their peers, but was doing it in the resource room in a way that helped the Student be more successful.

Documentation and interviews indicated the Student was spending anywhere between 20-45 minutes in the general education classroom, showed the Student had access to their peers during other times of the day, and that the Student engaged in services. Overall, the evidence demonstrated the IEP team's decisions regarding the Student's least restrictive environment, and the Student's time spent in and out of the general education classroom, were based on data and the Student's individual needs.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to ensure the Student was educated in their least restrictive environment.

Issue Two

Whether USD #495, in accordance with state and federal regulations implementing the IDEA, initiated an abbreviated school day, resulting in a denial of a FAPE for the Student. K.A.R. 91-40-2(a)(1)(b)(1)(e), K.A.R. 91-40-27(3); 34 CFR §300.101(a).

According to K.A.R. 91-40-2(a)(1)(b)(1)(e), each agency shall provide a FAPE. Each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

According to K.A.R. 91-40-27(3), each agency shall obtain parental consent before making a material change in services to, or a substantial change in the placement of, an exceptional child.

The Parent alleged that, effective at the start of the 2025-26 school year, the LEA implemented a new schedule for the Student, 9:00 a.m. to 11:00 a.m., an hour later than other students and a reduction from the prior year's schedule of 8:00 a.m. to 12:00 p.m.

The LEA stated they did not shorten the Student's instructional schedule for disciplinary, administrative, or convenience-based reasons. They indicated any adjustments to the Student's day were made strictly through the IEP team process and based on current data.

During the interviews, there were some incorrect statements made by the Parent and the Special Education Director about the length of the Student's day during the 2024-25 and 2025-26 school years. As described in meeting notes and the LEA's Response, the Student ultimately attended preschool from 8:00 a.m. to 11:00 a.m. for four days a week, which was the same as their non-disabled peers. According to investigative materials, the Student attended kindergarten from 9:00 a.m. to 12:00 p.m. On November 19, 2025, 60 minutes were added to their school day.

According to the Special Education Director, the Student had a history of being on an abbreviated schedule, dating back to their IFSP. The IEP team implemented an abbreviated school day as an aspect of the Student's placement, based on the Student's unique needs and tolerance levels, and with parental consent, as documented in IEPs and PWNs the Parent signed. There was no evidence to show the decision to implement an abbreviated school day was arbitrary or resulted in a denial of a FAPE. The IEP team used a variety of information to inform their decision, including the Student's classroom skills and current performance, and observational data. A pattern emerged from the evidence which showed the School made data-driven decisions about the Student's placement and length of their school day. As seen in statements made by School staff and various documentation, the team's stated goal remained consistent, which was to work toward increasing the Student's time to a full day, as long as the decision was grounded in data. Evidence showed the IEP team also added time to the

Student's day based on available data (i.e., increasing their minutes in January 2025 and in November 2025).

According to the Special Education Director, for the 2024-25 school year, the determination of the Student's abbreviated day was based on assessment data, and staff observational data. For the 2025-26 school year, the IEP team utilized the Student's progress reports and observational data—specifically noting the Student's threshold for frustration and self-interest behavior—to incrementally increase their time. The Student's progress reports for the 2024-25 school year indicated the Student showed slight or moderate improvement in six out of nine goals, and the Student's performance for the start of the 2025-26 school year indicated they made progress (or had reached mastery) in nine out of ten goals. The Special Education Director and Special Education Teacher stated they observed the Student's supports were effective and the Student made progress. This evidence indicated the Student's abbreviated day was not having a negative impact on their progress or ability to access a FAPE.

The evidence demonstrated the decision for the Student to have an abbreviated day was made by the IEP team, was based on current and previous data concerning the Student's specific needs and tolerance, and was subject to continuous review and parental consent. Additionally, evidence from interviews and documentation showed the Student was making progress on their goals, which did not indicate there was a denial of a FAPE.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA initiated an abbreviated school day which resulted in a denial of a FAPE for the Student.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #383, MANHATTAN/OGDEN PUBLIC SCHOOLS
ON NOVEMBER 24, 2025

DATE OF REPORT: DECEMBER 23, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #383 Manhattan/Ogden Public Schools on behalf of xxxxxx by her parents xxxxxx. In the remainder of the report, xxxxx will be referred to as "the student" andxxxxx as "the parents" or "the complainants".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. In this case, the complaint is against USD #383 Manhattan/Ogden Public School; this LEA provides its own special education services. During the 2025-2026 school year the student is attending 4th grade at Oliver Brown Elementary School which will be referred to as "the elementary school" in the remainder of the report. Messages sent through Parent Connect, the LEA's communication system will be referred to as "the communication platform" in the remainder of this report. School and LEA staff will be referred to In the remainder of this report as follows:

- Jessica Nelson, director
- Amber Cook, principal

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on November 24, 2025.

Evidence Reviewed

During the investigation, the complaint investigator reviewed all evidence and documentation provided by the LEA and the parent. Additionally, the complaint investigator contacted the parents and director on November 25, 26, December 1, 8, and 18, 2025 by email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents -

1. Student's IEP dated February 21, 2025.
2. LEA Staffing Summary and Discussion Summary of the September 17, 2025 IEP team meeting.
3. PWN dated September 18, 2025.
4. Message from principal to parents via communication platform, re: followup comments from September 17, 2025 IEP meeting, including offer for continuation meeting, communication issue and Drs orders, sent September 18, 2025.
5. Reply from parents on Sept 19, 2025 citing concerts with the content of the PWN.
6. District reply to allegations sent on December 8, 2025.
7. Email exchange between the director and investigator on December 8, 2025.

Background Information

The student named in this complaint is attending the fourth grade at one of the LEA's elementary schools during the 2025–2026 school year. According to the LEA, the student attended early learning services in the current district and first qualified for IEP services in 2019. The student uses a wheelchair and walker due to spina bifida.

The IEP provided by the LEA is dated February 12, 2025 and includes the following:

Goals -

1. Safety related to clearing the environment of mobility hazards, safe sitting and walker use
2. Independently open exterior doors from walker level
3. Catch a small ball thrown overhanded

Special Education and Related Services -

1. Physical Therapy direct services for 25 minutes, one day per week.
2. School Nurse direct services for 15 minutes, daily.
3. Attendant Care - a non instructional paraeducator for lunch coverage, 10 minutes, daily.
4. Special Education Services- adult support for mobility in specials, recess and classroom for 245 minutes, one day per week.
5. Special Education Services- adult support for mobility in specials, recess and classroom for 270 minutes, four days per week.

6. Although not reflected in the IEP shared with the investigator, the September 18, 2025 PWN adds, "...the IEP team believes that close proximity support is an appropriate accommodation and will be added specifically for recess and physical education to promote safety while also supporting independence and peer interaction."

Service -

1. Teacher consultation- Physical therapist and special education teacher will consult with classroom teacher, specials teachers, and other staff members regarding the student's needs, 5 minutes, monthly in the special education classroom.

Modifications/Accommodations -

1. Adult check In/Check Out for organization.
2. Alternative seating, activities, etc., may be needed in order for the student to be most successful at school.
3. Visual organizational prompt on student desk.

Issues Investigated

Based on the written complaints and interview with the complainants, two concerns that fall under IDEA or Kansas regulations were identified, one of which was already under investigation. Therefore one issue will be investigated.

Issue One

Did USD #383 amend the student's IEP to include changes made at the IEP meeting on September 17, 2025, and confirmed in the September 18, 2025 PWN, as required by 34 CFR §300.324(a)(6)?

Applicable Law

Federal regulations at 34 CFR §300.324(a)(6) require that changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

Parent Position

The parent's complaint states that the LEA did not update the student's IEP to reflect the amendment of "close proximity" in the student's IEP as promised in the September 18, 2025 PWN.

LEA Position

"As a matter of federal and Kansas law, the September 18, 2025, Prior Written Notice documented proposed changes; it did not, by itself, amend the student's operative IEP

because the parent did not provide the written consent that Kansas law requires before a material change in services or substantial change in placement can be implemented."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. The PWN issued on September 18, 2025 states, "Instead, the IEP Team believes that close priority support is an appropriate accommodation and will be added specifically for recess and physical education to promote safety while also supporting independence and peer interaction."
2. The PWN indicates in different two places that parent consent was not required for any of the actions proposed or refused.
    a. "Other changes to IEP, not involving services or placement. (Parental Consent Not Required)" and,
    b. "The [LEA] refuses to initiate or change the identification, educational placement, or provision of special education and related services as explained below. (Parental Consent Not Required)"
3. The PWN does not indicate that the changes proposed are "Material changes in services" which do require parental consent.
4. The student's IEP dated February 21, 2025 was not amended to include the proposed change stated in the September 18, 2025 PWN of "close proximity."
5. In a reply to the principal's message which included the September 18, 2025 PWN the parents cited concerns with the content of the PWN and stated, "Before signing or taking our next steps, we plan to consult the Disability Rights Center of Kansas for guidance. It is our understanding that two of the attorneys we are working with are or will soon be out of the office, so we will respond regarding the proposed date and time for the next meeting after we have their input."
6. The LEA's response to the complaint includes the following, "Here, the changes discussed at the September 17, 2025, IEP meeting and described in the September 18, 2025, PWN involved altering the student's accommodations, that is, the supplementary aids and services that enable the student to access instruction. Under Kansas law, any change that increases or decreases the frequency or duration of such support by 25 percent or more is a "material change in services" that cannot be implemented without written parental consent, unless the district pursues and prevails in mediation or due process. In this case, the parent affirmatively declined to sign the consent section accompanying the September 18 PWN and expressly objected to the accuracy of the proposed revisions. That refusal is the opposite of the "agreement" contemplated in 34 C.F.R. § 300.324(a)(4) for amendments by written document and triggers the Kansas specific requirement that any material change in services may proceed, if at all, only through mediation or due process, not by unilateral district action. Rather than implement the proposed changes over the parent's objection, USD 383 continued to

provide services and accommodations under the last fully agreed upon IEP and did not treat the September 18, 2025, PWN as an operative amendment. This approach is fully consistent with Kansas authority such as Clasen v. Unified School District No. 266, in which the court deferred to state administrative findings applying the Kansas 25 percent "material change" and "substantial change in placement" rules and recognizing that parental consent is required when those thresholds are crossed. Because there was no mutual agreement to amend the IEP and no written parental consent for a material change in services, USD 383 did not amend the IEP within the meaning of 34 C.F.R. § 300.324(a)(6); the September 18, 2025, PWN accurately functioned as notice of a proposed action only, and the student's IEP remained unchanged."

7. In an email from the principal to the investigator December 8, 2025, at 8:12 a.m. they state, "On item # 1 of the PWN we have listed that we are proposing to add 'close proximity.' We need parent permission to add this as an accommodation. You will see in [the student's] current IEP, that accommodation is not listed due to not having parent permission."
8. Email sent by principal to the investigator on December 8, 2025, 10:40 a.m. "Here is the parent communication that was sent with the PWN. Since the PWN is our offering, the parent has a choice to sign consent or do not consent. They chose to not respond to the PWN or the request for another meeting. "

Conclusion

Prior Written Notice documents the LEA's proposal to initiate or change, or refusal to initiate or change, the identification, evaluation, educational placement, or provision of FAPE. Whether parent consent is required depends on the nature of the proposed or refused action. The PWN informs parents of any actions requiring consent to amend the IEP and identifies proposals or refusals that the LEA may implement or maintain consistent with IDEA, regardless of parental agreement.

In this case, on page two of the September 18, 2025 PWN, section 3, titled "Change in Services" has two check boxes. One box indicates that consent is not required and the other indicates consent is required. Neither box is checked. This failure to check the "consent is required" box was an error because in Section A, the PWN says, "Instead, the IEP team believes that close proximity support is an appropriate accommodation and will be added specifically for recess and physical education…" That provision added a supplementary service that had not previously been provided. As such, that provision required parent consent but the PWN did not notify the parent that consent was needed. Thus, the error resulted in a defective PWN.

However, this PWN error was a procedural error that did not substantively interfere with the parent's right to participate in educational decision making. As noted in Finding 5, above, in a written reply to the September 18, 2025 PWN, on the very same day, September 18, 2025, the parents stated, "Before signing or taking our next steps, we plan to consult the Disability Rights Center of Kansas for guidance. It is our understanding that two of the attorneys we are working

with are or will soon be out of the office, so we will respond regarding the proposed date and time for the next meeting after we have their input." In short, the parents exercised their right to delay signing the PWN, which effectively prevented the district from implementing the "close proximity" proposal. The parents still have not provided the necessary consent. Despite the omission of checking the consent box on the PWN, these subsequent actions indicate that more likely than not, both parties understood that the new "close proximity" proposal was a proposed material change in services and so could not be implemented without the written consent of a parent.

Based on the foregoing, it is found that the LEA was not able to amend the IEP as stated in the PWN issued September 18, 2025 because it did not have the requisite consent to do so. The *LEA is IN compliance*, and corrective actions are not required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §300.324(a)(6) was not found. No corrective action is required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233
ON DECEMBER 8, 2025

DATE OF REPORT: DECEMBER 24, 2025

This report is in response to a complaint filed with our office on behalf of a student, --------, by the Complainant, --------. In the remainder of the report, the student will be referred to as "the Student" and the complainant as "the Complainant."

The Complaint is against USD #233 Olathe Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #233.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to KSDE. In this case, KSDE received the complaint on December 8, 2025, and the 30-day timeline ended on January 7, 2026.

Background

The Student transferred from Paola School District at the start of the 2025-2026 school year with an IEP. The IEP team at Olathe East High School adopted Paola's IEP and offered comparable services. Following this, an IEP meeting was held on September 24, 2025. The Complainant stated that she was an active participant in that team meeting and all technical requirements relating to the IEP meeting were completed by the LEA.

On October 28, 2025, a Temporary Order of Protection was filed by the Student's father on behalf of himself against the Complainant. The Order stated that the Complainant "shall not enter or come on or around the premises, the residence, the property, school, or place of employment of the Protected Person or other family or household member." The LEA interpreted the Order to include the Student because the Student is a family member and household member of the Protected Person.

Investigation of Complaint

The Complaint Investigator interviewed the Complainant on December 15, 2025. The following LEA staff were interviewed on December 17, 2025: the Assistant Director of Special Services and the School Principal.

In completing this investigation, the Complaint Investigator asked the Complainant and the LEA for all relevant information. The Complainant did not provide any documentation. The

Complaint Investigator reviewed all documentation provided by the LEA. The following materials were used as the basis of the findings and conclusions of the investigation:

LEA Materials

1. Response to Formal Complaint
2. Email correspondence between the Complainant and school staff
3. Complainant's ParentVue account activation
4. Complainant's Access to ParentVue (log-in log)

Factual Findings

The following findings are based on a review of documentation and interviews with the Complainant and LEA staff.

1. ParentVue is an online portal and mobile app for parents to monitor their child's education in real time.
2. ParentVue provides access to grades, attendance, assignments, discipline records, and student information through a single login.
3. The Complainant activated her ParentVue account on August 13, 2025.
4. The Complainant accessed ParentVue a total of 291 times between August 13, 2025 and December 8, 2025.
5. The Complainant receives notifications regarding the Student's attendance, discipline, and health.
6. The Complainant did not request, either verbally or in writing, to inspect and review the Student's attendance record.
7. The Complainant did not request, either verbally or in writing, to inspect and review the Student's counseling service record.

Issue Analysis

Issue One

Did USD 233 deny the Complainant's right to examine her child's education records, including attendance data and health data? 34 C.F.R. 300.613; K.A.R. 91-40-25.

The Complainant alleges that the School denied her the right to examine her child's educational records, including attendance records and counseling service records. The LEA asserts that there is no indication that the Complainant ever requested, verbally or in writing, to inspect and review the Student's educational records.

LEAs must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by LEA. The agency must comply with a request without unnecessary delay and in no case more than 45 days after the request has been made. 34 C.F.R. 300.613(a). Parents shall have the opportunity to examine all education

records and participate in any meeting concerning their child. K.A.R. 91-40-25. Education record means any document or medium on which information directly related to one or more students is maintained by a LEA or School (Kansas Special Education Process Handbook (KSEPH), p. 154). Education records include attendance data and health data (KSPEH, p. 154).

There is no evidence that the Complainant requested to inspect and review the Student's education records, specifically the Student's attendance data and health data. The LEA provided the Complaint Investigator email correspondence between school staff and the Complainant. These emails do not contain a written request from the Parent to review and inspect the Student's education records.

The Complaint Investigator emailed the Complainant to clarify whether the Complainant verbally requested to view the Student's education records. The Complaint Investigator asked the Complainant whether she verbally requested the Student's education records and when and where the request was made. The Complainant failed to respond with any details regarding the alleged education records request.

In this situation, a complaint investigator uses the preponderance of evidence standard. The standard requires a party to show that their version of events is more likely true than not. In other words, there must be more than a fifty-percent probability that an event occurred. To support a finding, there must be some evidence to support that a request for education records occurred.

Here, there is no such evidence. The LEA was forthcoming in its search for email correspondence between the Complainant and school staff and provided email correspondence relating to the Student's attendance and health. On the other hand, the Complainant failed to provide details regarding the alleged request, such as when and how. Therefore, it is not probable that the Complainant requested, either verbally or in writing, the Student's education records.

Conclusion

It is not substantiated that the LEA denied the Complainant's right to examine her child's educational records, including attendance data and health data.

Hannah Miller, Attorney

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

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(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #260
ON NOVEMBER 24, 2025

DATE OF REPORT: DECEMBER 26, 2025

This report is in response to a complaint filed with our office on behalf of a student, --------, by their parent, --------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD # 260, Derby Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD # 260.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on November 24, 2025, and the 30-day timeline ended on December 24, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #260, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), the LEA implemented the Student's Individual Education Program (IEP) when a bus aide or adult support was not provided throughout the day, and the assigned adults did not have access to the school-issued iPad. K.A.R. 90-40-16, K.A.R. 91-40-1 (ccc)(1)(B)(W)(X)(kkk)(1)(A)(2)(ttt); 34 CFR § 300.323(a)(d).

ISSUE TWO: Whether USD #260, in accordance with state and federal regulations implementing the IDEA, fulfilled its obligation to train staff to deliver the special education and related services described in the Student's IEP. K.A.R. 91-40-16(b)(4)(5), K.A.R. 91-38-3(f); 34 CFR § 300.323(d).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on December 17, 2025. The Principal, the Director, and the Assistant Director of the LEA were interviewed on December 10 and 12, 2025.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. District Response, 12/04/25
2. [the District]: Transportation Training 2025, no date
3. Email, re: Document Shared with you: "Monday Schedule," 12/01/25-12/04/25
4. Auditory Processing Disorder Training, no date
5. [the Student] Training, 08/11/25
6. Email, re: [the Student] Training 9/3/2025, 09/03/25
7. Screenshot of Bus Staff Training Drive, no date
8. Screenshot of [the Student] Training Drive, no date
9. Email, re: Update Based on our Conversation today, 11/19/24
10. Email, re: [the Student] 11/19/2025, 11/19/25-11/24/25
11. Special Ed Transportation Attendance, 08/12/25-11/17/25
12. Bus Staff Calendar, 08/13/25-11/21/25
13. IEP, 02/26/25
14. [the Student's] Individualized Healthcare Plan, 08/15/24
15. Seizure Action Plan, no date
16. Teacher Information Page, 02/26/25
17. Email, re: [the Student] Training Request, 07/15/25
18. Email, re: [the Student] Training, 07/15/25-07/30/25
19. Email, re: Invitation: [the Student] Training @ Mon Aug 11, 2025 1 pm-2 pm, 07/17/25
20. Email, re: Documentation Request, 12/01/25
21. Bus Transportation Training Agenda, 08/01/25
22. Transportation Training Sign-in Sheet, 08/01/25
23. Email, re: [another student] and [the Student], 12/04/25

Background Information

This investigation involved a third-grade student enrolled at an elementary school in the LEA. The Student qualifies for a developmental delay as a child with a disability per the IDEA and is placed in a "categorical special education classroom that provides a level of structure and service to meet [the] Student's unique needs".

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. An email dated November 19, 2024 was labeled by the LEA as "Email regarding iPad and Speech." The email was sent to the Parent, from the Principal, and provided a reason why staff were unable to locate the iPad the previous day. "[Classroom staff] realized after [the Student] left that [the Student] had snuck the iPad in where regular devices are charged and stored." The Former Special Education Teacher was assured that, instead of the Student missing services, the Former Speech Language Pathologist (SLP) would record with their phone if there were concerns. (D95)
2. The Student's February 26, 2025 IEP included the following relevant information:
    a. The Student's primary disability was "developmentally delayed". (D340)
    b. The Student required a health care plan for seizure activity. The Student's orientation and mobility strengths included "independent travel skills" indoors, use of a long white cane, and active participation and listening. (D133-D134)
    c. The Student required supervision on the stairs and on outdoor terrain due to "possible instability".
    d. The Student had "right-sighted hemiparesis," which meant their right was affected, " making bilateral tasks very difficult". The Student needed encouragement to use their right hand and had a "variable range of motion" on their right hand and arm. The Student lacked vision on the right side of both eyes. (D135)
    e. The Student's Special Education and Related Services included 15 identified services.
    f. Relevant accommodations for the duration of the IEP were:
        i. "Prompts/staff assistance and supervision during the day for mobility and safety," "as needed during mobility on [the] stairs, when obstacles or terrain may be unsafe or when [the Student] is unaware of obstacles due to sensory neglect or visual impairment," in the school building or on school grounds, throughout the day.
        ii. "Staff assistance and supervision during prescribed exercise program and during physical education [PE]," "daily supervision; assistance as needed for correcting incorrect technique; problem-solving adaptations to PE class activity as needed," during PE or exercise in the classroom, for the duration of the exercise or activity.
        iii. "Adult support will be provided for [the Student] throughout the day … for all daily activities in all settings," in general education and special education classes, throughout the school day. (D146-D147)
    g. Supports for School Personnel included trainings "at the beginning of the year, as needed, and when staffing changes":

i. Management of Assaultive Behavior (MAB) training.
ii. How to use the iPad recording device and "how to document noticeable seizure/potential seizure activity and abnormal behaviors."
iii. Annual training provided by a school nurse for seizure recognition.
iv. Training on auditory processing disorder provided by an audiologist.
v. Training on the Student's cane and use of a human guide provided by a Certified Orientation and Mobility Specialist (COMS).
vi. Training on the Student's visual diagnoses and use of accommodations provided by a Teacher of Students with Vision Impairments (TVI). (D148)

h. Special considerations noted: "Per the Parent's request[,] written documentation of noticeable seizure/potential seizure activity [will] be documented in the notebook in [the Student's] red backpack. Written documentation of daily abnormal behaviors is to be recorded and emailed to the IEP team daily. Any noticeable seizure/potential seizure activity is to be recorded on the iPad device. [The Student's] red backpack, cane, iPad recording device, and documentation paperwork are to go with [them] everywhere within the school building. [The Student's] red backpack and cane go home with [them] daily and are returned the next day to school for use." (D149)

3. The Student's Health Care Plan for the 2024-25 school year included the following relevant information:
    a. Diagnoses were Epilepsy, Hemiplegic Cerebral Palsy, Cerebral Visual Impairment, and Right Homonymous Hemianopia.
    b. Five medications were listed.
    c. "Presenting problem" was "absence and generalized tonic clonic seizures."
    d. Non-urgent treatment/care was, "Staff will note the time of the onset of seizure activity and [the Student's] iPad will be used to record [them]. [The Student] will be brought to the nurse, or the nurse will be called to [their] location for any possible Absence Seizures. [The] Parent will be called after [the Student] has been assessed by health room staff."
    e. Signs of a medical emergency were "abnormal movements of [sic] any time, or if [the Student] becomes unresponsive." Instructions were provided for a medical emergency. (D170, D172)
4. An undated Seizure Action Plan for the Student outlined the seizure types, the medications, and a description of the Student's seizures. The plan for the Student specified, "If [the Student] has any type of seizure, lasting three or more minutes, [nasal spray] will be administered. Note the time of the onset of the seizure, make sure the seizure is being recorded with [the Student's] iPad and call the nurse to [the Student's] location. If [they are] unconscious, turn [them] to [their] side and remove any objects from around [them] that could hurt [them]. Staff will need to remove other students from the area, remembering to talk in a calm quiet voice." (D173)

5. In a July 15, 2025 email to the Current Special Education Teacher, the Principal, the Occupational Therapist (OT), the Certified Occupational Therapy Assistant (COTA), the SLP, the TVI/COMS, the Nurse, and the Audiologist, the Physical Therapist (PT) inquired about days and times to schedule a training "prior to school starting," with the Student and the Parent present. (D530)
   The same day, the PT emailed the Parent requesting this training for August 11, 2025. The Parent replied and confirmed. (D539)
6. A July 17, 2025 digital calendar invitation from the PT indicated the following people were invited to a training for the Student on August 11, 2025: the SLP, the TVI/COMS, the COTA, the OT, the Nurse, the Current Special Education Teacher, the Principal, the Audiologist, and two other LEA employees. The invitation noted the Parent would be bringing the Student for this training "re: safety information." (D544-D545)
7. In a July 22, 2025 email to the PT, the Parent inquired who would be included in the August 11, 2025 training and stated, "I was assured by [the Assistant Director] there would be a bus aide and they would be trained regarding the seizure action plan and [the Student's] iPad, as well as rescue meds."
   The Assistant Director replied on July 30, 2025 and reported, "All bus personnel receive seizure training, and we will make sure the bus para has a copy of [the Student's] seizure plan."
   The Parent followed up with an email to the Assistant Director, the PT, and the Principal, indicating the Transportation Employee would "send the driver and aide to our training session on [August] 11th, [2025]." (D541-D543)
8. An August 1, 2025 agenda for "Lifting and Transfers: Transportation" noted a 30-minute training with "gait belt," "safe lifting and transfers," and "stairs" as the three agenda items. For "stairs," it was recommended that classroom staff transfer students with balance deficits on or off the stairs when possible and to walk "downhill" from a student while they are on the stairs. (D613-D614)
9. A sign-in sheet for an August 1, 2025 transportation training noted Bus Drivers 1 and 2 provided signatures verifying their presence at the training. (D684, D686)
10. Slides for a "Transportation Training 2025" included the following:
    a. Expectation of participants being "responsible for reviewing and understanding the material presented."
    b. Contact information for those providing the training.
    c. An agenda including "gait belt: description and brief demonstration," "basic lifting and transfers," and "stairs," with each topic having informational slides included. (D9-D21)
11. Undated slides for an "Audiology Processing Disorder" training included descriptions and symptoms of the disorder, classroom "do's and don'ts," treatments, and an opportunity for questions with the Audiologist's contact information. (D28-D34)
12. In an August 9, 2025 email to the Principal, the PT indicated they were getting a "training drive ready for Monday" and inquired which paraeducators would be serving in the special education classroom for the school year so they could "add them to the drive." (D43)

13. An August 11, 2025 document titled "[The Student's Initials] Training" indicated a 1:00 p.m. to 2:30 p.m. training attended by the Principal, the Current Special Education Teacher, the TVI/COMS, the COTA, the PT, the OT, Bus Driver 1, the Audiologist, the Nurse, the Parent, and the Student. Topics discussed included: updates from the Parent regarding "new medical information from this summer," information about transportation and seizure medication administration from the Nurse, information about "walking, daily checklist, visual diagnosis information, white cane use, equipment, and stairs" from the PT and the TVI/COMS, information from the OT, information about speech, and classroom information stating "iPad will go home with [the Student] (in red backpack) so that it is on the bus in the morning and afternoon." (D35-D36)
14. In a September 3, 2025 email to the Current Special Education Teacher, the Principal, the Nurse, the Audiologist, and the TVI/COMS, the PT confirmed Paraeducators 1, 2, and 3 were trained "this afternoon on basic safety information (including mobility)," on the new medical information from the Parent, and on the Student's "daily functional checklist." (D54)
15. A screenshot depicted a "Bus Staff Training [Google] Drive" shared with 103 people, and owned by the LEA. The drive included folder links to the August 1, 2025 training, multiple other years' trainings, and folders titled "gait belt," "wheelchair on bus handouts," "training videos," and "stairs handouts." (D58)
16. A screenshot depicted a "[The Student] Training" Google drive shared with 20 people, and owned by the LEA. The drive included folder links to the 2024-25 and 2025-26 school years training, and folders titled "bubble letters/words," "Videos," "Mobility," "Equipment," and "Exercises." It also included a slide show titled "[20]25-[20]26 Vision/O&M Training." The most recent "date modified" for the folders was August 11, 2025. (D59)
17. In a November 19, 2025 email to the Assistant Director, the Parent shared there was "a mechanic named [Bus Driver 2] filling in as driver and bus aide" that morning. The Parent noted Bus Driver 2 had sunglasses on, did not introduce themself, and "reached for [the Student's] right hand to assist. … Anyone who works with [the Student] knows [their] right hand doesn't work." (D97-D98)
18. Bus attendance logs for the 2025-26 school year showed the Student on the bus both a.m. and p.m for November 19, 2025. (D104)
19. A handwritten calendar titled "Fall [20]25 Bus Staff" included a key that indicated "Driver in blue [ink,] Aide in red [ink]." The November 19, 2025 entry depicted Bus Driver 1 in blue ink and Bus Driver 2 in red ink for both the a.m. and p.m. entries. (D109)
20. In a December 1, 2025 email to the Principal and the Director, the Current Special Education Teacher stated, "When [the Parent] handed [the Student] off to me [the Parent] had a gentle ahold [sic] of [the Student's] right hand. [The Parent] said [they] were just worried about the strength in [the Student's] leg without the [brace]." This hand-holding was agreed to by the Parent and the Student due to them not having their brace. (D612)
21. In a December 4, 2025 email to the Director, the OT stated "I do not have any specific information indicating that [the Student's] arm is fragile." When asked by the Director if

the Parent had ever shared "concerns about the fragility of this side [right side] of the body," they declared, "none at all." (D688)

22. In a December 4, 2025 email to the Director, the Current Special Education Teacher stated, "I go with third grade to morning meeting, specials, lunch, and recess. So, I am with [the Student] anytime [they are] out of the room." (D26)
23. The December 4, 2025 District Response stated, "The IEP does not explicitly state that [the] Student requires a bus aide. While a bus aide is present on the route, that individual is assigned to assist all students and is not required by [the] Student's IEP." (D5)
24. The December 4, 2025 District Response clarified "[The Current Special Education Teacher] who accompanies [the] Student in all environments was trained in the presence of the [P]arent on August 11, 2025. Classroom paraprofessionals were returning staff familiar with [the] Student, and newly assigned staff received follow-up training on September 3, [2025]." It was noted for the [D]istrict procedure, "once a staff member is trained, that training remains in effect unless the nurse or therapist identifies a change that requires new or updated training." (D5-D7)

Parent Interview

25. In an interview with the Complaint Investigator, the Parent described the Student's "weak fragility" on their right side, "which is from cerebral palsy." They added the Student has "zero use of [their right] hand. [They] can't open it … You just have to be extremely careful with the bones. They are all so weak." The Parent clarified the incident with Bus Driver 2. "[Bus Driver 2] did not grab [the Student's] arm, [they] grabbed for [the Student's] arm. [They] went to grab for it in order to help [the Student] up the steps." The Parent recounted Bus Driver 1 and Bus Driver 2 were both present that day, and Bus Driver 2 was above the Student going up the steps, while the Parent was behind the Student. (P1-P2, 01:28, 02:19, 03:21, 03:35)
26. When asked about medical documentation specifically documenting fragility on the Student's right side, the Parent stated, "I'm sure there's something. I don't have anything right offhand that I can show you." They reported there was an email chain with the LEA "about the need to support [the Student] open-handed … [The LEA] even acknowledged that you cannot hold onto [the Student] on [their] right side, close-handed" and recalled the PT and the TVI/COMS acknowledged the fragility of the right arm and "not closing your fist around it and grabbing it." (P2, 04:38)
27. The Parent indicated the Student "was approved for a bus attendant" during ESY when the Assistant Superintendent was included. The Parent contended an attendant on bus transportation was included in the IEP, but also stated, "It's just not specifically concrete in the IEP. The adult supervision throughout the day for all daily activities and in all settings, but again, not concretely for transportation." (P3, 08:13)
28. The Parent recalled in a December 3, 2025 meeting, the Director offered them payment to transport the Student to and from school. The Parent expressed in the meeting they wanted the Student to learn how to maneuver public transportation because it would be "something that [the Student's] going to need because [they'll] never be able to

drive." They also shared their concerns with the safety of the "parking lot and the areas that I [would] have to drop [the Student] off." The LEA listened to those concerns and also told the Parent they would make contact if the bus aide or driver were absent. The LEA also assured the Parent all the bus drivers were trained, but the Parent's concern was "training is only good if you're actually exercising that training properly." (P4-P5, 14:05, 16:14)

29. The Parent confirmed they put the Student on the bus every day, and the Student's high school-aged sibling gets the Student off the bus every day. (P5, 18:59)
30. The Parent reported after they filed their complaint, they realized the iPad incident they cited as being in May of 2025 was actually in November of 2025, which was beyond the one-year statute of limitations for IDEA. (P3, 10:29)

Director Interview

31. In an interview with the Complaint Investigator, the Director stated the school-supplied iPad was specifically for recording the Student's seizures. They indicated classroom staff were responsible for charging it every day. The Director reported the iPad was always available, "typically either in [the Student's] red bag or it's set in a specific area of the classroom." They asserted in the event the assigned iPad was not available, an iPad from the classroom set could be used. They shared the Student had hidden the iPad in the past because "sometimes [the Student] just doesn't like all the attention." (P2, 02:41, 03:42, 03:52)
32. The Director stated they did not have knowledge of or an explanation for the date discrepancy on the report of the missing iPad. (P1, 02:24)
33. The Director stated all bus staff were trained in all seizure protocols on August 1, 2025, including the drivers for the Student's bus. The Director reported the Student and the Parent met with bus staff on August 11, 2025 to discuss the Student's specific medication. They indicated the Student's IEP did not include one-on-one paraeducator support on the bus. (P2, 04:06; P3, 05:18)
34. The Director stated issues with bus personnel were handled by the transportation department. However, when they were made aware of an issue with a bus paraeducator's attendance, they stated they quickly initiated a staffing change. (P4, 06:53; P5, 08:03)
35. The Director shared "there's just a lot of inconsistencies" with the way each of the Student's family members handled the Student's disability. They reported the Parent "does everything in a very specific way and wants everyone trained in a very specific way[,]" while the rest of the family tends to be more lax. This has led to the Student not bringing their supports to extracurricular activities if they attend without the Parent. (P5, 10:04)

Assistant Director Interview

36. In an interview with the Complaint Investigator, the Assistant Director confirmed the Student did not have one-on-one support on the bus in their IEP. (P1, 01:07)

37. Regarding a "bus mechanic" assisting the Student, the Assistant Director stated the paraeducator assigned to the bus was not present that day; however, the driver of the bus [Bus Driver 1] was trained in the Student's protocols. They stated they discussed the situation with the Principal and ultimately determined there was a qualified staff member on the bus. (P2, 02:59, 03:29)

Principal Interview

38. In an interview with the Complaint Investigator, the Principal stated the only time the iPad was unavailable to staff was when it was hidden by the Student, "which is not uncommon." They shared they did not know why the SLP did not have the iPad during the incident referenced in the complaint. (P1, 02:10)
39. Regarding the date discrepancies, the Principal indicated the November 2024 date was an instance of the Student hiding the iPad. Classroom staff were unable to locate the iPad, but did not want the Student to miss their services. The Principal was unaware of any incidents on or around May 19, 2025, and believed the situation with the SLP recording the Student on their cell phone happened prior to March 13, 2025. They stated they would check their records and forward any documentation of that incident. (P1, 02:10; P3, 08:03, 10:14; P4, 10:53)
40. The Principal reported the Parent never contacted them about the incident involving the SLP recording the Student on their phone. They stated the Parent reached out directly to a school board member, who contacted an assistant superintendent, who subsequently informed the Principal. The Principal then followed up with the SLP. (P2, 06:13)
41. The Principal indicated there was no official "Plan B" for recording the Student's behavior, as an iPad should always be available to staff. The Principal acknowledged most staff members have a cell phone and it would be considered reasonable for them to use it to quickly document a behavior if an iPad was not immediately available. The Principal stated they believed the SLP "was attempting to [document] in good faith." (P1, 02:10; P2, 04:34)
42. The Principal confirmed the bus staff received "district-level seizure training" at the beginning of the school year. While they did not know the specifics of the training, the Principal shared they knew the Parent was concerned "if an absent seizure was addressed." (P4, 13:46)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #260, in accordance with state and federal regulations implementing the IDEA, the LEA implemented the Student's IEP when a bus aid or adult support was not provided throughout the day, and the assigned adults did not have access to the school-issued iPad. K.A.R. 90-40-16, K.A.R. 91-40-1 (ccc)(1)(B)(W)(X)(kkk)(1)(A)(2)(ttt); 34 CFR § 300.323 (a)(d).

According to K.A.R. 90-40-16, each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency shall ensure that an IEP is in effect before special education and related services are provided to an exceptional child.

Those services for which written consent has been granted as specified by law must be implemented not later than 10 school days after parental consent is granted unless a reasonable justification for a delay can be shown. An IEP must be in effect for each exceptional child at the beginning of each school year. The child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider must be informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

According to K.A.R. 91-40-1 (ccc)(1)(B)(W)(X)(kkk)(1)(A)(2)(ttt), "related services" means developmental, corrective, and supportive services that are required to assist an exceptional child to benefit from special education, including assistive technology devices and services, transportation, and other developmental, corrective, or supportive services. "Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of an exceptional child, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and paraeducator services, speech-language pathology services, and any other related service, if the service consists of specially designed instruction to meet the unique needs of a child with a disability. "Supplementary aids and services" means aids, services, and other supports that are provided in regular education classes, other education-related settings, and extracurricular and nonacademic settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

The Parent alleged the LEA failed to implement the Student's IEP, specifically by not providing bus aid or adult support "throughout the day." Additionally, the assigned adults did not have consistent access to the Student's school-issued iPad.

The LEA contended that based on the IEP, staff schedules, and documented practices, they implemented the Student's IEP regarding adult support, and the Student received continuous adult support in all school environments.

The Student's IEP contained specific mandates for adult supervision and assistance, and the Current Special Education Teacher confirmed they accompany the Student in all environments, including morning meetings, specials, lunch, and recess, ensuring coverage anytime the Student is out of the special education room. The LEA maintained that the IEP does not explicitly state the Student requires a "bus aide." While the Parent contended a bus aide was

included, they acknowledged it was "not specifically concrete in the IEP" for transportation, though they believed it fell under the umbrella of "adult supervision throughout the day."

On November 19, 2025, Bus Driver 2 filled in as the bus aide because the regularly assigned aide was absent. The Assistant Director noted that while the aide was a substitute, the primary bus driver (Bus Driver 1) was fully trained in the Student's specific protocols, which is evidenced by the August 11, 2025 Student-specific training and the District-wide transportation training. Although a substitute was used on the bus, the LEA provided a trained driver and a secondary staff member to assist. The IEP's requirement for "adult support ... in all settings" was met by the presence of trained District personnel, even if those personnel were not the Student's preferred or typical staff.

The LEA implemented the IEP as written. The IEP mandated "adult support" throughout the day, which the District provided through trained classroom staff and transportation personnel. Because the IEP did not "concretely" or "explicitly" mandate a one-on-one aide for transportation, the use of a trained bus driver and a substitute aide does not constitute a failure to implement the IEP.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to implement the Student's IEP when a bus aid or adult support was not provided throughout the day. Additionally, through investigation, it was discovered the allegation specific to the iPad was outside the statute of limitations for IDEA investigation.

Issue Two

Whether USD #260, in accordance with state and federal regulations implementing the IDEA, fulfilled its obligation to train staff to deliver the special education and related services described in the Student's IEP. K.A.R. 91-40-16(b)(4)(5), K.A.R. 91-38-3(f); 34 CFR § 300.323(d).

According to K.A.R. 91-40-16(b)(4)(5), the child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider must be informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

According to K.A.R. 91-38-3(f), each school district shall, before transportation, notify the transportation supervisor of any student with special health care concerns, special needs for transportation, or an individualized education program requiring transportation. The supervisor shall ensure that all drivers, substitute drivers, and attendants are informed of these needs and receive any training that is necessary to safely transport the student or to accommodate the student's special needs.

The Parent alleged the LEA failed to train all staff on the Student's IEP, specifically with regard to bussing staff.

The LEA contended they provided systematic, multidisciplinary training to transportation, classroom, and related-service staff before and during the 2025–26 school year. They also asserted no medical or IEP-based restriction regarding the fragility of the Student's arm was provided to the LEA, and their staff acted within their training and responsibilities when assisting the Student.

The LEA provided evidence of extensive training for staff and transportation personnel to implement the IEP's safety requirements, including bus drivers and aides trained on August 1, 2025. On August 11, 2025, a dedicated session was held with multiple staff members who work regularly with the Student, which covered safety and medical items specific to the Student. Classroom paraprofessionals, who were already familiar with the Student, received follow-up training on September 3, 2025, regarding the Student's safety information and daily functional checklist.

The Parent reported concerns regarding the substitute aide (Bus Driver 2) reaching for the Student's right arm, an area of physical fragility due to hemiplegic cerebral palsy. While the Parent describes the right side as "extremely fragile," the OT stated they had no specific information or prior concerns shared by the Parent indicating the arm was medically fragile beyond the diagnosed hemiparesis. The Current Special Education Teacher noted the Parent and the Student had previously agreed to "gently" holding the Student's right hand as a form of support when the Student was not wearing their AFO.

The LEA documented a comprehensive training schedule at the start of the 2025-26 school year that included all specialists and required protocols identified in the IEP. While the Parent raised concerns regarding a substitute aide's lack of familiarity with the Student's physical fragility on November 19, the LEA demonstrated that the primary driver present was trained.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to fulfill its obligation to train staff to deliver the special education and related services described in the Student's IEP.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #331
ON NOVEMBER 18, 2025

DATE OF REPORT: DECEMBER 29, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of --------- by his mother, ---------. In the remainder of the report --------- will be referred to as "the student" and --------- will be referred to as the "complainant" or "the parent".

In the remainder of the report, the following school staff will be referred to as follows:

- Jenny Campbell, Principal
- Topaz Krehbiel, Special Education Assistant Director
- Rollie Van Whye, Athletic Director
- Suganya Balakrishnan, 7th grade Special Education Teacher
- Toby Munz, 7th grade Math Teacher
- Krista Clover, 7th grade History Teacher
- Benjamin Klausmeyer, 7th grade English Teacher
- Micah Dehring, 7th grade Science Teacher
- Alexis Karabinas, 7th grade Fine Arts Appreciation Teacher
- Steve Bangert, Head Basketball Coach
- James Roberts, Assistant Basketball Coach

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the student is a resident of the Kingman-Norwich Public School District (USD #331) who contracts with the South Central Kansas Special Education Cooperative to provide special education and related services to students in the district. In the remainder of this report, both public agencies will be referred to as the "LEA".

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially

received the complaint on November 18, 2025 and assigned the case for investigation on that same date.

Evidence Reviewed

Both parties were contacted via telephone during the investigation to gather and clarify information. The complainant was interviewed by telephone on December 11, 2025. The LEA made the following school personnel available for telephone interviews as noted below:

- Basketball Coach on December 11, 2025
- Athletic Director on December 12, 2025
- Principal on December 12, 2025
- Special Education Assistant Director on December 12, 2025
- 7th grade Special Education Teacher on December 15, 2025

Written documentation was provided by the LEA and the complainant. All the documentation was reviewed and the following written documentation was used in consideration of the issue:

1. Multidisciplinary Team Report: Reevaluation dated March 7, 2025
2. The Individual Education Program (IEP) dated March 7, 2025 and amended on October 17, 2025
3. Email dated October 31, 2025 at 3:41 p.m. written by the Head Basketball Coach to the Athletic Director and the Principal regarding missing practice and playing time
4. Email chain dated November 5, 2025 at 8:40 a.m. and November 6, 2025 at 5:02 a.m. and 7:08 a.m. between the parent the 7th grade Special Education Teacher regarding classroom behavior and grades
5. Email dated November 6, 2025 at 9:05 a.m. written by the Head Basketball Coach to the Athletic Director and Principal regarding request for religious exemption from Wednesday practices
6. Email chain dated November 6, 2025 at 4:01p.m. and November 7, 2025 at 12:39 a.m. between the parent and the 7th grade History Teacher regarding classroom behavior and grades
7. Email chain dated November 7, 2025 at 12:42 p.m. and 12:56 p.m. between the parent and the Principal regarding a request for full-time placement in the special education setting
8. Email dated November 10, 2025 at 9:17 a.m. written by the parent to the Assistant Basketball Coach regarding playing time
9. Email dated November 10, 2025 at 6:01 p.m. written by the 7th grade Special Education Teacher to the parent regarding her request for full-time placement in the special education classroom and offering interventions first using behavior intervention strategies including a behavior chart and reward system
10. Email dated November 10, 2025 at 9:13 p.m. written by the parent stating, “That sounds like a good plan”.

11. Email dated November 11, 2025 at 12:56 a.m. written by the Head Basketball Coach to the parent regarding the playing time
12. Email dated November 13, 2025 at 8:00 a.m. written by the 7th grade Special Education Teacher to the student's 7th grade classroom teachers regarding starting the behavior chart and reward system
13. Email chain dated November 13, 2025 at 8:18 a.m. and 9:08 a.m. between the Head Basketball Coach, the Assistant Basketball Coach, and the parent regarding impact of student's disability on focus learning plays
14. Email dated November 13, 2025 at 10:33 a.m. written by the parent to the Head Basketball Coach, the Principal, the Athletic Director, and the 7th grade Special Education Teacher requesting assistance to learn the basketball plays in the special education classroom
15. Email dated November 18, 2025 at 8:58 a.m. written by the parent to the Athletic Director regarding concerns and filing of complaints
16. Email chain dated November 20, 2025 at 9:00 a.m. and 11:25 a.m. between the parent and the 7th grade Special Education Teacher regarding classroom accommodations and bringing up the student's grades
17. Formal Complaint Request Form dated November 18, 2025 completed by the complainant
18. Response to the Allegations dated December 10, 2025, written by the Assistant Director of Special Education
19. Email dated December 15, 2025, written by the Assistant Basketball Coach to the Athletic Director regarding basketball schedule
20. Delinquent and Ineligible (D&I) List for second quarter of the 2025-26 school year
21. Grade Report for the 2025-26 school year
22. Discipline Log for the 2025-26 school year
23. USD #331 Academic Eligibility Policy
24. Written descriptions of extended time accommodation implementation from the student's 7th grade Math Teacher, English Teacher, Science Teacher, History Teacher, Fine Arts Appreciation Teacher, and Special Education Teacher

Background Information

The student is 12 years old and currently enrolled in the 7th grade at Kingman Middle School in USD #331 for the 2025-26 school year. The student was initially evaluated and found eligible for special education and related service under the exceptionality category of Specific Learning Disability at the end of third grade and has had an IEP since that time. During his most recent reevaluation on March 7, 2025, the parent reported the student was diagnosed with attention deficit hyperactivity disorder (ADHD) but did not provide any documentation and the multidisciplinary team determined the student continued to be eligible for special education due to Specific Learning Disability.

Issues Investigated

Based on the written complaint, three issues were identified and investigated.

Issue One

USD #331, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically the accommodation for extra time to complete schoolwork, which negatively impacted grades and resulted in the student not being able to participate in extracurricular activities during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(4)(ii) require that each public agency include a statement in each student's IEP describing the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities.

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Analysis: Findings of Fact

1. The student's current IEP was developed on March 7, 2025 and amended on October 17, 2025. This IEP includes an accommodation for "extended time on daily assignments, projects or tests" and describes this accommodation as "Student will receive a time extension of 1 ½ time of the required assignment / test / project time to complete the assignment / test / project". The frequency of this accommodation is for all assignments, projects, and tests and the location is in both general and special education classrooms.
2. The written descriptions of extended time accommodation implementation from the student's 7th grade Math Teacher, English Teacher, Science Teacher, History Teacher, Fine Arts Appreciation Teacher, and Special Education Teacher all reflect a practice of allowing the student to turn in completed work for full credit at any time prior to the end of the grading period. The Special Education Teacher stated, ". . . the middle school teachers don't even have hard deadlines for [the student]. As long as he turns in his assignments before the end of the quarter, he is given full credit. His teachers will accept his work any time before the end of the grading quarter".
3. The Athletic Director and the Principal explained, and the Academic Eligibility Policy states that a student must be passing all classes to be eligible to participate in

extracurricular activities. Any student earning a cumulative grade of "F" in a class will be placed on the Delinquent List and will have one week to improve the grade to passing and will still be eligible to participate in extracurricular activities during that one week. However, if the student continues to have a cumulative grade of "F" in a class the next week, the student will be placed on the Ineligible List and will not be able to participate in extra-curricular activities. These school staff also noted that per school board policy, students who were suspended in-school or out-of school were not able to participate in extra-curricular activities during the duration of the suspension.

4. The Principal and Athletic Director indicated students who are placed on the D&I List receive intensive support to bring up their grades through small group targeted instruction during What I Need (WIN) time during the week they are on the list. These school staff reported that the student received this extra assistance in addition to other additional support from the 7th grade Special Education Teacher during the two weeks the student was on the 2nd Quarter D&I List.
5. The Assistant Basketball Coach reported, and the D&I List shows that the student was placed first place on the Delinquent List on November 5, 2025 due to a failing grade in the 7th grade History class but was still eligible to participate in extra curricular activities during the week of November 10 – 14, 2025. The student was place on the Ineligible List on November 12, 2025 due to the 7th grade History grade remaining an "F" and was ineligible to participate in extracurricular activities during the week of November 17 – 21, 2025.
6. In an email dated November 6, 2025, the 7th grade History Teacher explained to the parent that the student's failing grade was the result of missing assignments and poor test grades. She noted that the student could turn in the completed assignments for full credit and could re-take the test for a higher grade; however, the student was refusing to work in class, often off-task, and reluctant to accept support from his paraprofessional in the classroom.
7. In an email dated November 6, 2025, the 7th grade Special Education Teacher stated, *. . . I would like you to know that I have already been pulling him into one of my WIN groups everyday this week to help him catch up on his assignments. This was even before he got a D- in Science and an F in Kansas History. But [the student] refuses to work. On red days this week, I had him for WIN (30 mins), Study Skills (75 mins), and Power Hour (20 minutes) back-to-back for a total of 125 mins. I sit with him 1:1 to work with him giving him consistent motivations, but I can hardly get anything from him. It's not like we're asking him to do something that he cannot do. If anything is hard, we simplify it for him and modify the assignment to help him out. But he still chooses not to work. Like in ELA class today, the class was working on Characters assignment as a whole group. I gave him my sample and asked him to copy only the underlined words. He was just not even willing to make the effort to get started. The class had moved on the next activity which was creating a "Wanted Poster". He wanted to participate in that activity. I informed him that he needs his character assignment to help with the "Wanted Poster". He quickly completed the entire assignment in two minutes so he can participate in making his "Wanted Poster".*

Conclusion

In this case, the student's IEP requires he receive an accommodation of extra time, specifically 1 ½ the time to complete assignments, tests, and projects as compared to peers. However, based on Interviews and documentation, the student is allowed to turn in completed work for full credit at any time prior to the end of the grading period and is allowed to re-take tests to demonstrate mastery of the material. Reports from the 7th grade History Teacher and the 7th grade Special Education Teacher indicate the student's failing grade in 7th grade History was not a result the LEA's failure to implement the student's IEP and that supports were provided to enable to student in improve his grade to passing and be removed from the D&I List.

Based on the foregoing, the LEA is determined to be ***IN compliance*** with federal regulations at 34 C.F.R. §300.323(c)(2) which require that each public agency implement the student's IEP as written.

Issue Two

USD #331, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow the appropriate procedures to respond to the parent's request to add participation in sports to the student's IEP during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.324(b)(1)(ii) require each public agency to review and revise a student's IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters.

Analysis: Findings of Fact

1. Issue One, Finding #1 is incorporated herein by reference. The October 17, 2025 IEP amendment added an accommodation for texts to be read aloud, either through a human reader or technology.
2. The parent requested an IEP team meeting to discuss changing the student's placement to full-time in the special education setting on November 7, 2025.
3. The 7th grade Special Education Teacher responded to the parent's request in an email dated November 10, 2025 explaining her opinion of why the student would not benefit from removal from the general education setting to increase focus and offering suggestions for interventions including the introduction of a self-monitoring behavior chart and reward system for on-task behavior in all classes. The parent replied in an email that same day stating, "That sounds like a good plan".
4. The parent stated in her interview that she is concerned about the amount of playing time the student gets during the basketball games. Even though he regularly attends basketball practices, the student has not learned the plays or the responsibilities of each position. She believes the student is not playing more because he doesn't know

the plays and what is needed is the student needs to have help learning the plays during his special education classes.

5. On November 13, 2025, the parent sent an email to the Head Basketball Coach, the Principal, the Athletic Director, and the 7th grade Special Education Teacher requesting assistance for the student to learn the basketball plays in the special education classroom.
6. During the interview, the parent acknowledged that she did not request an IEP team meeting to discuss her request for assistance from the 7th grade Special Education Teacher to help the student learn the basketball plays. Instead, she made a direct request for assistance through an email.

Conclusion

In this case, there is no evidence to support a finding that the LEA failed to respond to a parent request to add participation in sports to the student's IEP during the 2025-26 school year.

Based on the foregoing, the LEA is determined to be ***IN compliance*** with federal regulations at 34 C.F.R. 300.324(b)(1)(ii) which require that each public agency review and revise the student's IEP, as appropriate to consider any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters.

Issue Three

USD #331, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide nonacademic and extracurricular services and activities in the manner necessary to afford the student with an equal opportunity for participation in those services and activities.

Applicable Law

Federal regulations at 34 C.F.R. 300.107 require that each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities. Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

Analysis: Findings of Fact

1. Issue One, Findings #3, #4, #5, and #6 are incorporated herein by reference.

2. The parent believes that it is unfair to use grades for determining eligibility for participation in the basketball games because of the student's learning disability and his attention deficit hyperactivity disorder. She thinks another standard should be used for students with IEPs.
3. The Assistant Basketball Coach indicated the student plays on the B-Team for the school and can attend all practices. Practices are held Tuesdays, Wednesdays, and Fridays after school until 5:30 p.m. The B-Team practices consist of more repetition during drills to help students learn the plays. Plays are hands-on during practice with step-by-step instructions. Playing time is based on student effort during practices and the Assistant Basketball Coach noted that the student appears to prefer watching on the sidelines during practice but that he often stays after to practice shooting hoops.
4. According to interviews with the Assistant Basketball Coach, the Athletic Director, and the Principal, the basketball season started on November 3, 2025. Games are played on Mondays and Wednesdays in the evenings.
5. According to an email dated October 31, 2025, the Head Basketball Coach had informed all the basketball players and their parents multiple times that a mandatory practice was scheduled for October 31, 2025 even though there was no school that day and it was Halloween and the only excuse for missing the practice was being out-of-town. The parent emailed the Head Basketball Coach on October 30, 2025 indicating the student would not be at practice as he had a doctor's appointment that day. One other student also missed the practice without an appropriate excuse both boys would not be allowed to play in the first game on November 3, 2025.
6. The Assistant Basketball Coach provided the following information regarding the student's participation in the basketball games during the 2025-26 season:
    - November 3, 2025: Did not play due to missing practice
    - November 6, 2025: Did not play due to serving in-school suspension
    - November 10, 2025: Played in two quarters
    - November 13, 2025: Played in three quarters
    - November 17, 2025: Did not play due to academic ineligibility
    - November 20, 2025: Did not play due to academic ineligibility
    - November 24-28, 2025 – No games due to Thanksgiving Break
    - December 1, 2025: Played in two quarters

Conclusion

In this case, there is a preponderance of evidence to support a finding that the student was provided with an equal opportunity for participation in the extracurricular basketball program offered by USD #331.

Based on the foregoing, the LEA is determined to be ***IN compliance*** with federal regulations at 34 C.F.R. 300.107 which require that each public agency must take steps to provide

nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #476
ON DECEMBER 9, 2025

DATE OF REPORT: JANUARY 2, 2026

This report is in response to a complaint filed with our office on behalf of a student, ----------, by the Complainant, ----------. In the remainder of the report, the student will be referred to as "the Student" and the complainant as "the Complainant."

The Complaint is against USD #476 Copeland Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #476.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to KSDE. In this case, KSDE received the complaint on December 9, 2025, and the 30-day timeline ended on January 8, 2026.

Background

The Student attends South Gray Junior High School and is in the eighth grade. The Student has focal cortical dysplasia, a neurodevelopmental disorder. In early 2025, the Student's parents sough special education services to address parental concerns, including the Student's handwriting. On March 27, 2025, the individualized education plan (IEP) team met to discuss the parent's concerns, the Student's strengths and weaknesses, and the Student's current performance. On April 9, 2025, the Student's IEP was initiated.

Investigation of Complaint

The Complaint Investigator interviewed the Complainant on December 16, 2025. The following LEA staff were interviewed on December 18, 2025: the Director of Special Education, the Assistant Director of Special Education, the School Principal, and the Superintendent.

In completing this investigation, the Complaint Investigator reviewed all documentation provided by the Complainant and the LEA. The following materials were used as the basis of the findings and conclusions of the investigation:

LEA Materials

1. Certified Special Education Teacher's Licensure.
2. Paraeducator's Licensure.
3. Principal's Licensure.
4. Certified Special Education Teacher's 2025-26 Leave Summary.
5. "Documentation" email sent by the Certified Special Education Teacher on December 18, 2025.
6. "Check out" email sent by the paraeducator on September 24, 2025.
7. Student's December 17, 2025 Progress Report.
8. Complainant Materials
9. Certified Special Education Teacher's Licensure.
10. Paraeducator's Licensure.
11. Student's IEP initiated on April 9, 2025.
12. Student's IEP initiated on September 19, 2025.
13. Student's October 24, 2025 Progress Report.
14. "State documentation" email sent by the Assistant Director of Special Education on September 12, 2025.
15. "Services" email chain beginning August 28, 2025.
16. September 18, 2025 IEP team meeting minutes.
17. December 9, 2025 IEP team meeting minutes.

Factual Findings

The following findings are based on a review of documentation and interviews with the Complainant and LEA staff.

1. The LEA consistently tries to recruit an in-person, full-time certified special education teachers by:
    a. Advertising for a certified special education teacher since Spring 2025 and had no applicants as of September 12, 2025.
    b. Advertising through Educate Kansas, Indeed, and the LEA's social media accounts.
    c. Attending job fairs at Kansas Colleges and Universities and in other states.
2. To ensure students receiving special education services are provided with some in-person instruction, the LEA hired the certified special education teacher.
3. The certified special education teacher lives three hours from the Student's school.

4. To ensure that the certified special education teacher can provide some in-person special education instruction, the LEA pays for the certified special education teacher's lodging and mileage when the certified special education teacher travels to the student's school.
5. The certified special education teacher is a full-time, online and in-person, special education teacher with twenty-four years of experience.
6. The LEA hired the paraeducator [full-time, in-person employee] as an emergency substitute teacher.
7. The paraeducator has an emergency substitute license.
8. The paraeducator is in the school building full-time to facilitate services when the certified special education teacher, is absent or online.
9. The Student has an IEP that requires direct services in written expression four times per week for twenty-seven minutes.
10. The Student's IEP written expression goal states that, by the end of the IEP year, the Student "will obtain a correct writing sequence of 56 from a three-minute writing CBM [curriculum-based measurement]."
11. The Student's baseline for a correct writing sequence is 41.
12. On May 6, 2025, the Student obtained a correct writing sequence of 35.
13. On August 29, 2025, the Student obtained a correct writing sequence of 41.
14. On September 30, 2025, the Student obtained a correct writing sequence of 50.
15. On October 22, 2025, the Student obtained a correct writing sequence of 48.
16. On November 5, 2025, the Student obtained a correct writing sequence of 50.
17. On December 2, 2025, the Student obtained a correct writing sequence of 45.
18. The certified special education teacher is the Student's teacher of record.
19. The certified special education teacher provides online, synchronous instruction for the Student one to two times per week.
20. When the certified special education teacher is providing written expression instruction online, the paraeducator is with the Student to ensure the Student attends the Zoom meeting and stays on task.
21. Online delivery over Zoom was not discussed or agreed upon as an IEP team.
22. When the certified special education teacher is absent, the paraeducator provides the Student with written expression instruction.
23. The certified special education teacher took leave and was absent once, on September 24, 2025, when the Student was scheduled to receive direct services in written expression.
24. Prior to when the certified special education teacher is absent and on leave, she and the paraeducator meet to discuss the Student's direct services in written expression.

25. The purpose of the certified special education teacher and the paraeducator's meetings are to ensure the paraeducator understands the Student's assignment and expectations.
26. The paraeducator provides written expression instruction when the certified special education teacher is absent and on leave.
27. When the certified special education teacher is absent and on leave, the paraeducator emails the certified special education teacher and the Principal with a summary of the Student's assignments and progress.
28. When the certified special education teacher is absent and on leave, the paraeducator is supervised by the Principal.

Issues Analysis and Conclusions

Issue One

Did USD 476 fail to employ a qualified special education teacher to provide special education instruction to the Student?

The federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require state education agencies to establish qualifications for special education personnel. These qualifications must allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, to be used to assist in the provision of special education and related services to children with disabilities. 34 C.F.R. 300.156(b)(2)(iii). Kansas policy regarding special education personnel is found in the Kansas Reimbursement Guide. The guide states that paraeducators may assist in the delivery of special education and related services if a supervision requirement is met. Kansas Reimbursement Guide, p. 29. The supervision requirement states that instructional paraeducators must be directly supervised a minimum of 10% of the time they are working with students. Id. Further, when the assigned special teacher is not present, a paraeducator must have a designated principal or teacher available in the building for assistance and supervision as needed. Id.

Here, the LEA employs a full-time certified special education teacher. The LEA utilizes the full-time, in-person employee as a paraeducator, not an emergency substitute teacher. The paraeducator supports the certified special education teacher by ensuring the Student attends the Zoom meeting and stays on task during online written expression direct instruction.

The paraeducator does not assist in the delivery of special education and related services without supervision. The paraeducator is supervised by the certified special education teacher when the certified special education teacher is in the school building or on Zoom. The Principal also supervises the paraeducator when the certified special education teacher is not in the school building but on Zoom. Thus, the requirement that an instructional paraeducator be directly supervised a minimum of 10% of the time they are working with students is met. The

requirement is met when either the certified special education teacher or the Principal supervises the paraeducator. Therefore, the paraeducator may assist in providing the Student with special education and related services, including written expression direct instruction. Thus, the physical or online presence of a certified special education teacher when a qualified and adequately supervised paraeducator was physically present is not a failure to provide qualified staff.

In addition, the Complainant noted that the paraeducator delivers the Student's written expression direct instruction when the certified special education teacher is absent and on leave. Here, the certified special education teacher was absent and on leave once on September 24, 2025. When the certified special education teacher is unable to deliver the Student's written expression direct instruction, the certified special education teacher and the paraeducator meet to discuss the Student's direct services in written expression to ensure the paraeducator understands the assignment and expectations.

On September 24, 2025, the paraeducator acted as an emergency substitute teacher. The paraeducator is licensed as an emergency substitute teacher. An emergency substitute teacher cannot teach for more than 25 days in the same assignment or more than 75 days in a semester. K.A.R. 91-31-34(b)(5)(A). The paraeducator was an emergency substitute teacher for one day. Therefore, the paraeducator had the authority to deliver services to the Student because the paraeducator is a licensed emergency substitute teacher and the single assignment lasted no more than one day. Thus, the absence of a certified special education teacher when a qualified emergency substitute teacher is present is not a failure to provide qualified staff.

Issue Two

Did USD 476 fail to provide the Student with a free appropriate public education (FAPE), specifically by providing online, synchronous special education instruction?

FAPE is defined, in part, as special education and related services provided in conformity with an IEP. 34 C.F.R. 300.17(d). To provide FAPE, a LEA must offer students with a disability a "basic floor of opportunity," according to Board of Education of the Hendrick Hudson Central School District v. Rowley, 553 IDELR 656 (U.S. 1982), and an IEP reasonably calculated to enable a child to "make progress appropriate in light of the child's circumstances" per Endrew F v. Douglas County School District RE-1, 69 IDELR 174 (U.S. 2017). The Endrew F. standard addresses the amount of progress an IEP must be designed to enable a child to receive FAPE. It does not guarantee a certain level of progress.

Nothing in the IDEA requires an IEP to include specific instructional methodologies. Statement of Special Education and Related Services, 71 Fed. Reg. 46665 (August 14, 2006). While the IDEA mandates the required components to be included in each student's IEP to ensure that the student's identified educational needs can be addressed, the IDEA does not mandate that

the particular teacher, materials to be used, or instructional methods be included in a student's IEP. Letter to Hall, 21 IDELR 58 (OSEP 1994). In Rowley, the Supreme Court held that the primary responsibility for choosing instructional methodology lies with the local school district. 553 IDELR 656 (U.S. 1982).

In this case, the LEA constantly tries to recruit certified special education teachers. The LEA advertises through Educate Kansas, Indeed, and the LEA's social media accounts. Further, LEA administrators attend job fairs at Kansas Colleges and Universities and in other states. The LEA undergoes these efforts to ensure students within the LEA's boundaries are provided with FAPE and special education services as required by law. The LEA's search for a full-time, in-person, certified special education teacher was unsuccessful.

The LEA chose to provide the Student's special education instruction using an online and in-person model. The LEA hired a certified special education teacher with twenty-four years of experience. The certified special education teacher lives three hours from South Gray Junior High School. To ensure that the certified special education teacher can provide some in-person special education instruction, the LEA pays for the certified special education teacher's lodging and mileage. Some days the Student receives online, synchronous instruction and on other days the Student receives in-person instruction. The LEA's chosen method for delivering special education services to the Student complies with federal regulations, Office of Special Education Program guidance, and Rowley.

The Complainant seems to argue that the Student would have made more progress had special education services been provided in-person, not online and synchronically. This is not the standard.

The appropriate standard is that the Student make appropriate progress considering the Student's circumstances. The Student's IEP written expression goal states that, by the end of the IEP year, the Student "will obtain a correct writing sequence of 56 from a three-minute writing CBM." The Student's baseline correct writing sequence is 41.

On May 6, 2025, the Student obtained a correct writing sequence of 35. Testing stopped when summer began and resumed at the start of the 2025-2026 school year. On August 29, 2025, the Student obtained a correct writing sequence of 41. On September 30, 2025, the Student obtained a correct writing sequence of 50. On October 22, 2025, the Student obtained a correct writing sequence of 48. On November 5, 2025, the Student obtained a correct writing sequence of 50. On December 2, 2025, the Student obtained a correct writing sequence of 45.

This data shows that the Student has made progress toward the goal of obtaining a writing sequence of 56. It is true that the Student's progress has wavered. However, this is not abnormal. Students may regress because of summer break, upcoming events, holidays, or how they are feeling the day of the assignment or test. The Student's progress is appropriate considering the Student's correct writing sequence history and the Student. Therefore, the

Student was not denied FAPE because the Student is making appropriate progress considering the Student's circumstances. Thus, the LEA's chosen method of delivering special education instruction did not deny the Student FAPE.

Conclusions

ISSUE ONE: It is not substantiated that the LEA failed to employ a qualified special education teacher to provide special education instruction to the Student.

ISSUE TWO: It is not substantiated that the LEA failed to provide the Student with FAPE when it chose to provide online, synchronous special education instruction.

Hannah Miller, Attorney

Evidence Reviewed

Background Information

Issues Investigated

Issue One

Applicable Law

Analysis: Findings of Fact

Conclusion

Summary of Conclusions/Corrective Action

Right to Appeal

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(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 476,
Copeland Public Schools: 26FC476-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on December 9, 2025, by -------- (Advocate) on behalf of the student, --------. In the remainder of this decision, -------- will be referred to as "the complainant," and -------- will be referred to as "the student." On January 13, 2026, the student's parent sent an email to Special Education and Title Services saying, "I consent to include -------- on all future correspondence regarding this complaint."

An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on January 2, 2026. That Complaint Report concluded that there was no violation of special education statutes and regulations

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

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The Appeal Committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified two issues. The complainant has appealed the conclusion in both issues and the Appeal Committee has reviewed both issues and issued this final decision.

Issue One

Did USD 476 fail to employ a qualified special education teacher to provide special education instruction to the Student?

In this issue, the complaint investigator concluded that the emergency substitute teacher met the requirements of Kansas licensing regulations at K.A.R. 91-31-34(b)(5)(A), and so the district's use of the emergency substitute teacher was not a violation of law.

Error I

In her appeal, the complainant referred to this conclusion as Error 1. The complainant's appeal states that,

> *While Kansas permits paraprofessionals to assist in service delivery when supervised, IDEA requires that special education be provided by personnel who are appropriately and adequately prepared and trained. 34 C.F.R. Section 300.156. Federal guidance makes clear that states may not waive special education certification requirements on an emergency or temporary basis, and that staffing shortages do not excuse noncompliance. OSEP Memorandum 22-01 (October 4, 2022). Page 3 of 5*

This description appears to allege that Kansas licensing regulations are inconsistent with federal regulations. the Appeal Committee disagrees with this assessment.

The investigator correctly cited the requirement referenced by the complainant in 34 C.F.R. 300.156, saying:

> *The federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require **state education agencies to establish qualifications for special education personnel** (emphasis added). These qualifications must allow paraprofessionals and assistants who are appropriately trained and supervised, **in accordance with State law, regulation, or written policy**, to be used to assist in the provision of special education and related services to children with disabilities. 34 C.F.R. 300.156(b)(2)(iii). Kansas policy regarding the qualifications for special education personnel is found in the Kansas Reimbursement Guide. The guide states that paraeducators may assist in the delivery of special education and related services if a supervision requirement is met. (Kansas Reimbursement Guide, p. 29). The supervision requirement states that instructional paraeducators must be directly supervised a minimum of 10% of the time they are working with students. Id. Further,*

> *when the assigned special teacher is not present, a paraeducator must have a designated principal or teacher available in the building for assistance and supervision as needed. Id. (Report, p.5-6, emphasis added).*

This district did not "waive special education certification requirements on an emergency or temporary basis," nor did it use staffing shortages to "excuse noncompliance." It used the authority provided to it by the Kansas Special Education Reimbursement Guide. That guide is the Kansas state policy regarding the qualification requirements for Kansas special education providers, including teachers, paraprofessionals, and related service providers.

When the current federal regulations were published, the Office of Special Education Programs (OSEP) responded to questions about the extent to which states could set their own certification standards for special education providers. It responded to these questions in the Federal Register as follows:

> *States are responsible for establishing certification and licensing standards for special education teachers.* ***Each State uses its own standards and procedures to determine whether teachers who teach within that State meet its certification and licensing requirements****. Teacher qualifications and standards are consistent from State to State to the extent that States work together to establish consistent criteria and reciprocity agreements.* ***It is not the role of the Federal government to regulate teacher certification and licensure*** *(emphasis added). Federal Register, August 14, 2006 (p. 46554)*

These comments added:

> *Section Sec. 300.156(b) specifically requires the qualifications for paraprofessionals to be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services.*
>
> *We believe these requirements are sufficient to ensure that children with disabilities receive services from paraprofessionals who are appropriately and adequately trained. Therefore, we decline to include additional standards for paraprofessionals. Federal Register, August 14, 2006 (p. 46554)*

In other words, states have wide discretion in setting the licensing standards for their special education providers. Given that discretion, the Appeal Committee finds nothing in Kansas licensing standards that are inconsistent with federal law.

The investigator found that:

- The LEA employs a full-time certified special education teacher.

- The paraeducator is supervised by the certified special education teacher when the certified special education teacher is in the school building or on Zoom.
- The principal also supervises the paraeducator when the certified special education teacher is not in the school building but on Zoom
- The requirement that an instructional paraeducator be directly supervised a minimum of 10% of the time they are working with students is met. (Report, p. 6)

The complainant does not contest any of these findings in her appeal.

The investigator correctly concluded that, in accordance with the state licensing provisions, "the absence of a certified special education teacher when a qualified emergency substitute teacher is present, is not a failure to provide qualified staff."

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue and so the conclusion of the investigator is sustained.

The remaining alleged errors of the complaint investigator relate to Issue Two.

Issue Two

Did USD 476 fail to provide the Student with a free appropriate public education (FAPE), specifically by providing online, synchronous special education instruction?

The report describes this issue as follows:

> *The LEA chose to provide the Student's special education instruction using an online and in-person model. The LEA hired a certified special education teacher with twenty-four years of experience. The certified special education teacher lives three hours from South Gray Junior High School. To ensure that the certified special education teacher can provide some in-person special education instruction, the LEA pays for the certified special education teacher's lodging and mileage. Some days the Student receives online, synchronous instruction and on other days the Student receives in-person instruction. The LEA's chosen method for delivering special education services to the Student complies with federal regulations, Office of Special Education Program guidance, and* Rowley. *(Report, p. 8)*

Error II

Error II of the complainant's appeal argues that the conclusion of the investigator is an "Improper Characterization of Unilateral Changes as Methodology" because the district altered the mode of service delivery, including use of virtual instruction, changed service providers, and implemented inconsistent scheduling without convening the IEP Team or issuing prior written notice. These changes implicate location, provider, and frequency of services, which are core components of the IEP under 34 C.F.R. Sections 300.320 and 300.324 (emphasis added)."

To the extent the district changed service providers and implemented scheduling without convening the IEP Team or issuing a prior written notice, these kinds of changes are within the authority of school administration and are not subject to approval by an IEP Team nor do they require a prior written notice.

Regarding the "methodology" issue, one problem with the complainant's analysis is that the alleged action itself is described in the appeal as the district having "altered the mode of service delivery." That is precisely what the report is referring to when it refers to "methodology." A change of educational methodology (service delivery) is no less change of educational methodology just because it was done unilaterally.

The complainant cites R.E. v. New York Department of Education, in support of her contention that a "mode of service delivery" cannot be changed "post hoc" without convening the IEP Team or issuing prior written notice because: "These changes implicate location, provider, and frequency of services, which are core components of the IEP."

That is not what this (cited) court said.

In R.E. v. New York Department of Education, 694 F.3d 167, 59 IDELR 241, (2nd Cir. 2012), the parents contested a proposed IEP that did not include the parent's preferred teaching method of a 1:1 Applied Behavior Analysis. The court said that a state review officer erred when considering testimony about services that were not in the proposed IEP but that the school would have provided anyway if the parents had accepted the proposed IEP. That is, the court said, hearing officers and courts "'must evaluate the adequacy of an IEP prospectively as of the time of the parents' placement decision and may not consider "retrospective testimony" regarding services not listed in the IEP." In lay terms, this court was saying that when it assesses the duty a school district owes to a child, it looks at the written IEP and not at extraneous promises or expectations that are not included in an IEP (such as a specific teaching methodology).

That court added:

> *if an IEP states that a specific teaching method will be used to instruct a student, the school district may introduce testimony at the subsequent hearing to describe that teaching method and explain why it was appropriate for the student. The district, however, may not introduce testimony that a different teaching method, not mentioned in the IEP, would have been used. Similarly, if a student is offered a staffing ratio of 6:1:1, a school district may introduce evidence explaining how this structure operates and why it is appropriate. It may not introduce evidence that modifies this staffing ratio (such as testimony from a teacher that he would have provided extensive 1:1 instruction to the student).*

The parents prevailed in this case only because the evidence supporting their position was substantial. The court said, in summary: "Because the SRO's conclusion was against the weight of

the evidence and thus flawed, deference to it is not warranted." The Appeal Committee finds that this case supports the school district's position because this student's IEP did not specify any teaching methodology and the complainant has not shown that in-person instruction was necessary for the student to progress. Thus, deference is warranted. When an IEP does not specify any specific teaching methodology, school districts have wide discretion in how services are presented to a student.

The following cases are illustrative:

In R.B. v. New York City Dept. of Ed., 64 IDELR 126 (2nd Cir. 2014), this same court that is cited by the complainant (2nd Cir.) said the omission of a particular methodology in an IEP is not a procedural violation u**nless the student needs that particular methodology exclusively** in order to receive educational benefits. In R.E.B. v. State of Hawaii Dept. of Ed., 74 IDELR 125 (9th Cir. 2019), the court said a school is **not required to specify a particular methodology in an IEP unless there is a "single right choice" that would always be effective (which may make it necessary to specify the methodology)**. Where multiple methods could be effective, the court will "accord deference" to the district's determination that teachers need flexibility in teaching methodologies. In Hendrick Hudson Dist. Bd. Of Ed. v. Rowley, 458 U.S. 176, 102 S.Ct. 3034, 553 IDELR 656 (1982), the United States Supreme Court held that the **primary responsibility for choosing instructional methodology is left with the local school district**. Also see Johnson by Johnson v. Olathe Dist. Schs. Unified Sch. Dist. No. 233, 316 F. Supp. 2d 960, D. Kan. 2003, 41 IDELR 64, where a Kansas district court said that "**So long as the court determines that a child's IEP is reasonably developed to provide the child a FAPE, then the court must leave questions of methodology to the school district.")**.

In short, when, as in this case, there is not a sufficient showing that only one instructional method will be effective for this student, there is no requirement for the district to specify an instructional method in either an IEP or a PWN. Accordingly, the failure to do so is not a violation of law, and district personnel have discretion to choose from a variety of teaching methods.

Error III: Failure to Analyze Meaningful Parent Participation and Predetermination

The two issues presented in this complaint were whether the district failed to employ a qualified special education teacher to provide special education instruction to the Student and whether the district failed to provide the Student with a free appropriate public education (FAPE), by providing online, synchronous special education instruction. Meaningful parent participation and predetermination were not issues presented in the complaint and are thus not reviewable on appeal. In addition, these are two areas (teacher/para credentials and instructional methods) in which school district administrators, as opposed to IEP teams, have general authority, except under unusual circumstances, not occurring in this instance. Accordingly, as explained earlier, the actions taken by school officials regarding teacher/para credentials and instructional methods are matters of wide discretion and not a violation of law, except under unusual circumstances not

present in this complaint. As such, these two issues are not related to parent participation or predetermination of IEP service or placement decisions.

Error IV: Improper Reliance on Student Progress to Negate Violations

The appeal states:

> *The State Complaint Investigation Report relied heavily on reported progress data to conclude that no denial of FAPE occurred. This analysis is legally flawed.*
>
> *Progress does not excuse failure to implement an IEP as written, nor does it cure procedural violations. Endrew F. v. Douglas County School District, 580 U.S. 386 (2017), requires that progress be evaluated in light of the services actually provided with fidelity.*
>
> *Absent an analysis of whether services were delivered as required, progress data cannot negate noncompliance.*

It appears that the complainant is arguing that the United States Supreme Court has said that a school must be perfect in providing services exactly as specified in an IEP. If so, a short review of that notion is in order.

Endrew F. v. Douglas County School District, 137 S.Ct. 988, 117 LRP 9767 (S.C. 2017) is the United States Supreme Court case upon which the complainant relies. It said that a Free Appropriate Public Education (FAPE) is an "IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." It did not say that progress must "be evaluated in light of the services actually provided with fidelity." No court that we know of has said that an IEP must be perfectly implemented. There have, however, been a number of courts following the Endrew F. decision specifically concluding that the FAPE standard does not require perfect implementation of an IEP.

In Abigail P. v. Old Forge School District, 124 LRP 21769 (3d. Cir. 2024), the 3rd Circuit joined the 4th, 5th, 8th, 9th, and 11th Circuits saying an IEP implementation failure must be material to be actionable, adding "Indeed, a requirement of perfect adherence 'would ignore the realities and the challenges that the IDEA was built to accommodate.' A materiality standard affords local agencies some flexibility while still holding those agencies accountable for material failures and for providing the disabled a meaningful education benefit." Also see, L.J. v. School Board of Broward County, Florida, 119 LRP 24771 (11th Cir. 2019), where the court cited the 5th, 2nd, and 4th, Circuit decisions, and said the statute is violated when there is a material deviation from the IEP, and added, "We see nothing in the text of the IDEA holding schools to a standard of perfect implementation..."

As for the argument that it was error for the investigator use what the complainant referred to as "Improper Reliance on Student Progress to Negate Violations," the Appeal Committee disagrees. Progress is a very important part of the analysis.

In Letter to Clarke, 48 IDELR 77 (OSEP 2007), OSEP stated that neither the statute nor regulations address when missed services need to be made up. Accordingly, OSEP states that whether a missed service needs to be made up is a matter of FAPE and must be addressed on a case-by-case basis with emphasis on the impact of the missed service on the child's ability to continue to progress and meet the annual goals in the IEP (emphasis added). Also see: OSEP's *Letter to Wolfram and Mandlawitz, 80 IDELR 196 (OSEP 2022)* in the context of guidance it issued due to the COVID-19 pandemic. OSEP summarizes its missed service guidance across multiple documents in stating:

> *the decision to provide 'make up' or compensatory education when there is a disruption in the provision of educational services, and the nature and amount of the special education and related services that are to be provided as compensatory education, is an individualized determination made by the [IEP] Team in accordance with the requirements in 34 CFR §§300.320-300.324. That is, the IEP Team must determine whether the child was denied educational benefit because of the disruption in educational services and whether compensatory education is needed to 'make up' for the denial including addressing any skills that may have been lost (emphasis added).*

Thus, the extent to which missed, or the delivery method of, services have affected the expected progress of a student is an essential element in assessing whether a FAPE has been denied and whether compensatory services are needed. It was appropriate, and not error, for the investigator to rely on the student's progress to assess whether the use of synchronous special education instruction prevented the student from receiving a FAPE.

Error V: Failure to Consider the Systemic Impact of the Identified Violations

The Appeal Committee will not address this alleged error for two reasons:

1. There was nothing in the complaint alleging that there was a systematic failure of any kind; and
2. The complaint investigator determined that there was no violation of law which could have a systemic impact.

For these reasons, the Appeal Committee finds that the investigator had no evidence or reason to consider a systemic impact.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 4th day of February 2026.

Appeal Committee

Crista Grimwood

Brian Dempsey

Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #202
ON NOVEMBER 24, 2025

DATE OF REPORT: DECEMBER 31, 2025

This report is in response to a complaint filed with our office by ----- on behalf of her son -----. For the remainder of this report, ----- will be referred to as "the parent." ----- will be referred to as "the student."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" as used in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. Turner USD #202 is the sole provider of special services for this student; for the remainder of this report, USD #202 will be referred to as "the LEA."

Investigation of Complaint

The investigator spoke by telephone with the Director of Special Services and two special education coordinators for the LEA on December 2, 2025. The investigator spoke by telephone with the student's mother on December 19, 2025.

In completing this investigation, the complaint investigator reviewed the following materials related to the student and the LEA and relevant to the complaint:

- Parent's Formal Complaint and documents provided by the parent including:
  - The LEA's head injury notification to the parent dated November 4, 2025 for the second incident
  - Email from the parent to the LEA dated November 4, 2025 with the parent's initial request to view security video footage
  - Timelines of the November 4, 2025 incident prepared by the LEA's Director of Special Services and an officer from the KCKPD (Kansas City Kansas Police Department)
  - 19 pages of email exchanges between the parent and the LEA from November 4, 2025 to November 14, 2025, inclusive, concerning the parent's request to view the security video footage of the incidents

  - 25 pages of email exchanges between the parent and the LEA from November 4, 2025 to November 20, 2025, inclusive, regarding the parent's request to view security video footage
  - Email from the LEA's Director of Special Services to the parent dated November 5, 2025 with a description of her investigation into both incidents
  - MyChart message from a doctor at the University of Kansas Health Systems (UKHS) to the parent dated November 11, 2025 excusing the student from attending school until November 18, 2025 for medical reasons
  - Email exchange between the parent and the LEA from November 18, 2025 through December 4, 2024 regarding the parent's request to view security video footage
  - The LEA's head injury notification to the parent dated November 29, 2025 for the first incident
  - Email exchange between the parent and the school nurse dated December 5, 2025 regarding "nurse's office visit notification"
  - MyChart message (undated) from the parent to the UKHS requesting an evaluation of the student following the second of the two incidents
- IEP for the student dated November 19, 2024
- Conference Form dated November 19, 2024
- Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated November 19, 2024
- IEP Amendment Between Annual IEP Meetings for the student dated May 1, 2025
- Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated May 1, 2025
- Turner Middle School contact log for communications between the LEA and the parent between August 22 and December 1, 2025
- BL-N referral dated November 4, 2025 for student A (the other student involved in the incidents)
- 17 pages of email exchanges between the parent and the LEA from November 4 to November 20, 2025 regarding the parent's request to view the security video footage of the two incidents
- IEP Amendment between Annual Meetings for student A dated November 5, 2025
- IEP for the student dated November 6, 2025
- Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated November 6, 2025
- Conference Form dated November 6, 2025
- Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent for student A dated November 11, 2025 reflecting a material change in services and a substantial change in placement for student A

- Email exchange between the parent and the Director of Special Services dated November 12, 2025 regarding the student's excused absence for medical reasons
- Initial Draft Safety Plan for the student dated November 13, 2025
- Email exchanges between the parent and the LEA from November 13 to November 21, 2025 regarding updated IEP documents
- Email exchanges from November 18 to December 1, 2025 regarding the parent's request under KORA (Kansas Open Records Act) to view the security footage of both incidents
- The LEA's board policy JGGA for Use of Surveillance Cameras
- Attendance records for the student for the 25-26 school year
- Grade report for the student for Q1 and Q2 of the 2025 - 2026 school year
- The LEA's board policy JGFG for Student Accidents
- Progress reports for the student between November 19, 2024 and November 18, 2025
- Online Turner Middle School Student Handbook
- Turner USD 202 Board of Education Policies and Regulations

Background

This complaint involves an 11-year-old boy who is enrolled in the sixth grade at a local middle school. The student previously attended a nearby Elementary School from Pre-K to fifth grade. The student was initially evaluated for special education services on February 28, 2017 and was found eligible for special education services under the primary educational exceptionality of Autism. The student was re-evaluated as a part of the required triennial cycle on January 22, 2020 and November 28, 2022, and most recently via a re-evaluation dated November 6, 2025. At each review, the student was determined to continue to be eligible for special education services under the exceptionality of Autism. The student currently receives the related services of physical therapy, occupational therapy, and speech and language.

This complaint is focused on two incidents. The first occurred on October 29, 2025 (first incident/incident 1) and the second on November 4, 2025 (second incident/incident 2). While the complaint investigator has not viewed the security video footage of either incident, a description of the events was provided by both the LEA and the parent to the investigator during their respective phone calls. Those descriptions generally align. The LEA also provided written timelines of the second incident prepared by the LEA and by an officer from the KCKPD.

In an email to the parent dated November 5, 2025, the LEA's Director of Special Services recounted the events of the first incident. At that time, the student was walking adjacent to a staff member who was pushing a different child in a wheelchair. A third child [student A] was walking slightly behind the student, and without warning struck the student in the back of the head three times. In an email to the parent dated November 14, 2025, the LEA indicated that the nurse was alerted to the incident at 12:18 PM, some 41 minutes after it occurred; the

parent was then called by the nurse at 1:09 PM to explain the situation – approximately 90 minutes after the incident happened.

The second incident occurred four school days after the first. In an email to the parent dated November 5, 2025, the LEA's Director of Special Services indicated that the student was in the cafeteria/commons area on November 4, 2025 practicing tasks for the Job Skills Olympics. A staff member was engaged with a number of students during this time and walked back and forth among them. At some point, while the paraprofessional was redirecting the student, both the student and student A stood up. Student A subsequently walked over and struck the student twice on the back of his head. The student was escorted to the nurse's office, where an assessment was conducted. After that assessment was completed, the nurse contacted the parent; the parent then came to the school and took the student home.

Issues

A formal complaint must allege that a violation of special education laws or regulations has occurred within the 12-month period prior to the date the complaint is received and filed by the commissioner of education (K.A.R. 91-40-51(a) and (b)). For this compliant, the parent has raised seven concerns/issues and asserted that the LEA did not comply with a number of federal and Kansas state regulations which will be discussed below.

Issue One

Multiple safety incidents involving the student.

Position of the Parent

In her written complaint, and during the phone call with the investigator, the parent stated that the LEA failed to ensure the student's safety by failing to provide adequate supervision. The parent cites "…34 C.F.R. §300.323 – obligation to implement the IEP," and "K.A.R. 91-40-3 – student protections and supervision" – as regulations where there was non-compliance by the LEA. The parent contends that as a result of these failures by the LEA, the student was denied a free appropriate public education (FAPE).

Position of the LEA

The district asserts that no violations of special education statutes and regulations occurred, and states that the student was not denied FAPE. In both events at issue, district staff acted promptly, consistently, and reasonably to maintain student safety. It is the position of the LEA that these events involved unexpected peer behavior rather than failures in supervision or protocol.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

The parent, in her complaint, identified 34 C.F.R. §300.323 as a regulation relevant to the provision of FAPE, i.e. the failure of the LEA to implement the students IEP. The cited regulation is entitled "When IEPs must be in effect." Under "General," the regulation states that an IEP must be in effect at the beginning of each school year for a child with a disability. Other subsections apply to children ages three through five, initial IEPs, accessibility of the IEP to teachers and others, and children who are transferring from another location.

There is no allegation in the parent's complaint that an IEP was not in place at the beginning of the school year. Records reflect that an IEP was in effect at the time of both incidents. The student is older than five years of age and has not transferred from another location. The student was initially identified for special education services on February 28, 2017, with triennial re-evaluations after that date. Given these facts, the federal regulation cited by the parent does not apply to the issues raised by the parent.

The parent also identified K.A.R. 91-40-3 as related to the LEA's non-compliance with state regulations. This regulation is entitled "Ancillary FAPE Requirements" and its goal is that "Each agency shall ensure that children with disabilities have available to them the same variety of educational programs and services that are available to nondisabled children served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education." The parent has not indicated in her complaint that the student was denied access to any educational programs that the LEA provides to nondisabled students, therefore, this regulation is not relevant to this issue.

Investigative Findings

An annual review of the student's IEP was conducted on November 19, 2024, and the parent participated in that meeting. An LEA Conference Form with that same date summarizes the meeting agenda, identifies the meeting participants, and outlines the focus of the meeting. The form notes that parent input was considered and that parent input was written into the draft IEP. The Conference Form does not contain any reference to the student's specific supervision or any safety concerns while away from the special education classroom, nor does it contain any reference to paraprofessional support in any setting.

The parent indicated a transition to the P.E. location was the setting for the first incident. The "Consideration of Special Factors" section of the November 19, 2024 IEP has the "regular P.E."

box checked under Physical Education. The IEP indicates that the student would require assistance to fully participate in physical education, but P.E. activities had not begun at the time of the incident.

The "Supplementary Aids and Services section of the student's November 19, 2024 states:

> *"Describe the supplementary aids and services that will be provided in the general education classroom and other education-related settings to enable the child to be educated with nondisabled children to the maximum extent appropriate."*

The "Not Applicable" box for that section was checked.

There is no indication in the November 19, 2024 IEP that a paraprofessional or other dedicated staff member was required to supervise or specifically ensure the safety of the student in a way different than that of his non-disabled peers.

The Prior Written Notice (PWN) dated November 19, 2024 summarizes the student's changes in placement and services. The form does not contain any reference to a safety plan for the student, to special supervision for the student in the general education setting or while away from the special education classroom, or to the provision of support by a paraprofessional.

The student's IEP was amended on May 1, 2025 with a substantial change in placement beginning May 22, 2025 to accommodate the student's move from the elementary school to the sixth grade at the middle school. An IEP team meeting was held to accomplish this task. The PWN for the amendment indicates that other than the change in placement, and the change in time and duration of the services listed, no other changes were made to the student's services. The parent consented to the changes on May 1, 2025. An LEA Conference Form dated May 1, 2025 for the IEP team meeting shows that the parent participated and offered inputs regarding the student's growth and environment, and agreement with the proposed placement.

An IEP team meeting was held on November 6, 2025 for the annual review of the IEP and to review the triennial re-evaluation of the student. The LEA's Conference Form dated November 6, 2025 for the meeting reflects that the parent expressed her concerns about the student's safety. This same concern is included in the Parent Input/Concern paragraph of the "Present Level of Achievement and Functional Performance" section of the student's November 6, 2025 IEP. The "Supplementary Aids and Services" section of that IEP indicates that *"A safety plan outlining supervision procedures and communication supports will be implemented and attached to this IEP*." That section also states that "*A daily communication note summarizing [the student's] and any notable events or needs will be sent home*." The referenced safety plan includes a stated purpose of ensuring "*…[the student's] safety through consistent supervision, effective communication supports, and structured transition*." Included in the safety plan is a requirement for an adult to remain within arm's length of the student when he is away from the special education classroom. The safety plan indicates that any incidents related to the student will be immediately reported to the

building administrator and school nurse. The plan also indicates that the parent will be notified of incidents, but there is no time frame associated with that reporting.

The LEA, through the middle school handbook and the district's Board of Education Policies and Regulations for students, does not identify or impose any specific measures for student safety or supervision for exceptional students that are different from those for non-disabled peers.

Summary and Conclusions

The student was struck by another child twice during the first semester of the 2025-26 school year. For the first incident, the student was transitioning to regular P.E. The student was near a staff member who was pushing another student in a wheelchair. The November 2024 IEP in place for the student at the time contained no requirement for additional supervision or support beyond what was being provided when the incident occurred. The IEP did not contain any specific requirement for supports or staff for transitions from the special education classroom to other locations. The IEP indicated that the student would receive regular P.E. and he would require assistance there, but the P.E. class had not yet begun.

For the second incident, the student was near a staff member who was providing services to multiple students. The November 2024 IEP in place for the student at the time contained no requirement for additional supervision or support beyond what was being provided when the incident occurred.

While a safety plan is now in place for the student, that plan was not in effect at the time when either incident occurred.

The investigation of this issue determined that there are no LEA safety measures or regulations applicable to an exceptional student that are different from those of non-disabled peers. The investigation also revealed that the student's IEP did not contain any specific supervision, supports, or safety requirements beyond what the LEA was providing at the time each incident occurred.

A violation of special education statutes and regulations *is not substantiated* on this issue.

Issue Two

Lack of appropriate supervision leading to physical and emotional harm.

Position of the Parent

The parent, during the phone call with the investigator, shared that the student was not sleeping, that his behavior had changed, and that he now cries a lot. She alleges these symptoms are related to the physical and emotional harm resulting from being struck by another child. It is the position of the parent that the lack of supervision by staff allowed these assaults to occur.

Position of the LEA

The district reviewed all relevant documentation related to the concern regarding supervision and did not find evidence that supervision was inadequate. Following each reported event, the student was evaluated by the school registered nurse in accordance with the district's head-injury procedures. The LEA contends that the peer's behavior was unexpected and not the result of a lapse in supervision.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

Investigative Findings, Summary, and Conclusion

The parent's complaint does not clearly differentiate between the issues 1 and 2, and she did not establish a clear difference between these issues during her phone call with the investigator on December 19, 2025. The investigator found the two issues to be duplicative as both focus on the LEA's lack of supervision. As was established under Issue One, a violation of special education statutes and regulations *was not substantiated* with regard to supervision

Issue Three

Inappropriate or delayed staff responses to accidents and assaults.

Position of the Parent

It is the position of the parent that the LEA failed to appropriately respond to physical assault and safety incidents regarding the student. The parent further asserts that the LEA's response to incident one was especially delayed and inconsistent.

Position of the LEA

It is the position of the LEA that its response was timely and appropriate.

Applicable Statutes and Regulations, Investigative Findings, Summary, and Conclusion

There are no applicable Kansas or federal statutes or regulations that mandate, define, or guide an LEA's response for an injury to an exceptional child. An LEA may have district policy for its management and response to such incidents for all students, and in this case the LEA's board policy JGFG for Student Accidents likely applies.

This investigator has the authority only to investigate violations of special education statutes and regulations. Concerns regarding the implementation of district Board policy fall outside of the investigator's authority. If the parent is dissatisfied with the LEA's response to these events, then the parent may complain to the local board of education.

Issue Four

Failure to follow the IEP or provide required supervision supports.

Position of the Parent

The parent, during the phone call with the investigator, indicated she had questions about which staff member(s) were near the student during each incident. The parent also stated she was unaware the student was going to general education P.E.

Position of the LEA

The LEA contends that it has met its obligation under FAPE to follow the IEP and provide the required supervision support. At no time were the accommodations, modifications, or services outlined in the IEP dated November 19, 2024, not implemented.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

Investigative Findings, Summary, and Conclusion

As was established under Issue One, the November 2024 IEP in place for the student at the time of the two incidents identified by the parent contained no requirement for additional supervision or support beyond what was being provided when the incidents occurred. The IEP did not contain any specific requirement for supports or staff for transitions from the special education classroom to other locations. The IEP indicated that the student would receive regular P.E. and he would require assistance there, but the P.E. class had not yet begun.

For the second incident, the student was near a staff member who was providing services to multiple students. The November 2024 IEP in place for the student at the time contained no requirement for additional supervision or support beyond what was being provided when the incident occurred.

While a safety plan is now in place for the student under his November 6, 2025 IEP, that plan was not in effect at the time when either incident occurred.

A violation of special education statutes and regulations *is not substantiated* on this issue.

Issue Five

Missed instructional and related services following the incident.

Position of the Parent

During the phone call with the investigator on December 19, 2025, the parent stated that the student had received a doctor's excused one-week absence from school following incident two. The parent asserts that the LEA did not provide any services to the student while he was home during that period and contends that he was denied a FAPE and is due compensatory services.

Position of the LEA

The LEA denies that a denial of FAPE occurred, as the student was evaluated by the school RN and determined to be medically safe to remain in the school setting. At no point was the parent asked to pick the student up from school, monitor him at home, or seek medical attention. The school implemented appropriate interventions to ensure the student's safety within the learning environment, and access to services was never restricted or withheld. It is the position of the LEA that the parent chose to keep the student home following the event.

Applicable Statutes and Regulations

As has been previously noted, federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

The parent, in her complaint, identified 34 C.F.R. §300.101 (described immediately above) and 34 C.F.R. 300.323(c) as regulations relevant to the provision of FAPE due to missed services. The latter regulation is entitled "When IEPs must be in effect," and subsection (c) concerns initial IEPs. There is no allegation in the parent's complaint that an IEP was not in place at the beginning of the school year; records reflect that an IEP was in effect at the time of the incidents and that particular IEP was dated November 19, 2024. The student was initially identified for special education services on 2/28/17, with triennial re-evaluations after that date. Given these facts, the federal regulation 34 C.F.R. 300.323(c) cited by the parent do not apply to the issues in her complaint.

Investigative Findings

The student's November 19, 2024 IEP with its May 1, 2025 amendment, in place at the time of both incidents, indicates that services were to be provided in the Life Skills classroom at the

middle school. Regular P.E. was to be provided at TMS along with any extracurricular activities. There is no indication in the IEP of services to be provided virtually or outside of TMS or in any setting other than the Life Skills classroom.

Incident 2 occurred on Tuesday, November 4, 2025. The parent picked up the student after she was notified of the event and kept the student out of school on Wednesday November 5th, indicating he would return to school the following Monday. The parent kept the student out of school on Thursday November 6th. Friday November 7th was a professional development day when no students were in attendance. The student attended school on Monday November 10th. The parent took the student to the doctor on Tuesday November 11th and obtained a doctor's note for an excused absence from that date until November 18th for medical reasons. The student was absent from school on November 12, 13, 14, and 17. In total, the parent kept the student out of school for 7 school days.

The school nurse prepared a head injury notification following both incidents; the report for the second incident is dated "11/4/26 (sic)," the date of the incident. The form shows that the student was seen by the nurse beginning at 8:15 AM; he was discharged at 9:02 AM with a note that after returning to baseline behavior he was released back to class. The nurse did not identify any injury or other reason to keep the student in the nurse's office, send the student to the emergency room or other medical facility, or to send the student home from school.

In an email on November 11, 2025 at 3:58 P.M., the parent told the Director of Special Services that the student had been seen by a doctor and that the student would not return to school until November 18th; the doctor's note was attached to the email. The Director of Special Services responded that all absences would be updated from "excused" to "medical." At the close of the email, the Director of Special Services invited the parent to respond with any additional questions regarding absences.

No emails or other documented communications were provided during the investigation to show that the parent and the LEA discussed the student's absence during this time in further detail. There is no evidence to show that the parent requested an IEP team meeting to specifically address services missed during the student's time away from school.

An annual IEP team meeting was held on November 6, 2025 – the second day of seven days when the parent held the student out of school after the second incident. There is no indication in the Conference Form notes for that meeting that missed instruction time was a concern of the parent and that the LEA should consider compensatory services.

Summary and Conclusions

No evidence was presented during this investigation to show that the LEA was not ready, willing, and able to provide services to the student at school in accordance with his IEP. The parent chose to keep the student at home in the same manner as if the student had been ill with the flu. There is no requirement in the student's IEP for him to receive services when he is

absent from school. The parent made no request for an IEP team meeting to consider make-up services for the time missed by the student due to an absence classified as "medical," nor was this discussed at the previously scheduled annual IEP team meeting on November 6, 2025.

In consideration of the above determinations and evidence reviewed during the course of this investigation, a violation of special education statutes and regulations *is not substantiated* on this issue.

Issue Six

Failure to provide timely and accurate communication to the parent.

Position of the Parent

The parent contends that the LEA failed to appropriately communicate with the parent and that the LEA's communication was not timely or complete. During the phone call with the investigator, the parent stated that the LEA failed to provide her with enough information about what happened during both incidents and to give her a better overall understanding of the occurrences and that a viewing of the video recording of the incidents was essential for her understanding of what had taken place. The parent asserts that the LEA failed to provide the parent with timely access to view the security video of the two incidents.

Position of the LEA

The district denies failure to provide timely and accurate communication to the parent. According to the LEA, communication with the parent was provided in a reasonable amount of time based on the event details and the medical assessment conducted by school staff. The LEA contends that in both instances the parent was notified within a reasonable timeframe based on the nurse's medical assessment and the absence of symptoms of head trauma. The district's head-injury form was completed and sent home on the same day as each event. The district stands firm that the parent was provided with timely and accurate communication and that she has had multiple opportunities to meaningfully participate in the IEP process.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.613, require an LEA to permit parents to review and inspect any education records relating to their child "… that are collected, maintained, or used by the agency under this part." In addition, the LEA must comply with a request made by a parent to inspect their child's education record "…without unnecessary delay…and in no case more than 45 days after the request has been made." Kansas regulations at K.A.R. 91-40-50(3)(b) adopt the federal regulation by reference.

Investigative Findings

Documents reviewed during this investigation regarding the first incident (of October 29, 2025) show that a head injury report was prepared by the school nurse on October 29, 2025 – the

date of the incident. The LEA asserts that this report was sent home on the same day as the event. The middle school contact log for the school nurse indicates that a voicemail was left for the parent at 1:10 PM on that day, and that no call back was received. Neither party to this complaint provided any evidence that further communication between the parent and the LEA occurred regarding the first incident, and no requests for additional information or access to the student's educational record were made between October 29, 2025 and November 4, 2025.

The second incident occurred on November 4, 2025. A head injury report dated "11/4/26 (sic)" was prepared by the school nurse and according to the LEA it was sent home that same day. The middle school contact log for the school nurse indicates that a phone call was made to the parent at 9:10 AM on the day of the incident. The log also indicates that the parent made a request to view the security video footage for that incident.

On November 4, 2025 the parent made her first request via email to the LEA and asked that the security video footage of both incidents be added to the student's educational record. She also formally asked for access to and a copy of the videos. On November 5, 2024 the Director of Special Services replied to the parent's email and indicated that she had undertaken an investigation into both incidents; she described what had happened during each incident and the nurse's evaluation and assessment that took place after each incident. The Director of Special Services acknowledged the parent's request to view the video footage of both incidents, and stated that since other students were present, and since the footage is considered a part of those students' education record and thus protected, the videos could not be shared with the parent. The Director of Special Services also acknowledged the parent's request that the video footage be attached to the student's educational record; she indicated that as a result the footage had since been sent to the LEA's technology department and were preserved under the student's record.

On November 5, 2025 the parent replied back to the email from the Director of Special Services and reiterated her request to view the security video footage and supported her request by observing that the footage was a part of the student's educational record. As noted above, this had been acknowledged by the LEA some 90 minutes earlier that evening.

The annual IEP meeting for the student occurred on November 6, 2025. There is no indication in the documents for that meeting that any discussion occurred regarding the parent's access to the student's records.

On November 14, 2025, the Director of Special Services replied to the parent's November 5, 2025 email. In that communication, she included the answer to the parent's request for the district's legal interpretation supporting prior denial of access to the video footage the parent had made under the Kansas Open Records Act (KORA) and Family Education Rights and Privacy Act (FERPA):

> *"The school security video footage you have requested access to is not a public record subject to disclosure under the Kansas Open Records Act ("KORA"). See K.S.A. 45-221(a)(1) & (12). Security video footage is also generally exempt from disclosure as an educational record under FERPA. 20 U.S.C. 1232g(a)(4)(B)(ii) and 34 CFR §§ 99.3 and 99.8."*

On November 18, 2025 the parent replied to the above email and asked for additional clarification about the LEA's denial of her access to the security video footage of the two incidents.

On November 20, 2025 the Director of Special Services sent an email reply to the parent indicating a close to its investigation into the two incidents, and that no further communications on the matter would be forthcoming.

On November 18, 2025 the parent wrote an email to the LEA that included the district Superintendent, and again asked about her request to view the security video footage of the two incidents. On November 24, 2025 the Superintendent replied to the parent and repeated the LEA's legal interpretation stated by the Director of Special Services in her November 14, 2025 email. However, the Superintendent closed his message stating

> *"However, under the circumstances, the school district is willing to provide you with the opportunity to view the security video. If you would like to do so, please advise and we will make arrangements for you to view it at a mutually agreeable date and time."*

On November 28, 2025 the parent replied with an acknowledgement, and on December 2, 2025 she suggested either December 9 or December 12, 2025 as a date for her to view the footage. The LEA's law firm coordinated the final timing and the parent ultimately viewed the video footage on December 12, 2025.

The time between the parent's first request to view the security video footage – which she maintains is a part of his educational record – and the time that she was able to view the footage was 38 calendar days.

The LEA's board policy JGGA covers the use of surveillance cameras. The policy states, in part:

> *"Surveillance footage of personally identifiable students depicting their involvement in an altercation or other violation of law or district policy shall be considered a student record [emphasis added] and shall be subject to current law for the release of student record information."*

Summary and Conclusions

The student was clearly involved in two altercations with student A. Board policy JGGA states that the resulting surveillance video footage would be considered a student record. The parent requested that the resulting video footage be maintained by the district, and the Director of Special Services agreed to the request, indicating that the footage would be attached to the student's educational record and would be maintained by the LEA's technology department. Although later communication from the LEA to the parent suggested that the video footage was not considered a part of the student's educational record and thus not accessible to the

parent, this position contradicts the board's policy concerning such video footage and the commitment made by the Director of Special Services to characterize the footage as a part of the student's educational record and to maintain it.

The LEA, for 20 days after the parent's first request, denied her access to the video footage. Thirty-eight (38) calendar days after the parent made her request she was finally able to view the surveillance video footage of the two incidents involving the student. Federal regulations require an LEA to allow a parent to review their child's educational record no more than 45 days following the initial request, and the LEA met that timeline.

In consideration of the above determinations and evidence reviewed during the course of this investigation, a violation of special education statutes and regulations *is not substantiated* on this issue.

Issue Seven

Failure to take appropriate steps following parent concerns and grievances.

Position of the Parent

It is the position of the parent that special education law requires meaningful parent participation. The parent contends that with regard to the two incidents identified in her complaint, the LEA's communication was not timely or complete, preventing the parent from participating in safety and service decisions. The parent further asserts that the LEA failed to address the needs of a student with autism and limited communication and did not provide appropriate supports or interventions.

Position of the LEA

The LEA denies that it failed to take appropriate steps to address parent concerns and grievances and asserts that it has communicated with the parent in a timely manner regarding all requests and provided multiple opportunities for meaningful participation in the decision-making process. It is the position of the LEA that the parent has participated in and agreed to the services, accommodations, and modifications designed to support the student's needs. In addition, the parent expressed concerns related to communication and behavior during the November 6, 2025, meeting. The LEA contends that the IEP team considered the parent's concerns and responded by proposing to conduct an FBA and to consider communication needs related to AAC.

Applicable Statutes and Regulations

The parent, in her complaint, identified 34 C.F.R. §300.304 through 300.324 as regulations the LEA failed to comply with, indicating the district did not provide appropriate supports or interventions tailored to the student. This range of regulations defines the entirety of the IEP

process including reevaluations. Some of the regulations within this range are applicable to this issue as outlined below

At 34 C.F.R. 300.322 and K.A.R. 91-40-17 special education laws describe in detail that the parents must be members of the IEP team. The parents are equal partners and play an active role in providing critical information about their child's abilities, interests, performance, and history. They are involved in the decision-making process throughout the development of the IEP. Notice of IEP team meetings must be given to parents and include the purpose, time, and location of such meetings.

A parent is also an important part of the re-evaluation process for an exceptional child, providing valuable information about the child's progress, needs, and current abilities (34 C.F.R. 300.303 – 304; 300.305(a)(1)(i) and (a)(2); K.S.A. 72-3428).

Investigative Findings

A Notice of Meeting (NOM) dated October 30, 2024 was provided to the parent for an IEP team meeting to be held on November 19, 2024. The parent signed the NOM on November 14, 2024 indicating she planned to attend the meeting. According to an LEA Conference Form dated November 19, 2024, the parent participated in the IEP team meeting that day. The parent initialed the section of the Form indicating she provided input in the development of the IEP; the summary section of the Form states that the parent's input was written into the draft IEP. The parent signed the Conference Form on November 19, 2024. The "Academic Performance" section of the November 19, 2024 contains a full paragraph of parent input. The parent signed the IEP signature page on November 19, 2024. A Prior Written Notice (PWN) for the November 2024 IEP was delivered to the parent on November 19, 202,4 and the parent provided consent for the implementation of the services described in the IEP on that same date.

A NOM dated April 8, 2025 was sent to the parent via the student's backpack for an IEP team meeting on May 1, 2025. The meeting was held to discuss the student's transition to middle school and his placement for the 25 – 26 school year. The parent acknowledged receipt of the NOM on April 9, 2025 and indicated she planned to attend the meeting. An LEA Conference Form dated May 1, 2025 reflects the parent's participation in the meeting, with her initials showing she provided input in the development of the IEP. An IEP Amendment between Annual IEP Meetings was developed by the IEP team on May 1, 2025, and the parent signed the agreement on that date. A PWN for the May Amendment to the IEP was delivered to the parent on May 1st, and she signed consent on that same date.

A PWN for Evaluation or Reevaluation and Request for Consent was sent to the parent as a result of the LEA's proposal for the three-year reevaluation of the student. The parent provided consent on August 15, 2025. In preparation for the reevaluation the parent completed a parent questionnaire on August 15, 2025.

A NOM dated October 14, 2025 was sent to the parent via the student on October 15, 2025 for an annual IEP team meeting to be held on November 6, 2025. The parent signed the NOM on October 21, 2025 indicating she planned to attend the meeting as scheduled. The parent completed a Parent Input Form on November 6, 2025. An evaluation report (reevaluation) was prepared by the LEA and dated November 6, 2025; the report includes information from the parent questionnaire and from an interview with the parent. The parent signed the reevaluation report indicating agreement with its conclusions.

An IEP for the student was developed at the November 6, 2025 IEP team meeting. The Academic Performance section of the IEP captures parent input/concerns, and reflects that the parent voiced concerns about the student's safety and provided input on choices, processing requests, goals, and daily living skills for the student. The parent also requested a Functional Behavior Assessment (FBA) and an evaluation for Assistive Augmentative Communication (AAC). Finally, she requested the development of a safety plan and a daily communication note. The parent signed the IEP signature page on November 6, 2025.

A PWN dated November 6, 2025 indicates that a safety plan and daily home-school communication note would be added under Supplemental Aids and Services. The parent provided consent on November 19, 2025. A safety plan was created with an initial draft dated November 13, 2025 provided during this investigation. A PWN for Evaluation or Reevaluation and Request for Consent dated November 11, 2025 was provided to the parent and signed by her on November 12, 2025. This PWN was in response to the parent's request to the team for conducting a Functional Behavior Assessment as well as an evaluation for AAC systems to support communication.

Summary and Conclusions

In the twelve months prior to this compliant the parent was involved in an annual IEP team meeting (November 2024), an IEP team meeting for an amendment in May 2025, a three-year reevaluation of the student, another annual IEP team meeting (November 2025), the creation of a safety plan and daily communication notes requirements, and the consent for an FBA and evaluation for AAC. All NOMs for the three IEP team meetings were timely and complied with regulatory requirements. The parent actively participated in all three IEP team meetings, and the IEP team responded to, considered, and included her inputs. The parent actively participated in the November 2025 reevaluation of the student, providing her input via questionnaires and an interview. The parent consented to all services identified in all three PWNs following the three IEP team meetings.

The IEP team, at the November 6, 2025 IEP meeting, responded to the parent's concerns about the student's safety and drafted a safety plan to be implemented by staff. The team also generated a daily communication and significant events protocol to keep the parent informed.

In short, the parent has meaningfully participated in decisions made about services for the student, including her safety and communication concerns.

The parent has consented to all services and to the results of the most recent reevaluation. No evidence was provided to show that the parent expressed any concerns or questions about how supports or interventions for the student were developed, or that any of those supports or interventions were inappropriate or should be changed.

A violation of special education statutes and regulations ***is not substantiated*** on this issue.

Corrective Action

Information gathered in the course of this investigation has not substantiated noncompliance with special education statutes and regulations on issues presented in this complaint. Therefore, no corrective actions are required.



Diana Durkin

Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON NOVEMBER 17, 2025

DATE OF REPORT: DECEMBER 31, 2025

This report is in response to a complaint filed with our office on behalf of students ----- and ----- by the guardian of -----, -----. In the remainder of the report, the students will be referred to as "Student A" and "Student B", and the guardian as "the Complainant."

The Complaint is against USD #437, Auburn/Washburn Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #437.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on November 17, 2025, and the 30-day timeline ended on December 17, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), ensured the individual assigned as the Positive Behavior Support (PBS) teacher for Student A holds the full, appropriate Kansas State licensure/endorsement (e.g., Special Education) for the continuous assignment of providing and implementing special education services, including Individual Education Programs (IEPs) and Behavior Intervention Plans (BIPs), and has not exceeded the permissible day limits for teaching in the same assignment while holding a temporary or Emergency Substitute Teacher credential. K.S.A. 72-3404(j), K.A.R. 91-31-34(b)(1-5); 34 CFR § § 300.156(a-c), 300.207.

ISSUE TWO: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, denied Student A a Free Appropriate Public Education (FAPE) by failing

to ensure the individual providing special education PBS services was appropriately trained and qualified. K.A.R. 91-40-2; 34 CFR § § 300.17, 300.101.

ISSUE THREE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, ensured meaningful parental participation in the IEP process when it held an IEP meeting for Student B on October 28, 2025, for a purpose different from the purpose stated in the original notice without notifying the Complainant, and presented a pre-drafted IEP document without providing the Complainant a genuine opportunity to collaboratively develop, review, and revise the IEP. K.A.R. 91-40-17(a)(b), K.A.R. 91-40-25(a), K.S.A. 72-3429(d)(1); 34 CFR § § 300.322(a)(b), 300.501(b), 300.324(a)(1)(ii).

ISSUE FOUR: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, ensured the attendance of a properly constituted IEP Team for Student B at the October 28, 2025 meeting by designating personnel who did not meet the required qualifications for the special education teacher/provider and the LEA representative, and excusing the attendance of other required IEP team members without obtaining the necessary written agreement or written consent from the Complainant, and/or without documenting the excused members' written input prior to the meeting. K.A.R 91-40-17(h)(i)(j), K.S.A. 72-3404(u), K.S.A. 72-3429(b)(1-3)(e); 34 CFR § 300.321(a)(d)(e).

ISSUE FIVE: Whether USD # 437, in accordance with state and federal regulations implementing the IDEA, implemented material changes to Student B's IEP without convening the IEP Team to review and revise the IEP, specifically: (a) Removing the long-term behavior technician without discussing the change's impact, planning for transition, or ensuring proper training for the replacement staff; and (b) Changing the delivery, location, and method of Student B's Occupational Therapy (OT) services from in-person to virtual. K.S.A. 72-3429(b)(1)(4)(A)(c)(4)(7), K.A.R. 91-40-16(a)(b); 34 CFR §300.324(b).

ISSUE SIX: Whether USD # 437, in accordance with state and federal regulations implementing the IDEA, provided appropriate Prior Written Notice (PWN) and/or obtained parental consent before implementing material changes to Student B's program, specifically: (a) Removing the long-term trained behavior technician from their daily program and reassigning the staff in March 2025; and (b) Changing the delivery model of Student B's OT services from in-person to virtual. K.A.R. 91-40-26, K.A.R. 91-40-27(a)(3)(g), K.S.A. 72-3430(b)(2)(6); 34 CFR §300.503.

Investigation of Complaint

The Complaint Investigator interviewed the Complainant on December 9, 2025. The following LEA staff were interviewed on December 12, 2025: the Case Manager and the Secondary Director of Student Services.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and

reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Staffing Transition Plan, 02/28[24]-04/02/[24]
2. Meeting Notes, 10/28/25
3. Meeting Agenda, 10/28/25
4. Email, re: October 28, 2025 [Student B] IEP Meeting Agenda, 10/29/25
5. Student B's Individualized Education Program, 12/17/24
6. 2025-26 Teacher Contract, 09/04/25
7. Emergency Substitute License, 08/15/25-06/30/26
8. Notice of Meeting, 10/21/25
9. Student B's Individualized Education Program, 12/17/24, duplicate
10. Job Description; Teacher, Resource Room/Interrelated, approved 08/15/05
11. Student A's Individualized Education Program, 10/24/24

Background Information

This investigation involved Student A, who is a ninth-grade enrolled at a High School in USD # 437 who is creative and artistic. Student A's primary exceptionality is autism, and their secondary exceptionality is Other Health Impairment (OHI). Student A is currently receiving special education and/or related services as a child with a disability per the IDEA.

Additionally, this investigation involved Student B, a high school-aged enrolled at Washburn Rural High School in USD #437. Student B is currently receiving special education or related services as a child with a primary disability of autism and secondary disability of intellectual disability, per the IDEA.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant and staff in the LEA.

Student A

1. Student A's IEP dated October 24, 2024, included an amendment dated April 24, 2025, and described the following:
    a. Transition assessments were identified, and service descriptions were listed for August 11, 2025 through May 23, 2029.
    b. The following goals were listed:
        i. "When [Student A] is given a directive to follow by an adult or peer, [Student A] will be able to follow directions on the first request by not arguing, negotiating, or seeking an alternative response with adults or peers at 95% by the end of the IEP as measured by Anecdotal Records. [Student A] will be

able to follow directions on the first request by not arguing, negotiating or seeking an alternative response with adults or peers 95% of the time."

ii. "When given a modified assignment or assessment, [Student A] will be able to complete the assignment or assessment on time with at least 80% accuracy at 90% of the time by [the] end of the IEP as measured by Anecdotal Records."

iii. "When feeling dysregulated, [Student A] will be able to verbalize [their] feelings and ask for a break at 50% of the time by [the] end of the IEP as measured by Anecdotal Records."

iv. "When eating breakfast or lunch, practicing self-care of hygiene, [Student A] will be able to demonstrate socially appropriate eating behaviors by practicing table manners, pacing [themself] during meals (eating slowly and steadily), using polite behaviors (e.g., saying 'please' and 'thank you,' chewing with [their] mouth closed, not talking with food in [their] mouth, wiping [their] face with a napkin), engaging in appropriate mealtime conversations, reducing the amount of food on [their] clothing and proper nose blowing at 4 out of 5 observed opportunities by the end of the IEP as measured by Anecdotal Records."

c. The "Parent Input" section included concerns regarding Student A's lunch location and training for bus personnel regarding Student A's BIP.

d. Considerations indicated:

i. The IEP team considered Student A's strengths, the concerns of the Complainant, the results of the most recent evaluation, and the academic, developmental, and functional needs of Student A.

ii. Student A's behavior hindered the learning of others and was addressed through a BIP, goals, and accommodations.

iii. Student A needed assistive technology and services and had a documented health condition that impacted their participation and progress in the general education curriculum and classroom setting.

e. A BIP and PBS document dated October 30, 2023, was included in the IEP:

i. Student A's problem behaviors were described as defiance (refusing directives, arguing, and attempting to manipulate situations) and being off-task (inappropriate peer talk, working on unrelated assignments, and misusing technology during instruction).

ii. Behaviors occurred when given a "non-preferred" activity, which led to avoidance of the task.

iii. The settings and antecedents were described as Student A's behaviors were most frequent during ELA, where their compliance with directives was lowest at 70%. They also showed slightly lower compliance in social studies and PBS (92.5% and 90%, respectively). Conversely, they exhibited high compliance (97.5%–100%) in art, science, math, an unknown course, and advisory.

iv. The function of Student A's behavior was "to gain access to preferred activities and to avoid the task that is being asked of them."

v. Student A required instruction in replacement behaviors that addressed several lagging skills across three main categories: Attention and Working Memory, Emotion and Self-Regulation, and Cognitive and Flexibility Skills. Specifically, Student A struggled with tasks such as persisting with difficult activities, managing feelings of annoyance or disappointment, and coping with changes to routines or rules.

vi. Proactive Strategies stated the staff should prevent the problem behavior and listed the following strategies:

1. "Give [Student A] praise when [Student A] is on task and completes tasks/directives."
2. "When [Student A] is beginning to demonstrate behaviors that include non-compliance with adult tasks/directives, [they] will be given up to three prompts to get back on task."
3. "When [Student A] is not responding to the directives given by the adult, staff will respond by telling [Student A], 'This is a non-negotiable.'"
4. "[Student A] will use self-regulation strategies to resist peer pressure / self-directed inappropriate activities, such as continuing to argue."
5. "[Student A] will leave [their] classroom materials in each classroom needed for the subject and [they] will not bring any other supplies with [them]."
6. "Teachers will refrain from giving [Student A] school supplies, food (unless a class party), or any other items."
7. "When [Student A] needs access to technology, [they] will be monitored and [their] [one] on [one] para[professional] will keep & carry the computer until [they] need it. [They] [are] not to use technology unless it pertains directly to the classroom assigned."
8. "Once [Student A] [is] on the bus [they] are not allowed to exit the bus until [they] have gotten to school or home."
9. "[Student A's] behavior will be documented on a behavior tracking sheet provided by the school."
10. "During the unstructured times and passing periods, teachers will be monitoring the environment and will wait until the teacher enters the room before [Student A] enters the room [sic]."
11. "[Student A] will be escorted to the bus at the end of the day for [them] to get there on time."
12. "When [Student A] is found stealing from the cafeteria, [Student A] will make restitution to the school for the item/s."

13. " [Student A] will check out with an adult at the end of the day to review [their] day."
14. "[Student A] will have direct social skills instruction."
15. "Staff will refrain from having any personal conversations or educationally relevant information with or around [Student A]."

vii. Reactive Strategies for staff for when Student A demonstrated "resistance" to working in class included:

1. "Working or completing a task/following a directive for the first time given."
2. "Taking a 5-minute break with a preferred list of activities, such as drawing, writing, or reading (this needs to be monitored to ensure it is school-appropriate after completion of the designated task required by the adult[)]."
3. "When refusing to work, arguing, or defying adult requests to comply with simple requests, [Student A] will be given up to three redirections."
4. "If still exhibiting the above-mentioned behaviors, [Student A] will be sent to a 'buddy room' or 'office.'"
5. "If [Student A] refuses to leave and/or argues with the adult a member of the mental health team or support staff will be notified to come and walk [Student A] to an alternate location."
6. "If the behavior is considered to be a major behavior and/or a chronic behavior, [Student A] will have an Office Discipline Referral written and have a phone call home."
7. "[Student A] will then spend time in an alternate setting for a designated time according to the behaviors exhibited."
8. "All of this will be documented on [Student A's] tracking sheet."

viii. Progress monitoring methods included "Daily data collection."

ix. Staff training procedures indicated, "Include necessary staff training in the IEP. Staff should be trained with PBS and other reinforcement systems in order to implement the BIP with fidelity. [Student A's] bus staff needs to be trained in [Student A's] morning routine and when to be released from the bus. Bus staff and [one] on [one] para[professional] need to be trained on [Student A's] expectations, accommodations for [Student A][,] and provided with a copy of the BIP. [Student A's] para[professional] will help facilitate when there is a sub[stitute] in the class. Adults will be trained in trauma[-]informed responses along with [their] specific diagnosis (Attention Deficit/Hyperactivity Disorder (ADHD), Autism Spectrum Disorder (ASD), Reactive Attachment Disorder (RAD), Oppositional Defiant Disorder (ODD), Other Specified Disruptive Impulse Control and Conduct Disorder associated with developmental disability, Generalized Anxiety Disorder

(GAD)[)]. [the Complainant] needs some formal documentation that training has been completed in the event of a substitute para[professional] or teacher or any other staff who works with [Student A]."

f. Program Modifications and Supports with a start date of October 24, 2024 (no end date noted) indicated the following:
   i. An alternative setting for all subjects when provided an assessment until the assessment was completed.
   ii. Preferential seating for all subjects when provided a seating assignment for the length of the class.
   iii. Allow frequent breaks for all subjects when feeling dysregulated for no more than 10 minutes.
   iv. Frequent reminders of rules for all subjects when Student A was unable to regulate their behavior, no more than 2 times.
   v. Allow time for the organization of materials for "Other end of the day" once or twice a week for no more than 5 minutes.
   vi. Alert Student A to transitions for all subjects at the end of each class period for 1-2 minutes prior to transition."
   vii. PBS system for all subjects at the end of each class period, all day.
   viii. When using a computer, there will be direct supervision by Student A's one-on-one paraprofessional or the teacher for all subjects when needing to use a computer until the assignment/assessment is complete.
   ix. Shorten assignments for all subjects when provided with an assignment or assessment until the assessment or assignment is complete.
   x. When dysregulated, Student A will be escorted by their one-on-one paraprofessional to the PBS room for 5-10 minutes to regulate. Student A will have the option to return to class or stay in the PBS room to work on academics with their one-on-one paraprofessional support. Occurrences need to be documented in all subjects when Student A is dysregulated or staff notice Student A's dysregulation for 5-10 minutes to regulate.
   xi. Eating breakfast in the PBS room, "other" or before school, when Student A was eating breakfast, they would remain in the room until their one-on-one paraprofessional escorted them to their first class until the beginning of the first class.
   xii. Eating lunch in the PBS room (wellness room / side room in the PBS room) with one-on-one paraprofessional for lunch when Student A is eating lunch until the lunch period is completed.
   xiii. One-on-one paraprofessional support to the bus to avoid wandering the halls looking to collect items/things or starting issues with peers at "other" and the bus when Student A is going to the bus until Student A has loaded the bus.

xiv. One-on-one paraprofessional support to the nurse's office to avoid wandering halls, collecting items, or starting issues with peers at "other" or the nurse's office when Student A is going to the nurse's office until Student A has taken [their] medication.

xv. One-on-one paraprofessional support when Student A goes to the restroom. Student A will not go during passing time, but at the end of the 3rd hour, lunch, and before Student A gets on the bus to go home. The paraprofessional support will wait for Student A and then escort them back to the class at "other" or the restroom when [Student A] is going to the restroom until Student A is finished with the restroom.

xvi. One-on-one paraprofessional support will follow the protocol of escorting Student A to the PBS room. A special education teacher will be contacted and determine if it is appropriate to call a social worker and/or the Principal in "other" and classrooms when Student A demands to see the social worker and/or the Principal after the protocol has been followed and the special education teacher determines who Student A needs to speak to.

xvii. One-on-one paraprofessional support will help monitor Student A wearing their glasses for all subjects, all the time, not just for computer use, during the school day.

xviii. One-on-one paraprofessional support will escort Student A from the bus to breakfast and then to the PBS room at "other" and arrival time. An adult will escort Student A from the bus to breakfast and back to the PBS room during the school day.

xix. When Student A argues or questions an adult on a directive, the adult will respond to Student A, "This is non-negotiable" in all subjects when teachers and staff are providing items to other students during the school day.

g. The "Transportation" section indicated special transportation was required to and from school and noted Student A's behavior was not safe to themself and/or others on the bus. Options included fewer people aboard the bus and preferential seating. Additionally, support for transportation personnel indicated, "[Student A's] bus staff need to be trained in [Student A's] morning routine and when to be released from the bus. Bus staff and [one][-]on[-][one] para[professional] need to be trained on [Student A's] expectations, accommodations for [Student A] and provided with a copy of the BIP."

h. Service Chart/State Reporting:

   i. The following services were listed from October 24, 2024 through May 22, 2025 and were provided for five days per week, weekly:

      1. Special education direct services provided by a special education classroom teacher in the regular education classroom at the Middle School for 220 minutes per day.

2. Special education direct services provided by a special education classroom teacher outside regular education classrooms, programs, and other locations, at the Middle School for 138 minutes.
3. Attendant care, direct services, a non-instructional paraeducator, provided by a special education classroom teacher in a regular education classroom at the Middle School for 28 minutes.
4. Attendant care, direct services, a non-instructional paraeducator, provided by a special education classroom teacher outside regular education classrooms, programs, or other locations at the Middle School for 30 minutes.
5. School nurse direct services provided by a school nurse in a regular education classroom at the Middle School for eight minutes.
6. Special education transportation in the extracurricular setting provided by a special education classroom teacher at the Middle School for 40 minutes.

ii. The following service was listed from October 24, 2024 to April 24, 2025:

1. Social work direct services from a school social worker outside regular education classrooms, programs, and other locations at the Middle School for 20 minutes, one day per week, every two weeks.

iii. The following services were listed from August 11, 2025 to October 23, 2025 for five days per week, weekly:

1. Special education direct services provided by a special education classroom teacher in a regular education classroom at the High School for 219 minutes.
2. Special education direct services provided by a special education classroom teacher outside regular education classrooms, programs, and other locations at the High School for 144 minutes.
3. Attendant care, direct services, a non-instructional paraeducator provided by the special education classroom teacher in a regular education classroom at the High School for 34 minutes.
4. School nurse direct services provided by a school nurse in a regular education classroom at the High School for eight minutes.
5. Special education transportation in the extracurricular setting, provided by a special education classroom teacher outside regular education classrooms, programs, and other locations at the High School for 40 minutes.
6. Attendant care, direct services, a non-instructional paraeducator, provided by a special education classroom teacher outside regular education classrooms, programs, and other locations at the "Middle School" [sic] for 30 minutes.

i. The service delivery statement described the following services:
    i. "During the 8th grade, [Student A] will have the following services":
        1. "C- 220 min x 5 days a week for inclusion Science, History, SFA, Elective, and Advisory."
        2. "G- 138 minutes x 5 days a week for special education Math, Language Arts and PBS."
        3. "C- 28 minutes x 5 days a week for transition time supervision (attendant care)."
        4. "G- 30 minutes x 5 days a week for lunch (attendant care)."
        5. "C- 8 minutes x 5 days a week for school nurse services."
        6. "T- 40 minutes x 5 days a week for special education transportation."
    ii. "When [Student A] transitions to the high school for 9th grade, [Student A] will have the following services":
        1. "C- 219 minutes x 5 days a week for inclusion History, Science, Elective, PE/Health and Advisory."
        2. "G- 144 minutes x 5 days a week for special education Math, English and PBS."
        3. "C- 34 minutes x 5 days a week for transition time supervision (attendant care)."
        4. "C- 8 minutes x 5 days a week for school nurse services."
        5. "T- 40 minutes x 5 days a week for special education transportation."
        6. "G- 30 minutes x 5 days a week for lunch attendant care." (D178-D206)

2. A State Board of Education Emergency Substitute Teacher License (PreK-12) for the Case Manager indicated an effective license date of August 15, 2025. The license indicated, "You may substitute up to 75 school days each semester in one school district. You cannot substitute for more than 25 days in the same assignment." (D114)
3. A letter dated November 12, 2025 from the State granted a "Quality Performance Accreditation" waiver for the Case Manager to teach "Low Incidence Special Education" for the 2026 school year. (D223)
4. A job description from the LEA described the Teacher, Resource Teacher position as "responsible for planning and implementing the goals of the [IEP]."
    a. Certificates/Licenses/Endorsements/Registrations listed: "Kansas teaching license required, required endorsements"
    b. Education and/or Experience listed: "Bachelor's degree required - Previous teaching experience preferred." (D174)
5. LEA records included a signed contract between the LEA and the Case Manager for the 2025-26 school year. (D113)

Interview Summaries

Case Manager

6. In an interview with the Complaint Investigator and the Director of Secondary Services, the Case Manager shared they had behavior technician training, trauma informed care, applied behavior analysis training (ABA), collaborative problem solving, and CPI (Crisis Prevention Institute) training which were provided by the LEA. (P1, 01:47)

Student B

7. A Staffing Transition Planning document dated February 28, 2024 through April 2, 2024 outlined steps and the "rationale" for the Case Manager to take over the "entire program." Pertinent steps included:
    a. "Working with the 'Student' while staff observed, with a gradual release occurring with feedback provided."
    b. "[The Case Manager] will receive [one] day of verbal behavior training."
    c. "[The Case Manager] - 1st day at the middle school." (D22)
8. Student B's December 17, 2024 IEP noted a primary disability of "Autism" and a secondary disability of "Intellectual Disability." The following were relevant items included in the IEP:
    a. The Parent input section noted the Complainant's input would be emailed.
    b. The BIP and PBS included the following relevant items:
        i. Problem behaviors, precursor behaviors, setting events and antecedents, hypothesis of behavior function, and replacement behaviors were each outlined specifically to Student B's needs.
        ii. "Proactive strategies: What should staff do to prevent the problem behavior?" were noted as:
            1. "Ensure that [Student B] has access to two staff members who are trained in de-escalation strategies and who are familiar with [their] routines and behavior plan."
            2. "Ensure that [Student B] has access to two staff members who know how to access additional help for emergent situations, such as knowing the number for the office and knowing the location of the intercom button."
            3. "Ensure that staff are aware of the [Pro Re Nata or 'as needed'] PRN medication that the nurse keeps available to [Student B]."
            4. Pre-teaching routines, educating Student B in a familiar setting, visual separation from distraction, pre-teaching common phrases for expectations, verbal reminders of expectations, frequent non-contingent breaks, choices, hallway walks, reinforcement, social stories, "describe, name, acknowledge," provide icons, least-to-

most prompting, errorless teaching, teach on-task behavior, and teach boundaries were listed strategies to be used.

5. Instructions for sleep, bathroom, "gym eating inedible object," and bussing were included.

iii. "Reactive Strategies: What should staff do if the problem behavior occurs?" were noted as:

1. "At [the] first indication of aggressive behaviors, such as head banging and whining, contact the nurse to administer PRN medication. This should be a known procedure by [Student B's] staff, administration, and the nursing staff, to prevent questions during a time of crisis."
2. Reminders of expectations, visuals, changing the activity, offering preferred items, offering breaks, and a clear directive to go to the "calm down space" were included.
3. Instructions for sleep, bathroom, "gym eating inedible object," aggressive behaviors in and out of the classroom, and bussing were included.

iv. Data collection methods included daily data collection, Antecedent Behavior Consequence (ABC) data and "data will be shared with family on a daily basis; a daily sheet outlining [Student B's] schedule and providers [they are] working with will be sent home daily."

v. Staff training procedures were:

1. "Include necessary staff training in the IEP."
2. "[Student B] has a PRN medication kept by the nursing staff. This should be a known procedure by [Student B's] staff, administration, and the nursing staff, to prevent questions during a time of crisis."
3. "A staff member who is CPI trained should oversee de-escalation when [Student B] is in crisis."
4. "New staff working with [Student B] need to be trained on de-escalation strategies."
5. "At the beginning of the year, staff working with [Student B] will need to know the strategies [Student B] responds best to; how [they] learn, and information regarding [their] education."
6. "Staff will have access to [Student B's] behavior plan."

c. Relevant services listed were:

i. "Attendant Care- A non-instructional paraeducator," provided by the special education classroom teacher, 27 minutes per day for five days every week.

ii. "Attendant Care- A non-instructional paraeducator," provided by the special education classroom teacher, 64 minutes per day for five days every week.

iii. Occupational Therapy provided by the occupational therapist with direct service for 20 minutes per day for one day per week and indirect service for 15 minutes per day for one day every four weeks.

iv. Special education services provided by a special education classroom teacher for the following:

1. 144 minutes per day for five days every week.
2. 149 minutes per day for one day every week.
3. 169 minutes per day for two days every week.
4. 184 minutes per day for two days every week.

d. Staff Training Procedures indicated staff would need to be trained and have access to their BIP.

e. Support for School Personnel listed: "Indirect Occupational Therapy services will be provided at a minimum of 15 minutes, every 4 weeks in order to observe [Student B] and collaborate with staff regarding [Student B's] sensory and find motor needs. Instructions facilitator will provide indirect consultator services for 20 minutes 1 day a month."

f. Service Delivery Statement indicated the following relevant information, "During [Student B's] freshman year at the High School, [they] [would] receive the following services;

i. Attendant care in the inclusion environment for lunch and passing time for 64 minutes 5 days a week;

ii. Direct occupational therapy in the resource environment for 20 minutes 1 day a week;

iii. Indirect occupational therapy services 1x a month for 15 minutes

iv. "[Student B] will have a 1 on 1 Instructional behavior technician, during instructional time. In addition, [they] will have another adult in the classroom [or restroom, hallway, transition areas, etc.] during instructional time"; and

v. "[Student B] will have a 1 on 1 bus aide for transporting [them] to and from school." (D51-D91)

9. A Notice of Meeting dated October 21, 2025 to the Complainant indicated there would be a meeting on October 28, 2025 at 9:30 a.m. for Student B. The purpose of the meeting was indicated as a virtual meeting and as "Team Meeting" with a marked checked box. T he Complainant indicated they waived their right to a 10-day PWN and they planned to attend the meeting as indicated with checked boxes. (D116-D117)

10. Meeting Notes dated October 28, 2025 indicated the purpose of the meeting for Student B was to "review and revise the IEP and BIP in response to recent findings from the formal complaint process." Relevant notes indicated the following:

a. Listed participants as, "Case Manager, Nurse, Special Education Assistant Principal, Education Advocate, Secondary SPED Director, and Counsel."

b. Welcome and Meeting Purpose stated, "Clarify intent: to ensure full implementation of the IEP and address all substantiated findings[.]"
c. Review of the findings and the next steps listed:
    i. "Issue 1 - IEP Implementation (BIP and Medical Plan)"
        1. "Add health care plan to the IEP[.]"
        2. "Discuss responsibilities for the BIP and medical plan implementation[.]"
        3. "Discuss recent communication (10/27/[2025]) with doctor's note)[.]"
        4. "Identify how fidelity of implementation will be monitored[.]"
    ii. "Issue 2 - [The Complainant] Requests and Revisions"
        1. "Confirm that [the Complainant] requests are being addressed through the IEP team process[.]"
        2. "Discuss feedback on PWN and amendment sent 10/16/[20]25[.]"
        3. "Review whether the process with the school psychologist has been helpful to the [the Complainant]."
    iii. "Issue 4 [no issue 3 listed] - IEP Access for All Service Providers[.]"
        1. "Confirm procedures for ensuring IEP/BIP access and understanding for all staff (including transportation and ESY staff)."
        2. "Case manager to share plan for regular check-ins with service providers."
    iv. "Issue 5 - Least Restrictive Environment (LRE for Non-Academic Time[.]"
        1. "Review placement during lunch and non-academic settings[.]"
        2. "Discuss whether any changes to supervision or setting are warranted[.]"
d. The IEP and the BIP revisions were discussed and the team came to an agreement. The IEP team discussed and identified next steps to dispense the updated documents. (D42-D43)

11. In an email dated October 29, 2025 to the Case Manager, the Resource Parent shared an attachment with an agenda with items they had wanted to discuss at the meeting on October 28, 2025. Items included in the attachment were:
    a. Change of wordage on page 14 of Student B's IEP regarding usage of the Language Acquisition through Motor Planning Software (LAMP) to use "[Student B] knows this device as [their] "talker" and should be referred to as such."
    b. The LEA provided training to all staff that provide any assistance for Student B.
    c. Change of verbiage on page 28 in Student B's IEP to, "As soon as precursor behavior(s) are displayed, staff should either hand [Student B] or point to the school issued iPad and ask [them] 'What is wrong? Or what is the problem?' Staff should then make an effort to help [Student B] work through the issue."
    d. An LEA provided iPad for Student B.

e. Change of verbiage on page 30.
f. An additional accommodation to be written into the IEP to remain in the 7th hour of the instructional setting until the end of the scheduled class period.
g. Fidelity training plan.
h. The additional accommodation of daily communication to be provided between the school-based Speech Language Pathologist (SLP) and an external foundation.
i. Lack of progress reporting.
j. "Occupational Therapy was not discussed in the meeting of October 28, 2025. There are discrepancies within the IEP on OT service minutes to be provided. Both 15 minutes per week of direct services and 20 minutes per week of direct OT services are listed. This needs to be corrected within the IEP. In addition, [Student B's] IEP needs to reflect that 'virtual' or 'remote' OT services [was] not an effective method of delivery for [them]. Direct, in-person, OT service must be provided." (D47-D49)

Interview Summaries

The Complainant Interview

12. In an interview with the Complaint Investigator, the Complainant explained they had been asking for an IEP meeting "since May" [2025] and their understanding was the October 28, 2025 meeting was to review their concerns and "talk about … what needed to be changed … and just get more information." (P2, 05:40)
    The Complainant listed the participants of the meeting as the Case Manager, the LEA's Counsel, the LEA Representative, Assistant Principal and the School Nurse. They shared the OT and and Behavior Tech were neither present nor gave input for the meeting. (P1, 02:33)
    The Complainant explained they spoke during the meeting about their concerns regarding Student B's "additional talker" and the Behavior Tech's use of one to model to Student B to invoke more communication, and the Case Manager was in agreement with the use of the additional talker. Then, the Complainant explained they received a PWN denying the accommodation and shared, " … I've never had an attorney run a meeting … like that…. it didn't feel like an IEP meeting at all that I have ever attended." (P2, 03:43)
13. The Complainant shared Student B's behavior tech was switched with no "consultation." Student B's new behavior tech had no "training" nor a "transition" was not completed. (P5,13;25,14:40, 15:28, 16:56)
14. The Complainant indicated the LEA could not find anyone to do services in-person for OT, so they hired a virtual OT. They shared there was nothing in Student B's IEP for "accommodations or anything that says that it can be done virtually." They also shared the LEA did not send a PWN and " … there was no changes to [their] IEP that allowed for virtual OT." (P6, 22:09)

Case Manager

15. In an interview with the Complaint Investigator, the Case Manager confirmed they had emailed the Complainant a copy of Student B's active IEP the morning of the October 28, 2025 meeting. (P1, 04:12)
16. The Case Manager shared the purpose of the October 28, 2025 meeting was a parent-called "team meeting" with the Complainants, to prepare for the upcoming IEP to discuss changes and amendments. (P2, 05:03, 05:58)
    The Director of Secondary Services clarified that the Complainant's Counsel called the meeting on October 28, 2025, the Complainant signed the notice of meeting which clarified the meeting as a team meeting. (P4, 08:36) The Director of Secondary Services explained " … we prepared an agenda and facilitated the meeting and got through all of our items. When we finished … they said they had some items they wanted to talk through, and so we spent another hour together talking through their items." (P3, 09:10)
17. The Case Manager shared they felt the meeting ended "fine." They explained the Complainant and the Resource Parent had a list prepared of items which they shared after the meeting and added additional items at the bottom of the list. They shared during the meeting, the team had asked numerous times if there were any other questions or concerns the Complainant and the Resource Parent had, then they received this information with additional items via email a few days later. (P5, 10:21)

The Director of Secondary Services

18. In an interview with the Complaint Investigator, the Director of Secondary Services shared the LEA sent the agenda for the October 28, 2025 meeting to the Complainant and their counsel ahead of the meeting so they were aware of the content. (P2, 03:24)
19. The Director of Secondary Services explained that Student B received OT services virtually last school year and families were notified via email. They shared the frequency, duration, location and the service itself did not change. (P4, 07:48)
20. The Director of Secondary Services shared the Case Manager was Student B's behavior technician at the middle school. Once Student B moved to the high school, the LEA had to make personnel changes and provided "a robust training plan" for the incoming behavior technician. They explained the instructional facilitator for autism and low incident support confirmed the transition of the new behavior technician was "okay." (P5, 09:12)

Positions of the Parties, Applicable Regulations, and Conclusions

Student A

Issue One

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, ensured the individual assigned as the PBS teacher for Student A holds the full, appropriate Kansas State licensure/endorsement (e.g., Special Education) for the continuous assignment of providing and implementing special education services, including IEPs and BIPs, and has not exceeded the permissible day limits for teaching in the same assignment while holding a temporary or Emergency Substitute Teacher credential. K.S.A. 72-3404(j), K.A.R. 91-31-34(b)(1-5); 34 CFR § § 300.156(a-c), 300.207.

According to K.S.A. 72-3404(j), "Special teacher" means a person, employed by or under contract with a school district or a state institution to provide special education or related services, who is qualified to provide special education or related services to exceptional children as determined pursuant to standards established by the state board, or assist in the provision of special education or related services to exceptional children as determined pursuant to standards established by the state board.

According to K.A.R. 91-31-34(b)(1-5), except as otherwise provided by law, in filling positions for which a license or certificate is issued by the state board, each education system shall employ persons who hold licenses or certificates with specific endorsements for the positions held. If a teacher holding an appropriate license or certificate is not available, the education system shall use a substitute teacher holding a valid Kansas teacher or administrator license or certificate at any level or in any field or subject. An education system shall not allow any person holding a Kansas teaching license or certificate to substitute teach for more than 140 days in the same assignment. If a substitute teacher holding a valid Kansas teacher or administrator license or certificate is not available, the education system shall use a substitute teacher holding a valid Kansas substitute teaching license or certificate. An education system shall not allow a person holding a substitute teaching license or certificate to teach for more than 90 days in the same assignment.

If a substitute teacher holding a valid Kansas substitute teaching license is not available, the education system shall use a person who holds a baccalaureate degree and an emergency substitute teaching license or certificate. An education system shall not allow a person who holds a baccalaureate degree and an emergency substitute teaching license or certificate to teach for more than 45 days in the same assignment. If a person holding a baccalaureate degree and an emergency substitute teaching license is not available, the education system shall use a person who has been licensed or certified by the state board as an emergency substitute teacher. An education system shall not allow any person who does not hold a

baccalaureate degree to teach for more than 25 days in the same assignment or more than 75 days in a semester. If a governing body documents that there is an insufficient supply of substitute teachers, the governing body may appeal to the commissioner for authority to allow individuals holding an emergency substitute teaching license or certificate to continue to teach for an additional length of time.

The Complainant alleged the LEA had an individual listed on Student A's IEP as the PBS teacher who holds an Emergency Substitute Teacher credential and is not certified in special education or behavior support. Additionally, this teacher is helping implement IEPs, BIPs, and other behavioral supports that require proper training and licensure.

Respondent/LEA Position

The LEA contended the Case Manager providing services to Student A holds a valid emergency substitute license issued by the State. Although an emergency license issued by the State holds a day-limit restriction when functioning as a substitute teacher, said limits do not apply when serving under an approved Special Education Waiver.

The Case Manager holds a State Board of Education Emergency Substitute Teacher License (PreK-12); however, subsequent documentation indicated the State granted the Case Manager a "Quality Performance Accreditation" Waiver on November 12, 2025, for the 2026 school year. Furthermore, the LEA had a signed contract with the Case Manager for the 2025-26 school year, and the job description was for the Resource Teacher position, which involved planning and implementing IEP goals.

Conclusion

Based on the foregoing, ***it is not substantiated*** that LEA failed to ensure special education services were managed and delivered by licensed and qualified staff.

Issue Two

> Whether USD #437, in accordance with state and federal regulations implementing the IDEA, denied Student A a FAPE by failing to ensure the individual providing special education PBS services was appropriately trained and qualified. K.A.R. 91-40-2; 34 CFR § § 300.17, 300.101.

According to K.A.R. 91-40-2, each agency shall provide a FAPE in accordance with the law. Each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday. An IEP shall be in effect by the child's third birthday. Each agency shall make a FAPE available to any child with a disability even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination of whether a child who is advancing from grade to grade is a child with a disability shall be made on an individual basis in accordance with child find activities and

evaluation procedures. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

The Complainant alleged the LEA denied Student A a FAPE by not ensuring their special education PBS services were provided by a qualified, licensed, and trained staff.

The LEA contended that Student A's special education services have been consistently overseen by the assigned Case Manager, who was appropriately qualified and trained. They hold the appropriate licensure or approval by the KSDE and were actively pursuing full special education licensure through university. The LEA maintains that at no point has Student A been denied a FAPE, as all services and supports have been delivered with no interruptions.

Student A's amended IEP dated October 24, 2024, outlined numerous positive behavior strategies and explicitly stated that necessary staff must be trained on the BIP, PBS, and trauma-informed responses. In an interview with the Complaint Investigator, the Case Manager shared they had training in collaborative problem solving, trauma-informed, ABA, and CPI through the LEA. On November 12, 2025, the State granted a "Quality of Performance Accreditation" waiver for the Case Manager, allowing them to teach low-incidence special education.

Conclusion

Based on the foregoing, ***it is not substantiated*** that the LEA failed to provide Student A with a FAPE by not ensuring their special education PBS services were provided by a qualified, licensed, and trained staff.

Student B

Issue Three

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, ensured meaningful parental participation in the IEP process when it held an IEP meeting for Student B on October 28, 2025, for a purpose different from the purpose stated in the original notice without notifying the Complainant, and presented a pre-drafted IEP document without providing the Complainant a genuine opportunity to collaboratively develop, review, and revise the IEP. K.A.R. 91-40-17(a)(b), K.A.R. 91-40-25(a), K.S.A. 72-3429(d)(1); 34 CFR § § 300.322(a)(b), 300.501(b), 300.324(a)(1)(ii).

According to K.A.R. 91-40-17(a)(b), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place and informing the parents s and except as otherwise provided by law, providing written notice to the parents s of any IEP team meeting at least 10 days in advance of the meeting.

The notice required shall indicate the purpose, time, and location of the IEP team meeting and the titles or positions of the persons who will attend on behalf of the agency, including, if appropriate, any other agency invited to send a representative to discuss needed transition services. The notice shall inform the parents that the parent has the right to invite to the IEP team meeting individuals whom the parent believes to have knowledge or special expertise about the child.

According to K.A.R. 91-40-25(a), each agency shall allow the parents s of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child, and the provision of FAPE to the child.

According to K.S.A. 72-3429(d)(1), in developing each child's IEP, the IEP team shall consider the strengths of the child and the concerns of the parents s for enhancing the education of their child.

According to 34 CFR § 300.501(b)(3), a meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

The parent alleged the LEA denied meaningful parental participation by unilaterally changing the purpose of a scheduled IEP meeting for Student B without notifying the parent, and presenting a complete, pre-drafted "corrective action IEP" that had never been shared, thereby preventing the parent from being an equal participant in the review and revision process.

The LEA contended the October 28, 2025 meeting was held per the Complainant's legal counsel written request with the stated purpose of, "to discuss any needed changes to [Student B's] IEP/BIP ...". Per standard practice, the LEA prepped their agenda to facilitate said meeting and shared Student B's current, active IEP with the Complainant.

On October 21, 2025, a Notice of Meeting was sent to the Complainant for a meeting scheduled on October 28, 2025, which was identified as a "Team Meeting" and attended by the Complainant, who waived the 10-day notice requirement. The Complainant understood the meeting, which they had been requesting "since May," was to "review their concerns and 'talk about... what needed to be changed.'" The LEA's internal Meeting Notes, however, indicated the purpose was more specific: to "review and revise the IEP and BIP in response to recent findings from the formal complaint process." The Director of Secondary Services explained that the LEA *"prepared an agenda and facilitated the meeting," which was shared with the Complainant's Cnsel prior to the meeting, and after completing their items, they "spent another hour together talking through the Complainant items."* The Case Manager confirmed that the team had asked "numerous times if there were any other questions or concerns during the meeting," but the

Complainant subsequently shared a detailed list of items via email on October 29, 2025, which included requests for specific verbiage changes, a fidelity training plan, and corrections to conflicting OT service minutes.

Conclusion

Based on the foregoing, ***it is not substantiated*** that the LEA denied the Complainant meaningful Parent participation in the IEP process when it held the IEP for Student B on October 28, 2025 for a purpose different from the purpose stated in the original notice without notifying the Complainant.

Issue Four

> Whether USD #437, in accordance with state and federal regulations implementing the IDEA, ensured the attendance of a properly constituted IEP Team for Student B at the October 28, 2025 meeting by designating personnel who did not meet the required qualifications for the special education teacher/provider and the LEA representative, and excusing the attendance of other required IEP team members without obtaining the necessary written agreement or written consent from the Complainant, and/or without documenting the excused members' written input prior to the meeting. K.A.R 91-40-17(h)(i)(j), K.S.A. 72-3404(u), K.S.A. 72-3429(b)(1-3)(e); 34 CFR § 300.321(a)(d)(e).

According to K.A.R 91-40-17(h)(i)(j), a regular education teacher of an exceptional child, as a member of an IEP team, shall participate to the extent appropriate in the development, review, and revision of the child's IEP. This participation shall include assisting in making the appropriate positive behavioral interventions and strategies for the child, the supplementary aids and services needed by the child, and the program modifications or supports for school personnel that will be provided to assist the child. If qualified to do so, an agency member of the IEP team may serve in the role of two or more required members of a child's IEP team. In asking individuals with knowledge or special expertise about a child to be members of the child's IEP team, the party asking the person to participate shall have the sole discretion in determining whether the invited person has knowledge or special expertise regarding the child.

According to K.S.A. 72-3404(u), "Individualized education program team" or "IEP team" means a group of individuals composed of the parents s of a child, at least one regular education teacher of the child if the child is, or may be, participating in the regular education environment, at least one special education teacher or, where appropriate, at least one special education provider of the child, and a representative of the agency directly involved in providing educational services for the child, who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of exceptional children, knowledgeable about the general curriculum, and knowledgeable about the availability of

resources of the agency. The team must also include an individual who can interpret the instructional implications of evaluation results, and at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate, and whenever appropriate, the child.

According to K.S.A. 72-3429(b)(1-3)(e), except as otherwise provided by law, each IEP of an exceptional child and any amendment or modification of an IEP shall be made by the child's IEP team. Upon agreement of the parent and the agency, an IEP team can meet in person or by alternative means, including telephone conference calls and video conferences.

A member of a child's IEP team shall not be required to attend an IEP meeting, if the parent of the child and the agency agree that the attendance of such IEP member is not necessary because the IEP member's area of curriculum or related service is not to be discussed or modified at the meeting. The parent's 's agreement shall be in writing. A member of a child's IEP team may be excused from attending an IEP meeting when the meeting is to involve a discussion of, and possibly a modification to, the IEP member's area of the curriculum or related service, if the parent and the agency consent to the excusal, the IEP member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting, and the parent 's consent to the excusal is in writing.

The regular education teacher of the child, as a member of the IEP team, to the extent appropriate, shall participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions supports, and other strategies and the determination of supplementary aids and services, program modifications, and support for school personnel, and the review and revision of the child's IEP.

The Parent alleged the LEA failed to ensure the attendance of a properly constituted IEP Team for Student B on October 28, 2025 by using an emergency substitute teacher as the special education case manager and having the LEA's attorney act as the LEA representative, while also allowing other required members to be missing without providing proper written excusal or documentation of their input.

The LEA contended the October 28, 2025 IEP meeting was held not for purposes of an annual IEP or reevaluation meeting. It was held for a limited purpose to discuss potential amendments as requested by the Complainant Counsel. Due to the nature of the meeting, full IEP team attendance was not legally mandated.

A Notice of Meeting dated October 21, 2025, for a "Team Meeting" regarding Student B on October 28, 2025, which the Complainant planned to attend listed participants as the Case Manager (alleged to be an emergency substitute), Nurse, Special Education Assistant Principal, Education Advocate, Secondary SPED Director, and Counsel, though the Complainant noted the Occupational Therapist and Behavior Tech were neither present nor provided input. The

meeting notes confirm that the team discussed and agreed upon revisions to the IEP and the purpose was to "review and revise the IEP."

Based on the foregoing, ***it is substantiated*** the LEA did not ensure attendance of a properly constituted IEP Team for Student B at the October 28, 2025 IEP meeting by designating the required IEP team members or excusing the attendance of other required IEP team members without obtaining the necessary written agreement or written consent from the Complainant, and/or without documenting the excused members' written input prior to the meeting.

No regular education teacher was listed as present, nor was there documentation provided to show the Complainant and LEA agreed to excuse members in writing, nor was there documentation of their written input prior to the meeting (34 CFR § 300.321(e); K.A.R 91-40-17(h)).

Issue Five

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, implemented material changes to Student B's IEP without convening the IEP Team to review and revise the IEP, specifically: (a) Removing the long-term behavior technician without discussing the change's impact, planning for transition, or ensuring proper training for the replacement staff; and (b) Changing the delivery, location, and method of Student B's OT services from in-person to virtual. K.S.A. 72-3429(b)(1)(4)(A)(c)(4)(7), K.A.R. 91-40-16(a)(b); 34 CFR §300.324(b).

According to K.S.A. 72-3429(b)(1)(4)(A)(c)(4)(7), each IEP of an exceptional child and any amendment or modification of an IEP shall be made by the child's IEP team. Upon agreement of the parent and the agency, an IEP team can meet in person or by alternative means, including telephone conference calls and video conferences. After the annual IEP meeting for a school year, the parent of an exceptional child and an appropriate representative of the agency providing services to the child may agree to develop a written document amending or modifying the child's current IEP, without convening an IEP meeting.

The IEP for each exceptional child shall include a statement of the special education and related services and supplementary aids, services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child to advance appropriately toward attaining the annual goals, to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities, and to be educated and participate with other exceptional and nonexceptional children. The IEP will include the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications.

According to K.A.R. 91-40-16(a)(b), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by

the agency. Each agency shall ensure an IEP is in effect before special education and related services are provided to an exceptional child, those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown, an IEP is in effect for each exceptional child at the beginning of each school year, and the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.

Each teacher and provider must be informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

According to 34 CFR §300.324(b), each public agency must ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved, and revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum, if appropriate. The IEP Team must meet to review the results of any reevaluation conducted, Information about the child provided to, or by, the parents, or the child's anticipated needs. In conducting a review of the child's IEP, the IEP Team must consider any special factors as described in the law. A regular education teacher of the child, as a member of the IEP Team, must participate in the review and revision of the IEP of the child.

The Complainant alleged the LEA removed the support of Student 2's long-term behavior technician without discussing the change in an IEP meeting to plan for the transition, potential impact, or training plan for the staff who took over the support. Additionally, the Complainant alleged the LEA changed the delivery, location, and method of Student 2's OT services without convening an IEP meeting to discuss the change.

The LEA contends no implementation of a material change happened to Student B’s IEP without convening an IEP team meeting. Both issues of OT and the behavior technician reassignment, the LEA contends were administrative changes, not material changes to the IEP itself.

Student B’s December 17, 2025 IEP indicated the use of a one-on-one instructional behavior technician during instructional time and OT minutes, frequency, and duration. A Staffing Transition Planning document dated February 28, 2024, through April 2, 2024, outlined a rationale for the Case Manager to take over the 'entire program' with support and training for the Case Manager. Additionally, the Case Manager received further training from the LEA. Behavior technician services remained materially unchanged, and documentation of staff professional development continued during staffing transitions.

The Director of Secondary Services indicated last year that Student B received OT services virtually and that no minutes, duration, or location changed. The service itself was not altered. No material change to OT services was altered.

Conclusion

Based on the foregoing, ***it is not substantiated*** the LEA implemented material changes to Student B's IEP. There was no material change to Student B's IEP requiring an IEP team meeting.

Issue Six

> Whether USD # 437, in accordance with state and federal regulations implementing the IDEA, provided appropriate PWN and/or obtained parental consent before implementing material changes to Student B's program, specifically: (a) Removing the long-term trained behavior technician from their daily program and reassigning the staff in March 2025; and (b) Changing the delivery model of Student B's OT services from in-person to virtual. K.A.R. 91-40-26, K.A.R. 91-40-27(a)(3)(g), K.S.A. 72-3430(b)(2)(6); 34 CFR §300.503.

According to K.A.R. 91-40-26, in providing any notice to the parent or parents of an exceptional child regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes a description of other options that the agency considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal. The notice shall be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

According to K.A.R. 91-40-27(a)(3)(g), each agency shall obtain parental consent before making a material change in services to, or a substantial change in the placement of, an exceptional child. An agency shall not be required to obtain parental consent for a reevaluation or a proposed change in services or placement of the child if the agency has made attempts to obtain consent but the parent or parents have failed to respond.

According to K.S.A. 72-3430(b)(2)(6), the parents s of exceptional children shall have the right to a PWN whenever an agency proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child. Parents have a right to a PWN to consent, or refuse to consent, to the evaluation, reevaluation or the initial placement of their child and to any substantial change in placement of, or a material change in services for, their child, unless a change in placement of their child is ordered by law, or the agency can demonstrate that it has taken reasonable measures to obtain parental consent to a change in placement or services, and the child's parent has failed to respond. If the parent fails to respond to the request for parental consent to a substantial change in placement or a material change in services, the agency must maintain detailed

records of written and verbal contacts with the parent and the response, if any, received from the parent.

The Complainant alleged in March 2025, Student B's long-term trained behavior technician was removed from their daily program and reassigned without providing any PWN for the material change. Additionally, the Complainant alleged the LEA changed Student B's in-person OT services to virtual OT without providing PWN and without obtaining parent consent.

First, the LEA contends there was no material change to Student B's IEP, which would constitute a PWN, and second, the LEA contends there was no material change in OT services, just a methodology change, which does not constitute a PWN.

Student B's December 17, 2025 IEP indicated the use of a one-on-one instructional behavior technician during instructional time and OT minutes, frequency, and duration. A Staffing Transition Planning document dated February 28, 2024, through April 2, 2024, outlined a rationale for the Case Manager to take over the 'entire program' with supports and training for the Case Manager. Additionally, the Case Manager received more training provided by the LEA. The Complainant shared the LEA was unable to find an in-person OT and hired a virtual OT and Student B's behavior technician was switched with "no consultation" with no training or transition. The Director of Secondary Services indicated Student B's OT services materially did not change.

Conclusion

Based on the review in Issue Five, consequently, the requirement for the LEA to provide a PWN *is not substantiated* based on the review as no material changes were made to Student B's IEP.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations for Student B. A violation occurred in the following area:

A. Federal regulations at (34 CFR § 300.321(e); K.A.R 91-40-17(h)) specifies the LEA must ensure the IEP meeting includes one regular education teacher participating in the IEP meeting. IEP team attendance is not required to attend IEP meetings in whole or in part if the parent and LEA agree, in writing, that the attendance of the member is not necessary or if they are excused from attending in whole or in part in writing, or if the member submits in writing input prior to the meeting.

In this case, the evidence supports the finding that USD #437 did not obtain teacher input from a general education teacher before the start of the meeting, nor did it obtain parent consent for the excusal of the whole IEP team.

Based on the foregoing, USD #437 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #437 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 CFR § 300.321(e); K.A.R 91-40-17(h) by following the IEP Team Members and IEP Team Member Excusal procedures correctly.
2. Within 30 calendar days of the date of this report, USD #437 shall hold an IEP meeting with all members of Student B's IEP team, gather input prior to said IEP meeting of members who cannot attend, and/or obtain parent consent for excusal of IEP members who are unable to attend.
3. Within 45 calendar days of this report, all special education staff case managing shall receive approximately 1 hour of professional learning related to:
    i. Notice of IEP Meetings
        b. LEA shall contact the SEA to schedule professional learning sessions no later than insert date, by contacting:
        c. Professional learning must be completed no later than insert date. Professional learning may take place over multiple sessions and may occur virtually. Professional learning may not take place during the regular school day such that educators require substitute teachers.
        d. LEA shall provide evidence of completion, including documentation of participation (sign-in sheet or similar record of attendance) to the SEA within ten days of professional

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 437,
Auburn/Washburn Public Schools: 26FC437-008

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on November 17, 2025, by ----- the current Education Advocate for ----- (Student B). In the remainder of this decision, ----- will be referred to as "the complainant," and "student B" will continue to be referred to as Student B. An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on December 31, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations

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

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The only issue under appeal is Issue Four, which was described in the report as follows:

Issue Four

> Whether USD #437, in accordance with state and federal regulations implementing the IDEA, ensured the attendance of a properly constituted IEP Team for Student B at the October 28, 2025 meeting by designating personnel who did not meet the required qualifications for the special education teacher/provider and the LEA representative, and excusing the attendance of other required IEP team members without obtaining the necessary written agreement or written consent from the Complainant, and/or without documenting the excused members' written input prior to the meeting. *K.A.R 91-40-17(h)(i)(j), K.S.A. 72-3404(u), K.S.A. 72-3429(b)(1-3)(e); 34 CFR § 300.321(a)(d)(e).*

In its appeal, the district asserts that the October 28, 2025 meeting was not, and was never intended to be, an IEP meeting and so none of the requirements of K*.A.R 91-40-17(h)(i)(j), K.S.A. 72-3404(u), K.S.A. 72-3429(b)(1-3)(e); 34 CFR § 300.321(a)(d)(e)* applied. The Appeal Committee agrees that the investigator's conclusion on this issue rests on the finding that the meeting was an IEP meeting.

While there was no specific finding in the report regarding this essential element of the analysis, the investigator pointed out that there was (1) a Notice of Meeting dated October 21, 2025, titled "Team Meeting" and (2) meeting notes confirming "that the team discussed and agreed upon revisions to the IEP and the purpose was to "review and revise the IEP." From these two findings, the investigator concluded that, "Based on the foregoing, it is substantiated the LEA did not ensure attendance of a properly constituted IEP Team for Student B at the October 28, 2025 IEP meeting…" Report, p. 31-32.

In its appeal, the district submitted three exhibits:

Exhibit 1 is a copy of a letter, dated September 30, 2025, from a law firm representing the student's father and the student's foster parent (the complainant in this complaint). in the "Conclusion" portion of that letter, it asks:

> *(2) that an **IEP Team meeting be held** for (the student) as soon as practicable for all parties, **to discuss any needed changes to his IEP/BIP,** based on the data and circumstances that have arisen over the last year, **as well as whether any compensatory education is owed** to (the student) due to the aforementioned deviations…" (Emphasis added).*

Exhibit 2 is a copy of an e-mail response to the law firm from the school district's legal representative at the Kansas Association of School Boards (KASB), dated October 14, 2025, stating:

> *I am representing USD 437 in the issues involving (the student). The district has forwarded me your letter for review. The (sic) are looking into the claims made and we would like to* ***discuss scheduling the requested IEP meeting. In talking with Heidi Carlson, it sounds like the soonest the school could meet is the week of October 27th****. I think it would be best if ----- and Ms. Carlson work on scheduling that – I do not want to cause delay by acting as middlemen for our clients in scheduling. If you prefer that works through us, let me know. (Emphasis added).*

Exhibit 3 is an email, dated October 15, 2025, to the KASB attorney from the law firm representing the student's father and foster parent saying in relevant part:

> *Thanks again for your note below. I have shared it with my client and her preference is to work through* ***me to schedule the IEP team meeting****. Note that my client would like for me to attend the meeting, and so I am respectfully requesting that the meeting be held via Zoom. My client and I are available to* ***hold the IEP team meeting*** *on the following dates and times, please let me know what works best for you and your client: · Monday Oct. 27 between 9:30AM-3:00PM (****any IEP team meetings*** *must be concluded before 3:00PM during this week) · Tuesday Oct. 28 between 9:30AM-3:00PM · Thursday Oct. 30 between 11:00AM-3:00PM. (Emphasis added).*

The district also attached a document, dated 1028/25 (the date of the meeting) titled "Attorney Agenda Email," and "Student Meeting – 10/28/25" stating that the purpose of the meeting is to, "Review and revise the IEP and BIP in response to recent findings from the formal complaint process. Participants: Case Manager, Nurse, Special Education Assistant Principal, Education Advocate, Secondary SPED Director, Counsel"

The district's meeting agenda includes a lengthy list of agenda items, including to:

- Clarify intent: to ensure full implementation of the IEP and address all substantiated findings
- Add health care plan to the IEP
- Discuss responsibilities for BIP and medical plan implementation
- Discuss recent communication (10/27) with doctor's note
- Identify how fidelity of implementation will be monitored
- Confirm that parent requests are being addressed through the IEP team process
- Discuss feedback on PWN and amendment sent 10/16/25
- Review whether the process with the school psychologist has been helpful to the parent
- Confirm procedures for ensuring IEP/BIP access and understanding for all staff (including transportation and ESY staff)
- Case manager to share plan for regular check-ins with service providers
- Review placement during lunch and non-academic settings
- Discuss whether any changes to supervision or setting are warranted

There was apparently a misunderstanding about whether this meeting was intended to be an IEP meeting or a less formal meeting to seek agreement on a significant number of agenda items that would be remedied through the IEP amendment process. If so, the misunderstanding was entirely on the district. in all of the correspondence between the parties the approaching meeting was referred to as the "IEP meeting." it is beyond any reasonable interpretation of this correspondence that the law firm representing the student's father and the student's foster parent made anything other than a written request for an IEP meeting to discuss the pertinent issues. Further, the district's legal representative, in an email, dated October 15, 2025, acknowledged receipt of the request for an IEP meeting, stating that her client was working through her to "schedule the IEP team meeting" and that she and her client were available on specified dates to "schedule" and "hold" the "IEP team meeting."

If at any time during the scheduling of this meeting, knowing that an IEP team meeting had been requested in writing, the district determined that there would not be such a meeting, it was required to provide a Prior Written Notice (PWN) refusing the parent's request for an IEP meeting. The fact that no such PWN was issued is another indication that both parties had committed to holding an IEP team meeting.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

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

Appeal Committee

Crista Grimwood

Brian Dempsey

Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #465
ON DECEMBER 8, 2025

DATE OF REPORT: JANUARY 7, 2026

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ------, by a third party, ------, an educational liaison for a foster care company that served the Student. In the remainder of the report, ------ will be referred to as "the Student." XXXXXXXXX will be referred to as "the Complainant."

The complaint is against USD #465. In the remainder of the report, USD #465 will be referred to as "the local education agency (LEA)."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

The Student was also placed at Claire Learning Therapeutic Learning Center in another Kansas School District. In the remainder of the report, the Claire Learning Therapeutic Learning Center will be called the "Therapeutic Center." The Student was placed with XXXXXXXXX, and in the remainder of the report, XXXXXXXXX will be referred to as "the Grandparent." XXXXXXXXX is the Student's father and Educational Decision Maker, and in the remainder of the report, he will be called "the Parent" or "the Father." The Student was placed with XXXXXXXXX as his foster parent, who will be called "Foster Parent" in the remainder of the report.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on December 8, 2025, and the 30-day timeline ends on January 7, 2026.

Evidence Reviewed

During the investigation, the Complaint Investigator reviewed all evidence and documentation, which was provided by both the district and the complainant(s). Interviews were conducted as part of this investigation. On December 8, 2025, the Complainant was contacted to clarify the allegations and investigated issues. Emails were exchanged with the Complainant between

December 8, 2025 and December 16, 2025. The Foster Parent was called and texted but unavailable for an interview. The LEA made the following persons available for interviews: Deana Waltrip (Assistant Special Education Director), Rhonda Hockenbury (LEA Principal) on December 17, 2025 and Dr. Ronald Sarnacki (Special Education Director) on December 22, 2025. Emails were exchanged with the LEA between December 8, 2025 and December 22, 2025.

Along with the interviews, the following documentation and information were used in consideration of the issue(s):

1. The written complaint
2. [Student] Summary of Check In Meeting Undated
3. PWN dated November 8, 2024, handwritten, for a material change in service, substantial change in placement, and other changes to the IEP, with consent and signature by Student's Grandparent
4. PWN dated November 8, 2024 for a material change in services, substantial change in placement, and other changes to the IEP, unsigned, hand delivered to Student's Grandparent
5. IEP Amendment Form for changes not requiring a full IEP team meeting, dated November 8, 2024 and signed with consent by the Student's Grandparent
6. Teacher Information Page for IEP dated November 11, 2024
7. IEP Amendment dated November 11, 2024
8. Manifestation Determination Review, dated December 13, 2024.
9. LEA Student Record, Drop Only dated December 19, 2024
10. Kansas Individual Data on Students (KIDS) for the Student, undated
11. Email from the Complainant to the LEA Director of Public Record, dated October 21, 2025 at 12:02 p.m.
12. Revocation of Consent (handwritten) signed and dated by the Student and Foster Parent, dated November 20, 2025, mailed November 23, 2025
13. Revocation of Consent for Special Education and Related Services and Placement (typewritten) dated November 20, 2025, unsigned, mailed November 23, 2025
14. PWN undated (handwritten) for termination of all special education, related services, supplementary aids and services, and placement, undated signatures by Student and Foster Parent, mailed on November 23, 2025
15. PWN dated November 20, 2025 (typewritten) for termination of all special education, related services, supplementary aids and services, and placement, dated November 20, 2025, hand delivered to the Student, mailed with parent rights on November 23, 2025
16. Email from LEA Principal to Assistant Special Education Director, Special Education Director, Complainant and others dated December 2, 2025 at 3:51 p.m.

17. Email from LEA Principal to Assistant Special Education Director, Special Education Director, Complainant and others dated December 3, 2025 at 9:49 a.m.
18. Email from LEA Principal to Assistant Special Education Director, Special Education Director, Complainant and others dated December 4, 2025 at 10:20 a.m.
19. [Student Name] Documentation, with entries dated December 3, 5, 8 and 10, 2025
20. Enrollment History, dated December 10, 2025
21. Call Log provided by the Complainant via email to the Investigator on December 16, 2025 at 1:01 p.m.
22. LEA Response to previous complaint, 26FC465-001
23. LEA Response to the complaint 26FC465-002

Background Information

The Student attended a special day school and a high school in the LEA. According to the Complainant, the Student has both intellectual disability and schizophrenia; no comprehensive evaluation was provided to further document the Student's disability and special education needs. In October 2024, at 17 years of age, the Student was removed from the Parent's home in another Kansas school district and placed first with his grandparents and later with a foster parent in the LEA. After a manifestation determination review and a long-term suspension hearing, the Student was suspended from the LEA in December 2024. The Student was placed in a psychiatric treatment facility from January through April 2025. The Student remained in foster care and for a time attended an online school arranged by the foster parent during the 2025-26 school year. The Student was not successful with the online school and stopped attending. In October 2025, the Complainant contacted the LEA to arrange for the Student to return to school. The Student turned 18 years of age in early November 2025.

Issues Investigated

1. ISSUE ONE: Whether the LEA provided special education and related services to the Student following the period of suspension/expulsion according to 34 C.F.R. § 300.323(c)(2) and K.S.A. § 72-3429(a)(1)
2. ISSUE TWO: Whether the LEA properly informed the Student of parental rights under IDEA that transfer when the Student reached the age of majority according to 34 C.F.R. § 300.520; K.S.A. 72-3429(c)(9)), and K.A.R.91-40-18(e)
3. ISSUE THREE: Whether the LEA followed the proper procedure when the Student revoked consent and the LEA ceased to provide special education services according to C.F.R. § 300.300(b)(4); K.A.R. 91-40-27(i), (k) and (l), and K.A.R. 91-40-1(l)(3)
4. ISSUE FOUR: Whether the LEA afforded the Student procedural safeguards and acquired informed consent from the Student when the Student revoked consent for special education services, according to C.F.R. § 300.9; C.F.R. § 300.635 and K.A.R.91-40-1(l).

Issue One

Whether the LEA provided special education and related services to the Student following the period of suspension/expulsion according to 34 C.F.R. § 300.323(c)(2) and K.S.A. § 72-3429(a)(1).)

Applicable Law

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. Federal regulations at 34 C.F.R. 300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE (free appropriate public education) to a child who has or is suspected of having a disability. State regulations at K.A.R. 91-40-27(a)(3) require school districts to obtain parent consent before making a material change in services or a substantial change in placement.

Analysis: Findings of Fact

The Complainant alleged that the LEA failed to provide services to the Student, who had an established disability and lived in the LEA The Complainant alleged that in mid-October, 2025, she made the LEA aware that the Student was unsuccessful in the online school in which he had been enrolled and that the Student needed to return to the school in the LEA.

The LEA responded that this issue is a duplication of Issue One of a prior complaint filed by the same Complainant on behalf of the same Student and showed that the Complaint Investigator stated that the same issue would not be investigated twice. The LEA stated: "An explanation, however, is provided to assist you in understanding the timeline and events. The incident for [the Student] occurred on 12.5.24. [The Student] received an OSS for 10 school days, 12.5.24-12.18.24. Manifestation Determination Review was held on 12.13.24. [The LEA] Long-term Hearing was held on 12.18.24. [The Student] was withdrawn as a student from [the LEA] on 12.19.24. [The Student] was no longer enrolled as a student in [the LEA] beginning 12.19.24-11.17.25. Since [the Student] was not a student in [the LEA] there was no obligation to provide special education services."

Findings of Fact

The following findings are based upon a review of documentation and interviews with the Complainant and staff in the LEA.

Duplication of investigated issue: The District responded that Issue One was a duplication of a previously filed complaint's Issue One, which stated: "Whether USD#465 in accordance with state and federal regulations implementing the Individuals with Disabilities Education (IDEA) failed to implement the Student's IEP during their suspension/expulsion (italics added). This

present investigated issue states "Whether the LEA provided special education and related services to the Student following the period of suspension/expulsion according to 34 C.F.R. § 300.323(c)(2) and K.S.A. § 72-3429(a)(1).

The LEA reported that the period of the Student's OSS was December 5 to December 18, 2024. In its response, the LEA declined to provide documentation of the dates of suspension/expulsion resulting from the long-term hearing. However, the LEA later provided a copy of the Assistant Superintendent's letter dated December 2, 2024, which stated that the Student's period of expulsion lasted till May 23, 2025, and that the Student could return schoolwork to the school for high school credit.

In an interview with the current LEA Principal, the Principal affirmed that the LEA ordinarily did not unenroll a student when long-term suspended and that student could earn credits if work was completed during a long-term suspension.

Student Enrollment in the LEA: The LEA reported that the Student was suspended from December 5, 2024 to December 18, 2024, and a Manifestation Determination Review (MDR) was held on December 13, 2024, finding that the offense was not a result of the Student's disability. A letter from the Assistant Superintendent dated December 2, 2024 to the Student's parents stated that the student was suspended until May 23, 2025.

According to the LEA Enrollment History record, the Student entered the LEA on November 12, 2024, exited on December 16, 2024. The LEA Drop Slip was dated December 19, 2024. According to the Assistant Special Education Director in an interview, at the time of the MDR, the fostering Grandparent stated that the Student would be leaving their care and moving to another school district. The Kansas Individual Data on Students (KIDS) showed that the Student was listed as in the LEA as of January 8, 2025, and in another Kansas school district as of January 14, 2025.

The Therapeutic Center, where the Student was placed for 90-day treatment, requested educational documents from the LEA on January 27, 2025. The Student attended the Therapeutic Center from January 25, 2025 to April 25, 2025, according to the Complainant.

The Complainant reported that the Foster Parent believed that the Student had been expelled for one year and did not attempt to register the student for classes in the LEA in August, 2025, because it had not yet been one calendar year since the Student's long-term suspension. According to the Complainant, the Foster Parent, with assistance from the Complainant, enrolled the student in an online school program, where the Student was unsuccessful.

The Complainant reported that she notified the LEA that the Student needed to attend school in the LEA rather than an online school and that in mid-October 2025, she contacted the Special Education Director to begin the process of getting the Student in school in the LEA. The Complainant provided an email dated October 21, 2025 at 12:02 p.m. to the LEA's Director of

Public Information, which requested information regarding the Student' suspension and special education services.

The Complainant provided a call log of 3 phone calls to or from the LEA in October 2025: October 21, 2025 at 11:53am to the LEA Special Education Cooperative Office, October 22, 2025 at 8:34 a.m. from the Special Education Director, and October 23, 2025 at 1:06 p.m. from the LEA High School Principal. When asked if the Complainant notified the LEA High School Principal or the Special Education Director that the Student had returned to live in a town in the LEA, the Complainant emailed, "Each time I spoke to them I had said that I was trying to enroll him, get sped services, and find out when his suspension was up. They kept delaying me and telling me he couldn't come back yet."

In an interview with the Principal, the Principal agreed that she had received a phone call from the Complainant regarding the Student in October, and she passed the information to the Special Education Cooperative to locate the IEP and contacted the Registrar to determine the Student's earned credits. According to the Principal, the Foster Parent was assisted to set up a username and password and school staff offered the office computer for the Foster Parent to complete the online enrollment at the same time. However, the Foster Parent declined the offer to use the computer and did not complete the online enrollment form until a few weeks later, on November 18, 2025.

The Special Education Director reported that they became aware of the Student's enrollment in the LEA on November 18, 2025. The Special Education Director placed 4 phone calls to the Complainant on November 19, 2025 according to the Complainant's call log; however, the Complainant reported that she was not available to take the phone calls.

According to an interview with the LEA Assistant Special Education Director and the District Response, the LEA Special Education Director and Assistant Special Education Director visited the Student at the Foster Parent's home on November 20, 2025, after failing to contact the Student or Foster Parent by phone or text. At the time of the home visit, the Student signed a Revocation of Consent, dated November 20, 2025 and the LEA provided Prior Written Notice to cease all special education services, dated November 20, 2025. Both documents, which were provided to the Investigator, were handwritten and signed by the Student and Foster Parent. According to LEA documentation, typewritten copies of the Revocation of Consent and PWN dated November 20, 2025 along with the handwritten copies of each document and the Parent Rights document were mailed to the Student on November 23, 2025.

According to the LEA Enrollment History and an interview with the Principal, the Student was enrolled and attended high school on December 3, 2025.

Conclusion

In this case, the Student was known to be a student with a disability in the LEA and had an IEP at the time of a disciplinary incident resulting in a long-term suspension. At the time of the

MDR, the fostering Grandparent reported to the LEA that the Student would be leaving their care during the period of long-term suspension ending on May 23, 2025. LEA and KIDS records indicate that the Student did indeed leave the LEA at that time, sometime between their un-enrollment on December 19, 2024 and January 15, 2025 when the Student was known to be enrolled in another school district.

As of October 21, 2025, when the Complainant notified the LEA, the LEA was aware that the Student resided in the LEA and in need of special education and related services. At that time or in a reasonable time thereafter, the Foster Parent was provided with online enrollment support, and the Foster Parent delayed but completed the online enrollment by November 18, 2025. The LEA reported calling and texting the Foster Parent prior to the home visit on November 20, 2025. The Special Education Director called but was unable to reach the Complainant on November 19, 2025. The LEA Special Education Director and LEA Assistant Special Education Director contacted the Student and Foster Parent at home on November 20, 2025, when the Student revoked consent for special education services. Therefore, the Student was not enrolled in the LEA from December 19, 2024 until November 18, 2025 and the LEA was not responsible for providing special education and related services to the Student following the long-term suspension which ended May 23, 2024. At the time of the Student's reenrollment in the District, the LEA administration appropriately contacted the Complainant and the Student to initiate special education services, which were declined when the Student revoked consent on November 20, 2025.

Based on the foregoing, ***it is not substantiated*** that the LEA failed to provide special education and related services to the Student following the period of suspension/expulsion according to 34 C.F.R. § 300.323(c)(2) and K.S.A. § 72-3429(a)(1).)

Issue Two

Whether the LEA properly informed the Student of parental rights under IDEA that transfer when the Student reached the age of majority according to 34 C.F.R. § 300.520; K.S.A. 72-3429(c)(9), and K.A.R. 91-40-18(e).

Applicable Law

Federal /State statutes and regulations at 34 C.F.R. § 300.520 and K.S.A. 72-3431 state require that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law), the public agency must provide any notice required by this part to both the child and the parents, and all rights accorded to parents under Part B transfer to the child, and the agency must notify the child and the parents of the transfer of rights. State statutes and regulations at K.S.A. 72-3429(c)(9) and K.A.R. 91-40-18(e) require that the IEP for each exceptional child shall include, beginning at least one year before the child reaches the age of

majority under state law, a statement that the child has been informed of the child's rights, if any, that will transfer to the child on reaching the age of majority.

K.S.A. 72-962 (m) defines parent as: "(m) "Parent" means: (1) A natural parent; (2) an adoptive parent; (3) a person acting as parent; (4) a legal guardian; (5) an education advocate; or (6) a foster parent, if the foster parent has been appointed the education advocate of an exceptional child."

Analysis: Findings of Fact

The Complainant alleged that the LEA persuaded the Student to sign away rights to special education.

In its response, the LEA stated: "In the IEP Notice of Meeting for the prior IEP when [the Student] was initially enrolled at [the LEA High School] in November 2024 (IEP meeting occurred 11.11.24), [the Student} was notified verbally and in writing that parental rights transferred to him when he turned 18 years of age. This is documented on that Notice of Meeting Form. [The Student] was verbally informed of his rights (i.e., parental rights), offered a copy of the parental rights during the 11.20.25 visit to the home of [the Foster Parent] and it was stated that [the Foster Parent] and [the Student] could come to the [LEA] office at [address] later in the day to pick up the copy. Since they did not come to the [LEA] office on Friday, 11.20.25 and get the copy, a copy of the parental rights was mailed to the home of the foster parent where [the Student] lives on Monday, 11.23.25."

Findings of Fact

The findings of Issue One are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the Complainant and staff in the LEA.

An IEP Amendment for the Student dated November 11, 2024, included no participant signatures or names for any person representing IEP team membership listed as: "Legal Education Decision Maker, Educational Representative, Special Education Teacher/Provider, General Education Teacher."

According to interviews with the Special Education Director and Assistant Special Education Director, no education advocate had been appointed for the Student; additionally, the LEA reported that the Father was "not in the picture" during the initiation of special education services in the LEA.

The IEP Amendment dated November 11, 2024 included a section entitled transfer of rights at age of majority, which stated: "In accordance with law, this statement is notice to you, the student, that, beginning on the date you turn eighteen (18) years of age, this agency will provide both you and your parent(s) with all notices required by special education law and regulations. All other rights afforded to parent(s) under special education laws and regulations

will be transferred to you, the student, or, if you have a legal guardian, rights will transfer to the legal guardian."

The copy of the IEP Amendment dated November 11, 2024 provided to the Complaint Investigator did not include any reference to a copy being provided to the Student or the Student's Parent. According to a follow up email with the Special Education Director, the participants at the November 8, 2024 meeting were: The Special Education Director, the Foster Grandparents, an LEA special education teacher, a LEA social worker, the previous principal of the LEA high school, and LEA school psychologist. According to the Special Education Director's email, the Student did not attend the meeting and a copy of the IEP was provided to the Students Foster Grandparent.

Two copies of PWNs dated November 8, 2024 were provided to the Investigator. A handwritten copy was signed by the Grandparent giving consent for a material change in services and a substantive change in placement, as determined in an IEP meeting on November 8, 2024. Both the handwritten and typewritten copies of the PWN stated that a copy of the PWN was hand delivered to "LEDM" listed as follows: [Grandparent first name]/[Parent first name] [Grandparent last name]/[Parent last name]. According to an interview with the Assistant Special Education Director, the Grandparents were in regular contact with the Student's Father.

In an interview with the Assistant Special Education Director and the MDR dated December 13, 2024, the Father and Grandparent were present virtually during the MDR.

The Assistant Special Education Director reported that Parent Rights were discussed with the Student on November 20, 2025 and documentation showed that a copy of the Parent Rights were mailed to the foster home with copies of the PWNs and Revocation of Rights signed by the Student on November 23, 2025.

Conclusion

In this case, the Student was placed in foster care and living away from the Father and no other educational legal decision maker had been appointed for the Student. At the time of the IEP amendment dated November 11, 2024 that documented the LEA's communication of the transfer of rights at the age of majority to the Student, the Father was not available to participate in the Student's IEP Amendment meeting. The LEA contacted and obtained the Father's participation for the Manifestation Determination Review on December 13, 2024. The Complainant alleged that the Student had not been properly informed of his rights to special education. While the IEP amendment included a statement of transfer of rights, there is no evidence that the Student or Parent received a copy of this amendment or attended the IEP Amendment meeting on November 8, 2024. However, these events precede the 12-month timeframe for this formal written complaint and therefore, no determination on compliance is being made regarding notice to the Student and Parent of the transfer of rights one year prior to the age of majority.

The LEA verbally reviewed and provided a copy of the Parent Rights when it provided PWN and copies of the Revocation of Rights to the Student following the November 20, 2025 meeting. In the course of the investigation, it was discovered that the LEA inconsistently provided information to the Student's Father when the Student was in the foster care provided by the Student's Grandparent.

Federal and state regulations at 34 C.F.R. § 300.520 and K.S.A. 72-3431 require that both the Student and the Student's Parent receive notice of the transfer of rights at the age of 18. In this case, the LEA was able to contact and engage the Father during the MDR on December 13, 2024; however, no documentation states that the Father was provided notice as was the Student when the Student turned 18. Therefore, it is found that the LEA did provide required notice of rights to the Student but did not provide the notice of rights to the Parent at that time, as required. It is noted that the LEA did provide information to the Grandparent who was acting as foster parent for the Student when the LEA initiated the IEP in November 2024. However, no notice was provided to the Parent in November 2025, after the Parent's rights had transferred to the Student on their 18th birthday.

Based on the foregoing, ***it is substantiated*** that the District failed to implement 34 C.F.R. § 300.520 and K.S.A. 72-3431 by providing notice to both the Student and Parent of the transfer of rights upon the age of majority.

Issue Three

Whether the LEA followed the proper procedure when the Student revoked consent and the LEA ceased to provide special education services according to 34 C.F.R. § 300.300(b)(4); K.A.R. 91-40-27(i), (k) and (l), and K.A.R. 91-40-1(l)(3)

Applicable Law

Federal/State statutes and regulations at 34 C.F.R. § 300.300(b)(4) require that, if the parent of a child revokes consent for special education and related services in writing for the continued provision of special education and related services, the public agency may not continue to provide special education and related services to the child but must provide prior written notice in accordance with § 300.503 before ceasing the provision of services and will not be considered in violation of the requirement to make FAPE available to the child or to convene an IEP Team meeting or develop an IEP for the child for further provision of special education and related services. KAR 91-40-27(l) requires that if a parent who revoked consent subsequently requests the child to be enrolled in special education, the agency shall conduct an initial evaluation to determine qualification before re-enrolling the child.

Analysis: Findings of Fact

The Complainant alleged that the LEA delayed responding to the Student's need for special education and soon after the Student turned 18, approached the Student in the family home, where the Student was persuaded to forfeit his right to special education.

The LEA responded that after the LEA administration became aware that the Student was enrolled in the LEA for the 2025-26 school year, the special education administration attempted to contact the Student and the Foster Parent by phone and text. The Special Education Director and Assistant Director made a home visit on November 20, 2025.

Findings of Fact

The findings of Issue One and Issue Two are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the Complainant and staff in the LEA.

The LEA reported in its written response and the Assistant Special Education Director in an interview that, prior to visiting the Foster Parent and Student at their home, the special education administrators called and texted the Foster Parent to follow up on enrollment and special education planning. The Complainant and the LEA agree that the home visit on November 20, 2025 occurred, with the Student, Foster Parent, Special Education Director and Assistant Special Education Director present.

As found in Issue One, the Student signed a Revocation of Consent for special education services on November 20, 2025, and a Prior Written Notice to cease all special education was provided to and signed by the Student. Written copies of these documents were mailed to the Student on November 23, 2025.

The Student was enrolled in the LEA High School and attended school on December 3, 2025. No special education was provided at that time, according to an interview with the Principal.

Conclusion

In this case, the Student revoked consent for special education after being enrolled in the LEA by the Foster Parent. The LEA provided PWN to the Student after the Student revoked consent for special education services. The Student subsequently attended the LEA high school and the LEA properly did not provide special education to the Student. Based on the foregoing, ***it is not substantiated*** that the LEA failed to follow the proper procedure when the Student revoked consent and the LEA ceased to provide special education services according to 34 C.F.R. § 300.300(b)(4); K.A.R. 91-40-27(i), (k) and (l), and K.A.R. 91-40-1(l)(3).

Issue Four

Whether the LEA afforded the Student procedural safeguards and acquired informed consent from the Student when the Student revoked consent for special education services, according to 34 C.F.R. § 300.9; 34 C.F.R. § 300.635 and K.A.R.91-40-1(l).

Applicable Law

Federal/State statutes and regulations at 34 C.F.R. § 300.9 and K.A.R.91-40-1(l) define consent, meaning that all the following conditions are met: (1) the parent has been fully informed of all the information relevant to the activity for which consent is sought, (2) the parent understands and agrees in writing to the carrying out of the activity for which consent is sought and the consent describes that activity and lists the records, if any, that will be released and to whom, and (3) the parent understands the following: (A) the granting of consent is voluntary and may be revoked at any time (B) if the parent revokes consent the revocation is not retroactive and does not negate an action that has occurred after consent was given and before consent was revoked, and (C) the parent may revoke consent in writing for the continued provision of a particular service or placement only if the child's IEP team certifies in writing that the child does not need the particular service or placement for which consent is being revoked. As required by 34 C.F.R. § 300.635 the rights of privacy and records also transfer to the child upon age of majority and notice must be provided.

Analysis: Findings of Fact

The Complainant alleged that the Student was persuaded to revoke consent for special education rights by being told that, if he revoked consent, he could go to the high school. The Complainant alleged that the Student was told he would have to go back to the special day school if he remained in special education.

The LEA denied this allegation.

Findings of Fact

The findings of Issue One, Issue Two and Issue Three are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the Complainant and staff in the LEA.

The Assistant Special Education Director, in an interview, acknowledged that the special day school was her opinion of the best placement for the Student. The Assistant Special Education Director described the home visit with the Student and the Foster Parent on November 20, 2025, which included asking the Student what he wanted to do after high school and whether he wanted to acquire a GED. According to the Assistant Special Education Director, several effects of revoking consent were explained to the Student: (a) no resource room teaching, (b)

no discipline help without special education, (c) no alternative room would be provided, (d) the Student needed many credits to graduate with a regular diploma, and (e) the question of Student would attend and be successful at the high school. According to the Assistant Special Education Director, the student repeatedly stated that he wished to revoke his consent for special education and wanted to attend the high school. The Assistant Special Education Director reported that Parent Rights were discussed with the Student, and documentation showed that a copy of the Parent Rights was mailed to the foster home with copies of the PWNs and Revocation of Rights signed by the Student.

Conclusion

In this case, the Student reached the age of 18 and revoked consent for special education. At the time that the Student revoked consent, the effects of the decision were explained by the LEA administrators, who also provided an oral explanation of the Parent Rights and a copy of the Parent Rights document by mail. Based on the foregoing, *it is not substantiated* that the LEA failed to afford the Student procedural safeguards and acquired informed consent from the Student when the Student revoked consent for special education services, according to 34 C.F.R. § 300.9; 34 C.F.R. § 300.635 and K.A.R.91-40-1(l).

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of34 C.F.R. § 300.323(c)(2) and K.S.A. § 72-3429(a)(1) was not found, based on facts listed above. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. § 300.520 and K.S.A. 72-3431 was found, based on the failure to provide copies of Prior Written Notices to the Parent when the Student turned 18 and revoked consent for special education. . Corrective action is required (as follows):
    a. CORRECTIVE ACTION:
        i. By February 6, 2026, the LEA shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal regulations at 34 C.F.R. § 300.520 and K.S.A. 72-3431 which require notice to be provided to the Parent when rights transfer to the Student at the age of majority.
        ii. By February 6, 2026, provide by mail a copy of the Prior Written Notice dated November 20, 2025 which was provided to the Student.
        iii. By February 6, 2026, provide information to all secondary or administrative special education staff in the LEA who provide prior written notice to parents when the child reaches the age of majority of the requirement to provide PWN to the parent and the student.
3. ISSUE THREE: A violation of 34 C.F.R. § 300.300(b)(4); K.A.R. 91-40-27(i), (k) and (l), and K.A.R. 91-40-1(l)(3) was not found based on facts listed above. Corrective action is not required.

4. ISSUE FOUR: A violation of 34 C.F.R. § 300.9; 34 C.F.R. § 300.635 and K.A.R.91-40-1(l) was not found based on facts listed above. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #413
ON NOVEMBER 24, 2025

DATE OF REPORT: DECEMBER 31, 2025

This report is in response to a complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #413, Chanute Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #413.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on November 24, 2025, and the 30-day timeline ended on December 24, 2025.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #413, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's Individualized Education Program (IEP), specifically by providing a safe educational environment and all necessary safety-related supports and services as written in the IEP. K.A.R. 91-40-16(b); 34 CFR § 300.323(a)(c)(2).

Investigation of Complaint

The Complaint Investigator interviewed the Parent by teleconference on December 11, 2025. The following LEA staff were interviewed on December 18, 2025: The Principal and the Superintendent.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. IEP Amendment, 10/01/25
2. Timeline of Events, 09/22/25
3. Incident Description, 11/11/[25]
4. Timeline of an Incident, no date
5. Daily Behavior Tracker, 09/26/25
6. Emergency Safety Intervention Documentation Form, 09/26/25
7. Timeline of an Event, 10/21/25
8. Daily Behavior Tracker, 10/21/25, 10/22/[25], 10/07/25, 10/06/25
9. Text Messages, no date
10. Email, re: [the Student], 08/10/25-08/12/25
11. Team Meeting Notes, 03/26/25, 04/08/25, 04/17/25, 10/01/25
12. IEP Amendment Between Annual IEP Meetings, 04/17/25
13. Notice of Special Education Meeting, 04/09/25
14. IEP, 04/17/25, 05/12/25, 10/28/24
15. IEP AMENDMENT, 10/01/25
16. Prior Written Notice (PWN) for Evaluation or Reevaluation and Request for Consent, 04/09/25
17. Safety Plan, 11/20/25

Background Information

This investigation involved a fifth-grade student enrolled at an elementary school in the LEA. The Student is currently receiving special education or related services with a primary eligibility of Emotional Disturbance (ED) and a Secondary disability of

Learning Disability (LD) per the IDEA. The Student enjoys spending time outside, working with their hands, and having one-on-one time with adults.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. On October 28, 2024, an IEP for the Student was developed. The IEP was developed while the Student was enrolled in a virtual school; therefore, no safety concerns were noted, and the Student's behavioral needs were addressed through "outside supports." (D193)
2. On March 26, 2025, a Team Meeting Notes document indicated the IEP team met to propose a schedule for the Student's return to the School. Notes indicated:
    a. The Parent requested an evaluation in Math.
    b. The Student would participate in a small-group math session in the general education setting.

c. The Student would take a break in room 408.
d. An adult would be assigned to "assure [the Student's] safety during recess."
e. The Student would attend specials for the entire time.
f. The team would screen to determine if the Student required support during intervention time.
g. The Student would need support during the LEA's reading curriculum.
h. The Student would eat lunch in the cafeteria with support from room 408.
i. The Parent recommended access to flexible seating for the Student.
j. The Parent asked to see the daily behavior chart either through email or Dojo.
k. The Parent recommended giving the Student a snack if they get upset, and access to fidgets and a calm-down area.
l. The Parent asked to be notified if the Student was putting sharp objects into their throat, in addition to verbally.
m. The Student was taking antidepressants and behavior medications, and the Parent wanted the Student to take them at school.
n. Target behaviors included following their schedule, completing work, and following directions. (D7-D9)

3. On April 8, 2025, a Team Meeting Notes Form indicated the IEP team met to discuss the need to hold a move-in meeting for IEP development. Notes indicated the following was discussed:
    a. Goals from the virtual school were reviewed.
    b. The team discussed how transitions are difficult for the Student, especially to and from recess and during afternoon transitions.
    c. The team proposed completing testing and writing an IEP as an amendment on April 17, [2025].
    d. Adding a positive behavior support plan was discussed. The team needed to collect data on the function of the behavior.
    e. The team discussed getting consent for the reevaluation during the meeting.
    f. The team agreed room 408 B was "effective in managing [the Student's] behavior, adding the Student "regains regulation quicker, more effectively, when there are not other students in the room."
    g. The Student required "a lot of support," which raised the question of sustainability.
    h. The Student participated in their general education class and was cooperative.
    i. The School Psychologist reviewed portions of the behavior plan and indicated it included the schedule and strategies discussed at the March 26 IEP meeting.
    j. The Team proposed a social-emotional goal to reduce elopement. (D10-D11)
4. On April 9, 2025, a Notice of Special Education meeting was sent to the Parent for a meeting on April 17, 2025, at 11:00 a.m. The purpose of the meeting was to conduct the move-in process and amend the Student's IEP. The Parent agreed to an

amendment without convening the entire IEP team. (D18-D20) The Parent signed, stating they planned to attend the meeting. (D21)
On April 9, 2025, a PWN for Evaluation or Reevaluation and Request for Consent was provided to the Parent and the Additional Parent. The PWN stated the special education interlocal was proposing to conduct a reevaluation. It was seeking new data in the area of health/motor ability, social-emotional status/behavioral status, academic performance, communicative status, and eligibility for related services of school social work. (D91-D93) The Parent provided signed consent. (D96)

5. On April 17, 2025, a Team Meeting Notes document indicated the IEP team met to conduct a move-in meeting and amend the IEP.
    a. The team discussed whether the Student should attend full- or half-day school. The Parent requested half days, citing a recommendation from the Student's pediatrician for attending half days while they work up to full days due to the Student's mood disorder. The Principal indicated half days would be extreme. The Adaptive Special Education Teacher noted the Student's skills were near those of their peers. The Principal indicated they could work on skills if the Student were in school all day. The team decided on four full days a week with one earned day off each week when the Student met their behavior goals.
    b. The Team discussed setting a goal to reduce elopements to zero incidents. The Parent asked for targets that included no hands-on anyone, no cussing in front of peers, and no running off. (D13-D15)

On April 17, 2025, the IEP amendment document listed the following changes made to the IEP.

    c. The Student's services increased to "meet their needs," including Speech, specialized instruction in the resource room, and special education support in the general education classroom.
        i. Speech: 20 minutes one time weekly in the resource room.
        ii. Specialized instruction: 30 minutes two times weekly virtually.
        iii. Reading: 30 minutes five days weekly.
        iv. Support in the general education classroom: 390 minutes four days weekly and 370 minutes one day weekly for core reading, core math, specials, recess, lunch, and bus dismissal.
    d. Social-emotional goals were added.
    e. The Behavior Intervention Plan (BIP) was updated. (D16-D17)

The amended IEP documented the following additional relevant information:

    f. The Parent communicated their concerns about the Student's behavior in 3rd grade, which led to a lapse in instruction. The Parent stated they wanted the Student to be with their general education peers, to use a daily behavior chart, and to ride the "regular" bus. The Parent also stated they had used fidgets, wanted the Student to have a calm-down area, and be given space until they are ready. (D32)

g. The Student had documented diagnoses, which included Generalized Anxiety Disorder (GAD), Disruptive Mood Dysregulation Disorder, and Major Depressive Disorder. The Student was prescribed medications for them. (D33)

h. The Student had a communication goal to produce target sounds in one- to two-sentence academic speaking tasks. (D33)

i. The Student's social-emotional needs included:

    i. Strengths: The Student could use replacement behaviors 100% of the time across three opportunities.

    ii. Needs: The Student needed to be offered space until they were ready for help, to use a behavior chart, to be offered a snack when becoming angry, and access to a calm-down area.

    iii. Team concerns: In the past, the Student had to be removed from the general education classroom due to extreme disruption, and the classroom had to be evacuated when staff were unable to redirect the Student.

    iv. Given a work/break routine and rewards for replacement behaviors, the Student would have zero incidents of elopement from the classroom on 4 of 5 consecutive school days.

    v. Given a work/break routine and rewards for replacement behaviors, the Student would have zero incidents of elopement while being escorted by an adult on four of five consecutive school days. (D34-D35)

j. The Student had a reading goal that was served through accommodations to apply foundational reading skills to read nonsense words. (D36)

k. Accommodations included frequent breaks, including state testing and during curriculum instruction. (D38)

On April 17, 2025, the PWN indicated the Student's IEP team had met to determine:

l. Special education and related services needed by the Student;

m. The appropriate placement to provide services; and

n. Any additions, changes, or modifications needed to enable the Student to meet their annual IEP goals and participate in the general education curriculum.

o. A material change in services occurred.

p. A substantial change in placement occurred. (D26-D27)
The notice explained the Student required these changes because they were moving from a virtual school model to an in-person school. The Parent indicated they wanted the Student to be included with their peers, and the team built a schedule to provide those opportunities. (D29)
The Parent provided consent for these changes on April 17, 2025, and was hand-delivered a copy of the PWN on the same day. (D31)

6. On May 12, 2025, a revaluation was completed for the Student. The reevaluation was requested to consider adding social work services. (D97)

7. On May 12, 2025, an IEP was developed, which included the following information:
    a. The Parent stated they had seen a decrease in behaviors at home. They added they wanted the Student to be with their peers. (D131)
    b. The IEP team did not identify an area of need in health, motor, communication (services ended with the reevaluation), general intelligence, written language, or daily living. (D132-D142)
    c. The Student had social-emotional needs which would be addressed by general education supports and positive behavioral supports, and included:
        i. Data showed the Student running from staff, becoming physically aggressive with staff and peers, attempting to hurt themself, using inappropriate language at staff, and throwing items. Behaviors lasted from a couple of minutes to hours. The Student's frustrations occur when they are faced with a difficult task. The Student also sought attention from adults when they were not being attended to. (D133)
        ii. The first social-emotional goal stated that, given a work/break routine and a reward system for the use of replacement behaviors, the Student would decrease verbal aggression, including "any language, verbal and non-verbal, directed at someone in a threatening manner," as well as obscene gestures and profanity. (D143)
        iii. The second social-emotional goal stated that, given a work/break routine and a reward system for the use of replacement behaviors, the Student would decrease physical aggression, including hitting, kicking, pushing, throwing objects, or other unsafe physical contact. (D135)
        iv. The third social-emotional goal stated that, given a work/break routine and a reward system for the use of replacement behaviors, the Student would decrease elopement, such as leaving the classroom without explicit permission, or leaving an adult who is escorting them without explicit permission. (D135)
    d. The Student had reading needs that would be addressed through general education supports and accommodations.
        i. Data indicated the Student needed to fill gaps in their phonemic awareness skills.
        ii. The Student had a reading goal to improve their phonemic awareness. (D139)
    e. The Student had math needs that would be addressed through general education supports and accommodations.
        i. Data indicated the Student needed to learn how to add with and without carrying, subtract with and without borrowing, and recognize the place value of numbers.
        ii. The Student had a math goal related to improving their mathematical skills at the second-grade level. (D141)

f. The Service Summary page listed the service minutes proposed:
    i. Special education support in the general education classroom for core reading, core math, specials, recess, lunch, and bus dismissal for 360 minutes three days per week, and 335 minutes one day per week.
    ii. Resource room for reading 30 minutes four times per week, and for math 30 minutes four times per week.
    iii. Direct social work services in a special education setting, 25 minutes one day per week. (D142)
g. Relevant accommodations included:
    i. Separate, quiet, or individual setting.
    ii. Frequent breaks. (D144)

On May 12, 2025, a PWN was developed, stating the Student met the criteria for ED and LD, and special education services were necessary to enable the Student to receive benefits in accordance with their abilities or capabilities. (D125)

8. On August 10, 2025, the Adaptive Special Education Teacher emailed the Parent, the Principal, and additional general education staff to share the Parent wanted "all staff that work with [the Student]" to know the Student was on their third Attention-Deficit/Hyperactivity Disorder (ADHD) medication since July, and added the Parent noticed "some good changes." (D3)
   On August 11, 2025, the Parent replied to the Adaptive Special Education Teacher's email to clarify they wanted to be informed of the Student's "behaviors, suicide attempts or thoughts, any physical touching of any staff or peers," and added it was important, with new meds, also to be informed of the Student's appetite. The Parent asked them to reach out to them if behaviors increased. (D4)
   On August 12, 2025, the Parent emailed the School Psychologist to remind them the Student needed a wiggle chair in their general education classroom. (D6)
9. On September 22, 2025, behavior data indicated the Student engaged in noncompliance at 10:40 a.m., refusing to enter a general education classroom. Staff set a five-minute timer. The Student yelled obscenities toward the staff member. Staff moved the other students toward the door, which the Student blocked, and then flipped the lights on and off. Staff blocked the Student to allow the other students to exit safely. (P38)

   The Student continued to engage in aggressive behaviors, including yelling obscenities and banging on the wall. The Student used degrading language toward themself, saying they were a "f'ing piece of shit," and called themself "retarded." The Student yelled at staff to "shut the fuck up" multiple times. (P38)

   The Student crawled under a table and began to choke themself, first with their hands and then with a chair. They then grabbed a sweatshirt and wrapped it around their neck, and pulled. When the Student's face turned red, a paraeducator unwrapped it as

the Student "went limp" and moved them to the Turn Around Room (TAR). The Student continued to pretend to choke, ran out of the room, and hit a staff member. A paraeducator pushed the "help" button. (P38)

When the Social-Emotional Coach and Student Support Coordinator arrived, the Student yelled three times, "I'm going to kill myself." The Social-Emotional Coach asked the Student what they wanted control over, and the Student replied, "I want to go home." The Student continued to refuse to enter the TAR and yelled, "shut the fuck up". (P38)

The Student continued to be disruptive with the lights, yelled at a student who tried to enter the room, flipped a table, and yelled at the Social-Emotional Coach to "shut the fuck up" and "shut the hell up" when told to go to TAR. The Student's mental health worker entered the room, and the Parent was called to be informed of the events. (P38)

10. On September 26, 2025, the Student's daily behavior goals sheet documented the percentage they met their goals in all areas by their morning check-in. At 12:01 p.m., the Student came into room 408 after using aggressive language during math and tried to choke themself. The Social Worker took the Student into TAR and performed a restraint. The Student stayed in room 408 for the remainder of the day. (P42)
An Emergency Safety Restraint document dated September 26, 2025, noted there were two incidents where restraints took place. The first one was at 11:45 a.m. and lasted five minutes. The second one took place at 12:01 p.m. and lasted one minute. Both incidents were related to the Student choking themself or attempting self-harm in another way. (P44-P45)
11. On October 1, 2025, a Notice of Special Education Meeting was issued, indicating a meeting would be held that day at 3:50 p.m. at the Elementary School. The purpose of the meeting was to change the BIP. (P31) The Parent acknowledged they planned to attend the meeting and consented to waive their right to a 10-day PWN. They indicated they had been provided a copy of their Parents' Rights/Procedural Safeguards. (P33) (D84-D86)

    On October 1, 2025, the Student's IEP was amended. The following changes were documented:

    a. Discontinued the current criteria for behavior expectations for the Student to earn a Friday off.
    b. Added criteria requiring the Student to meet their behavior goals at 83% or higher for four school days to earn a day off. Any physical aggression or attempts at aggression towards others disqualified the day from the Student's goal.
    c. Added to the BIP for safety:
        i. Remove items that could be used to harm, such as cords, hoodies, shoe laces, chairs, tables, and anything sharp or pointy.
        ii. Use ESI if necessary to protect from self-harm.
        iii. Call for help.
        iv. Visually monitor at all times.

v. Notify the principal.
vi. Notify the mental health liaison/ therapist.

d. Added to the BIP for emotional support:
    i. Keep voice calm and low.
    ii. Look for warning signs (changes in body temperature, slamming doors, raising their voice).
    iii. Assess for risk of suicide/harm.
    iv. Listen non-judgmentally.
    v. Give reassurance/information.
    vi. Help the Student locate a trusted adult to talk to.
e. Added to the BIP for coping strategies:
    i. Give icy water, ice from the teacher's lounge.
    ii. Spend time outside.
    iii. Use "BB" to rub and calm down.
    iv. Talk about family and pets.
f. Added to the BIP for what not to do:
    i. Don't tell the Student, "It will get better," or "You're OK."
    ii. Don't allow the Student to go home alone.
    iii. Don't minimize the source of the Student's complaint.
g. The Parent checked the box indicating they agreed to amend the IEP as described, and checked the box indicating they wished to convene an IEP meeting. (P3-P4) (D56-D57)

The October 1, 2025, Amended IEP documented the following information:

h. The Parent asked if the Student could earn their "day off" on a Friday if they earned it in the middle of the week. The Parent wanted the Student to have access to their peers as often as possible. (P11)
i. The Student had been diagnosed with depression, anxiety, and Oppositional Defiant Disorder (ODD).
j. The Student was taking medications to "help with mood and anger and behavioral outbursts." (P11)
k. A social-emotional goal to be served with general education support and positive behavior supports. The goal indicated the Student needed to decrease verbal aggression toward others, aiming for zero incidents over seven of nine consecutive school weeks. (P13)
l. A social-emotional goal to be served with general education support and positive behavior supports. The goal indicated the Student needed to reduce elopement to zero for seven out of nine consecutive school weeks. (P14)

m. A reading goal to be served with general education supports and accommodations, which focused on applying grade-level phonics. (P16)
n. A math goal to be served with general education supports and accommodations, which focused on adding double digits. (P18)
o. Special education support in the general education classroom for core reading, core math, specials, recess, lunch, and bus dismissal for 360 minutes three days per week and 335 minutes one day per week, beginning October 1, 2025. (P18)
p. Resource room for reading 30 minutes 4 days per week, and math 30 minutes per day 4 days per week. (P19)
q. Direct social work in the special education setting, 25 minutes one day per week. (P19)
r. Modifications were not required. (P19)
s. Relevant accommodations included a separate, quiet, or individual setting and frequent breaks. (P19) (D64-D73)

The October 1, 2025, IEP amendment included the Student's Positive BIP, dated April 7, 2025, which indicated the following:

t. Student behaviors included:
    i. Physical aggression behaviors such as hitting, kicking, or throwing objects with the intent to harm.
    ii. Aggression toward objects, such as actions that could cause tangible property damage.
    iii. Verbal aggression, such as obscene gestures and profanity directed at others in a threatening or harmful manner.
    iv. Elopement behaviors, such as leaving a room or an adult without permission.
    v. Non-compliance behaviors.
    vi. Suicidal ideation in the form of verbal statements, actions that might result in physical harm, or gestures about harming themself. (P21-P22)
u. Antecedents:
    i. Academic demands.
    ii. Whole group instruction.
    iii. Whole group and morning recess.
    iv. A peer the Student doesn't like. (P22)
v. Consequences:
    i. Direct the Student to the TAR when disruptive, threatening, or non-compliant. (P22)
w. Summary Statements:
    i. The Student exhibits verbal aggression toward a disliked peer when the peer is near to obtain negative peer attention.

ii. The Student engages in property destruction during whole-group learning to obtain negative peer attention.
iii. The Student engages in noncompliance to avoid a non-preferred task when it is presented.
iv. The Student engages in verbal aggression or elopement to avoid or gain control of a situation when asked to engage in a non-preferred activity. (P23)

x. Behavior goals were amended on October 1, 2025. (P24)
y. Replacement Behaviors:
    i. Allow a brief movement break to leave the room.
    ii. Set a five-minute timer for a break activity before returning to work.
    iii. Stay in the area with an assigned adult.
    iv. Complete work with adult assistance on a modified assignment. (P24-P25)
z. Ecological Interventions:
    i. Individual schedule with breaks.
    ii. Paraeducator support during recess for safety.
    iii. Paraeducator support during specials.
    iv. Offer a snack.
    v. Provide flexible seating. (P25)
aa. Positive Interventions:
    i. Opportunity to earn preferred activities for completing tasks/assignments.
    ii. Use a reward system with stickers or punch cards. (P25)
bb. Direct Treatment:
    i. A Punch card system used to earn a prize after ten punches.
    ii. Accepting Adult Decisions. (P26)
cc. Strategies for immediate safety: (addressed in the amendment dated October 1, 2025) (P27)
dd. Emergency management procedures:
    i. If the Student is physically aggressive to a peer, they will be referred to the office.
    ii. If the Student is physically aggressive toward an adult, they will be directed to the TAR. Emergency management procedures may be used to escort the Student if they are non-compliant and continue to aggress toward staff.
    iii. When the Student is physically aggressive, they will remain in the self-contained ED classroom for the remainder of the day.

iv. If the Student is verbally aggressive toward peers, they may be referred to the office, and in-school suspension may be considered. (P27) (D40-D47)

IEP Meeting Notes dated October 1, 2025, indicated:

ee. The team agreed the Student did not have to have four consecutive days at 75% to earn a day off, and any attempt at or actual physical aggression would keep that day from counting toward a day off. (D217)

ff. The Parent shared the Student had described feeling alone and having no friends. (D218)

gg. The Team discussed safety with hoodies because of the incident earlier in the year. The Parent stated they will limit the Student's access to those items. (D218)

hh. The Special Education Teacher proposed they include more breaks for the Student at appropriate times because the Student was using breaks to "get out of classroom activities." (D218)

ii. The Team agreed to align the Student's behavior chart more closely with their BIP. (D218)
On October 1, 2025, a PWN was provided, which summarized the changes made to the IEP that were needed to "enable this [S]tudent to meet the measurable annual goals set in the IEP and to participate as appropriate in the general education curriculum." (P6) The Parent provided consent for the changes. (P10) (D59-D62)

12. On October 6, 2025, the Student's daily behavior log indicated during math and during the following period, the Student hit staff, banged their head, cussed at staff, and threw chairs. Notes indicated although the Student met their daily averages, that day did not count toward their goal to earn a day off. (P50)
13. On October 7, 2025, the Student's daily behavior log indicated the Student did not meet their goals in any area and earned the following scores: 42% for keeping their hands to themselves; 50% for using safe or harmless language in front of peers; and 75% for staying in the assigned location. According to the data, the Student cussed and argued with the General Education Teacher, threw objects, knocked over chairs, eloped two times, screamed, cried, hit staff, took peers' belongings, called peers names, licked electrical outlets, and flipped a desk. (P49)
14. On October 21, 2025, a behavior data log indicated between 8:56 a.m. and 10:04 a.m., the Student used verbally aggressive language toward themself, including phrases such as, "I'm going to kill myself," and "I'm retarded, a piece of shit, and no one likes me." Additionally, during this time, the Student knocked over chairs, slammed doors, tried to elope, turned off lights, hit the Social Worker, and choked themself. (P46)
Staff responded to the Student's behavior by setting a timer, stopping the Student from leaving the room, removing the Student's hands from their neck, offering the "BB", and stating the Student needed to "do three minutes at the back wall" to show compliance. (P46)
The daily behavior log for this date indicated the Student also engaged in aggressive

behaviors, including tearing up data sheets, "screeching," yelling, and name-calling peers. They did not meet their goal of using "safe/harmless language" in front of peers. (P47)

15. On October 22, 2025, the Student's daily behavior log indicated they did not meet their goals during lunch recess and were sent home. Prior to that, the Student had met all of their goals for all time periods. (P48)
16. On November 11, 2025, behavior data indicated the Student eloped from the General Education Teacher's classroom and went to room 408, where they refused to leave. While in classroom 408, the Student engaged in "self-injurious" behavior, which included choking themself with their hands, pushing the chair seat into their neck with force, and demonstrating physically aggressive behaviors while staff were intervening. The Student also repeatedly stuck their fingers into the electrical and internet outlets, put a push pin in their mouth twice, and tried to swallow it. The Student was verbally aggressive toward staff, banged their head on the wall, and kicked the wall, specifically targeting a previously damaged section of the wall. (P39)
17. On November 20, 2025, a Safety Plan was developed for the Student, which listed the following information:
    a. The Student's strengths included strong support from their family, services provided by the Mental Health Center, and feeling safe in their home. (D213)
    b. The Student's coping strategies included telling someone if they have the urge to place something in their mouth or to harm themself. (D213)
    c. The Student described the Parent and providers at the Mental Health Clinic as people they could reach out to for help. (D213)
    d. Steps to maintain safety included the Parent being available to help monitor for safety and support. The Student would continue to go to their mental health appointments and take their medications as prescribed. Additionally, the Student would use their coping skills, use family supports, and the crisis line as needed. (D213)
18. An undated behavior data sheet indicated the Student said, "I'm going to kill myself." They then got tape and wrapped it around their eyes and nose. The Student called themself "a piece of shit" and used other name-calling. Additionally, the Student engaged in verbally aggressive behaviors, hitting and cussing at staff, and putting their fingers in phone port outlets. (P40)
19. An undated behavior data sheet indicated the Student attempted to elope while with the Social Worker and stated the Student made it outside. The Social Worker brought them "right back in." After the elopement, the Student attempted to choke themself and hurt themself multiple times, and the Social Worker "stopped it each time." (P43)
20. In an undated text thread between the Parent and the Principal, the Parent was notified of the Student's behavior, which included putting a screw in their mouth and refusing to take it out until they could talk to the Parent. The Principal indicated they were able to get the screw away from the Student, the Student was calm, and they were going to class. (P51-P53)

Parent Interview

21. In an interview with the Complaint Investigator, the Parent confirmed their role as the Student's Parent. (P1, 01:09)
22. The Parent explained the Student had a safety plan as part of their IEP. They stated it included removing any items that could harm the Student or the Student could use to harm themselves. (P1, 01:34) The Parent explained the Student was suicidal, and staff knew the IEP stated they were supposed to "make sure [the Student] cannot harm [themself]." (P1, 02:53) The Parent explained the Student had been harming themself at school since September and had a safety plan since they were in third grade. They added the safety plan had been updated around the crisis calls and stated it was always "pretty much the same." The Parent stated they shared the safety plan with the school every time there was a "crisis call." (P2, 04:04)
23. The Parent explained they updated the Safety plan in October because the Student was meeting their goals on the behavior chart with about 73%. The Parent stated they added the safety plan to the IEP at the same time. They shared the meeting was on October 1, [2025], but the Parent didn't receive the paperwork to sign until October 11, [2025]. (P3, 11:30)
24. The Parent reported the LEA didn't cover the outlets in the Student's classroom, even though the Student would lick them. (P2, 08:15)
25. The Parent described several incidents that took place at school involving the Student harming themself. The Student was able to grab a hoodie, wrap it around their throat, until they went limp. Staff intervened after the Student "passed out." The Parent stated they were not contacted "for over two hours after the incident happened." (P1, 01:34) The Parent indicated there was no medical report filed after the incident, adding the only paperwork they got was a piece of paper with a description of what had happened. (P4, 14:51)

    The Student removed screws from a desk because they were loose. The Student put the screws in their mouth and attempted to swallow them. The Parent stated they requested the screws be tightened, and it took getting a hold of the Superintendent before it was fixed. They added the Student got hold of a screw two times that week. (P1, 02:53) The Parent stated the Superintendent told them staff couldn't remove items from the Student's classroom because it was not a "behavior room." (P2, 09:48)

    The Student choked themself with their hands until their face turned red before the staff could get the Student's hands off their throat. The Parent stated staff observed the Student hurting themselves before taking action. The Parent added staff were trained to restrain for immediate safety reasons, had the parent's permission, and were expected to do so rather than allow the Student to continue harming themselves. (P2, 08:15)
26. The Parent confirmed they were removing the Student from school to keep the Student safe. They added the Student would be starting online school after the Christmas break. (P2, 09:48)

Principal Interview

27. In an interview with the Complaint investigator, the Principal described the safety precautions staff took in the classroom to keep the Student safe. They indicated staff took "all safety precautions." They explained the staff also responded and communicated with the Parent appropriately, depending on the situation. (P1, 01:48)
28. The Principal explained the Student was with an adult or under supervision in their general education classroom, and the Student had a one-to-one ratio in the academic resource room. They added the Student had access to the behavioral resource room if needed. (P1, 03:03)
29. The Principal stated the Student did not want to be at school, and the Student knew "certain words and actions to do" that could lead to removal from school. (P2, 03:49) They shared the Student struggled with attendance and believed the Parent was "battling" the Student's desire to be at home. (P2, 04:47)
30. The Principal described the Student's behaviors as involving language such as, "I'm going to hurt myself. I'm going to harm myself. I don't feel safe." Additionally, the Student would engage in behaviors where they would put items in their mouth and threaten to swallow them, such as screws. (P2, 05:32) They described the Student attempting to "drink" the liquid from a dry-erase marker and stating, "I'm going to drink this so I kill myself." (P2, 06:34)
    The Principal confirmed the Student engaged in choking themself with their hands and other objects "pretty often." They described the staff response as taking the Student's hands down or removing the sweatshirt. They clarified they never felt the Student required medical attention for anything they had done physically. They added the only thing they recommended was a mental health crisis screening for the statements or actions. (P7, 24:23)
31. The Principal stated, although the Student engaged in unsafe talk and behaviors, there was a "motivating factor," or the Student was trying to gain access to something. They confirmed they took it seriously every time by having an adult present and by never leaving them unattended. (P4, 14:28)
    The Principal noted the Parent was upset because the Student was gaining access to objects and indicated that would be an "unreasonable" expectation in a school environment. They added the Student used their hands and a sweatshirt, suggesting there was "always something" the Student could access if they were "in that state of mind." (P8, 27:40)
32. The Principal stated they communicated verbally with the Parent when safety incidents occurred. They recalled an incident when the Student wrapped a sweatshirt "fairly tight" around their neck, adding they were around adults the entire time. The Principal confirmed they met with the Parent in person to discuss the incident after the Parent requested the meeting. (P5, 15:41)
    The Principal indicated the staff wrote down "certain words" that could be "interpreted or miscommunicated" and stated they told staff to be "very intentional" about the mode of communication and how they were communicating it. (P5, 16:45)

The Principal shared the Parent was concerned because they weren't notified until the end of the day, rather than when it happened. The Principal indicated they interviewed staff who stated they did not have "a medical or a safety concern for the [Student]" following the incident.

33. The Principal noted they felt they needed to communicate with the Parent to let them know what was happening, and to do so in a way that was "effectively" conveying what needed to be shared. (P5, 17:43) The Principal added the Student's plan indicated they were to have daily behavior charts sent home, and confirmed they made sure this was happening after the Parent notified them they weren't receiving them daily. (P5, 18:38)
    The Principal confirmed daily communication occurred through the behavior teacher and stated they would make a phone call in the event of a crisis safety situation. The Principal stated they and the Parent agreed the Principal would text the Parent as soon as they knew the Student was safe to reduce the Parent's anxiety, rather than receiving a call from the School. (P6, 21:17)
    The Principal stated ESI was separate from the Student's plan and was taken as needed. (P8, 28:35) They described, in general, they used ESI when a Student was being extremely dangerous or was going to cause immediate harm. They noted in those cases, they would use seclusion or a restraint, and all the incidents would need to be documented and communicated to the parent. The Principal recalled there was a "very small amount" of seclusions recorded for the Student during the Semester and indicated they would all have been given to the Parent on the day of the incident. (P8, 29:01, 30:01)
34. The Principal stated during both the incident on November 18, 2025, when the Student tried to swallow push pins, and during the incident on November 20, 2025, when the Student tried to swallow loose screws from the desk, there were multiple staff present and noted the Student willingly handed the objects over "after a certain point." The Principal stated the Student used them as a negotiation tactic. The Principal said the Student told them, "You know I'm not really going to swallow this." (P7, 25:43)
35. The Principal stated the Student was lying on their stomach and placed the objects in the front of their mouth. They shared they talked the Student through the situation until the Student was calm and regulated, and then the Student handed the objects to the Principal. The Principal stated the Student was seeking attention, and they gave it to the Student in that moment so the Student could regulate and move on to the next thing. (P7, 26:44)

Superintendent Interview

36. In an interview with the Complaint Investigator, the Superintendent confirmed the people on the recorded phone call on November 20, 2025, were the Superintendent, the Parent, and the Director. (P1, 01:01, P2, 04:57)
    They stated the Parent had requested the meeting to discuss what was going on at school with the Student and their safety. The Parent mentioned they were waiting for the Student to be screened by mental health. (P2, 04:07)

37. The Superintendent described the best way to ensure the Student's safety at school was by having "active supervision" of the Student. They stated in all cases brought to their office, there was always adult supervision. (P2, 05:54)
    The Superintendent stated they told the Parent they did not believe the Student could create an unsafe situation with their own hands and added they could de-escalate a situation "far better" through communication than through hands-on intervention with a student. They said they wouldn't intervene physically until it got to the point where they felt like the Student was "truly unsafe." (P2, 06:50)
    The Superintendent explained the law stated they couldn't use ESI unless there were an immediate danger or harm to the Student. They indicated staff had to make their "best judgment" at the time to determine whether there was immediate danger. The Superintendent stated they did not believe any of the incidents involving the screws, sweatshirt, or the Student's hands required physical intervention. (P3, 07:48) The Superintendent stated they felt the safest place for the Student was at school every day. (P3, 10:20)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #413, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP, specifically by providing a safe educational environment and all necessary safety-related supports and services as written in the IEP. K.A.R. 91-40-16(b); 34 CFR § 300.323(a)(c)(2).

According to K.A.R. 91-40-16(b), each agency shall ensure that an IEP is in effect before special education and related services are provided to an exceptional child. Those services for which written consent has been granted as specified by law must be implemented not later than 10 school days after parental consent is granted unless a reasonable justification for a delay can be shown. An IEP must be in effect for each exceptional child at the beginning of each school year. The child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider must be informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged the School was not keeping the Student safe, not following the IEP regarding removing objects to prevent immediate safety issues for the Student, and not following the safety/crisis plan that is part of the IEP.

The LEA responded they had fully implemented the safety plan as developed by the IEP team. Staff had taken proactive steps to maintain a safe learning environment, including inspecting classroom furniture for loose screws, removing or securing potential hazards, and ensuring that the physical environment remained appropriate given the Student's identified needs. The

LEA maintains the measures were consistent with the LEA's obligation to provide a safe educational setting while implementing the IEP with fidelity. The LEA further stated all actions taken had been consistent with the IDEA requirements and the guidance outlined in the Kansas Special Education Process Handbook.

The "deference" the United States Supreme court instructs that is to be given to school officials on these matters occurs when school districts have a "a cogent and responsive explanation for their decisions." In this case, the school officials have provided that cogent and responsive explanation for their decisions.

The evidence indicates this Student was never left alone, was under constant observation, and staff used their "best judgement" to determine whether the Student was "truly unsafe." ESI was used on two occasions when staff made the judgement that intervention was necessary.

The evidence further indicates that the Student has used this behavior as a "negotiating tactic," and on at least one occasion admitted that, "You know I'm not really going to swallow this." The Principal correctly noted that removing every conceivable object that could be used for self-harm would be an "unreasonable" expectation in a school environment" and that there was "always something" the Student could access if they were "in that state of mind."

All of these observations by the school officials are valid points. Equally valid is the observation that immediate physical intervention when there is no immediate danger to the Student is not permitted by law. Hence, other techniques must be attempted before using physical restraint. In short, school districts are not required by special education law to completely insolate a student from the physical school environment, even if that was possible. Perhaps a more restrictive environment should be considered for this student (of course that would require parent consent).

The allegation that the district failed to implement the Student's IEP, specifically by not providing a safe educational environment and all necessary safety-related supports and services as written in the IEP is not substantiated.

Corrective Action

Information gathered in the course of this investigation has not substantiated noncompliance with special education statutes and regulations. No corrective action is required. It is suggested that if the IEP team believes the present school environment is unsafe for this student the Team should consider alternative environments.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #383
ON DECEMBER 9, 2025

DATE OF REPORT: JANUARY 16, 2026

This report is in response to a complaint filed with our office on behalf of a student, ------ by their parent, ------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #383, Manhattan-Ogden Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #383.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on December 9, 2025, and the 30-day timeline ended on January 8, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #383, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), reviewed and revised the Individualized Education Plan (IEP), as appropriate, to address the results of an external evaluation and information about the Student the Parent provided. K.S.A. 72-3429(f)(2), K.A.R. 91-40-16(a)(b)(1); 34 CFR §300.324(b).

ISSUE TWO: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, ensured the placement decision was made by a group of individuals who knew the Student, the evaluation data, and the placement options when they decided not to change the placement as requested by the Parent and recommended by the Student's psychiatrist. K.A.R. 91-40-21(a)(b)(c)(1)(2); 34 CFR §300.327.

ISSUE THREE: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, ensured that each teacher was informed of their specific responsibilities related to implementing the Student's IEP, as well as the specific accommodations and modifications the Student required, specifically related to assistive technology and workload reduction. Whether the LEA followed the Student's accommodations when it denied the Student access to school activities due to missing assignments. K.A.R. 91-40-16(b)(3); 34 CFR §300.323.

ISSUE FOUR: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided a Progress Report that included a description of how the Student's progress was measured in accordance with the Student's IEP. K.S.A. 72-3429(c)(3); 34 CFR §300.320(a)(3).

ISSUE FIVE: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided the Parent with prior written notice (PWN) that contained all required components and was specific to the Student's individual circumstances. K.A.R. 91-40-26; 34 CFR §300.503(b).

ISSUE SIX: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided the Student a Free Appropriate Public Education (FAPE) and met the services listed in the Student's IEP, including accommodations and assistive technology. K.A.R. 91-40-2; 34 CFR §§300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on January 7, 2026. The following LEA staff were interviewed on January 8, 2026: the Case Manager, the Director, the Coordinator, the Principal, and the Assistant Principal.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. District Response, 12/12/25
2. Teacher Information Page, 05/05/25
3. Adopted Individualized Education Plan, 05/05/25
4. Staffing Summary, 08/19/25
5. Accommodations Letter, 08/04/25
6. Prior Written Notice, 08/19/25
7. Prior Written Notice, 08/20/25
8. Prior Written Notice, 12/03/25
9. Updated Diagnosis Summary/Treatment Plan for [the Student], no date
10. Phone Notes, 07/23/25

11. Prior Written Notice, 12/03/25
12. Prior Written Notice, 12/03/25
13. Prior Written Notice, 10/03/25
14. Daily Schedule - Teacher/Para Coverage and Pullout Time, no date
15. Parent Teacher Conference Attendance Sheet, 09/24/25
16. Meeting Attendance/Agenda/Notes, 08/20/25
17. Meeting Attendance/Agenda/Notes, 09/15/25
18. Meeting Attendance/Agenda/Notes, 10/08/25
19. Meeting Attendance/Agenda/Notes, 10/27/25
20. Meeting Attendance/Agenda/Notes, 12/08/25
21. Emails between the Parties dated 03/14/25-12/09/25
22. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent, 08/20/25
23. Accommodation Log, 2025-26 School Year
24. Prior Written Notice, 08/27/25
25. Student Progress Report, 03/24/25-05/23/25
26. Screenshot of Grade Report, Quarter 1 of 2025-26 School Year

Background Information

This investigation involved a middle school-aged student who was newly enrolled at Eisenhower Middle School in USD #383 for the 2025-26 school year. The Student is currently receiving special education or related services as a child with a disability per the IDEA. The Parent contacted USD #383 multiple times prior to the Student's enrollment and was particularly interested in the Student being provided with smaller school setting. The Student enrolled on July 30, 2025 and school started on August 12, 2025. The LEA accepted the Student's eligibility and transfer IEP from the Former LEA, which was in-state, and held an IEP meeting shortly after school started.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. In an undated Diagnosis and Treatment Plan from the Psychiatrist, the Student was diagnosed with "generalized anxiety disorder" (GAD) and "Post-Traumatic Stress Disorder" (PTSD).
2. In a March 14, 2025 email to the Parent, the Coordinator thanked them for the conversation "today" and encouraged them to reach out with "any other questions or concerns."

3. In a May 5, 2025 PWN, the Former LEA proposed changes to the IEP, not involving services or placement.
    a. The PWN noted a May 5, 2025 meeting to review data and determine any additions, changes, or modifications needed for the IEP.
    b. The description included the specific changes to Specially Designed Instruction (SDI) in the IEP.
    c. The explanation was "[The Student's] IEP has come due and [the Student] continues to show a need in reading and math remediation skills."
    d. Options considered were the Student having a study skills class, but this was rejected due to the Student wanting to continue with two electives within the general education setting.
    e. The data used were the Student's reading program scores, curriculum work, assessment program scores, and progress reports.
    f. The request for consent was signed by the Parent on May 6, 2025. The delivery page indicated the Former Case Manager sent the PWN with the Student on May 2, 2025.
4. A May 5, 2025 Conference Summary IEP Team Considerations documented the Student's IEP meeting and noted the Parent "stated concerns about [the Student] doing fine on daily work but then performing poorly on quizzes" in science class. The Parent also "requested a 'translation' pen to help [the Student] read individual words," and the Former LEA agreed to purchase one for school use and amend the IEP "to reflect use of [the] translation pen" when the pen arrived.
5. The Student's May 5, 2025 IEP listed a primary disability of Other Health Impairment (OHI) with the most recent evaluation being completed on May 7, 2024. The IEP included the following relevant information:
    a. Parent input was to "discuss assistive technology and supports for school personnel."
    b. The Student required a goal in reading because their "dyslexia shows in [the Student's] ability to read accurately and fluently." The Student was "at least two to three grades lower than that of [their] peers in reading skills." The reading goal was:
        i. "In 36 instructional weeks, [the Student] will read at 90% accuracy in digraph[s], vowel teams, and blends in sentence form from a set list in a literacy program in two out of three trials." There are four benchmarks for the reading goal.
    c. The Student required a goal in math because they were "more than two grades below the level of [their] peers" and their dyslexia "hinders [the Student's] ability to read numbers in the correct order." The math goal was:
        i. "In 36 instructional weeks, [the Student] will solve 4th[-]grade geometry problems with 70% accuracy based on 2 out of 3 trials." There were four benchmarks for the math goal.

d. The Student required a goal in written language because they struggled "with the words that [they] cannot decode phonetically and irregularly spelled words" and they are "at least two to three grades lower than that of [their] peers in writing skills." The written language goal was:
    i. "In 36 instructional weeks, [the Student] will spell digraphs, vowel teams, and blends, from a set list in a literacy program at 90% accuracy in two out of three trials." There were four benchmarks for the math goal.
e. Accommodations, modifications, and supplementary aides for the duration of the IEP included the following for all core subjects:
    i. Break down directions, when multi-step directions were given, one to two directions at a time;
    ii. Directions in order, when multi-step directions would be misunderstood in the sequence, until the task was completed;
    iii. Simplified writing answers, when answers were to be in complete sentences, unless being assessed for complete sentence writing, until the writing was completed;
    iv. Preferential seating, with a seat close to the teacher or door in math/reading, during the class period;
    v. Quiet location for testing, for any assessment, until the assessment was completed; and
    vi. Assignments and assessments were to be read aloud when the assignment or assessment was at grade level, until the assignment or assessment was completed.
f. Additional accommodations, modifications, and supplementary aides for the duration of the IEP included:
    i. Modified notes, when note-taking was more than five continuous minutes, "up to 50% filled in of that of a peer," for science and social studies;
    ii. Speech to text, when paragraph writing was presented, until the paragraph was completed, in English Language Arts (ELA); and
    iii. Math manipulatives, when math computations were presented until math computations were completed in math and science.
g. Assistive Technology Services/Devices included the use of a translation pen when the Student was working independently, in all of their classes, during the Student's "choice and however long [the Student] needs it," from August 11, 2025 through May 4, 2026. It was noted during a team meeting the use of the translation pen was to "help create independency [sic] in reading materials," the pen would be purchased for the 2025-26 school year, and the pen would be for "school use only."
h. Special education and related services for the duration of the IEP included:

   i. In-class support, "Special Ed[ucation] Direct Services in Reg[ular] Ed[ucation] Classroom," for 75 minutes, 5 days per week.
   ii. Pull out services, "Special Ed[ucation] Classroom in Reg[ular] Ed[ucation] Class Building," for 90 minutes, 5 days per week.

i. The Student would participate in the "general version of all assessments."

j. Beginning May 5, 2025, "[the Student] will have the opportunity to participate with non-identified peers in all general education classes and curriculum except for when [the Student] is pull[ed] for 90 minutes x 5 days a week for reading and math."

k. Beginning August 11, 2025, "[the Student] will have the opportunity to participate with non-identified peers in all general education classes and curriculum except for when [the Student] is pull[ed] for 90 minutes x 5 days a week for reading and math."

l. The IEP was signed by the Parent on May 6, 2025.

m. IEP meeting participants included the Parent, a general education teacher, a Former LEA representative, and the Former Case Manager. A copy of the IEP was provided to the Parent by the Former Case Manager on May 12, 2025.

6. The Student's Progress Report for the end of the 2024-25 school year indicated the Student was "Making Progress" on their reading and writing goals, and "Making Progress" with benchmark 1.1 for each goal, for "Period 4" of the 2024-25 school year. Each goal, along with benchmark 1.1 for the goals, contained comments and data specific to the Student's progress.
7. The Student's May 12, 2025 Progress Report for IEP Goals reported the following relevant progress:
   a. Reading Goal progress was listed as "moderate improvement" on May 1, 2025, March 31, 2025, and December 20, 2024. The report was "hand-delivered" on May 12, 2025 and April 1, 2025.
   b. Written Language Goal progress was listed as "moderate improvement" on May 1, 2025, March 31, 2025, and December 20, 2024. The report was "hand-delivered" on May 12, 2025 and April 1, 2025.
   c. Math Goal progress was listed as "mastered" on May 1, 2025, and "moderate improvement" on March 31, 2025, and December 20, 2024. The report was "hand-delivered" on May 12, 2025 and April 1, 2025.
8. In a June 12, 2025 PWN, the Former LEA proposed changes to the IEP, not involving services or placement.
   a. The PWN noted a June 12, 2025 meeting to review data and determine special education and related services, the appropriate placement, and any additions, changes, or modifications needed for the IEP.

b. Description: The Parent requested a due process hearing on June 3, 2025, and a team met to "resolve the issues that were listed in the request" on June 12, 2025.
    i. The proposed resolutions from the Former LEA were:
        1. An Independent Educational Evaluation (IEE) to take place right away;
        2. Removal of parts of the recent evaluation that referred to "lack of instruction"; and
        3. Compensatory services for January through May, 2024.
    ii. The proposed resolutions from the Parent were:
        1. The Former LEA would pay for a private school placement; and
        2. Reimbursement "for all tutoring done during the time that [the Student] was homeschooled."
c. The explanation for each of the proposals was as follows:
    i. For (i)(1), the Parent refused the IEE "because [they are] getting other testing" for the Student, they didn't want the Student to "go through testing again," and the Parent "stated that [they] didn't think it would change anything."
    ii. For (i)(2), the Parent refused the removal of the reference because it would not accurately reflect how the Parent "felt during the meeting," which was "being targeted for homeschooling [the Student]."
    iii. For (i)(3), the Parent refused the proposal of compensatory minutes because they were not going to send the Student to the Grade School. It was noted the Student "entered the [Former LEA] with an outdated IEP by 2.5 years" and the Former LEA was unsure of when the Student's teacher was made aware of the IEP, and also unsure how many minutes of services were served during the time prior to the evaluation being completed and the IEP being written, which was the reason for offering compensatory services.
    iv. For (ii)(1), the Former LEA refused to pay for private school tuition for the Student because the Student received a FAPE at the Grade School, made gains on IEP goals, passed their classes, and showed improvement on test scores.
    v. For (ii)(2), the Former LEA refused to reimburse for tutoring because the "tutoring was done while the Student was being homeschooled."
d. Options considered were to continue services at the Grade School, but the Parent had "exited" the Student.
e. The data used were the Student's evaluation report, progress reports, assessment program scores, and grades.

f. The other relevant factors section noted, "[The] harmful effect of not coming to a resolution is [that] now[,] the team will have to participate in a due process hearing."

g. The delivery page and request for consent did not include any writing or documented attempts.

9. On a July 23, 2025 "phone notes" call log, the Coordinator documented a call with the Parent. Notes included "Dr. recommended smaller school - PTSD- Dyscalculia- initial concern," "Agreed to send documentation," "Last Eval[uation] 2024," "Told [the Parent, the Student] must be enrolled," "wants [the LEA] to pay for [private school]," and "Probably recording me- did not disclose."

10. In a July 25, 2025 email to the Coordinator, the Parent attached "the new diagnosis" and asserted their desire to "go by the guidance and recommendations of [the Psychiatrist] … and request to have it added to [the Student's] IEP for [the Student] to attend a smaller school environment." They stated their preference for which school they wanted the Student to attend and added, "I don't see how [the School] can meet [the Psychiatrist's] recommendations and concerns for [the Student's] needs with this disability, without restricting [the Student's] environment." The Parent inquired whether they needed to wait until school started to have a meeting.

11. In an August 4, 2025 letter, the Speech Language Pathologist (SLP) declared their agreement with the Psychiatrist's recommendation for the Student to attend a "smaller, more supportive school setting." The letter consisted of general information about how PTSD can impact a student's functioning and noted the Student's recent diagnosis of PTSD and GAD.

12. In an August 11, 2025 email to 12 staff members, the Case Manager attached a document called "Infinite Campus Passport Access," which outlined instructions on how to access passports. The Case Manager informed them the document "shows how to get the passport if you need it for one of my students" and to let the Case Manager know "if you still aren't able to access any of my students." In an interview with the Complaint Investigator, the Case Manager described this email they sent to all the Student's teachers with specific instructions on how to access the passport, which included all the Student's pertinent IEP information.

13. In an undated document titled [the Student's] schedule, with "C" minutes referring to direct special education services provided within the general education classroom and "G" minutes referring to direct special education services delivered in a special education setting, the schedule was outlined as follows:

    a. "ELA" support from the Case Manager, "C→G";

    b. "Sci[ence]" support from an unknown staff member, "C";

    c. "Social Studies" support from the Case Manager and an unknown staff member, "C";

    d. "PE" without support listed;

    e. "[Learning Strategies] LS" with support from the Case Manager, "G";

f. "Math" with support from an unknown staff member, "C→G"; and

g. "3D Art" without support listed.

In an interview with the Complaint Investigator, the Case Manager described this document. "That was the hours that [the Student] had each class, and then what person was responsible for providing services that are in the IEP that hour. And so ELA, first hour was with me for the [direct services in the general education setting] and [direct services in the special education setting] split core model that we do. Second hour was science, and that one was with [a] paraeducator. Third hour was social studies, and that one was covered by a paraeducator or me on days that I had extra free time was caught up on stuff, PE doesn't have services, and Learning Strategies is [direct services in the special education setting] minutes with me. Math was [the] same as first hour where there's a [direct services in the general education setting] and [direct services in the special education setting] split core model that we do. 3D art does not have any service minutes provided in it."

14. In an August 19, 2025 Staffing Summary, the purpose of the staffing was an "IEP Meeting- Initial Placement." Those in attendance were the Parent, a LEA representative, the Case Manager, the Coordinator, and a general education teacher. Relevant discussion details were as follows:

    a. The Parent requested that the LEA pay for private school "due to PTSD diagnosis" and because the Student needed a "less stimulating, smaller environment" as determined by an outside therapist.

    b. The LEA cited "we have only known [the Student] for six days, and we don't have the data to support that this move is needed."

    c. It was noted the team wanted the Student to be in "the [Least Restrictive Environment] LRE and not isolated from peers," and they would monitor as the school year progressed.

    d. The Parent was "concerned about the risk of suicide."

    e. The LEA stated they would "not pay for a private school until there is evidence to [sic] need" and the Parent inquired what would determine need.

    f. The Parent asserted "[they do] not agree with this response."

    g. The Parent indicated the Student was still struggling with their locker and "is not able to communicate that with [an] adult."

    h. The Parent inquired what the LEA needed "to see to determine [the Student] needs an alternative" placement. The LEA cited they needed time to get to know the Student, understand their needs, and determine if the Student was making progress.

    i. The Parent reiterated the therapist's suggestion for smaller class sizes and asked the LEA to consider the alternative placement. The Case Manager recommended a release of information (ROI). The Parent did not believe the Student would show signs of "mental health struggles" at school.

15. In an August 19, 2025 PWN, the LEA proposed initial services and placement, along with a change in services.
    a. The PWN noted an August 19, 2025 meeting to review data and determine special education and related services needed and the appropriate educational placement.
    b. The description indicated the LEA was "accepting the IEP as written from [the Former LEA] with the proposal of an increase in [direct services in the general education setting] minutes." Minutes were described as "Special education services [direct services in the special education setting] for 90 minutes daily as long as school is in session. Special education services [direct services in the general education setting] for 120 minutes daily as long as school is in session."
    c. The explanation provided was the proposed services "best meet [the Student's] needs, while allowing [them] to spend as much time as possible in the general education setting."
    d. Options considered were "more or less time," but the proposed action would best meet the needs of the Student and the LRE.
    e. The data used were all from the Former LEA and included the Student's reading program scores, curriculum work, assessment program scores, and progress reports.
    f. Other relevant factors included potential harmful effects due to the "social stigma and/or absence of general education classroom activities."
    g. The request for consent did not include any signatures. The delivery page indicated the Case Manager emailed the PWN to the Parent on August 19, 2025.
16. In an August 19, 2025 email to the Parent, the Case Manager attached the PWN and parental procedures and safeguards, and included an ROI for the Student's service providers.

    The Parent replied on August 20, 2025, included the Coordinator, and indicated they were "not able to sign the PWN." They stated, "No goals have been listed, and there is no definition of success or failure during this trial period over the next month." They added they had asked about this "several times in the meeting and have yet to receive an answer." They closed with "I also have not given and do not give any permission for any unlicensed professionals, or school counselors, to visit with or discuss any mental health issues with my child."

    In the LEA's response to the complaint, it was noted the "documentation [provided] by the Parent consisted of partial and heavily redacted materials lacking identifying information for the evaluators or the facilities where the evaluations were conducted" and "the Parent declined to sign a release of information to obtain any additional records." They added "given that the documents received were incomplete, unverifiable, and in many parts redacted, [the LEA] could not legally or ethically rely on them as the basis for an IEP revision under 34 CFR §300.324(b)(1)."

17. In an August 20, 2025 PWN, the LEA refused to initiate or change the identification, educational placement, or provision of special education.
    a. The PWN noted an August 19, 2025 meeting to review data and determine special education and related services, the appropriate placement, and any additions, changes, or modifications needed for the IEP.
    b. The description indicated the LEA refused to assume financial responsibility for private school tuition because the LEA "is offering the Student a FAPE … The Student is new to the [LEA] and [the LEA] is currently implementing the Student's most recent IEP within the public school environment."
    c. The explanation of why this was refused noted, "Because [the LEA] is implementing the Student's IEP in a setting at a public school site that addresses [the Student's] needs, the obligation to fund a private school placement does not arise."
    d. Options considered were the Parent's request to fund private school, and this option was rejected "because the [LEA] is already providing an appropriate program and services in the [LRE] within the public school system."
    e. The data used was the Student's current IEP, enrollment records "documenting that the Student is new to the [LEA], and IEP team input from the most recent IEP meeting."
    f. Other relevant factors to the refusal included the LEA's commitment to collaboration with the Parent and to implementing the Student's IEP.
    g. The delivery page indicated the Director emailed the PWN to the Parent on August 20, 2025.
18. A series of note documents dated August 20, September 15, October 8 and 27, and December 8, 2025, included checkboxes for "attendance" with staff members' names (including the Case Manager and the Assistant Principal), and sections titled "Agenda," "Events," "Notes," and "Student Concerns." The Student was listed under "notes" or "student concerns" on the August 20, September 15, October 27, and December 12 documents.

    In an interview with the Complaint Investigator, the Case Manager described these documents as notes for "team meetings." The teams were made up of "four core teachers, the special education teacher, and then elective teachers," and "meet Monday, Wednesday, Friday, and discuss students in need. I get to let teachers know about upcoming IEPs, ask questions for data collection, [and] administration comes in, and they get their questions [answered] about student needs." The Director, who was an observer in the interview, noted this was an illustration of the LEA's process for "ongoing collaboration and consultation with general education teachers."
19. In an August 20, 2025 email to the Parent, the Director attached a PWN documenting a request the Parent made at an IEP meeting on August 19, 2025. "This notice serves to formally inform you that the district is denying your request for the district to assume

responsibility for private school tuition." A PWN and Parent Rights were attached to the email.

The Parent replied to the Director on August 22, 2025, and clarified they were not "just making a request" and the request was "based on recommendations of a smaller school environment, due to the diagnosis of PTSD and anxiety, directly related to [the Student's] school experience." The Parent reiterated the LEA's "knowledge of this is known and documented."

The Director replied on August 27, 2025 to "acknowledge" the email from the Parent and to "clarify" the LEA's obligations under state and federal law. The Director expressed the Student's progress would "continue to be measured using the data collected on the goals and objectives in [the Student's] current IEP. … data collected on those goals will be the basis for documenting progress over the next month." They reiterated no new goals were added to the IEP. They also explained the need for the Parent's consent to add "C" minutes (direct services in the general education setting) to the IEP.

The Parent replied on August 28, 2025 and stated they did not know what "'C' minutes or 'G' minutes refer to" and asked for clarification regarding the amount of time the Student was pulled out of class. They also asked if the Learning Strategies class was taking the place of an elective.

The Parent replied about two hours later and inquired why the Student was in their advisory class with the Case Manager, also in the Learning Strategies class, and "how much time each day is [the Student] spending with [the Case Manager] or other special education teachers and students?"

The Director replied on September 3, 2025, included the Case Manager and the Coordinator, and clarified, "'C' minutes refer to direct special education services provided within the general education classroom. … 'G' minutes refer to direct special education services delivered in a special education setting." The Director indicated the Student's IEP reflects "a balance" between the two types of minutes, and the Student was "not being removed from general education for three and one-half hours each day." They explained the "C" minutes (direct services in the general education setting) occur as direct services in general education, and the "G" minutes (direct services in the special education setting) continued to be 90 minutes, which was reflected in the IEP the LEA and the Parent both accepted. They clarified the Learning Strategies course to be for specialized instruction in skills such as organization, executive functioning, and curriculum support, and placement in that course was "an IEP team decision." They added, the majority of the Student's day was in general education and clarified their involvement in the process and in the meetings was a reflection of the LEA ensuring "accuracy and compliance when questions arise regarding placement, service coding, or funding." They reiterated the Parent's right to "ask questions, bring individuals of your choice to meetings, and participate in all decisions regarding [the Student's] education."

20. Accommodation Log checklists dated August 21 through November 21, 2025, listed the Student's IEP accommodations with a checkmark to note the accommodation was used

on the day and class "hour" listed. Accommodations on the checklist included "assignments and assessments read out loud," "break down directions," "math manipulatives," "modified notes," "one to two directions at a time," "preferential seating," "quiet location of testing," "speech[-]to[-]text," and "simplified writing answers." There were 64 school days represented, and the majority of the school days included documentation for Hour 1, Hour 2, Hour 3, Hour 5, and Hour 6.

21. In an August 27, 2025 PWN, the LEA proposed initial services and placement, and to make a material change in services.
    a. The PWN noted an August 19, 2025 meeting to review data and determine special education and related services, the appropriate placement, and any additions, changes, or modifications needed for the IEP.
    b. The description indicated the LEA was "accepting the IEP as written from [the Former LEA] with the proposal of an increase of [direct services in the general education setting] minutes listed below: Services: [August 12, 2025 through May 4, 2026]: Special education services [direct services in the special education setting] for 90 minutes daily as long as school is in session. Special education services [direct services in the general education setting] for 120 minutes daily as long as school is in session."
    c. The explanation of why this was proposed noted the team believed this best met the Student's needs and allowed them to spend "as much time as possible" in a general education setting.
    d. Options considered were more or less time, but the "proposed action is both appropriate and necessary to meet the Student's needs" in the LRE.
    e. The data used was the Student's data from the Former LEA.
    f. Other relevant factors to the proposal included a possible social stigma when services were provided, but this was "outweighed by the benefits" and necessary for the Student to receive a FAPE.
    g. The delivery page indicated the Director emailed the PWN to the Parent on August 27, 2025.
22. In a series of emails starting September 8, 2025, the Parent inquired with the LEA about a 504 evaluation. "While the IEP request was denied, I am requesting a 504 for more appropriate placement in a smaller school environment, due to the [Student's] diagnosis of PTSD and anxiety, directly related to school, as discussed with the Psychiatrist." The LEA staff connected the Parent with the School staff, who provided them with a form to complete.

    On September 9, 2025, the Director replied and added PWNs that had previously been provided and responded to the 504 request by sending "a separate email including you, our district 504 coordinator, and the [Principal]."

    On September 10, 2025, the Case Manager sent a meeting reminder and notice of meeting for the September 16, 2025 meeting.

The Parent replied to the Case Manager, the Director, and the Coordinator on September 11, 2025, that the time would work for them. They outlined their perception of requests being denied, so they were confused why the meeting was happening because they were "not clear on what we would be meeting to discuss."

The Case Manager replied on September 12, 2025, and stated the meeting was scheduled to discuss the Student's progress at the School and to "review data that has been collected based on [the Student's] current IEP."

The Parent replied the same day, inquired about progress reports, and asked to see the data that had been collected, in writing. They stated they were "still not sure if we need to keep this meeting." The Parent replied a few minutes later and requested "an accommodation log for August 2021- December 2023."

On September 15, 2025, the Parent emailed the Principal, the Director, and the Assistant Principal in the newly started 504 email chain and stated, "I have already had a formal evaluation with a diagnosis. I have sent that to the IEP team, do I need to resubmit to this team, as well?" They sent another email approximately one hour later, and added that the Psychiatrist "and team" attended an IEP meeting and introduced "this diagnosis and the diagnosis of dyscalculia." The Parent reported they had that meeting recorded, so "there will be no 'misunderstanding' of what [the Psychiatrist] told the [team]." They mentioned the "diagnosis of Auditory Processing Disorder (APD) should be in the school records from the previous school."

23. A September 16, 2025 Staffing Summary documented notes from a "staffing/case review" with the Parent, an LEA representative, the Case Manager, the Director, a general education teacher, and the Coordinator present. The Discussion details outlined the meeting as follows:
    a. The purpose of the meeting was to discuss the Student's progress and the Parent declined the invitation for the Student to attend.
    b. A teacher reported the Student was "turning in quality work," and "other teachers" reported the Student was "doing well." It was noted the Student was being provided with "read aloud and oral response" in social studies, and the Student was "able to advocate and ask for support when [they were] struggling in class."
    c. The Case Manager reported the Student was getting "63% accuracy" on their spelling goal, was working on their geometry goal in a general education setting, was earning "a 93% with [their] class in geometry," averaging 70% toward the current reading goal, and "doing well in progress toward all of [the Student's] IEP goals."
    d. There was discussion about the Student starting a support group for other students on IEPs. The Director shared how the Student could go about this, and also warned they needed "to be mindful of confidentiality."

e. The Parent asked about the translator pen, and it was noted the Student "does have this, but [they] also have a lot of resources on their school-issued iPad to help [them] access the general education curriculum."

f. The Parent asked about the Learning Strategies class taking place of an elective, and it was noted "the IEP team determines [the] appropriate placement for [the Student] and the pullout service." The Parent contended the Student needed a "mental break in order to access [their] education," and the Student wanted to take a choir elective for this purpose. It was shared the process was to review data and then determine if the Student's current placement "still continues to be the most appropriate placement."

g. The Parent shared concern that the team and the School staff would not see "the side of [the Student] when [they] struggle" and the Parent continued to be concerned about the Student's placement.

h. The Parent requested that the Student do a partial schedule of choir and Learning Strategies, and the Director noted consideration of "state requirements."

i. The Parent asked the team if they had observed the Student having difficulty hearing. Nobody had observed this, and they discussed the Student's accommodation of preferential seating.

j. The Case Manager noted their willingness to collaborate with the Parent, the Director asked the Parent about the request for accommodation logs, and "it was clarified that [the Parent] was requesting the IEP services." The Director agreed to send the information.

24. On September 24, 2025 there was an in-person parent-teacher conference with the Parent and the Case Manager. The District response noted "[The Student's] IEP progress report was reviewed with the Parent" during this time.

25. In an October 3, 2025 PWN, the LEA refused to initiate or change the identification, educational placement, or provision of special education.

    a. The PWN noted a September 16, 2025 meeting to review data and determine the appropriate placement and any additions, changes, or modifications needed for the IEP.

    b. The description indicated the LEA denied the Parent's request of splitting time in choir and Learning Strategies, and the Student would continue receiving services as written in the IEP because the placement "continues to provide the supports necessary for [the Student] to work toward [their] IEP goals to ensure a FAPE in the LRE."

    c. The explanation of why this was refused noted they carefully reviewed the Student's present levels of "academic performance, progress monitoring data, and classroom functioning" and determined:

        i. The Student continued to require the support of the Learning Strategies course to make progress in their IEP goals;

ii. Reducing Learning Strategies minutes would "diminish the instructional time needed to address [the Student's] identified areas of need";

iii. Learning strategies provided "specialized instruction and targeted interventions aligned with [the Student's] IEP," which was unavailable in another setting; and

iv. "Ensuring adequate access" to Learning Strategies was necessary for the LEA to provide the Student a FAPE.

d. Options considered were the Parent's request for split time in an elective and Learning Strategies, but this was "rejected because it would reduce the instructional time and individualized support" the Student required, would "risk regression on IEP goals," and the inconsistency would reduce access to SDI and "interfere with continuity of support." Maintaining Learning Strategies as currently written in the IEP ensured "consistency of service delivery, alignment with IEP goals, and compliance with FAPE requirements."

e. The data used were the Student's most recent IEP goals and objectives, progress monitoring data collected by special education staff, general education teacher input, and the Kansas Special Education Process Handbook.

f. Other relevant factors included the consideration of "parental input" and the "primary responsibility of [the LEA] to ensure [the Student] receives a FAPE in the LRE. The team believes that continuing Learning Strategies services best balance access to the general curriculum with the [SDI] required for [the Student's] educational progress."

g. The delivery page indicated the Director emailed the PWN to the Parent on September 18, 2025. There were no signatures on the consent page.

26. In an October 3, 2025 email to the Parent, the Director indicated "the team feels" the Learning Strategies class "continues to be the best course for [the Student]" to support IEP goals and provide services. The Director also explained that PWNs "can sometimes sound very formal," and asserted the LEA's intention was to "ensure clear communication while continuing to work in partnership" with the Parent.

    The Parent replied on October 6, 2025 and questioned the appropriateness of the Student's accommodations or the adequacy of instruction. They also inquired whether "other groups or individuals are singled out and lose the option" of an elective course.

27. In an October 20, 2025 email to the Case Manager, the Parent asked what "percentage [of the Student's] workload has been reduced."

    The Case Manager replied on October 24, 2025, and explained the two areas of modification for the Student were modified notes and simplified writing. For modified notes, "the IEP specifies [the Student] completes up to 50% of the writing done by [their] peers," and for simplified writing, there was not a specified percentage, but "I would estimate that it reduces [the Student's] workload by 50%." The Case Manager also noted there had been discussion of shortening assignments when the Student

shows mastery of a topic, which could "reduce the workload of an assignment by 23%-50%."

The Parent replied on October 27, 2025, and claimed the Student "was punished because [they] had missing work. At one point, 28 missing assignments. … You know [the Student's] struggling and, not only are no changes being made, [the Student] is being punished for not being able to keep up this workload."

28. In a November 14, 2025, 9:57 a.m. email to the Case Manager, the Parent requested specific items related to the Student's progress:
    a. "A clearly stated method of assessment" for each goal, "including baseline data."
    b. "A consistent schedule of progress reporting," at least every reporting period.
    c. "Actual data" included in the progress report, "not general statements."
    d. If "progress is not sufficient," have a prompt IEP team meeting.
    e. "I am requesting progress updates every 4 weeks," and alluded that the most recent report was "vague."

    The same day, in a 9:59 a.m. email to the Case Manager, the Parent made a formal request for "specific accommodations, supports, and assistive technology" for the Student. The Parent noted the Student's disabilities, "dyslexia, dysgraphia, and dyscalculia," and the impact on "reading, writing, and math." The Parent added the requested accommodations "fall within what is permissible under IDEA and Section 504." Supports requested were:
    f. "Reading Supports" for Dyslexia included 10 accommodations, three instructional supports, and four assistive technology supports;
    g. "Writing Supports" for Dysgraphia included nine accommodations, three instructional supports, and four assistive technology supports;
    h. "Math Supports" for Dyscalculia included nine accommodations, three instructional supports, and three assistive technology supports; and
    i. "General Accommodations" included preferential seating, frequent checks for understanding, clear and concise directions, organizational support, flexible scheduling, and, [the] ability to take tests in a quiet environment.

    The Case Manager replied on November 20, 2025 at 12:49 p.m., acknowledged receipt of "emails from November 14, 2025" regarding accommodation requests and progress reports, and assured the LEA would respond to the requests by December 5, 2025.
29. In a November 19, 2025, 8:04 p.m. email to the Director, the Case Manager, and the Principal, the Parent requested copies of "all records documenting the implementation of IEP accommodations for [the Student]." The Parent set the expectation of this being provided "within 10 school days of receipt of this request" and cited pertinent state regulations. The list of requested items included:
    a. "Daily, weekly, or cumulative accommodation logs maintained by any general education or special education staff";

b. "Documentation identifying which accommodations were provided, the dates on which they were implemented, the setting and class/subject, and the person(s) responsible for implementation";

c. "Records showing frequency, duration, method, or manner in which each accommodation was delivered";

d. "Any internal forms, checklists, electronic logs, digital records, or data tracking tools used by the district or by individual staff to monitor the provision of accommodations"; and

e. "Documentation of any omitted or missed accommodations, including explanations where available."

On December 1, 2025, the Director replied to the Parent, with the Case Manager and the Principal included, and attached the Student's "Daily Accommodation Log Tracker," which was the tool used to track and monitor the implementation of accommodations on the Student's IEP. The Director indicated this was a reflection of the LEA's "ongoing commitment to ensuring fidelity of implementation and compliance" with the Student's IEP.

On December 2, 2025, the Parent replied, "I am missing quite a bit of requested information here," and noted they only had "the attached accommodation log," and this was the second time they had made a request and not received information. They indicated the "last time I requested accommodations, you sent me the pdf of an IEP."

The Parent replied eight minutes later and requested "all IEP notes, correspondence and recordings from the IEP meetings in September and October. Including the email request to [the Teacher] to sponsor a group/club, as requested by [the Student]."

30. In a November 20, 2025, 2:44 p.m. email to the Case Manager, the Parent requested IEP accommodations for PTSD and Anxiety:

a. "Environmental and trauma-informed supports" to include access to a designated calming space, "trauma-sensitive classroom practices," and preferential seating.

b. "Academic supports" to include "reduced workload by 50% without reducing instructional standards across all subjects," "chunking and scaffolding of assignments," extended time for class work and tests, option for alternative formats to demonstrate mastery, copies of all class notes or guided notes, "avoid calling on [the Student] unexpectedly," and "reduced homework when [the Student's] disability limits stamina."

c. "Testing accommodations" to include small-group or individual testing environment, extended time, breaks during testing, a "quiet, low-distraction testing setting," and "avoid timed tests when possible."

d. "Emotional and behavioral supports" to include a written crisis and safety plan "with clear steps staff must follow during anxiety or PTSD episodes," "no disciplinary action for behaviors directly related to disability–based emotional

distress or fight/flight/freeze responses," and staff trained in trauma-informed approaches.

e. "Communication supports" include a private and non-verbal signal to request breaks and a regular communication log between school and home.

f. "Attendance and transition supports" to include flexibility with late arrival or brief absences, gradual transition plans following PTSD or anxiety episodes related to school avoidance, and "consideration of hybrid or temporary homebound instruction if recommended by [the Student's] mental-health provider."

The Parent also requested "any known triggers be documented in the IEP" and the LEA staff should "avoid actions or environments that escalate PTSD triggers." The Parent added they expected provision of "all evaluations, data, observations, or behavioral reports used to inform the IEP … at least 48 hours before the meeting."

31. In a November 20, 2025, 3:16 p.m. email to the Case Manager, the Parent requested the IEP team "review and include specific accommodations and supports" for the Student "who has a documented diagnosis of Auditory Processing Disorder (APD)." The Parent outlined the way APD impacted the Student and requested accommodations and supports "be considered and added to [the Student's] IEP": nine items related to "instructional presentation," four items related to "environmental supports," six items related to "assessment accommodations," six items related to "classroom and assignment supports," and four items related to "technology supports." The concluded by requesting an IEP meeting.

    The Case Manager replied on December 1, 2025, and provided the Parent with options for days and times to meet. On December 3, 2025, the Case Manager emailed a notice of meeting for December 12, 202,5 and added the Director and the Coordinator would be attending.

    The Parent replied on December 8, 2025 at 8:17 a.m., with the Director, the Coordinator, the Principal, and the Assistant Principal carbon copied, and asserted the Director and the Coordinator attending the meeting would be "considered harassment and bullying due to my asking for clarity, actual answers[,] and results." The Parent insisted they not attend and requested everyone in the IEP meeting "stay within view of the camera at all times," along with a "camera sweep of the room and the camera to face the door during the meeting."

32. In a December 3, 2025 PWN, the LEA refused to initiate or change services and proposed other changes to the IEP, not involving services or placement, along with a material change in services.

    a. The PWN noted a September 16, 2025 meeting to review data and determine special education and related services needed and any additions, changes, or modifications to the special education and related services.

    b. The description indicated the LEA "considered the Parent's request" for additional accommodations, supports, and assistive technology, and agreed to implement "extended time of 1.5 for reading and math assignments and

assessments." Additionally, the LEA refused to add additional accommodations or assistive technology beyond what was already included in the Student's IEP, "because these supports are already addressed through existing accommodations, instructional practices, or district-provided resources."

c. The explanation noted the team "carefully reviewed each request" and determined:
    i. Nine reading accommodations were refused, each with a specific reason, some of which described the accommodation already existed in the IEP.
    ii. One reading accommodation was "partially accepted," which was the 1.5 extended time. It was noted this accommodation would be added with parental consent.
    iii. Three instructional supports for reading were refused, each with a specific reason, some of which described the support already existed in the IEP.
    iv. Three assistive technology supports for reading were refused, each with a specific reason. One was addressed as refused in the reading accommodations.
    v. Nine writing accommodations were refused, each with a specific reason, some of which described the accommodation already existed in the IEP.
    vi. Three instructional supports for writing were refused, each with a specific reason.
    vii. Four assistive technology supports for writing were refused, each with a specific reason.
    viii. Eight math accommodations were refused, each with a specific reason, some of which described the accommodation already existed in the IEP.
    ix. One math accommodation was accepted for "1.5 [time] on math tasks and assessments."
    x. Two instructional supports for math were refused, each with a specific reason.
    xi. One instructional support for math was accepted, "included in text-to-speech support for assignments and tests with parental consent."
    xii. Six "general accommodations" requests were refused, each with a specific reason, some of which described the accommodation already existed in the IEP.
    xiii. It was also noted the Student "currently has access to the transcriber pen."
d. Options considered were "adding additional interventions or technology beyond what is already provided," but this was rejected because the existing accommodations, technology, and instruction "adequately meet [the Student's] educational needs."
e. The data used to make the decision included the Student's current IEP, progress monitoring data, teacher and service provider input, classroom performance

and assessment data, diagnostic testing data, instructional data, and the accommodation log.

f. Other relevant factors included the Student's continued progress toward IEP goals and their ability to access the general education curriculum with the current supports.

g. g. The request for consent did not include any signatures. The delivery page indicated the Case Manager emailed the PWN to the Parent on December 3, 2025.

33. In a December 3, 2025 PWN, the LEA refused to initiate or change services and to make other changes to the IEP, not involving services or placement.
    a. The PWN noted a September 16, 2025 meeting to review data and determine special education and related services needed and any additions, changes, or modifications to the special education and related services.
    b. The description indicated the District was refusing the Parent's request for additional progress reporting and documentation "beyond what is already provided in the Student's IEP and quarterly progress reports."
    c. The explanation of refusal outlined the Student's existing IEP, which included "clear progress monitoring procedures," reporting procedures, and timelines. The timelines were "consistent with district policy and practice," and "no additional documentation or reporting is necessary." It was also noted the Student was "making progress on all IEPs," which was reported to the Parent on the "current progress report during the first reporting period."
    d. Options considered were adding reports beyond what was already in place, but "this was unnecessary since the Student is making progress toward all IEP goals as documented through current data collection procedures."
    e. The data used to make the decision included the Student's current IEP, including progress monitoring methods and reporting frequency, the most recent progress on IEP goals, and "teacher data and ongoing instructional records."
    f. Other relevant factors included the Student's continued progress toward IEP goals and the timelines and reporting were "appropriate under district policy [and] IDEA guidelines."
    g. The request for consent did not include any signatures. The delivery page indicated the Case Manager emailed the PWN to the Parent on December 3, 2025.
34. In a December 3, 2025 PWN, the LEA refused to initiate or change services and proposed other changes to the IEP, not involving services or placement.
    a. The PWN noted a September 16, 2025 meeting to review data and determine special education and related services needed and any additions, changes, or modifications to the special education and related services.
    b. The description indicated the Parent submitted a written request on November 20, 2025 outlining "accommodations, supports, and services to address the

Student's diagnosis of PTSD and anxiety." The LEA noted they reviewed the request and "After careful review of the Student's IEP, progress data, and educational performance, the [LEA] is refusing to add all requested accommodations, supports, and services at this time, as educational data do not demonstrate a need for these additions." The description also noted "several of the requested supports are already included" in the Student's IEP, which included preferential seating, extended time, testing in a quiet environment, and clear/concise directions.

c. The explanation provided an outline of every request made, with a rationale for refusal.
    i. "Access to a designated safe/calming space" was refused because data does not support this need, and the Student was "able to access instruction appropriately without" this space.
    ii. "Trauma-sensitive classroom practices" were refused because they are part of district-wide social-emotional learning and "do not require specific documentation in an individual IEP."
    iii. "Preferential seating" was refused as a new request because it already existed in the IEP.
    iv. "Reduced workload by 50%" was refused because "This would constitute a curriculum modification, not an accommodation, and is not warranted based on current academic progress."
    v. "Chunking and scaffolding of assignments" was refused because this was already "part of regular instructional practice."
    vi. "Extended time for classwork and tests" was refused as a new request because it is already in the Student's IEP.
    vii. "Alternative formats to demonstrate mastery" was refused because "The Student's teachers already provide flexibility for demonstrating understanding."
    viii. Provide "Copies of all class notes or guided notes" was refused because the Student "already has access to teacher notes through [the Learning Management System (LMS)]."
    ix. "Avoid calling on [the] Student unexpectedly" was refused because staff are already monitoring this, and "no evidence indicates this requires" an IEP accommodation.
    x. "Reduced homework when stamina is limited" was refused because the Student "has demonstrated the ability to complete homework with existing supports."
    xi. "Small-group or individual testing environment" was refused as a new request because this was already documented in the IEP.
    xii. "Extended time for tests" was refused as a new request because this was already documented in the IEP.

xiii. "Breaks during tests" was refused because the Student "has not demonstrated a need for testing breaks," and teachers "may provide informal breaks as appropriate."

xiv. "Quiet, low-distraction setting" was refused as a new request because this was already documented in the IEP.

xv. "Avoid timed tests" was refused because "The curriculum and assessment procedures require some timed tasks [and] extended time addresses this appropriately."

xvi. "Written crisis and safety plan" was refused because the Student "has not exhibited school-based behaviors requiring a crisis or safety plan," and general behavior protocols would be "sufficient."

xvii. "Call [the] Parent during anxiety or PTSD episodes" was refused because the Student's data did not show "episodes requiring emergency parent contact," and staff provide support and communication through "established procedures."

xviii. "No disciplinary action for behaviors related to emotional distress" was refused because the LEA's behavioral response system "already accounts for disability-related factors when implementing disciplinary action."

xix. "Staff trained in trauma-informed approaches" was refused because this training was already provided to "all" LEA staff and "is not an individualized IEP service."

xx. "Private nonverbal signal to request help or breaks" was refused because no need had been demonstrated, and the Student "communicates effectively with teachers when support is needed."

xxi. "Regular communication log between school and home" was refused because the "current communication procedures between the school and family are sufficient" and the Student's needs "do not warrant a daily or formalized log."

xxii. "Flexibility with late arrivals or absences due to symptoms" was refused because attendance was addressed through LEA policy, and "no IEP-level accommodation is warranted."

xxiii. "Gradual transition plan following severe anxiety episodes" was refused because the Student's data "did not reflect attendance barriers or avoidance behaviors requiring transition plans."

xxiv. "Hybrid or temporary homebound instruction" was refused because the Student's "current data and provider documentation do not indicate a medical or educational need for homebound instruction."

xxv. "Documentation of triggers in IEP" was refused because the LEA "does not include trigger lists within IEPs" and "staff will continue to use professional judgment and knowledge of the Student to provide appropriate support."

xxvi. "Ensure staff avoid actions or environments that escalate PTSD symptoms" was refused because "this is part of general trauma-informed practice for all students, not an IEP-level accommodation."

xxvii. "Provide all evaluation data and reports 48 hours before [the] IEP meeting" was refused because the LEA "complies with IDEA timelines and will provide evaluation data consistent with federal and state requirements. The [LEA] will make every effort to get parent data and reports in a timely fashion."

d. Options considered were "adding the requested trauma-informed supports and accommodations to the IEP," but were rejected "because current academic and behavioral data do not demonstrate an educational need for additional supports."

e. The data used to make the decision included the Student's current IEP and progress data, classroom performance and teacher feedback, behavioral and attendance records, and information from previous evaluations.

f. Other relevant factors included the Student's continued progress toward IEP goals and their demonstration of "appropriate behavior and engagement in the classroom with existing supports." It was noted the LEA would continue to monitor progress and review accommodations.

g. The request for consent did not include any signatures. The delivery page indicated the Case Manager emailed the PWN to the Parent on December 3, 2025.

35. In a December 3, 2025 email to the Parent, with the Coordinator, the Director, the Principal, and the Assistant Principal carbon copied, the Case Manager attached documents as a response to the Parent's requests. They indicated, "'Progress Reports PWN' addresses the November 14 at 9:57 a.m. email. … 'Academic PWN' addresses the requests made in the email on November 14 at 9:59 a.m. … 'Social and Emotional PWN' addresses your requests made on November 20 at 2:21 p.m."

    The Parent replied on December 4, 2025 at 12:36 p.m. and stated, "Reducing the volume of work is an accommodation, not a modification." They explained the Student would still be "working toward the same standards, just with less repetition. The difficulty, content, and grade-level standards remain unchanged." They requested the LEA provide policy or law if "the team is asserting that workload reduction is illegal or not allowed." They contended "without a reduced workload, [the Student] cannot complete assignments independently or within reasonable time frames, which denies meaningful access to curriculum." "The lack of accommodation is what reduces access," and the Student "is already unable to access grade-level work at the current volume."

    The Parent replied the same day at 1:48 p.m. and noted the Student had "never been given access to use the transcriber pen" and requested a copy of the current IEP.

    The Director replied on the same day at 3:38 p.m. and addressed the Student's performance data, the request for reduced workload, and access to the transcriber

pen. "The school-based IEP team maintains that [the Student] is making appropriate progress in the general education curriculum with the accommodations currently documented in [their] IEP." They noted the request for reduced workload was "carefully considered," "the team determined that such a change would alter the amount and nature of grade-level content exposure, which could affect mastery of state standards," and reducing the volume of assignments would "modify the rigor of the curriculum and reduce opportunities to demonstrate proficiency." They reiterated the LEA "is implementing all accommodations and supports as written," which "includes access to the transcriber pen." The Director addressed the request for meeting recordings by attaching "staffing summaries" to the email because the LEA did not record meetings. The Director concluded, "At this time, based on the totality of available data and classroom performance, the IEP team determined that the current plan provides [the Student] with appropriate access to grade-level curriculum and constitutes the provision of [a] FAPE."

The Parent replied the same day at 5:02 p.m. with a repeated request, "If the team is asserting that workload reduction is illegal or not allowed, please provide specific [laws or policy] … stating [this would be] considered a modification." The Parent also re-asserted the Student did not have access to the transcriber pen and has "NEVER been given permission to use it or told it's available if needed. [The Student] has been shown the pen ONE time, by [the Case Manager]."

The Parent replied on December 5, 2025 at 8:20 a.m. and inquired if the LEA used Artificial Intelligence (AI) to generate their response and stated, "You don't even understand [the Student's] needs enough to genuinely respond!"

The Parent replied on the same day at 8:26 a.m. to "address several serious concerns regarding the lack of individualized data and the absence of evidence" after they reviewed the LEA's response. They contended the LEA's response did not contain "actual data" or "specific examples." They cited IDEA and the Kansas Special Education Process Handbook and indicated the LEA was not in compliance based on the data they provided. They addressed the workload reduction request with the assertion the LEA's response was "generic" and not reflective of the Student's "individual needs," "disability-related impact," or "actual performance in class." The Parent reiterated their request for "actual data and the evidence the team relied on to deny accommodations." They outlined four items they were requesting, which included "all data referenced in [the LEA's] decision," specific data to support the assertion workload reduction "would negatively affect [the Student's] access to grade-level content," a PWN documenting refusal "to provide the requested accommodation," and and explanation of "how the team determined that denying this accommodation" ensures the Student a FAPE.

The Parent replied on the same day at 12:20 p.m. and stated, "To continue with this shit show, I am writing in response to the [LEA's] statement that it has been and will continue using [the Student's] prior IEP and will not consider the three newly diagnosed disabilities because they were not part of the previously signed IEP." The Parent then outlined five IDEA and Kansas Special Education Process Handbook regulations. Within

the outlined regulations, the Parent indicated the current IEP did not reflect the Students "THREE newly identified disabilities, the educational impact of those disabilities, or the supports and accommodations required to address them." The Parent also "formally" requested the IEP team "review the three new diagnoses, discuss educational impact, determine needed supports, update accommodations/services, and revise goals where necessary." Last, the Parent requested, "in writing," exact legal citation to support the LEA's "position that new diagnoses can be disregarded because a prior IEP was signed" and LEA policy "stating that IEPs cannot be revised based on new disabilities after parent signature."

36. In a December 4, 2025 email to the Case Manager, the Parent noted the recent progress report stated the Student was making progress and requested measurable data or documentation of how the Student's progress was being determined. They outlined their request as follows and asked for the materials "before the scheduled IEP meeting":
    a. "All data used to determine progress for each IEP goal, including but not limited to: Progress monitoring charts, Data collection sheets, Work samples, Assessment scores, Any curriculum-based measurements, Notes or logs documenting performance over time."
    b. "An explanation of the method used to measure progress for each goal (frequency of measurement, tools used, criteria for mastery)."
    c. "Any evidence showing whether my child is on track to meet each annual IEP goal."
37. In a December 7, 2025, 10:14 a.m. email to the Director and the Principal, the Parent formally requested a PWN regarding the August 19, 2025 staffing/IEP meeting for the Student. They outlined the seven areas they wanted addressed in the PWN, some of which were procedural obligations for a PWN. Items specific to the Student included requests for: The LEA's "refusal to consider or implement a smaller class setting or alternative placement, including private placement, despite parent request"; "Refusal to implement additional or interim supports in response to diagnosed and documented anxiety, PTSD, and safety concerns"; "Any decision to delay changes to programming, placement, services, or accommodations based on the district's assertion that it 'needs more time/data."; "Whether the [LEA] suggesting outside evaluations related to anxiety, PTSD, ADHD, emotional regulation, or executive functioning"; Determination methods for evaluations not being warranted, "despite documented concerns"; and the response to the Parent's disclosure of the Student's suicide risk, including "whether a safety plan, risk assessment, or mental health referral was considered or implemented."

    The same day at 10:29 a.m. the Parent sent another email to the Director and the Principal and noted their formal objection to the September 16, 2025 staffing summary because the document did "not accurately or completely reflect the discussions, requests, or unresolved concerns raised during the meeting and cannot be relied upon as an accurate summary of the IEP team's actions." Specific disagreements outlined were: the document contained "conclusory statements such as 'doing very well' and 'making progress' without any supporting data"; "Multiple parent requests were

discussed, … yet no approvals or refusals are documented"; The document does not clarify which supports were "IEP-mandated accommodations" and which were "informal practices"; and "No decisions, rationales, or data sources are identified." The Parent concluded they "do not consent to [the staffing summary] document as a complete or accurate legal record of the meeting."

The same day at 10:34 a.m., the Parent sent another email to the Director and the Principal with converted discussions from the September 16, 2025 meeting "into formal written requests" and requested a PWN for each of the following requests:

a. "Written clarification identifying which accommodations discussed are mandated in [the Student']s IEP versus informal practices."
b. "Copies of accommodation/service implementation logs documenting delivery of IEP services."
c. "Objective data supporting claims that [the Student] is 'making progress' on all IEP goals."
d. "Review of placement appropriateness based on current academic and emotional functioning. **Specifically, at the time of this meeting."
e. "Consideration of [a] schedule accommodation, including access to choir while maintaining required services."
f. "Consideration of [the Student's] anxiety and fear of punishment related to disability-based workload difficulties."

The same day at 10:35 a.m., the Parent sent another email to the Director and the Principal and recalled the September 16, 2025 staffing where staff "repeatedly stated that [the Student] is 'doing very well' and 'making progress.'" The Parent subsequently requested baseline data, current performance data, frequency of progress monitoring, assessment tools or methods used, names/roles of staff collecting data, and work samples or objective evidence used to determine progress for "each current IEP goal."

The same day at 10:38 a.m., the Parent sent another email to the Director and the Principal and noted their disagreement with the staffing summary dated September 16, 2025. Specific disagreements outlined were "unsupported claims of progress," "failure to document parental requests and [LEA] responses," and "absence of measurable data."

The same day at 10:44 a.m., the Parent sent another email to the Director and the Principal and wrote a formal response to an August 19, 2025 "staffing summary," which was "intended to correct the record and document areas of disagreement, omission, and procedural concern." The email noted the staffing summary did not reflect "the substance or seriousness" of the Parent's concerns regarding the Student's "mental health, safety, and functional access to [their] education." They referenced concerns raised regarding suicide risk and emotional distress and noted the summary did not document any "safety planning, referrals, evaluations, or action steps in response." The Parent added the summary indicated data was lacking to justify the change in placement, yet did not specify what data was required. The Parent referenced the LEA's

mentioning of LRE "without documenting consideration of whether [the Student] is able to make meaningful educational progress" in the current environment. They concluded "I want to clearly state for the record that I do not agree with the [LEA's] refusal to consider alternative placements at this time, and I do not agree with delaying action based solely on the [LEA's] claimed lack of familiarity with [the Student]."

38. In a December 7, 2025 email to the Case Manager, the Parent reported the Student "was not allowed to participate in Fun Day, due to missing work." They requested "the reason for this punishment, in writing."
39. In a December 8, 2025, 11:19 a.m. email to the Director and the Principal, the Parent requested documentation showing when the LEA received "each new diagnosis," internal discussion and meeting notes "referencing them," a written explanation why the IEP "was not revised," and any decision "not to propose reevaluation" for the Student.
40. In a December 9, 2025 email to the Parent, with the Principal included, the Director indicated the LEA was "in receipt of your eight emails" dated December 7 through December 8, 2025, and they would be "answered within the State of Kansas guidelines." The Director outlined a communication plan "moving forward" and directed the Parent to contact the Principal for "building level questions about general education or questions about a teacher at [the School]," and to contact the Director for "IEP or special education related questions or requests." The Director contended both they and the Coordinator would attend the December 12, 2025 IEP meeting, the Parent had been notified, and the LEA would "do our best to have as many members as possible within the camera view."

    The Parent replied the same day and stated they would not be attending any IEP or other meetings with the School "until the investigation is complete."
41. The Student's 2025-26 school year report card indicated the following relevant grades:
    a. Language Arts- "A" for quarter 1, "A" for quarter 2;
    b. Math 8- "D" for quarter 1, "B" for quarter 2;
    c. Social Studies 8, "D" for quarter 1, "C-" for quarter 2; and
    d. Physical Science 8, "D" for quarter 1, "F" for quarter 2.

Parent Interview

42. In an interview with the Complaint Investigator, the Parent stated they had asked the LEA "for the entire semester" about the Student's access to the transcriber pen and had "always gotten a delayed response." They relayed the Case Manager showed the Student the transcriber pen on November 17, 2025, but the Student "did not get to keep the pen or use it. … [the Student] didn't even touch it on that date." They added their request for an accommodation for text-to-speech was "denied" because the Student "had this transcriber pen that [they were] not allowed to use." They added the Student currently has use of the transcriber pen, which started "the first day back after Christmas break."

43. The Parent indicated the Student was "not allowed to participate" in an end-of-quarter "fun day" because they had missing assignments. They noted the Student "consistently has missing work [and] [the LEA] refuses to give [them] workload accommodations, a reduced workload. … They will not adjust [the Student's] accommodations for reduced workload, even though [the Student] is clearly struggling." The Parent expressed the Student's discouragement they will "never get caught up" and reiterated this was a "standard accommodation … and they refuse [to provide it]."
44. The Parent claimed the Learning Strategies class was a "study hall" that was "only for special education kids" and it was a "requirement" for the Student to be in it, instead of "picking a second elective." The Parent indicated the reason the Student had the class was the LEA's "data didn't support that [the Student] didn't need it." They explained the LEA denied the Student accommodations because they are "making progress and [the Student] doesn't need them," but the LEA "won't let [the Student] out of Learning Strategies for [their] second elective because [they] need it. … It's like a dumping ground … that's where they get a lot of their service minutes. That's why they keep them in that class. … So all those kids get all their service minutes in that one class."
45. The Parent asserted they did not follow through with a 504 process for the Student because they "do not trust the School or their evaluations." They added they "record everything," including IEP meetings, because they believe the IEP meetings and evaluations are not "fair."
46. When asked about the allegation of PWNs not being individualized to the Student, the Parent claimed they were AI-generated and stated, "It's very generic information. … It's not telling me anything. … It's just like the same style of writing."
47. The Parent expressed frustration they got two outside experts to attend the Student's IEP meeting, and the LEA did not ask them any questions, "they were dismissive of them," and the Parent claimed the LEA also did not ask questions of the Parent.
48. The Parent reported the LEA "won't update [the Student's] IEP" with the dyscalculia diagnosis, the PTSD, and anxiety. They read aloud excerpts from the IEP regarding the Parent sharing concerns about math and wanting the Student to have access to tools. They expressed frustration this was not just "concerns about math" as the IEP reads, but was a "diagnosed learning disability." The Parent stated, "[The LEA is] downplaying everything I bring to the table. And after all three of those diagnoses, they will not update [the Student's] IEP. I'm not signing a [PWN]. I want the IEP updated, not just [the Student's] service minutes. [The Student] should be able to start working more independently if [they] want to. So I don't trust them to provide [the Student] [with] basic accommodations."
49. The Parent claimed the Student's IEP meeting was "pointless" because "it was supposed to be to discuss [the Student's] placement, which [the LEA] denied two days after saying they needed more time." They noted the Psychiatrist was in that meeting, "was not happy," and felt like it was "a waste of time" because "they didn't ask [the Psychiatrist] anything." They added "the second September IEP meeting was basically a parent-teacher conference."

50. The Parent shared their frustration with the Case Manager being dismissive about the Student's difficulty with opening their locker because the Student "struggle[s] with dials." The Parent stated, "I tried to tell them [the Student] needs help with [their] locker," and "they did nothing."

Case Manager Interview

51. In an interview with the Complaint Investigator, the Case Manager explained the Student's access to the translator pen. "I showed the pen to [the Student] and how it worked, and practiced using it a little bit. And then I told [them they] had access, but [they] were concerned that it doesn't have a headphone jack, that it just reads out loud, and [the Student] didn't really want it to be reading out loud in the middle of the classroom. And so I said, 'You have access to it whenever you want. It's in my room. You can come and grab it.' And then we also went over some built into the [tablet] accessibility things that read out loud that could be used with headphones that connect to the [tablet], since it's got the headphone jack and that transcriber pen didn't." The Case Manager described the pen being in a drawer that holds other tools and "students are all pretty used to just grabbing what they need" out of the drawer. They added they eventually purchased and received another translator pen that does have a headphone jack, and the Student is currently using that every day.
52. The Case Manager described an "incentive day" that happens at the end of each nine weeks, where students who met the "grade qualification" and were not missing assignments would watch a movie. Those who did not meet the criteria were "assigned to the study rooms to use that time to finish any work that [needed] to be done before the assignment deadline." They explained the Student had a failing grade at the end of the first quarter and "was put in one of the study rooms for that." The Director, who was an observer in the interview, pointed out this was a "school-wide initiative" and was not specific to students receiving special education services.
53. The Case Manager detailed the "passport" as an electronic or printed document that "has the services and accommodations that a student receives and is what we give to the people. … People who would be responsible for providing accommodations or services have access to the passport so that they are aware of the things that they need to be doing and how often they need to do it." The Coordinator, who was an observer in the interview, noted there was a "passport" attached to the Student's account and all of their teachers were able to access it through the student information system (SIS) on "day one."
54. The Case Manager described the accommodation log. "On the left side is the list of all the accommodations written into [the Student's] IEP. And then each day, [we] put the date at the top and then the hour that we're looking at and mark off whether that accommodation was utilized. And depending on who is providing services or providing the accommodations during that hour, that person has the sheet." They reiterated this is a way to track provided accommodations and "if there's an hour that is not on there, then it was either the para[educator] forgot to pick it up or they left it in the room and

then forgot to sign it." They added if the log does not have a checkmark, it does not mean accommodations were not provided. "It just means that the person who was responsible for [putting a checkmark] on the paper did not document there that it was provided, but they were in there providing the service and just not marking it on the paper."

55. The Case Manager reported the teachers on their team accept every assignment for full credit, and student work does not get marked down due to being late. "As long as [an assignment] gets done, that's the important part, and we would not give half credit for something that was fully correct just because it was turned in a couple days later."

Director and Coordinator Interview

56. In an interview with the Complaint Investigator, the Director described the communication plan they put into place with the Parent as a way to support the Case Manager and "to save my teacher from quitting." They described receiving "eight emails in a row from [the Parent]" and subsequently having the Principal and the Director take over communication. They noted, "If I needed to involve the Case Manager, I would."
57. In the same interview with the Complaint Investigator, the Coordinator noted they first spoke with the Parent in March of 2025 when the Parent called to "ask if [the LEA] would send [the Student] to private school." The Coordinator "walked [the Parent] through the process" and told them "that's an IEP team decision and those would be things that we would need to discuss together." They reported speaking to the Parent about "the same things" in July of 2025, though the Student was not enrolled in the LEA at that time. At the Student's first IEP meeting, the Coordinator recalled the beginning of the IEP meeting, where they discussed service minutes, class schedule, IEP goals, and the Student's needs, "went really well." They added "And then [the Parent] again asked immediately if we would put [the Student] in private school. And I believe I said something to the amount of, 'Provide me some written feedback, and we will reply to this request in writing.' And [the Parent] got very angry at that point. I think [they] used some curse words. So at that point, then we kind of ended the meeting."
58. The Coordinator verified, by looking it up in the SIS, the Student was enrolled in the School on July 30, 2025.
59. The Director supplied information regarding the PWNs provided to the Parent and noted, "AI isn't illegal to use, but I can tell you we're not using AI on PWNs." They mentioned the August 19, 2025 PWN that "talks about [the Former LEA], which is the school district [the Student] came from," and the specific curriculum the Former LEA used was also named. They additionally reported PWNs where the Student's name and the LEA were specifically listed. "I disagree [the PWNs are not personalized]. We use the Kansas Process Handbook. We use IDEA, and we use factual evidence in our PWNs. And if that looks like AI, then that's what it looks like. But we have the names of our own private school, of our own district, and the Student in all of these PWNs, which shows that it's individualized." The Coordinator added the Case Manager was "deeply involved"

in the PWN process and "we get all of our information and data collection from [the Case Manager]." The Director concluded, "Our goal is to remain compliant as a district."

Principal and Assistant Principal Interview

60. In an interview with the Complaint Investigator, the Assistant Principal explained the Parent requested a 504 because the Student's IEP "wasn't addressing … I think it was the social emotional part … the exact diagnosis." They noted the Parent "never signed the papers to move forward with that evaluation."
61. In the same interview with the Complaint Investigator, the Principal indicated the team meetings were a "building-wide process" and "depending on the team, some of the time those minutes are very detailed of the actual conversation [and] sometimes they're just, 'we talked about this student,' but not specifically what was talked about."

    When asked about ensuring staff are implementing IEPs, the Principal noted the team meetings provide an opportunity "when teachers have concerns or a student is on that agenda, we are asking clarifying questions" to ensure staff are meeting the Student's needs and IEP requirements. They noted monthly PLC time "where we're discussing passports" and passports being distributed to staff. The Assistant Principal added they attend team meetings and they were at meetings "multiple times while [the Student] was [part of] a conversation." They added on August 8, 2025, the team "met about [the Student] specifically" to make "sure that we were ready and prepared with the incoming IEP."
62. The Principal described the "incentive day," indicating it was a "school-wide" program that had been changed for the second quarter. They explained at the end of the first quarter, the program was based on grades, behavior, and missing assignments, but they changed it to grades only for the second quarter, "so we're not double-punishing students." The Assistant Principal added the point of the incentive was to reward students who had passing grades, but also to give students with failing grades "time [in the] afternoon to knock out more assignments or to improve their grades."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the IEP, as appropriate, to address the results of an external evaluation and information about the Student the Parent provided. K.S.A. 72-3429(f)(2), K.A.R. 91-40-16(a)(b)(1); 34 CFR §300.324(b).

According to 34 CFR §300.324(b) and K.A.R. 91-40-16(a)(b)(1), the agency is responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served. The agency shall ensure an IEP is in effect before special education and related services are provided to an exceptional child.

According to K.S.A. 72-3429(f)(2), the agency shall ensure the IEP team revises the IEP, as appropriate. The IEP team is also obligated to address the results of any reevaluation

conducted under this section of the law. Additionally, the IEP team must address information about the child provided by the parents, the child's anticipated needs, or other matters.

The Parent alleged the LEA failed to evaluate and revise the Student's IEP to include three new diagnoses and related needs. These were dyscalculia, "PTSD related to school," and "school-related anxiety."

The LEA refuted the allegation and stated, "Given that the documents received were incomplete, unverifiable, and in many parts redacted, [the LEA] could not legally or ethically rely on them as the basis for an IEP revision under 34 CFR §300.324(b)(1). Moreover, the Parent's later assertion that anxiety and PTSD diagnoses should be incorporated into the IEP was not supported by prior data, observable behavior in the educational setting, or evaluation information available to the IEP team. No behaviors consistent with those diagnoses have been observed that would trigger a reevaluation under K.A.R. 91-40-8(a)(2)."

The Parent provided the LEA with significant new information regarding the Student's diagnoses and needs throughout the 2025-26 school year. In July 2025, the Parent provided documentation of GAD and PTSD. Later, the Parent introduced a diagnosis of dyscalculia and APD. The Psychiatrist and the SLP recommended a "smaller, more supportive school setting." The Parent formally requested numerous accommodations for dyslexia, dysgraphia, dyscalculia, PTSD, and APD.

The LEA held multiple meetings to discuss the Student's progress and the Parent's requests. In August 2025, the team met to discuss the Parent's request for private school placement due to the PTSD diagnosis. The LEA refused the placement, stating they needed more time and data to determine if the move was necessary. In September 2025, the team reviewed the Student's progress. Teachers reported the Student was "doing well" and "turning in quality work." From October through December, 2025, the LEA issued several PWNs refusing the majority of the Parent's requested accommodations. The LEA's refusal to revise the IEP to include many of the Parent's requested accommodations and the alternative placement was based on multiple factors. The LEA noted that the external documentation provided by the Parent was "partial and heavily redacted," making it difficult to ethically rely on for IEP revisions. The LEA argued that many requested supports were already being provided through existing IEP accommodations or general education practices. For example, preferential seating and extended time were already documented. The LEA maintained the Student was making "appropriate progress" in the general education curriculum with current supports. Grades improved in several subjects by the second quarter. Additionally, the LEA determined that academic and behavioral data did not demonstrate an "educational need" for additional trauma-informed supports, as the Student was engaged and behaving appropriately in class. Last, the LEA did revise the IEP in limited areas, such as proposing an increase in direct service minutes in the general education setting and adding 1.5 extended time for certain tasks.

The LEA met its obligation to review the information provided by the Parent by holding meetings and issuing detailed PWNs for each request. While the Parent disagreed with the outcomes, the LEA provided rationales based on the Student's current school-based performance and the belief that the current IEP provided a FAPE in the LRE.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to review and revise the IEP, as appropriate, to address the results of an external evaluation and information about the Student, which the Parent provided.

Issue Two

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, ensured the placement decision was made by a group of individuals who knew the Student, the evaluation data, and the placement options when they decided not to change the placement as requested by the Parent and recommended by the Student's psychiatrist. K.A.R. 91-40-21(a)(b)(c)(1)(2); 34 CFR §300.327.

According to 34 CFR §300.327 and K.A.R. 91-40-21(a)(b)(c)(1)(2), the agency must ensure children with disabilities served by the agency are educated in the LRE. When the educational placement of a child with a disability is being determined, each agency shall ensure that the placement decision is made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options. Additionally, the decision shall be made in conformity with the requirement of providing services in the LRE.

The Parent alleged the LEA did not consider and implement the requested smaller school placement, despite professional recommendations provided by the Psychiatrist and the SLP.

The LEA refuted the allegation, noting the provided documentation “contained no identifiable professional credentials or facility information” and the placement decision was made by the IEP team, which included individuals knowledgeable about the Student, their data, and the full continuum of placement options available.

The group responsible for the Student's placement decisions consistently included individuals with direct knowledge of the Student and the relevant data. Meetings held on August 19, 2025, and September 16, 2025, included the Parent, an LEA representative, the Case Manager, the Special Education Coordinator, and general education teachers. The LEA reviewed and accepted the transfer IEP from the Former LEA, which included data on the Student's reading, math, and writing needs. The team also reviewed the Psychiatrist’s diagnosis of PTSD and GAD. While the Parent expressed concern that the LEA contended they needed “more time" to know the Student, the Case Manager and teachers provided specific observations of the Student’s

performance, noting they were "turning in quality work" and "doing well" in the general education setting by September 2025.

The LEA engaged in a documented process of considering the placement options requested by the Parent and recommended by outside professionals. The Parent and the Psychiatrist requested a "smaller, more supportive school setting" or private placement due to the Student's PTSD and anxiety. The LEA formally refused (with a PWN) the change to a private school or smaller environment, explaining that they were offering a FAPE in the LRE. The LEA asserted they lacked data to support a more restrictive environment after only six days of enrollment. By September 16, 2025, the team reviewed "present levels of academic performance, progress monitoring data, and classroom functioning" to determine that the current placement continued to be appropriate. The team prioritized keeping the Student in the LRE to avoid "social stigma" and isolation from non-disabled peers.

The group also addressed specific internal placement concerns. The Parent requested a partial schedule (choir and Learning Strategies) to give the Student a "mental break." The LEA refused this on October 3, 2025, determining that the specialized instruction in the Learning Strategies course was necessary to address identified needs and ensure the Student did not regress on IEP goals.

The evidence indicates that the placement decisions were made by the required group of individuals. The LEA integrated input from the Parent and the Psychiatrist but ultimately determined, based on internal data collection and the requirement to provide services in the LRE, that the Student's needs could be met within the public middle school setting. While the Parent disagreed with the outcome, the LEA followed the procedural requirement of having the decision made by a group of individuals knowledgeable about the Student and the data.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure the placement decision was made by a group of individuals who knew the Student, the evaluation data, and the placement options when they decided not to change the placement as requested by the Parent and recommended by the Student's psychiatrist.

Issue Three

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, ensured that each teacher was informed of their specific responsibilities related to implementing the Student's IEP, as well as the specific accommodations and modifications the Student required, specifically related to assistive technology and workload reduction. Whether the LEA followed the Student's accommodations when it denied the Student access to school activities due to missing assignments. K.A.R. 91-40-16(b)(3); 34 CFR §300.323.

According to 34 CFR §300.323 and K.A.R. 91-40-16(b)(3), the agency shall ensure an IEP is in effect for each exceptional child at the beginning of each school year.

The Parent alleged the LEA refused or failed to allow the use of a transcriber pen and refused to reduce the Student's workload, despite their documented needs and diagnoses. The Parent also alleged the LEA punished the Student for missing assignments, rather than implementing accommodations and supports. Additionally, the Parent alleged teachers and staff were not compliant with IEP accommodations on multiple occasions.

The LEA refuted the allegation, asserting that all required accommodations were implemented and LEA staff members were fully aware of them. Furthermore, the LEA reported the Student had expressed discomfort using the translation pen in the general education classroom. Finally, the LEA cited its ongoing accommodation logs and explained that the "fun day" the Student was not allowed to attend was an incentive program for general education students, and participation was contingent on assignment completion for all students, regardless of disability status.

The LEA utilized "passports," which were electronic or printed documents summarizing a student's services and accommodations, to inform staff of IEP services, goals, and accommodations. On August 11, 2025, before the start of school, the Case Manager emailed 12 staff members (who worked with the Student) with instructions on how to access these passports via the SIS. The Coordinator verified that all teachers had access to the Student's passport on "day one" of the school year. The School held regular team meetings involving core and elective teachers to discuss student needs, review IEP data, and ensure staff were meeting requirements.

The Student's IEP required the use of a translation pen for independent work to foster independence. The Case Manager reported showing the Student the pen and practicing its use. However, the Student expressed concern that the original pen lacked a headphone jack and would read aloud in class. The Parent contended the Student was never given permission to use the pen and had only seen it once. The Case Manager eventually purchased a second pen with a headphone jack, which the Student began using daily following the Christmas break.

A central point of contention was whether "workload reduction" was a required accommodation and if it was implemented. The Student's IEP included "simplified writing answers" and "modified notes" (up to 50% filled in), and the Case Manager estimated these existing accommodations reduced the Student's overall workload by approximately 50%. On November 14 and 20, 2025, the Parent requested a formal "reduced workload by 50%" accommodation. The LEA issued a PWN on December 3, 2025, refusing this request, asserting it constituted a "curriculum modification" rather than an accommodation and was not supported by current academic data.

In reference to the “fun day,” the Student was excluded from a first-quarter incentive activity because they had a failing grade and missing assignments. The "incentive day" was a school-wide program, and students who did not meet grade or assignment criteria were placed in "study rooms" to complete work before deadlines. While the Student's IEP required accommodations for completing work, it did not exempt the Student from the general education grading criteria or the school-wide incentive policy. The Case Manager noted that although work was accepted for full credit even if late, the "incentive day" was reserved for students who had completed their assignments by the deadline. For the second quarter, the school modified the policy to base incentives on grades only, to avoid "double punishing" students for missing work.

The evidence indicates the LEA met its obligation to inform teachers of their responsibilities through the distribution of "passports" and regular team meetings. Regarding assistive technology, while there was a delay in providing a pen with a headphone jack that the Student felt comfortable using, the LEA maintained the tool was available. Regarding workload reduction, the LEA implemented the specific accommodations listed in the IEP (modified notes/simplified writing), but exercised its right to refuse a formal 50% reduction in volume, citing concerns over curriculum rigor and lack of data. Finally, the denial of school activities was a result of a school-wide policy and did not constitute a failure to follow the Student's specific IEP accommodations.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure that each teacher was informed of their specific responsibilities related to implementing the Student's IEP, as well as the specific accommodations and modifications the Student required, specifically related to assistive technology and workload reduction. Nor did the LEA fail to follow the Student's accommodations when it denied the Student access to school activities due to missing assignments.

Issue Four

> Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided a Progress Report that included a description of how the Student's progress was measured in accordance with the Student's IEP. K.S.A. 72-3429(c)(3); 34 CFR §300.320(a)(3).

According to 34 CFR §300.320(a)(3) and K.S.A. 72-3429(c)(3), the IEP for each exceptional child shall include a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided, such as through the use of quarterly or other periodic reports issued concurrently with general education report cards.

The Parent alleged the LEA failed to provide meaningful progress reports with objective data, baselines, measurable progress toward IEP goals, or any evidence of progress.

The LEA refuted the allegation and claimed they provided a progress report that met IDEA requirements, which was mailed to the Parent and reviewed with the Case Manager. The Case Manager outlined the Student's progress toward each goal and documented their progress using percentage measures consistent with the data collection methods specified in the IEP.

The Student's IEP established specific, measurable goals in reading, math, and written language. The IEP further specified that the Student would receive pull-out services daily and in-class services daily, which the LEA proposed increasing to meet the Student's needs in the LRE. The LEA maintained a system for tracking both the implementation of accommodations and progress toward goals. The LEA utilized a "Daily Accommodation Log Tracker" to document the provision of mandated supports, such as read-alouds, math manipulatives, and preferential seating. This log covered 64 school days and documented implementation across core class hours. The Case Manager also reported collecting objective data on goal performance. For example, during a September 16, 2025 meeting, the Case Manager provided specific data points with percentage-based measurements of progress.

The Parent expressed significant concerns regarding the specificity of the reports, requesting "actual data" rather than "general statements" and more frequent updates every four weeks. The Parent formally objected to the LEA's reporting, claiming statements like "making progress" lacked supporting evidence. In response to these concerns, the LEA refused the request for additional reporting, asserting that the existing quarterly timeline was consistent with LEA policy and IDEA guidelines. The LEA maintained the progress reports provided during the first reporting period documented progress on all goals through current data collection procedures. On September 24, 2025, the Case Manager reviewed the IEP progress report with the Parent during a conference. Furthermore, the Director clarified that data collected on existing goals would serve as the basis for documenting progress as the year continued.

While the Parent contended the reports were "vague" and "generic," the evidence indicates the LEA followed the measurement procedures outlined in the May 2025 IEP. The LEA utilized objective trials (e.g., percentage accuracy on spelling and reading) as mandated by the goals and provided reports on a quarterly schedule in alignment with state and federal regulations.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is not substantiated* that the LEA failed to provide a Progress Report that included a description of how the Student's progress was measured in accordance with the Student's IEP.

Issue Five

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided the Parent with PWN that contained all required components and was specific to the Student's individual circumstances. K.A.R. 91-40-26, K.S.A. 72-3432; 34 CFR §300.503(b).

According to 34 CFR §300.503(b) and K.A.R. 91-40-26, when providing any notice to the parent of an exceptional child regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes both a description of other options that the agency considered and the reasons why those options were rejected, and also a description of other factors that are relevant to the agency's proposal or refusal. Furthermore, the notice shall be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent.

According to K.S.A. 72-3432, the Notice of parental rights shall include: a description of the action proposed or refused by the agency, as well as an explanation of why the agency proposes or refuses to take the action. Furthermore, the notice must contain a description of other options that the agency or IEP team considered and the reasons those options were rejected, along with a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action. The notice shall also include a description of any other factors that are relevant to the agency's proposal or refusal.

The Parent alleged the LEA provided PWNs that were incomplete or inadequate and may have been generated or populated in a way that omitted individualized data or content, or failed to address the Student's unique needs.

The LEA refuted the allegation and noted each PWN detailed the proposed or refused action, the rationale for the decision, the data considered, and the procedural safeguards available.

The evidence demonstrates that the LEA issued multiple PWNs that directly addressed the Student's specific history and need. The August 19, 2025, PWN specifically referenced the Student's transfer from a "Former LEA," named the specific curriculum used at that prior district, and incorporated data from the Student's previous reading program scores and progress reports. In response to the Parent's extensive requests for accommodations on November 14 and November 20, 2025, the LEA issued three separate PWNs on December 3, 2025, categorized by "Academic," "Social and Emotional," and "Progress Reporting." The December 3, 2025, Social and Emotional PWN provided a point-by-point rationale for refusing or accepting over 20 specific requests, such as refusing a "written crisis plan" because the Student had not exhibited school-based behaviors requiring one, and refusing "trauma-sensitive practices" as a mandate because they were already implemented district-wide. The LEA documented the use of a wide array of student-specific data in these notices, including progress monitoring charts, teacher feedback, attendance records, and the Student's "Daily Accommodation Log Tracker."

The LEA consistently utilized PWNs to document the legal "proposal" or "refusal" of changes to the Student's Identification, Evaluation, or Placement (IEP). This included placement decisions, as evidenced by the PWN formally refusing the Parent's request for private school tuition, explaining that the LEA was offering a FAPE in the LRE and service changes, as evidenced by the PWNs proposing an increase in direct service minutes in the general education setting to

better meet the Student's needs upon transfer. The Director also addressed the "formal" tone of the PWNs, explaining that the structure is required for legal clarity and compliance with the Kansas Special Education Process Handbook.

While the Parent expressed dissatisfaction with the outcome of the decisions documented in the PWNs, the documents themselves met the requirements of law. Each notice described the action, provided a reasoned explanation based on collected data, and included the Student's name and specific educational circumstances, contradicting the claim that they were non-individualized or purely generic.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Parent with PWNs that contained all required components and were specific to the Student's individual circumstances.

Issue Six

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided the Student a FAPE and met the services listed in the Student's IEP, including accommodations and assistive technology. K.A.R. 91-40-2; 34 CFR §§300.17, 300.101.

According to 34 CFR §§300.17, 300.101 and K.A.R 91-40-2, the agency shall provide a FAPE. Specifically, the agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday, and an IEP shall be in effect by that third birthday. Additionally, the agency shall make a FAPE available to any child with a disability, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

The Parent alleged the LEA did not provide the Student's IEP accommodations and assistive technology, which resulted in a substantive denial of a FAPE.

The LEA refuted this allegation and indicated the Student has received all services and accommodations outlined in their IEP.

The LEA ensured staff were not only informed of the Student's IEP, but were also supported in its implementation. While there was a delay in the Student's consistent use of the translation pen, this does not rise to a denial of FAPE because the LEA provided the device as required by the IEP and when the Student expressed discomfort using the initial pen (due to the lack of a headphone jack and fear of social stigma), the LEA acted in good faith by purchasing a specific secondary device to accommodate the Student's anxiety. A FAPE does not require perfection from day one, but rather a responsive approach to removing barriers to the Student's progress. The refusal to grant a formal "50% workload reduction" was not a denial of FAPE, but rather an exercise of professional judgment based on data. The LEA demonstrated that

through "simplified writing" and "modified notes," the Student's workload was already effectively reduced and then issued a timely and compliant PWN explaining why.

Because the Student remained placed in the LRE with access to all specified IEP services, and the LEA remained responsive to the Parent's concerns through formal PWNs and equipment adjustments, the LEA provided an education reasonably calculated to provide meaningful benefit.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Student a FAPE.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #259
ON DECEMBER 16, 2025

DATE OF REPORT: JANUARY 21, 2026

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ---------- by his mother, ----------. In the remainder of the report ---------- will be referred to as "the student" and ---------- will be referred to as the "complainant" or "the parent". The parent provided written consent to interview ----------, her partner who acts as the stepfather to the student, as part of this investigation. He will be referred to as "the stepfather" in the remainder of the report.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the student is a resident of the Wichita Public Schools (USD #259) and receives special education and related services through this LEA, which employs its own staff to meet the requirements of the IDEA. In the remainder of this report, this responsible public agency will be referred to as "the LEA" or "the district".

The following LEA staff involved in this investigation will be referred to as follows:

- Erica Shores is the Mediation/Due Process Supervisor
- Charles Gladfelter is the Middle School Special Education Teacher
- Tamara Patterson is the School Psychologist at the middle school
- Katie Crippen is the High School Special Education Teacher
- Sandra Macias is the Social Worker at the high school
- Megan Montes-Murphy is the School Psychologist at the high school
- Charlotte Bartsch is the Assistant Principal at the high School
- Kristina Murray is the Principal at the high school
- Ashley Watson is the Behavioral Special Education Teacher at Coleman Middle School

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially

received the complaint on December 16, 2025 and assigned the case for investigation on that same date.

Evidence Reviewed

Both parties were contacted during the investigation to gather and clarify information. Both the complainant and the stepfather were interviewed by telephone on January 5, 2026.

The LEA made the following school personnel available for a virtual interview on January 6, 2026:

- High School Special Education Teacher
- Social Worker
- School Psychologist at the High School
- High School Assistant Principal
- High School Principal
- Mediation/Due Process Supervisor

Written documentation was provided by both the LEA and the complainant. All the documentation was reviewed, and the following written documentation was used in consideration of the issue:

1. Individual Education Program (IEP) Goal Progress Reports for the 2023-24 school year
2. Discipline Profile for the 2023-24 school year
3. Text messages between the parent and the Behavioral Special Education Teacher at Coleman Middle School on unspecified date in 2023
4. Prior Written Notice (PWN) for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated December 8, 2023 refusing an out-of-district placement
5. Email chain dated February 27, 2024 between the complainant and various school staff regarding behavior concerns
6. Email dated April 16, 2024 at 1:57 p.m. written by the parent to the Middle School Special Education Teacher and the School Psychologist at the middle school
7. PWN for an Evaluation or Reevaluation and Request for Consent dated April 18, 2024proposing a reevaluation of the student to include a functional behavioral assessment (FBA) and refusing an out-of-district placement
8. Out-of-school Suspension Notice dated May 4, 2024
9. FBA conducted on September 10, 2024
10. PWN dated September 13, 2024 rejecting the parent's request for another reevaluation of the student and placement at Heartspring

11. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated October 3, 2024 proposing to add a behavior intervention plan (BIP) to the IEP
12. Multidisciplinary Team Report dated November 19, 2024 summarizing reevaluation results
13. IEP Goal Progress Reports for the 2024-25 school year
14. Discipline Profile for the 2024-25 school year
15. IEP Goal Progress Report dated October 13, 2025
16. Discipline Profile for the first semester of the 2025-26 school year
17. IEP dated November 13, 2025
18. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated November 13, 2025 proposing to add community-based instruction to the IEP
19. Email dated November 19, 2025 at 9:07 p.m. written by the stepfather to the High School Special Education Teacher regarding ongoing behavioral concerns for the student and requesting a more restrictive placement such as Heartspring
20. Email exchange dated November 20, 2025 between the parent, the stepfather, and the High School Special Education Teacher regarding the request for a change of placement and ideas to make IEP Team meetings run more smoothly and effectively in the future
21. Email dated November 21, 2025 written by the School Psychologist at the high school regarding the child study team process for consideration for placement at a more restrictive setting, specifically a separate special day school
22. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated December 3, 2025 rejecting parent request for placement at Heartspring
23. Email dated December 15, 2025 written by the stepfather to the High School Special Education Teacher requesting Heartspring or similar placement immediately and indication that the student might be withdrawn from the LEA if this does not occur
24. Email dated December 15, 2025 written by the High School Special Education Teacher describing student's current functioning and a statement that the student is "on track with his Mixed Abilities peers and I feel like he is being served in the most appropriate setting at this time".
25. Formal Complaint Request Form dated December 15, 2025 written by the complainant
26. LEA's response to the allegations dated December 27, 2025
27. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated January 5, 2026 rejecting parent request for placement at Heartspring
28. Undated community-based instruction data sheet noting student threw a bucket of water on floor and walked out of school cafeteria

29. Student "Bank Account" for community-based instruction tasks
30. Universal Interventions for Mixed Abilities Classroom Students at North High School
31. Photo of Zones of Regulation chart used in the classroom setting
32. General Education Contact Log for the 2025-26 school year
33. School Calendar for the 2025-26 school year
34. Email dated January 5, 2026 written by the complainant to the investigator providing a chronological summary of behavior concerns over the past four years
35. Email dated January 15, 2026 written by the stepfather to the Investigator regarding concerns with impacts of medication prescribed to the student to address behavior

Background Information

The student is 15 years old and currently enrolled in the ninth grade at North High School in USD #259 for the 2025-26 school year. The student has a medical diagnosis of Autism and received early intervention services and then began receiving special education and related services at the at the age of three through kindergarten in the state of Georgia. The family then moved to the state of Kentucky where the student continued to receive special education and related services in first through fifth grade under the IDEA eligibility category of Autism.

The family then moved to the state of Kansas and the student has been enrolled in USD #259 since in the sixth grade and received special education and related services for all core academic content as well as adaptive behavior and social skills. The student has participated in elective classes with same grade peers in the general education setting using a modified curriculum with special education support for all three years at Robinson Middle School. The student's ninth grade schedule includes all core academic classes in the special education classroom along with community-based instruction one class period each week to address independent living and work exploration. The student is also enrolled with his nondisabled peers in a general education art class and a general education health/PE class with special education support provided by a paraprofessional

The most recent reevaluation was completed on November 19, 2024 and the IEP team determined that the student continued to be eligible for special education and related services under the primary exceptionality category of Autism.

Issues Investigated

Based on the written complaint, one issue was identified and investigated.

Issue One

USD #259, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the student with a free appropriate public education during the 2025-26 school year, specifically by not

developing an IEP calculated to enable the student to make progress appropriate in light of his unique circumstances.

Applicable Law

Federal regulations, at 34 C.F.R. 300.320, require school districts to develop an IEP describing the special education and related services needed to address the unique needs of students with disabilities to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum; 3) participate in extracurricular and other nonacademic activities; and, 4) be educated and participate with other children with disabilities and nondisabled children.

The United States Supreme Court's ruling in Endrew F. v. Douglas County School District requires schools to provide students with disabilities an education that is "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."

Questions and Answers (Q&A) on U. S. Supreme Court Case Decision Endrew F. v. Douglas County School District Re-1 dated December 7, 2017 published by the United State Department of Education states:

> *While the Court did not specifically define "in light of the child's circumstances," the decision emphasized the individualized decision-making required in the IEP process and the need to ensure that every child should have the chance to meet challenging objectives. The IDEA's focus on the individual needs of each child with a disability is an essential consideration for IEP Teams. Individualized decision-making is particularly important when writing annual goals and other IEP content because "the IEP must aim to enable the child to make progress." For example, the Court stated that the IEP Team, which must include the child's parents as Team members, must give "careful consideration to the child's present levels of achievement, disability, and potential for growth."*

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

The parent believes that the student's aggressive and violent behavior both at school and at home requires the student to be placed in a more restrictive setting. The parent has specifically requested this placement to be at Heartspring, an approved private agency for students with significant behavioral concerns but is willing to consider the separate special day school in the district at the Levy Special Education Center. The parent has made the request for a more restrictive setting on multiple occasions since the student entered the sixth grade, but her requests have been rejected each time. The parent indicated that the most recent request for placement at Heartspring was made on December 15, 2025, and the LEA rejected the request on January 5, 2026.

The parent provided a chronological summary of the behavior and interventions over the past four years to demonstrate the significance of her concerns as noted below:

- 2022-23 school year (6th grade)
    - August 23, 2022 – Hit little sister
    - January 2023 – Inpatient psychiatric treatment at KVC Behavioral Healthcare
    - Ongoing – Multiple calls from school regarding behavior problems and requesting parent pick him up early from school
- 2023-24 school year (7th grade)
    - October 30, 2023 – Dysregulated at school and parent came to school to intervene but student continued to escalate and was sent home
    - November 17, 2023 – Inpatient psychiatric treatment at Camber Mental Health related to aggressive behavior at home and school
    - November 28, 2023 – Second inpatient psychiatric treatment at Camber Mental Health due to continued aggressive behavior towards peers and staff at school
    - Ongoing - Multiple calls from school regarding behavior problems and requesting parent pick him up early from school
    - Unsure of date – Student used parent's credit card to purchase approximately $300 of internet gaming
- 2024-25 school year (8th grade)
    - February through May 2024 – Parent reported 51 phone calls from the school primarily related to behavioral escalation, safety concerns, and requests for removal or parental intervention
    - April 9, 2025 – Student removed a cast which was placed on the finger he broke during a behavioral outburst. Medical staff needed used "significant intervention" to replace the cast. Parent indicated the student had behavioral incidents with peers at school and his medication was increased.
    - April 10, 2025 – Student hit parent multiple times with the cast, scratched her, and hit walls during dysregulation. Later that day, during the pickup line for siblings, he scratched the parent again and scratched younger sister.
    - April 16, 2025 – Student engaged in hitting, scratching, and kicking peers and/or staff and was sent home.
    - May 10, 2025 – Student bit a special education staff member, destroyed property, tore up another student's academic work and was sent home.
    - May 13, 2025 – Two day out-of-school suspension for "assault"
- 2025-26 school year (9th grade)
    - September 9, 2025 – Student sustained bruise due to self-injury during dysregulation incident at home and Children's Protective Services (CPS) was called. Parent reported being contacted by school staff regarding behavior problems at school.

- October 9, 2025 – Student needed assistance with hygiene and toileting accident at home. The parent indicated that the student requires parental intervention due to hygiene issues including failure to independently take baths/showers. After parent set automatic reminders on his iPad to take a bath/shower every other day, he deleted the reminders and did not adhere to maintaining his hygiene and would get frustrated when asked to take a bath/shower. Currently, parent is having to remind him he needs to bathe/shower and he may or may not comply.
- October 16, 2025 – Student hit his sister at home. Parent reported student has hit siblings on multiple occasions during periods of irritability or when non-preferred demands are made of him.
- November 19, 2025 – Student committed battery/assault against another student and continued to pursue the student after removal. He was sent home for the remainder of the school day.

Following the out-of-school suspension on November, 19, 2025, the step-father sent the following email to the LEA expressing his and the parent's concerns and requesting a more restrictive placement for the student:

> *We confirmed [the student] took his correct morning medications, including the one intended to help regulate and calm him ("calm down meds" that is in both morning and evening). Therefore, the behavior on November 19th appears not to be medication-related, but rather connected to ongoing communication, behavior regulation, and impulse control challenges. By our count, [the student] has had 10 behavioral incidents in approximately 65 school days, representing about 15% of his days of attendance, not including several behavior escalations that occurred at home directly related to school stressors . . . On November 19th, after being sent home early, [the student] slapped his 3rd-grade sister three separate times without provocation at around 6:30 PM while she was doing homework. This occurred despite him having been calm and left alone for most of the afternoon. We feel this directly demonstrates that his behavioral dysregulation is ongoing, not limited to the school environment, and requires more specialized intervention than general education with supports . . . During our IEP meeting last week, it was acknowledged that [the student] has had multiple behavioral incidents this school year, though not classified as major. However, since that meeting, he has already had two additional incidents this week alone, including today's incident where he hit another student and continued to pursue that student after they were removed from the area. He was sent home as a result. We maintain that [the student] would benefit from a more specialized and structured educational environment, particularly one equipped for students with aggressive, impulse-control, and behavioral safety concerns, such as Heartspring. We understand that Heartspring would need to be part of his IEP team's formal consideration if it is to be explored, and we continue to request that option be reviewed. Our reasoning is based on what is best for [the student], safer for peers and staff, and reduces the risk of long-term consequences such as school removals, legal involvement, or juvenile justice*

> *implications. We strongly feel that continuing in the current setting is not meeting [the student's] needs . . . We no longer have confidence that the district, on its own, will take meaningful steps to address [the student's] needs and haven't for a long time. For years, we have consistently requested that Heartspring be formally considered as an appropriate placement due to [the student's] behavioral, safety, and developmental needs. Despite repeated requests, this option has not been meaningfully discussed, evaluated, or pursued. At this point, we are expecting a formal and documented response from the IEP team that includes a clear plan to consider specialized placement options such as Heartspring, rather than continuing with temporary or insufficient supports. We firmly believe that the primary reason the district continues to ignore and dismiss our repeated requests for Heartspring placement is financial. Let us be very clear — it is absolutely unacceptable for USD 259 to place budget concerns above a child's legal right to an appropriate education and necessary supports. We are beyond frustrated with the district's refusal to take meaningful action, and we will not tolerate [the student] being denied proper services simply because they are costly. His education, safety, and long-term success are not optional — and we expect the district to honor its legal obligations, whether or not it is convenient or inexpensive to do so.*

The parent indicated she is considering homeschooling or pursuing a more appropriate placement for the student because she is concerned about the safety of the student as well as the staff and other students due to the student's aggressive and violent behavior. The parent is also significantly concerned about the medications prescribed to address the behavioral concerns and the long-term impact on the student's health.

The parent believes the LEA has not developed an IEP that addresses safety concerns based on an undated text message conversation in 2023 between the parent and the Behavioral Special Education Teacher at Coleman Middle School. The text message from the Behavioral Special Education Teacher at Coleman Middle School stated her opinion that there was "zero chance" that the LEA would send the student to Heartspring but suggested that Levy Special Education Center, the district's version of a "special day school" might be an option.

The LEA reported the student has been provided with a free appropriate public education in the least restrictive environment since his enrollment in USD #259. The staff acknowledged that the student exhibits behaviors that are commonly associated with students who have Autism but that the IEP teams have consistently addressed these behaviors through goals, services, and a BIP. Data shows the student has made progress towards his IEP goals and that the frequency and duration of the inappropriate behaviors has decreased over time in the school setting. School staff reported the parents have shared concerns about the student's aggressive and violent behavior in the home and noted that community resources have been provided to the family to access case management and assistance with behaviors that occur in the home setting.

The student initially enrolled in the sixth grade upon a transfer from the state of Kentucky for the 2022-23 school year. The LEA initially provided special education and related services comparable to those required in the transfer IEP. However, the IEP Team determined the Mixed Abilities classroom with additional special education and related services support for behavior and academic instruction was the most appropriate placement based upon the student's IEP goal progress and behavioral concerns. During this school year, the student participated successfully in elective classes with his peers.

The student was enrolled in the seventh grade during the 2023-24 school year. IEP Goal Progress Reports for the 2023-24 school year show the student making minimal progress towards his IEP goals due to behaviors that interfered with academic performance. The 2023-24 Discipline Profile documented one instance of intimidation; one instance of insubordination; two instances of obscene behavior; seven instances of disruptive behavior; and 30 instances of aggression towards staff and peers, which increased in frequency during the second semester. The student's IEP was amended on December 8, 2023 to add behavioral support and, on April 18, 2024, the LEA obtained parent consent to conduct a functional behavioral assessment (FBA) of the student. During this school year, the student participated successfully in elective classes with his peers. The LEA provided the parent with PWN rejecting her request for placement at Heartspring on December 8, 2023 and again on April 18, 2024.

The student was enrolled in the eighth grade during the 2024-25 school year. The LEA completed the FBA during the first quarter of the school year. On September 30, 2024, the IEP team reviewed the FBA which indicated a decrease in physical aggression. The LEA stated,

> *The FBA aimed to measure the effectiveness of behavior supports and the number of occurrences of the target behavior identified. There were 3 occurrences of the target behavior and 1 occurrence of the peak behavior. This was a significant improvement from previous data collection periods, suggesting that the trialed interventions had been successful. According to the FBA report, "There has been a significant decrease in the frequency, severity, and duration of [student's] behaviors during the current 2024-2025 school year. [Student] has demonstrated an increased ability to utilize appropriate and positive coping mechanisms, such as deep breathing/breathing exercises, asking for time out of the classroom, regulating with the classroom therapy dog, etc. There has been one occurrence of the peak behavior [this] school year, with 30 days of enrollment. Last year, there were 12 occurrences of the peak behavior, within a comparable 30-day window. This indicates that the implemented interventions have demonstrated some initial success. The team will continue to monitor for effectiveness, fidelity, and feasibility."*

The IEP Team developed the BIP based on the FBA with parent input at the September 30, 2024 IEP Team meeting. The parent was provided with PWN proposing to add the BIP to the IEP on October 3, 2024, with written consent obtained on October 4, 2024. The BIP was implemented for the remainder of the eighth grade.

The IEP Goal Progress Reports for the 2024-25 school year showed the student still struggled with compliance with academic tasks but was making slow but steady progress. The 2024-25 Discipline Profile documented only one instance of disruptive behavior that was not effectively addressed using the BIP during the 2024-25 school year. During this school year, the student participated successfully in elective classes with his peers. The LEA provided the parent with PWN rejecting her request for placement at a separate special education day school such as Heartspring on September 13, 2024 and again on November 19, 2024.

The student is enrolled in the ninth grade for the 2025-26 school year. The first quarter IEP Goal Progress Report dated October 13, 2024 showed the student was making progress towards his IEP goals. The High School Special Education Teacher reported that the student's BIP is implemented with fidelity and monitored through Social Emotional Learning (SEL) check-ins with all staff responsible for implementing the BIP. During this school year, the student is participating successfully in elective classes with his peers.

The most recent Reevaluation of the student was conducted on November 19, 2024 during the eighth grade. The Multidisciplinary Team Report reflects the student's cognitive abilities fall in the very low range (Full Scale IQ = 47) indicating that he learns at a significantly slower rate than his peers of the same age. Relative strengths were noted with verbal comprehension (Verbal Comprehension = 68; Similarities = 75; and Vocabulary = 65). Weaknesses were noted with working memory, processing speed, and visual spatial reasoning (Working Memory = 45; Processing Speed = 45; Visual-Spatial Index = 57). Note that scores are based on a mean of 100 and standard deviation of 15 so that average scores fall between 85 and 115.

All academic skills fell in the low and very low range and were commensurate with the student's measured cognitive skills. A relative strength was noted for Letter-Word Identification.

Adaptive behavior skills in the school setting as rated by his classroom teacher fell within the low range as compared to same-age peers for communication skills, daily living skills and socialization skills. The parent rated the student's adaptive behavior skills in the home setting in the low range for communication skills and socialization skills but in the moderately low range for daily living skills. Maladaptive skills were rated as clinically significant in both the school and home settings. An FBA was conducted and hypothesized the function of the student's behavior as follows:

> *[Student] engages in inappropriate interactions with others primarily to avoid or escape unwanted sensory exposure, usually from other students. It is hypothesized that [Student] engages in the peak behavior of physical aggression, in an attempt to stop other students from engaging in behaviors he finds to be undesirable (crying, yelling, not following the directives of adults in the room, etc.) and to draw adult attention to the undesired stimuli, with the ultimate goal being that he stops the stimuli, an adult puts a stop to the stimuli, or he escapes from the situation.*

The current IEP was developed on November 12, 2025 with the parent in attendance at the IEP Team meeting. The transition plan notes the student's goal is to work at Burger King and live semi-independently. The IEP includes goals for increasing reading and math skills, reducing the amount of time the student needs to return to task after taking a break after experiencing frustration, and speech therapy. The IEP includes a BIP that focuses on teaching awareness of feelings, requesting a break, and teaching/using de-escalation strategies, He receives special education services His placement is less than 40% of the time in the general education setting. Special education services are described as noted below:

> *[Student] will receive direct special education services, in a general education building, participating without general education peers for English, math, science, and social studies. He will receive these classes at the same duration and frequency as his general education peers receive comparable instruction will be through the mixed abilities program. [Student] will receive direct special education services, in a general education building, participating with his general education peers for elective classes. [Student] will receive direct speech-language services, in a general education building, participating away from his general education peers for twenty minutes one time per week in a pullout setting. [Student] will also participate in Community Based Instruction twice per week.*

The High School Special Education Teacher's data show the student had 11 behavioral incidents of dysregulation during the 2025-26 school year. Of the 11 incidents, nine were handled successfully through the implementation of the BIP. Only two of these incidents required assistance from administrators, and only one incident resulted in a suspension as a disciplinary action.

The IEP Progress Report dated October 13, 2025 document that the student demonstrated improvement from baseline and/or the previous reporting period on all of his IEP goals.

The High School Special Education Teacher uses Zones of Regulation, a research-based program to teach self-regulation skills. The Zones of Regulation Board is posted all day and all students in the classroom are encouraged to move their name if their feelings change throughout the day. School staff reported,

> *When this student arrives in the morning, he turns in his red folder to staff that has his money sheet (see Master Money Sheet) in it from the previous day and then he finds his name and places it on the board according to how he is feeling that morning. Blue zone = tired, sad, bored, Green zone = ready to learn, happy, Yellow Zone = frustrated, nervous, and Red Zone means they are feeling out of control or mad (see 2025-2026 Zones of Regulation board in classroom). When the student is doing his check-in, staff ask him greeting questions such as, "what did you do after school yesterday?" If he places his name in the red zone, staff talk to him to better understand what's going on and how they can help him move into a more positive zone.*

The LEA reported that the school staff working in the Mixed Abilities classroom know the student well and they are consistent with classroom procedures and expectations which are described in the Universal Interventions for Mixed Abilities Classroom Students at North High School. These interventions include:

- Daily Communication Folder with a calendar for the year
- Filled out money sheet goes home each night and is returned to school the next day
- Zones of Regulation check-in done at the beginning of the day and throughout the day.
- Breaks during class period
- Small group work in Mixed Abilities classroom
- Close proximity to an adult in Mixed Abilities classroom and in outside classes when special education support is necessary
- Students earn money each class period and go to a classroom store once a week with real items to spend their earnings
- Students who earn 80% of the possible money for the week get to go out to breakfast on Fridays
- Structured lunch break with supervision if needed
- Advanced notice about schedule changes (when staff is aware of a change)
- Mindfulness room is available when needed
- Calm down area in both Mixed Abilities classrooms

Conclusion

In this case, the interviews and documentation show the LEA has followed the IDEA regulations to review and revise the student's IEPs, as appropriate, since his enrollment during the past four school years.

The student enrolled in USD #259 in the sixth grade during the 2022-23 school year. The original sixth grade IEP was developed based on providing comparable services from the out-of-state transfer IEP and was reviewed and revised by the IEP team to change his placement to the Mixed Abilities program which could provide additional academic and behavioral support to meet the student's needs.

During the 2023-24 school year, the student's behavioral concerns escalated, and the IEP was amended at the end of the first semester to increase behavioral supports. At the end of the second semester of seventh grade, the IEP Team proposed and obtained written parent consent to conduct a functional behavioral assessment (FBA) of the student to gather additional data to develop a behavior intervention plan (BIP) to address behavioral challenges.

The FBA was completed during the first quarter of the 2024-25 school year when the student was in eighth grade. The IEP Team reviewed the data and developed a BIP for the student to provide additional behavioral support with an IEP goal to increase the student's self-regulations skills. A reevaluation in the areas of cognitive, academic, and

social/emotional/behavioral was completed during the second quarter of the eighth grade and the IEP Team again met to review and revise the IEP. The IEP Goal Progress Reports showed progress towards achieving his IEP goals and the decreased disciplinary office referrals indicated the BIP was effective for the student.

During the current 2025-26 school year, the North High School IEP team of the student, including the parent, met on November 12, 2025 to review and revise the student's IEP. The results of the most recent reevaluation conducted on November 19, 2024 as well as current progress monitoring data were considered by the IEP Team in the development of a reading and math goal, a speech goal, and a goal to address the identified behavioral concerns and a BIP developed based on an FBA to provide environmental supports and instruction to teach self-regulation skills. IEP goal progress reports show the student is making progress towards meeting the annual goals.

In each school year, the IEP teams, including the parents, gathered and reviewed relevant data to make decisions regarding the provision of a free appropriate public education in the least restrictive environment for the student. The parent has repeatedly requested the student be placed in a separate special education setting for 100% of the school day due to concerns related to aggressive behavior in the home setting towards siblings and the parent as well as the safety of the student, his peers, and staff in the school setting. Each time, the LEA has considered this request and followed the IDEA regulations for providing appropriate prior written notice to refuse the request for such a restrictive setting away from the student's typical peers. It is noted that the LEA has provided information to the parent regarding community resources that could provide case management and behavioral support in the home setting.

Based upon the continuous process of IEP reviews and subsequent revisions to meet identified student needs in the least restrictive environment, there is sufficient evidence to substantiate a finding that the LEA has developed and implemented appropriate IEPs with BIPs calculated to enable the student to make progress appropriate in light of his circumstances and the student's consistent progress towards meeting IEP goals and the decrease in disciplinary actions is an outgrowth of this. Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated*.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #385
ON DECEMBER 30, 2025

DATE OF REPORT: JANUARY 22, 2026

This report is in response to a complaint filed with our office on behalf of a student, -------, by the Complainants, -------. In the remainder of the report, the student will be referred to as "the Student" and the complainants as "the Complainants."

The Complaint is against USD 385 Andover Public Schools. In the remainder of the report, the "local education agency (LEA)" shall refer to USD 385.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to KSDE. In this case, KSDE received the complaint on December 30, 2025, and the 30-day timeline ended on January 29, 2026.

Background

The Student has ADHD and mosaic ring Turner syndrome, a genetic condition. The Student has a 504 Plan. On December 5, 2025, school staff and the Complainants met to discuss and update the Student's 504 Plan. At the same meeting, the Complainant's sought special education services to address parental concerns, including the Student's social awareness and classroom behavior.

Investigation of Complaint

The Complaint Investigator interviewed the Complainant on January 7, 2026. The following LEA staff were interviewed on January 12, 2026: the Director of Special Education.

In completing this investigation, the Complaint Investigator reviewed all documentation provided by the Complainant and the LEA. The following materials were used as the basis of the findings and conclusions of the investigation:

Complainant Materials

1. Summary of the 504 meeting that took place on December 5, 2025.
2. "Request for IEP eval" email sent by the Complainants on December 5, 2025.
3. Copy of the prior written notice received by the Complainants from the LEA via email on December 16, 2025.

Factual Findings

The following findings are based on a review of documentation and interviews with the Complainant and LEA staff.

1. On December 5, 2025, the Complainants and LEA staff met to review the Student's 504 Plan.
2. At the 504 Plan meeting, the Complainants asked about an IEP for the Student.
3. The counselor responded to the Complainant's question saying that, in her opinion, the Student would not qualify for an IEP.
4. On December 5, 2025, the Complainants sent an email to the principal and the counselor requesting that the LEA evaluate the Student for an IEP.
5. The LEA established a team to discuss whether to evaluate the Student for an IEP.
6. The team included the psychologist intern, principal, counselor, and the general education teacher.
7. The decision to refuse the evaluation was made by the team.
8. On December 16, 2025, the LEA provided the Complainants with prior written notice (PWN) refusing to conduct the IEP evaluation via email.
9. As stated in the PWN, the reason for the refusal was that the Student's reading and math scores across the most recent four data collection sessions indicate the Student is not performing significantly below grade level peers, and because the Complainant's concerns can be addressed through the Student's 504 Plan.

Issues Analysis

Issue One

Did USD 385 issue prior written notice (PWN) declining to evaluate the Student for an individualized education program (IEP) within a reasonable time, and is the explanation for declining to evaluate the Student sufficient?

A PWN is required when the LEA refuses a parent's request to evaluate their student. K.S.A. 72-3430(b)(2); 34 C.F.R. 300.503(a)(2). When parents make a request for an evaluation (whether

oral or written), KSDE has determined that, unless there is an unusual circumstance, 15 school days is a reasonable time for providing parents with a PWN of the LEA's refusal to conduct the evaluation. See "Reasonable time" to Respond to Parent Request (KSDE, January 8, 2002). Accordingly, unless there is an unusual circumstance, LEAs must provide parents with a PWN within 15 school days in response to any parent request regarding identification and evaluation.

A PWN shall include: a description of the action refused by the LEA; an explanation of why the LEA refused to take the action; a description of other options that the LEA or IEP team considered and the reasons those options were rejected; a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the refused action; a description of any other factors that are relevant to the LEA's refusal; a statement that the parents have protection under the procedural safeguards; and sources for parents to contact to obtain assistance in understanding the provisions of the federal law and this act. K.S.A. 72-3432; 34 C.F.R. 300.503(b). A PWN that does not provide an explanation of why the LEA refused to take the action is deficient, as a matter of law.

In this case, the LEA sent the Complainants a PWN when it refused the Complainant's request to evaluate the Student. The Complainants requested that the LEA evaluate the Student on December 5, 2025. The LEA sent the PWN to the Complainants on December 16, 2025. The LEA was well within the 15 school day timeline established by KSDE guidance because the LEA issued the PWN within seven school days. Therefore, the LEA did not fail to issue a PWN declining to evaluate the Student for an IEP within a reasonable time.

The LEA had ample time over those seven school days to decide whether to evaluate the Student. During those seven days, a team met to discuss the Student's need for an IEP, specifically specially designed instruction. The team consisted of the psychologist intern, principal, counselor, and the general education teacher. Ultimately, the team decided not to evaluate the Student. The PWN noted that the LEA's refusal to evaluate the Student for an IEP was because the Student's "reading and math scores across the most recent four data collection sessions indicated that the Student was not performing significantly below grade level peers." In addition to test scores, the team considered several other data points, including teacher input and observations, a previous evaluation from another school, and an external evaluation. The PWN made clear that the Complainants' concerns could be met using the Student's current 504 Plan. The PWN also made clear that the LEA was willing to meet to update the Student's 504 Plan, stating the counselor would "reach out to the parents to add further accommodations to the plan." The LEA stated that the Student would continue to receive general education interventions, which are available to all general education students. Further, the PWN noted that the Student would "continue to receive evidence-based instruction in the general education classroom and through multitiered system support." Therefore, the LEA did not fail to give a sufficient explanation for declining to evaluate the Student.

Issue Two

Did USD 385 predetermine the Student's eligibility for Individuals with Disabilities Education Act (IDEA) special education and related services?

Predetermination occurs when a LEA makes decisions about a student's eligibility without genuine input from LEA staff or any meaningful consideration of the student's needs. The law permits LEA staff and teams formed for the purpose of making evaluation decisions to engage in preparatory activities to develop or respond to a parent's proposal. The only requirement is that LEA staff have an open mind. T.W. by McCulloch and Wilson v. Unified Sch. Dist. No. 259, Wichita, Kan., 43 IDELR 187 (10th Cir. 2005). Thus, LEA staff may come to meetings with pre-formed opinions so long they are receptive and open-minded. Deal v. Hamilton Cty. Bd. of Educ., 104 LRP 59544 (6th Cir. 2004).

In this case, the decision to refuse to evaluate the Student for an IEP was made by a team. The team included the psychologist intern, principal, counselor, and the general education teacher. The team discussed whether the Student was a good candidate for an IEP evaluation. The team's discussion included the analysis of several data points, including the Student's reading and math scores, teacher input on classroom performance, the Student's previous school evaluation, and external evaluations. Though the team recognized the presence of a disability, the team agreed that the Student does not require specially designed instruction beyond what can be provided through general education interventions. Furthermore, the team agreed that the Student's needs could be addressed through the Student's existing 504 Plan.

Before the team made their decision, a team member shared their opinion regarding the Student's eligibility for an IEP at a 504 Plan meeting on December 5, 2025. At the meeting, the counselor told the Complainants that she believed that the Student would not qualify for an IEP. This was the counselor's opinion. All LEA staff are allowed to have pre-formed opinions regarding a student's eligibility for an IEP as long as they remain open-minded. There is no evidence that the counselor was not receptive to the team's opinions and information it gathered, nor is there evidence that the counselor was not open-minded. Therefore, the LEA did not predetermine the Student's eligibility for IDEA special education and related services.

Conclusions

ISSUE ONE: It is not substantiated that the LEA failed to issue prior written notice declining to evaluate the Student for an IEP within a reasonable time and failed to give a sufficient explanation for declining to evaluate the Student.

ISSUE TWO: It is not substantiated that the LEA predetermined the Student's eligibility for IDEA special education and related services.

For a further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f), which is included at the end of this report.

Hannah Miller, Attorney

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512
ON DECEMBER 10, 2025

DATE OF REPORT: JANUARY 22, 2026

This report is in response to a complaint filed with our office on behalf of a student, --------, by their parent, --------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #512, Shawnee Mission Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #512.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on December 10, 2025, and the 30-day timeline ended on January 10, 2026.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #512, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), took steps to ensure that one or both of the parents were present at each IEP team meeting, or were afforded the opportunity to participate, including scheduling each meeting at a mutually agreed-upon time and place. K.A.R. 91-40-17 (a)(1)(2)(c)(e)(1)(2), K.A.R. 91-40-25 (a)(1)(b)(1); 34 CFR §§300.322(a)(1)(2), 300.501(b).

NOTE: The scope of this case is limited to the IEP meeting on December 2, 2025. Allegations concerning the November 12, 2025, meeting were previously adjudicated under case KSDE 26FC512-006.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on January 7, 2026. The Special Education Coordinator, accompanied by the Associate Superintendent of Special Education, was interviewed on January 9, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

District Materials

1. Prior Written Notice (PWN), 12/02/25
2. Notice of Meeting, 11/17/25
3. Notice of Meeting, 12/03/25
4. Statement to Summarize Events, 11/12/[25]
5. Notice of Meeting, 11/12/25
6. Emails from November 12, 2025 through December 22, 2025

Parent Materials

1. Screenshot of Email, re: [the Student's] Annual Individualized Education Program (IEP) Meeting, 12/02/25-12/05/25
2. Summary of Events, 11/12/[25]
3. Emails from November 13, 2025 through December 2, 2025

Background Information

This investigation involved a 5th-grade student enrolled at an elementary school in USD #512. The Student is currently receiving special education or related services as a child with a disability per the IDEA.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. On November 7, 2025, the Parent requested an IEP meeting that was scheduled for November 12, 2025. The Parent waived the 10-day notification requirement on November 12, 2025. According to staff statements, early in the meeting, the Parent shared concerns about the Student's math progress. During the review of the Student's progress, staff reported the Parent's behavior escalated to include yelling profanity, and the Parent "standing over the principal." Staff reported the Principal indicated the meeting would be rescheduled.
2. On November 12, 2025, the Parent emailed the Principal to request the following relevant accommodations for future meetings:

a. "Alternative participation methods - I may provide written input before, during, or after meetings."
b. "Meeting format flexibility - I may choose to attend meetings in person, virtually, or in a hybrid format if that best supports my ability to participate calmly and effectively. The district will honor whichever format I select."

3. On November 13, 2025, the Principal emailed the Parent, "Our shared goal is to create a meeting environment that remains safe, respectful, and focused on the needs of your [children]. To ensure safety for all, and maintain a structured, productive meeting environment, we will plan to reschedule this past meeting, and it will be held virtually. … We will provide you with the required 10-day notice for the IEP meeting in accordance with your procedural safeguards. I will follow up with proposed dates and times for the team to convene virtually."
4. A Notice of Meeting dated November 17, 2025, created by the Special Education Coordinator, proposed an IEP meeting date of December 2, 2025, and noted "Proposed meeting date/time and WebEx link sent to parent via email. Notice of Meeting attached to email; Printed copy sent home in student backpack." The notice discussed possible changes to the Student's IEP and included a link to the WebEx meeting.
5. From November 17, 2025 through November 20, 2025, the following emails were exchanged between the Special Education Coordinator and the Parent regarding the scheduling of a December 2, 2025 IEP meeting:
    a. November 17, 2025, from the Special Education Coordinator: "I wanted to reach out to re-schedule [the Student's] IEP meeting. The school team is proposing [a] meeting on 12/2/2025 at 10 [a.m.] via WebEx. The Notice of Meeting is attached to this e-mail. Please let me know if this date/time does not work for you and we will work to re-schedule."
    b. November 18, 2025, from the Parent: "I'm not signing the notice of meeting until I get acknowledgement of wrongdoing, a sincere apology and everything I asked for in my previous email."
    c. November 19, 2025, from the Special Education Coordinator: "The IEP team is ready and willing to meet with you via WebEx at 10:00 [a.m.] on the proposed date of 12/2/25 and looks forward to working collaboratively to support your student. As the school team proposed the meeting date more than 10 days in advance, there is no signature needed on the Notice of Meeting."
        i. November 19, 2025, from the Parent: "I also didn't agree to the date."
    d. November 20, 2025, from the Special Education Coordinator: "The school team proposed December 2nd[,] [2025] at 10:00 [a.m.] more than 10 days prior to the meeting, therefore, at this time the meeting is scheduled to occur on this date and time. As outlined in the Notice of Meeting, if you're unable to attend this scheduled time and would like to schedule the meeting at another date or time, please share dates and times, within our teacher contract day, that you are available on the Notice of Meeting document."

i. November 20, 2025, from the Parent: "I'm expecting an apology." In an additional email, the Parent wrote, "The meeting is not scheduled on that date because I never agreed to the date. You asked me if it worked for me and I never said anything. You didn't give me a variety of dates to see what worked with my schedule. You decided what worked for you and that was that." Later, on the same date, the Parent wrote, "I want to be clear … I am not refusing to meet. I am refusing to participate in a meeting scheduled without my agreement, which is my right under [the] IDEA and [the] KSDE Procedural Safeguards. A meeting date is not valid simply because it was proposed more than 10 days in advance. [The] IDEA requires the school to make multiple attempts to find a mutually agreeable time and to meaningfully include the parent in scheduling. I was asked if December 2nd[,] [2025] worked, and I never confirmed. Therefore the meeting is not agreed upon and cannot move forward on that date." The Parent listed their conditions, "Before I can participate in any future meeting … " and requested the LEA respond with the following:

1. Acknowledgement of the Parent's listed concerns;
2. "Confirmation … the December 2nd[,] [2025] date is not set"; and
3. "Three alternative dates and times within the teacher contract day for me to choose from."

The Parent closed with, "I remain willing to participate once these issues are addressed."

6. On December 2, 2025 and December 3, 2025, the LEA and the Parent exchanged the following emails:
    a. December 2, 2025
        i. 10:30 a.m., Special Education Teacher: "[The Student's] annual IEP review is due in early February. I would like to schedule this sooner rather than later, so we have some lead time if we might need to reschedule because of weather. Would your schedule allow for an online virtual IEP meeting on Wednesday[,] January 21st[,] [2026] @ 10:00 [a.m.]?"
            1. The Parent responded, notifying the Special Education Teacher of the pending investigation, and the Special Education Teacher replied, "… I am still legally required to schedule an annual review of [the Student's] IEP. Given that, would your schedule allow for an online virtual IEP meeting on Wednesday[,] January 21st[,] [2026] @ 10:00 [a.m.]?"
        ii. 11:20 a.m.: The Parent wrote, "I am still willing to work collaboratively, but at this point, I need the district to acknowledge what occurred, correct the harm, and put appropriate supports in place moving forward. To be clear, I am not refusing to participate in IEP meetings." The Parent listed

actions they needed the LEA to take before committing to a meeting, including "A mutually agreed-upon meeting date … . I was never given multiple options or asked for availability. A Notice of Meeting is not valid if the date was never mutually agreed to."

b. December 3, 2025

i. The Associate Superintendent of Special Education wrote, "… We remain committed to continuing collaborative communication with you and ensuring … you can participate meaningfully in all special education processes for [the Student] … . Regarding next steps, the IEP team continues to be ready to meet and collaborate in support of your children. We will communicate and propose dates and times for meetings … ." The Parent responded inquiring about in-person meetings, and the Associate Superintendent of Special Education wrote, "At this time to ensure the safety of our staff we will need to host virtual meetings. We can accommodate you being located at a district site and provide technology access to ensure you are able to participate."

ii. The Parent wrote, "I do not agree to virtual IEP meetings. I have never posed a threat to anyone in the building, and responding to trauma during an IEP meeting does not constitute a safety risk. … Virtual meetings restrict my ability to fully participate as a parent and limit my legally protected right under [the] IDEA to be meaningfully involved in my children's education. I also want to acknowledge … [the Special Education Teacher] already reached out to schedule another virtual meeting. I declined for the same reasons stated above … ." Additionally, the Parent wrote, "I am requesting an in-person meeting."

7. Regarding the December 2, 2025 IEP meeting and the communication with the Parent, the Associate Superintendent of Special Education emailed the Complaint Investigator on December 20, 2025, to share that a "courtesy phone call was made on December 1st[,] [2025] reminding the parent of the IEP meeting on December 2nd[,] [2025]."
8. The School Psychologist emailed a PWN dated December 2, 2025, to the Parent on December 3, 2025, and indicated a signature was not required. The PWN described the following:
    a. An IEP meeting was held on December 2, 2025, to review data and information about the student and determine "… With your input … any additions, changes or modifications …" to the Student's special education, related services, or placement needed to meet their IEP goals.
    b. Actions proposed or refused: "[The Parent] requested an IEP team meeting due to concerns in the area of math." The IEP team met to review the Student's present levels and progress, and "… [The Parent] was not in attendance."
    c. Explanation of actions and options considered were noted, and various data and other relevant factors were considered in the decision-making process.

9. The Parent responded to the PWN on December 3, 2025:
    a. 4:32 p.m.: "So you held a meeting without me?"
    b. 4:39 p.m.: "You held the meeting without me when I said in an email that I don't agree to the date."
    c. 4:58 p.m.: "I am writing to formally state … the December 2nd[,] 2025 meeting was not a valid IEP meeting and cannot be recognized as such. … An IEP meeting date must be mutually agreed[-]upon with the parent. I clearly communicated prior to 12/2/25 that I did not agree to that date and could not attend. Despite this, the district proceeded without me - and without offering me alternative dates or documenting genuine efforts to include me. … I am willing to move forward collaboratively in-person, with safeguards in place to prevent trauma triggers and ensure full parent participation. Please confirm in writing that the District will invalidate the 12/2/[2025] meeting and schedule an in-person IEP meeting with my approved accommodations."
    d. 6:48 p.m.: "I am formally rejecting the PWN dated 12/02/2025 regarding [the Student's] IEP." The Parent wrote, "The document falsely states … the December 2[,] [2025] meeting was requested by me. I only requested the original November 12[,] [2025] meeting, which the school ended without completion. … The meeting date and format were not mutually agreed[-]upon. No schedule options were provided. … I explicitly said I could not and would not attend until the prior harm was addressed. … The district denied me meaningful participation by moving forward without me. … No attempt was made to finalize a mutually acceptable time in good faith."
10. A Notice of Meeting dated December 3, 2025, proposed a virtual meeting on January 21, 2025 at 10:00 a.m. to discuss possible changes to the Student's IEP and conduct an annual review. It was noted the Parent was notified via email on December 2, 2025 with the date and time, the meeting notice was emailed to the Parent on December 3, 2025, and a hard copy was sent home in the Student's backpack on December 4, 2025.
11. From December 5, 2025 through December 9, 2025, the LEA and the Parent exchanged the following email messages:
    a. December 5, 2025
        i. Regarding the December 2, 2025 PWN, the Parent wrote, "I am specifically not consenting to … any representation that I agreed to or participated in the 12/02/25 meeting … any decisions made without my participation or informed agreement. … The December 2[,] [2025] meeting occurred without me present and without my consent to the date or format. Because of this, it does not meet procedural requirements for parent participation, and therefore I dispute its validity."
        ii. Regarding the December 3, 2025 Notice of Meeting, the Parent wrote, "As I have already communicated in writing, I will not be scheduling or

attending any IEP meetings for [the Student] until the open … investigation is fully resolved." The Parent listed their expectations:

1. "The December 3rd[,] [2025] Notice of Meeting for January 21st[,] [2026] is withdrawn and voided."
2. "All IEP meeting scheduling must pause immediately until the findings … are issued."
3. "The district must re-engage in the interactive process regarding my parent disability accommodations … ."
4. "Any future meetings must be: In person, unless I independently choose to attend virtually."
5. "Scheduled only with mutual agreement via direct communication with me."

b. December 8, 2025
    i. The Associate Superintendent of Special Education described the LEA's preferences for a virtual meeting or an in-person meeting with security presence and indicated the Special Education Coordinator would be reaching out to the Parent to schedule an IEP meeting.
    ii. The Parent responded, "I am writing to formally reiterate … the district must cease all further IEP actions, meetings, scheduling attempts, and changes while there is an active … investigation into your violation of parent participation rights." The Parent reiterated the December 2, 2025 IEP meeting was held without their agreement to the date and time and wrote, "I was not notified … the meeting would proceed without me." The Parent listed actions they requested from the LEA and wrote, "I expect written confirmation of compliance within 5 school days."
c. December 9, 2025
    i. The Associate Superintendent of Special Education wrote, "The district must continue to meet its obligations while the complaint is pending, including scheduling needed IEP team meetings[,] and issuing PWNs."
    ii. The Parent reiterated, "… The district held the December 2, [2025] meeting without me present, after I clearly stated … I did not agree to the date or format." The Parent also wrote, "moving forward," … "I am not available on any date scheduled without my participation" and "No meeting may take place if my accommodations are not in place."
    iii. The Parent wrote, "First I have never refused to participate in [the Student's] IEP process. I have refused only the barriers the district has imposed on my participation." The Parent included, "The district required WebEX without my consent … the district never provided a WebEx link for the December 2nd[,] [2025] meeting … the district proceeded without me and made IEP decisions illegally. … Until that investigation is

complete and the district corrects these violations, no further IEP meetings will be scheduled or held."

12. Additionally, on December 9, 2025, the Special Education Coordinator emailed the Parent regarding the scheduling of the Student's annual review, "I know … [the Special Education Teacher] … sent you a Notice of Meeting proposing holding [the Student's] annual IEP meeting via WebEx on January 21st[,] 2026 at 10:00 [a.m.]. If this date/time does not work for you, please share with me other dates/times that do work for you. Please also share your preference to meeting via WebEx or in person … with the stipulations outlined in [the Associate Superintendent of Special Education's] previous email. [The Student's] IEP is due February 13th[,] 2026; we will need to hold the meeting prior to this date. Additionally, … we would like to schedule the meeting in advance of the 13th to allow for unexpected events that would impact meeting."

Parent Interview

13. When asked by the Complaint Investigator about the LEA offering December 2, 2025 as an IEP date for the Student, the Parent indicated the District sent a Notice of Meeting for a virtual meeting, "That was the only option … they gave me was via WebEx and December 2nd, [2025] there was no other options for date or time. … They didn't say that I could do in-person or anything." The Parent shared, "I told them … I did not agree to the meeting date because … it did not allow me to meaningfully participate because they decided how I could participate in the meeting … they were saying it was for safety reasons based on a previous meeting when I never threatened to harm anyone … ." The Parent said, "I told them … I did not agree to the date, that I wanted something different. … I told them … I was not refusing to meet. I'm refusing to participate in a meeting scheduled without my agreement."
14. The Parent shared, "Regardless of the fact that I told them … I didn't agree to the date and time, they still held that meeting. They made decisions for my [child's] IEP without me. They didn't even ask. They didn't even give me additional days or times … . They put in there that I requested an IEP meeting. I requested the November 12th[,] [2025] meeting. This one I didn't request. They requested this meeting. They're the ones that set this meeting … . I was holding off. I wasn't going to even attempt to hold another meeting yet. They reached out to me to reschedule it." The Parent described they wanted to add math services for their child and indicated, "… They made a decision without me to not add math services for my [child] based on what they think, not based on any information … I have … ."
15. The Parent acknowledged, for both the December 2, 2025 and the January 21, 2026 IEP meetings, the LEA requested the Parent share dates and times if the LEA's proposed date and time did not work.
16. The Parent explained their reasons for not offering other options for the December 2, 2025 IEP meeting, "… Because they were framing me as somebody that was threatening and … was unsafe, and so they had made up their mind … it was only WebEx. … I did not put any other times. Instead, I was in a[n] … investigation, and so it removed my right to

meaningful participation because I was not … they had framed me as this person. The District has me framed as unsafe. They put me down later as threatening to punch the Principal when it was not true, and that's why they were trying to do WebEx only. And then later they said, 'Fine, we'll do in-person, but security has to be present.'" The Parent explained, "… Being able to participate in person is how I can participate meaningfully for my kids. And taking away my right to say how I can participate for my kids, instead of giving me the option of to participate [sic], was completely removed from me. There was no option. So I did not offer alternatives."

17. Regarding their understanding of "scheduling a mutually agreed-upon date," the Parent's perspective included "… Giving me the option to say … in-person or virtual. If I agree to virtual, that is one thing. … I prefer in-person because everybody can communicate effectively … . I had done virtual for IEP meetings in the past, and it did not go well. … And … giving me the option of how I want to do the meeting, give me different times, which they've given me different times in the past, but this time it was, 'No, we're meeting at this time. That's it."
18. According to the Parent, the Special Education Teacher emailed the Parent on December 2, 2025 to propose January 21, 2026 for a virtual, annual IEP meeting. The Parent shared with the Complaint Investigator, "And I said … I didn't want to schedule anything until it [the complaint] was resolved. … I still was not comfortable with virtual-only. … I told [the Special Education Teacher] … I understood … the review was due soon, [and] I didn't want to schedule any IEP meetings until the issues from the November 12th[,] [2025] meeting are resolved, and the District has responded to my parent disability accommodation request and trauma parent profile." The Parent shared, "I said, 'All future meetings must be in person unless I independently choose to be virtual,' because … that is my right to be able to choose because I was never a threat to anybody."
19. For the scheduling of the January 21, 2026 IEP meeting, the Parent recalled the LEA offering a WebEx option or an in-person option with specific stipulations and the presence of a security officer. The Parent shared, "… That was the stipulation, and I told them no because I didn't want to be treated that way. This whole thing became not about my [child]. It became about me and false information about me."

Special Education Coordinator & Associate Superintendent of Special Education Interview

20. In an Interview with the Complaint Investigator, the Special Education Coordinator described offering December 2, 2025 as a meeting date for the Student's IEP, "So this was in response to a meeting that had occurred initially in November, and the school-based IEP team wanted to continue the conversation with the Parent. … We offered that date and time, more than 10 school days in advance of the meeting … we proposed to the Parent, and noted in a couple different emails, as well as a phone call, that if the Parent had other dates or times … they wanted to offer to us, … please let us know." The Special Education Coordinator indicated no other dates or times were offered, "We

said, this date and time is what we're proposing, and please let us know if there are other dates or times … you would propose … if that date and time does not work for you."

21. The Special Education Coordinator indicated it was standard LEA practice to propose a date and time to a parent for an IEP meeting and "… Then they can let us know … in a myriad of ways, one being on the Notice of Meeting that's provided to the family, one being any other way of communication. And so we didn't receive any other dates or time proposal from the parent/guardian in this situation." The Associate Superintendent of Special Education explained the December 2, 2025 IEP meeting was a "carryover" from the November IEP meeting, when the Parent voiced concern about the Student's math progress.
22. When asked about the specific steps the LEA took to offer an alternative convening to December 2, 2025, the Associate Superintendent of Special Education explained the Parent's disagreement centered on the meeting's modality rather than its scheduling. The LEA offered an alternative to a virtual meeting: an in-person meeting at a neutral location, with law enforcement support for safety. The Associate Superintendent of Special Education indicated that due to established safety parameters, the LEA remained firm on the virtual requirement. The Associate Superintendent of Special Education attempted to facilitate the Parent's attendance via a courtesy call placed the day before the meeting, but was unable to reach the Parent and left a message. According to the Associate Superintendent of Special Education, the Parent's expressed frustration was interpreted as a dislike of the virtual format rather than an inability to attend on that specific date, so the LEA moved forward with the meeting as planned.

    The Associate Superintendent of Special Education explained the meeting continued without the Parent present, "… After the incident on November 12th[,] [2025], we learned … the Parent had … concern about math. So the team wanted to formally look at the math concerns just to make sure … there wasn't something being missed, but the Parent, unfortunately, was unable to safely participate in the November 12th[,] [2025] meeting." The Associate Superintendent of Special Education described how the school-based team used the time between the November and December meetings to review the Student's math progress and IEP.
23. The Associate Superintendent of Special Education indicated the link to the WebEx for the December 2, 2025 meeting was on the Notice of Meeting provided to the Parent.
24. The Associate Superintendent of Special Education shared, "We are continuing to try to find ways to meet [the] Parent at the table, but also while protecting staff and their safety to ensure … [the] Parent can have a voice at the table, but yet our staff aren't attacked in a verbal and semi-physical capacity."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, took steps to ensure that one or both of the parents were present at each IEP team meeting, or were afforded the opportunity to participate, including scheduling each meeting at a mutually agreed-upon time and place. K.A.R. 91-40-17 (a)(1)(2)(c)(e)(1)(2), K.A.R. 91-40-25 (a)(1)(b)(1); 34 CFR §§300.322(a)(1)(2), 300.501(b).

According to K.A.R. 91-40-17(a)(1)(2)(c)(e)(1)(2), K.A.R. 91-40-25 (a)(1)(b)(1); 34 CFR §§300.322(a)(1)(2), 300.501(b), parents must be members of the IEP team. The parents are equal partners and play an active role in providing critical information about their child's abilities, interests, performance, and history. They are involved in the decision-making process throughout the development of the IEP.

Each agency shall take steps to ensure that a parent of an exceptional child is present at each IEP team meeting or is afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place and providing written notice to the parent of any IEP team meeting, at least 10 days in advance of the meeting. If a parent of an exceptional child cannot be physically present for an IEP team meeting, the agency shall attempt other measures to ensure parent participation, including individual or conference telephone calls.

When an agency conducts an IEP team meeting without parental participation, the agency shall have a record of the attempts, having been unable to contact the parent or to convince the parent to participate. Furthermore, if an agency conducts an IEP team meeting without parental participation, the agency shall have a record of the attempts the agency made to contact the parent to provide notice of the meeting and to secure the parent's participation. The record shall include at least two of the following: detailed records of telephone calls made or attempted, including the date, time, and person making the calls and the results of the calls, detailed records of visits made to the parents' home or homes, including the date, time, and person making the visit, and the results of the visit, copies of correspondence sent to the parent and any responses received, or detailed records of any other method attempted to contact the parent and the results of that attempt.

Each agency shall give parents sufficient early notice of the meeting, at least ten days, to ensure they have an opportunity to attend the meeting. Each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or educational placement of the child.

The Parent alleged that on December 2, 2025, USD #512 held an IEP meeting for their child despite:

a. The Parent "clearly stated in writing" they did not agree to the proposed date.
b. No mutually agreeable date was ever confirmed with the Parent.
c. The Parent was never told the team would proceed without the Parent present.

The Parent alleged the PWN issued after the IEP meeting falsely stated they "requested" the IEP meeting on December 2, 2025. The Parent stated they did request the original November 12, 2025 IEP meeting, but did not request or agree to the December 2, 2025 IEP meeting.

The LEA's Response noted the LEA convened an IEP meeting on November 12, 2025 at the Parent's request, which was terminated early due to the Parent's verbal escalation and physical intimidation. In the following weeks, the LEA made multiple attempts to reschedule, providing a neutral facilitator and offering virtual or central-office meeting options. The LEA scheduled a second meeting for December 2, 2025, and inquired about necessary accommodations or alternative dates and times, but the Parent declined to participate virtually and did not attend the IEP. The IEP team reviewed the Student's math performance in the Parent's absence, documented the findings in a PWN, and issued further requests for a January 2026 meeting. The LEA concluded that its actions complied with the IDEA and KSDE requirements, as it provided prompt responses and reasonable efforts to facilitate participation despite the Parent's refusal of the proposed meeting formats and failure to suggest alternative dates.

The LEA exceeded the 10-day notice requirement for scheduling an IEP meeting and repeatedly solicited the Parent's availability for alternative IEP meeting dates, which the Parent declined to provide. Furthermore, the LEA's transition to a virtual format was a permissible measure to ensure a safe and productive meeting environment following documented safety concerns during the November IEP meeting. The LEA's detailed record of outreach to schedule the December 2, 2025 meeting, including emails, a phone call, and an electronic and printed Notice of Meeting, justified proceeding with the IEP meeting on December 2, 2025 to ensure the Student's educational needs were addressed.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to take steps to ensure parental participation or failed to schedule the December 2, 2025 IEP meeting at a mutually agreed-upon time and place.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #367
ON JANUARY 2, 2026

DATE OF REPORT: JANUARY 29, 2026

This report is in response to a complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #367, Osawatomie Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #367.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on January 2, 2026, and the 30-day timeline ended on February 1, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #367, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide special education and related services in accordance with the Student's Individualized Education Program (IEP), specifically regarding medical protocols (seizure and heat triggers), toileting, feeding, and self-care routines, school-to-home communication, and extended school year (ESY). Additionally, whether USD #367 ensured that all staff responsible for implementation were informed of the IEP and trained on their specific responsibilities. K.A.R. 91-40-16(a)(3-4)(5)(A-B); 34 C.F.R. § 300.323(a)(d.

ISSUE TWO: Whether USD #367, in accordance with state and federal regulations implementing the IDEA, followed appropriate procedures in denying the Parent's request to

conduct a reevaluation of the Student to determine changes in the Student's needs and inform placement decisions. K.A.R. 91-40-8(c)(e); K.S.A. 72-3428(h); 34 C.F.R. § 300.303.

ISSUE THREE: Whether USD #367, in accordance with state and federal regulations implementing the IDEA, afforded the Parent an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the Student and the provision of a Free Appropriate Public Education (FAPE). K.A.R. 91-40-17(a); K.A.R. 91-40-25(a); 34 C.F.R. § 300.322(a); 34 C.F.R. § 300.501(b).

ISSUE FOUR: Whether USD #367, in accordance with state and federal regulations implementing the IDEA, failed to provide the Student a FAPE, resulting in a lack of educational progress and regression in behavior and communication due to the failure to implement the IEP, follow health protocols, and provide adequate staff training. K.A.R. 91-40-2(a)(1)(b)(1); K.A.R. 91-40-1(z); 34 C.F.R. § 300.101(a); 34 C.F.R. § 300.17.

Investigation of Complaint

The Complaint Investigator interviewed the Parent by video conference on January 19, 2026. The following LEA staff were interviewed on January 20, 2026: the Life Skills Teacher and the Special Education Director.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. IEP: 01/24/25 – 01/12/26
2. Prior Written Notice (PWN): 01/24/25 – 12/16/25
3. Notice of Special Education Meeting: 01/13/25 – 12/16/25
4. Evaluation/Eligibility Team Report: 12/16/25
5. Request for Evaluation/Reevaluation Extension: 01/15/25
6. Student Attendance: 2025–26 School Year
7. Progress Report: 01/05/26
8. Middle School Schedule: No date
9. Incident Documentation: 09/26/25
10. Emails: 01/14/26
11. School Message History: 08/13/25 – 01/05/26
12. Para/Staff Trainings: 2025–26 School Year
13. Seizure Action Plan: 04/07/25

Background Information

This investigation involved a 6th-grade student enrolled at Hillsdale Learning Center in USD #367. The Student is currently receiving special education or related services as a child with a

disability per the IDEA under the category of Autism. The Student began attending the Learning Center in the fall of 2023. Prior to attending the Learning Center, the Student participated in a life skills program at another elementary school during the 2021-2022 school year.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. On January 13, 2025, a Notice of Special Education Meeting was issued proposing a meeting on January 24, 2025, at 1:00 p.m., to review the evaluation and determine eligibility. Additionally, the notice stated the team would also discuss possible changes to the IEP and conduct an annual review of the Student's IEP. The Parent indicated they planned to attend the meeting and added a handwritten note stating they wanted the School to "do better" with communication and that they needed consent paperwork in a more timely manner. They also stated they felt the evaluation should have been completed at the beginning of the school year.
2. On January 15, 2025, the Parent signed a Request for Evaluation/Reevaluation Extension form, agreeing to an extension of the 60-school-day reevaluation timeline. The document indicated the evaluation's due date was projected for January 10, 2025, and that, because the School was closed due to weather, the District was proposing a new date of January 24, 2025.
3. The IEP dated January 24, 2025, contained the following information:
    a. The Parent wanted to discuss the Student's bathroom breaks at school and wanted to ensure the Student was standing to urinate and sitting to have a bowel movement.
    b. The Student did not have needs in the area of general intelligence.
    c. The Student did not have health needs that required special education or related services. The following was noted:
        i. The Student took medications for sleep, anxiety, and seizures.
        ii. The Parent provided a seizure plan with medication lists on September 25, 2024.
        iii. The Student required a Health Care Plan (HCP).
        iv. The Parent indicated the Student's pediatrician was concerned about the Student's weight and was exploring ways to increase exercise. They also shared the Student's latest Electrocardiogram (EKG) showed a reduction in brain firing with the potential to remove seizure meds in the future.
    d. The Student had motor needs that required special education or related services. This included Activities of Daily Living (ADLs) such as grooming, hygiene, toileting, mealtime, and clothing management. It also included written expression, visual perception skills, and sensory processing.

e. The Student had communication needs that required special education or related services.
f. The Student had social-emotional needs that required special education or related services.
g. The Student had reading needs that required special education or related services.
h. The Student had math needs that required special education or related services.
i. The Student had written language needs that required special education or related services.
j. Goal 1 stated: the Student would spontaneously use functional verbal communication to request, protest, answer questions, and greet/farewell at least 50 times during their day, with an average of 2 words per sentence.
k. Goal 2 stated the Student would demonstrate improved motor, perceptual, and self-care skills as evidenced by completing 6/8 dressing boards independently with no more than 2 prompts and by copying uppercase letters from a given model.
l. Goal 3 stated the Student would match real-life picture cards of community signs and symbols.
m. Goal 4 stated the Student would place the numbers in order up to 35 by skip-counting to determine the number of objects.
n. The Student did not require any accommodation, modification, or supplemental aids.
o. No support for school personnel was needed.
p. The Student required transportation.
q. Special education and related services included:
    i. Speech and language services provided in the Classroom for 30 minutes one day per week.
    ii. Occupational Therapy (OT) provided in the Classroom for 20 minutes, once per week.
    iii. Special education services provided in the Classroom for 375 minutes per day, four days per week, and for 325 minutes per day, one day per week.
    iv. The Student would not participate with non-disabled peers because they attended the School where there was no access to general education peers or classes.
    v. The Student qualified for ESY for all 4 goals.
r. Meeting participants included the Parent, the Assistant Director, the Occupational Therapist (OT), the School Psychologist, the Instructor, the Speech Pathologist, and the Advocate.

4. On January 24, 2025, a PWN was provided to the Parent, which stated the team met to review evaluation data and determine the special education and related services needed by the Student. The PWN noted a material change in services. It stated the Student continued to qualify for special education services under the category of Autism. Additionally, the Student required speech-language and OT services.
   The PWN indicated new data was acquired during the evaluation period. The team considered not evaluating but rejected that option due to the need for new data. Data used included parent/teacher input, observations, classroom performance, OT, speech, and Physical Therapy (PT) assessments. Additionally, the PWN stated no harmful effects were anticipated because the Student would receive the services they qualified for.
   An additional PWN dated January 24, 2025 noted the team met to review the evaluation/assessment data to determine special education and related services needs for this student; the appropriate educational placement to provide special education and related services; and any additions, changes, or modifications to the special education and related services or educational placement that were needed to enable the Student to meet their individualized goals and to participate, as appropriate, in the general education curriculum. It referenced the PWN generated for the reevaluation, providing additional information on the actions proposed or refused, why they were proposed or refused, other options considered, the data used, and other factors.
5. On April 7, 2025, a Seizure Action Plan was developed by the Student's pediatrician. The plan included basic seizure first aid. The plan noted the Student was weaning off a medication and indicated the side effect of the medication was dizziness. The plan stated the seizures included full-body stiffening and foaming at the mouth. When a seizure was an emergency, including a seizure lasting over 20 minutes, a tonic-clonic seizure lasting over 5 minutes, an injury occurring during the seizure, breathing difficulties, or a seizure occurring in water.
   The Seizure Action Plan also included the emergency plan, which called for contacting the school nurse, contacting 911, notifying the Parent or emergency contact, and administering the listed emergency medication.
6. On September 18, 2025, a PWN for Evaluation or Reevaluation and Request for Consent was provided to the Parent which stated the IEP team was proposing to conduct a reevaluation of the Student to assist the team in determining whether any additions or modifications to the special education and related services were needed to enable the Student to meet their measurable annual goals and to participate, as appropriate in the general education curriculum.
   The action was proposed because the Parent requested a reevaluation to determine the Student's special education needs and whether the Student was in the correct placement. The Parent requested the Student be moved to an out-of-district cooperative placement.
   The Team considered using existing data without an evaluation, but the Parent requested the "most up-to-date" data to determine the Student's needs. The Parent did not believe the Student's needs were being met in their current placement. The Student was reevaluated in January, 2025.

7. On September 26, 2025, an incident report documented the Student's behavior during and after recess. According to the report, after playing near water during recess, the Student appeared to walk abnormally by limping and favoring one leg. Staff changed the Student's wet socks, but the Student continued to walk "abnormally." Staff took the Student to the nurse's office to have the Student's feet checked for injury. No injuries were found. When the Student appeared to have difficulty getting up from a bean bag chair, staff took the Student to the nurse's office to have the Student's back checked for injuries. There were no visible signs of injury. The Parent was also contacted and informed about the change of clothes.
8. On December 16, 2026, a Notice of Special Education Meeting was provided to the Parent, indicating that a meeting was scheduled for December 16, 2025, at 2:30 p.m. to review the evaluation and determine eligibility. The Parent signed a waiver of their right to a 10-day notice of the meeting and indicated they planned to attend.
9. On December 16, 2025, an evaluation report indicated:
    a. The reevaluation was requested by the Parent to determine whether current services were appropriate for the Student's needs.
    b. The Student's cognitive abilities were not assessed during the evaluation.
    c. An OT evaluation was completed, and it was noted the Student was unable to complete a standardized OT assessment at that time, so skills were assessed through observation.
        i. The Student was able to safely navigate the various surfaces at school, including concrete, dirt/mulch, and thresholds.
        ii. The Student's standard chair and desk were at the appropriate height and accessible.
        iii. The Student used a functional right-handed grasp when completing fine motor activities such as writing and coloring. The Student was able to print their first name in all capital letters, but could not write the letters of the alphabet independently.
        iv. The Student was observed playing alone at recess, climbing the structures, and walking directly to the swings. The Student lined up with their peers and followed their classmates and staff in the hallways appropriately.
        v. The Student used vocalizations when they needed something. They were unable to describe their own emotional or physical status or to use a regulatory visual.
        vi. The Student could perform dressing skills such as putting on and taking off their shoes and coat. Additionally, the Student could pull their pants up and down. They could complete toileting with prompts to remain seated and try for a specific time.
        vii. The Student was able to set up their lunch independently. They could use their water bottle throughout the day. During lunch, the Student

tried 1-2 new items before eating one of their preferred foods. The Student used a visual feeding progression schedule to explore new items.

viii. The Student required verbal or visual support for retrieving, gathering, and putting away materials; for safety awareness during fire/evacuation drills; and for packing and/or unpacking their book bag.

ix. The Student demonstrated poor self-advocacy skills; they were able to seek out a classroom staff member but were not able to raise their hand to ask a question.

x. The Student was identified as having needs in the areas of written expression, technology accessibility, social participation, ADL independence, Instrumental Activities of Daily Living (IADL) participation, vocational/life skills, and organization/pre-vocational job skills that affect their ability to engage in structured learning activities at school.

d. A communication assessment was started but discontinued as it was deemed inappropriate and did not yield valid or reliable information. The Students' progress over the past three years was evaluated through a review of documentation and direct observations.

i. The Student showed major improvement in 'requesting' and increased vocabulary from 8-10 core words to 30 or more.

ii. The Student showed growth from unsafe physical protesting to functional verbal/Augmentative and Alternative Communication (AAC) protesting, and was able to use protest words consistently with minimal prompting.

iii. The Student increased from 30% to 80% in thematic labeling and expanded their vocabulary from basic sets to more than 100 items.

iv. The Student showed growth in vocabulary comprehension and the ability to answer simple 'wh' questions, and demonstrated stronger performance on structured tasks with picture cues.

e. The Life Skills Teacher indicated the Student was able to complete academics with one-on-one support and needed visual support for one-step tasks.

f. Parent and teacher ratings indicated the Student's adaptive skills fell within the extremely low range relative to peers of the same age/grade.

g. The Student continued to show delays in speech, academics, social-emotional, and adaptive development. The Student's providers indicated the Student had maintained progress toward their IEP goals.

h. The IEP team found the Student eligible for special education because the Student met the criteria for a disability and determined special education services were necessary to enable the Student to receive educational benefits. The team noted they believed the Classroom was the best fit for the Student's identified needs.

i. The Parent signed, indicating their agreement with the team decision.

10. On December 16, 2025, a PWN was issued, stating the team met to review the evaluation/assessment data for the Student and determine the need for special education and related services, as well as the appropriate educational placement. The PWN indicated the Parent requested the reevaluation to determine the appropriateness of the Student's placement in the Classroom. The team determined the Classroom was the most appropriate placement and the Student should continue attending the Classroom at the School. They indicated they would meet in January 2026 for the annual IEP.
    The District refused the Parent's proposal to place the Student in another setting because the Student was making adequate progress toward their goals. The team explained that because the Student attended the School outside their home district, the Student would not have access to instruction and peer interaction in the general education curriculum.
    The Parent signed to provide consent for the placement and services specified in the notice.
11. On December 19, 2025, a Progress Report stated the Student made the following progress on their IEP goals:
    a. Goal 1: Maintained Performance.
        i. The Student was spontaneously using functional verbal communication to request, answer questions, and greet/farewell at least 20 times per day, with an average of two words per request. The Student uses phrases like "no thank you."
    b. Goal 2: Maintained Performance.
        i. The Student copied 26/26 uppercase letters with 58% accuracy, completed 5 dressing boards, and could zip and unzip once the zipper was initiated.
    c. Goal 3: Slight Improvement.
        i. The Student consistently matched 10 community signs to the symbol card with 75% accuracy.
    d. Goal 4: Maintained Performance.
        i. The Student was unable to skip count by 5's and was still working on counting by 1's to 30 independently without visuals.
12. On January 15, 2026, the Special Education Director emailed a statement confirming the Student had no seizures at school for "at least the last year and a half" and indicated they did not have any seizure logs for that reason.
13. An attendance report from August 13, 2025 through December 19, 2025, indicated the Student was present for 77.88 of the 93 days of school during semester 1.
14. An undated document titled, Middle School Schedule, noted the following:
    a. 8:00-Breakfast,

b. 8:30 Morning Meeting,
c. 8:55 Recess,
d. 9:20-10:05 1st rotation English Language Arts (ELA)/Math/Life Skills,
e. 10:10 Home room,
f. 10:30 Gym,
g. 11:00-11:45 2nd rotation ELA/Math/Life Skills,
h. 11:50 Lunch,
i. 12:15 Hygiene,
j. 12:30 Recess,
k. 12:50-1:30 3rd rotation ELA/Math/Life Skills,
l. 1:35-1:55 Chores, and
m. 1:55-2:05 Pack up.

15. A Message History dated August 13, 2025 to December 12, 2025, indicated the Parent and the Life Skills Teacher communicated regularly, two to five days each week, and multiple messages each time. Conversations focused on the Student's toileting needs, daily sleep schedule, and feeding needs.
16. A Document titled 2025-2026 Para/Staff Trainings listed the following:
    a. August: Para Orientation: classroom teacher and program coordinator, went over expectations of paras in the room, along with IEP snapshots for each student (2.5 hours) August 7, 2025; Para Expectations: provided by the Administrator and the Speech Pathologist: building and para expectations (2 hours) August 7, 2025; IEP Review: provided by classroom teacher (1 hour) August 8, 2026; Health Protocols: overview of seizure plans, Cardiopulmonary Resuscitation (CPR), and choking provided by the District Nurse (1.5 hours) August 8, 2025; De-Escalation Training provided by the Presenter (7 hrs) August 12, 2025.
    b. September: Public School Works Modules: Bloodborne Pathogens, Bullying Prevention, Child Abuse Prevention, Homeless Education, Sexual Harassment, Student Privacy Rights, Suicide Prevention (4.5 hours) September 30, 2025; Para Handbook: self-directed activity (2 hours) September 23, 2026.
    c. October: Behavior vs Melt Down Overview: Provided by the Speech Pathologist (1 hour), October 13, 2025; Redirection of Students: provided by the Speech Pathologist (1 hour), October 27, 2025.
    d. November: Prompting Techniques and Hierarchy: Provided by the Speech Pathologist (1 hour), November 10, 2025.

Parent Interview

17. In an interview with the Complaint Investigator, the Parent was joined by the Advocate. The Parent explained they had visited the School for a family event, had asked a paraeducator what they would do if the Student had a seizure, and recalled the

paraeducator stating, "I don't know." The Parent noted the Life Skills Teacher stated, "The seizure plan is hanging on the wall over there." The Parent stated that the Advocate filed a complaint with the Department for Children and Families (DCF) because staff lacked proper training.

The Parent stated when they arrived that day, they were directed to the restroom where the Student was being changed. They stated the Student had been left in the bathroom unattended and added this was contrary to the Student's seizure plan, which indicated the Student should not be left unattended due to being weaned off their seizure medication.

18. The Parent stated later that day, the Paraeducator noticed the Student had peed down their leg, and they took the Student to the bathroom. The Parent indicated they were [there] when they noticed the Student's pull-up had been put on inside out. The Parent blamed this on the Student not having support in the bathroom when they were left unattended.
19. The Parent stated the Student never had a seizure at school. They noted the Student had 2 previous seizures, one in 2019 and the other in 2021. Since then, they shared the Student's EKGs showed the "fires in [their] brain" were reduced from the year before, which is what prompted them to begin weaning the Student off their seizure medication at the start of this school year. The Student took their medications at home.
20. The Parent stated the School did not use the same toileting routine the Parent used. They explained the School would take the Student into the bathroom, the Student would pull down their pants, do a "five count", empty their bladder, pull their pants up, walk out, and wash their hands. The Parent stated they use a timer, visuals, and verbal prompting at home.
21. The Parent stated they provided the School with a visual-sensory strip outlining the actions the Student should follow when introduced to a new food before they are able to eat preferred foods. The Parent indicated the School hadn't been offering the Student the new foods or following the sensory strip. The Parent stated they contacted the School "numerous times" because they weren't doing it, and the School indicated they would "work on it."
22. The Parent indicated the School did not support the Student's self-care needs because the School didn't brush the Student's teeth or apply deodorant, and the School sent the Student home with soiled clothes in their backpack. Additionally, the Parent indicated they believed accommodations involving the Student's safety, well-being related to epilepsy, self-care, and playground tracking were not being provided.
23. The Parent stated they were concerned because they were not notified when the School's air conditioning went out for a couple of days. They stated the Student's class was taken into the gym and the lunchroom for the day. The Parent was concerned because heat was listed as a trigger on the Student's seizure plan, and no one called to inform the Parent the Student had been exposed to heat.
24. The Parent indicated that while the Student had learned to count and read three- and four-letter words, they had regressed in spelling their name, they were not potty

trained, were still drinking from a sippy cup, and were coming home in soiled and damp diapers.

Life Skills Teacher Interview

25. In an interview with the Complaint Investigator, the Life Skills Teacher was joined by the Special Education Director.
26. The Life Skills Teacher confirmed the Student had not had a seizure while at school since they started working together in June [2025]. The Life Skills Teacher stated the Parent provided them with a seizure action plan and reported reviewing it with their paraeducators, staff, and the School Nurse. They added it was a standard seizure action plan. The Life Skills Teacher confirmed the Student did not take medications at school.
27. Staff supported life skills in the classroom by taking the Student to the bathroom every hour and using sensory skills during feeding. The Life Skills Teacher stated they had the Student look at, touch, and smell the food, then kiss it, lick it, and finally nibble it. The Student got their preferred food as a reward after that. Other life skills the Student was instructed in included chores, cooking, and making grocery lists.
28. The Life Skills Teacher confirmed they tracked the Student's progress through observations and charts.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #367, in accordance with state and federal regulations implementing the IDEA, failed to provide special education and related services in accordance with the Student's IEP, specifically regarding medical protocols (seizure and heat triggers), toileting, feeding, and self-care routines, school-to-home communication, and ESY. Additionally, whether USD #367 ensured that all staff responsible for implementation were informed of the IEP and trained on their specific responsibilities. K.A.R. 91-40-16(a)(3-4)(5)(A-B); 34 C.F.R. § 300.323(a)(d).

According to K.A.R. 91-40-16(a)(b)(3-4)(5)(A-B), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency shall ensure that an IEP is in effect for each exceptional child at the beginning of each school year, the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation, and each teacher and provider is informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged the LEA failed to implement the Student's IEP with respect to medical protocols (seizure and heat triggers), toileting, feeding, and self-care routines, and school-to-

home communication. Additionally, the Parent alleged the LEA failed to ensure that paraprofessionals were appropriately trained to implement the Student's IEP and accommodations during the 2024-25, 2025-26 school year, and ESY.

The LEA stated the Student's IEP was developed by the IEP team and implemented as written. The IEP included the Student's medical needs, including seizure awareness and heat-related considerations, as well as toileting, feeding, and self-care routines appropriate to the Student's educational needs. All staff responsible for implementing the Student's IEP received appropriate guidance and training in August [2025] on their roles, including health and safety procedures.

The Student's January 24, 2025, IEP identified needs in medical protocols, toileting, feeding, and self-care, including a requirement for a HCP and assistance with ADLs; however, the IEP did not include specific goals, related services, or accommodations in the areas of toileting, feeding, self-care routines, or school-to-home communication. Communication between the home and school was documented as frequent, with message history showing contact two to five days per week regarding the Student's daily needs.

The Parent alleged the School failed to follow the seizure plan regarding supervision and heat triggers. District records indicate that staff received health protocol training on August 8, 2025, and the Life Skills Teacher reported reviewing the seizure plan with all paraeducators. Both the Parent and the LEA confirmed the Student never experienced a seizure while at school.

Although the Parent expressed concerns about staff knowledge during a site visit, documentation shows a comprehensive training schedule for paraeducators from August through November 2025, covering IEP reviews, de-escalation, and prompting techniques. Additionally, while the Parent alleged a lack of progress, the December 2025 progress report and evaluation indicated the Student maintained performance or showed slight improvement in all four IEP goals, all of which qualified for ESY services.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide special education and related services in accordance with the Student's IEP, specifically regarding medical protocols (seizure and heat triggers), toileting, feeding, and self-care routines, school-to-home communication, and ESY; and it is not substantiated that the LEA failed to ensure that all staff responsible for implementation were informed of the IEP and trained on their specific responsibilities.

Issue Two

Whether USD #367, in accordance with state and federal regulations implementing the IDEA, followed appropriate procedures in denying the Parent's request to conduct a reevaluation of the Student to determine changes in the Student's needs and inform placement decisions. K.A.R. 91-40-8(c)(e); K.S.A. 72-3428(h); 34 C.F.R. § 300.303.

According to K.A.R. 91-40-8(c)(e), as a part of an initial evaluation, if appropriate, and as a part of any reevaluation, each agency shall ensure that members of an appropriate IEP team for the child and other qualified professionals, as appropriate, review existing evaluation data on the child, including evaluations and information provided by the parent or parents of the child, current classroom-based, local, and state assessments, classroom-based observations, and observations by teachers and related services providers. Based on the review and input from the child's parent or parents, the evaluation team shall identify what additional data, if any, is needed to determine whether the child has a particular category of exceptionality or, in the case of a reevaluation of a child, whether the child continues to have such an exceptionality, what the present levels of academic achievement and educational and related developmental needs of the child are, whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services, Additionally, in the case of a reevaluation of the child, the team shall identify whether any additions or modifications to the special education and related services currently being provided to the child are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. If the team determines additional data is required to make any of the determinations specified, the agency, after giving proper written notice to the parent and obtaining parental consent, shall administer those tests and evaluations that are appropriate to produce the needed data. If the team determines that no additional data is needed to make any of the determinations specified, the agency shall give written notice to the child's parent of the determination that no additional data is needed and the reasons for this determination, and the right of the parent to request an assessment. The agency shall not be required to conduct any additional assessments unless requested to do so by a parent.

According to K.S.A. 72-3428(h), each agency shall ensure that a reevaluation of each exceptional child is conducted if the agency determines that the educational or related services needs of the child, including academic achievement or functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation. An agency shall conduct a reevaluation of a child not more frequently than once a year, unless the parent and the agency agree otherwise, and at least once every three years, unless the parent and the agency agree that a reevaluation is unnecessary.

The Parent alleged the LEA denied the Parent's request for a reevaluation to determine the Student's current needs and to inform placement decisions.

The LEA responded the Student’s IEP team had two different re-evaluations in the past year at the Parent’s request, which followed appropriate procedures, and did not deny the Parent their right to a re-evaluation.

The data indicate that the District followed procedures for reevaluation rather than denying the Parent’s requests. On January 15, 2025, the Parent signed an extension for a reevaluation

that had been delayed by weather, which was completed on January 24, 2025. Later that year, on September 18, 2025, the District issued a PWN proposing another reevaluation, specifically because the Parent requested the "most up-to-date" data to determine whether the Student's needs were being met and whether the current placement was correct. While the District ultimately refused the Parent's specific proposal to move the Student to an out-of-district cooperative placement, citing the Student's adequate progress and the appropriateness of the current classroom, the procedural requirements for conducting the reevaluation and providing notice of the decision were documented through PWNs issued in September and December 2025.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, *it is not substantiated* that the LEA failed to follow appropriate procedures in denying the Parent's request to conduct a reevaluation of the Student to determine changes in the Student's needs and to inform placement decisions.

Issue Three

Whether USD #367, in accordance with state and federal regulations implementing the IDEA, afforded the Parent an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the Student and the provision of a FAPE. K.A.R. 91-40-17(a); K.A.R. 91-40-25(a); 34 C.F.R. § 300.322(a); 34 C.F.R. § 300.501(b).

According to K.A.R. 91-40-17(a), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place and informing the parents, and providing written notice to the parents of any IEP team meeting at least 10 days in advance of the meeting.

According to the K.A.R. 91-40-25(a), each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child, and the provision of a FAPE to the child.

The Parent alleged the LEA failed to provide the Parent an opportunity to meaningfully participate in the decision-making process regarding the Student's education by disregarding parental concerns and impeding the Parent's right to inquire about the qualifications and IEP knowledge of staff members during the IEP team meeting.

The LEA responded the Parent and the Advocate had been given every opportunity to participate in all special education meetings involving the Student.

The LEA provided documentation of multiple instances where the Parent was invited to and participated in the special education process. For the January 24, 2025, meeting, a notice was

issued on January 13, 2025, and the Parent attended along with an advocate. Similarly, for the December 16, 2025, meeting, the District provided a notice to the Parent, who signed a waiver of the 10-day notice requirement to expedite the meeting and indicated their intent to attend. The December 16, 2025, evaluation report noted that the reevaluation was initiated specifically at the Parent's request. The Parent signed the PWN and the evaluation report, indicating agreement with the team's decisions on eligibility and placement at that time, demonstrating active participation in the identification and placement process.

Based on the foregoing, and in accordance with IDEA and Kansas special education regulations, *it is not substantiated* that the LEA failed to afford the Parent an opportunity to participate in meetings regarding the identification, evaluation, and educational placement of the Student, and the provision of a FAPE.

Issue Four

Whether USD #367, in accordance with state and federal regulations implementing the IDEA, failed to provide the Student a FAPE, resulting in a lack of educational progress and regression in behavior and communication due to the failure to implement the IEP, follow health protocols, and provide adequate staff training. K.A.R. 91-40-2(a)(1)(b)(1); K.A.R. 91-40-1(z); 34 C.F.R. § 300.101(a); 34 C.F.R. § 300.17.

According to K.A.R. 91-40-2(a)(1)(b)(1), each agency shall provide a FAPE in accordance with the law. Additionally, each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning no later than the child's third birthday.

According to K.A.R. 91-40-1(z), a FAPE means special education and related services that are provided at public expense, under public supervision and direction, and without charge, meet the standards of the state board, include an appropriate preschool, elementary, or secondary school education, and are provided in conformity with an IEP.

The Parent alleged the LEA failed to provide a FAPE to the Student by failing to implement the IEP, follow health protocols, and adequately train staff, which resulted in the Student regressing in their behavior, communication, and education.

The LEA responded they provided the Student with a FAPE. The LEA monitored the Student's progress through data collection and ongoing observation. Any behavioral or communication challenges were addressed through IEP services, supports, and adjustments as determined by the IEP team. Whenever the Parent raised concerns, the LEA addressed them promptly and collaboratively.

The Parent alleged a lack of a FAPE, citing regression in spelling and potty training, and concerns over safety regarding epilepsy. However, the December 16, 2025, evaluation report and the December 19, 2025, progress report show the Student demonstrated "major improvement" in requesting and growth in social-emotional areas. The Student maintained

progress on goals related to communication, motor skills, and math, and showed slight improvement in matching community signs.

Regarding health and safety, the Special Education Director confirmed that the Student had no seizures at school for at least 18 months, and the School Nurse found no injuries during a September 2025 incident in which the Student walked abnormally. The IEP team, including the Parent, determined on December 16, 2025, the Student remained eligible for services and that the current classroom was the best fit for their needs.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Student a FAPE, resulting in a lack of educational progress and regression in behavior and communication due to the failure to implement the IEP, follow health protocols, and provide adequate staff training.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #500
ON DECEMBER 30, 2025

DATE OF REPORT: JANUARY 26, 2026

This report is in response to a complaint filed with our office on behalf of a student, ------, by their parent, ------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Complainant."

The Complaint is against USD #500, Kansas City, Kansas Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #500.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on December 30, 2025, and the 30-day timeline ended on January 29, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #500, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to identify, locate, and evaluate the Student suspected of having a disability (Autism or Attention-Deficit Hyperactivity Disorder (ADHD)) despite the Complainant reporting significant academic and functional deficits, including an inability to perform basic academic skills or activities of daily living (ADLs). K.A.R. 91-40-7(a)(3)(b)(2)(c); 34 C.F.R. § 300.111(a)(c)(1).

ISSUE TWO: Whether USD #500, in accordance with state and federal regulations implementing the IDEA, failed to provide a free appropriate public education (FAPE) by neglecting to develop and implement an Individualized Education Program (IEP) to address the Student's academic, functional, and safety needs (specifically self-injurious head-banging), resulting in a lack of educational progress. K.A.R. 91-40-1(z), K.A.R. 91-40-2(a)(1)(d)(1)(e); 34 CFR §§300.17, 300.101(a)(c).

Investigation of Complaint

Despite outreach from the Complaint Investigator, an interview with the Complainant was not conducted within the designated investigative timeline. The Assistant Principal was interviewed on January 21, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Communication Documentation, 04/29/25-01/08/26
2. Contact Log, 01/29/25-12/01/25
3. Special Education Contact Log, 10/10/25-12/10/25
4. IEP, 02/05/24
5. Notice of Meeting, 01/27/25
6. Meeting Summaries, 02/05/24 and 02/04/25
7. Student Progress Report, 02/04/25-02/03/26
8. Prior Written Notice, 02/05/24
9. Evaluation/Eligibility Report, 01/08/26
10. Report Card, 2024-25 and 2025-26 School Years
11. Student Demographics, no date
12. Online Registration Summary, 09/12/24
13. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 10/03/25
14. High School Official Transcript, 01/09/26
15. Emails, 12/31/25-01/22/26

Background Information

This investigation involved a student enrolled at a high school in USD #500. The Student is currently receiving special education or related services as a child with a disability per the IDEA under the eligibility categories of Intellectual Disability and Speech and Language Disabilities. According to the School, the Student's registration information and educational record only lists the Parent, not the Complainant, as the sole parent or guardian for the Student. According to the LEA, the Parent shared they are currently in the court process of seeking sole custody of the Student. Because the Complainant is not listed anywhere in the Student's record within the student information system, the School stated they cannot disclose specific details regarding the Student's IEP, services, or classroom placement to them. Assistant Principal 1 explained the School informed the Complainant of documentation they could provide to enable the School to verify their relationship to the Student, however, to date, no verification has been provided by the Complainant.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. The Student is characterized as being "very playful towards peers and adults and likes to participate in physical activities, such as shooting hoops." The Student "follows directions," "works with any student in the room," "volunteers to answer questions or help with an activity," and "always has a smile" on their face. During the 2024-25 school year, the Student started initiating conversations on their own with more than two-word sentences and made improvements in appropriate social rules. The Student is able to identify their feelings, express specific personal needs, and request help.
2. An IEP dated February 5, 2024 outlined the following for the Student:
    a. Evaluation date: January 17, 2023
    b. Triennial date: January 16, 2026
    c. The Student and the Parent were in attendance for the meeting.
    d. On January 17, 2023, the IEP team determined the Student met eligibility criteria for Intellectual Disability (ID) and Speech/Language Disabilities.
    e. The Student's disability was determined to impact them in the areas of reading comprehension, math calculations, writing skills, language, fine motor skills, and speech and language.
    f. The Parent wanted the Student to continue improving their communication and reading skills.
    g. Levels of performance were included for language, fine motor, reading, math, written expression, and sensory processing.
    h. Special factors: The Student demonstrated behavior, communication, and extended school year (ESY) needs, addressed in the IEP.
    i. Goals were written for reading, math, fine motor, sensory processing, and independent living skills.
    j. The Student received special education services in a specialized program outside of the general education classroom and specially designed instruction (SDI) for reading comprehension and math computation. The Student also received related services in occupational therapy (OT), speech and language, and transportation, along with accommodations for all environments and settings.
3. IEP meeting notes dated February 5, 2024 documented the following relevant information:
    a. The Parent "expressed concern about the behavior incident that happened earlier in the year involving [the Student] physically attacking the [special education] teacher." The Parent explained the Student "had an unstable upbringing" during the first years of their life until the Parent gained custody.

The Parent said the Student's "lack of stability" in their formative years could "account for some of [their] behavior issues." The Parent also explained disruptions and changes in the Student's life or daily schedule could cause the Student to become "agitated" or "physically aggressive."

b. The Special Education Teacher stated the Student engaged in many repetitive behaviors throughout the school day, including repeatedly touching items on their desk, lining up and stacking items, repeatedly touching doorframes, light switches, and the trash can once items were placed inside.

c. The Parent stated the Student was rewarded for "good behavior" at home and was encouraged to practice independent skills at home, such as making a sandwich, making their bed, sorting their laundry, and participating in hygiene routines. The Parent shared the Student had a "good support system at home with [their] extended family."

d. The IEP team proposed the Student be placed in a more restrictive, specialized academic and individualized learning services program the next school year to address their need for a more sensory appropriate environment. They would remain in their current specialized academic and individualized learning service program for the remainder of the school year to provide "continuity of care."

4. A Prior Written Notice (PWN) dated February 5, 2024 documented a material change in services and a substantial change in placement. The IEP team proposed an increase in OT services due to the Student demonstrating "significant needs" for further practice and intervention to work on essential skills for school functioning and independent living. It was also proposed to continue speech and language services, and to place the Student in a more restrictive, specialized program setting for the 2024-25 school year to address increasing sensory needs. It was noted, "In the specialized program setting, it has been observed, [the Student] is requiring more one-on-one assistance to begin and complete academic instructional tasks or daily tasks. [The Student] is demonstrating more frustration when asked to complete simple tasks. [The Student] engages in more stimming behaviors and/or aggressive posturing when asked to complete a non-preferred task. [The Student's] increased level of stimming when asked to complete non-preferred tasks may preclude [their] placement in more general education elective classes." The Parent signed, giving consent for the services and placement in the PWN.

5. A 2024-25 report card indicated 7.81 absences and 6 tardies total for the school year. The Student's cumulative grade point average was 3.167. The Student earned grades of 82% to 100% in all their classes (Fundamentals of P.E. [Physical Education], Team Sports 1, Fitness/Conditioning 1, English 2, Science 2, American History, Math 2, Vocational Experience 2, and Reading 2) except Essentials of P.E., where they earned 68% and 74%. All academic classes and the vocational experience class were listed with the Special Education Teacher.

    a. A transcript from the Student's tenth-grade year (2024-25) indicated the Student had earned 15 out of 15 attempted credits as follows:

i. Elective: 1.5 credits
ii. English: 1.5 credits
iii. Fine Arts: 2 credits
iv. Math: 1.5 credits
v. P.E.: 3.5 credits
vi. Science: 3 credits
vii. Social Studies: 3 credits
viii. Speech Communications: 0.50 credit

6. A meeting notice dated January 27, 2025 and addressed to the Parent, indicated a meeting scheduled for February 4, 2025 to review results of a reevaluation and conduct an annual review of the Student's IEP. The Parent provided signed consent to waive the 10-day required notice.
7. Communication logs from January 29, 2025 through January 7, 2026, documented communication between the School staff and the Parent. Messages were exchanged regarding the Student's IEP and academic coordination, health and safety, logistics and attendance, family support, and positive engagement. On November 20, 2025, the Special Education Teacher documented an approximate 30-minute phone call with the Complainant regarding the Complainant's concerns about the Student. The Complainant expressed concerns about the Student not making appropriate progress, and frustration with the School staff for not giving the Complainant the information they wanted. The Special Education Teacher noted the Complainant was not listed as a guardian for the Student, and the Parent was the primary guardian and the Student was in their care.
8. An IEP dated February 4, 2025 outlined the following for the Student:
    a. The Student and the Parent were in attendance for the IEP meeting.
    b. Language performance: The Student was able to identify emotions, use visuals to comment in 2-3 word phrases with verbal cues, participate in structured activities, and follow 2-3 step directions to complete tasks with visual and verbal cues.
    c. Sensory processing performance: The Student was showing more self-regulation, on-task behavior, following directions, and finding a quiet place if needing a break. The Student had shown improvement in regulating their emotions and sensory needs when transitioning to new activities and adjusting to sudden changes. In rare occurrences, the Student had become dysregulated to the point of engaging in physical aggression. This was seen at the beginning of the year when the environment was new and sensory input was "triggering." The Student benefited from structured times for physical self-regulation.
    d. Independent living skills performance: The Student was stocking shelves, cleaning items in the teacher's lounge, making a snack bag or craft, and following directions.

e. Fine motor skills performance: The Student was completing 100% of steps in routine tasks such as wiping down surfaces, cleaning up after meals, mopping, hanging up shirts, washing and rinsing dishes, and making dry snacks. The Student was also able to type up to 3 sentences using a model, cut on a straight line, type an address into a navigation search (66% accuracy), match measurement tools (100% accuracy), and identify measurement tools following a visual recipe (33% accuracy).

f. Reading performance: When given sight words related to food, the Student was able to match words to pictures and words to words. When given 40 pre-primer sight words, the Student read 27 out of the 40 words. When given a letter from the alphabet, the Student gave the correct sound with 90% accuracy.

g. Math performance: The Student was able to identify random numbers 1 through 100 using a hundreds chart with 54% accuracy, showing the most consistency and accuracy with numbers 1 through 10.

h. Written expression: The Student was not yet able to write their last name without help or a model to copy from. When given a model, the Student could copy each letter, but did not consistently write within the space provided and became "obsessive" about the way certain letters looked.

i. Special factors: The Student demonstrated communication needs, but did not display behavior that impeded their learning or the learning of others, and did not need a behavior intervention plan (BIP).

j. Goal 1: "By February 2026, when provided a set of words and their corresponding picture, [the Student] will be able to match (4) sets of pictures (36 pictures) and words (36 words) with 100% accuracy, in 3 out of 4 attempts."

    i. Baseline: "When given a set of sight words and pictures to match, [the Student] is able to score 78% accuracy when matching word to picture and 100% accuracy when matching word to word. Previously, when given 100 1st Grade Fry Sight words, [the Student] [was] able to score 18% accuracy. When given the first 25 Fry Words, [the Student] [was] able to score 36% accuracy."

    ii. A progress report for the February 4, 2025 IEP year indicated undated progress reports by quarters. The Student was "making progress toward annual goal" for the first, second, and fourth quarters of the IEP year.

k. Goal 2: "By February 2026, when provided with a 100-Chart, [the Student] will be able to say and point to the numbers 11-50, when asked to identify them at random, with 80% accuracy, in 2 out of 4 attempts."

    i. Baseline: "When provided with a 100-Chart and asked to locate a specific number, [the Student] was able to accurately say and point to 15 out of 28 (54% accuracy) randomly selected numbers. [The Student] was able to say the numbers 1-10 with 100% accuracy on 2 separate attempts. For the numbers 11-20, [the Student] was able to identify and say the numbers 14

and 19 independently. [The Student] was able to rote count numbers from 1-100 with only 6 misreads, but struggled to find higher double-digit numbers when asked to select them at random."

ii. A progress report indicated the Student was "making progress toward annual goal" for the first, second, and fourth quarters of the IEP year.

l. Goal 3: "By February of 2026, [the Student] will use visual, verbal, and example cues to participate in language and vocational tasks on 9 of 10 trials."

i. Baseline: "[The Student] uses verbal prompts, visuals, and examples to participate in a variety of language and vocational skills and demonstrate comprehension of multi-step directions on 5 of 10 trials."

ii. A progress report indicated the Student was "making progress toward annual goal" for the first, second, third, and fourth quarters of the IEP year.

m. Goal 4: "By the next IEP in February 2026, following instructions from a recipe, [the Student] will be able to locate and use the measurement tool with 80% accuracy for 75% of opportunities."

i. Baseline: "[The Student] is able to match measurement tools (cups, tbs, tsp) with 100% accuracy. [The Student] can identify measurement tools following a visual recipe with 33% accuracy. [The Student] struggles with accurately finding the measurement tool from a disorganized pile and if the tool indicates more than 1 scoop (ex: 2 cups, 3 TBS)."

ii. A progress report indicated the Student was "not making progress toward annual goal" for the first and second quarters, and was "making progress toward annual goal" for the third and fourth quarters of the IEP year. During the first and second quarters, the goal's objective stated the Student would be performing at 70% accuracy for 75% of opportunities. During the first quarter, the Student was between 50% and 65% accurate. During the second quarter, the Student was 46% accurate, noting the Student frequently rushed to find the appropriate tool and needed verbal and tactile support to find the correct tool.

n. Related services from February 4, 2025 through February 3, 2026:

i. Direct OT services (fine motor and visual motor for independent living and vocational skills) for 20 minutes, once weekly.

ii. Special education transportation to and from school, five days a week.

o. Direct special education services from February 4, 2025 through February 3, 2026:

i. Reading comprehension and writing skills for 90 minutes, two days per week.

ii. Math calculation and comprehension skills for 90 minutes, two days per week.

iii. Reading comprehension, writing, and science for 45 minutes every other week.

iv. Reading comprehension, writing, and social studies for 45 minutes every other week.

v. Speech and language for 20 minutes, one day every three out of four weeks.

vi. Reading comprehension, writing, and social studies for 90 minutes, two days per week.
vii. Reading comprehension and writing skills for 45 minutes every other week.
viii. Math calculation and comprehension skills for 45 minutes every other week.
ix. Reading comprehension, writing, and science for 90 minutes, two days per week.

p. Support for school personnel from February 4, 2025 through February 3, 2026:
   i. Teacher consultation for five minutes, one time annually.
   ii. Teacher consultation from the OT one time every 18th week.

q. Transportation services: "[The Student] will require a bus with fewer students and a monitor."

r. Placement: The IEP team determined the Student would be outside of the regular classroom more than 60% of the time. The Student would receive their instruction within a separate, specialized academic and individualized learning services program, and participate in regular P.E. with IEP accommodations.

s. ESY services from June 2, 2025 through June 25, 2025:
   i. Academic services for 180 minutes daily.
   ii. OT services for 15 minutes one day weekly.

t. Post-secondary goals:
   i. Following high school graduation, the Student wanted to work as a firefighter, attend a firefighter academy, and continue to live with the Parent.

u. Course of study: The Student would "graduate by earning required credits."

v. Modifications and accommodations in all areas from February 4, 2025 through February 3, 2026:
   i. Access to breaks with sensory tools and supports for emotional regulation and sensory processing needs daily (spaced out every one to 1.5 hours to limit over-stimulation or overuse), no longer than 10 to 15 minutes.
   ii. Access to visible visual supports for emotional regulation all day, daily.
   iii. Extended time for completion of activities and assessments daily for all environments and settings.
   iv. Frequent breaks daily for a minimum of five minutes for each break.
   v. Modify exams to correspond with standards and student skills when exams are given.
   vi. Extended wait time (at least a count of eight to ten minutes) for processing directions and instructions daily.
   vii. Frequent check-in with or from an adult daily. The Student will be allowed an agreed-upon treat for completing work in the specialized program setting.
   viii. Visual supports and models for written work and manipulatives for math computation daily.

ix. Read tests and written materials to the Student for daily activities.

x. When enrolled in the weekly P.E. curriculum, the Student will participate in the physical activities only. The Student will not be required to complete any academic or written assignments, tests, or projects.

9. A PWN for Evaluation or Reevaluation and Request for Consent dated October 3, 2025 indicated the LEA proposed to conduct a reevaluation of the Student. New data was needed in the areas of health/motor ability, general intelligence, academic performance, adaptive behavior, and sensory processing. Existing data would be reviewed in all the same areas, as well as transition skills, communicative status, social/emotional/behavioral status, hearing, and vision. The Parent electronically signed giving consent for the reevaluation on October 18, 2025.
10. The Student was reevaluated on January 8, 2026 in the areas of cognitive ability, academic performance, fine motor skills, vocational and independent living skills, social/emotional development, and adaptive behavior. The Student's cognitive performance was measured at "two standard deviations below the mean of typical peer performance." The Student's adaptive behaviors demonstrated "significant delays" in the areas of conceptual and practical behaviors. The Student's academic achievement performances in reading, writing, and math were measured at "two standard deviations below the mean." It was determined the Student continued to meet eligibility requirements for the primary category of ID and the secondary category of Speech/Language Disabilities.
11. A 2025-26 report card for the first two quarters indicated 8.55 absences and 2 tardies total. The Student's cumulative grade point average was 3.167. The Student earned grades of 94% to 100% in all their classes (Drawing 1, Art History, American History, English 3, Science 3, Math 3, Vocational Experience, and Reading 3). All academic classes and the vocational experience class were listed with the Special Education Teacher.
12. In an interview with the Complaint Investigator, Assistant Principal 1 noted they understood the Student was "progressing okay." They were not aware of anything indicating the Student was not meeting their IEP goals. Assistant Principal 1 also shared they had not witnessed the Student engaging in self-injurious behavior, such as head-banging, and had not heard of any other staff witnessing such behavior. Assistant Principal 1 also shared the Student was in a classroom with a teacher and two paraprofessionals, and received "really individualized" instruction and life skills practice. Assistant Principal 1 mentioned they had spoken to the Complainant via phone once during the 2025-26 school year and listened to their complaints and concerns about the Parent and their frustration regarding not receiving information about the Student. Assistant Principal 1 explained to the Complainant that until they were verified and listed on the Student's record in the student information system, they could not discuss details about the Student with them.
13. In their written response to interview questions, Assistant Principal 2 stated the LEA was unaware of any Autism diagnosis. They said all medical or diagnosis documentation

they had at the School level used the terms "developmental delay" or sometimes "behavior disorder." They shared the data used in the recent reevaluation aligned with data from prior evaluations, so the team decided to continue with the previous eligibility categories since they received no information that would lead them to consider changing them.

14. In their written response to interview questions, the Special Education Teacher stated they had witnessed head-banging last school year. They said, "Last year, I witnessed [the Student] putting [their] hand on the ground and gently patting [their] head on [their] hand. We were concerned so we asked [the Parent] about this behavior and learned it is something that [the Student] does to comfort [themselves]. We haven't seen this behavior at all this school year." They also shared the Student needed a lot of physical activity and was, therefore, enrolled in two physical education classes. The Student was also allowed to take frequent breaks to walk and eat snacks. Additionally, the Student preferred self-soothing by listening to music and also had a box of fidgets accessible at all times. Finally, the Student had a desk, but preferred to sit cross-legged on the floor.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #500, in accordance with state and federal regulations implementing the IDEA, failed to identify, locate, and evaluate a student suspected of having a disability (Autism or ADHD) despite the Complainant reporting significant academic and functional deficits, including an inability to perform basic academic skills or ADLs. K.A.R. 91-40-7(a)(3)(b)(2)(c); 34 C.F.R. § 300.111(a)(c)(1).

According to K.A.R. 91-40-7(a)(3)(b)(2)(c), each LEA shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction, including children with exceptionalities who are suspected of being children with disabilities even though they are advancing from grade to grade. Each LEA's policies and procedures under this regulation shall include age-appropriate screening procedures for children from ages five through 21, including observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening as required by state law. Any LEA may refer a child who is enrolled in public school for an evaluation if LEA personnel have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child. An LEA may refer a child if LEA personnel have data-based documentation indicating that before the referral or as a part of the referral, the child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel,

the child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction,

the assessment results were provided to the child's parent or parents, the assessment results indicate that an evaluation is appropriate. An LEA may refer a child for evaluation if the parent of the child requests, and gives written consent for, an evaluation of the child, and the LEA agrees that an evaluation of the child is appropriate.

The Complainant alleged that despite the Student showing "concerning signs and symptoms of Asperger, Autism, and ADHD" since infancy, the LEA has failed to officially assess or diagnose the Student for special education needs over the past year.

The LEA maintained the Student has been identified and served by the LEA since the age of two and has continuously received special education services in a self-contained setting since kindergarten. According to the LEA's "Child Find data tracker," no requests for reevaluation were received during the 2024-25 or 2025-26 school years.

According to the evidence provided, the Student is currently eligible for special education under the categories of ID and Speech/Language Disabilities. Additionally, a triennial reevaluation was completed on January 8, 2026. This evaluation confirmed the Student's continued eligibility in the current categories based on cognitive and academic performance measured at two standard deviations below the mean. While the Complainant alleged signs of Autism and ADHD, the school-level documentation only referenced "developmental delay" or "behavior disorder." There was no information provided documenting requests for reevaluation during the 2024-25 or 2025-26 school years that would lead the LEA to change eligibility categories. Based on these findings, the LEA met its Child Find obligations by maintaining current evaluations and providing services based on the Student's identified needs. The LEA followed proper procedures by conducting a reevaluation in January 2026 and found the existing eligibility categories remained appropriate based on available data.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is not substantiated* that the LEA failed to identify, locate, and evaluate the Student as a child with a disability.

Issue Two

Whether USD #500, in accordance with state and federal regulations implementing the IDEA, failed to provide a FAPE by neglecting to develop and implement an IEP to address the Student's academic, functional, and safety needs (specifically self-injurious head-banging), resulting in a lack of educational progress. K.A.R. 91-40-1(z), K.A.R. 91-40-2(a)(1)(d)(1)(e); 34 CFR §§300.17, 300.101(a)(c).

According to K.A.R. 91-40-1(z), "Free appropriate public education" and "FAPE" mean special education and related services that are provided at public expense, under public supervision and direction, and without charge, meet the standards of the state board, include an appropriate preschool, elementary, or secondary school education, and are provided in conformity with an individualized education program.

According to K.A.R. 91-40-2(a)(1)(d)(1)(e), each agency shall provide a FAPE in accordance with the law. Each agency shall make a FAPE available to any child with a disability even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

The Complainant alleged the Student "has not obtained any IEP and special needs care" and was failing academic milestones (unable to spell, write, or add 1+1) and basic ADLs, like tying shoes or bathing. Additionally, the Complainant alleged the Student's safety needs (repeatedly banging head on hard surfaces) were not addressed.

The LEA responded they believed the Student had an appropriate IEP during the years under investigation. They asserted there was no data supporting the Student's behavior impeding their learning or the learning of others. Finally, the LEA maintained that while the Student experiences "significant disabilities," their academic, functional, and safety needs were being met, and the School continued to work to ensure the provision of a FAPE.

The Student has an active IEP, dated February 4, 2025, which includes goals for reading, math, language, and independent living skills. Report cards and transcripts showed the Student earned passing grades (mostly 94% to 100%) and earned 15 credits during the 2024-25 school year. Progress reports indicated the Student was making progress toward annual goals in most areas. The IEP team determined the Student did not display behavior impeding learning that required a formal BIP. Regarding head-banging, the Special Education Teacher witnessed the behavior only in the previous school year, describing it as a "gentle patting" used for self-comfort. Furthermore, the School implemented sensory supports, including frequent breaks, fidgets, and music, which have resulted in no witnessed head-banging during the 2025-26 school year. The Student has also received direct instruction in life skills, such as stocking shelves, cleaning, and following recipes, with measurable improvements in fine motor tasks.

The evidence demonstrated the LEA developed and implemented an IEP tailored to the Student's unique needs, and the Student has made documented academic and functional progress. Finally, the School addressed the reported safety concerns through sensory accommodations and environmental modifications, which effectively mitigated the self-injurious behavior in the School's setting.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is not substantiated* that the LEA failed to provide a FAPE to the Student.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512
ON DECEMBER 11, 2025

DATE OF REPORT: JANUARY 30, 2026

This report is in response to a complaint filed with our office on behalf of a student, ------, by their parent, ------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #512, Shawnee Mission Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #512.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on December 11, 2025, and the 30-day timeline ended on January 10, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #512, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) developed measurable annual goals for the Student, that were designed to meet the Student's needs resulting from the disability, to enable the Student to be involved in and make progress in the general education curriculum, specifically regarding functional communication and generalization. K.S.A. 72-3429(c)(2); 34 C.F.R. § 300.320(a)(2)(i).

ISSUE TWO: Whether USD #512, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the Student's IEP to address a lack of expected progress, specifically regarding the Student's functional intelligibility in the general education setting. K.S.A. 72-3429, K.A.R. 91-40-16(a); 34 C.F.R. § 300.324(b).

ISSUE THREE: Whether USD #512, in accordance with state and federal regulations implementing the IDEA, provided periodic reports to the Parent regarding the Student's progress toward meeting annual goals. K.S.A. 72-3429(c)(3); 34 C.F.R. § 300.320(a)(3).

ISSUE FOUR: Whether USD #512, in accordance with state and federal regulations implementing the IDEA, implemented the corrective actions required by the KSDE formal complaint report referenced by the Parent, specifically the provision of compensatory speech services for minutes missed between August and October 2025. K.A.R. 91-40-51(e); 34 C.F.R. §§ 300.151(b)(1), 300.152(c)(3).

ISSUE FIVE: Whether USD #512, in accordance with state and federal regulations implementing the IDEA, provided Prior Written Notice (PWN) to the Parent regarding the refusal to provide compensatory speech services. K.A.R. 91-40-26(a), K.S.A. 72-3430(b)(2); 34 C.F.R. § 300.503(a).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on January 7, 2026. The LEA staff were interviewed on January 8, 2026 and January 13, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. District Response, 12/23/25
2. District Website, 01/15/25
3. District's Documentation for Resolution, no date
4. State Appointment Letter, 10/27/25
5. Compensatory Services in Special Education, 11/03/25
6. Individualized Education Program (IEP), 04/25/24
7. IEP Progress Report, 04/16/25
8. Student Data Sheet, 08/14/24-05/23/25
9. Issues Letter, 10/20/25
10. PWN, 12/10/25
11. Picture of Notice of Meeting, 12/02/25
12. IEP Progress Report, 04/25/24
13. Student Data Sheet, 08/13/25-12/17/25
14. Emails from October 16, 2025 through December 17, 2026

Background Information

This investigation involved a fourth-grade student enrolled at an elementary school in USD #512. The Student is currently receiving special education or related services as a child with a

primary exceptionality of an Other Health Impairment (OHI), a disability per the IDEA. The Student was described as having a "huge heart" and enjoying hands-on activities. The Student exhibited academic strengths in math and science. A previous complaint, case number KSDE 26FC512-005, is related to and referenced in this investigative report. Additionally, the Investigation Report references a progress report from October 16, 2024, though it occurred outside the applicable Complaint window.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. An IEP dated April 25, 2024, indicated:
    a. Parent input: "When asked about [the Parent's] concerns, [the Parent] stated that [the Parent] is worried about [the Student's] reading and writing skills (i.e[.] decoding, fluency, handwriting), and how [the Student's] speech may be impacting [their] literacy skills. [The Parent] also has concerns around [the Student's] impulse control, attention, working memory, hyperactivity, inattention, difficulty regulating emotions, low self-esteem, and mood swings."
    b. The Student experienced behaviors that impeded their learning or that of others, which were addressed with accommodations/modifications and goals.
    c. The Student experienced communication needs that impeded their learning, which were addressed through direct services and goals.
    d. Assistive technology needs were considered.
    e. Relevant Present Level of Academic Achievement and Functional Performance indicated:
        i. Speech/Language:
            1. "In conversation [the Student's] speech can still be very difficult to understand." Additionally, "Our practice on /r/ and /l/ blends with a focus on the written form of the words has positively impacted [the Student's] ability to correct [their] errors with a direct cue. [The Student] is also demonstrating improvement in [their] ability to determine if a spoken word has a targeted speech sound (auditory discrimination). Inconsistent sound errors in conversation continue to occur within two and three[-]sound consonant blends as well as singleton sounds like th and ch. [The Student] also makes a number of grammatical errors in [their] speech including past tense (regular and irregular) as well as incorrect choice for verbs like do/does, has/have, and go/goes."
            2. "The Parent notes that [the Student] is demonstrating more confidence in initiating and maintaining conversations, is able to tell more detailed and cohesive stories, and is more confident in expressing [their]

thoughts and opinions. [The Parent] still notices that [the Student] makes grammar errors and has difficulty articulating some sounds and pronouncing words correctly. [The Student] also has difficulty maintaining conversations with peers and understanding social cues. [The Student's] social anxiety can lead [the Student] to avoidance/withdrawal from social interactions. [The Parent] wants for [the Student] to develop fluent and grammatically correct speech while improving [their articulation and pronunciation."

3. The Second Grade Teacher indicated they understood the Student "… 60-70% of the time the first time (without repetitions) depending on topic, context clues, and [the Student's] emotional state."

ii. The Behavior Assessment System for Children, Third Edition (BASC-3) teacher and parent reports indicated the Teacher's rating for the Student's functional communication fell into the "At Risk" category. The Parent's rating fell into the "Average" category.

f. Goals:

i. For the four goals, all progress was scheduled to be reported quarterly:

1. Speech Sounds/Articulation: "By the end of the IEP year, during structured small group activities in the speech room, [the Student] will correctly produce practiced /l/ and /r/ words in spontaneous sentences (e.g. in response to questions, picture description, or story retell) with at least 80% accuracy on 2/3 data days" measured by an Speech-Language Pathologist (SLP) data sheet.

a. An IEP Progress Report indicated the Student met this goal on October 11, 2024, December 20, 2024, March 14, 2025, and April 16, 2025.

2. Communication: "By the end of the IEP year, during structured small group activities in the speech room, [the Student] will correctly include regular past tense'ed markers on verbs while describing action in pictures with 80% accuracy on [2 out of 3] data days," measured by an SLP data sheet.

a. An IEP Progress Report indicated this goal was met on March 14, 2025 and April 16, 2025.

3. Additional goals included reading and behavior.

g. Specially Designed Instruction (SDI) included special education services in the special education and general education classrooms provided by special education staff, daily, and direct Speech/Language therapy services for 20 minutes provided by an SLP, three times per week in a special education classroom from April 25, 2024 through May 29, 2024, and August 13, 2024 through April 24, 2025.

h. Least Restrictive Environment: "[The Student] requires specially designed instruction in speech/language, behavior, and reading that requires additional supports beyond what is available in the general educational setting to make adequate progress."

i. Accommodations, modifications, and supplementary aids and services were listed.

j. IEP team members included the Resource Teacher, the Second Grade Teacher, the Principal, the School Psychologist, and the Parent.

k. An excusal notice for a required member of the IEP team, the SLP, was signed by the Parent on April 25, 2024.

2. The PWN dated April 25, 2024, noted the team reviewed the evaluation/assessment data for the Student and indicated the Student was eligible for special education and required special education services to receive educational benefits. A material change in services, a substantial change in placement, and other changes were noted. The PWN indicated the team updated the exceptionality to OHI from Speech/Language. Actions proposed were described and explained, options considered were noted, and a description of the data used to make decisions was listed. Consent for special education placement and services was denoted by the Parent's signature.

3. An IEP dated April 16, 2025, indicated:

    a. Parent Input: "Communication challenges remain a concern for [the Student]" and "In the past year, [the Student] has made significant progress, particularly in [their] ability to process new vocabulary and engage in back-and-forth discussions."

    b. Present Level of Academic Achievement and Functional Performance:

        i. Academic and social growth, improved behavior; at grade level in math; lacked motivation for reading and writing.

        ii. The Student met the speech/articulation goal "consistently in spontaneous sentences during structured practice."

        iii. Regarding the communication goal, "When a 'plain' verb is written for [the Student] to refer to (e.g. jump, lock, watch, skate), [the Student] uses the regular past tense form of the verb in a sentence to describe action with at least 80% accuracy across 2/3 data days. [The Student] will sometimes include the word 'is' when producing a regular past tense 'ed verb and we have practiced changing to 'already.' [The Student] responds to cues/prompts to correct errors in less structured settings/when the words are not written down for [them] and [their] frustration tolerance is high. We have started directly practicing some frequently occurring irregular past tense verb forms as well."

        iv. The Student "… now correctly produces all speech sounds in conversation with at least 85-90% accuracy. [Their] speech understandability is most impacted by [the Student's] rate of speech

and [their] tendency to jumble/clutter [their] words together vs. clearly articulate [sic] the sounds in each word. Other impacts to understandability include … [the Student] sometimes talks in paragraphs (resulting in some hypernasality as [the Student] gets to the end of a breath) and sometimes talks in an immature voice. [The Student] is not yet able to clearly rate/self[-]monitor [their] rate and enunciation but [the Student] does participate in conversational repair with [their] communication partner when [the Student] is misunderstood. [The Student] continues to demonstrate some grammatical errors, particularly irregular past verb tense (e.g. ran, dug), which are not that uncommon for students [their] age."

v. The Parent indicated the Student experienced "Improved ability to engage in back-and-forth discussions, especially with peers or familiar adults. Better self-monitoring when communication isn't clear, sometimes repeating or rephrasing when needed." According to the IEP, the Parent's priorities for the upcoming year included "reducing the 'baby talk' tone to help [the Student] develop clearer, more age-appropriate speech."

vi. The Third-Grade Teacher described the Student's improved conversational skills with peers and "'estimated that [the Third-Grade Teacher] understands [the Student] about 80% of the time'" noting more difficulties when the Student rushed their words or changed to a topic the Third-Grade Teacher was less familiar with. Regarding communication, the Third-Grade Teacher shared, "'[The Student's] main struggle is [their] understandability and speech sound production,'" and indicated "'… my main goal for [the Student] would be [their] understandability so that [the Student] is able to communicate and be understood.'"

vii. Progress on all goals was scheduled to be reported quarterly. Goals were described in reading and executive functioning. Additional goals included:

1. Communication: "By the end of the IEP year during structured small group activities in the speech room, [the Student] will achieve a rubric score of 6 … during a 10[-] minute conversation on 4/6 data days" measured by SLP observation.
    a. The Student's Speech Understandability Rubric indicated:
        i. "0 - demonstrated the skill with 5 or more reminders."
        ii. "1 - demonstrated the skill with fewer than 5 reminders."
        iii. "2 - demonstrated the skill with only a beginning reminder/review."

iv. "3 - demonstrated skill without reminders."

v. Skill areas were listed in speed, clarity, and mature voice.

b. The Student's IEP Progress report regarding their communication goal indicated:

i. May 22, 2025: "Adequate Progress": "The Student is not yet able to independently demonstrate or define [their] skills. On our last data day, [the Student] scored a 5 on [their] rubric (individual scores 1, 1, 3), but our sample was primarily in response to questions which improve [the Student's] ability to maintain a mature voice without prompting. We will continue and include practicing individual skills and monitoring the SLP in these skills over the next quarter."

ii. October 10, 2025: "Adequate Progress": "Over the course of the quarter, [the Student] has demonstrated scores of 4 and 5 on [their] rubric. [The Student] needs most prompting for saying all the sounds in [their] words ([they] tend to jumble them and rush through). We are also starting to give [the Student] more opportunities to rate [their] own performance."

viii. Relevant SDI indicated: "[The Student] will receive 20 minutes of speech/language therapy two times weekly in a special education setting" from April 16, 2025 through May 27, 2025, and August 11, 2025 through April 15, 2026.

4. A PWN for the annual IEP meeting on April 16, 2025 indicated the team reviewed the evaluation/assessment data for the Student and noted the Student required special education services to receive educational benefits. A material change in services and a substantial change in placement were noted. Actions proposed included a decrease in speech/language service minutes. Options considered included, "The team considered continuing with 60 minutes of weekly speech/language therapy, but rejected it as this is no longer [the Student's] least restrictive learning environment." Consent for special education placement and services was denoted by the Parent's signature.
5. On October 17, 2025, the Resource Teacher emailed a copy of the Student's first-quarter progress report to the Parent.
6. On October 23, 2025, the Principal emailed the Parent regarding the Student's first quarter progress report, "You should have received the progress report from first quarter recently noting progress on each of [the Student's] IEP goals. Please let us know if you have questions about any of that information as well."

7. On October 27, 2025, the KSDE Assistant Director of Special Education and Title Services acknowledged in a letter that the LEA's proposed resolutions for case number 26FC512-005 were accepted.
    a. In a "Documentation for Resolutions" document, the District described its efforts:
        i. "The district proposes conducting a review of service logs for this school year and progress reports for the most recent IEP for each student on the SLP's caseload to determine progress toward IEP goals. This review will be completed by November 1, 2025."
            1. "Reviewed service logs on October 28, 2025 for 34 students for services between August 11, 2025-October 9, 2025."
            2. "Reviewed the most recent progress reports on October 30, 2025 and October 31, 2025 for 34 students: 31 students are making adequate progress toward their speech and language goal/s and 3 students have met their speech and language goal."
    b. "For any students who are not making progress toward their IEP goals, the district proposes convening the IEP team to make individual determinations about compensatory services needed to remedy the missed services. All meetings for any students who are not making progress will occur by November 30, 2025."
        i. "No meetings are needed based on a review of progress reports."
    c. "The district proposes training the SLP at [the School] on the following topics. (The district proposes that this training occur on November 3, 2025.)":
        i. "Determining the need for compensatory services due to missed services to include: when compensatory services are required, important considerations, making individual determinations and the process for offering compensatory services."
            1. "Training conducted on November 3, 2025 at 11:00 [a.m.] with the SLP. Training materials including the signed acknowledgement [are] attached."
    d. "The special education director or designee will meet with the SLP at each progress reporting period for the remainder of the [20]25-26 school year to ensure processes are followed for any students who are not making progress toward their IEP goals. Progress reporting periods occur on January 6, 2026, March 26, 2026, and May 29, 2026. SPECIAL EDUCATION [sic] All training materials and an SLP acknowledgement sheet will be submitted to KSDE no later than 10 days following the dates outlined above."
        i. "Meetings scheduled with SLP to ensure the process is followed for all students not making progress toward their IEP goals on January 7, [2026], March 26, [2026], and May 22, [2026]."
        The LEA attached training materials on "Compensatory Services in

Special Education" and signatures from the trainer, the Assistant Director of Special Education, and the SLP.

8. On November 8, 2025, the Parent emailed the LEA regarding the Student's progress report and the corrective actions from a previous complaint, "Thank you for forwarding [the Student's] 1st Quarter IEP Progress Report. After reviewing the document and the recent KSDE Formal Complaint Resolution Acceptance Letter (Case No. 26FC512-005), I have several concerns and questions regarding how the district intends to meet the corrective actions outlined in the resolution and ensure accurate implementation moving forward." The Parent asked for the following;
    a. "A detailed explanation of how progress data was gathered for [the Student] during the weeks when no special education instruction was being delivered."
    b. "Documentation of the service logs reviewed as required by KSDE, and confirmation of whether [the Student's] IEP team will be convened to discuss compensatory services for the missed minutes."
    c. "A clear plan and timeline for how the district will fulfill KSDE's required corrective actions for the 2025-2026 school year, particularly regarding monitoring and compliance at [the School]." Additionally, the Parent wrote they would like "… confirmation of when [the Student's] IEP team will meet to review [the Student's] current progress, missed services, and potential compensatory service plan."
9. A Notice of Meeting dated December 2, 2025 for a parent-requested meeting, described a proposed meeting date of December 10, 2025. The notice documented the Parent requested a meeting on November 10, 2025, with a response from the Resource Teacher inquiring about dates and times. On December 1, 2025, the Parent provided two possible dates and confirmed the December 10, 2025 meeting date. The Parent signed the 10-day notice waiver on December 10, 2025.
10. A PWN dated December 10, 2025, described:
    a. Proposed/Refused actions:
        i. The Case Manager clarified how data was collected and goals monitored.
        ii. The SLP shared the speech understandability rubric and reviewed the graph of the Student's progress in this area.
        iii. "[The] Parent and classroom teacher … shared that language intelligibility is not generalizing to the classroom and home setting. At times they continue to struggle to be understood, speaking with a 'baby talk', and strategies are needed to prompt [the Student] to not use a nasal voice. [The SLP] shared that generalization and working with understandab[i]lity with [an] unfamiliar listener is a skill set to target moving forward. Parent shared that [the Parent] has [the Student] repeat [themself] and at time[s] [the Student] continues to not be understood."
        iv. "Clarification was provided on goal progress being provided quarterly with a summary of progress based on the goal criteria."

b. Explanation of action: "[The SLP] will be determining the goal focus moving forward with generalization of the speech skills into the general education setting for the upcoming annual IEP."
c. Options considered: "The team considered compensatory service based on the service logs and services that were missed; based on IEP goal progress, addition[al] time is not needed for [the Student] to make adequate progress on this [their] targeted IEP goals."
d. Description of data used as a basis for the action: "[G]oal monitoring data service log summary, data progress reports, [Measures of Academic Progress] MAP data." Consent/non-consent sections remained unsigned.

11. On December 11, 2025, the Parent emailed the Special Education Coordinator with concerns, "… [the Student's] functional intelligibility is still a major concern. At home, with extended family, with peers, and even with devices like Alexa/Ziggy, [the Student] is often not understood. I frequently have to ask [the Student] to repeat [themself] multiple times, and sometimes we still end up relying on gestures or guessing. [The Fourth Grade Teacher] also shared that in the classroom [the Student] often needs to repeat [themself] and … [the Student's] speech is hard to understand, especially when [the Student] is excited or emotional. Because of this, I am struggling to reconcile the statement that [the Student's] speech goal has been 'met' with what I am seeing in real life. I do understand that the current goal has been met in a highly controlled speech-room setting with a familiar adult and specific activities. However, the lack of generalization to natural settings (classroom, peers, home, community) is exactly what worries me."
    The Parent requested a copy of the PWN from the December 10, 2025 IEP meeting and wrote, "I want to review the written explanation regarding progress, missed services, and the decision that compensatory services are not needed at this time." The Parent requested clarification on how "adequate progress" was determined based on missed service minutes and the Student's difficulty communicating in natural settings.
    Regarding a plan and timeline for new speech/generalization goals, the Parent wrote, "I heard during the meeting that the next step is to develop new goals focused on generalization … . … I would like to meet earlier than March to review and adjust [the Student's] IEP, rather than waiting until the annual deadline. Could we please look at dates in January to reconvene?"
12. On December 12, 2025, the Special Education Coordinator attached the PWN and replied, "At this time, based on current goal progress, the team is hoping to meet early for the annual targeting the beginning of February."
13. On December 15, 2025, the Special Education Coordinator responded to the Parent's question regarding the Student's "adequate progress," and wrote, "… [the SLP] shared with you the data collection form that was used to gather progress data for the goal. [The SLP] also shared with the team how the data was compiled and graphed to show progress of the skill over time. [The Student] made progress on [their] speech goals at a faster pace than what was expected when the IEP goals [were] determined. That, along

with [their] other goal progress, is the basis for the proposal to meet earlier than anticipated for [the Student's] annual IEP meeting." The Special Education Coordinator also shared, "The IEP team can meet together to discuss further any of these items, please let us know if you would like us to schedule a time."

14. On December 17, 2025, the Parent replied, "Thank you for clarifying that the team plans to collect additional data following winter break … . While I had requested to reconvene earlier, I understand the team's position regarding scheduling and will plan for the first week of February." Additionally, the Parent wrote, "… my expectation is that the revised goals explicitly address functional intelligibility in natural settings, and that data collection reflects real-life communication demands rather than only controlled speech-room tasks."

Parent Interview

15. When asked by the Complaint Investigator when concerns about the Student's functional intelligibility rose to the forefront, the Parent shared, "… especially the last 12 months, third and fourth grade, because I am starting to see [the Student] get self-conscious about it … and [the Student's] getting bullied by a few [children] at school because, 'Why can't you talk?'" The Parent shared the Student had been working with an SLP since age three, and the Parent had seen what progress looked like in the past. Currently, "My biggest ask was just, '… I'm not seeing growth. Can we make up the time?' And when I was told no, the time won't be made up and [the Student] met their goals." The Parent indicated they shared their concerns "With the team, but prior to that was [the Fourth Grade Teacher] because [the Fourth Grade Teacher] was also like, '"Hey, I can't really understand [the Student]."' The Parent shared, "And so it was a huge red flag when the team that is supposed to support [the Student] said that two hours worth of time in the first quarter they weren't going to make up, and I just don't understand why it can't be done."
16. In an interview with the Complaint Investigator, the Parent described challenging the SLP's claims that the Student was meeting their goals, citing over two hours of documented missed sessions and consistently shortened instructional time. According to the Parent, the SLP argued the Student was successful in a "controlled room." According to the Parent, neither the Parent nor the Fourth Grade Teacher could understand the Student and they shared with the SLP, "… [the Student] doesn't know how to do it generalized yet … . … the point is to teach [the Student] how to meet these goals in the real world when [the Student's] talking to [their] teachers … friends … me?" The Parent added, "… [the Student] hears it, but [the Student] thinks [they're] saying it right. And so there's just some sort of disconnect between [the] brain and [the] mouth. But when you go very, very slow, [the Student] can do it … . But within a sentence is when [the Student] gets lost in the sauce. So when it's back and forth … I can see how [the SLP] corrects [the Student] in the moment … ," but "It's not generalized in [the Student's] day-to-day life."

17. According to the Parent, they called an IEP team meeting, scheduled on December 10, 2025, after they attended Parent-Teacher Conferences in October and asked the Fourth Grade Teacher about the Student's progress, shared their concerns about the Student's functional communication, and received "vague answers" from the LEA.
18. The Parent indicated that at the December 10, 2025 IEP meeting, they asked questions and received "blanket answers." According to the Parent, "I got told that [the Student's] minutes were not going to be made up because [the Student] met [their] goals … ."
19. Regarding the April 2024 IEP, the Parent recalled "sitting in the meeting and they basically just told me what they're going to work on." Regarding the creation of the "-ed" marker goal, the Parent described the LEA proposed the goal, asked what the Parent thought, and the Parent said, "'Okay, if that is what you feel … [the Student] needs.'" According to the Parent, "… I really lean on … the teacher … because they spend more time with [the Student] in this setting to know what [the Student] is struggling with. So I did put some trust into what they were deciding," and agreed to the goal.
20. Regarding the April 2025 IEP and the Student's "understandability" goal, the Parent recalled the SLP "coming up with this idea." The Parent recalled, "… I remember agreeing [the Student] does go too fast … . That we need to have clear speech, and we need to say all these words and sounds, and slowing down, and practicing that. … I feel like it was a spot-on great idea because that's where we're struggling, is understandability and articulating ourselves." The Parent recalled the Third Grade Teacher discussing using "'Hey, slow down'" language to encourage the Student to "say all the sounds and the words." The Parent shared, "… I do remember the SLP presenting this idea and the team agreeing that it would work."
21. According to the Parent, they received the Student's Progress Reports "… through email prior to the meetings."
22. When asked about the progress the Student made in 2024 that resulted in the Student's goals being changed in 2025, the Parent shared, "… We did see some growth in the spontaneous sentences with an initial reminder. … I did see some growth with [the Student] continuing to talk and slow down. I feel like these reports are accurate without being … too specific … . It's very generalized because [the Student] was making baby steps. We did see it. And I feel like some of that was with age and growth." The Parent shared, for March 14, 2025, "… [the Student's] being prompted less during structured situations for an occasional sound or error less than 10% of the time. Again, that's with the SLP. … The big issue that has pulled over to fourth grade is in [the Student's] day-to-day life, generalization. … at the time this felt accurate and honest, but now we're here in January of 2026 and it's not 85-90% of the time."
23. The Parent described their understanding of the corrective actions required by the District as a result of the KSDE 26FC512-005 complaint, "From what I understood was they recognized that the time was missed and there was options for that, to rectify it. One of them was making up missed time. … And then when I asked about that [in the December 10, 2025 meeting], they're like, 'Well, no, we're not going to do that because

[the Student] met [their] goal." The Parent expressed the LEA did not provide any compensatory services for missed speech minutes for the Student.

24. Regarding the provision of the PWN for the December 10, 2025 IEP meeting, the Parent described the Special Education Coordinator "… said [the Special Education Coordinator] was going to go make me a copy. [They] came back into the room. [The Special Education Coordinator] was talking with [the Principal]. Nobody handed me anything. … I did not get a copy of that or any of the notes from the meeting either." The Parent said, "And so that's when I emailed, I believe the next day, requesting it. And, well, that night I filed my complaint because I didn't receive any of the documentation." The Parent indicated they received the PWN the following day.

SLP Interview

25. During an interview with the Complaint Investigator, the SLP indicated the Student met their articulation goal from their April 2024 IEP, on October 11, 2024, and shared, "And so we were working on consistency and waiting for the rest of the team to be okay to have another IEP meeting. We had a new sp[ecial] ed[ucation] teacher in the building, and [the Third Grade Case Manager] was not ready to have another IEP meeting. So we continued to work on those skills and working on generalization." The SLP shared, the Third Grade Case Manager was "… overwhelmed at the beginning of that first quarter. And when I said that [the Student] had met [their] goal, [the Third Grade Case Manager] acknowledged that, and I asked if we could have the meeting, and [the Third Grade Case Manager] said [the Student] had not met [their] … goals for [the Third Grade Case Manager] in the other subject areas."
    The SLP said, "What should have happened was an amendment to change … just the speech goal." The Associate Superintendent of Special Education added, "… We could have had an amendment to change the speech goal, but then at times we've worked on the generalization of the skill across different environments." When asked about the documentation of "generalization" for the Student, the SLP shared "for the generalization of the speech sound goals, [the Student] was working on being able to answer questions. So it was a highly structured context for [the Student]. … You can see in the progress reporting that I have said that we were working on generalization into conversation, so that's one form of documentation of that conversation with parents." The SLP shared the Parent would have been informed of this work at Parent-Teacher Conferences in the fall of 2024 and "occasionally throughout the year." Regarding the documentation of this work, the SLP indicated, "… when students meet their goal or do a specific skill, I'll send a video clip to the parents or send … [a] celebratory email to have that kind of communication … ." When asked for the documentation of the video clip and the email to the Parent, the SLP said, "That was not something that I've been asked to keep track of. So no, I do not have that. It would've been sent and gone." The SLP said, "Once I send an email, unless there's an issue, like this year when I knew that the parent had questions, I started saving the email correspondences with [the Parent]. Last year, there were no difficulties. The Parent was happy with progress and happy with the level of communication based on [the Parent's] reports to us."

a. In a follow-up email dated January 8, 2025, the Associate Director for Special Education shared that the email and video of the Student's progress sent by the SLP to the Parent in October 2024 could not be pulled because "no email records went back that far."

26. The SLP indicated the team's decision to reduce the Student's speech service minutes at the April 2025 IEP meeting was " … because [the Student] had met [their] language and … articulation goals. [The Student's] language was not considered to be a concern based on input from the teacher and from the Parent. … As a team, we decided that there were more possible negative impacts of [the Student] missing more classroom time to work on … these speech sounds because [the Student] was down to just using clear speech and we were working on that versus having multiple goals [sic]."
27. The SLP described the Student's progress documented in the October 16, 2025 Progress Report, and indicated the rubric noted in the goal, "… was scored based on how many reminders [the Student] required during the 20- minute speech time period … ." The SLP indicated, "… [the Student's] scores based on fours and fives meant that [the Student] was getting mostly … twos and ones on each of those skills." The SLP shared the data was tallied and compiled to create a score for the rubric. The SLP described the data they collected was not collected every day with every student for every goal. Data was collected several times throughout the progress reporting period. The SLP shared, "Once that data has been collected for each quarter, it is summarized and put onto the Progress Report. And then the paper that I have used to collect that data is typically shredded because it's no longer necessary … ."
    a. In a follow-up email dated January 8, 2025, the Associate Director for Special Education shared that data was collected on the Student on four days during the first quarter and six days during the second quarter of 2025.
28. The SLP recalled the Parent attending Parent-Teacher Conferences in the fall of 2025, and "… our conversation was [the Parent] was happy with [the Student's] progress. [The Parent] had no questions and no concerns. We did talk about generalizing the skills that [the Student] was doing well with at that meeting. And at that time, we discussed how we could give [the Student] those hints and cues or reminders in other situations. So based on the two skills … [the Student] was still struggling the most with, using that 'just right speed' and 'saying all the sounds' in [their] words, I printed out those two things with a one next to the 'just right speed' and a two next to the 'clear speech.' [The Special Education Teacher] has a copy of them in [their] room for reference as well, and an additional copy was sent home to [the Parent] so … they could work on cueing and prompting for those skills in other environments."
29. The SLP said, "I did not hear from [the Parent] with any concerns until … probably November [2025]." According to the SLP, the Parent was concerned about the Student's missed services, understanding the Student at home, and how progress was monitored. The SLP indicated the IEP team met with the Parent on December 10, 2025 to discuss the Parent's concerns.

30. Regarding the discussion of compensatory speech minutes at the December 10, 2025 meeting, the SLP shared, "… the discussion was that [the Student] had made adequate progress and no compensatory services were necessary at that time." The SLP shared the Student had not met their speech goal by the December 10, 2025 meeting, but was "making progress toward that goal."
31. According to the SLP, the Fourth Grade Teacher shared in the December 10, 2025 meeting they struggled to understand the Student in the classroom, "I asked [the Fourth Grade Teacher] for clarification and some specifics, and then we discussed as a team that as we look towards the next IEP, which we're scheduling for February, that we would look at [the Student's] ability to be understandable across general education settings because [the Student] is meeting [their] goal in the special education settings, but we said that we would collect some data and information about how [the Student's] doing in [their] general education settings."
32. Prior to the December 10, 2025 meeting, the SLP indicated that neither the Fourth Grade Teacher nor anyone else shared concerns with the SLP regarding the Student's understandability. The SLP shared, "[The Student] struggles at times when [the Student's] excited. [The Student] will speak quickly and sometimes leave sounds or parts of words off." The SLP said, "[The Student] very positively reacts to prompts to ask [them] … to slow down or to repeat [themself]. … I think [the Student] does a great job with conversational repair. … I think [the Student's] making great progress, especially knowing [their] history and background and having worked with [the Student] for the last three years."
33. The SLP indicated observations were currently being conducted to gather information about the Student's understandability at different parts of their day. The SLP shared they had already gathered data from an unfamiliar listener and the Principal, and "… we're working on making sure that we're looking at what strengths and concerns we have across general education settings in terms of understandability." The SLP indicated they had not officially observed the Student or gathered data in the general education classroom primarily because there was not a specific goal looking at the Student's understandability in that setting.

Third Grade Teacher Interview

34. In an interview with the Complaint Investigator, the Third Grade Teacher stated the Student was in their class during the 2024-25 school year. They indicated the Parent had expressed academic and speech concerns to them. However, they did not recall the Parent requesting an IEP meeting other than the regularly scheduled meeting.
35. The Third Grade Teacher described the Student as "very hard to understand." They shared "[The Student] talks really fast and [their] speech can be slurred." They also shared the Student received pull-out support from both the Special Education Teacher for academic goals and the SLP for speech goals, as well as push-in support for academic goals. The Third Grade Teacher recalled the Student was "still hard to understand" at the end of third grade.

Fourth Grade Teacher Interview

36. In an interview with the Complaint Investigator, the Fourth Grade Teacher recalled discussing the Student's lack of intelligibility with the Parent at Back-to-School Night at the beginning of the 2025-26 school year. They stated they also spoke to the SLP around the same time.
37. The Fourth Grade Teacher reported they notified the Parent of the previously filed State complaint during parent-teacher conferences.
38. The Fourth Grade Teacher shared the Student was "very hard to understand" and described physical functional challenges in the Student's speech. They stated the SLP gave the suggestions of directing the Student to repeat their words or use their "man voice." The Fourth Grade Teacher indicated these strategies were not working. They indicated they could understand "[a]bout half" of what the Student said. They stated they shared initial concerns about the Student's speech with their staff in August.
39. The Fourth Grade Teacher expressed that "Nothing" was determined at the December 10, 2025 IEP review meeting. They indicated when the Parent requested data and a new goal to replace the goal that was met, they were told data was still being collected. The Fourth Grade Teacher reported when the Parent asked what program was being used to collect data, they were not given an answer. According to the Fourth Grade Teacher, when the Parent asked if missed services would be made up, the Fourth Grade Teacher indicated the Special Education Coordinator and SLP stated, "… since progress was being made, there was no need for them to make up any services." However, the Fourth Grade Teacher expressed the Student's speech was "not on par."

Fourth Grade Case Manager Interview

40. In an interview with the Complaint Investigator, the Fourth Grade Case Manager stated they began serving as the Student's case manager in mid-October 2025 and provided reading and writing pullout services.
41. The Fourth Grade Case Manager shared the Parent expressed concerns about the Student's speech, reading, and writing during parent-teacher conferences. They described these concerns as "what conferences are for every child." They did not recall the Parent requesting an IEP meeting prior to the December 10, 2025 meeting.
42. Regarding the December 10, 2025 IEP meeting, the Fourth Grade Case Manager stated it was a meeting to review progress notes. They stated they were "in charge of" the reading, writing, and executive functioning data, which they shared with the Parent. The Fourth Grade Case Manager stated their data came from "documentation."
43. The Fourth Grade Case Manager described the Parent as "worried that [the Student] is not generalizing [their] intelligibility within all areas and not just in speech and not just in my classroom, but generalizing it all around." They indicated the team discussed strategies for helping the Student generalize "inside each other classroom and then at home, in the community and so forth." The Fourth Grade Case Manager stated they could understand the Student "… the majority of the time. 80, 85%, if not 90."

44. The Fourth Grade Case Manager stated the progress reports were emailed to the Parent.

Resource Teacher Interview

45. In an interview with the Complaint Investigator, the Resource Teacher indicated they worked with the Student in second grade and was their case manager for August through October 2025. They were reassigned when the Fourth Grade Case Manager was hired.
46. The Resource Teacher expressed pleasant surprise at the Student's progress in executive functioning between second and fourth grade. Regarding the Student's speech, they also noted progress, stating, "Sometimes it was a little harder to understand when [the Student] was telling stories or something like that, but then other times when I was like, 'Hey, let's slow down,' then I was able to understand [them]."
47. The Resource Teacher stated they emailed the first quarter progress report to the Parent. They shared the Parent responded, expressing concerns, particularly about the Student's speech, and had questions about the Student's goals. The Resource Teacher reported they explained how they collected data and documented progress to the Parent. They stated they explained these methods again at the December 10, 2025 meeting.
48. The Resource Teacher recalled the Parent "sharing [their] frustration] during the December 10, 2025 meeting that the Student was not making progress "at home with [their] goals." The Resource Teacher reported "[the Student] was making great progress in the speech setting as well as some progress in the school building," and as far as they were aware, the Fourth Grade Case Manager did not have any concerns about the Student's speech progress.
49. The Resource Teacher stated the Parent had not shared concerns with them prior to sending out the first quarter progress report. They also reported the Parent did not share any concerns with them about "understandability and generalization." They did not recall the Parent requesting an IEP meeting prior to the December 10, 2025 review meeting.

Special Education Coordinator Interview

50. In an interview with the Complaint Investigator, the Special Education Coordinator reported the Parent reached out to them "… questioning whether progress had been made and wanted to know what services specifically had been received and what services had been missed." They indicated the Parent was looking for data specifically related to the Student's speech goals.
51. Regarding the December 10, 2025 meeting, the Special Education Coordinator stated the team "reviewed what progress had been on goals, both [the Student's] academic goals and speech goals." They reported that both the Fourth Grade Case Manager and SLP shared data and explained their data collection methods. The Special Education

Coordinator indicated the team wanted to meet earlier than required for the annual IEP meeting to address the Student's needs. They shared they perceived the Parent was not in agreement around speech goals. They wondered if the Parent was "not seeing the goal of being a small piece building toward bigger skills." They stated they perceived the Parent thought because the goal was met, services would end, and clarified that was not the case.

52. When asked why the Student's articulation goal was not revised sooner, the Special Education Coordinator explained that when a "… service provider … has multiple goals and one goal is met and … another is not … . … maybe they're putting more work toward that other … goal during that time period." They stated, "I would anticipate that they had made a note in the progress report that that focus was there [sic]." However, they shared, "… if adequate progress wasn't being made on a second goal or not at the rate anticipated, that maybe it would have [a] note related to that, but it did not." The Special Education Coordinator did not know why the team was not in communication with them or the Parent to update the goals.
53. Regarding compensatory services, the Special Education Coordinator stated, "… We're not just looking at the piece of missed services. We're looking at that in conjunction with what progress has looked like for the student." They stated the data showed the Student was making progress towards their goals; therefore, the team did not propose any compensatory services.
54. The Special Education Coordinator stated the Parent did not ask to review or revise the Student's IEP prior to the December 10, 2025 meeting. They also recalled the Parent did not "specifically" share concerns about "intelligibility and understandability and generalization" with them.

Third Grade Case Manager

55. In an interview with the Complaint Investigator, the Third Grade Case Manager stated the 2024-25 school year was their first year in the LEA. They shared their role as case manager was to "take care of the academic goals[.]" They asserted "… any outside services take care of their goals, whether it's [Occupational Therapy] OT, [Physical Therapy] PT, speech, they are the expert[s] in their field."
56. When asked why an amendment was not created to adjust the Student's speech goal when the goal was met in October 2024, the Third Case Case Manager stated the SLP had "years and years of experience." They did not recall if the SLP told them the Student had met a goal.
57. The Third Grade Case Manager stated they emailed copies of progress reports to the Parent.
58. The Third Grade Case Manager stated the Parent did not share any concerns with them during the 2024-25 school year. They shared the Parent seemed "… very happy with the new goals that we created" and "… very pleased with what we were doing." They expressed surprise there was a complaint.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, developed measurable annual goals for the Student that were designed to meet the Student's needs resulting from the disability, to enable the Student to be involved in and make progress in the general education curriculum, specifically regarding functional communication and generalization. K.S.A. 72-3429(c)(2); 34 C.F.R. § 300.320(a)(2)(i).

According to K.S.A. 72-3429(c)(2); 34 C.F.R. § 300.320(a)(2)(i), the IEP for each exceptional child shall include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability or giftedness, to enable the child to be involved in, make progress in the general education or advanced curriculum, and meet each of the child's other educational needs that result from the child's disability or giftedness.

The Parent alleged the Student's speech goal was measured only in a controlled setting and not aligned with functional communication needs, and the goal did not measure generalization or real-world communication. During the IEP meeting, the SLP stated the Student "met" their speech goal because they scored adequately on a rubric during controlled room sessions. Both the Parent and the Teacher reported the Student was still very difficult to understand in real contexts. The Student's speech broke down during normal conversation, and the Student was still consistently misunderstood. The Student's Teacher confirmed that intelligibility was an issue in class and with peers.

The LEA indicated the IEPs dated April 25, 2024 and April 16, 2025 were designed to meet the Student's needs based on evaluation results and updated levels of academic and functional performance.

Part 1, The April 2024 IEP

The Student's April 2024 IEP included an articulation and communication goal focusing on speech sounds and grammar in a "structured small group" setting in the speech room. While the SLP reported the Student met the articulation goal as early as October 2024, the LEA took no action to amend the IEP until the annual review in April 2025. This created "stagnancy" where the Student was not being served by goals designed to foster further progress. Consequently, the Student spent half a school year working on a skill already mastered in a clinical setting, while their "At- Risk" functional communication remained unaddressed.

Part 2: The April 2025 IEP

The "Speech Understandability Rubric" introduced in the Student's goal in April 2025, like the previous speech goals, also remained tethered to the "speech room." At the April 2025 IEP, the

Third Grade Teacher reported "understandability" as the primary concern, and a goal was crafted around this concept. The Parent inquired in the fall of 2025 about the Student's progress and requested data regarding the Student's progress. The October 10, 2025 progress report indicated the Student made "adequate progress" on their communication goal in the clinical setting. In December 2025, the Parent reported the Student's progress in natural settings, stating the Student was "often not understood" by family, peers, or even voice-activated devices. The SLP acknowledged on December 10, 2025, that "generalization and working with understandability with an unfamiliar listener is a skill set to target moving forward." By the LEA's own admission, the Student had progressed on the clinical task but could not perform the functional task. The purpose of the IDEA is to enable the child to "be involved in and make progress in the general education curriculum."

The United States Supreme Court held that a free appropriate public education means "a school must offer an IEP reasonably calculated to enable a child to make appropriate progress in light of the child's circumstances." Additionally, "The 'reasonably calculated' qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials." This statement means that: (a) courts should refrain from using the benefit of hindsight to judge an IEP, (b) there is no bright-line rule, as the adequacy of a given IEP turns on the unique circumstances of the child; and (c) deference is given to school officials based on the application of expertise and the exercise of judgment, although a reviewing court may fairly expect those authorities to be able to offer a cogent and responsive explanation for their decisions to show the IEP is reasonably calculated to enable the child to make progress appropriate in light of their circumstance. Endrew F. v. Douglas County School District, 137 S.Ct. 988, 117 LRP 9767 (S.C. 2017).

The 10th Circuit (of which Kansas is a member) has long held that the adequacy of an IEP (whether reasonably calculated to provide educational benefit) is evaluated prospectively (at the time of its writing). The court explained that it is not reasonable for a court to "Monday Morning Quarterback" in evaluating an IEP, but also added that a school cannot ignore the fact that an IEP is clearly failing and continue to implement an IEP year after year without change when the individualized education program fails to confer educational benefit to the student. O'Toole v.Olathe USD 233, 144 F.3d 962, 28 IDELR 177 (10 th Cir. 1998) and reaffirmed in: Alex W. v. Poudre Sch. Dist., 124 LRP 7692 (10 th Cir. 2024).

This IEP team decided to focus on instruction "in the clinical setting." Perhaps the team determined that the Student needed to make progress in that relatively safe setting before attempting to make progress in other, more difficult, settings. Those are the kinds of decisions that, by law, are to be made by the IEP team. In this Complaint, the Parent is asking the Complaint Investigator to override the judgement of the IEP team, apparently because the Parent believes the work in the therapy room does not provide sufficient benefit to the Student in the classroom. In doing so, the Parent is asking the Complaint Investigator to

substitute the Complaint Investigator's judgement for the judgement of the IEP Team. That is the very thing the U.S. Supreme Court cautioned against.

Moreover, the Parent presented their concerns in October 2025, and a meeting was scheduled in December 2025 to address those concerns. The team opted not to revise the IEP at that time. However, they did make a plan to collect data to determine the basis for a generalized goal and convene a meeting in February 2026, prior to the annual IEP due date. This is the proper procedure when there is disagreement between team members.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** the LEA failed to develop measurable annual goals for the Student that were designed to meet the Student's needs resulting from the disability, to enable the Student to be involved in and make progress in the general education curriculum, specifically regarding functional communication and generalization, and resulted in a denial of a Free Appropriate Public Education (FAPE).

Issue Two

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the Student's IEP to address a lack of expected progress, specifically regarding the Student's functional intelligibility in the general education setting. K.S.A. 72-3429, K.A.R. 91-40-16(a); 34 C.F.R. § 300.324(b).

According to K.S.A. 72-3429, K.A.R. 91-40-16(a); 34 C.F.R. § 300.324(b), after the annual IEP meeting for a school year, the parent of an exceptional child and an appropriate representative of the agency providing services to the child may agree to develop a written document amending or modifying the child's current IEP, without convening an IEP meeting. If the parent and agency representative develop a written document amending or modifying a child's current IEP, the document shall be dated and signed by the parent and the agency representative. The parent and the agency shall be provided a copy of the document.

Each agency shall ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved. The IEP team revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate, the results of any reevaluation conducted, information about the child provided by the parents, and the child's anticipated needs.

Each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency,

The Parent alleged USD #512 did not initiate or conduct a meeting to review and revise the IEP to reflect the Student's performance and address any lack of progress. The Parent wanted USD #512 to create a revised speech goal that measures functional intelligibility across all settings

because the speech goal does not measure generalization or real-world communication, which would make the goals meaningful and functional.

The LEA indicated the SLP's data demonstrated the Student was making progress on their speech goal as written and agreed upon by the IEP teams in April of 2024 and 2025.

Part 1, The April 2024 IEP

The documentation and interviews indicated the LEA failed to provide an IEP that was "appropriately ambitious" or responsive to the Student's demonstrated mastery. Regarding the Student's articulation goal in the April 25, 2024, IEP, the SLP acknowledged the Student first mastered the goal by October 11, 2024. Despite the SLP explicitly stating that an amendment should have been created to address the Student's changing needs, the goal remained unchanged for approximately six months. According to the IDEA, an IEP team must revise the IEP as appropriate to address "any lack of expected progress" or "other matters." By the District's own admission, the Student was no longer working on a goal that provided an educational challenge, resulting in a period of "stagnant" instruction that fails the Endrew F. standard of being "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."

Furthermore, while the District argues that no violation occurred because the Student eventually met clinical goals in the speech room, this ignores the functional requirements of the law. Kansas law requires goals to enable the child to "be involved in and make progress in the general education curriculum." The evidence indicates that while the Student reached 80-90% accuracy in a controlled, one-on-one setting, their "At-Risk" functional communication and poor intelligibility in the classroom remained unaddressed by the IEP goals. This gap between clinical mastery and classroom performance constitutes a failure to develop a plan designed to meet the Student's unique needs.

Part 2, The April 2025 IEP

The concern regarding the Student's intelligibility was formally documented in October 2025 by the Parent, and a meeting was scheduled in December, 2025 to address their concerns. Although both the classroom teacher and the Parent raised concerns regarding the Student's intelligibility and skill generalization, the LEA opted not to revise the IEP. They did, however, make a plan to collect data to determine the basis for a generalized goal and convene a meeting in February 2026, prior to the annual IEP due date.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***this allegation is substantiated.*** Although the LEA met its procedural requirements by convening a team meeting in December 2025, the substantive failure occurred during the 2024-25 school year. The District failed to initiate a timely amendment upon goal mastery in October 2024 and failed to develop a goal that addressed the Student's documented inability to generalize communication skills to the general education setting. This lack of responsiveness resulted in a

denial of a FAPE because the IEP was not "appropriately ambitious" during the period the Student continued to work on a mastered goal.

Issue Three

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, provided periodic reports to the Parent regarding the Student's progress toward meeting annual goals. K.S.A. 72-3429(c)(3); 34 C.F.R. § 300.320(a)(3).

According to K.S.A. 72-3429(c)(3); 34 C.F.R. § 300.320(a)(3), individualized education program or family service plan contents needs to include a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided, such as through the use of quarterly or other periodic reports issued concurrently with general education report cards.

The Parent alleged there was a lack of adequate progress reporting. The Parent indicated they did not receive consistent progress updates for the Student's speech goal.

The LEA indicated they shared progress reports with the Parents via email.

In October 2025, the Parent described concerns regarding the accuracy of the data used to determine progress for the Student's progress reports, specifically noting the Student's struggle with generalization. Evidence confirmed that both the April 2024 and April 2025 IEPs scheduled progress reporting to occur quarterly. Documentation showed the LEA adhered to this schedule, with the Resource Teacher emailing the first-quarter progress report on October 17, 2025, followed by a confirmation email from the Principal on October 23, 2025. Additionally, the Parent explicitly acknowledged receipt of these reports in their communications and interviews. However, while the LEA met the procedural requirement for the periodic delivery of reports, the substance of these reports was impacted by the LEA's failure to update mastered goals or ensure the goals enabled the Student to be involved in and make progress in the general education setting.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide periodic reports to the Parent regarding the Student's progress toward meeting annual goals. The LEA complied with the timeline and delivery methods required by law, although the underlying goals being reported on were found to be non-compliant in ISSUE 2.

Issue Four

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, implemented the corrective actions required by the KSDE formal complaint report referenced by the Parent, specifically the provision of compensatory speech services for minutes missed between August and October 2025. K.A.R. 91-40-51(e); 34 C.F.R. §§ 300.151(b)(1), 300.152(c)(3).

According to K.A.R. 91-40-51(e); 34 C.F.R. §§ 300.151(b)(1), 300.152(c)(3), when filing a complaint with the State Department of Education, if a report requires corrective action by an agency, that agency, within 10 days of the date of the report, shall submit to the state director of special education documentation to verify acceptance of the corrective action or actions specified in the report, a written request for an extension of time within which to complete one or more of the corrective actions specified in the report, together with justification for the request.

The Parent alleged USD #512 did not implement the corrective actions required by a previous KSDE formal complaint report, specifically the provision of compensatory speech services for minutes missed between August and October 2025. The Parent felt USD #512 should be required to provide compensatory speech services for the missed minutes between August and October 2025.

The LEA indicated their proposal for corrective action for the KSDE 26FC512-005 was approved by KSDE, and their actions were noted in a resolution document.

Following the acceptance of the LEA's resolution proposal for the KSDE 26FC512-005 complaint, the District documented its procedural compliance through a formal resolution summary. Although the Parent maintained the Student was entitled to compensatory speech services based on their documentation of missed services, the LEA concluded, in line with their resolution plan, the Student demonstrated sufficient progress toward their April 2025 "understandability" goal to show that compensatory services were unnecessary. The documentation confirmed the LEA executed the required administrative steps set forth in their resolution plan.

Based on the foregoing, according to the IDEA and Kansas special education regulations, it is not substantiated that the LEA failed to implement the corrective actions related to the KSDE 26FC512-005 complaint regarding the provision of compensatory speech minutes. However, the validity of their conclusion, that missed services did not impede progress, is undermined by the Student's lack of functional generalization observed in the general education setting.

ISSUE FIVE: Whether USD #512, in accordance with state and federal regulations implementing the IDEA, provided PWN to the Parent regarding the refusal to provide compensatory speech services. K.A.R. 91-40-26(a), K.S.A. 72-3430(b)(2); 34 C.F.R. § 300.503(a).

According to K.A.R. 91-40-26(a), K.S.A. 72-3430(b)(2); 34 C.F.R. § 300.503(a), PWN requirements include when providing any notice to the parents of an exceptional child, regarding actions proposed or refused by an agency, the agency shall ensure that the notice includes the following descriptions: a description of other options the agency considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal.The parent of an exceptional child shall have the right to written prior notice whenever an agency proposes to initiate or change, or refuses to initiate or

change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

The Parent alleged USD #512 failed to provide a PWN. According to the Parent, the Case Manager stated they were preparing a PWN, but the Parent did not receive the PWN for USD #512's refusal of compensatory services.

The LEA maintained the IEP team met on December 10, 2025 and issued a PWN that was hand-delivered on December 10, 2025 and emailed on December 12, 2025.

The LEA issued a PWN that included the required descriptions of the refused action and the data used for the decision. The notice was provided on December 12, 2025, which constituted notice within a "reasonable time" of the refusal as described in the IDEA.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide a PWN regarding compensatory speech services.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at *34 C.F.R. § 300.324(b), K.S.A. 72-3429, and K.A.R. 91-40-16(a)* specify that the IEP should be revised, as appropriate, to address the child's anticipated needs.

In this case, the evidence supports the finding that USD #512 did not revise the IEP upon goal mastery or address generalizing communication skills to the general education setting. Both documentation and interviews support these findings.

Based on the foregoing, USD #512 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #512 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the IDEA at:
    a. *34 C.F.R. § 300.324(b), K.S.A. 72-3429, and K.A.R. 91-40-16(a)*.
    b. Within 15 days of the receipt of this report, the IEP team shall reconvene to draft new, measurable functional communication goals.
        i. Goals must include generalization criteria.
    c. The LEA shall provide mandatory training on the following topics for all special education staff and administrators at Lenexa Hills Elementary School by May 25, 2026:
        i. The *Endrew F*. standard defining "appropriately ambitious" and "reasonably calculated" progress.
        ii. Review and revision of IEPs when goals are mastered early or when expected progress is not made.

iii. The LEA must submit the training agenda, presentation materials, and a signed sign-in sheet to KSDE no later than June 1, 2026.

d. The LEA shall conduct a goal audit for all students receiving speech-language services to ensure goals meet the "appropriately ambitious" standard and include generalization to the general education setting.
    i. If the goals do not meet the aforementioned criteria, an IEP meeting must be convened to address the deficiencies.
    ii. The LEA will document the files reviewed and the date the IEP was convened to address the goal deficiencies and submit the documentation to SETS by June 1, 2026.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON DECEMBER 29, 2025

DATE OF REPORT: FEBRUARY 3, 2026

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ------ and ------ by their mother, ------. In the remainder of the report, ------ ------ will be referred to as "student A", ------ will be referred to as "student B", and both will be referred to "the students". In addition, ------ will be referred to as "the mother" or "the complainant", ------ ------ will be referred to as "the father", and both will be referred to as "the parents" in the remainder of the report. Note that the father is employed in USD #437 as the WRHS Assistant Principal of Special Services for the 2025-26 school year.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the students are residents of the Auburn/Washburn Public Schools (USD #437) and receives special education and related services through this LEA, which employs its own staff to meet the requirements of the IDEA. In the remainder of this report, this responsible public agency will be referred to as "the LEA" or "the district".

The following LEA staff involved in this investigation will be referred to as follows:

- Heidi Carlson, Director of Secondary Special Services
- Charlie Stoltenberg, Washburn Rural North Middle School (WRNMS) Principal
- Tina Schindler, WRNMS Special Education Teacher
- Autumn Weyand, WRNMS 8th Grade Counselor
- Jaime Callaghan, Washburn Rural High School (WRHS) Assistant Principal
- Marcie Frederickson, WRHS Counselor and Department Chair
- Marie Coates, WRHS Special Services Counselor
- Portia Jurado, WRHS Special Education Teacher 1
- Jeri Jones, WRHS Registrar
- Hillary Osborn, WRHS Special Education Teacher 2 and Department Chair
- Amy Kester-Niehaus, WRHS Special Education Teacher 3

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is

considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on December 29, 2025 and assigned the case for investigation on that same date.

Evidence Reviewed

Both parties were contacted during the investigation to gather and clarify information. The complainant was interviewed by telephone on January 20, 2026. In addition, the students' father was also interviewed separately on January 20, 2026.

The LEA made the following school personnel from WRHS available for a phone interview on January 15, 2026:

- Director of Secondary Special Services
- WRNMS Principal
- WRNMS Special Education Teacher
- WRHS Assistant Principal
- WRHS Counselor and Department Chair
- WRHS Special Services Counselor
- WRHS Special Education Teacher 1

In addition, the LEA made the following school personnel from WRNMS available for a phone interview on January 15, 2026:

- WRNMS Principal
- WRNMS Special Education Teacher

Written documentation was provided by both the LEA and the complainant. All the documentation was reviewed, and the following written documentation was used in consideration of the issue:

1. Evaluation Team Report dated October 18, 2024 for student B
2. Individual Education Program (IEP) developed on October 24, 2024 in USD #345 for student B
3. Evaluation Team Report dated October 26, 2024 for student A
4. IEP developed on October 28, 2024 in USD #345 for student A
5. Email dated May 15, 2025 at 1:54 p.m. written by the complainant to the WRHS Special Education Teacher 2 and Department Chair regarding registration
6. Email chain dated May 15, 2025 between the complainant and father regarding WRHS enrollment concerns
7. Email dated July 28, 2025 at 7:05 a.m. written by the WRHS Registrar to the parents regarding appointment
8. Email chain dated July 29, 2025 between the complainant and the WRNMS 8th Grade Counselor regarding a schedule change

9. Email chain dated July 30, 2025 between the complainant and the WRNMS 8th Grade Counselor regarding lack of communication and schedule questions
10. Email chain dated July 30, 2025 between the complainant and the Director of Secondary Special Services regarding transportation concerns and scheduling questions
11. Email chain dated July 30, 2025 between the complainant and the Director of Secondary Special Services regarding transportation concerns and scheduling questions
12. IEP Amendment dated August 6, 2025 for student B
13. Prior Written Notice (PWN) for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated August 6, 2025 proposing to add transportation as a related service and update special education service minutes and accommodations to student B's IEP with written parent consent provided on August 6, 2025
14. Email dated August 11, 2025 written by the WRHS Counselor and Department Chair to all WRHS students' parents regarding class schedules and procedures to make schedule changes
15. IEP Amendment dated August 12, 2025 for student A
16. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated August 12, 2025 proposing to add transportation as a related service and attendant care to student A's IEP with written parent consent provided on September 8, 2025
17. IEP dated September 25, 2025 for student A
18. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated August 12, 2025 proposing to update IEP goals and increase special education services with written parent consent provided on September 6, 2025
19. IEP dated October 13, 2025 for student B
20. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated October 13, 2025 proposing to update IEP goals and increase special education services with written parent consent provided on October 16, 2025
21. November WRHS Junior Blues Newsletter with information about second semester schedules and schedule change procedures
22. Email dated November 19, 2025 at 8:47 a.m. written by the father to the WRHS Special Services Counselor requesting schedule change for student B
23. Special Education Enrollment Meeting Notes dated November 20, 2025 from school special education team meeting with the counselor team
24. Email dated November 21, 2025 at 9:39 a.m. written by the WRHS Special Services Counselor to the father confirming schedule change for student B
25. Email dated November 21, 2025 at 10:31 a.m. written by the complainant to the Director of Secondary Special Services regarding scheduling concerns

26. Email chain dated November 24, 2025 between the complainant and the Director of Secondary Special Services regarding scheduling concerns
27. December WRHS Junior Blues Newsletter with information about schedule change procedures
28. Email dated December 1, 2025 at 10:37 a.m. written by the complainant to WRHS Assistant Principal regarding scheduling concerns
29. Email dated December 1, 2025 at 11:37 a.m. written by the complainant to the Director of Secondary Special Services regarding scheduling concerns
30. Email chain dated December 2, 2025 between the complainant and the WRHS Assistant Principal regarding scheduling concerns
31. Email dated December 3, 2025 at 10:10 a.m. written by the complainant to the Director of Secondary Special Services and the WRHS Assistant Principal regarding information obtained from Mark Ward, Attorney at SETS and KSDE
32. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated December 4, 2025 refusing to conduct staff training to all district special education staff
33. Email dated December 4, 2025 at 5:33 p.m. written by the complainant to the Director of Secondary Special Services and the WRHS Assistant Principal regarding PWN and decision to file complaint
34. Email chain dated December 5, 2025 between the complainant and the Director of Secondary Special Services and the WRHS Assistant Principal regarding complaint issues
35. IEP Goal Progress Reports for student A dated December 10, 2025
36. Complaint Form filed by the complainant dated December 28, 2025
37. Narrative and Description of Complaint dated December 28, 2025 written by the complainant
38. IEP Goal Progress Reports for student B dated December 29, 2025
39. District Response to Allegations for Student A dated January 12, 2025 written by the Director of Secondary Special Services
40. District Response to Allegations for Student B dated January 12, 2025 written by the Director of Secondary Special Services
41. Email dated January 24,2025 written by the Director of Secondary Special Services to the investigator answering clarification questions
42. Chronological Timeline of Events for student A written by the Director of Secondary Special Services
43. 2025-26 Class Schedule for student A
44. 2025-26 Infinite Campus Course Modification Chart and Screenshots for student A
45. WRHS Master Schedule for 2025-26 school year
46. WRHS Elective Chart showing enrollments for students with IEPs in low incidence programs for the 2025-26 school year

47. WRHS Course Planning Guide
48. WRHS 2025-26 Student Handbook
49. 2025-26 Class Schedule for student B
50. WRNHS Master Schedule for 2025-26
51. WRNMS Elective Chart showing enrollments for students with IEPs in low incidence programs for in the 2025-26 school year
52. 2025-26 Department of Special Services Handbook of Practices, Procedures, Policies, and Guidelines
53. 2024-25 KSDE Enrollment Handbook
54. School Board Policy IE: Instructional Arrangements
55. School Board Policy JBC: Enrollment

Background Information

The students previously attended school in USD #345 and both students received special education and related services through IEPs. The students transferred to USD #437 at the conclusion of the 2024-25 school year and received extended school year services in USD #437 during the summer of 2025.

Student A is currently enrolled in the 10th grade at WRHS. Her most recent reevaluation was completed on October 28, 2024 and it was determined that she continued to meet the eligibility criteria for the exceptionality of Intellectual Disability and Autism. There were two IEPs in effect during the 2025-26 school year with the first being an August 12, 2025 IEP amendment to the transfer IEP from USD #345 and the second being the annual IEP developed on September 25, 2025. Both IEPs include special education support in general education classes and special education and related services provided in the low incidence programs in the district.

Student B is currently enrolled in the 8th grade at WRNMS. Her most recent reevaluation was completed on October 18, 2024 and it was determined that she continued to meet the eligibility criteria for the exceptionality of Multiple Disabilities based on medical diagnoses of Down's Syndrome, Attention Deficit Hyperactivity Disorder (ADHD), and Reactive Attachment Disorder (RAD). There were two IEPs in effect during the 2025-26 school year with the first being an August 6, 2025 IEP amendment to the transfer IEP from USD #345 and the second being the annual IEP developed on October 13, 2025. Both IEPs include special education support in general education classes and special education and related services provided in the low incidence programs in the district.

Issues Investigated

Based on the written complaint, two issues were identified and investigated. Note that these allegations were made on behalf of the complainant's two students but also systemically for all students with disabilities at WRNMS and WRHS.

Issue One

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the student with a free appropriate public education (FAPE) in the least restrictive environment (LRE) during the 2025-26 school year, specifically by limiting opportunities to enroll in general education classes based upon the availability of paraprofessional support at the middle and high school buildings.

Applicable Law

Federal regulations, at 34 C.F.R. 300.320, require school districts to develop an IEP describing the special education and related services needed to address the unique needs of students with disabilities to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum; 3) participate in extracurricular and other nonacademic activities; and, 4) be educated and participate with other children with disabilities and nondisabled children.

Complainant Position

The complainant reported that the LEA is systemically narrowing the elective choices for students with disabilities at the WRNMS and WRHS based upon the availability of paraprofessional staff. She acknowledged that both student A and student B had their schedules changed so that each student was enrolled in two Physical Education (PE) classes during the 2025-26 school year as requested by the parents; however, the complainant believes the LEA only made these changes because of her advocacy. She indicated that other parents who may not be strong advocates are being told that schedules, including elective class choices, are determined by the special education staff and parent input is not needed.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

The complainant sent an email dated May 15, 2025 to the WRHS Special Education Teacher 2 and Department Chair describing her experience registering student A for the 2025-26 school year. The complainant stated that the WRHS Registrar told the mother that "*. . . the special education department would pick [student A's] classes and register her. No parent input needed*".

The LEA reported that the WRHS Counselor and Department Chair interviewed the WRHS Registrar regarding the alleged statements, without her knowledge of the complaint proceedings. The WRHS Registrar reported that she does not recall making the statements attributed to her.

The WRHS Counselor and Department Chair stated that she was in the office when the parent met with WRHS Registrar and remembered her explaining the incoming new student procedures to the parent and indicating that USD #345 would send student A's high school transcript as soon as the academic year closes and transcripts are complete. The WRHS Registrar also explained that counselors meet with students and put together schedules. The WRHS Counselor and Department Chair indicated this procedure is to ensure that all high school graduation requirements are met.

An email from the WRHS Registrar reflected a meeting scheduled for July 28, 2025 to register the student A for classes. The mother met with the WRHS Special Services Counselor and requested two PE classes as electives for both the first and second semester. Student A's schedule reflects her enrollment in two PE classes during first semester of the 2025-26 school year.

An email dated July 30, 2025 from the Director of Secondary Education stated:

> *Regarding her daily schedule: currently, [student B] is scheduled for PE every other day, but I understand from our conversation that daily PE would be beneficial. We can absolutely make that adjustment to support her needs. Based on our initial examination of the schedule, it looks like she would be with 8th grade students on B days and 6th grade students on A days. If it is a priority for you to have her only with same-age peers for PE, please let me know and we can examine the schedule again.*

The complainant reported that during an August 6, 2025 IEP team meeting for student B, she again requested for student B to be enrolled in a PE class every day in the middle school's block schedule to help with her energy and behavior. The complainant noted that during the meeting the WRNMS Special Education Teacher started to express that this was not possible due to paraprofessional staff availability, but the Director of Secondary Special Services stated, "*I will get you para support to cover this, I promise, we have to do this one*".

On August 11, 2025, the mother participated in a group tour for the parents and students of the WRNMS Special Education Teacher. The complainant reported that five students and their parents/guardians went on the tour led by the WRNMS Special Education Teacher and the paraprofessionals for the Trek classroom. The complainant stated, "[*The WRNMS Special Education Teacher] gave an overview of the classroom and grade levels and how each day goes, how she and the paraeducators support the students and during this discussion she shared that all students had only the specific electives, I can't remember which ones because I wasn't really paying too much attention until she said, 'If you don't like those electives, too bad, because I don't have enough paras for each student to be going in different directions, that is just the way it is*'."

When the LEA was asked specifically about this situation, the Director of Secondary Special Services stated:

. . . misunderstandings can arise during middle school tours when staff are explaining required courses or standard scheduling practices, particularly when students express strong preferences about certain electives. At the middle school level, some electives are required for all students (for example, all sixth-grade students must enroll in a music course and may choose between band, choir, or orchestra). In those situations, when a student's reluctance is based on preference rather than need, the requirement applies consistently to all students, and the course is not optional. This can sometimes be perceived by families as inflexibility when it is, in fact, an explanation of a universal requirement. However, when a student's disability impacts their ability to participate in a particular elective, or when an IEP requires access to a specific elective to support IEP goals, the district does make individualized adjustments. In those cases, the administrator works collaboratively with the special education teacher and counselor to ensure the student is appropriately placed. With respect to student B, the parent requested daily PE, which is not typical for her peers. That request was reviewed and ultimately accommodated based on the student's individual needs, demonstrating that elective participation is adjusted when warranted and is not predetermined or inflexible.

On November 19, 2025, student A's father sent an email to the WRHS Special Services Counselor requesting the student's second semester elective be switched from Choir to a second PE class. On November 21, 2025, the WRHS Special Services Counselor emailed back stating, "*I checked with [WRHS Special Education Teacher 3] to make sure there was staff to cover it. It's now updated*."

The complainant reported that:

> *Upon seeing the email, I asked [the father] if he knew who changed [student A's] enrollment and why paraeducator availability was being used to determine whether or not [student A] could be in the course instead [student A's] enrollment being used to determine staffing. [The father] walked over and talked to [the WRHS Special Services Counselor] and she said this is how they have always done it, that is was how she was told to do it, and that they check to see if there is paraeducator availability first, before determining a student's schedule. This makes this a policy by continued and standard practice . . . after emails with [the WRHS Assistant Principal] over the next couple of weeks, [the WRHS Assistant Principal] claims that this is not what [the WRHS Special Services Counselor] said and that [the WRHS Special Services Counselor] was only confirming that there was availability in the PE class for [student A]. But, it makes no sense that [the WRHS Special Services Counselor], a counselor in the enrollment and registrar's office, would have to check with a special education teacher on what PE classes or sections were available?? We were unable to find out who changed [student A's] enrollment, at one point [the WRHS Assistant Principal] said that during enrollment in August that [WRHS Special Services Counselor] informed us that [student A] would be enrolled in choir in the Spring. This is not true, and we never would have agreed with that as [student A] does not*

> *enjoy choir and per her IEP we do extra physical activity for her due to her back and core issues related to a back surgery and her hypotonia. We would never have agreed to her being taken from a PE course, especially for choir, and we were not involved in this decision. We understand that mistakes happen. We understand that in a large school system there are sometimes practices that have become "this is how we've always done it" that are not correct or appropriate, but no one knew until they did. Once you know, it is vital that you are willing to acknowledge that you have made mistakes and that you are willing to correct those mistakes. The real concern here is the lack of willingness to acknowledge a misunderstanding or mistake and to then fix it. This is hubris and of great concern.*

The complainant emailed the Director of Secondary Special Education on November 21, 2025 and stated:

> *. . . just wanted to give you heads up that this is a trend I think you likely need to address… you cannot deny a student they selected electives due to staffing. At the beginning of the year [the WRNMS Special Education Teacher], [student B's] teacher, told a group of her students' parents that the electives were chorus and maybe art, and if they didn't like it too bad, because they didn't have the staff to cover it . . . But, now this, from the high school special services counselor… that's a systemic issue of predetermination based upon staffing, and not okay. Appears staff on a broad level need some education on FAPE and IDEA.*

On November 24, 2025, the Director of Secondary Special Services emailed the complainant stating:

> *. . . I did follow up with [student A's] administrator to better understand that particular situation. In this case, when [the WRHS Special Services Counselor] said she needed to 'check with the teachers to ensure there's coverage', that statement was not intended to imply that [student A] – or any student – would be denied an elective due to staffing or that decisions were predetermined. What the [WRHS Special Services Counselor] was doing was gathering information to determine what scheduling options were actually workable. That check-in can include things like verifying class capacity for that elective, looking at whether there are any specific supports required for that particular class, and reviewing paraeducator schedules to see whether adjustments can be made. None of these steps equate to a predetermined 'no' and staffing is never used as the basis to deny access to an elective or any other component of FAPE. That said, I can absolutely understand how the phrasing could be interpreted differently, and I'll continue to work with staff on using clearer language going forward so families aren't left with the impression that decisions are being made prematurely.*

On December 1, 2025, the complaint sent two emails to the WRHS Assistant Principal detailing her concern that the WRHS Special Services Counselor has a practice of basing students' class enrollment on paraprofessional availability. The complainant stated, "*. . . you CANNOT limit a student's enrollment by lack of paraeducator or support staff. You determine each student's*

enrollment and THEN you determine the staff (paras) needed to cover it. You do NOT determine the course options for a student with an IEP by paraeducator availability".

On December 2, 2025, the parents requested an explanation of how student A was scheduled into Chorus for second semester and a written plan to prevent future concerns, including staff training on least restrictive environment (LRE), predetermination, and FAPE.

The LEA responded on December 4, 2025 by providing the parents with a prior written notice (PWN) with the requested explanation and refusing to conduct the staff training as requested. The Description of the Action was described as follows

> *A review of records confirms that on July 1, 2025, [student A's] counselor entered tentative second-semester elective courses, including Chorus. At that time, student A was an incoming transfer student and her IEP identified inclusion support for four elective classes, without specifying particular courses. WRHS communicates to all families that schedules created before the publicized pre-enrollment period are tentative and subject to change. During the November pre-enrollment window for sophomores, the parents emailed the counselor requesting that student A be enrolled in a PE option during 6th hour instead of Chorus. The counselor confirmed availability and immediately updated the schedule as requested. Because the schedule assignments were tentative, were changed at parent request, and did not alter IEP services, placement, or LRE, the situation does not meet the legal definition of predetermination. Both Chorus and Individual/Team Sports are general education electives, so the adjustment did not change [student A's] LRE or deny FAPE. For these reasons, the request for a formal corrective plan and district-wide staff training is refused at this time.*

The LEA provided the following explanation of why the action was refused:

> *The parents requested that [student A's] elective be changed from Chorus to a PE class during 6th hour. The counselor verified class capacity and ensured that appropriate special education supports could be scheduled. This verification step was not used to deny access but to ensure the provision of supports and reflects standard practice for compliance with Individualized Education Plans. The schedule change was made promptly in November during the established pre-enrollment period, consistent with communication sent to all WRHS families indicating that all schedules created prior to pre-enrollment are tentative. Concerns regarding predetermination were reviewed. Under IDEA, schools may create draft or preliminary schedules for planning purposes so long as they remain open to parent input. Courts have consistently upheld this practice:*
>
> - *Doyle v. Arlington County School Board (1991) – Schools may prepare draft proposals prior to meetings if they remain open to revision.*
> - *Fuhrmann v. East Hanover Board of Education (1993) – Draft recommendations are not predetermination unless the district refuses to consider parent input.*

- *Ms. S. v. Vashon Island School District (2003) – Districts are expected to review records and prepare in advance for students transitioning into new schools.*

Because WRHS updated the schedule based solely on parent request, and because no IEP services or placement were predetermined, no violation of FAPE occurred. For these reasons, the request for a written plan and mandatory training is refused.

Because student A is in the low incidence programs at WRHS, the LEA provided a chart showing the electives classes that students with low incidence disabilities at WRHS are enrolled in during the 2025-26 school year. A summary for each grade level is as follows:

- The chart shows 10 students in the 9th grade with choices of elective courses. Ten students were enrolled in PE; eight students were enrolled in Chorus; six students were enrolled in Life Skills; one student enrolled in Individual/Team Sports; seven students were enrolled in Design; four students were enrolled in Design; four students were enrolled in Painting; two students were enrolled in Drawing; three students were enrolled in Photo Imaging; six students were enrolled in Health; and one student was enrolled in Jewelry Making.
- The chart shows 11 students in the 10th grade with choices of elective courses. Ten students were enrolled in Life Skills; eleven students were enrolled in Individual/Team Sports; two students were enrolled in Chorus; two students were enrolled in Painting; and one student was individually enrolled in Design, Lifetime Sports, Job Experience, Strength and Conditioning, Jewelry Making, Photo Imaging, PE, Health, and Literacy Skills.
- The chart shows 12 students in the 11th grade with choices of elective courses. Eight students were enrolled in Life Skills; eight students were enrolled in Individual/Team Sports; four students were enrolled in Ceramics; three students were enrolled in Photo Imaging; two students were enrolled in Chorus; two students were enrolled in Painting; two students were enrolled in Drawing; two students were enrolled in Strength and Conditioning; two students were enrolled in Jewelry Making, and one student was individually enrolled in German I, Learning Strategies, Plant and Soil Science, Advanced Painting, JROTC, Culinary, Animation, Advanced Animation, Intro to Theater, and Print Making.
- The chart shows 9 students in the 12th grade with choices of elective courses. Six students were enrolled in Life Skills; six students were enrolled in Individual/Team Sports; Five students were enrolled in Job Experience; Three students were enrolled in Strength and Conditioning; two students were enrolled in Lifetime Sports, two students were enrolled in Criminal Justice, and one student was individually enrolled in Graphic Design, Advanced Graphic Design, Advanced Ceramics, Learning Strategies, Concert Choir, Film is Lit, Culinary, Print Making, Intro to Theater, Jewelry Making, Robotics, Sports Medicine II, Career and Life Planning, Human Growth and Development, Ceramics, Choir, Teacher Aide, and Library Aide.

Because student B is in the low incidence programs at WRNMS, the LEA provided a chart showing the electives classes that students with low incidence disabilities at WRNMS are enrolled in during the 2025-26 school year. A summary for each grade level is as follows:

- The chart reflects 13 students in the 6th grade with PE being a required class and a choice of one elective class in the master schedule. Choir was the elective choice for eight students; Band was the choice for two students; and three students were individually enrolled in Family and Consumer Science, Orchestra, and Art as their elective choices.
- The chart reflects 14 students in the 7th grade with PE being a required class and a choice of one elective class in the master schedule. Family and Consumer Science was the elective choice for six students; Art was the choice for five students; and three students were individually enrolled in Environmental Science, Photography, and Cultural Connections as their elective choices.
- The chart reflects 12 students in the 8th grade with PE being a required class and a choice of one elective class in the master schedule. Introduction to Coding was the elective choice for five students; Choir was the choice for two students; and five students were individually enrolled in Environmental Science, Design, Skilled Trades, a second PE, and Band as their elective choices.

The 2025-26 Department of Special Services Handbook of Practices, Procedures, Policies, and Guidelines describes the recommended procedures for communicating effectively with parents before, during and after the IEP team meetings.

Conclusion

In this case, the complainant shared multiple interactions with LEA staff both at the WRNMS and WRHS which caused her to have the perception that student schedules were linked to paraprofessional availability. However, there is evidence to show that students with IEPs in the low incidence programs at both WRNMS and WRHS do have the opportunity to be enrolled in a wide variety of elective courses. The documentation shows that while there are multiple elective courses that do have groups of between ten and two students enrolled, individual students are enrolled in 11 different courses at WRNMS and 39 different courses at WRHS which would support a finding that course selection is not based on paraprofessional availability. This variety of course enrollments in both buildings also supports a finding that parents and students have the opportunity to share preferences when schedules are being built. Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated*. It is noted that the LEA has procedures in place for effectively communicating with parents; however, to avoid miscommunication and misperceptions in the future, It is recommended that the LEA review its practices for communicating with parents, specifically in regard to scheduling.

Issue Two

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parent with the opportunity to participate in class enrollment decisions and changed student A's class schedule without obtaining parent consent during the 2025-26 school year.

Complainant Position

The complainant reported that the LEA unilaterally enrolled Student A in Choir for the second semester of the 2025-26 school year. She indicated that she was initially told by the WRHS Registrar that there was no need for parents to participate in the scheduling process because the special education staff would develop student A's schedule. However, the complainant reported that she did participate in the scheduling process for student A prior to the start of the school year when she met with the WRHS Special Services Counselor. At that meeting, the complainant specifically requested that student A be enrolled in two PE classes each semester and left the meeting under the impression that the 2025-26 schedule was finalized. The complainant later learned that student A's schedule for the second semester only included one PE class and the other PE class had been unilaterally changed to Choir. The complainant indicated no one from the LEA contacted her about the schedule change, discussed any other options, nor provided prior written notice for the change in student A's class schedule. The complainant acknowledged that student A's schedule was ultimately changed to include the two PE classes during the second semester; however, the parent does not believe the LEA followed the appropriate procedures in the situation.

Applicable Law

Federal regulations at 34 C.F.R. §300.501(b)(1) require that the parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child. Federal regulations at 34 C.F.R. §300.17 define FAPE as meaning special education and related services that are provided at public expense, under public supervision and direction, and without charge; and are provided in conformity with an individualized education program (IEP).

Federal regulations at 34 C.F.R. 300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review. Note that the findings in Issue One are incorporated herein by reference.

The August 12, 2025 IEP Amendment for student A included a Course of Study in the Transition Plan which showed enrollment in two elective courses. The IEP developed on September 25, 2025 noted a year-long elective for Lifetime Sports (a PE course) in the Transition Plan's Course of Study. In addition, the September 25, 2025 IEP requires inclusion support for two elective classes in the general education setting.

As documented in Issue One, student A's father sent an email to the WRHS Special Services Counselor requesting the student's second semester elective be switched from Choir to a second PE class on November 19, 2025. The WRHS Special Services Counselor emailed the father back on November 21, 2025 stating, *"I checked with [WRHS Special Education Teacher 3] to make sure there was staff to cover it. It's now updated*."

The complainant reported she emailed the Director of Secondary Special Services and the WRHS Assistant Principal several times with her concerns that student A's schedule had been changed from two PE classes each semester in the 2025-26 school year to one PE class and Choir during the second semester without parent input and consent and to find out how this scheduling mistake happened.

The WRHS Assistant Principal told the complainant that the WRHS Special Services Counselor had tentatively enrolled student A in a Choir class as a "placeholder" for second semester and parent was informed of this during the scheduling meeting prior to school starting.

The complainant stated, "*This is not true, and we never would have agreed with that as [student A] does not enjoy choir and per her IEP we do extra physical activity for her due to her back and core issues related to a back surgery and her hypotonia. We would never have agreed to her being taken from a PE course, especially for choir, and we were not involved in this decision.*" The complainant also noted that the year-long PE electives was discussed with the WRHS Special Services Counselor during the scheduling meeting held prior to the first day of the 2025-26 school year.

The complainant was also concerned that the WRHS Special Services Counselor needed to check with WRHS Special Education Teacher 3 prior to making the requested schedule change. When asked to clarify the need to include WRHS Special Education Teacher 3 in the schedule change process, The Director of Secondary Special Services stated:

> *The process of verifying the availability of services for the student when a schedule change is requested isn't exclusive to the content of the class, but more specifically the section. With Student A, her engagement in PE classes utilizes a combination of support personnel, related services, and peer mentors. During the first semester, Student A participated in two general education PE courses with special education support: Adaptive PE Teacher (40 min, 1x per week) in conjunction with a Peer Mentor, during her 4th hour, Individual/Team Sports. Then during her 7th hour, Individual Team/Sports, Student A had a paraeducator supporting her access to the class. Therefore, the verification of services available has nothing to do with Choir vs PE because there are plenty of sections of PE throughout each hour, nor the assumption that services are only available in Choir…but instead it is more about which PE*

course and which staffing approach Student A needs. To emphasize this point: For second semester, the following "PE classes" are ALL options during the requested 6th hour:

- *Boys PE - Mr. Goehring, Gym A*
- *Health - Ms. Holman, Rm B179*
- *Individual/Team Sports - Mr. Hutchins, Gym A*
- *Strength & Conditioning - Mr. Pfizenmaier, Weight Rm*
- *Individual/Team Sports - Mr. Smith, Gym A*
- *Health - Ms. Vanderbogart, Rm B181*

Therefore, [the Special Services Counselor] needed to connect with [Special Education Teacher 3] to determine which section of Individual/Team Sports (1st choice) the class taught by Mr. Smith (Student A was in his class first semester) or Mr. Hutchins would best suit Student A and her provision of services as outlined in her IEP? It was determined to enroll Student A in Mr. Hutchins' section, utilizing the support of a paraeducator . . . While Peer Mentors are not actual related services or are considered a change in placement, they are valued by the parent and add to the experience for Student A. I needed to ensure that parent understood that the Peer Mentor that Student A had the first semester was not available for the hours they were requesting for their child, second semester. It is important to note that a factor presented for ensuring parent engagement and thoughtful planning for [student A's] inclusive opportunities specific to a PE class were to consider her access to a peer mentor that she has developed rapport with. On 12.4.25, [the father] was explained that the requested PE classes for 4th and 6th hour did not align with this particular peer mentor's second semester schedule. This effort in communication was to ensure parent awareness and further input within [student A's] schedule or sections of PE classes were considered. The conversation shared that a peer mentor would be available but would be a new student to [student A]. [The father] communicated that this would be acceptable and a decision to not alter [student A's] schedule further for the purpose of connecting [student A] with the same peer mentor in the PE class format.

On December 4, 2025, the LEA provided the parents with a PWN refusing to conduct mandatory training for special education staff and explaining the scheduling situation for student A. As noted in Issue One, the December 4, 2025 PWN contained both a description and explanation of the scheduling situation. The Other Relevant Factors section in the PWN stated:

It is important to note that a factor presented for ensuring parent engagement and thoughtful planning for [student A's] inclusive opportunities specific to a PE class were to consider her access to a peer mentor that she has developed rapport with. On 22.4.25, [the father] was explained that the requested PE class for 4th and 6th hour did not align with this particular peer mentor's second semester schedule. This effort in communication was to ensure parent awareness and further input within [student A's] schedule or sections of PE classes were considered. The conversation shared that a peer mentor would be available but would be a new student to [student A]. [The father] communicated that this would be

> *acceptable and a decision to not alter [student A's] schedule further for the purpose of connecting [student A] with the same peer mentor in the PE class format.*

The LEA believes that PWN was not required to be provided to the parent for a change in one general education elective course to another general education elective course because this change did not affect either the special education services provided to the student nor the educational placement of the student. The LEA reported that regardless of the general education elective the student was enrolled in, she continued to receive the inclusion support required by the IEP and both course options occurred in the general education setting.

School Board Policy IE: Instructional Arrangements requires the LEA to develop class schedules to meet district instructional goals and learning objectives while considering class size. This policy requires that pre-enrollment occur each spring.

School Board Policy JBC: Enrollment requires the superintendent to establish orderly procedures for enrolling all students, including pre-enrollment, changes in enrollment, normal enrollment times, and communication to parents and to the public. This policy also requires district administrators shall make a good faith attempt to accommodate scheduling requests of students enrolling in the school district in these situations but shall not be required to make adjustments to accommodate every such request.

District procedures for enrollment are outlined in 2025-26 WRHS Course Planning Guide. In addition, the 2025-26 WRHS Student Handbook includes the following information under the Course Enrollment section:

> *When students complete pre-enrollment in the Spring, their course options determine what classes are offered and how often. Teachers are hired and assigned based upon Spring pre-enrollment. Therefore, class changes are limited. Before a semester begins, counselors will work to accommodate change requests as much as possible. However, once the semester begins, schedule changes will not be allowed for teacher, lunch, period, or class preference.*

The November and December WRHS Junior Blues Newsletters both included information regarding second semester schedule change procedures indicating that all schedules are tentative and therefore, students should view their schedule on Campus Portal and that schedule changes for grades 9-11 can be made between November 10 through December 12, 2025. The LEA reported that these newsletters are the monthly communication from WRHS and are available to all parents and students.

The LEA reported these procedures and practices are necessary to implement the School Board policies and described the rationale as noted below:

1. *During the course of the first semester, counselors hold individual senior meetings. During these meetings that begin in October, seniors review their credits and Individual Plans of Study. They also make decisions about reducing their schedule for the second semester or engaging in work-based learning activities, Washburn Tech, or*

online college courses that free up seats in sections within the WRHS master schedule for 11, 10, and 9th grade students. Therefore, after all individual senior meetings are complete the enrollment process for other grade levels begins in November, when those seats are opened up. If second semester schedules were worked on during the beginning of the year, many popular electives and other core courses or preferred teachers would still show full. Therefore the time counselors would spend working with students on those schedules would be a waste of time because after the senior meetings, the sections open up and then many students want to redo their schedules.

2. *As a semester progresses, it is best to consider the following semester after a student has been in their current classes for a quarter or more. Especially, because it allows them to get to know the instructional style of teachers, learn about the content, and determine if they have interest in the course. This knowledge often drives decisions for the following semester. It also allows time for teachers to make recommendations if a student needs remediation courses such as Math Lab, Reteach, Literacy Skills, Transitions, Learning Strategies, Post Secondary Prep to help them be more successful in their classes.*
3. *The master schedule may experience necessary changes in between semesters based general education staffing changes, enrollment needs, or the elimination of courses.*
4. *Our counselors need to be efficient with their time. Each counselor ranges from 200-400 students, in addition to other duties such as the administration of the PSAT, SAT, ACT, ASVAB, IB, AP, and ensuring every single student has an Individual Plan of Study that meets graduation requirements. They also ensure every student interested in post-secondary opportunities completes the FASFA form, has scholarship information, and writes letters of recommendation for college applications. Not to mention the provision of mental health and academic services. They hold tight enrollment windows when they attend to schedule changes because in between those times, they have other duties that are also time sensitive.*

Conclusion

In this case, the student A was enrolled in a Choir course instead of the second PE course requested by parents prior to the beginning of the school year. It is unclear if this was a mistake or an oversight by the WRHS Special Services Counselor or simply a miscommunication of building-wide scheduling procedures. Regardless, student A's schedule was adjusted to allow for enrollment in two PE classes during the second semester of the 2025-26 school year at parent request during the WRHS schedule change window during November 2025 following building-wide procedures and practices. The LEA provided documentation of School Board Policy as well as building-level procedures and practices for allowing and making schedule changes for the second semester which apply to all students, including those with IEPs. There is evidence to support a finding that the father participated in the decision making process to update student A's schedule and that no PWN was required to

be provided for the schedule change from the Choir class to the second PE class as no changes were made that impacted the services or placement as required by student A's IEP. Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated*

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 437
Auburn/Washburn Public Schools: 26FC437-010

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on December 29, 2025, by ---------- on behalf of her children, ---------- and ----------. In the remainder of this decision, ---------- will be referred to as "the parent." ---------- will be referred to as “student A”, and ---------- will be referred to as “student B.” An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on February 3, 2026. That Complaint Report concluded that there was no violation of special education statutes and regulations

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent’s notice of appeal, and the district’s response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified two issues.

Issue One

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the student with a free appropriate public education (FAPE) in the least restrictive environment (LRE) during the 2025-26 school year, specifically by limiting opportunities to enroll in general education classes based upon the availability of paraprofessional support at the middle and high school buildings.

The investigator conducted an extensive investigation, including an interview on January 15, 2026, with the high school (WRNMS):

> *Director of Secondary Special Services, Principal, Special Education Teacher, Assistant Principal, Counselor and Department Chair, Special Services Counselor, and Special Education Teacher 1*

And with the middle school:

> *Principal and Special Education Teacher*

Additionally, the investigator reviewed and used fifty five separately identified written documents in her consideration of this complaint. (Report 2-6).

The central part of this issue is explained in the "Analysis: Findings of Fact" portion of the report exteding from page 8 to page 15. Briefly, stated:

> *On December 1, 2025, the complainant sent two emails to the WRHS Assistant Principal detailing her concern that the WRHS Special Services Counselor has a practice of basing students' class enrollment on paraprofessional availability. The complainant stated, ". . .* you CANNOT limit a student's enrollment by lack of paraeducator or support staff. You determine each student's enrollment and THEN you determine the staff (paras) needed to cover it. You do NOT determine the course options for a student with an IEP by paraeducator availability".

On December 2, 2025, the parents requested an explanation of how student A was scheduled into Chorus for second semester and a written plan to prevent future concerns, including staff training on least restrictive environment (LRE), predetermination, and FAPE. (Report, p. 12)

The district reacted with a Prior Written Notice (PWN), dated 12/4/2025, denying the parent's "request for a formal corrective action plan and district-wide staff training. In this PWN, the district stated:

> *The parents requested that [student A's] elective be changed from Chorus to a PE class during 6th hour. The counselor verified class capacity and ensured that appropriate special education supports could be scheduled. This verification step was not used to deny access but to ensure the provision of supports and reflects standard practice for*

> *compliance with Individualized Education Plans… Because WRHS updated the schedule based solely on parent request, and because no IEP services or placement were predetermined, no violation of FAPE occurred. For these reasons, the request for a written plan and mandatory training is refused. Report, p. 13.*

In addition, the district provided the investigator with a chart showing the electives classes that students with low incidence disabilities at both the high school and middle school are enrolled in during the 2025-26 school year. Report, p. 14 – 15.

From this evidence, the investigator concluded that the "*students with IEPs in the low incidence programs at both WRNMS and WRHS do have the opportunity to be enrolled in a wide variety of elective courses" and "that course selection is not based on paraprofessional availability. This variety of course enrollments in both buildings also supports a finding that parents and students have the opportunity to share preferences when schedules are being built*. "

The Appeal Committee agrees with the conclusion of the investigator. While access to curriculum and educational placement cannot be predetermined, this does not mean that no planning whatsoever can be tolerated when a parent requests that a child be permitted to choose a course or activity. Those planning activities to which the parent refers are essential to operating an effective program. Describing those planning activities as allowing student participation "based upon the availability of paraprofessional staff" is a mischaracterization of those planning activities, and inconsistent with the record assembled by the investigator.

In, R.L. v. Miami-Dade County Sch. Bd., 114 LRP 30126 (11th Cir. 2014) the court said, "Predetermination occurs when the state makes educational decisions too early in the planning process, in a way that deprives the parents of a meaningful opportunity to fully participate as equal members of the IEP team." The court said statements such as saying there are certain things the district would not offer because it could not give the same service to everybody or that the powers that be would not allow the team to offer the service are strong indicators of predetermination.

That is not at all what happened here. The students in this complaint were denied nothing. The district approved the parent's requests, after a very short and necessary preparation activity. The Appeal Committee sees nothing in the facts of this complaint that could be reasonably seen as a violation of any special education law or regulation. Nothing was denied (except for the parents request for a formal corrective action plan and staff training), nothing in an IEP was unavailable, and there was no denial of parent participation in the development of an IEP.

With regard to the further allegation of a systemic violation, the investigator found that the evidence did not support that allegation, saying:

However, there is evidence to show that students with IEPs in the low incidence programs at both WRNMS and WRHS do have the opportunity to be enrolled in a wide variety of elective courses. The

documentation shows that while there are multiple elective courses that do have groups of between ten and two students enrolled, ***individual students are enrolled in 11 different courses at WRNMS and 39 different courses at WRHS which would support a finding that course selection is not based on paraprofessional availability. This variety of course enrollments in both buildings also supports a finding that parents and students have the opportunity to share preferences when schedules are being built.*** Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue is not substantiated. (Report, p. 16)

The Appeal Committee agrees with this analysis regarding the "systemic" portion of the complaint.

The parent appears to be sincere in her belief that the student needs two PE classes, with para support due to disability. If so, one way to proceed is to request an IEP meeting to discuss and propose that the PE classes be included in the student's IEP.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Issue Two

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parent with the opportunity to participate in class enrollment decisions and changed student A's class schedule without obtaining parent consent during the 2025-26 school year.

The Appel Committee begins its analysis of this issue with the recognition that there is nothing in state or federal law that requires school districts to provide parents with the opportunity to participate in class enrollment decisions or to obtain parent consent to change the class schedule for a child with a disability. With that recognition, the Appeal Committee notes that there was nothing in Student A's IEP that required enrollment in two PE classes each semester. According to the report, the student's parent said she met with a Special Services Counselor (not the IEP team) where she requested that student A be enrolled in two PE classes each semester and left that meeting under the impression that the 2025-26 schedule was finalized. However, the parent later learned that student A's schedule for the second semester included only one PE class and the other PE class had been "unilaterally changed" to Choir. In the complaint report, the investigator noted that one of the PE classes,

> *"had been unilaterally changed to Choir. The complainant indicated no one from the LEA contacted her about the schedule change, discussed any other options, nor provided prior written notice for the change in student A's class schedule. The complainant acknowledged that student A's schedule was ultimately changed to include the two PE classes during the second semester; however, the parent does not believe the LEA followed the appropriate procedures in the situation." (Report, p. 16-17).*

Even if this entire scenario is completely true, there is no violation of special education law. Enrollment in PE classes is not in this students IEP nor has it (apparently) ever been brought to or addressed by the student's IEP team. It may be discouraging that a Special Services Counselor's personal commitment was not fulfilled, but that is not a violation of special education law. Nor is there any legal requirement for a PWN to be issued for making a scheduling change. Again, perhaps the better procedure for the parent to pursue at this time is to request an IEP meeting to ask the IEP team to add the two PE classes to the IEP.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 23rd day of February, 2026.

Appeal Committee

Crista Grimwood

Brian Dempsey

Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #453, LEAVENWORTH PUBLIC SCHOOLS
ON JANUARY 16, 2026

DATE OF REPORT: FEBRUARY 16, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #453 (Leavenworth Public Schools) on behalf of ------ by his mother ------. In the remainder of the report, ------ will be referred to as "the student" and ------ as "the parent" or "the complainant."

The complaint is against USD #453 (Leavenworth Public Schools). In the remainder of the report, USD #453 will be referred to as "the Local Education Agency". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." Local Education Agency staff will be referred to In the remainder of this report as follows:

- Dr. Rebekah Varvel - Director of Special Education
- Jayme Breault - Principal
- Misti Earls - Special Education Teacher
- Rebecca Finnegan - Instructional Facilitator
- Shelby Hardisty - BCBA

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on January 16, 2026.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent. The investigator attempted to interview the parent, by contacting the parent on January 22, January 24, and February 4, 2026.

The following materials were used as the basis of the findings and conclusions of the investigation:

Documents reviewed for context, but not considered during the investigation:

- Evaluation/Eligibility Report, May 20, 2022
- IEP dated May 20, 2023
- Revocation of Consent for a Special Education Evaluation, dated September 22, 2023
- Prior Written Notice for Change in Services/Placement and Request for Consent dated December 12, 2024, consent provided by parent on December 12, 2024
- Goals from private clinic, undated

Documents considered during the investigation:

- LEA Response, dated January 29, 2026
- Goal sheet from private ABA provider dated between August 18, 2025 and November 13, 2025
- Information for Bus Transportation Card dated December 1, 2025 with parent contact information, pick up and drop off address and times
- Handwritten school staff observations, dated December 1, 2025 through December 19, 2025
- One page description of bus incident occurring on December 3, 2025 prepared the principal
- Speech and Language Therapy log dated between December 3, 2025 and January 27, 2026
- Emergency Safety Intervention log dated between December 3, 2025 and January 20, 2026
- Handwritten notes of the director of special education dated December 4, 2026 regarding transportation concern
- Occupational Therapy log dated between December 9, 2025 and January 28, 2026
- ABC data log dated between December 11, 2025 and January 21, 2026
- Incident reports dated December 11, 2025; January 5, 2026; January 6, 2026; January 14, 2026; January 16, 2026
- IEP dated December 12, 2025 written by the LEA to provide comparable services during evaluation and meeting notes
- Prior Written Notice for Evaluation or Reevaluation and Request for Consent, dated December 12, 2025, parent consent provided December 12, 2025
- ABC Data from December 11, 2025 through January 21, 2026
- Behavior Frequency data graph with dates of December 14, 2025; December 21, 2025; December 28, 2025; January 4, 2026 January 11, 2026; and January 18, 2026 for aggression, property destruction, elopement, disrobing, and urination/defecation on floor
- Progress Notes dated December 19, 2025 with data graphs
- Parent contact log made by BCBA dated January 8, 2026 through January 22, 2026
- BCBA and BRT schedule dated between January 8, 2026 and January 30, 2026
- Prior Written Notice (PWN) dated January 14, 2026

- Functional Behavioral Assessment/Behavior Intervention Plan (Last Update January 22, 2026 by BCBA)
- IEP Amendment Between Annual IEP Meetings, agenda and meeting notes dated January 22, 2026, parent signed disagreement on January 27, 2026
- Prior Written Notice for Change in Services/Placement and Request for Consent, dated January 22, 2026, parent signed that consent was not provided on January 27, 2026
- Parent Input Statement- Regarding January 22, 2026 student meeting with LEA
- Parent proposed Behavior Intervention Plan dated January 24, 2026
- Medical Necessity letter from licensed clinical psychotherapist dated January 25, 2026 Prior Written Notice (PWN) dated January 25, 2026
- Student – Instructional & Regulation Schedule undated serving as ongoing BEP with data
- Attendance record for the 2026-26 school year
- Undated Behavior Strategies document from the private ABA provider

Emails:

- Email between parent and bus company dated December 3, 2025 between 4:15 and 4:20 p.m. discussing the student's ability to ride bus
- Email exchange between parent and director of special education dated between December 11, 2025 at 8:50 p.m. and December 12, 2025 at 1:24 a.m. sharing OSS information and parent expressing dissatisfaction with the preparation for student's enrollment, de-escalation practices and BCBA services
- Email between the director of special education and harness manufacturer dated between December 4, 2025 at 10:53 and January 23, 2026 at 3:18 p.m. Email from the director of special education to the parent dated December 8, 2025 at 9:01 a.m. discussing plan moving forward for riding the bus.
- Email between director of special education and mother, dated between December 14, 2025 at 7:13 p.m. and December 15, 2025 at 12:08 a.m. discussing the evaluation personnel
- Email from principal to parents dated January 7, 2026 at 4:46 p.m. describing behavioral accommodations/plans/adjustments
- Email between parent and school psychologist, dated January 14, 2026, between 1:10 p.m. and 3:59 p.m. discussing completion of evaluation
- Email from parent to director of special education dated January 15, 2026 at 7:14 a.m. stating issues with document related to behavior and previous ABA setting
- Email exchange between BCBA and parent dated January 16, 2026 between 12:00 and 12:11 p.m. sharing update on TASN request for behavioral assistance
- Email between parent and director of special education dated January 14, 2026 at 1:10 p.m. and January 17, 2026 at 5:02 p.m. discussing behavior and update on harness for bus.
- Email from BCBA to parent dated January 21, 2026 at 9:13 describing incident and ABC data from incident.

- Email from parent to director of special education dated January 24, 2026 at 9:55 a.m. providing LEA with parent input statement and asking it be attached to the meeting notes for the January 22, 2026 IEP team meeting, special and general education records and response on January 26, 2026 at 6:56 p.m. assuring parents that the statement has been attached to special education record, IEP record and provided to principal.
- Email exchange among the parent, director of special education and assistant superintendent of student services dated between January 24, 2026 at 5:52 p.m. and January 28, 2026 at 5:42 p.m. providing input as to why parents did not consent to January 22, 2026 IEP amendment
- Email from director of special education to parent dated January 27, 2026 at 6:57 p.m. communicating with parent that the replacement ACC device has arrived and student has it

Background Information

The student is currently a 3rd grader at an elementary school in the LEA, qualifying for special education services under the primary exceptionality of Autism and a secondary exceptionality of Speech/Language Impairment. The student had been attending full-time, private ABA therapy since September 22, 2023, and did not attend school during that time. The last IEP was a Kansas IEP dated May 20, 2023 with a start date of August 23, 2023. The most recent special education evaluation was dated May 20, 2022.

Issues Investigated

Issue One

Did USD #453 follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) when implementing the student's IEP and behavior intervention plan specific to 1) transportation services and 2) behavioral supports, interventions, and services during the 2025-2026 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Parent Position

The parent allegations in the child complaint regarding IEP implementation were twofold. First, "The district has refused to provide transportation for my [child]. Transportation is a related

service under IDEA when necessary for a child to access special education and their educational placement. Denial of transportation has interfered with my [child's] ability to attend school consistently and access [their] services." Second, "The district has failed to consistently and appropriately implement my [child's] IEP and BIP as written. Behavioral supports, interventions, and services identified in these plans are not being provided with fidelity. This has negatively impacted [their] ability to access instruction, regulate behavior, and make meaningful educational progress."

Local Education Agency Position

The Local Education Agency responded that the student began attending school on December 1, 2025. The student's most recent IEP was dated May 20, 2023 and evaluation more than three years old. The student had been attending full-time, private ABA therapy since September 22, 2023, but did not attend school during that time. The team scheduled a meeting for December 2, 2025; however, due to a snow day, it was rescheduled to December 12, 2025. Since December 1, 2025, the IEP team provided services consistent with the May 20, 2023 IEP and then on December 12, 2024 developed and implemented an IEP dated December 12 based on services comparable with the May 20, 2023 IEP, while a new evaluation was completed.

Specific to transportation services allegation, the LEA responded that a smaller special education school bus was arranged beginning December 1, 2025. On December 3, 2025, a behavioral incident occurred which raised safety concerns. As a result, transportation was temporarily suspended while the LEA, in collaboration with the parent, explored safety accommodations. Following discussion with the parent, the LEA determined that a safety harness was required to ensure the student's safe transportation. While the harness was being secured, the LEA offered the parent mileage reimbursement as an alternative means of transportation. The transportation vendor requested verification of the student's measurements prior to ordering the harness, as initial measurements appeared inconsistent. The LEA sent follow-up emails to the parent requesting confirmation of the measurements. The LEA again offered mileage reimbursement on January 14, 2026, via email and Prior Written Notice. During the IEP team meeting held on January 22, 2026, the parent verbally agreed to mileage reimbursement. The LEA provided the parent with the mileage reimbursement form on January 25, 2026, along with instructions indicating that reimbursement could be claimed retroactively beginning December 4, 2025, the date transportation became temporarily unavailable pending the safety accommodation.

Specific to behavior supports, interventions, and services the LEA contends that at the time of enrollment, no LEA-developed behavior intervention plan was in effect. The IEP dated May 20, 2023 did not include a Behavior Intervention Plan. The LEA received a behavior intervention plan developed by the student's private ABA provider and while the IEP team reviewed the information, IDEA does not require a public school district to implement a behavior plan

developed outside of the IEP process. The student began receiving services on December 1, 2025 which were subsequently written into the December 12, 2025 IEP based on the last IEP of record dated May 20, 2023.

The LEA responded that while the special education evaluation was occurring, the IEP team met on January 22, 2026, to discuss student progress, parent concerns, and determine if any adjustments were required. Based on the agreement reached during the meeting, changes, including a behavior intervention plan were proposed via an amendment, but the parents did not sign consent so the December 12, 2025 IEP remained in effect and were implemented.

Analysis: Findings of Fact

Transportation

1) The IEP dated December 12, 2025 lists special education transportation for thirty (30) minutes five (5) days every week from December 1, 2025 through November 30, 2026 with behavior as the area of need.
2) The director of special education stated that the parents provided transportation to the school on December 1, 2025 and a small school bus was scheduled for the student based on notes from the previous school LEA regarding transportation.
3) The principal recorded that on the "afternoon of Wednesday December 3rd, 2025 at dismissal, [student] was assisted on the bus by our low-incidence team. [Student] boarded the bus and then bus staff alerted the team that [they] needed to come off the bus. [Student] was escalated when [they] came off the bus, tried running into the road, and was guided back in by school staff. [Student] came into the vestibule and was aggressive with staff. [Student] was then taken into the school to separate [them] from other students to make sure they were not hurt. [Student] was in the lobby and eventually the team got [them] to the conference room. [Student] began throwing items like [the] device, chairs, pencil cup to the ceiling and broke tiles. [Student] began to disrobe and was taken to the bathroom where [they] began throwing any unattached item [they] could find. Dad arrived to take [them] home." Later on December 3, 2025 the bus company contacted the parent stating, "Due to the incident today on the bus we will not transport [student] in the morning December 4th until we can make contact with the special education department to see how we are going to move forward. We will reach out to you after contact with them." The director of special education wrote notes based on a phone call with the parent on December 4, 2025 that indicated that the mother liked the idea of a harness as a way for the student to ride the bus.
4) Emails between the bus company, director of special education and parent demonstrate that a harness is ordered and everyone is awaiting it to resume bus transportation. Emails and PWNs further show that the parents were offered mileage reimbursement retroactive to the beginning of the time the parents have transported and that the mileage reimbursement form was provided to the parent.

5) The director of special education reported to the investigator that the student has not missed school due to transportation. The attendance records verify that the student did not miss school except during six days of out-of-school suspension.

Behavioral supports, interventions, and services

1) The IEP dated December 12, 2026 lists the following services identifying behavior as an area of need: 70 minutes of direct special education instructional support in the regular education classroom five times every week; 60 minutes of attendant care in the regular education classroom five times every week; 230 minutes of specialized instruction outside the regular education classroom 2 times every week; 265 minutes of special minutes of specialized instruction outside the regular education classroom 3 times every week; and 30 minutes of transportation services 5 times every week. Two additional accommodations addressed behavior; one to two minute movement breaks before 20 minutes or longer seated tasks and advanced warning of extremely loud noises (fire or tornado alarms). The IEP does not indicate that a BIP is a part of the IEP.
2) A PWN dated January 26, 2026 documented decisions from the January 22, 2026 IEP team meeting. Proposals included adding a Behavior Intervention Plan, a behavior goal, adjustments to speech services, and modifications to the student's access to the general education environment. The parents declined consent for the proposed BIP and IEP amendments.
3) A Parent Input Statement dated January 24, 2026 was provided by the parents following the January 22, 2026 IEP team meeting. The statement indicated that the student's behaviors are "influenced by functional and environmental factors and are addressed through proactive parental engagement." They posit that data indicated that the school's disciplinary methods are escalating the student's distress rather than managing it, noting that the student has been without an AAC device since January 14, 2026. They write that on December 11, 2025 the student was attempting to throw the AAC device (a primary way for the student to communicate) into the air and the device taken from the student. Following removal of the device the student became physically aggressive, ending up in seclusion and ultimately suspended. The parents note that if the student does not have the AAC device to express frustration or a desire to stop the only remaining "communication" is through physical aggression or elopement. Also, the statement asserts that the school uses restrictive seclusion as a first response, rather than as a last resort.
4) The IEP dated December 12, 2025 has one goal (Goal 2) that includes the AAC device as one of four options for communication. "Given a want or request, [student] will indicate a want (activity, toy, snack, drink, etc.) via gestures, vocalizations, word approximations, or [their] device in 8/10 opportunities across 4/5 data collecting periods." The speech logs document that the student used the device as part of the speech services on/or about three occasions. The logs indicated that on January 13, 2025 the device was not working properly and the private speech therapist would be contacted for a solution. The January 14, 2026 speech log records that the "AAC device was completely broken. Outside speech said they did not go through funding the device, that it was a personal

one. Device will be discussed with parents at meeting tomorrow." The email from the director of special education to the parent on January 28, 2026 at 5:42 p.m. states, "Regarding communication access, we want to clarify that the district has now secured a dedicated AAC device (an iPad with TouchChat) for [student]. This is a district-provided resource, and we want to reassure you that you will not be required to use your personal home device for school. We agree that [student] must have consistent access to [their] communication system. [Instructional facilitator] will send you a district checkout form that will allow [student] to bring [their] device home."

5) The progress reports dated December 19, 2025 report data collected on goals starting on December 1, 2025. The occupational therapy log documents that the occupational therapy goals were implemented. The speech therapy log documents that the speech goals were implemented. The January 2026 schedule of the BCBA and registered behavior therapist document that goals were implemented during January up to and including the time of the complaint filing. Documentation from observations made by the teacher, paraprofessional and/or behavior therapist during December 2025, ESI documentation, ABC data, graphed behavior data, incident reports and ongoing BIP development w/data confirm that the LEA implemented the IEP goals and services and used data to address the behavioral needs of the student during the time that the evaluation was occurring.

Conclusion

It is found that the IEP developed by the IEP team, dated December 12, 2025 was the IEP of record. Although the PWN dated January 22, 2026 documented a proposed change in services and addition of a behavior goal and behavior intervention plan the parent did not consent to the change so the December 12, 2025 IEP remained the IEP implemented for the duration of the investigation complaint. In regard to transportation, the LEA scheduled for transportation and when the bus company notified the parent that they would no longer transport the student until finding a solution with the LEA a mutual decision was made to order a safety harness. During the time the harness was being ordered and manufactured the LEA offered the parent mileage reimbursement to provide transportation. Emails and PWNs show that the LEA regularly updated the parents on the progress with obtaining the harness and reoffered the mileage reimbursement form.

In regard to the behavior interventions, supports, and services it is found that there was no behavior intervention plan written in place from December 1, 2025 through the time of the filing of the complaint. The December 12, 2025 IEP did not include a BIP and the one developed and discussed during the January 22, 2026 IEP team meeting did not receive consent from the family to implement. Service logs, progress reports and multiple sources of documentation to show that the behavioral supports and services written into the December 12, 2025 IEP were implemented. It is noted that there is agreement that the AAC device was broken and unavailable between January 13, 2026 and January 27, 2026 (10 instructional days, with the student serving out-of-school suspension for part or whole of 3 school days). One goal

was written (Goal 2) that included the AAC device as one option for expressing wants. While it may be true that the student's communication is reliant on the AAC device as written by the parent, the current IEP does not specify it. It is suggested that the use of the AAC device be discussed during the time of the reevaluation and development of the new IEP. Therefore, the Local Education Agency *is IN compliance*, and corrective action is not required.

Issue Two

Did USD #453 follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) when conducting a special education evaluation for the student, specifically continuing to implement the IEP and within timelines during the 2025-2026 school year?

Applicable Law

Federal regulations at 34 C.F.R.§300.324(b)(1)(i) and Kansas statues at K.S.A. 72-3429(f)(1) require an IEP team to develop, review, and revise the IEP at least once every 12 months meaning the district must hold an annual IEP meeting and adopt a new or revised IEP before the anniversary of the last annual meeting.

At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an individualized education program (IEP), as defined in 34 C.F.R.§300.320(a) and K.A.R. 91-40-16(b)(3).

Under 34 C.F.R.§300.303(a)(1) and K.S.A. 72-3428(h)(1)(a) a public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§300.304 through 300.311 if the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation. Further, a reevaluation must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary (34 C.F.R.§300.303(b)(2); K.S.A. 72-3428(h)(2)3)). Finally, the evaluation must be conducted within 60 school-days of receiving parental consent for the evaluation (34 C.F.R.§300.301(c)(1); (K.A.R. 91-40-8(f)).

Parent Position

The parents alleged in their complaint that, "Consent for ASD evaluations was provided in December 2025. While assessments are ongoing, the district is still required to implement the current IEP and BIP as written. Delays or ongoing evaluations do not excuse past or ongoing violations."

Local Education Agency Position

The LEA responded that the student began receiving services on the first day of enrollment at the school on December 1, 2025. At the time of enrollment, the student had an expired IEP dated August 23, 2023. Consistent with IDEA requirements for students transferring into an

LEA, the IEP team implemented comparable services beginning December 1, 2025 to ensure continuity of services while a new evaluation was initiated. The LEA presented the parent with a consent to evaluate on December 12, 2025, and the parent signed the consent on the same date and thus, the 60-school-day evaluation timeline began on December 12, 2025. The LEA continued to implement the student's comparable services throughout the evaluation process and did not delay or suspend services as a result of initiating the evaluation. Based on the documentation reviewed, LEA followed state and federal IDEA requirements related to conducting a special education evaluation.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference.

An IEP meeting held on December 12, 2025 developed an IEP with services comparable to the last IEP of record dated May 20, 2023. A PWN dated December 12, 2025 documented the services for this IEP and parent consent was provided December 12, 2025 with an IEP initiation date of December 1, 2025.

The PWN dated December 12, 2025 documented that the LEA proposed to conduct a reevaluation to confirm ongoing eligibility, update information about current strengths and needs, and ensure services remain appropriate. Further, it was documented that the team determined the student continued to meet eligibility under Autism and Speech/Language Impairment (eligibility 5/20/2022) and services were proposed because evaluations, classroom data, and team input showed ongoing needs in communication, academics, behavior, fine motor, and sensory skills and the intensity of specialized instruction, services, and transportation reflects the level of support required for your child to access and benefit from learning. It is noted in the other December 12, 2025 PWN that the evaluation will be expedited. The parent consented to this action on December 12, 2025.

An email from the parent to the director of special education on December 14, 2025 recorded the parent's concern about replacing the school psychologist who had attended the December 12, 2025 IEP Team meeting and expressing desire to be an active participant in developing the student's IEP. The email exchange shows that the director of special education assured the parent of her role in the development of the IEP.

An email from the school psychologist to the parent on January 14, 2026 assured the parent that, "that consent for the evaluation has already been provided and that [student's] current IEP and BIP remain in effect and should continue to be implemented as written while the evaluation is ongoing. Participation in assessment activities does not change or waive any concerns you may have regarding implementation, transportation, or other matters."

The special education director stated during the interview with the investigator that the evaluation should be completed in March, ahead of the 60-day timeline for completing the evaluation. They state that the evaluation was expedited due to the behavior needs of the student.

Conclusion

It is found that the student enrolled in a school with an IEP dated May 20, 2023 from another Kansas school and an evaluation that was older than three years. There is no federal or state regulation that says an IEP "expires" and ceases to be valid on the anniversary date — the timing requirement is about completing the review annually, not automatically terminating services on that date. Therefore, the LEA determined to treat the May 20, 2023 IEP from the previous Kansas school as a transfer within state and implement comparable services from the IEP during the time of the evaluation through an IEP developed by the IEP team, dated December 12, 2025. It is noted that the student was attending a private ABA therapy program where goals and a behavior intervention plan had been developed immediately prior to enrollment in the LEA. The LEA correctly relied on the IEP dated May 20, 2023 as the transfer within-state IEP .

The federal and Kansas regulations require that a re-evaluation must occur every three years unless the parent and/or district agree it is not necessary. During the December 12, 2025 IEP team meeting the LEA provided the parents a PWN dated December 12, 2025 to reevaluate the student to confirm the student's eligibility and develop an appropriate IEP meeting the regulations for evaluating at least once every three years. The parent signed consent for the LEA to conduct the special education evaluation on December 12, 2025 starting the 60 school-day timeline to complete the evaluation and develop an IEP, if appropriate (March 30, 2026). During that time, the IEP dated December 12, 2025 was to be implemented. The LEA provided service logs, progress reports and multiple sources of documentation to show that the December 12, 2025 IEP was implemented from December 1, 2025 through the time the parent filed the complaint. Therefore, the Local Education Agency is IN compliance, and corrective action is not required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) was not found. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R.§300.324(b)(1)(i); K.S.A. 72-3429(f)(1); 34 C.F.R.§300.320(a); K.A.R. 91-40-16(b)(3); C.F.R.§300.303(a)(1); K.S.A. 72-3428(h)(1)(a); 34 C.F.R.§300.303(b)(2); K.S.A. 72-3428(h)(2)(3); 34 C.F.R.§300.301(c)(1); and K.A.R. 91-40-8(f) was not found. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512
ON JANUARY 27, 2026

DATE OF REPORT: FEBRUARY 25, 2026

This report is in response to a complaint filed with our office on behalf of a student, --------, by their parents, -------- and --------. In the remainder of the report, the student will be referred to as "the Student" and the parents as "Parent 1" and "Parent 2."

The Complaint is against USD #512, Shawnee Mission Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #512.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on January 27, 2026 and the 30-day timeline ended on February 26, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #512, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), developed an Individualized Education Program (IEP) that met the Student's needs related to being bullied. K.A.R. 91-40-18; 34 CFR § 300.320.

ISSUE TWO: Whether USD #512, in accordance with state and federal regulations implementing the IDEA, considered the concerns of the parent, academic needs, developmental needs, functional needs, or other needs of the child, specifically related to the impact of bullying, and reviewed and revised the IEP, as needed. K.S.A. 72-3429(f)(2), K.A.R. 91-40-16(a)(b)(1); 34 CFR § 300.324(b).

ISSUE THREE: Whether USD #512, in accordance with state and federal regulations implementing the IDEA, ensured to the maximum extent possible, the Student was educated

with children who were not disabled, and removal of the Student occurred only when the nature and severity of the Student's disability was such that education in regular classes with the use of supplementary aids and services could not be achieved satisfactorily. K.A.R. 91-40-21; 34 CFR § 300.114.

ISSUE FOUR: Whether USD #512, in accordance with state and federal regulations implementing the IDEA, provided a Free Appropriate Public Education (FAPE) for the Student when they failed to address allegations of bullying toward the Student, including providing school work for the Student when they were not attending school. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed Parent 1 on February 16, 2026. The LEA staff, including the Principal, the Speech Language Pathologist (SLP), and the Social Worker were interviewed on February 18, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by both of the Parents and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. CW_OfficesVisits Log, Rows 86-87
2. 12/12/25 voicemail 1
3. 12/12/25 voicemail 2
4. Individualized Education Program, 10/08/25
5. Ready, Willing, and Able Letter, 01/16/26
6. Prior Written Notice, 01/16/26
7. Communication Log, 01/17/25-01/22/26
8. Email, re: KSDE 26FC512-011 Fwd: Ongoing Harassment, 11/17/25-02/09/26
9. Email, re: KSDE 26FC512-011 Fwd: [the Student], 01/07/26-02/09/26
10. Email, re: KSDE 26FC512-011 Fwd: [the Student], 01/20/26-02/09/26
11. Email, re: KSDE 26FC512-011 Fwd: [the Student], 12/19/25-02/09/26
12. Email, re: KSDE 26FC512-011 Fwd: [the Student], 12/29/25-02/0926
13. Email, re: Fwd: Attention Registrar, 01/08/26-02/09/26
14. Email, re: KSDE 26FC512-011 Fwd: [the Student], 01/21/26-02/09/26
15. Email, re: KSDE 26FC512-011 Fwd: Skyward, 01/05/26-02/09/26
16. Email, re: KSDE 26FC512-011 Fwd: [the Student], 12/18/25-02/09/26
17. Email, re: KSDE 26FC512-011 Fwd: Elementary School Elopement Documentation Policy, 01/13/26-02/09/26
18. Screenshot of Voicemail Transcript, 12/12/25

19. Screenshot of Student Records, no date
20. Screenshot of Medical Progress Notes, 12/09/25
21. Screenshot of Email, [the School] 12/12/25

Background Information

This investigation involved a sixth-grade student enrolled at an elementary school in USD #512. The Student is currently receiving special education or related services as a child with a disability per the IDEA under the exceptionality of Autism Spectrum Disorder (ASD). The Student also has a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD). The Student has not attended school since December 12, 2025. The LEA subsequently withdrew the Student from enrollment on February 3, 2026, due to 10 consecutive days of unexcused absences.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with Parent 1 and staff in the LEA.

1. A February 6, 2025 entry into a Student Discipline Report noted a referral by the Principal where the Student told another student they "wanted to kill them and found out [they] snitched so [the Student] said if [they] did it again [the Student] would stab [them] with a fork or bring [Parent 1's] machete to hit [them]." An in-school suspension was noted.
2. A communication log included the following relevant communications, with all email and text message entries including screenshots of the communications:
    a. February 6, 2025, contact was by phone, informing Parent 1 about a threat the Student made toward a peer at lunch that they would "stab [the other student] with a fork or [Parent 1] had a machete [sic] and [the Student] would bring it to school and use it."
    b. February 6, 2025, contact was in person, Parent 1 came to the School to discuss the threat, and the SLP noted Parent 1 told the Student they "could not keep protecting [them], and that [the Student] could not make comments like this."
    c. May 17, 2025, contact was by email, the SLP notified Parent 1 they would be nominating the Student for the positive behavior assembly.
3. September 5, 2025, there were two entries in an office visit log, both by the Social Worker. One entry described the Student being upset "because another student was continually saying that things around [them] 'didn't exist.'" The second entry noted the Social Worker pulling the Student and another student in "to discuss the disagreement and come to a resolution."
4. A communication log included the following relevant communications, with all email and text message log entries including screenshots of the communications:

a. September 5, 2025, contact was by email, proposing to "waive" the Student's re-evaluation (due October 27, 2025) until spring "to better accommodate [the Student] getting acclimated to the school year and [Parent 1's] comfort level of making decisions so early in the school year." Parent 1 responded, "That is a good idea." The SLP replied they would get the waiver to Parent 1 for a signature.
b. September 8, 2025, contact was by email, updated Parent 1 on "waiting on re-evaluation and requesting an IEP date." The email noted the IEP meeting still needed to happen and the SLP proposed dates. It was noted there was no response to the SLPs email. October 13, 2025 the SLP emailed a time proposal and noted "no response" in the log.
c. September 16, 2025, contact was by email, the SLP emailed Parent 1 a parent input form for the IEP meeting, and noted "no response" in the log.
d. September 18, 2025, contact was an observation by the SLP who noted the Student was engaged with peers at their lunch table and was "taking turns talking and eating lunch the entire time."
e. September 18, 2025, contact was a text message to Parent 1 asking which middle school they were considering for seventh grade. Parent 1 "indicated that [they] wanted to have a discussion about this and that [the Student] was not happy at school and was having anxiety/struggles. [Parent 1] said [the Student] wanted to transfer." The SLP texted in response offering to "talk about that anytime," including at drop off or pick up. The SLP also explained why they were asking which was, "so that I could start talking with the receiving school and start planning."
f. September 23, 2025, contact was in person with a Parent/Teacher conference. It was noted the SLP provided Parent 1 with a draft copy of the October 8, 2025 IEP, Parent 1 asked about middle schools, Parent 1 discussed the Student "having an issue with another [the Gifted Classroom] student on their recent field trip and asked that [they] not be grouped with this student," the Gifted Classroom Teacher indicated this was already happening, and the SLP asked about putting the Student "back in the 6th grade social skills group. [Parent 1] was apprehensive … but [they] suggested we try it to see how [the Student] does, and then make a decision" at the IEP meeting to "dismiss or add direct service back on."
g. On September 25, 2025, contact was not listed, but it was noted, "added [the Student] back into the 6th grade social skills group."

5. An October 8, 2025 Prior Written Notice (PWN) proposed a material change in services resulting in an increase in services, specifically speech-language therapy (SLT).
    a. The explanation of why this action was proposed stated, "to address [the Student's] pragmatic language delay, specifically in cooperative group skills and ability to read social situations."

b. Options considered were terminating services, but this was rejected due to the Student's "history of social emotional needs and recent incidences of misreading social situations."

c. Data used included IEP progress, SLP data and observations in multiple settings/situations, parent input, teacher input, a review of records, a student interview, grades, assessment scores, and the Northwest Evaluation Association Measures of Academic Progress (NWEA MAP).

d. The consent was signed on October 8, 2025 by a "Parent/Legal Education Decision Maker."

6. The Student's October 8, 2025 IEP listed a primary exceptionality of "[Autism] AM [sic]" and included the following relevant information:

   a. The Student is very funny, has a creative mind, and enjoys being able to discuss their ideas with others.

   b. Parent input included concerns for "the balance of [the Student's] desire to 'fit in' and [their] ability to discern intent from peers." Parent 1 expressed they were worried about the Student "not always understanding social situations and still missing cues."

   c. Consideration of Special Factors

      i. Health and Medical information included documentation of a diagnosis of ASD and ADHD.

      ii. "No" was selected next to the question "Does this student have behavior which impedes his/her learning or the learning of others?"

      iii. "Yes" was selected next to the question "Does this student have communication needs that impede his/her learning?"

   d. Present Level of Academic Achievement and Functional Performance

      i. The Functional Performance section noted the Student "seemed unaware" of their environment, unaware of space around them, and "when [the Student] does not have [their] meds, [they] function at a very low level."

      ii. Under communication with peers, it was noted the Student "sometimes finds collaboration with peers challenging, as [the Student] is continuing to develop [their] communication skills. [The Student's] peers do not always understand how [the Student] expresses [their] ideas."

      iii. Under supporting others in the group, the Student was measured by the number of prompts needed to do each skill with a "1" meaning "unable to demonstrate," a "2" meaning "demonstrates with multiple prompts," a "3" meaning "demonstrates with one initial prompt," and a "4" meaning "demonstrates independently." On the date of the IEP, the Student averaged the following scores:

         1. A "3" for "matching [their] behavior to situations";

2. A "3.5" for "demonstrating flexible thinking";
3. A "2.5" for "collaboratively making decisions with peers";
4. A "2.5" for "appropriately advocating needs with peers";
5. A "2.75" for "handling disappointment"; and
6. A "2.75" for "supporting others in the group."

iv. Comments noted the Student made "great progress" the previous IEP year in their "ability to process conflict and situations that arose in general education." There was one "major incident" noted for the previous school year where the Student's "emotions overwhelmed [them] and [they were] not able to appropriately express [their] frustration with peers." It was also noted the Student had "one minor conflict" in the 2025-26 school year where the Student's "frustration with a peer who was provoking [them], overwhelmed [them]. [The Student] was, however, able to eventually share this frustration appropriately with [their] classroom teacher, but still required a 'reset break' in the speech room." It was noted the incident in 2024-25 resulted in a half day of in-school suspension (ISS) and the incident in 2025-26 was "a moment of frustration where [the Student] shut down, cried, and was very sad." Parent 1 shared they had observed "several situations" over the summer where the Student was not able to discern when their peers were being "good friends" and when they were "encouraging [the Student] to make bad choices for their entertainment."

v. The impact of exceptionality on the Student's performance in general education was noted as "[t]he ability to read social situations and work cooperatively with peers, impact [the Student's] ability to demonstrate knowledge, gain and maintain peer interactions[,] and participate in the general education setting."

e. The Student required Specially Designed Instruction (SDI) for "communication," and their annual goal was "By the end of the IEP year, [the Student] will demonstrate ability to work cooperatively in small groups by matching [their] behavior/communication to the situation, demonstrating flexible thinking, cooperatively making a group decision, advocating desires appropriately, handling disappointment[,] and supporting others in the group with an average rating of 3 on a rubric scale of: 1-unable to demonstrate 2-demonstrates with multiple prompts 3-demonstrates with 1 initial prompt and 4-demonstrates independently."

f. The Student required SDI for "executive functioning," and their annual goal was "By October 7, 2026, [the Student] will use a written or visual checklist to plan, organize, and complete all steps of a quarterly passion project (creative), completing at least 80% of checklist steps by assigned deadlines and achieving a score of 3 or higher on a 4-point creativity and planning rubric, in 3 out of 4 project cycles, with adult support as needed."

g. Special Education and Related Services to be provided were all direct services in a special education classroom as follows:
    i. October 8, 2025 through May 22, 2026, the "Gifted Facilitator" was to provide "gifted education services" for 330 minutes, one time per week, and the SLP was to provide SLT, 30 minutes two times per week.
    ii. August 12, 2026 through October 7, 2026, the "Gifted Facilitator" was to provide "gifted education services" for 45 minutes, five times per week, and the SLP was to provide SLT, 30 minutes two times per week.
h. The description of SDI and related services noted the Student would receive instruction in project planning and project management "in order to extend [the Student's] ability to complete creative projects that align with [their] interests" and the SL services were to address "social language in the area of cooperative groups to work on matching [the Student's] behavior to situations, demonstrate flexible thinking, cooperatively making decisions with peers, appropriately advocating [their] needs, [and] handling disappointment and supporting others in the group."
i. The Educational Placement noted the Student's "strength in all academic areas" and their subsequent placement in the Gifted Classroom for one day each week in sixth grade and then as an elective once per day in seventh grade. Removal from general education to receive instruction in social language was listed at two times per week for 30 minutes and was "considered the least restrictive environment [LRE] at this time."
j. The Accommodations/Modifications/Supplementary Aids and Services page included postponing testing when the Student was not regulated in the general education setting for the duration of the test and "access to breaks or [the Student's] SLP when [they are] not regulated," with breaks in the SL room for "the length of time [the Student] is not regulated."
k. Both Parents were listed under IEP Team Members who attended the meeting.

7. October 10, 2025, contact was by email, and it was noted the SLP emailed the IEP packet to Parent 1 and "confirmed that we should set up a meeting in January to plan for [the Student's] re-evaluation and assess what [they] might need for 7th grade." A screenshot of the email was included.
8. A communication log included the following relevant communications, with all email and text message log entries including screenshots of the communications:
    a. November 9, 2025, contact was a text message in response to Parent 1 calling the SLP, and noted they told Parent 1 they would "welcome anything" they wanted to send in and told them the Student was doing "good" coming to speech.
    b. November 11 or 12, 2025, contact was by phone as a response to Parent 1 emailing the SLP and the Principal with a concern about the Student (email screenshot was not included in the log). It was noted the Student said, "'what do

I do if I want to kill myself,' then said that two students asked [the Student] at recess if they were on [the Student's] 'kill list.'" The noted response was telling Parent 1 they would investigate.

c. Email screenshots starting November 14, 2025 included:

i. The SLP emailed Parent 1 and reported the other students "acknowledged they said it," there was teaching about handling peer conflict in a respectful way, and the students shared the context "that at times, when [the Student] becomes upset with peers, [they have] cursed at them and told them that [they] wish [they] could kill them. … They also shared that some of [the Student's] play themes during recess have involved violent or 'murder-style' games, which has contributed to their discomfort." The SLP noted their goal was to provide a "full picture" of what was happening so the team could "work together to support [the Student]."

ii. Parent 1 replied the same day they were unaware of the Student's behavior and noted they had discussed more attention being paid to the Student "at recess and unstructured time," and inquired as to how this had gone "undetected when we just weeks ago had a meeting where we spoke about paying more attention to these exact kids during recess and specifically to what was being said"? Parent 1 requested a meeting.

iii. The SLP replied on the same day they would find out more information about recess, do some observations, and talk with the Principal about getting a meeting scheduled.

iv. After a few scheduling replies, Parent 1 replied the same day, noting they were talking with the Student and they "swore that [they have] not said those things or play[ed] that way this year at all." Parent 1 noted the Student said they played that way one or two years ago, and they believe the Student. They added in another email, "From what I can see, I do not think this situation was handled well at all."

9. In a November 17, 2025 email to the Principal, Parent 1 requested they "address the harassing educational environment" the Student had endured. Parent 1 also stated, "I will need to be present when you or your school faculty want to speak to [the Student] about anything other than [their] academic work from now on." The Principal replied and asked for more specifics. Parent 1 replied and stated they could discuss it at the meeting scheduled for the next day.
10. A communication log included the following relevant communications, with all email and text message log entries including screenshots of the communications:

a. November 17, 2025, the contact was via email, Parent 1 asked who would attend the meeting. The SLP sent the list of team members, Parent 1 asked about the Gifted Case Manager, and the SLP responded they were "just officially hired."

b. November 18, 2025, there was an in-person meeting with the SLP, the Principal, the Gifted Case Manager, the Social Worker, the Teacher, and Parent 1 to "discuss the recess issue." It was noted in the log the team "listened to [Parent 1's] concerns," the Teacher indicated the Student was playing with a different group of students, the SLP provided options fo the Student if they feel uncomfortable or have a conflict, and the SLP suggested the three students not play together for awhile. Parent 1 wanted to know what happened to the other students and the Social Worker described it, Parent 1 "felt the [other students] needed to apologize to [the Student]," and the team "clarified that [the Student] was not playing a pretend killing game, [they] had brought an unauthorized game to school and was playing it on the playground."

c. November 20, 2025, the SLP added recess to their schedule to observe the Student and also added the intervention of staff keeping that particular group of students apart at recess.

d. December 12, 2025 at 1:25 p.m., the contact was a text message. The SLP reached out after Parent 1 was not responding to phone calls from the School and texted, "Can you call the school when you get a chance? I know [the Principal] called you to tell you [the Student] left the building at lunch, but we have [them] and [they are] safe."

11. A screenshot of December 9, 2025 progress notes from a medical doctor at a behavioral health center contained an update indicating the Student was "very anxious, frustrated, and sad about persistent bullying at school. [Parent 1] says there's a group of kids who have socially excluded [the Student]." They gave a description of Parent 1's frustration with the School, the possibility of a change in schedule, and the benefit of the current medication. "When asked[,] [the Student] endorses passive suicidal thoughts but denies intent or plan."
12. A December 12, 2025 screenshot of a voicemail indicated the voicemail was left at 12:57 p.m., and a transcript on the screenshot read "[Parent 1], it's [the Principal] … at school and that that [sic] we know that [they are] safe thank you." An undated voicemail received by Parent 1 from the Principal said, "[Parent 1], it's [the Principal] at school and we have a feeling that [the Student] may have exited the building to walk home. [They were] down at lunch eating fine, I guess [the Student] asked one of the Para[educator]'s to go take [their] meds. … We did a building search, and we're outside now searching as well. Give me a call back to let me know you got this. Or if [the Student] shows up so that we know [they are] safe. Thank you."
13. A December 12, 2025 screenshot of a voicemail indicated the voicemail was left at 12:58 p.m., and a transcript on the screenshot read, "[Parent 1, Parent 1], it's [the Principal] again [sic] that [they] did walk towards [the Other Elementary]. They do have [them] and [they're] on [their] way back to school. Wanted to let you know [they are] safe thank you." An undated voicemail received by Parent 1 from the Principal said, "Hang on a minute. They've got [them]. [Parent 1], it's [the Principal] again. [The

Student] did walk towards [the Other Elementary], they do have [them], and [they're] on [their] way back to school. Wanted to let you know [they are] safe. Thank you."

14. A December 12, 2025 screenshot of a phone call from the School to Parent 1 indicates an incoming call at 1:28 p.m.
15. In December 18 and 19, 2025 emails to Parent 1, the administration at the Other Elementary School noted they did not complete an incident report in regard to the Student eloping on December 12, 2025, but they did contact Police.
16. A December 18, 2025 communication from the District Resource Officer noted that on December 12, 2025, the Other Elementary school contacted dispatch at 12:47 p.m., they arrived at 12:50 p.m., and had the Student back to the School at 1:16 p.m. They noted the Student was "found safe" at the Other Elementary School at 12:55 p.m.
17. In a December 19, 2025 email to the Principal, Parent 1 requested a copy of the incident report for "when [the Student] went missing last Friday." They also requested the Principal provide information gained "from the students sitting with [the Student] at the lunch table regarding what happened, what was said."

    On December 23, 2025, Parent 1 replied to the email chain and expressed their disappointment the Principal had not responded. They outlined questions they believed the Principal should have investigated, including when, where, and why the Student left the building, and what happened while the Student was "gone." They again asked for "answers surrounding [the Student's] disappearance and the persistent bullying situation that continues to plague your school."
18. In a December 29, 2025 email to the Director, with the Associate Superintendent and the Principal copied, Parent 1 indicated they were "at an impasse" with the Principal and were "told straight lies" by the Principal regarding the Student eloping and reports of bullying. Parent 1 described the November 11th, 2025 incident regarding suicidal thoughts and a "kill list," and noted Parent 2 "witnessed these and other boys teasing [the Student] and trying to talk [the Student] into jumping on cars and other bad acts at the family carnival at the beginning of the year." Parent 1 believed their concerns were "dismissed by staff," and they were "quite shocked at the lack of concern for a child that had expressed suicidal feelings." Parent 1 described the eloping incident on December 12, 2025. "[The Student] was being teased again at lunch. [They] became overwhelmed with anxiety while being teased and left the building. [They] made it to 79th street. Cold and crying, [the Student] was talked into going into [another elementary school in the LEA] by the receptionist[,] [who] had been notified that a distraught coatless child was on the sidewalk outside their school. I'm unclear on the exact details, but it seems that [the School] was then notified that [the Other Elementary School] had [the Student] and they sent someone to retrieve [the Student]." Parent 1 claimed neither they nor Parent 2 were notified of the Student's "disappearance" until after they were located.
19. In a January 6, 2026, 9:12 a.m. email to Parent 1, the Director thanked them for talking with them the previous day, offered support, and provided instructions on where to find "the incident" in the SIS. Parent 1 replied the same day at 9:41 a.m. and stated they

did not have the right tab to view in the SIS and contended the entry regarding the incident was "incredibly lacking" and "shockingly sparse." They indicated they wanted to know the time the Student left the building, when staff called police, when the Principal "claims to have contacted parents," when the Student arrived at the Other Elementary School, when the School staff knew the Student was at the other school, when the Student was back at the School, why the Student left, and information about witness statements.

The Director replied at 3:00 p.m. and offered a meeting with them and the Principal to "answer any specific questions you still have regarding the incident of [the Student] leaving school property." Parent 1 replied at 3:15 p.m. and asked for the requested information and would meet to discuss what happened, but would not "tolerate further lies" from the Principal. They also noted the Student "has autism and left school because [they] had a panic attack due to the anxiety [they] experienced while being bullied at lunch. A lunch [the Principal] was supervising after multiple discussions with [them] about [the Student] being bullied."

20. In a January 6, 2026 entry on a communication log with screenshots included, Parent 1 emailed School staff (at 2:00 p.m.) and noted the School could not provide the Student with a "fair and appropriate education" and they had disregarded the Student's disability and emotional state to the point of "detriment and harm." They added the School had refused to address bullying, School staff had "repeatedly lied" about bullying, the LEA covered up facts to "deny parents access," the Principal lied about the circumstances surrounding the Student eloping, the Principal had not responded to Parent 1's requests, and "until this violation of [the Student's] rights can be resolved" the Student needed academic materials sent home. It was noted School staff were instructed not to respond.
21. In a January 7, 2026 email to the Principal, Parent 1 stated they believed the Principal was directing an employee to mark the Student's absences as unexcused. They claimed this was "incorrect" and noted the Student "has expressed suicidal thoughts due to bullying," which "resulted in a panic attack that caused [the Student] to exit the building." They added the Student "can't attend school due to mental health reasons, which is an excusable absence" and requested the attendance be corrected.
22. In a January 13, 2025 email to the Superintendent, the Associate Superintendent, and the Director, Parent 1 outlined the December 12, 2025 eloping incident and noted the SLP and a "district police officer" picked the Student up from the Other Elementary School and "at no point during [the Other Elementary's] custody of my child did [the] faculty contact me. It also appears I was not contacted by [the School] until [the Student] was found to be at the [Other Elementary School]." They included a screenshot of the incident entry for December 12, 2025, which was made by the Principal, and indicated "Instead of going to the nurse from the lunchroom, the [S]tudent left the building through the north hallway door. [They] eloped and walked towards home down 71st street. [They were] brought back to school." Parent 1 noted

they had requested documentation multiple times from the Principal and the Director and had not received responses. They also reported they had a meeting on January 9, 2026 to discuss the December 12, 2025 incident; they asked for documentation and were referred to the "erroneous discipline entry." The Superintendent replied the next day they had "full faith" in the Principal and the Director, encouraged Parent 1 to continue working with them, and provided a way to escalate concerns.

23. On January 14, 2026, Parent 2 made a public records request to be sent to them and Parent 1. Requested records included email communication, voice message communication, text message communication, and video footage from the security camera at the School on December 12, 2025. Through a series of emails, the LEA verified the identity of Parent 2 and provided an estimate of $1300.00 or more, "depending on the volume of emails generated in the search." Parent 1 agreed to pay the fees.
24. In a January 16, 2026 letter to both of the Parents, the School Psychologist informed them the Student had not attended school at the LEA since December 14, 2025 and noted "[The LEA] stands ready, willing, and able to determine eligibility and/or provide special education services to [the Student]. If at some future date you want to reconsider the action outlined in the accompanying PWN, contact the Special Education Department.
25. A January 16, 2026 PWN noted the Student's IEP services, the Student's absence from school since December 14, 2025, and proposed to inform both of the Parents the LEA was "ready, willing, and able" to serve the Student and provide them with special education services "should [the Student] return to [the School]."
    a. The explanation of why this action was proposed indicated the Student had not reported to school since December 14, 2025.
    b. Options considered were not offering services, but that was rejected due to the lawful requirement the Student have access to special education services.
    c. Data used included attendance records and the October 8, 2025 IEP.
    d. Consent was not signed, but the delivery page indicated the School Psychologist mailed the PWN to both of the Parents on January 16, 2026.
26. A communication log included the following relevant communications, with all email and text message entries including screenshots of the communications:
    a. January 20, 2026, the contact was an email from Parent 1 requesting the Student's "education materials be sent home so that [the Student] can maintain educational access while our dispute with [the LEA] is working its way through the system." It was noted School staff were instructed not to respond.
    b. January 21, 2026 and January 22, 2026 there were two separate emails to the SLP, from Parent 1, "requesting records again." The SLP was instructed not to respond.
27. In a January 21, 2026 email to the Principal, Parent 1 requested "all the records" for the Student. They listed the Student's "physical paper file" and digital files that were not part

of their Student Information System (SIS). They also stated they were "still waiting to hear back about a time I can view the security footage from when [the Student] eloped on [December 12, 2025]." On January 22, 2026, Parent 1 replied and requested the Principal, "Please respond."

28. In a January 21, 2026 email responding to Parent 1's January 20, 2026 request for education materials, the Principal reminded Parent 1 of the attendance guidelines they discussed at an in-person meeting on January 7, 2026 and provided a link to the family/student handbook. The Principal stated, "The current absence reason for [the Student] missing school does not qualify as an excused absence. Therefore, we will not be sending work home." They noted they were "ready and willing to continue collaborating" with Parent 1.

    Parent 1 replied the same day and indicated the LEA was "well aware" the Student was not at school due to "real safety concerns." They stated, "You and the LEA's continued obstruction of our collecting of records and your refusal to give [the Student] access to [their] educational material can only be seen as a retaliatory response to parent advocacy."

Parent 1 Interview

29. During an interview with the Complaint Investigator, Parent 1 explained the IEP they received from the SLP and the one provided by the School had different meeting dates, and overall appeared "different." They were concerned the IEP was missing items they discussed with the IEP team during meetings. Parent 1 described a time when they asked to know about, and have it documented, any and every time the Student was removed from the classroom, but did not see it in the IEP.
30. When asked about the Social Worker's notes from 2023, Parent 1 stated a student had commented the Student's brain was "cursed," and Parent 1 indicated they were never made aware of those comments. Parent 1 explained this incident made them seek additional help for the Student's mental state through their IEP, but the IEP team told them SLT "was the only thing that there was." Parent 1 explained they asked for all of the Social Worker's notes and records regarding the Student in 2023 and 2026 because the Student made comments about wanting to kill themselves.
31. Parent 1 shared they met with School staff on November 11, 2025 to discuss the Student being bullied, and the solution they were given was for the Student to have an alternative recess inside by themself. Parent 1 did not perceive this as a good solution. Parent 1 explained during the meeting the Principal indicated they would handle the situation, but Parent 1 perceived they never did.
32. Parent 1 stated they did not receive any details about the Student's elopement on December 12, 2025 until they met with the Director and the Principal. Parent 1 indicated the Principal noticed the Student was missing around 12:36 p.m., but stated the Principal told them they did not view security footage to see when the Student left.

33. Parent 1 stated they spoke with the Student when they arrived at the School on December 12, 2025. They explained the Student was sorry about leaving. Parent 1 stated the Student explained they left because someone had shared a secret about their "crush" with other students in the lunchroom and the Student was called "gross and disgusting." They indicated the Student felt embarrassed, walked out the door, and started walking home. Parent 1 stated they received conflicting information from the Principal about how the Student had eloped from the School.
34. During a meeting on December 12, 2025 with the Director and the Principal, Parent 1 explained they shared with the Principal the Student had left because they were being made fun of again. Parent 1 indicated there had already been a meeting the month before about other students teasing the Student. Parent 1 stated the Principal said the Student never said anything about being teased. Parent 1 perceived this comment as the Principal trying to "claim ignorance" about the Student being teased. Parent 1 stated they asked the Principal and the SLP what was being done about the Student being bullied on the playground. Parent 1 shared the response was staff could not monitor everything, and when staff was monitoring, then the other students would not engage in the behavior because they were being watched. Parent 1 indicated they were then told the School did not have enough people to use as monitors. Parent 1 shared they discussed with the Principal and the SLP about trying to solve the issue of other students teasing the Student during unstructured times, but perceived the SLP and Principal seemed "oblivious" to it.
35. Parent 1 stated they met with the Director and the Principal on January 9, 2026 to discuss the incident on December 12, 2025. Parent 1 indicated they wanted to obtain an incident report, but were told one did not exist because only a disciplinary report was filed. During the meeting, Parent 1 stated the Director suggested they hold an IEP meeting. Parent 1 expressed concern because IEP meetings had been held before but there was no follow through. They stated no plan was created at the meeting.

    Parent 1 stated they also asked about homebound services during the meeting because they were concerned about the Student's mental health. Parent 1 indicated the Director told them those services were for "kids with cancer" and asked Parent 1 if the Student was going to the doctor "every single day" because that was "… the kind of thing we'd need to have to have homebound services." Parent 1 shared the Principal sent them the application for homebound services, but they did not apply because the Director had told them the Student would not qualify for it.
36. Parent 1 confirmed the Student had been removed from instruction due to disciplinary reasons. Parent 1 stated there had been times the Student was removed and kept out of school as a result of an in-school suspension. Parent 1 indicated the School had not told them the Student was out of school all day until after it happened. Parent 1 described another incident where the Student had a half-day in-school suspension for their interaction with another student, but explained the other student also teased the

Student. Parent 1 said, "… [the Student] [is] being teased and provoked into behaviors and the kids who are provoking [them] have no consequences for teasing [them]."

37. Parent 1 confirmed the Student had been removed from instruction as a safety measure due to being bullied. Parent 1 explained there had been issues at recess with the other students changing the rules of a game to get the Student upset, which resulted in the Student having an outburst. They shared the solution was that staff would remove the Student from recess. Parent 1 stated the Student had never been removed from a situation for bullying.
38. Parent 1 stated they requested multiple times from teachers and the Principal to send the Student's schoolwork home when they were not in school. Parent 1 stated the School refused and did not respond to their emails. Parent 1 explained the Principal told them they could not send the Student's schoolwork because it was an unexcused absence. Parent 1 recalled they requested the Student's schoolwork around December 14, 2025. Parent 1 stated the School sent one day's worth of schoolwork to them.
39. Parent 1 reported the Student had not returned to school since the incident on December 12, 2025.
40. Parent 1 stated the School removed the Student from the LEA and unenrolled the Student without any notice. The Parent explained they received an email from the School receptionist stating the Student was no longer enrolled due to their attendance.
41. Parent 1 explained they were currently "doing whatever [they] can at home" to educate the Student, including reading, vocabulary words, and math worksheets. Parent 1 perceived the Student was behind in their work.
42. On January 9, 2026, Parent 1 met with the Director and the Principal. Relevant information from the meeting included:
    a. The Director stated the purpose of the meeting was to answer questions and create a plan.
    b. Parent 1 described the Student's account of the lunchroom incident which preceded their elopement on December 12, 2025. They explained the Student stated they had been emotional because they were teased by other students. Parent 1 indicated there was usually a plan for the Student to go to the SLP's room, but the Student felt this situation was different and they had to get out.
    c. Parent 1 stated the purpose of their meeting with the School in November 2025 was due to their concerns about the Student's suicidal thoughts and the School's response to the Student being bullied and teased.
    d. Parent 1 asked what happened after they shared with the Principal that other students had made fun of the Student prior to their elopement. The Director indicated they could not share information about other students with Parent 1.
        i. The Principal replied they had spoken to one student who stated there was laughing and the Student left quickly. The Principal stated they did not ask what the laughing was about, but the Social Worker did. The

Principal stated the part about students calling the Student "gross" and "disgusting" was not shared with them.

ii. The Principal said, "… when … [the Student] was sitting in the office with me and [the SLP] and SRO asking, 'Hey … what happened?' And all [the Student] shared was [sic] with me is [the other students] were laughing and [the Student] couldn't handle it. [The Student] was embarrassed and left. [The Student] didn't share any comments made by anybody."

iii. Parent 1 asked the Principal if they determined the incident preceding the Student's December 12, 2025 elopement was bullying, and the Principal stated the response they received was "there was a lot of laughing."

e. Parent 1 stated the issues about bullying and teasing had come up in every meeting they had had during the current school year. Parent 1 questioned the School monitoring the playground and stating everything was normal, because the Student came home and had suicidal ideations.

i. The Principal stated they had increased the number of adults on the playground to monitor the Student and ensure they were separated from other "problem" students. Parent 1 perceived the SLP only monitored the students for a few minutes.

f. Parent 1 indicated some of the students who had participated in the lunchroom incident on December 12, 2025 had made fun of the Student before.

g. Parent 1 said, "… when [the Student] [is] at school and doing these things, I think it's a very important thing to acknowledge so we can have an appropriate IEP … and make sure that [the Student] [is] getting the social emotional learning support that [they] need and I don't feel that that is happening."

i. The Director acknowledged Parent 1's concern and asked if they wanted to schedule an IEP meeting. Parent 1 replied, "Perhaps[.]"

ii. Parent 1 reiterated their concern the IEP was not meeting the Student's needs and the Director again suggested meeting with the IEP team. Parent 1 perceived the Social Worker was not "effective" in helping the Student.

h. Regarding an IEP meeting, Parent 1 said, "… we could come up with a new IEP and all of that, you can promise the world if you never intend on delivering it. … even when we do draw up an IEP, it's not delivered."

i. Parent 1 said, "… [the Student's] psychological state is degrading day by day … [the Student] [is] having panic attacks and … wants to kill [themself]." The Director indicated they would want to put a plan in place since the Student had eloped and had suicidal ideations. The Director indicated they should hold an IEP meeting to address Parent 1's concerns.

j. Parent 1 asked if there were remote learning options available for the Student, and the Director stated the LEA did not have one, but the State did. The Director

explained homebound services existed if a physician could sign a document stating the Student was physically unable to attend school, and that was one way the Student could get services. The Director offered to send Parent 1 the forms so they could review the criteria for homebound services. The Director described an example of a student who had cancer utilizing homebound services because they physically could not attend school and had a doctor document it.

k. Parent 1 shared concerns the Student was being marked as having unexcused absences. The Director explained the School had six reasons they could excuse an absence, but did not have a sufficient reason to do so for the Student. Parent 1 indicated there was not a plan in place and the Director stated they were offering to create one.

Principal Interview

43. During an interview with the Complaint Investigator, the Principal indicated on December 12, 2025, they and a paraprofessional were monitoring the sixth grade lunchtime. They explained the Student usually cleared their food tray and went to the nurse for their medication. The Principal noticed the Student's tray was still on the table around 12:40 p.m., when lunch ended. The Principal radioed the nurse and the SLP, and neither had seen the Student. The Principal indicated the Student had never eloped before. They explained the SLP told them that morning, the Student stated they had a secret and it might have been related to going to the other elementary school after winter break. The Principal had their secretary call Inter-Office Safety (OIC) to alert them the Student was missing. They described the OIC as similar to a police department with the LEA.

    The Principal stated they left a voicemail for Parent 1 indicating they could not locate the Student and did not know if they had left the building. They stated OIC reviewed the School's cameras and the SLP drove with an officer from the LEA, and within about five minutes, the Other Elementary School called and stated the Student was on the premises. The Principal left another voicemail for Parent 1 stating they had the Student and the SLP was bringing them back to the School. They indicated Parent 1 called back and stated they were coming to the School. The Principal believed 10-15 minutes passed from the time they realized they could not find the Student to when they called Parent 1 and Parent 2.

    The Principal explained the Student came into their office with the SLP, and the Principal asked why they had left. The Student shared that another student had told their secret during lunch and they "couldn't take that," so they left. The Principal stated the Student did not want to talk about the secret, and the Principal did not want to push them. They indicated Parent 1 and Parent 2 spoke to the Student alone when they arrived. The Principal shared Parent 1 told them the Student had said the other

students made negative comments about the Student, but the Principal was unaware of that. The Principal stated this was their last interaction with the Student.

44. The Principal indicated they did not view the camera footage. They did not recall when Parent 1 had requested the footage, but knew when they did, it was no longer available.
45. The Principal stated they completed an incident report about the Student's elopement and it was sent to Parent 1.
46. The Principal indicated they learned on December 12, 2025 that another student had shared the Student's secret during lunch. They explained the other students at the table described there was some "laughing," but they did not know what was happening with the Student. The Principal stated they were unable to interview the Student about what happened during lunch because they did not return to the School the next day, or since.
47. According to the Principal, the typical protocol for when a student goes missing was to search the building, call OIC if a student were to leave the building, and contact the parents. The Principal indicated they documented the December 12, 2025 incident through an incident report and in the School's SIS.
48. The Principal confirmed they attended a meeting with the Director and Parent 1 on January 9, 2026. They explained Parent 1 asked about the timeline of the December 12, 2025 incident, discussed events going back to November 2025, and wanted to know how the School was handling situations between the Student and other students. They recalled the Director offered to schedule an IEP meeting, explained how homebound services worked, and what the School's policy considered an excused absence. The Principal perceived they could not get a straight answer from Parent 1 on what they wanted from the meeting.
49. The Principal described an incident from February 2025 where the Student made a comment about killing another student, and an incident in November 2025 when the Student snuck in a game device with a "killing" game on it, which the teacher caught. The Principal believed the School had done well in watching and monitoring the Student, and they generally observed the Student to be "playing" and "doing well."
50. The Principal indicated it was never the same student bothering the Student, and it was "different people all the time." They indicated Parent 1 had expressed concerns about recess, so the Principal instructed the teachers to watch for any issues. They recalled the SLP also observed the Student during recess. The Principal explained the School staff talked to the students about kindness and there was a new social emotional curriculum, which helped students learn about what was appropriate to say.
51. When asked if the Student had been removed from instruction, recess, lunch, or school for disciplinary reasons, the Principal explained the Student had the option to go to the SLP's room, but they were never removed. They stated the Student had never been removed from instruction, recess, lunch, or school as a safety measure due to their perception of being bullied.

52. After the Student left school, the Principal indicated the IEP team sent the "ready, willing and able" paperwork to indicate the School was ready to provide those services. They said, "… providing materials, that is not something we do, but the IEP things we definitely could." The Principal explained the materials for students could be picked up if a student was out sick for a few days. The Principal stated the Student's situation did not meet the requirements for an excused absence because the Student was not sick, they were just not coming in. The Principal believed Parent 1 kept the Student out of school because they were unsure the Student would be safe. The Principal believed the School offered to meet and do what they could, but perceived Parent 1 did not provide an answer back to the School.

SLP Interview

53. During an interview with the Complaint Investigator, the SLP indicated they worked with the Student on pragmatic language. They explained the Student was doing well during the 2024-25 school year, so the IEP was adjusted to reduce the amount of time for those services. They stated for the start of the 2025-26 school year, the Student attended a social skills group once per quarter to work on cooperative group skills. The SLP stated it was difficult for the Student to discern social situations and understand other people's perspectives. The SLP explained there was a discussion with Parent 1 and Parent 2 about changing the Student's services after the Student had a negative experience during a school function.
54. The SLP stated Parent 1 was concerned about recess. The SLP explained every time they observed the Student during recess, the Student appeared to be laughing and interacting with their peers, and did not appear unhappy or upset. The SLP stated they were looking for possible areas to target, such as if the Student was missing cues during social exchanges. The SLP did not see the Student showing any deficiencies when they observed them, and perceived the Student was progressing in their peer interactions.
55. Regarding the December 12, 2025 incident, the SLP heard on the walkie-talkie the Student had not been found yet, so they started searching places they knew the Student frequented. The SLP described the Student speaking with them that morning during their one-on-one session, and the Student said they were happy and excited. The Student said they had a secret, which was they would be attending the Other Elementary School after winter break.
56. When the Student was missing, the SLP stated they asked the Secretary to view the footage from the front cameras, and that was how it was determined the Student walked out the front door. The SLP stated the distance between the School and the Other Elementary School was 0.9 miles.
57. The SLP explained they and the School Resource Officer (SRO) started driving toward the Other Elementary School, and once they learned where the Student was, drove there to pick them up.

58. The SLP described the Student as an "emotional" student in the past. They described when they picked up the Student from the Other Elementary School, they were playing with toys and appeared "matter of fact." They stated the Student said, "I couldn't take it anymore" when asked why they left. When the SLP asked again why the Student left, the Student described a friend telling their secret to other students who laughed about it. They indicated the Student never said anyone called them names.
59. The SLP perceived the Student had a history of struggling with maintaining peer relationships. They explained the Student could feel overwhelmed if they expected too much of a friend and the friend did not meet those expectations. They said, "... I think if ... the friend [doesn't] ... act in a way that ... [the Student] [is] expecting them to act, then [the Student] feels like it's injustice towards [them] ... ." The SLP was unaware of any incidents of the Student being physically harmed or taken out of lunch, recess, or anywhere else based on their behavior.
60. The SLP said, "... there's a fine line between [the Student] communicating to parents that [they] [are] being bullied and having the discernment of what's really happening with the lack of ... maintaining peer interactions. ... I think [the Student] has decided because that friend doesn't want to be a friend, [they] [don't] want to go to the school anymore. And [the Student] [has] told me that several times since we started talking again. ... I can't say for certain ... any kids not getting bullied, but that's not what I've observed. The times that I've been in, the times that I've investigated, the times I've talked to other kids, that's not the feeling I get."
61. The SLP stated the Student had not requested to take breaks with them or others recently.
62. As a response to Parent 1's concerns about bullying, the SLP observed the Student at recess and placed the Student in a social skills group. The SLP explained the plan had been to end the Student's speech services because they had met their goal, but because of Parent 1's concerns, they added speech and language services for the Student two times a week for 30 minutes.
63. According to the SLP, when the Student was not attending school, the LEA sent a "ready, willing, and able" letter so the Parents knew whenever the Student returned, the LEA was ready to provide services.
64. The SLP stated they did not speak with Parent 1 about the Student's education during their absences since December 12, 2025.
65. The SLP was aware of a directive to not respond regarding Parent 1, but believed it was related to a request for documentation and not a request for services. The SLP perceived the administration building staff were processing Parent 1's request for documentation.

Social Worker Interview

66. During an interview with the Complaint Investigator, the Social Worker explained they worked with the general and special education students on social emotional skills, crisis management, family resources, and limiting barriers to education. The Social Worker

indicated they met with the Student once during the 2025-26 school year, in September 2025. They explained the Student had been upset because a peer was saying the things around them were not real. The Social Worker stated they spoke with both students, facilitated peer mediation, and at the time, both students accepted each other's apologies and left on good terms.

67. The Social Worker stated prior to the current school year, they worked with the Student on peer interaction skills, and had met with the Student weekly during the third grade due to their struggles in the Gifted Classroom. The Social Worker clarified they did not offer any IEP services, but their role was to help the Student adjust to the Gifted Classroom and help them manage what was bothering them at the time.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, developed an IEP that met the Student's needs related to being bullied. K.A.R. 91-40-18; 34 CFR §300.320.

According to K.A.R. 91-40-18 and 34 CFR §300.320, in developing or reviewing the IEP of any exceptional child, each agency shall comply with the requirements of the law, and shall consider the results of the child's performance on any general state or districtwide assessment programs. Furthermore, if, as a result of its consideration of the special factors described in the law, an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive a FAPE, the IEP team shall include those items in the child's IEP. Additionally, each agency shall ensure the IEP of each exceptional child includes information required by law and shall be responsible for the provision of a copy of the child's IEP at no cost to the parent.

Both of the Parents asserted the IEP did not contain specific supports to address the Student's vulnerability to bullying. They contended the LEA minimized their concerns regarding the Student's difficulty with social cues and sarcasm and suggested reducing services and removing the Student's autism diagnosis from the document.

The LEA maintains that the October 8, 2025, IEP and subsequent PWN specifically addressed the Student's deficits in understanding peer interactions and navigating social situations. In response to parental concerns, the team increased speech-language services to target the Student's pragmatic language delay and ability to read social situations.

When Parent 1 raised concerns regarding peer interactions, the LEA did not remain static; instead, the IEP team convened on October 8, 2025, to specifically address "recent incidences of misreading social situations." To support the Student's Autism-related deficits in social cognition, the LEA increased SLT to 30 minutes twice weekly and reintegrated the Student into

a 6th-grade social skills group. These evidence-based interventions were designed to provide the Student with the pragmatic tools necessary to navigate the middle school social environment and to help the Student distinguish between actual bullying and the typical social friction that can be misinterpreted due to a "lack of social discernment."

Furthermore, the LEA demonstrated a proactive commitment to the Student's safety through direct observation and administrative oversight. Following specific reports of teasing in November 2025, the SLP increased direct observations during unstructured times, such as recess, and the Principal implemented a plan to ensure the Student was physically separated from specific peers during lunch. These observations often contradicted the reports of bullying, with staff frequently noting the Student playing and interacting positively with peers. Even after the Student's elopement on December 12, 2025, the LEA repeatedly reached out to Parent 1 to convene an IEP meeting and develop a formalized safety plan. The LEA issued a PWN affirming that they remained "ready, willing, and able" to provide all services and accommodations. Because the LEA consistently offered to review and revise the IEP in response to parental concerns and maintained a service array tailored to the Student's social-emotional needs, the LEA fulfilled its obligations under the IDEA.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to develop an IEP that met the Student's needs related to being bullied.

Issue Two

> Whether USD #512, in accordance with state and federal regulations implementing the IDEA, considered the concerns of the parent, academic needs, developmental needs, functional needs, or other needs of the child, specifically related to the impact of bullying, and reviewed and revised the IEP, as needed. K.S.A. 72-3429(f)(2), K.A.R. 91-40-16(a)(b)(1); 34 CFR §300.324(b).

According to K.S.A. 72-3429(f)(2), K.A.R. 91-40-16(a)(b)(1); 34 CFR §300.324(b), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child they serve, and to ensure an IEP is in effect before special education and related services are provided to an exceptional child. Additionally, each agency shall ensure the IEP team revises the IEP, as appropriate, to address the following: any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate, the results of any re-evaluation conducted under this section, information about the child provided by the parents, and the child's anticipated needs, or other matters.

Both of the Parents indicated the Student's mental health and academic performance declined due to bullying. Despite notifying the School of the Student's suicidal ideation and specific threats made by peers in November 2025, the Parents maintained the LEA did not update the IEP or implement a safety plan.

The LEA asserts that it consistently reviewed the IEP to address anticipated needs and parental information. Following reports of negative interactions in November, 2025, the team met with Parent 1 to discuss findings and agreed upon additional recess observations to monitor for further conflicts.

The evidence demonstrates the LEA maintained an ongoing dialogue with Parent 1 and actively integrated parental concerns into the IEP revision process. During the October 8, 2025, IEP meeting, the team specifically discussed "recent incidences of misreading social situations," a direct acknowledgement of the friction the Student was experiencing with peers. In response to these functional and developmental needs, the LEA revised the IEP to increase SLT services to 30 minutes twice per week and placed the Student in a 6th-grade social skills group. These revisions were specifically designed to address the Student's pragmatic language delays and to provide the Student with the tools to navigate the middle school social environment more effectively, thereby addressing the root cause of the perceived bullying from a clinical and educational perspective.

Furthermore, the LEA took additional steps to address the Student's safety and emotional well-being outside of formal meeting dates. Following Parent 1's reports of teasing in November 2025, the SLP adjusted their schedule to perform direct observations during recess, and the Principal coordinated with staff to ensure the Student was separated from specific peers during lunch periods. When a significant incident occurred on December 12, 2025, involving the Student's elopement, which Parent 1 attributed to a panic attack caused by bullying, the District's Director of Special Education repeatedly reached out to Parent 1 to schedule a new IEP meeting to develop a formalized safety plan and discuss the Student's deteriorating mental health.

Although Parent 1 expressed dissatisfaction with the LEA's refusal to provide homebound services without a physician's note or a specific physical ailment, the regulations do not require an LEA to agree with every parental request, but rather to consider them. The LEA demonstrated its commitment to the IEP process by issuing a PWN stating they were "ready, willing, and able" to provide services and by continuing to offer IEP team meetings to address the Student's refusal to attend school. Because the LEA consistently monitored the Student's needs, implemented service increases in response to social difficulties, and made multiple attempts to convene the team following the Student's withdrawal from the building, the LEA fulfilled its regulatory requirements to consider parental concerns and revise the IEP as needed.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to consider the concerns of the Parent, academic needs, developmental needs, functional needs, or other needs of the child, specifically related to the impact of bullying, and reviewed and revised the IEP, as needed.

Issue Three

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, ensured to the maximum extent possible, the Student was educated with children who were not disabled, and removal of the Student occurred only when the nature and severity of the Student's disability was such that education in regular classes with the use of supplementary aids and services could not be achieved satisfactorily. K.A.R. 91-40-21; 34 CFR § 300.114.

According to K.A.R. 91-40-21 and 34 CFR § 300.114, each agency shall ensure that the children with disabilities served by the agency are educated in the LRE. To achieve this, each agency shall ensure that a continuum of alternative educational placements is available to meet the needs of children with disabilities. These alternative educational placements shall meet the following criteria: include instruction in regular classes, special classes, and special schools, instruction in a child's home, and instruction in hospitals and other institutions. Furthermore, each agency must make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement.

In determining the educational placement of a child with a disability, each agency shall ensure that the placement decision meets the following requirements: the decision shall be made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options; additionally, the decision shall be made in conformity with the requirement of providing services in the LRE.

Regarding parental involvement, each agency shall give notice to the parents of any meeting to discuss the educational placement of their child. The notice shall meet the requirements of the law. If a parent cannot participate in person at a meeting relating to the educational placement of the child, the agency shall offer to use other methods to allow the parent to participate, including conference calls and video conferencing. However, an agency may conduct a meeting to determine the appropriate educational placement of a child with a disability without the participation of a parent if the agency, despite repeated attempts, has been unable to contact the parent or to convince the parent to participate. In such cases, if an agency conducts a meeting to determine the appropriate educational placement of a child without the participation of a parent, the agency shall have a record, as prescribed in the law, of the attempts that the agency made to contact the parent.

Each agency shall ensure that each exceptional child's placement meets the following criteria: is determined at least annually, is based on the child's IEP, and for a child with a disability, is as close as possible to the child's home. Unless the IEP of a child with a disability requires some other arrangement, the agency shall ensure the child is educated in the school that the child would attend if nondisabled. In selecting the LRE for a child with a disability, the persons making the educational placement decision shall give consideration to any potential harmful

effect on the child or on the quality of services the child needs. In addition, an agency shall not remove a child with a disability from education with age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and other nonacademic services and activities, each agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child. Each agency shall ensure that each child with a disability receives the supplementary aids and services specified in the child's IEP as being appropriate and necessary for the child to participate in nonacademic settings.

Both of the Parents indicated that after an incident where the Student fled the school building to escape bullying, the LEA's proposed solution was to keep the Student alone inside during recess. The Parents argued that this solution violated the Student's IEP. Additionally, the Parents indicated they did not feel safe sending the Student to school without a safety plan.

The LEA contends that the Student's IEP ensured education with non-disabled children to the maximum extent appropriate, with removal from the general education environment occurring only for 60 minutes of social language instruction per week. This placement was determined to be the LRE necessary to address the Student's specific social language challenges.

The LEA remained committed to educating the Student alongside non-disabled peers to the maximum extent appropriate. Throughout the 2025-26 school year, the Student's IEP placed the Student in the general education setting for the vast majority of the school day. The LEA's strategy for addressing the Student's ASD and ADHD focused on providing supplementary aids and services, such as SLT, social skills groups, and access to breaks, within the school building rather than removing the Student to a more restrictive or segregated environment.

The evidence shows that the LEA prioritized maintaining the Student's placement in regular classes even when behavioral and social challenges arose. When Parent 1 expressed concerns regarding bullying and the Student's increasing anxiety, the LEA responded by enhancing support services (increasing SLT frequency) and implementing environmental modifications (supervised lunch seating) designed to keep the Student integrated with peers. Staff observations from the SLP and Principal consistently noted the Student interacting positively with non-disabled peers during unstructured times, supporting the LEA's determination that the general education setting remained appropriate. Furthermore, the LEA's refusal to move the Student to a homebound or remote setting without a strictly defined medical necessity aligns with the IDEA's mandate to prevent the unnecessary removal of students from the social and academic benefits of the regular classroom.

The LEA's actions following the Student's elopement on December 12, 2025, further support compliance with LRE mandates. Rather than unilaterally changing the Student's placement to a

more restrictive setting in response to the incident, the LEA issued a PWN affirming that the general education environment, bolstered by the existing IEP supports, remained "ready, willing, and able" to serve the Student. The Director of Special Education's repeated offers to meet and develop a safety plan were aimed at finding ways to keep the Student in school rather than facilitating a removal. Because the LEA maintained the Student in the regular educational environment with appropriate supplementary aids and resisted a shift to a more restrictive setting despite parental pressure for homebound services, the LEA adhered to the principles of LRE.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to ensure to the maximum extent possible, the Student was educated with children who were not disabled, and removal of the Student occurred only when the nature and severity of the Student's disability was such that education in regular classes with the use of supplementary aids and services could not be achieved satisfactorily.

Issue Four

Whether USD #512, in accordance with state and federal regulations implementing the IDEA, provided a FAPE for the Student when they failed to address allegations of bullying toward the Student, including providing school work for the Student when they were not attending school. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101, a FAPE means special education and related services that meet the following criteria:

a. Are provided at public expense, under public supervision and direction, and without charge;
b. Meet the standards of the State Board;
c. Include an appropriate preschool, elementary, or secondary school education; and
d. Are provided in conformity with an individualized education program.

Additionally, each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning no later than the child's third birthday and for any child with a disability, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

The Parents alleged the LEA failed to provide a safe learning environment for the Student by not preventing the bullying that led to a safety event. Furthermore, the Parents contend the LEA has denied requests for schoolwork while the Student is home for their safety.

The LEA asserted it remained "ready, willing, and able" to provide a FAPE in accordance with the current IEP at the school site. The LEA argued that the Parent made a unilateral decision to

keep the Student at home, and therefore any lack of educational access was not a result of a violation of the IDEA by the LEA.

The LEA revised the Student's IEP on October 8, 2025, to increase SLT and provide social skills training. These services were directly targeted at the Student's Autism-related difficulties in "misreading social situations," which the LEA identified as the primary factor in the Student's peer conflicts. By focusing on building the Student's capacity to navigate social dynamics, the LEA provided a program reasonably calculated to address the functional impacts of the alleged bullying.

Regarding the Student's absence from school following the December 12, 2025 elopement incident, the LEA's actions remained consistent. When Parent 1 requested remote learning or homebound services, the LEA correctly informed both of the Parents of the state-mandated criteria for such placements, including the need for medical documentation. The LEA did not unilaterally deny services; rather, the Director of Special Education repeatedly offered to convene an IEP meeting to develop a safety plan and facilitate the Student's return to the building. On January 16, 2026, the LEA issued a PWN affirming that it remained "ready, willing, and able" to provide all IEP services within the school setting. Under the IDEA, an LEA is not required to provide school work or alternative instruction to a student whose parent unilaterally removes them from the placement offered in a valid IEP, provided that the offered placement remains appropriate.

Because the LEA provided a comprehensive IEP that addressed the Student's social needs and consistently offered to meet to resolve the barriers to the Student's attendance, the LEA fulfilled its mandate to make a FAPE available. The lack of provided school work during the Student's unexcused absences was a direct result of Parent 1's choice to decline the services offered at the School site, rather than a failure of the LEA to provide an appropriate education.

Based on the foregoing, according to IDEA and Kansas special education regulations i***t is not substantiated*** that the LEA failed to provide a FAPE for the Student.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #497
ON FEBRUARY 2, 2026

DATE OF REPORT: FEBRUARY 27, 2026

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of -------- by his mother, --------. In the remainder of the report, -------- will be referred to as "the student and -------- will be referred to as "the parent" or "the complainant".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the student is a resident of the Lawrence Public Schools (USD #497) and receives special education and related services through this LEA, which employs its own staff to meet the requirements of the IDEA. In the remainder of this report, this responsible public agency will be referred to as "the LEA" or "the district".

The following LEA staff involved in this investigation will be referred to as follows:

- Shelia Smith, Director of Special Education
- Laura Basham, Director of Special Education for Early Childhood and Elementary
- Kevin Etzel, Assistant Director for Budget & Finance
- Jayci Roberson, Director of Elementary
- Nicole Dunlap, Administrative Assistant at Quail Run Elementary
- Pam Wiggins, Coordinator 1 – District AR Specialist in the Business Office

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on February 2, 2026 and assigned the case for investigation the following week.

Evidence Reviewed

Both parties were contacted during the investigation to gather additional information relevant to the allegation. The parent was interviewed by telephone on February 19, 2026.

The LEA also made the following school personnel available for a phone interview on January 19, 2026:

- Director of Special Education
- Director of Special Education for Early Childhood and Elementary

Written documentation was provided by both the LEA and the complainant. All the documentation was reviewed, and the following written documentation was used in consideration of the issue:

1. Individual Education Program (IEP) developed on May 13, 2025
2. USD #497 Student Handbook for the 2025-26 School Year approved by the Board of Education on October 20, 2025
3. Voicemail messages left by the parent for school staff at Quail Run Elementary and the Central Office at 10:30, 10:33, and 10:45 a.m.
4. Email dated February 2, 2026 at 10:39 a.m. written by the parent to the Administrative Assistant at Quail Run Elementary regarding concerns about the general education fees and the student's IEP
5. Email dated February 2, 2026 at 11:11 a.m. written by the Administrative Assistant at Quail Run to the parent regarding process to waive the general education fees
6. Email dated February 2, 2016 at 4:58 p.m. written by the Director of Special Education for Early Childhood and Elementary to the parent regarding waived general education fees
7. Phone / In-Person Communication Log entries for February 2, 2026 written by the Director of Special Education for Early Childhood and Elementary
8. Email dated February 3, 2026 at 1:30 p.m. written by the Director of Elementary to the parent regarding the parent's concerns about general education fees
9. Email chain dated February 3, 2026 at 2:18 and 4:57 p.m between the USD #497 Business Office to the parent regarding the waiver of the general education fees
10. Email dated February 4, 2026 at 7:56 a.m. written by the USD #497 Business Office to the parent with the Student Fee Receipt for the 2025-26 school year attached
11. LEA response to the allegations dated February 10, 2026 written by the Director of Special Education
12. ChatGPT sent from the parent on February 19, 2026 for "If the child has an iep and the school knows that but still sends the billing"
13. Contact Report written by the Coordinator 1 – District AR Specialist in the Business Office regarding the general education fee payments for school years 2022-23 through 2025-26
14. School Board Policy JS: Student Fees and Meal Charges
15. School Board Policy EE: Food Service Management

16. *School Fees Information and Frequently Asked Questions (FAQs)* on the USD #497 district website
17. *Fee Payment Information* for school fees and lunch charges on the USD #497 district website
18. Schedule of Enrollment Fees for the 2025-26 school year showing the budget fund where enrollment fees are deposited

Background Information

The student is a nine-year-old child currently enrolled in the fourth grade at Quail Run Elementary School in USD #497 who uses an augmentative and alternative communication (AAC) device to communicate. The most recent reevaluation of the student was conducted on May 8, 2023 and it was determined that the student continued to be eligible for special education and related services under the Kansas exceptionality category of Autism. The IEP in effect during the 2025-26 school year was developed on May 13, 2025 and requires direct special education instruction in English/language arts (ELA), math, science, social studies, independent living skills, social/emotional skills, and behavior along with speech/language therapy, occupational therapy (OT), adaptive physical education (APE), and attendant care during arrival, lunch, and dismissal . The IEP also requires inclusion time with general education peers for specials, recess, read aloud, fine motor, library, social studies/science, classroom parties, and any other hands-on learning opportunities.

Issues Investigated

Based on the written complaint, one issue was identified and investigated.

Issue One

USD #497, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the student with a free appropriate public education (FAPE) during the 2025-26 school year, specifically by charging the parent fees for services and devices required by the IEP.

Applicable Law

Federal regulations at 34 C.F.R. §300.101 require that a free appropriate public education (FAPE) must be made available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

Federal regulations at 34 C.F.R. §300.17 define "FAPE" as special education and related services that are provided at public expense, under public supervision and direction, and without charge.

Federal regulations at 34 C.F.R. §300.39 (a) define "special education" as specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, as well as instruction in physical education. This federal regulation states that "special education" can also be speech-language pathology services, or any other related service, if that service is considered special education rather than a related service under State standards. In addition, travel training and vocational education are considered as "special education" under this federal regulation.

Federal regulations at 34 C.F.R. §300.39(b)(1) state that the term "at no cost" means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

Positions of the Parties

The complainant reported USD #497 sent her a billing statement for $130 to cover the cost of instructional resources, technology, and activity trip transportation during the 2025-26 school year. The complainant believes the practice of charging these fees violates the IDEA which requires students with disabilities to receive a free appropriate public education. The complainant stated that the IEP even includes a statement that the parent cannot be charged for the student's education.

The parent reported that the student uses his own AAC device to communicate as required in the IEP and she should not be responsible for paying the technology fee which covers computer repairs and maintenance for district devices as well as internet access. The parent noted the student's AAC device requires internet access. The parent also stated that the student receives transportation as a related service so she should not be responsible for paying the activity trip transportation fee. In addition, the complainant indicated she should be exempt from the instructional resources fee because all the instructional materials used by the student's teachers are for providing his required special education instruction.

The parent stated that the district explained that the fees could be charged because the student accessed general education during part of the school day. The parent contends that this access to general education is required by the student's IEP as inclusion services, so again, the district's billing for fees violates the student's rights to receive a free appropriate public education.

The parent acknowledged that USD #497 waived all the 2025-26 fees for the student after she brought her concerns to school administration on February 2, 2026. However, the parent believes that the fees should be waived for all students with IEPs so each of these students can also receive the required free appropriate public education.

The LEA maintains that FAPE has been provided at no cost to the parent. All services in the IEP, including related services and assistive technology, are provided free of charge. The fees referenced by the parent are standard enrollment fees applied uniformly to all students for general education purposes. These are not special education fees, and these funds are not used to pay for special education expenses. The parent has not been charged for any services or devices required by the student's IEP and, in fact, the 2025-26 school year fee has been waived for this parent under the LEA's waiver exemptions, which are available to all eligible parents.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

The student's current IEP dated May 13, 2025 includes the following statement in the section titled "Notifications for Accessing Public Benefits or Insurance":

> *Regarding services required to provide a free appropriate public education (FAPE) to your child, the school may not: . . . Require you to incur an out-of-pocket expense, such as the payment of a deductible or co-pay amount in filing a claim for services, although the school may pay the cost that you otherwise would be required to pay.*

It is noted that this statement is in regard to an LEA claiming reimbursement for specific services required by the IEP through allowable costs under a student's public benefits or private insurance with written parent consent. If the parent refuses to provide or withdraws such consent, the district is still responsible for ensuring that all required services are provided at no cost to the parent.

The parent contacted multiple school officials by phone and email on February 2, 2026 after receiving a billing statement for "student fees." The fees included an instructional resources fee, an activity trip transportation fee, and a device fee, all of which totaled for a charge of $130. In these communications, the parent stated that the fees were a violation of the IDEA's requirement for USD #497 to provide the student with FAPE.

On February 2, 2026, the Administrative Assistant at Quail Run Elementary spoke to the parent via phone and then sent the parent an email explaining that the fees were general education fees and providing the information for how to request a waiver of the fees since the parent was eligible for one of the LEA's waiver exemptions.

Also on February 2, 2026, the Coordinator 1 – District AR Specialist in the Business Office spoke to the parent regarding her concerns with the basic enrollment fees and explained the waiver exemptions and how to complete the forms to request a waiver.

Director of Special Education for Early Childhood and Elementary stated that she spoke with parent in-person on February 2, 2026 at 11:45 a.m. The contact log for that communication stated:

> *[The parent] came to ESC [Educational Support Center] requesting to speak with me. She shared she was upset that she needed to complete a fee waiver form and said she's never had to complete it in the past; concerned with FAPE and didn't understand by fees were still being applied with [the student's] IEP. I explained that student fees are issued to all students as kids are gen ed students first; I clarified that IEP services/supports/resources are not impacted if gen ed fees are or are not paid; also clarified no fee for SpEd services and/or AAC device. [The parent] completed form and give it to me to give to business office.*

Later that same day, the Director of Special Education for Early Childhood and Elementary reported she called and spoke to the parent regarding some missing information on the waiver form. The parent gave verbal consent to check the box for the missing information and to submit the waiver form on her behalf to the Business Office. The Director of Special Education for Early Childhood and Elementary sent an email to the parent summarizing this conversation on February 2, 2026 at 4:58 p.m.

The Business Office sent the parent an email on February 3, 2026 and informed her that the basic enrollment fees had been waived. On February 4, 2026, the Business Office emailed the parent with a copy of the Student Fee Receipt showing a zero balance owed.

USD #497 *School Board Policy JS: Student Fees and Meal Charges* shows that the board will approve a schedule of enrollment fees, meal charges, and other fees. The fee schedule shall include: 1) a list of all items for which a charge is to be collected; 2) the amount of each charge; 3) the date due; 4) a system for accounting for and disposing of fees; 5) classifications of students exempt from the fee or charge; and 6) an appeal procedure to be used by students or parents to claim exemption from paying the fees or charges.

The FAQs for Student Fees on the district website describes the purpose of the basic fees assessed to every student. The Activity Trip Transportation Fee covers bus costs for field and activity trips for students districtwide, regardless of if your child's class takes a trip. The Instructional Resources Fee covers textbook usage, technology (internet access, online materials, etc.), and instructional materials (magazines, workbooks, art supplies, consumable items, etc.). The Device Fee covers repair costs for technology devices.

The FAQs also includes information about prorating the basic fees for students who attend school less than a full school day or enroll for part of a school year. In addition, the FAQs describe how the basic fee can be waived and provides links to the required forms that need to be submitted to request a waiver.

The Student Handbook for the 2025-26 school year lists the following basic fees for students attending elementary school:

- Activity Trip Transportation Fee = $15
- Instructional Resources Fee = $100
- Device Fee = $15

The Assistant Director for Budget & Finance provided documentation that the revenue from the Activity Transportation Fee and the Device Fee are deposited into the General Fund - Reimbursement and the Instructional Resources Fee is deposited into the Student Material Revolving Fund. Special Education expenses are not paid from either of these funds according to the Assistant Director for Budget & Finance.

Coordinator 1 – District AR Specialist in the Business Office confirmed that the basic enrollment fees were waived for the parent during the 2023-24, 2024-25, and 2025-26 school years.

Conclusion

In this case, USD #497 charges a basic enrollment fee for all students participating in the district's educational programs as allowed by School Board Policy JS and the procedures described on the district website and in the Student Handbook for the 2025-26 school year. The board policy and procedures provide a method for the basic enrollment fee to waived and the complainant followed this procedure and documentation shows that the basic enrollment fee was waived during the 2025-26 school year.

Regardless, even if the fees have been waived, the complainant believes the basic enrollment fee should never have been assessed at all because the student has an IEP and the IDEA requires students with disabilities be provided with a free appropriate public education. Paying a basic enrollment fee means the student's education is not free.

The requirement that FAPE be provided falls under federal regulations, at 34 C.F.R. §300.17, which defines "FAPE" as special education and related services that are provided at public expense, under public supervision and direction, and without charge and the *federal regulations* at 34 CFR §300.26(b)(1), states that the "at no cost" requirement in FAPE does not "preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program"

USD #497 provided documentation to show that the basic enrollment fee monies collected are deposited into general education funds and that no special education costs are paid out of these general education funds. This means that the basic enrollment fee paid by the parent of a student with an IEP is not being used to pay for any special education or related service required by that student's IEP. Thus, the special education and related services are being provided at no cost to the parent.

Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated.*

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 497,
Lawrence Public Schools: 26FC497-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on February 2, 2026, by --------- on behalf of her child, ---------. In the remainder of this decision, --------- will be referred to as "the parent," and ---------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on February 27, 2026. That Complaint Report concluded that there was not a violation of special education statutes and regulations

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal. The school district did not submit a response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Discussion of Issues on Appeal

The report identified one issue, whether the district "failed to provide the student with a free appropriate public education (FAPE) during the 2025-26 school year, specifically by charging the parent fees for services and devices required by the IEP.

It is important to note that the school district waived the fees at issue here, but the parent *"believes the basic enrollment fee should never have been assessed at all because the student has an IEP and the IDEA requires students with disabilities be provided with a free appropriate public education. Paying a basic enrollment fee means the student's education is not free."* (Report p.3).

At the outset, the Appeal Committee finds that the applicable law regarding fees assessed to a parent of a child with an IEP are as follows:

The term Free Appropriate Public Education (FAPE) is defined in 34 C.F.R. 300.17, in relevant part to mean: "special education and related services that are provided at public expense, under public supervision and direction, and without charge."

It is important to read that definition carefully. It says "special education and related services" are to be provided without charge. It does not say that for a child with a disability, everything is free.

We then examine the definition of the term "special education" in 34 C.F.R. 300.39, which says, in relevant part, that special education "means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability." Again, this definition requires only that "specially designed instruction" be provided at no cost to the parents. It does not say there must be no cost for any reason.

This interpretation is bolstered by subsection (b) of 34 C.F.R. 300.39 stating that part of the definition of the term "special education" includes the following:

> (b) The terms in this definition are defined as follows:
>
> (1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program. (Emphasis added).

The fees at issue in this complaint were described on page 6 through 8 of the report as: "an instructional resources fee ($100), an activity trip transportation fee ($15), and a device fee ($15), all of which totaled $130.00." The investigator found that The Activity Trip Transportation Fee covers bus costs for field and activity trips for students districtwide, regardless of whether a child's class takes a trip. The Instructional Resources Fee covers textbook usage, technology (internet access, online materials, etc.), and instructional materials (magazines, workbooks, art supplies, consumable items, etc.). The Device Fee covers repair costs for technology devices.

The investigator also noted that:

> USD #497 provided documentation to show that the basic enrollment fee monies collected are deposited into general education funds and that no special education costs are paid out of these general education funds. This means that the basic enrollment fee paid by the parent of a student with an IEP is not being used to pay for any special education or related service required by that student's IEP. Thus, the special education and related services are being provided at no cost to the parent. (Report, p. 9)

The Appeal Committee finds no evidence that the district charged the parent for the cost of any special education or related service required by this student's IEP.

In her appeal, the parent says:

> *Specifically, my concerns include:*
>
> - *The investigation did not fully address whether the district met its obligation to provide a Free Appropriate Public Education (FAPE).*
> - *Key evidence related to implementation of my child's IEP was either overlooked or not given appropriate weight.*

- *There are ongoing issues regarding services, supports, and/or access to the educational environment that remain unresolved.*

Because of these concerns, I am requesting a formal review of the investigation findings. I believe that a reconsideration is necessary to ensure that my child's rights under the Individuals with Disabilities Education Act (IDEA) and Kansas special education regulations are fully protected.

The Appeal Committee notes that a copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support. In this appeal, the Appeal Committee finds that the parent provided no factual support for these "concerns" regarding the investigator's report. The appeal did not indicate why or how the report did not address the FAPE issue, what key evidence was overlooked, or what ongoing issues remain unresolved. Accordingly, there is no factual basis for consideration of such concerns on appeal.

After a careful review of the law and the facts of this complaint the appeal Committee finds that sufficient evidence exists to support the findings and conclusions in the Complaint Report

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal.
This Appeal Decision is issued this 16th day of March, 2026.

Appeal Committee

Crista Grimwood

Brian Dempsey

Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #231
ON JANUARY 30, 2026

DATE OF REPORT: FEBRUARY 27, 2026

This report is in response to a complaint filed with our office on behalf of a student, --------, by their parents, --------. In the remainder of the report, the student will be referred to as "the Student" and the parents as "Parent 1 and the Other Parent."

The Complaint is against USD #231, Gardner Edgerton Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #231.

When a special education complaint is filed against a school LEA that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school LEA, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on January 30, 2026, and the 30-day timeline ended on March 1, 2026.

Allegations

The following issue will be investigated:

ISSUE ONE: USD #231, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to ensure the Student's IEP was in effect and special education and related services were made available to the Student, and that each teacher and provider was informed of the specific accommodations, modifications, and supports that must be provided to the Student. K.A.R. 91-40-16; 34 CFR § 300.323.

Investigation of Complaint

The Complaint Investigator interviewed Parent 1 virtually on February 18, 2026. The LEA staff, including the Special Education Director, the Special Education Coordinator, the Special Services Coordinator, and the LEA Speech Language Pathologist, were interviewed on February 19, 2026. Additionally, the School staff, including the School Director of Special Education,

School Process Coordinator, School Speech Pathologist 1, School Speech Pathologist 2, School Special Education Teacher 1, and School Special Education Teacher 2, were interviewed on February 19, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by Parent 1 and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Email, re: SLP Services, 10/02/25
2. Email, re: (no subject), 12/17/25
3. Medical Note, 01/28/26
4. Email, re: SLP Services, 01/30/26
5. Email, re: Follow up from Email, 10/01/25-10/02/25
6. Detailed Time Report, 03/29/24-01/30/26
7. Email, re: [the Student], 01/28/26-01/30/26
8. Email, re: SLP Vacancy, 09/26/25-10/08/25
9. Individualized Education Program, 10/21/25
10. Speech Therapy Sessions, 09/08/25-01/21/26

Background Information

This investigation involved a ninth-grade student enrolled at a private, separate-day facility, the School. The Student is currently receiving special education and related services as a child with multiple exceptionalities per the IDEA.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with Parent 1 and LEA staff.

1. The Student enjoys participating in their therapies and is great at requesting help from an adult when they need it.
2. In an email exchange on September 26 through October 8, 2025, the School Director of Special Education informed the LEA of an ongoing SLP vacancy that had prevented the Student from receiving consistent therapy since the start of the school year. The School reported they were tracking missed minutes and confirmed on October 8, 2025 that the Student had missed a total of 120 minutes of language therapy and 60 minutes of speech therapy. LEA leadership acknowledged the impact of the vacancy and committed to collaborating on next steps to address the missed sessions.
3. In an October 2, 2025 email to the Parent, the School Director of Special Education stated, "As of the start of the 2025-2026 school year, we have been actively looking for an additional staff member to provide speech and language therapy services to our students in-house. … If you are receiving this email, it [was] because your student at

[the School] ha[d] not been consistently receiving speech and language therapy services as a result of this temporary shortage."

4. In an October 1, 2025 email to the Special Education Coordinator, Parent 1 reported that a staff member at the School had refused the Student's request to use the restroom, citing the Student's refusal to sign an IEP meeting notice as the reason. Parent 1 emphasized the Student's medical need for immediate bathroom access. In response, the School Process Coordinator reiterated to the School staff the importance of honoring the Student's bathroom requests.
5. In an October 21, 2025 annual IEP, the following pertinent information was indicated:
    a. IEP content listed speech therapy and language therapy as related services for 15 minutes per week in the special education classroom from October 21, 2025 through October 20, 2026.
    b. Present Levels of Academic Achievement and Functional Performance stated the following:
        i. "[The Student] demonstrate[d] delays in academics, executive functioning, social awareness, language, and behavior management."
        ii. The Student demonstrated deficits in expressive, social, and supralinguistic language. A limited vocabulary relative to peers impacted their word retrieval during semantic tasks, while syntactic challenges hindered their ability to describe objects and answer questions during conversation. Continued speech and language services were recommended to address these ongoing social and expressive needs.
        iii. The Student demonstrated articulation deficits characterized by gliding the initial /r/ to /w/ before low vowels and substituting /er/ for retroflexed /r/ sounds. These errors stemmed from difficulty identifying correct articulatory placement. Since /r/ is typically mastered by age eight, these patterns impacted the Student's "intelligibility" with peers, necessitating continued speech and language services.
        iv. Student strengths detailed the Student had strong social language skills, they spoke in full sentences, and stated "[The Student] love[d] participating in … speech therapy." (D214)
        v. Changes in current functioning since the previous IEP indicated the speech therapy and language therapy goals were not met, the goal was continued.
        vi. The summary of the most recent evaluation results stated, "[The Student] continue[d] to display a need in the area of social language. [They] would benefit from continued social groups. Specialized instruction to address nonverbal and verbal cues to understand what others might be thinking/feeling would be beneficial."
        vii. The IEP team determined, "[The Student's] functional skills [were] not commensurate with cohort peers, and [they] demonstrate[d]

deficiencies in academics, social/ emotional learning, behavior management, and speech and language. This impacts their ability to independently perform tasks at the same rate and level of [their] peers."

c. Special considerations indicated the Student had communication needs addressed through the IEP.

d. Annual goals were reported quarterly and at the end of the Extended School Year (ESY) and were measured by work samples, data collection, and observations in the following pertinent areas:

    i. Speech therapy, "When participating in structured tasks, [the Student] [would] be able to produce initial /r/ in phrases with at least 70% accuracy given minimal cues and prompts on two out of three data collection days by end of the IEP[.]"

    ii. Language therapy, "[The Student] [would] improve [their] perspective[-]taking skills by identifying the thought[s] of others in social situations with 80% accuracy within the current IEP year."

e. The service summary for parent and school personnel supports indicated language consult services for 30 minutes per month and stated, "'[The Student] receive[d] language therapy consult on a month[ly] basis for IEP team collaboration, staff training, and material planning for [their] language goal[.]"

f. Regular education participation indicated that "Significant delays in communication, academics, cognitive abilities, adapted behaviors, and maladaptive behaviors impede [the Student's] learning and the learning of others around [them]."

g. Placement considerations stated the Student was not placed as close as possible to their home if they were nondisabled and stated, "[The Student] require[d] a behavioral modification program to successfully address severe emotional/behavioral deficits. [The Student] require[d] individualized 1:1 and small group instruction, in a highly structured environment, with consistent implementation of a positive behavior support plan, to make educational progress. Significant delays in academic achievement, cognitive abilities, communication/language skills, and adaptive behaviors, as well as significant social, emotional, and behavioral issues, impede [their] learning and the learning of others around [them]. The IEP team has determined that a private[,] separate day school is the most appropriate and least restrictive environment for [the Student] at this time."

h. The Student was determined eligible for ESY services with the following weekly services in the special education classroom from June 9 through August 14, 2026:

    i. Speech therapy for 15 minutes.

    ii. Language therapy for 30 minutes.

i. The 2024-25 and 2025-26 school year course of study outlined speech therapy and language therapy for each semester to address independent living, education, training, and employment skills.

j. Daily accommodations for speech therapy and language therapy across general and special education environments were indicated as:

i. Grades based on IEP goals;

ii. Preferential seating for all lectures;

iii. Modified testing format, multiple sessions, short answer, and extended time on tests;

iv. Physical room arrangement, speech intelligibility/fluency adjustments, and a study carrel;

v. Directions read aloud, lessen difficulty, shorten assignments, variety of given directions, altered worksheets and packets, and extended time on all assignments;

vi. Positive reinforcement usage, review and replicate, repetition of reminders and rules, check for understanding, use of eye contact and "proximity control," and implementation of the BIP;

vii. Increased time for oral and written responses, and allow for breaks; and

viii. Other, "Use of bathroom as requested[.]"

6. In an email dated December 17, 2025, Parent 1 informed the Special Education Coordinator that speech services discussed during the October 21, 2025 meeting had not yet commenced. Although the Special Services Coordinator indicated that the LEA could provide these services beginning the following week, Parent 1 noted that the Student had not received any sessions. Consequently, Parent 1 requested an update regarding the official start date for speech services.
7. In an email on January 7, 2026, to the Special Services Coordinator, Parent 1 indicated the Student informed them speech services did not start that day due to computer issues. The Special Services Coordinator responded they would connect with the School to determine "next steps."
8. In an email exchange on January 28, 2026 to the LEA and the School team, Parent 1 sent a medical note and stated, " … since you [were] still making [the Student] wait. Again, when [the Student] says [they] need to use the bathroom, [they] need to go right then."

   The Special Services Coordinator replied, thanking Parent 1 for the updated note, and confirmed the bathroom request is outlined in the Student's IEP and would continue to be.

   Additionally, School Special Education Teacher 1 responded and reiterated the bathroom accommodation was reviewed at the last IEP meeting and "… is being followed. [The Student] even has permission to leave the classroom or walk ahead of the group if [they] can't wait for others. Going forward, each bathroom trip will be documented on [their] homenote so that [the Parent] can have an accurate

representation of what [was] going on."
A medical note dated January 28, 2026 indicated the Student was seen the same day and has a history of urinary tract infections (UTIs). It further indicated the Student, "… needs to go to the bathroom more often than other students. [They] should not hold [their] urine in because that will make [them] more likely to develop an infection."

9. In an email exchange on January 30, 2026, between the LEA team, the Special Education Coordinator requested days and times services were provided to the Student, the goals worked on, and any data they could provide. The LEA Speech Language Pathologist replied and provided the following information:
    a. January 16, 2026, 1:30 p.m.: "SLP logged into Zoom for services. The [School] staff reported [the Student] did not want to attend speech that [d]ay. They were unsuccessful in getting [the Student] to the session[,] so no session was conducted."
    b. January 22, 2026, 1:30 through 2:00 p.m.: "Goal 1: When participating in structured tasks, [the Student] [would] be able to produce initial /r/ in phrases with at least 70% accuracy given minimal cues and prompts on two out of three data collection days by the end of the IEP. Data: 54%" "Goal 2: [The Student] [would] Improve [their] perspective[-]taking skills by identifying the thoughts of others in social situations with 80% accuracy within the current IEP year. Data: 100% 4/4"
    c. January 29, 2026, 1:30 through 1:55 p.m.: "[W]ifi issues caused us to log off early. Goal 1: When participating in structured tasks, [the Student] [would] be able to produce initial /r/ in phrases with at least 70% accuracy given minimal cues and prompts on two out of three data collection days by the end of the IEP. Data: No data collected during this activity due to the wifi cutting [i]n and out. Inaccurate speech sound production due to wifi glitches was noted." "Goal 2: [The Student] [would] improve [their] perspective[-]taking skills by identifying the thoughts of others in social situations with 80% accuracy within the current IEP year. Data: 60% 3/5"
10. The speech-language therapy session log for the period of March 2024, through January 30, 2026, documented a total of 36.25 hours. During late 2025, documented direct sessions occurred on September 8, 10, 17, and 26, 2025; October 16, 2025; November 21, 2025; and December 5, 8, 12, and 18, 2025. These sessions targeted pragmatic communication, problem-solving, and conversational skills, often through co-treatments with Occupational Therapy staff during group activities. The logs for January 2026 confirmed direct sessions on January 8, 9, 12, 16, 21, and 30, 2026 with a notable notation on January 16 that the Student declined to attend.
11. A speech-language therapy log for the 2025-26 school year documented 525 total service minutes provided between September 2025 and January 21, 2026. Monthly totals included 180 minutes in September, 30 minutes in October, 30 minutes in November, 120 minutes in December, and 165 minutes in January. The log noted that while the IEP required 600 minutes for this period, adjusted calculations for school

breaks reduced the requirement to between 540 and 570 minutes. Additionally, the LEA provided 60 of the total minutes after January 15, 2026.

Parent Interview

12. In an interview with the Complaint Investigator, Parent 1 stated at the Student's October 21, 2025 IEP meeting, the School Director of Special Education told Parent 1 the School did not currently have a speech language pathologist to provide the Student's speech services. Parent 1 shared they asked the Special Services Coordinator if the LEA could provide the services. According to the Parent, the Special Services Coordinator stated the LEA could provide services by the next week. Parent 1 reported as of November 17th, 2025, the LEA had not provided speech services for the Student.
13. According to the Parent, they emailed the Special Services Coordinator on November 17, 2025, and the Special Services Coordinator did not respond. Subsequently, Parent 1 emailed the Special Education Coordinator on the same day. Parent 1 shared the Special Education Coordinator responded they would check into where all agencies were at in the process of getting the Student their speech services. The Special Education Coordinator sent a second email to both the LEA and the School, and copied the Parent, to facilitate communication regarding service provision. Parent 1 reported no one from either agency responded to the second email.
14. Parent 1 stated the Special Services Coordinator called them on January 6, 2026 to inform Parent 1 the Student was scheduled to begin speech services on January 7, 2026. However, Parent 1 stated the Student reported to them services were delayed again due to the School "updating computers." Parent 1 stated they believed the Student would begin services with an SLP from the LEA through video conferencing on January 7, 2026. Parent 1 acknowledged the Student began speech services with School Speech Pathologist 1 on January 9, 2026.
15. Parent 1 stated a document provided to them by the LEA contained incorrect information. They reported the Student did not receive speech services on December 8, December 12, or December 18, 2025 or January 8, 2026, as shown in the document. Parent 1 stated the Student reported their speech services began on January 9, 2026. Parent 1 shared the Student said they only played a board game with another student and the School Speech Pathologist 1 during the January 9, 2026 speech session. Parent 1 stated the Student's first speech therapy session for the 2025-26 school year was the January 9, 2026 session. Parent 1 reported the Student began sessions with the LEA Speech Language Pathologist on January 22, 2026.
16. Parent 1 shared they kept their own log of when the Student had speech services. They logged three dates during the complaint period: January 9, January 22, and January 29, 2026. Parent 1 explained speech services and language services are provided separately at the School, and the session logged on January 12, 2026 was for language services with School Speech Pathologist 2. Parent 1 maintained the Student did not receive speech services between September 2025 and January 2026.

17. Parent 1 stated they requested bathroom access as an accommodation in the Student's IEP due to a chronic medical condition. They reported they provided a doctor's note when the IEP was written, and acquired a second doctor's note on January 28, 2026 because they believed the accommodation was not being provided.
18. Regarding bathroom access, Parent 1 stated the Student reported "[Staff] tell [the Student] to wait, and when [the Student] just tries to go, they will block the door so that [the Student] can't go, and then they mark [the Student] for eloping if [the Student] does go out the door to go to the bathroom." Parent 1 shared, "I told [the Student] that if [they're] told no or that [they have] to wait, that [the Student] needs to count in [their] head to 25. And if someone still hasn't taken [them] that I want [the Student] just to go ahead and go because I don't want [them] peeing [their] pants and that if [staff] get [the Student] for eloping, then that's okay, we'll deal with it."
19. Parent 1 stated on October 1, 2025 a staff member "refused to take [the Student] to the restroom" because the Student had not signed an LEA document. Parent 1 reported the document in question was a Notice of Meeting for an upcoming IEP meeting. They explained they instructed the Student not to sign any paperwork without a parent present. Parent 1 alleged a staff member blocked a door to restrict the Student's bathroom access on or around January 28, 2026.
20. According to Parent 1, during an IEP meeting in February 2026, which is outside the complaint range, the LEA stated "according to the paperwork" sent by the School, they did not owe any compensatory minutes. During the same meeting, Parent 1 reported the School Director of Special Education acknowledged School Speech Pathologist 1 had "been here for years." However, the Student had not previously been on their caseload.

School Director of Special Education Interview

21. In an interview with the Complaint Investigator and the Special Education Director, the School Director of Special Education stated the Student's IEP listed 15 minutes of speech therapy per week for articulation and 15 minutes of language therapy per week for pragmatic language. The School Director of Special Education stated all sessions through the School were in-person. The Special Education Director added that LEA services were provided virtually.
22. The School Director of Special Education shared "We'd lost two of our SLPs over the summer." Therefore, they "guided our team to, whenever possible, pull in those students that had lost their SLP." The School Director of Special Education stated they tracked all the minutes "to follow the compensatory service process … ultimately we would make those up when in fact we did have a speech path[ologist] begin."
23. The School Director of Special Education stated the Student had been consistently receiving their pragmatic language services since the beginning of the year. They reported direct speech therapy began in January 2026, with sessions expanded to 30 minutes per week to include compensatory minutes. The School Director of Special Education shared the LEA also began providing additional services in January 2026 "to

help make up those minutes as expeditiously as possible." They indicated all session times had been doubled to make up for the minutes.

24. The School Director of Special Education confirmed the sessions logged on January 8 and January 9, 2026 were provided by School Speech Pathologist 1. They confirmed the sessions logged on January 12, January 16, and January 21, 2026 were with School Speech Pathologist 2. The School Director of Special Education believed the School was close to meeting all the compensatory minutes as of their interview on February 16, 2026. They believed they had discussed the compensatory minutes with Parent 1 at the most recent IEP meeting.

School Special Education Teacher 1 Interview

25. In an interview with the Complaint Investigator and the Special Education Director, School Special Education Teacher 1 reported "I was made aware in September [2025] that we were not currently able to find an SLP and … would be documented that [the Student] was missing those minutes … my supervisor, [the School Director of Special Education], had reached out to [the LEA] to find out what else they would like us to do … ."
26. Regarding the Student's bathroom access, School Special Education Teacher 1 acknowledged the Student's accommodation and explained staff were made aware "there is a medical issue. It is in [the Student's] IEP. This is the protocol that we will follow." They reported the protocol was to send a staff member to the bathroom with the Student. If a staff member was not available to chaperone, the Student would be allowed to go alone, and classroom staff would "walkie-talkie and let other people in the building know that [the Student is] on [their] way for supervision purposes."

School Special Education Teacher 2 Interview

27. In an interview with the Complaint Investigator, School Special Education Teacher 2 was joined by the Special Education Director.
28. Regarding a text message dated September 25, 2025, where Parent 1 questioned why there wasn't a speech teacher listed on the meeting invite, School Special Education Teacher 2 stated they believed a speech therapist was listed on the meeting notice. They did not recall what their response to Parent 1 was.
29. School Special Education Teacher 2 stated the Student was not in their room for speech and language services, but shared they heard and saw the Student being pulled for language services between October 21, 2025, and January 22, 2026.

School Speech and Language Pathologist 2 Interview

30. In an interview with the Complaint Investigator, the School Speech and Language Pathologist 2 was joined by the Special Education Director.
31. School Speech and Language Pathologist 2 stated in the summer of 2025, they lost two of their full-time speech therapists. They shared they were the only full-time therapist that remained working at the site, and there was one other speech therapist who

worked part-time. School Speech and Language Pathologist 2 explained they were told to keep their current caseload and pull in students who were not receiving services if there were opportunities to do so.

32. School Speech and Language Pathologist 2 mentioned the Student had a pragmatic language goal along with two other students in their class, so School Speech and Language Pathologist 2 added the Student to that group to work on social skills.
33. School Speech and Language Pathologist 2 explained that a detailed time report document was created by the Previous Speech and Language Pathologist and included notes they were using to report on the Student's speech goals. School Speech and Language Pathologist 2 explained the report was from the 2024-25 school year and confirmed the activities listed, such as "group craft" or "social reasoning board game," would satisfy the specific direct speech minute requirements and service delivery models as written in the IEP.

Special Services Coordinator Interview

34. During an interview with the Complaint Investigator, the Special Services Coordinator explained that at an IEP meeting in October 2025, speech and language services that LEA would implement were discussed. After the IEP meeting, the Special Services Coordinator was charged with "returning to the LEA and securing an SLP to facilitate speech and language services while [the Student] was at the School." The Special Services Coordinator stated, "I did not facilitate securing a SLP until January [2026] to receive those services, and that was a delay on my part."
35. The Special Services Coordinator explained that what they had been "communicated with" is speech services began in January, [2026]. "The School was struggling to produce [the Student] for that session[,] and [the Student] has attended sessions with [LEA Speech Language Pathologist] … on Thursdays while [the LEA] is in session." Special Services Coordinator indicated the speech notes were provided to them by the School, and "that's all I can say." The Special Education Director explained compensatory minutes were being served to the Student along with regular services, and the Student was "fully covered."

School Process Coordinator Interview

36. In an interview with the Complaint Investigator, the School Process Coordinator was joined by the Special Education Director.
37. The School Process Coordinator stated that when the Student was assigned a new case manager, they would ensure the case manager was aware of the Student's bathroom accommodation. The School Process Coordinator added they immediately went to the Student's case managers when concerns were brought to them. They confirmed the School Special Education Teacher 1 and the School Special Education Teacher 2 were trained on the procedure for the Student's bathroom accommodation, which included allowing the Student to use the bathroom when needed, providing an escort, and, if an

escort was unavailable, to use the radio to let other staff know the Student was on their way without an escort.

Speech Language Pathologist Interview

38. In an interview with the Complaint Investigator, the Speech Language Pathologist was joined by the Special Education Director.
39. The Speech Language Pathologist shared they began working with the Student beginning on January 22, 2026. The Special Education Director noted the LEA did not start providing services until January 22 or 23, 2026, at which time they were virtual.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #231, in violation of state and federal regulations implementing the IDEA, failed to ensure the Student's IEP was in effect and special education and related services were made available to the Student, and that each teacher and provider was informed of the specific accommodations, modifications, and supports that must be provided to the Student. K.A.R. 91-40-16; 34 CFR §300.323.

According to K.A.R. 91-40-16, each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. An IEP must be in effect for each exceptional child at the beginning of each school year. The child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider must be informed of that individual's specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parents alleged the Student did not receive their speech services as written on their IEP from October 21, 2025 through January 22, 2026. The Parents alleged the Student did not have access to their accommodation to use the bathroom, which resulted in urinary tract infections.

The LEA acknowledged that a staff vacancy at the School resulted in inconsistent speech-language services for the Student starting in September 2025. To rectify this, the LEA implemented a compensatory service plan utilizing an LEA provider, which has already recovered a substantial portion of the missed minutes and is scheduled to continue through March 2026. Additionally, the LEA maintained the Student's bathroom accommodation has been implemented with fidelity.

The Student's October 21, 2025, annual IEP identifies significant needs in expressive, social, and supralinguistic language, as well as articulation deficits that impact peer intelligibility. The Student's speech and language services were impacted from the start of the 2025-26 school

year through January 2026. This lapse was primarily attributed to a staffing shortage at the School and a delayed administrative response by the LEA. While the School Director of Special Education reported that language services remained consistent through group co-treatments, they acknowledged a total of 180 missed minutes by early October 2025. Conversely, Parent 1 maintains that no speech services occurred until January 9, 2026, disputing several entries in the School's service logs. The LEA Special Services Coordinator admitted to a delay in securing a provider, which resulted in LEA providing virtual sessions not commencing until January 22, 2026. Technical issues, such as computer updates, were documented as barriers to consistent service delivery and accurate data collection during the transition to virtual LEA support. To address the deficit, the School and the LEA initiated a compensatory service plan in January 2026, doubling session times to 30 minutes per week.

The Student's IEP includes a specific accommodation for immediate bathroom access, supported by medical documentation highlighting a history of UTIs. Parent 1 reported instances in which staff allegedly blocked the door or conditioned bathroom access on the Student completing tasks, prompting the School Process Coordinator to reiterate the protocol to staff. While Special Education Teacher 1 maintained the existing protocol was adhered to, the School has subsequently transitioned to a new documentation process via "homenotes."

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA failed to ensure the Student's IEP was fully in effect. Despite the recent initiation of compensatory services and updated protocols, the significant delay in securing speech-language providers and the inconsistent implementation of documented health accommodations resulted in a failure to implement the IEP in its entirety.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

> A. Federal regulations at K.A.R. 91-40-16; 34 CFR § 300.323 specifies an IEP must be in effect for each exceptional child at the beginning of each school year. The child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider must be informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

In this case, the evidence supports the finding that USD #231 did not ensure the Student's IEP was fully in effect. Documentation, Interview, and the LEA Response letter of February 12, 2026 document this.

Based on the foregoing, USD #231 is directed to take the following actions:

1. Within 30 calendar days of the date of this report, USD #231 shall submit the service logs of the compensatory time completed for the Student from the start of January 2026.
2. Within 15 calendar days of this report, USD #231 must provide written evidence that the "immediate bathroom access" protocol has been distributed to every teacher, paraprofessional, and administrator at the School who interacts with the Student.
3. For a period of 60 days, the School must submit bi-weekly copies of the "homenotes" or bathroom logs to the LEA Special Services Coordinator to ensure the accommodation is being implemented without conditions.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #259, WICHITA PUBLIC SCHOOLS
ON JANUARY 26, 2026

DATE OF REPORT: MARCH 3, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #259 Wichita Public Schools on behalf of -------- by his mother --------. In the remainder of the report, -------- will be referred to as "the student" and -------- as "the parent" or "the complainant".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. In this case, the complaint is against USD #259 Wichita Public Schools; this LEA provides its own special education services.

During the 2025-2026 school year the student is attending the 12th grade at Levy Special Education Center which will be referred to as "the school" in the remainder of the report. School and LEA staff will be referred to In the remainder of this report as follows:

- Erica Shores, director
- Tricia Loehr, 1st semester principal
- Jason Chalashtari, 2nd semester principal
- Kayla Price, assistant principal
- Kate Suhr, case manager
- Lisa Riveros, director of transportation
- Christopher Melugin, social worker
- Ryan Alliman, director of secondary student support services

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on January 26, 2026; however, an extension was requested and granted resulting in a due date of March 4, 2026.

Evidence Reviewed

The LEA made the following staff available for phone interviews on February 11, 2026 as part of this investigation.

- Director
- Assistant principal
- IEP case manager

Again on February 23, 2026 the LEA made the following staff available for interviews.

- Director
- Assistant principal
- 2nd semester principal
- LEA director of secondary student support services

During the investigation, the complaint investigator reviewed all evidence and documentation provided by the LEA and the parent. Additionally, the complaint investigator contacted the parents and director on January 26, 27, 28, 29, February 3, 6, 9 13, 17, 19, 21 and 23, and 24, 2026 by email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents -

1. Student IEP dated February 24, 2023.
2. Student IEP dated February 23, 2024.
3. Student progress report dated December 20, 2024.
4. PWN requesting consent for a Functional Behavioral Analysis (FBA) reevaluation dated January 16, 2025.
5. Student's IEP dated February 21, 2025.
6. PWN to update accommodations, IEP goals and BIP, dated February 24, 2025.
7. Visual examples of accommodations for the 2025-2026 school year.
8. Student's daily schedule for the 2025-2026 school year.
9. Student's daily attendance profile for the 2025-2026 school year.
10. General Education Student Contact Log for the 2025-2026 school year.
11. Special Education Student Contact Log for the 2025-2026 school year.
12. Student discipline profile for the 2025-2026 school year.
13. Student's Speech Language service log for the 2025-2026 school year.
14. Staff Development Plan for the 2025-2026 school year.

15. Special Education Teacher professional learning for the 2025-2026 school year through October 30, 2025.
16. Record of the dates, times and details related to when the school contacted the parent to pick the student up from school created by the assistant principal for the 2025-2026 school year.
17. Summary of student's behavior intervention data dated August 26, 2025 to October 21, 2025 and October 22, 2025 to January 31, 2026.
18. Email exchanges between the school 1st semester principal and LEA's director of transportation requesting and granting permission to obtain a 5:00 p.m. bus for the student, dated October 10, 2025.
19. Texts of communication between the school and parent related to the student's behavioral challenges or concerns about getting on the bus, dated October 15, November 5, 6, 14 and December 3, 2025 and January 14, 2026.
20. Student's amended IEP dated October 22, 2025.
21. PWN adding hand-to-hand guidance to the student's IEP, dated October 22, 2025.
22. PWN refusing to change student placement dated October 30, 2025.
23. Progress report dated December 10, 2025.
24. Email from the director of transportation to the director sharing the student support information available to the bus staff, dated February 3, 2025.
25. LEA response to allegations dated February 6, 2026.
26. Email reply from the director with the social workers recollection of the conversation with the parent related to the student's placement post graduation, dated February 23, 2026.
27. Email exchange with the director related to the student's access to weighted objects, on February 24, 2026.

Background Information

The student named in this complaint is in the12th grade at an LEA school during the 2025–2026 school year. According to the parent, the student first qualified for special education services in 2010, with identified exceptionalities of Autism and ADHD. The student lives at home with their parent and four of their five siblings. The student did not attend a specialized preschool and began attending school in this district in 2021 after the family moved to the area from out of state.

Issues Investigated

Based on the written complaints and interview with the complainants, X concerns that fall under IDEA or Kansas regulations were identified and will be investigated.

Issue One

Did USD #259 develop the student's IEP specific to the transition plan as required by 34 CFR §300.324(a)(1) and 300.320(b).

Applicable Law

34 CFR §300.324(a)(1)(i-iv) Development, review, and revision of IEP. (a) Development of IEP—(1) General. In developing each child's IEP, the IEP Team must consider—(i) The strengths of the child; (ii) The concerns of the parents for enhancing the education of their child; (iii) The results of the initial or most recent evaluation of the child; and (iv) The academic, developmental, and functional needs of the child. Additionally, 34 CFR 300.320(b) Transition services. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include—(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) The transition services (including courses of study) needed to assist the child in reaching those goals.

Parent Position

In the January 27, 2026 parent interview they shared that their student had no real transition services and that the school was trying to graduate the student at the end of the current school year even though the student is only 17. Additionally the parent stated that they asked the counselor for help in finding post-graduation services for the student that the counselor said they would be in contact, but thus far, has not done so.

LEA Position

The LEA response states, "Per § 300.324(a)(i), in developing the student's IEP, the IEP Team considered [the student's] strengths, needs, interests and preferences as shown through the Transition Assessment information and related appropriate post-secondary goals, transition services and activities contained within the 2-21-25 IEP."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. The LEA response states, "Per § 300.320(b), the student's IEP contains Transition services, which are updated annually, and include (1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training/education, employment, and, independent living skills; and (2) the transition services (including courses of study) needed to assist the student in reaching those goals, including services and activities in instruction, community experience, employment, adult living and post-school training, and daily living (see 2-21-25 IEP)."

2. The annual IEP meeting was held February 21, 2025 with a continuation on February 24, 2025.
3. The Pictorial Interest Inventory (transition assessment) was conducted on February 23, 2025 and results shared with the IEP team on February 24, 2025.
4. The annual IEPs from 2023, 2024 and 2025 all note that the Pictorial Interest Inventory was updated each year.
5. The results of the age-appropriate transition assessment in the most current IEP are noted, as:
    a. Strengths. "[The student] enjoys helping others as well as cooking and serving food."
    b. Needs. "[The student] needs to work on self-regulation and managing [their] behavior to be able to participate in these jobs."
    c. Interests. "[The student] loves to go on walks and listen to music."
    d. Preferences. "[The student] shows a preference for working in Food Services, but also shows a preference for automotive."
6. The projected course of study for the 2025-2026 school year does not note the student's IEP math, behavior or communication goals, although the math and communication goals are noted in the student's daily schedule. This section of the transition plan has been updated from year to year.
7. A review of IEPs from February 2023, 2024 and 2025 show that there have been no changes made to the student's transition services and corresponding activities.
8. There are no IEP goals in the February 21, 2025 IEP related to the student's preferences identified in the transition assessment.
9. In the school interview on February 11, 2026 the case manager reported that the student enjoys working with themed boxes and folders, including those related to the automotive field during Career Readiness but they are not specific to this student.
10. The student's schedule includes Life Skills Cooking which the case manager confirmed was focused on the student cooking for themselves but not specifically on food service skills which is noted in the transition assessment as a preference.
11. At the student's annual IEP meeting on February 11, 2026 the team decided that the student will continue to attend the school in the 2026-2027 school year.
12. The social worker shared their recollection of the conversation with the parent related to the student's placement post graduation, dated February 23, 2026:
    a. "I have spoken with [the parent] several times about getting services for their [child]. We have discussed that, in my professional opinion, many programs are closed because of staff shortages, and decreased funding. The [County Developmental Disability Organization] acts as the single point of entry for accessing intellectual and developmental disability (ID/DD) services in [the] County, Kansas. On January 23, 2025 I gave [the parent] a copy of the

community agencies that the CDDO uses. I told [them they were] free to contact the agencies. I also explained that [the LEA] has transition procedures."

1. In an interview with the director of secondary student support services, and the LEA director on February 23, 2026, they shared that the parent was provided with transition information and the CDDO was invited to the IEP when the student was 13 years old. Additionally, they believed that the parent completed the Kansas Intellectual/Developmental Disability (I/DD) Waiver application in 2023.

Conclusion

34 CFR §300.324(a)(1)(i-iv) Development, review, and revision of IEP. (a) Development of IEP—(1) General. In developing each child's IEP, the IEP Team must consider—(i) The strengths of the child; (ii) The concerns of the parents for enhancing the education of their child; (iii) The results of the initial or most recent evaluation of the child; and (iv) The academic, developmental, and functional needs of the child. Additionally, 34 CFR 300.320(b) Transition services. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include—(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) The transition services (including courses of study) needed to assist the child in reaching those goals.

In this case, the student's transition assessment and projected course of study were updated in the 2023, 2024, and 2025 annual IEPs. However, the transition services and activities were not revised to align with the student's updated preferences. There are no IEP meeting minutes to suggest that the team discussed, but elected not to change the transition services. As a result, the transition services did not demonstrate that the most recent evaluation data was meaningfully considered in planning services.

Based on the foregoing, it is found that the LEA failed to update a portion of the student's transition plan and *is OUT of compliance*. Corrective actions are required.

Issue Two

Did USD #259 implement the student's IEP during the 2025-2026 school year specific to services, learning goals and the behavior intervention plan as required by 34 CFR §300.323(c)(2)?

Applicable Law

34 C.F.R. §300.323(c)(2) requires school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

In the parent interview they stated, "Before we moved here [the student] knew more. [They] do stuff at home that they can't do at school. The student is very independent at home." The parent also reported in their interview on January 27, 2025 that their biggest fear is that, "when the student runs away from the school and ends up in the neighborhood, the student could get beaten or shot by a homeowner who doesn't understand kids with disabilities."

LEA Position

The LEA response states, "The school began the 2025-2026 school year with the student's 2-21-25 IEP in place, and amended the IEP on 10-22-25, hand-delivering the PWN to the parent that day, implementing the changes immediately, most crucially for safety, the accommodations regarding hand-to-hand guidance throughout the school, and when the student enters the school from the bus, exits the building to go to the playground, for evacuation drills, and for bus pick-up."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

Services / Accommodations -

1. The LEA response states that, "The student's special education services are for all day (390 minutes/day, minus 20 minutes of speech and language services one time per week, see 2025-2026 SLP Service Log) in a special day school (which is [the student's] assigned building is), which [they receive] from the special education teacher and staff every day [they are] in attendance. The student is in a classroom that has four paras and a teacher. During [the student's] school day, [the student] typically follows [their] schedule (see 2025-2026SY Schedule) and works on [their] IEP goals and BIP in addition to other educational activities."
2. The LEA provided the student's schedule and corresponding paraprofessional schedule as well as evidence of the SLP Service Log which reflects several sessions missed due to

therapist absence or student behavior, but the required time for these sessions was made up by the therapist.

3. The LEA response states, "[The student] also receives the service of Attendant Care for 30 additional minutes each day to assist [them] to and from the bus, during lunch, and with the bathroom. At the beginning of the day, paras wait for [the student] to get off the bus, walk [them] to the classroom using hand-to-hand guidance per the IEP (see 10-22-25 IEP, and Classroom Visuals folder-arrival procedure)."
4. The annual IEP dated February 21, 2025 included seven accommodations; communication supports, extra gross motor movement/activities, visual schedule, fidget object, verbal encouragement, choices and weighted items.
5. The current IEP dated October 22, 2025 includes the following nine classroom accommodations:
    a. Verbal encouragement each time the student completes an activity, immediately after completing the work.
    b. Both the 2nd semester principal and assistant principal reported in the February 23, 2026 interview that they observed teachers verbally encouraging the student throughout the day for both completing academic tasks and to prevent behavioral challenges.
    c. Hand-to-hand guidance when entering the school building from the buses/exiting the school building to the playground, evacuation drills and buses pick up the whole time the student is in transition.
    d. The LEA response states, the staff, "use hand-to-hand guidance per the IEP to transition to the outside playground area and back." Both the 2nd semester principal and assistant principal reported in the February 23, 2026 interview that they observed the use of hand-to-hand guidance for this student as the student is getting on/off the bus and other times when the student is outside of the school building. This accommodation was added at the October 22, 2025 IEP amendment meeting.
    e. Visual schedules during transitions.
    f. The LEA provided evidence of the student's arrival procedure and classroom picture schedule. Additionally on February 23, 2026 the assistant principal clarified that the student has access to the classroom picture schedule as well as one that teachers carry when the student is outside of the classroom.
    g. Fidget object when the student is getting "antsy" at their desk for 5-10 minutes.
    h. The fidget object is seen in a photo of the student in art class and is reported as being used consistently by the assistant principal in an interview on February 23, 2026.
    i. Choices, giving the student 10-15 seconds to decide.
    j. The LEA provided examples of visual support for choice making, including a Juice and yes/no chart, a photo of options for choices on the student's desk and a

swing choice chart. The assistant principal gave multiple examples of when these choices are offered to the student in the interview on February 23, 2026.

k. Extra gross motor movement/activities, embedded in the schedule for 5-10 minutes.
l. The LEA shared a photo of the student participating in adapted PE bowling and the 2nd semester principal reported seeing the student regularly taking movement breaks in the hallway..
m. Communication supports throughout the school day, (e.g., low/high tech AAC) to aid/enhance communication during academics and social opportunities.
n. The LEA provided several examples of communication aids and the assistant principal shared multiple examples of when they observed the student using the communication supports.
    i. Weighted objects embedded in the schedule for 3-5 minutes.
o. In an email exchange on February 24, 2026, the director reported that staff indicated the student has access to, and frequently uses, weighted balls and stuffed animals throughout the school day.
p. Hand-to-hand guidance through the school building for the whole transition.
q. The LEA response states, "When the student transitions throughout the school during the day (e.g., to the cafeteria, to specials classes), staff walk with [the student] using hand-to-hand guidance or [the student's] arm over staff shoulder until they arrive at their destination." The 2nd semester principal and assistant principal report observing staff consistently offering hand-to-guidance. This accommodation was added at the October 22, 2025 IEP amendment meeting.
r. The student also has a transportation accommodation which will be addressed in Issue 3.

Learning Goals -

1. There were two IEPs implemented during the 2025-2026 school year each of which included the same four goals; math, reading and behavior and communication.
2. The district response shared that instruction was conducted during the 2025-2026 school year as evidenced by the examples in the Classroom Visuals folders and Implementation of Services document which includes examples of student work, behavior charts, choice charts, picture schedules and communication charts.
3. In the February 24, 2026 interview with the assistant principal and 2nd semester principal they shared a number of examples of how the student's IEP goals have been implemented throughout the 2025-2026 school year, including specific examples of staff teaching the use of the student's communication supports for the reading and communication goals, and staff sitting closely to the student which is a prevention measure for the behavior goal.

Behavior Intervention Plan (BIP) -

1. There was one BIP implemented in the 2025-2026 school year with a PWN issued after the October 22, 2025 IEP amendment meeting adding the use of hand-to-hand support for the student when transitioning to and from the buses and to the playground.
2. The LEA provided and the investigator reviewed the evidence related to implementation of the BIP including (visual schedules, elopement visual, Sticky Fidget reward chart, and options for sensory breaks). The BIP includes instructions to staff on prevention measures, instruction/teaching replacement behaviors and what to do when target behaviors occur as well as when peak behaviors occur.
3. In the February 24, 2026 interview with the assistant principal and 2nd semester principal they shared examples of teachers utilizing behavior management strategies required by the BIP including, staff proximity, use of sensory breaks, support to help the student get on the bus, offering of choices, close supervision, positive attention, and use of communication supports.
4. The LEA shared evidence of teacher training related to BIP implementation on January 2, 2025. The LEA also shared a training schedule which includes Emergency Safety Interventions (ESI) training, IEP compliance and behavior management plans, the week of August 5 to August 13, 2026.
5. The LEA shared behavior data summaries from August 26, 2025 to February 6, 2026.

Conclusion

In this case, 34 C.F.R. §300.323(c)(2) requires school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

The LEA shared evidence of implementation of the IEP, including speech language services, accommodations, IEP goals and the behavior intervention plan.

Based on the foregoing, it is found that the LEA implemented the student's IEP during the 2025-2026 school year specific to services, learning goals and the behavior intervention plan. The LEA *is IN compliance*, and corrective actions are not required.

Issue Three

Did USD #259 review and revise the student's IEP based upon lack of progress specific to learning goals and the behavior intervention plan as required by 34 CFR §300.324(b)(ii)(A)?

Applicable Law

34 CFR 300.324(b)(ii)(A) Development, review, and revision of IEP. (b) Review and revision of IEPs—(1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team—(i) Reviews the child's IEP periodically, but not less than annually,

to determine whether the annual goals for the child are being achieved; and (ii) Revises the IEP, as appropriate, to address—(A) Any lack of expected progress toward the annual goals described in §300.320(a)(2);

Parent Position

In the parent interview on January 27, 2025 they shared, "My child has been in that school since [they were] 13 and has gone backwards." When asked about the student's continued difficulty in getting on the bus, the parent shared, "They call me to say come and get [the student]. I have 5 kids and work at night. They threaten to call the police."

LEA Position

The LEA response states, "It is the position of USD #259 that the district reviewed and revised the student's IEP based upon lack of progress specific to learning goals and the behavior intervention plan as required by 34 CFR §300.324(b)(ii)(A)."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. The LEA response includes, "The student's 2-21-25 IEP was developed by the IEP Team, including the parent, and the PLAAFPs and goals reflect the student's present levels at the time of the development of this IEP, based on progress made on the 2-23-24 IEP and progress as noted on IEP progress reports leading up to the development of the 2-21-25 IEP as well as IEP Team discussion. The parent provided [their] consent for the changes made and included in the student's 2-21-25 IEP (see PWNP)."

Learning Goals -

1. The student's progress report for the last 12 months reflects that "Progress has been made towards reaching the goal by the annual IEP", for three of the four goals and, "Progress has been made towards the goal, but the goal may not be met by the annual IEP", for the fourth goal.
2. Math: Goal 1 in the student's February 21, 2025 IEP is focused on identifying numbers 11-20, with 60% accuracy. The December 12, 2025 progress report reflects that the student reached 50% and has maintained that goal with 1-2 prompts from staff to slow down and count. This progress is considered a mastery level of 3, "Progress has been made towards the goal, but the goal may not be met by the annual IEP".
3. Reading: Goal 2 in the student's February 21, 2025 IEP is a comprehension goal. When the student is given questions and picture choices, the student will answer questions to show understanding of literature that has been read to [them] with 50% accuracy. The December 12, 2025 progress report reflects that the student reached 60% accuracy by the end of the IEP year, reaching a mastery level of 4, " Progress has been made towards reaching the goal by the annual IEP.

4. Behavioral: Goal 3. For readability, the student's behavioral goal and BIP will be discussed below.
5. Communication: Goal 4 in the student's February 21, 2025 IEP states that the student will, "…communicate three different communicative phrases (e.g., requesting, protesting, expressing likes/dislikes, social routines, etc.)…with 75% accuracy averaged across 5 data sessions." The December 12, 2025 progress report reflects that the student reached 75% accuracy within 2 data sessions, reaching a mastery level of 4, " Progress has been made towards reaching the goal by the annual IEP."

Behavior Goal and Behavior Intervention Plan (BIP) -

1. Goal 3 in the student's February 21, 2025 IEP is a behavioral goal stating the student will, "decrease acting out behaviors such as eloping and hitting others to 5/5 days, as measured by classroom behavior data collection." with the progress note stating, "[The student] has done well with not eloping from the classroom and not hitting others. Someone does need to be next to [the student] at all times to ensure [the student's] safety but again, [the student] has done well with this goal. Only elopement issues are when [they were] outside at the playground (climbs the fence X2) or bus." The December 12, 2025 progress report reflects that the student reached 4/5 days of no acting out behaviors, reaching a mastery level of 4, " Progress has been made towards reaching the goal by the annual IEP."
2. The January 16, 2025 PWN states, "[the student's] educational team is proposing a Functional Behavior Assessment (FBA) be conducted in order to determine if [the student's] current Behavior Intervention Plan continues to meet [the student's] behavioral needs or if additional interventions need to be implemented to support [the student]." The LEA response shares that although the parent expressed concern about the student's behavior, the parent declined to consent to the FBA.
3. In the parent interview on January 27, 2025 the parent shared that they did not consent to the FBA because they believed that this school was not the appropriate place for the student and that the student needs to be transferred to a private residential treatment facility.
4. The BIP was updated at the February 21, 2025 IEP meeting to include "decreasing acting out behaviors such as hitting and eloping".
5. The LEA response notes that the student's behavior data shows that the student is making progress on the behavior goal as evidenced by the behavior data summaries for August 26 to October 21, 2025, and October 22 to January 31, 2026. It is noted that these behavior summaries share the % of intervals that the student followed directions, was on-task, had positive peer relations and had safe hands, feet and objects. These percentages reflect an increase in positive behavior from August 26, 2025 to February 6, 2026.
6. The BIP goal states: "Within one IEP year, given behavior management strategies, [the student] will decrease acting out behaviors such as eloping and hitting others to 5/5 days, as measured by classroom behavior data collection. However, later in the BIP

under the Monitoring header, it states that the frequency of every occurrence of target behaviors will be collected.

7. The LEA response notes actions taken to address the student's behaviors including an IEP Amendment on October 22, 2025 to address elopement. The PWN for this meeting states, "due to the nature of eloping outside of the building especially when in transition to and from the buses, and to the playground, staff will need to have hand-to-hand guidance for [the student] and amended the IEP to ensure [the student's] safety to and from the bus and to and from the playground."
8. The LEA response noted, "Training was provided to staff at the school in behavior management techniques, structured work systems and work tasks, implementing work systems, etc., which supported what is contained in the student's IEP (see 2026-1-2 Inservice; 2025-2026 Teacher Report Week Staff Development Plan, and 2024-3-8 - 2025-10-30 Professional Learning Provided to Levy Special Education Teachers). Some examples of classroom items utilized with this student that show the staff are implementing such strategies are included in the Classroom Visual Example folder."
9. The documentation noted above was provided by the LEA and reviewed by the investigator.
10. The parent was asked to pick up the student for behavioral reasons during the 2025-2026 school year including elopement and bus refusal on October 2 and 14, November 5, 14, 25, 2025 and January 14, 2026. On November 18, 2025 the parent was asked to assist staff with the student's elopement and opted to take the student home rather than return to school. Additionally there were two instances where the student smeared feces (October 8, and 23, 2025) and thus was not able to ride the bus, resulting in the need for the parent to take the student home.
11. During the parent interview on January 27, 2026 they expressed fear that due to the proximity of homes and a public park to the school that the student's elopement behavior could be extremely dangerous.
12. According to the school's Student Contact Logs, during the 2025-2026 school year, the student eloped on September 24, October 2, October 14, and November 18, 2025. It is noted that when the student elopes they will go into homeowners' yards, try to get into cars and expose themselves.
13. During the parent interview on January 27, 2026 they also expressed concern about the staff's support of the student when the student elopes, "[The student] ran out of the school last week and the staff say they can't lay hands on the student to get [the student] back into the building."
14. When asked about the LEA's emergency behavioral procedures, the director replied in an email on February 18, 2026, "We don't move a student unless there is the threat of imminent danger which is consistent with our Emergency Safety Interventions (ESI) Board Policy." A review of the LEA's website reflects that the Board of Education Policy states, "Restraint is allowed only when a student's behavior reasonably poses an immediate danger of substantial physical harm to the student or others and the student has the present ability to cause such physical harm. Physical Restraint should

only be used as a last resort after appropriate De-escalation Techniques have been implemented without success and less restrictive interventions would be ineffective at stopping the immediate danger of substantial physical harm."

15. The student's disciplinary profile reflects one instance of disruptive behavior on November 11, 2025, but no suspensions or expulsions.

Related Service -

1. The student has had several instances of refusing to get on the bus to go home during the 2025-2026 school year. This behavior is not specifically addressed in the behavior intervention plan, but rather in an IEP related service accommodation for transportation.
2. In the parent interview on January 27, 2026 they shared their difficulty in picking up the student when the student refuses to get on the bus due to other family responsibilities and unreliable transportation.
3. The strategies for supporting the student to ride the bus were outlined in the LEA response, "Classroom staff members will wait with the student at the end of the day until [the] bus arrives. Staff assist [the student] with getting [the student's] harness on, walking with [them] using hand-to-hand guidance to the bus, walk onto the bus with [the student] and wait until the bus aides get [them] buckled in before exiting the bus. Classroom staff use [the] Bus Accommodation Sheet as a reinforcement aid for getting [the student] on the bus (a snack and drink, which the student gets to select at the beginning of the day, and staff remind [the student] throughout the day.) Transportation services include transporting [the student] to and from school with the accommodation, etc. that are listed in the current IEP (see 2025-10-22 IEP Transportation)." This information is included in the IEP under Related Services, Accommodations.
4. In the February 23, 2026 interview, the 2nd semester principal and assistant principal both reported observing staff consistently following the above strategies.
5. The LEA provided the Bus Accommodation Sheet which includes photos and picture symbols used by staff to remind the student of how to be successful and the rewards to be earned once they are on the bus.
6. The 1st semester principal requested that the 5:00 p.m. bus be reinstated so the student would have a second opportunity to ride the bus if they refused the regular after-school bus. The request from the school principal to the LEA's director of transportation was sent and approved on October 10, 2025.
7. The IEP was amended on October 22, 2025 to add "hand-to-hand guidance" for the student when transitioning to and from the bus and on the playground to address the risk of elopement.
8. According to the school's Student Contact Logs and text messages shared by the parent, the student refused to get on the bus five times in the 2025-2026 school year: September 24, November 5, November 14, and November 25. On January 14, 2026 the

parent was contacted to pick the student up, but the student ultimately got on the bus before the parent arrived.

9. An email from the director of transportation to the LEA director shared a screenshot of the information available to bus personnel specifying the student's support needs while riding the bus, dated February 3, 2025. This evidence shows that the transportation plan shared with the bus staff was current as of September 25, 2025, but hadn't yet been updated to match the October 22, 2025 IEP amendment which was remedied by the transportation director on February 3, 2025, and is now current.

Conclusion

In this case, 34 CFR 300.324(b)(ii)(A) Development, review, and revision of IEP. (b) Review and revision of IEPs—(1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team—(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and (ii) Revises the IEP, as appropriate, to address—(A) Any lack of expected progress toward the annual goals described in §300.320(a)(2);

Learning Goals -

The LEA provided evidence of progress on each of the student's IEP goals in the 2025-2026 school year.

Behavior Intervention Plan -

During the 2025-2026 school year, the IEP team took action to address the student's behaviors on the following dates:

- January 16, 2025 PWN, the team requested, but consent was denied, to conduct a Functional Behavior Assessment
- February 21, 2025 IEP meeting to revise the BIP behaviors
- October 22, 2025 IEP amendment meeting to address elopement and add hand-to-hand guidance
- Staff training

The data summaries shared by the LEA reflect a percentage of intervals in which the student followed directions, was on-task, had positive peer relations and safe hands, feet and objects. However, the student's IEP goal states that "Within one IEP year, given behavior management strategies, [the student] will decrease acting out behaviors such as eloping and hitting others to 5/5 days, as measured by classroom behavior data collection." Because eloping and hitting are explicitly identified in the IEP goal, the data collected to measure progress should directly align with those specific behaviors. Additionally, the way data is collected must match the IEP goal, for example, collecting data on intervals in which the student exhibited a positive behavior is different than collecting data on the frequency of behaviors and the number of days the student did not exhibit a target behavior. When there is inconsistency in how data is

collected and on which behaviors, it is difficult for the team to determine whether the student's annual goal is being met, which is required by IDEA. The IEP team may choose to address and collect data on whichever behaviors are most important for the student, but in order to gauge progress on the IEP goal the specific behaviors stated in the goal should be the behaviors for which data are collected. It is also noted that although the school reports general progress on the behavior goals, the student's serious behavior of eloping continues to occur, even after the IEP amendment on October 22, 2025. It is recommended the IEP team consider collecting elopement data separately from the other behaviors due to its potentially serious consequences.

Related Service -

During the 2025-2026 school year, the IEP team addressed the student's refusals to ride the bus in the following ways:

- October 10, 2025 the school requested and obtained permission for the reinstatement of the 5:00 p.m. bus
- October 22, 2025 the IEP was amended to include "hand-to-hand guidance" when transitioning to and from the buses
- Use of the student's Bus Accommodation Sheet
- Specific guidance to staff in the IEP
- Staff training

When the parent must pick the student up due to refusal to get on the bus, the impact on the student's family is significant. This single parent has other children and family members who rely on them to be available after school and the parent's transportation is often not reliable. The IEP team is asked to consider that due to the impact on the family when the student refuses to get on the bus, a behavior intervention plan may be appropriate. This approach would allow for more intensive progress monitoring, rather than addressing the concern solely through a related service.

The school has made efforts to support the student with this behavior, however even after the changes made in the October 22, 2025 IEP amendment the student continues to have difficulty getting on the bus as evidenced by refusals on November 5, November 14, and November 25, 2025. It is noted that the updated transportation plan created at the October 22, 2025 IEP amendment meeting was not available to bus staff until February 3, 2026.

Based on the foregoing, it is found that the LEA was unable to determine progress for the behavior goal due to inconsistencies in data collection and target behaviors during the 2025-2026 school year. The LEA ***is OUT of compliance*** and corrective actions are required.

Issue Four

Did USD #259 hold a manifestation determination meeting as required by IDEA in the 2025-2026 school year as required by 34 CFR §300.536(a)(1)(2)(i)?

Applicable Law

34 CFR 300.536(a)(1)(2)(i) Change of placement because of disciplinary removals. (a) For purposes of removals of a child with a disability from the child's current educational placement under §§300.530 through 300.535, a change of placement occurs if—(1) The removal is for more than 10 consecutive school days; or (2) The child has been subjected to a series of removals that constitute a pattern—(i) Because the series of removals total more than 10 school days in a school year.

Parent Position

The parent complaint states, "They [the school] call me to pick [the student] up all the time…" In the parent interview on January 27, 2026 they clarified that the school calls them to pick up the student when the student won't get on the bus or is having other behavioral challenges.

LEA Position

The LEA response states, "It is the position of USD #259 that the district did not hold a manifestation determination meeting as required by IDEA in the 2025-2026 school year as required by 34 CFR §300.536(a)(1)(2)(i) because the facts did not require the district to do so per the regulation."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. The parent states in the formal complaint that, "[the school] calls me to pick [the student] up all the time even when I express that my car is not working."
2. The LEA provided two Student Contact Logs: a General Education Contact Log and a Special Education Contact Log. These logs document communication between school staff and the parent on a variety of topics, including occasions when the school asked the parent to pick the student up due to behavioral incidents
3. The LEA also shared a document created by the assistant principal noting the dates, times and reasons the parent was called to pick the student up from school.
4. The parent shared text exchanges from the school requesting that the parent pick the student up on November 5, 14, 2025 and January 14, 2025
5. As noted in Issue Three, the parent was asked to pick the student up due to behavioral issues a number of times in the 2025-2026 school year as evidenced by text exchanges, the LEA's student contact logs and the assistant principal's documentation, including October 2, 8, 14, 23, November 5, 14, 25, 2025 and January 14, 2026.

Conclusion

IDEA regulation 34 CFR 300.536 addresses the removal of a student with disabilities from their current placement and how to process disputes about whether such removals constitute a change of placement and so require a manifestation determination review.

That regulation is printed in full below (with emphasis added with bold and underlined print).

Sec. 300.536 Change of placement because of disciplinary removals.

a. For purposes of removals of a child with a disability from the child's current educational placement under Sec. Sec. 300.530 through 300.535, a change of placement occurs if--
    i. The removal is for more than 10 consecutive school days; or
    ii. The child has been subjected to a series of removals that constitute a pattern--
b. Because the series of removals total more than 10 school days in a school year;
c. Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
d. Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

2. (b)(1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.
    i. This determination is subject to review through due process and judicial proceedings.

This issue relates to section (a)(2) of the regulation. A change of placement occurs under (a)(2) only when all three factors exist. In this complaint, factor (i) does not exist because this student was not removed from school (whether due to a failure to provide transportation to or from school) for more than 10 school days.

In addition, paragraph (b) says that when there have been more than 10 such removals in a school year, the school district determines whether a change in placement has occurred and that decision is "subject to review through due process and judicial proceedings." Thus, disputes about whether a series of suspensions that exceed 10 days in a school year constitutes a change of placement should first be presented to a hearing officer. The clear intent of paragraph (b) is that school districts have broad discretion when determining whether a change in placement has occurred that would require a manifestation determination review. For that reason, a state complaint investigator must be cautious when asked to make such a determination, and proceed only when it appears obvious that a change in placement has occurred.

Based on the foregoing, it is found that the LEA did not fail to hold a manifestation determination review due to a student change of placement. The LEA *is IN compliance* and corrective actions are not required.

Issue Five

Did USD #259 issue a timely PWN in response to the parent's request for private placement as required by 34 CFR §300.503(a)(2)?

Applicable Law

34 CFR 300.503 Prior notice by the public agency; (a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency—(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. Kansas defines "a reasonable time" to be within approximately 15 school days in most situations, unless there's a documented reason for a longer timeline. This guidance is found in Chapter 1 of the Kansas Special Education Process Handbook.

Parent Position

The parent complaint states, "They [the school] sent prior written notice to refuse the transfer I've been requesting since 2024. Please investigate."

LEA Position

The district response states, "It is the position of USD #259 that the district issued a timely PWN in response to the parent's requests for private placement as required by 34 CFR §300.503(a)(2)."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. According to the LEA response, "The student's parent verbally requested that the student be placed at a private residential treatment facility on 10-14-25 to the 1st semester principal. The school issued the parent a PWNP on 10-30-25, refusing placing the student at a private residential treatment facility because the school's data supported that the student was receiving FAPE in their current placement at the district's special day school."
2. The LEA shared a copy of the October 30, 2025 PWN which was issued 12 school days after the parent's request.

Conclusion

In this case, IDEA 34 CFR 300.503 requires that a PWN be issued within a "reasonable amount of time". Kansas defines "a reasonable time" to be within approximately 15 school days in most situations, unless there's a documented reason for a longer timeline. This guidance is found in Chapter 1 of the Kansas Special Education Process Handbook.

Based on the foregoing, it is found that the LEA issued the PWN responding to the parent's request for a change of placement in a timely manner. The LEA *is IN compliance*, and corrective actions are not required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §300.324(a)(1) and 300.320(b) was found based on the lack of revision to the student's transition plan's services and corresponding activities.
    a. The LEA shall immediately, within 21 days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at Federal regulations at 34 CFR §300.324(a)(1) and 300.320(b).
    b. Within 40 school days of the issuance of this report, the LEA shall convene the IEP team to update the transition services and corresponding activities to match the most current transition assessment results, specific to the student.
    c. Within 55 school days of the issuance of this report, the LEA shall submit documentation of IEP edits to SETS.
2. ISSUE TWO: A violation of 34 CFR 300.323(c)(2) was not found based on implementation of the student's IEP. No corrective action is required.
3. ISSUE THREE: A violation of 34 CFR.324(b)(ii)(A) was found based on the lack of clarity related to determination of progress of the behavior goal and behavior intervention plan.
    a. The LEA shall immediately, within 21 days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at Federal regulations at 34 CFR.324(b)(ii)(A).
    b. Within 40 school days of the issuance of this report, the LEA shall convene the IEP team to ensure that data collection procedures and behaviors being measured are consistent with the Behavior Intervention Plan (BIP) and behavior goal. Additionally the team shall discuss possible needed revisions to the IEP given that the parent is still being called to pick the student up when the student refuses to ride the bus.
    c. Within 55 school days of the issuance of this report, the LEA shall submit documentation of IEP edits to SETS.

4. ISSUE FOUR: A violation of 34 CFR 300.536(a)(1)(2)(i) was not found based on the student being picked up at the LEA's request, during the school day, less than 10 days in the 2025-2026 school year. No correction action is required.
5. ISSUE FIVE: A violation of 34 CFR §300.503(b) was not found based on issuance of a timely PWN. No corrective action is required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233
ON FEBRUARY 12, 2026

DATE OF REPORT: MARCH 10, 2026

This report is in response to a complaint filed with our office on behalf of a student, --------, by their parent, --------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent".

The Complaint is against USD #233 Olathe Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #233.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on February 12, 2026 and the 30-day timeline ended on March 14, 2026.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #233, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), included the Parent in IEP meetings and allowed them access to information about the Student's education and the ability to participate in it. K.A.R. 91-40-17(a)(b)(1)(c)(e); K.AR. 91-40-25; 34 CFR §§ 300.322(a)(b)(1)(f), 300.501(b)(c).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on March 4, 2026. The following LEA staff were interviewed on March 4, 2026: The Principal, the Resource Teacher and the Special Services Coordinator.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Emails dated 08/18/25-02/23/26
2. IEP, 09/24/25
3. Notice of Meeting, 08/25/25
4. Prior Written Notice and Request for Consent, 09/24/25
5. Transition Planning Services Notification, 09/24/25
6. IEP Amendment, 09/24/25
7. Prior Written Notice, 12/11/25
8. Prior Written Notice and Request for Consent, 08/19/25
9. Mental Health Services Request, 09/16/25
10. Parent Access Login Report, 08/13/25-02/17/26
11. Protective Order, 10/28/25
12. [The Student] Timeline, 12/12/25-02/18/26
13. Screenshot of Parent Account, no date
14. Screenshot of Parent Information, no date

Background Information

This investigation involved a high school-aged student enrolled at a high school in the LEA. The Student is currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA).

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. The Parent emailed the Staff Counsel for the LEA on August 12, 2025 and asked how the LEA could enroll the Student "directly against the wishes of the residential custody parent that has joint custody in decision making?" They indicated the decision was made unilaterally by the Other Parent. The Parent said, "I am the residential custody parent. I also have joint legal custody."
2. On August 15, 2025, the Executive Director of Safety Services emailed unidentified recipient(s) and provided the Parent's phone number and stated it should be entered into the School's student information system.
3. The Executive Director of Safety Services emailed the Parent on August 18, 2025 and shared the Principal advised August 19, 2025 was a good time for the Parent to come to the School and talk with the Student. They asked them to confirm the meeting time, which the Parent did.

4. The Parent emailed the Executive Director of Safety Services on August 19, 2025 and stated they were going to pick up the Student the next day, and would have the appropriate documentation demonstrating custody.
    a. On August 20, 2025, the Executive Director of Safety Services forwarded the email to the Principal, the School Counselor, the School Resource Officer, and the Assistant Superintendent and said, "I called [the Parent] this morning … . I'm honestly not sure whether [the Parent] will show up to try to unenroll [the Student]. I explained that it was [the Parent's] right to do so, but that we would not physically force [the Student] to leave with [them], and [the Parent] indicated [they] understood. I also shared that [the Student] told us [they] [did] not want [the Parent] to come to the school … ."
    b. The Principal replied all and explained the Parent had educational and custodial rights and could take the Student.
5. An undated PWN listed the Parent and the Other Parent as the legal education decision-makers for the Student. The PWN was delivered via email on August 19, 2025. The PWN indicated that on August 19, 2025, the IEP team reviewed information related to the Student's educational program to determine if any additions, changes, or modifications to the Student's services were needed to enable the Student to meet their IEP goals. Only the Other Parent signed on August 21, 2025.
6. The Parent emailed unidentified LEA staff on August 19, 2025 at 11:33 a.m. and said, "This is notice that I officially withdraw all consent that I have given for [the Student's] educational decisions. I specifically do not consent to any changes to be made to anything for [the Student] until further notice." The Parent also stated their parental rights had been withheld by the School.
7. The Parent emailed unidentified recipient(s) on August 19, 2025 at 6:26 p.m. and stated they "withdrew their consent for everything for a very specific reason". The Parent indicated if the Student required anything, for the School to let them know and they would provide written consent through the School. The Parent indicated they were revoking their consent to a previous parenting plan.
8. The Executive Director of Safety Services emailed the Parent on August 20, 2025 and thanked them for their phone call that morning and summarized the key points of their conversation:
    a. The LEA's records showed the Parent had joint custody, and the Parent had the right to un-enroll the Student if they chose.
    b. Custody-related matters should be addressed outside of school.
    c. The Student shared they did not want the Parent to come to the School.
    d. The LEA did not take a stance in custody matters.
9. The Parent emailed the Assistant Superintendent on August 22, 2025 and stated the Student was enrolled at the LEA against their consent. The Parent stated the LEA was refusing to provide them any information about the Student, and the LEA made

unilateral decisions about the Student. The Parent indicated the Student had been enrolled in general education classes even though they previously had an IEP.

10. The Resource Teacher emailed the Other Parent, the Parent, the Principal and the Assistant Principal on August 28, 2025 at 10:57 a.m. They introduced themselves as the Student's case manager and stated a virtual IEP meeting had been scheduled for September 23, 2025. They indicated the Notice of Meeting was attached to the email.
    a. The Parent replied on September 2, 2025 and asked for clarification of what would happen during the meeting. The Resource Teacher replied the next day and indicated the meeting was regarding moving the Student's IEP from their previous school to the School with updated goals and accommodations to meet their needs. They indicated a draft IEP would be sent and there was a section for parent input. The Parent replied that they wanted to review the IEP before the meeting.
    b. On September 3, 2025, the Resource Teacher emailed the Parent and stated they had spoken to the Student about their grades.
11. An undated Notice of Meeting contained the following relevant information:
    a. The Parent and the Other Parent were listed as "parent/legal education decision makers".
    b. The notice was mailed to both parents on August 28, 2025.
    c. The proposed meeting was to be held virtually on September 24, 2025.
    d. The purpose was to review and discuss the Student's move-in IEP.
12. The Parent emailed the Executive Director of Safety Services on August 28, 2025 at 9:38 p.m. and stated the School had decided they did not have parental rights "in opposition to the court order". The Parent indicated the court had stated the current order, which included the Parent as the Student's primary caregiver, had not changed. The Parent said, "… there is NO [emphasis added] reason I [cannot] see, speak to, pick up, or ask questions about my child." The Parent stated there would be orders from the judge to protect their rights regarding the Student's education. The Parent said, "There is NO ONE [emphasis added] at that school, [the Student] included, that can refuse to allow me to pick up my child … ."
13. The Parent emailed the Principal on September 2, 2025 and asked about the Student's grades. They also stated their rights had not been removed and they had a say in "everything" The Principal replied and stated they would have the Student's teachers contact the Parent about grades.
14. The Resource Teacher emailed the IEP team on September 4, 2025 and explained the Student's IEP meeting was rescheduled for September 24, 2025, and they would provide a draft a few days prior.
    a. The Parent replied on September 10, 2025 with questions about the Student's grades. The Resource Teacher replied the next day and described the reasons for some of the Student's failing grades. The Parent thanked the Resource

Teacher for looking into the situation. The Parent replied that day with additional input based on the Student's previous IEP.

b. The Resource Teacher emailed the Parent on September 12, 2025 and acknowledged the Parent's concerns and explained what the Student required to graduate. They asked the Parent for suggestions on how to help the Student and their input about an IEP goal.

c. The Parent emailed the IEP team on September 15, 2025 with concerns about the Student receiving their medication. The Principal replied that day and indicated the Nurse had been asked to attend the upcoming IEP meeting so they could address any issues with the medication.

d. The Resource Teacher emailed the Parent on September 16, 2025 and indicated they had a positive discussion with the Student about their classes. The Parent thanked them for the information.

e. The Parent emailed the IEP team on September 18, 2025 and asked if the Student's medication had been delivered to the School. The Resource Teacher replied it had been delivered the previous day.

f. On September 22, 2025, the Resource Teacher emailed the IEP team a draft of the Student's IEP to review before the meeting. The Parent stated in an email from September 23, 2025 they had received the draft IEP.

g. On September 26, 2025, the Resource Teacher emailed the IEP Team, including the Parent, the Student's current IEP.

15. The School Counselor created a mental health services request for the Student on September 16, 2025 for individual therapy. The only contact information was for the Other Parent.
16. The Principal emailed the Nurse on September 18, 2025 and asked them to make a note to inform the Parent if the Student was out of medication or refused to take their medication at school.
17. The Parent emailed the Principal on September 22, 2025 regarding the Student's court-ordered therapy through the School. The Parent asked to know more about the therapy.
18. The Student's IEP, dated September 24, 2025, contained the following relevant information:
    a. The Parent and the Other Parent were listed as "parent/guardian".
    b. On August 28, 2025, the Resource Teacher emailed both parents about the change of the IEP meeting date and time.
    c. The Parent and the Other Parent participated by phone/video conference.
    d. The IEP team considered the Parent's concerns about the Student developing organizational skills.
    e. The Parent and the Other Parent signed the IEP on September 24, 2025.

19. An IEP amendment, dated September 24, 2025, listed both the Parent and the Other Parent as the Student's guardians. It stated there was a correction to the IEP and no meeting was required.
20. A PWN indicated the document was emailed to the Parent and the Other Parent on September 24, 2025. Both the Parent and the Other Parent were listed as legal education decision-makers. The Parent and the Other Parent signed the acknowledgement and consent sections on September 24, 2025.
21. On September 24, 2025, the Parent and the Other Parent signed a Transition Planning Services Notification for the Student.
22. The Parent emailed an unidentified recipient on September 30, 2025. They believed the recipient was responsible for the Student's court-ordered therapy. The Parent wanted to connect with them about the therapy and said, "… it's all been happening without my knowledge or agreement".
23. The Parent emailed unidentified recipient(s) on October 30, 2025 and stated they could not bring the Student their warm clothes because the Other Parent had a temporary restraining order against them. The Parent emailed the Principal and the Resource Teacher on October 31, 2025 and said, "I do supposedly still have legal custody, decision[-]making, and access to records etc. I do have all my rights".
24. The Parent emailed the Resource Teacher and the Principal on November 3, 2025 and asked why the Student was not in class on the "21st and on the 31st and went [sic] was I not notified? I STILL HAVE PARENTAL RIGHTS [emphasis added]". The Principal replied that day and indicated the Student was at school all day "on the 31st".
25. The Parent emailed the Resource Teacher and the Principal on November 6, 2025 and indicated they planned to drop off clothes for the Student that day or the next. The Principal forwarded the email to the School Resource Officer and said, "I know [the Parent] is not allowed to see [the Student]. [The School Resource Officer] - will you let front office staff know to contact you if [the Parent] requests to do so?"
    a. The School Resource Officer replied, "I called [the Parent] and advised [them] that the current order prevents [them] from being at the school. [The Parent] did not agree with me and was not very happy, but [they] did make it sound like [they] would not be coming up here, at least until after the next hearing date."
26. The Parent emailed the Principal and the Resource Teacher on November 11, 2025 and explained the temporary orders were lifted, and the judge had stated the orders never included the Student. The Parent expressed that the School was keeping them away from the Student.
27. The Parent emailed the Principal and several other LEA staff members on November 19, 2025 asking where the Student was. The Assistant Principal replied within minutes and indicated the Student had two excused absences earlier that week, but was at the School that day. The Parent replied, "I will see [the Student] TODAY [emphasis added] or I am reporting them missing. I do not believe you."

28. The Resource Teacher emailed the Parent on December 11, 2025 and provided an update on the Student's grades, classwork, and behavior. The Resource Teacher offered for the Parent to reach out if they wanted to discuss anything. The Parent replied that day and indicated the LEA had not included them in the Student's education for the past four months.
29. A PWN, dated December 11, 2025, listed both the Parent and the Other Parent as the Student's guardians. It indicated the PWN was emailed on December 12, 2025. The Other Parent signed the PWN on December 12, 2025, and the Parent signed it on December 15, 2025.
30. According to an undated timeline, on December 12, 2025, the Resource Teacher emailed the Parent and offered to schedule an IEP team meeting to discuss the Student's progress.
31. An email exchange between the Nurse and the Parent contained the following relevant information:
    a. December 11, 2025 - the Nurse explained the Student never forgot to take their medication at school, and advised the Parent to reply to the email with any questions.
    b. December 17, 2025 - the Parent asked if the Student had enough medication for the remainder of the semester. The Nurse replied within 15 minutes and indicated the Student had enough medication.
    c. January 8, 2026 - the Parent asked the Nurse if the Student received their medication for the upcoming month. The Nurse replied five minutes later and stated they received it.
    d. February 11 and 17, 2026 - the Parent asked if the Student had enough medication.
    e. February 17, 2026 - the Principal replied and explained there was no school the previous Thursday and Friday, or that Monday, so this was the first day the Nurse could check on the status of the Student's medication. The Principal stated the Student had enough medication for 11-12 days. The Parent replied, "I probably would've known there was no school if I had not been removed from ALL [emphasis added] the automatic email lists."
32. On December 16, 2025, the School Psychologist emailed the Resource Teacher and the Special Services Coordinator and stated they sent the Student's IEP and a PWN via an electronic document signing service on September 24, 2025 and both parents signed it. They stated a final copy was sent to both parents on September 26, 2025.
33. The Parent emailed the Principal, the Resource Teacher, the School Counselor, and the Assistant Principal on January 2, 2026 and explained they possibly needed to adjust the Student's IEP meeting because there were still restrictions "about being around [the Other Parent]". The Parent said, "I would like the full IEP meeting with me scheduled please."

a. The Principal replied on January 5, 2026 and indicated the team was still planning to meet and would ask the Student if they wanted to attend. They explained the purpose of the meeting was to discuss any concerns the team had about the Student's upcoming second semester, graduation, and meeting their IEP goals.

b. The Parent replied and said, "Is [the Other Parent] a part of that meeting? If so, I can not be there without going to jail. … Again, intentionally making it complicated for me to [be] involved."

c. On January 6, 2026, the Principal replied, "We called this meeting based on your stated concerns from first semester. [The Other Parent] will not be in the meeting and we will send a pass for [the Student] to be included … . We will make note of your concerns on Thursday and schedule an IEP team meeting, if needed."

d. The Parent replied the next day and stated the School "incorrectly cut" them out of the Student's life and incorrectly enforced a protection order. The Principal responded and asked the Parent if they still wanted to hold the meeting scheduled for the following day. The Parent replied that they did.

e. The Resource Teacher emailed the Parent on January 8, 2026 at 8:29 a.m. and said, "We held our meeting this [a.m.] via [virtually] at 8am [sic]. We stayed on until 8:23 a[.]m. [The Student] was present for this meeting." The Resource Teacher described what was discussed, including the Student's classes and educational status. The Parent replied, "I sent [the Student] messages asking [them] if [they] wanted me to be there. [They] never answered. I took that to mean [they] did not want me there." A few hours later, the Parent wrote, "As I told [the Student], I don't have [their] consent or permission to be a part of [their] life. I have not been permitted by the school to be a part of [their] life." Notes from an undated timeline also stated the IEP team held the meeting on January 8, 2026 and the Parent did not attend, nor did the Parent communicate they would not be attending.

34. The Parent emailed the Resource Teacher, the Principal, the School Counselor, the Assistant Principal, the Special Services Coordinator, and the School Psychologist on January 8, 2026 at 11:14 a.m. and asked if the Student received their coat and warm clothes. The email also included an attachment of a text message thread between the Student and the Parent. The Principal forwarded the email to the Executive Director of Safety Services, the Staff Counsel for the LEA, the Assistant Superintendent, and the Assistant Director of Special Services a few minutes later. They stated they were not going to have the Resource Teacher respond.

35. The Parent emailed the Resource Teacher, the Principal, the School Counselor, the Assistant Principal, the Special Services Coordinator, and the School Psychologist on January 8, 2026 at 11:21 a.m. and said, "… you acted in [the Student's] best interests when you improperly enforced that protection order … ." The Parent emailed the same group less than two hours later and asked how to request a copy of the Student's

records. The Principal replied the next day with contact information for records requests. The Parent emailed the Principal on January 9, 2026 and asked how to get information about the Student's mental health referral to an outside agency. On January 14, 2026, the Principal clarified the Student had one session with the LEA's mental health provider, and the School could provide the referral and session notes upon request. They included the provider's phone number.

36. The Parent sent an email to an unidentified recipient on January 11, 2026 and requested a copy of the Student's school records. The Parent emailed the Student Services Specialist on January 13, 2026 and asked if their email had been received and what the process was to pick up the records. The Student Services Specialist replied that day the Parent's request had been received and the records would be collected and available for pick-up at the Education Center. They advised the Parent that FERPA allowed 45 days for the records to be provided. The Student Services Specialist told the Parent they would be advised as to when the request was processed. The Student Services Specialist later clarified the records were emailed to the Parent.
    There was another reply to the Parent on January 13, 2026 from a representative with Special Services for student records. They advised the Parent they required a signed release of information to send special education records. They informed the Parent they would receive an email with a form to sign, and once it was processed, the documents would be sent to them within two to five school days. The representative emailed the Parent five special education records for the Student on January 14, 2026.
37. The Parent emailed the Principal, the School Psychologist, the Special Services Coordinator, the Resource Teacher, the School Counselor, and the Assistant Principal on January 27, 2026 and explained all restrictions for contact between them and the Other Parent were lifted and they wanted to reschedule the meeting they could not attend. The Parent indicated the School "… went ahead with the meeting without me, after I explained why I could not attend … ."
38. The Parent emailed the Principal, the Resource Teacher, and several others on January 28, 2026 at 11:34 a.m. and said, "Silence is being interpreted as a refusal on [the School's] part to provide information regarding [the Student]". One hour later, the Principal responded, "… let me know when a good time would be to call you and at what number so we can discuss setting up another meeting time." The Parent replied two days later, "I do not trust you".
39. The Principal emailed the Parent on February 5, 2026 and explained they were planning to meet on February 10, 2026 to discuss the Student's educational progress, if the Parent still wanted to have the meeting.
40. In an email dated February 9, 2026 to the KSDE Dispute Resolution Coordinator, the Parent stated they had a "make up" IEP meeting at the School the next morning.
41. The IEP team met on February 10, 2026 to discuss the Student's needs, progress, and accommodations. Meeting participants included the School Psychologist, the School Counselor, the Resource Teacher, the Principal, the Special Services Coordinator, the Student, and the Parent. The Resource Teacher indicated the Student was "doing great..

They also explained the Student expressed interest in working and possibly applying to the military. The Parent was asked if they had any concerns. The Parent stated they had "not been permitted to be involved enough to even know what to address. … Since I've not been allowed to be involved in any of the planning process, despite having parental rights, despite FERPA, despite all of it, there was a unilateral decision made by [the LEA] to side with [the Other Parent]." The Parent expressed they should have been allowed to be involved in the Student's education.

42. The Parent emailed unidentified recipient(s) on February 10, 2026 and stated they were removed from all of the LEA's email lists when the LEA enforced the protection order. The Parent emailed the Principal on February 16, 2026 and asked if they had been added back to the School's email list and who had them removed. The Parent asserted they had the right "this entire time" to be involved. The Principal emailed the Parent on February 23, 2026 and explained the IT department had corrected the error and the Parent should start receiving the School's weekly newsletters.
43. The Principal emailed the Parent on February 18, 2026 and stated the Parent could come to the School and talk to the Nurse about the Student's medication. The Principal said, "You are marked as having educational rights and mailing rights in our system. Thus, you should be receiving our weekly communication that shared conference times and dates. I have our IT looking into why you are not and we will get this rectified."
44. The Student Services Specialist emailed the Parent the Student's records on February 20, 2026 and stated special education documentation was sent on January 14, 2026.
45. On February 24, 2026, the Psychologist emailed the Parent the record of the referral of mental health services made for the Student.
46. A Parent Access Report showed the Parent successfully accessed information multiple times on: August 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, and 31, 2025; September 2, 3, 4, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 21, 22, 23, 24, 26, and 29, 2025; October 1, 5, 7, 8, 9, 12, 13, 14, 27, and 30, 2025; November 3, 4, 9, 11, 16, 18, 19, and 24, 2025; December 1, 3, and 12, 2025; January 5, 6, and 21, 2026; and February 1 and 17, 2026.
47. Relevant information from the Parent's online portal for the School's Student Information System included:
    a. A "push note" option was checked under "Notify Options" for attendance, discipline, health, class grade, and assignment score.
    b. The activation key was used on August 13, 2025 and was valid until December 20, 2025.
    c. The Parent was marked as being allowed contact, having educational rights, and mailings were allowed. It was not marked the Parent had custody. The Other Parent was marked as being allowed contact, having educational rights and custody, and mailings were allowed.
48. Relevant information from a Temporary Order of Protection from Stalking included:

a. The Other Parent was the plaintiff and the "protected person"."The Parent was the defendant.
b. The temporary order would remain in effect until service of the final order or terminated by the court.
c. The Other Parent filed a petition requesting a Temporary Order of Protection from Stalking, Sexual Assault, and Human Trafficking on October 27, 2025. A hearing was scheduled for November 10, 2025.
d. The court ordered the Parent would "not follow, harass, abuse, molest, assault, threaten, stalk, or interfere with the privacy rights of the Protected Person, and Protected Person's family or household. … [The Parent] shall not enter or come on or around the premises, the residence, the property, school, or place of employment of the Protected Person or other family or household member."
e. The order was electronically signed by a judge on October 28, 2025.

Parent Interview

49. In an interview with the Complaint Investigator, the Parent stated they have legal custody, parental, and educational rights for the Student. They indicated they provided documentation to the LEA. They shared the Student currently lived with the Other Parent and the Other Parent had "residential custody". The Parent asserted prior to the Student living solely with the Other Parent, they were "the only one involved. I did everything."
50. The Parent stated the LEA informed them about IEP meetings through email. They reported they had access to the Student's educational information thru [ParentVue] and had received copies of the Student's educational records. The Parent believed the educational records they received were incomplete because the LEA's copy of the protection order between themself and the Other Parent was not included.
51. The Parent asserted they were "intentionally left out, meaning there were conversations regardless of how many times I restated and provided documentation showing that I still had legal custody … and … equal decision-making rights." The Parent believed the LEA was "active in excluding me to the point where there was no way for me to be involved in anything." They specifically referenced court-ordered counseling for the Student, and claimed it proceeded "without me being involved in that decision". The Parent stated the LEA did not reply to emails regarding the therapy on September 22, and September 30, 2025. They claimed their communication with the LEA was "restricted and filtered" by and through the Executive Director of Safety Services.
52. The Parent indicated the first meeting they had with the LEA in August 2025 was not an official IEP meeting. They stated they attended through video call and could not recall the date of the meeting. They reported the Other Parent did not provide IEP documents to the LEA, therefore the Parent provided those after the video meeting in August 2025. They indicated the exchange was "just before school started".

53. Regarding an email sent on August 19, 2025, the Parent clarified the statement "withdrew consent for everything" referred to allowing the Other Parent to have full physical custody of the Student, not revoking the Student's special education services.
54. The Parent stated in a phone call on August 20, 2025, the Executive Director of Safety Services told the Parent the Student "would be better off if I just stopped trying to see [them]."
55. The Parent reported they attended an official IEP meeting for the Student in "August or September". They explained "they had to do the new [IEP] because it was a new school."
56. The Parent claimed they were removed from LEA email lists by the Executive Director of Safety Services and "suddenly just stopped getting emails" around October 2025. They reported they asked several times to be re-added, stating "I don't know what all I've missed because I stopped getting everything." The Parent was specifically upset the LEA did not inform them of a three-day excused absence for the Student. They asserted they were re-added to the LEA email lists "since this investigation started" in February 2026. The Parent shared they stopped regularly checking email between October 2025 and December 2025.
57. The Parent reported "I finally got an email at the end or beginning of December about [the Student's] bad behavior." They requested to meet with the LEA, and the LEA scheduled the meeting for January 8, 2026. The Parent believed the Student's current academic and behavior struggles were "because I was not allowed to be involved or included in anything" between October 2025 and December 2025.
58. The Parent believed the January 8, 2026 virtual meeting was an official IEP meeting. They reported they did not attend the meeting because they requested the Other Parent not attend, and, despite assurances from the LEA, did not trust either the LEA or the Other Parent to fulfill the request. The meeting was rescheduled to February 10, 2026. The Parent expressed "it took them a long time to end up responding to me[.]" They described "a long time" as "days, maybe a week."
59. The Parent reported they attended the in-person February 10, 2026 meeting. They believed the February 10, 2026 meeting was "staged. Everybody had already done all the things and it was just kind of put on for me."
60. The Parent stated they were "not included in any of the parent-teacher conference scheduling that happened at semester." They asserted "I've been excluded from the act of participation as I should have been in [their] education."

Principal Interview

61. In an interview with the Complaint Investigator, the Principal indicated the 2025-26 school year was the Student's first year in the LEA. They stated the Parent claimed the Student was enrolled without their permission. The Principal confirmed the Other Parent enrolled the Student in the LEA. They explained the Parent's last name was spelled wrong on the enrollment. The Principal stated the LEA fixed the file as soon as the Parent alerted the LEA to the error.

62. The Principal confirmed the Parent maintained parental and educational rights. They reported "we continued to keep them up to date with any information." The Principal reported the Parent had access to the Student's grades, assignments, graduation credits, immunization records, progress reports and IEP through [ParentVue]. They explained each parent had a specific "parent access report" the LEA could review. The Principal stated the LEA enforced a protection order by not allowing the Parent physical contact with the Student at school while the order was in place. They asserted the protection order did not change the Parent's access to the Student's educational records.
63. The Principal reported the LEA held a meeting with the Parent on August 19, 2025 to discuss the Parent's concerns with the Student's enrollment in the LEA. They stated themself, the Parent, the School Counselor, and the Executive Director of Safety Services participated. The Principal stated it was not an IEP meeting, because the LEA was not aware the Student had an IEP at the time. Subsequently, they scheduled a transition meeting.
64. The Principal shared they had received "187 emails before December" from the Parent. They stated "It's been everything from academic concerns to social emotional concerns to does [the Student] have [their] basic needs met." The Principal shared around January 2026, emails from the Parent became "very harassing. … the incessant nature of the emails being sent at sometimes two in the morning, four in the morning to my whole team … [.]" They reported "I wanted communication to come primarily through myself" and began filtering the Parent's emails.
65. The Principal reported the Resource Teacher emailed the Parent when the LEA became concerned about the Student failing two classes. The Parent responded to that email with their own concerns. The Principal scheduled a virtual meeting because the Parent expressed they did not want to physically be at the School. The Parent also requested the Other Parent not participate. The Principal and the Other Parent honored the request. The Student was also invited to attend. The meeting was held as scheduled. The team, including the Student, waited 23 minutes, and the Parent did not log on. The Principal reported the team took the time to ask the Student about their experience, and the Student reported they were doing well and liked school. The Resource Teacher sent an email summation of the meeting to the Parent.
66. The Principal reported the parent meeting was rescheduled for February 10, 2026. They stated the Parent attended in person, and the purpose of the meeting was "to share a progress update and … give [the Parent] a chance to share any concerns … about [the Student's] academic progress." During the meeting, the team discussed the Student's academic performance and how to be on track for graduation. The Principal indicated the School Counselor discussed the Student's plans after high school. They reported the Parent was asked if they had any other topics or concerns they wanted to discuss. According to the Principal, the Parent replied they did not, and then walked out of the meeting.

Special Services Coordinator Interview

67. In an interview with the Complaint Investigator, the Special Services Coordinator stated their first interaction with the Parent was the September 2025 IEP meeting. They confirmed the Parent's parental and educational rights were intact and indicated the LEA "had been very communicative" with the Parent. The Special Services Coordinator stated their role was to support the team in responding to the Parent's requests, particularly when the Parent's communication style changed. They indicated the LEA continually provided educational information to the Parent.
68. The Special Services Coordinator reported the meeting on February 10, 2026 was "not quite 15 minutes long[.]" They stated the team "made sure [the Parent] had multiple opportunities to state [their] concerns, and [the Parent] took the final minute … to bare grievances about [their] participation[.]" The Special Services Coordinator indicated the Parent "made the meeting about [the Parent] as opposed to [the Student]." They expressed the communication with the Parent was "difficult".
69. Regarding parent participation, the Special Services Coordinator reported "participation has been in line with [the Parent's] rights as an educational decision maker. [They've] been invited and participated in official IEP meetings. Multiple attempts have been made to better understand [the] concerns that [they] might have." They confirmed the Parent "had unfettered access to all of the documentation of the day-to-day as it goes as far as ParentView, grades, progress … . And [the Parent has] accessed that 311 times."

Resource Teacher Interview

70. In an interview with the Complaint Investigator, the Resource Teacher indicated they communicated with the Parent through email. They stated the Parent "emailed quite a bit. Continues to email quite a bit." The Resource Teacher reported they included the Parent on all emails to the Other Parent. They stated they told the Parent they could communicate about "anything school related".
71. The Resource Teacher confirmed the Parent had legal custody of the Student, parental and educational rights, and access to all educational records. They reported the Parent attended and participated in the IEP meeting on September 24, 2025.
72. The Resource Teacher stated the Parent expressed academic concerns for the Student, and requested a meeting. The meeting was scheduled for January 8, 2026. The Resource Teacher reported the meeting was virtual, and the Parent did not attend. They indicated the meeting was not an IEP meeting, rather a parent information meeting.
73. The Resource Teacher reported the team rescheduled the parent information meeting for February 10, 2026. The Parent attended in person, and the meeting was audio recorded.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #233, in accordance with state and federal regulations implementing the IDEA, included the Parent in IEP meetings and allowed them access to information about the Student's education and the ability to participate in it. K.A.R. 91-40-17(a)(b)(1)(c)(e), K.AR. 91-40-25; 34 CFR §§ 300.322(a)(b)(1)(f), 300.501(b)(c).

According to K.A.R. 91-40-17(a)(b)(1)(c)(e) and 34 CFR §§ 300.322(a)(b)(1)(f),300.501(b)(c), to ensure parental involvement, each agency must take steps to have one or both parents of an exceptional child present at every IEP team meeting or at least provide them with the opportunity to participate. This process involves scheduling each meeting at a mutually agreed-upon time and place and providing a formal notice that specifies the purpose, time, and location of the meeting, along with the titles or positions of all agency representatives and any transition service representatives attending. If a parent is unable to be physically present, the agency must attempt other measures to ensure their participation, such as through individual or conference telephone calls. Ultimately, an agency may only conduct an IEP team meeting without a parent if they have documented repeated, unsuccessful attempts to contact them or to convince them to participate.

According to K.A.R. 91-40-25, each agency must provide parents of an exceptional child the opportunity to inspect and review all education records and participate in any meetings regarding their child's identification, evaluation, or educational placement, as well as the provision of a free appropriate public education (FAPE). As used in this regulation, a meeting shall not include informal or unscheduled conversations involving agency personnel and conversations on issues including teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP; and preparatory activities that agency personnel engage in to develop a proposal or response to a parent's proposal that will be discussed at a later meeting.

According to the Parent, who held joint legal custody of the Student, the LEA had improperly enforced a protective order that did not include the Student, thereby preventing the Parent from attending IEP meetings and participating in educational decision-making. Furthermore, the Parent claimed their repeated requests for information regarding the Student's education had been ignored. According to the Parent, these actions had negatively impacted the Student's education, future, and parental relationship.

The LEA maintained the Parent had legal custody of the Student, parental and educational rights, and access to all educational records. The LEA maintained the Protection Order included the Student, a conclusion reached following a review by staff counsel and the Olathe Police Department's School Resource Officer. The order prohibits the Parent from entering the premises or workplace of the Protected Person or any household members, including the

Student. It did not prevent access to student records. Despite these restrictions, the LEA had ensured the Parent's continued involvement in the Student's education. Specifically, the Parent participated in the September 24, 2025, IEP meeting and continues to receive all required notices. Most recently, on December 15, 2025, the Parent signed her consent for an IEP amendment following a Prior Written Notice regarding a clerical error.

According to Kansas and the IDEA regulations, to ensure parental involvement, each agency must take steps to have one or both parents of an exceptional child present at every IEP team meeting or at least provide them with the opportunity to participate. When the Parent had concerns about the Student failing two classes the Principal arranged a virtual meeting without the Other Parent, with the Other Parent's consent, and met only with the Parent. The Parent meeting, after being rescheduled, was held on February 10, 2026. The Parent attended the session in person, the purpose of the meeting was "to share a progress update and … give [the Parent] a chance to share any concerns … about [the Student's] academic progress." The Parent had no concerns and left the meeting. Multiple attempts had been made to better understand the Parent's concerns by the LEA.

Following the enforcement of a protection order, the Parent emailed unidentified recipients on February 10, 2026, and the Principal on February 16, 2026, to report their removal from all district email lists and to assert their ongoing right to be involved. During this correspondence, the Parent sought clarification on who had authorized their removal and confirmed whether their access had been restored. On February 23, 2026, the Principal explained that the IT department had corrected the error and verified that the Parent would resume receiving weekly school newsletters.

The School's Student Information System, ParentView, indicated that the Parent had active "push note" notifications for attendance, discipline, and grades following the activation of a key valid from August to December 2025. Records further established that while both parents held educational and contact rights, only the Other Parent was officially marked as having legal custody. A Parent Access Report showed the Parent successfully accessed information 311 times from August 13, 2025, through February 17, 2026.

Conclusion:

Based on the foregoing, according to the IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to include the Parent in IEP meetings and allowed them access to information about the Student's education and the ability to participate in it.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #266
ON FEBRUARY 9, 2026

DATE OF REPORT: MARCH 10, 2026

This report is in response to a complaint filed with our office on behalf of a student, --------, by their parent, --------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD # 266, Maize Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD # 266.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on February 9, 2026, and the 30-day timeline ended on March 11, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #266, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's Individualized Education Program (IEP) with fidelity, specifically regarding behavioral supports and adult-led de-escalation strategies, rather than relying on compliance-based management and "power struggles". K.A.R. 91-40-16(b)(3)(4-5), K.A.R. 91-40-19(a); 34 C.F.R. § 300.323(a)(d).

ISSUE TWO: Whether USD #266, in accordance with state and federal regulations implementing the IDEA, appropriately reviewed and revised the Student's Individual Education Program (IEP) to address identified deficiencies and parental concerns following the December 18, 2025, IEP meeting. K.A.R. 91-40-16(a), K.A.R. 91-40-18(b), K.S.A. 72-3429(f)(2); 34 C.F.R. § 300.324(b).

ISSUE THREE: Whether USD #266, in accordance with state and federal regulations implementing the IDEA, provided the Student a free appropriate public education (FAPE), specifically regarding the impact of disciplinary removals, including the February 6, 2026, in-school suspension (ISS), and the loss of instructional access resulting from IEP non-implementation and associated dysregulation and elopement. K.A.R. 91-40-2(a)(1)(d), K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101(a)(c).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on February 27, 2026. The following LEA staff were interviewed on March 2, 2026: the Assistant Principal, the Case Manager, two general education teachers, and the Principal.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. IEP, 12/18/25
2. Notice of Meeting, 11/07/25
3. IEP, 12/19/24
4. Prior Written Notice (PWN), 12/18/25
5. Email, re: Response to PWN Dated January 30, 2026: 02/02/26-02/04/26
6. IEP Notes, 12/18/25
7. Report Card, 2025-26 School Year
8. Progress Report, 12/19/24
9. Report Card, 2024-25 School Year
10. Progress Report, 03/14/25
11. Evaluation/Eligibility Statement, 01/08/24
12. Notice of Meeting, 02/09/26
13. Email, re: Student, 02/09/26
14. Student Discipline Report, 02/06/26
15. Forced-Choice Reinforcement Menu, no date
16. Student Discipline Report, 09/24/25-02/06/26
17. Notification of Disciplinary Incident(s), 02/06/26
18. Documentation of Events, 12/10/25-02/14/26
19. Progress Report, 02/12/26
20. Email, re: Documentation and IEP Implementation Concern - Today's Incident 2/6, 02/06/26
21. Psycho-Educational Evaluation, 01/08/24
22. Email, re: Request for Revision of [the Student's] IEP, 12/19/25-01/06/26

23. Email, re: [the Student], 01/08/26
24. Email, re: [the Student's] IEP, 01/08/26
25. Email, re: Follow up, 01/09/26
26. Email, re: [the Student], 01/09/26
27. Email, re: [the Student]: Tardies in [Family and Consumer Sciences] (FACS), 01/12/26
28. Email, re: Revised Consent Form, 01/13/26
29. Email, re: IEP, 01/22/26-01/23/26
30. Email, re: Follow-up: Pending Response to January 23rd IEP Concerns, 01/28/26-01/30/26
31. Email, re: [the Student's] IEP, 12/19/25
32. Email, re: Review of PWN and IEP Draft; [the Student], 01/23/26-01/27/26
33. Email, re: KSDE 26FC266-001 - Issue Two Response, 02/24/26-02/25/26
34. Screenshot of Part of the IEP, 12/18/25
35. Screenshot of Notification of Disciplinary Incident(s), 02/06/26
36. Screenshot of Email, re: Am I Going to Get Facs ... , 01/12/26
37. IEP, 12/18/25
38. KSDE Letter to Parents, Fall 2025
39. LEA Security Footage, February 6, 2026

Background Information

This investigation involved a middle-school student enrolled at a Middle School in USD #266. The Student is currently receiving special education or related services as a child with a disability under the category of Emotional Disability (ED) per the IDEA. The Student received special education services in the general education classroom until December 2025, when the team added a support class in the special education setting. The Student's strengths include good people skills, communication, cooking, and organization.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. On January 8, 2024, an evaluation report for the Student indicated the Student demonstrated "significant problems" with aggression, conduct problems, and hyperactivity according to the Parent's responses on the Behavior Assessment System for Children, Third Edition (BASC-3) rating scales. The classroom teacher's responses indicated the Student struggled with aggression, study skills, adaptability, depression, and conduct problems. According to the report, aggression was considered one of the Student's "most significant behavioral and emotional problems." It added, the Student had a tendency to become "irritable quickly" and had difficulty maintaining "self-control

when faced with adversity." Additionally, the report noted the Student tended to react negatively to changes in everyday activities or routines and had difficulty overcoming stress and adversity. The Student had documented difficulties maintaining self-control and regulating impulsive behaviors.

2. On December 19, 2024, an IEP for the Student was developed, which included the following information:
    a. The Student did not have social-emotional needs that required special education or related services.
        i. The IEP indicated the Student could become frustrated and upset at peers and adults in unstructured settings. It was recommended adults follow the Student's Instructional Control Scale (ICS), which was included in the IEP.
            1. During the instructional control stage, the Student's behavior looked like working on school work and exhibiting expected behaviors.
                a. The supportive response included allowing space and providing positive praise.
                b. Things to avoid included interfering with academic progress and offering unwanted or unnecessary adult support.
            2. During the anxiety stage, the Student's behavior looked like questioning authority, fidgeting with their hair, and avoidance behaviors.
                a. The supportive response included offering a movement break, using a calm tone, first-then reminders, and removing the Student from peers to talk through the situation.
                b. Things to avoid included scolding the Student or providing negative feedback.
            3. During the defensive stage, the Student's behavior looked like avoidance, swearing, and/or arguing with authority or peers.
                a. The supportive response included allowing the Student to express their emotions, use a non-verbal gesture to initiate a break, and use first-then reminders.
                b. Things to avoid include interrupting the Student while they are expressing their feelings, and scolding the Student for swearing, cussing, or arguing.
            4. During the risk-behavior stage, the Student's behaviors looked like fighting with peers and eloping from the classroom.

a. The supportive measures included allowing the Student to explain their perception of what happened, to take a break, and to de-escalate in a private area.
b. Things to avoid include getting into a power struggle or insisting on information, and using a harsh tone or scolding the Student.

5. During the tension-reduction stage, the Student's behaviors looked like rational communication.
    a. Supportive measures included positive praise and acknowledging expected behaviors.
    b. Things to avoid included holding a grudge or being upset about poor decisions the Student made.

b. The Student had reading needs that required special education services, which included reminders to turn in homework and an extra adult to support reading tasks. The Student's impact was described as deficits in vocabulary and reading comprehension. The Student's reading needs would be met through accommodations.
c. The Student had daily living/functional skills needs that required special education services and included needing reminders to gather necessary tasks when absent from school, or when they don't complete tasks in class. The Student's needs in these areas would be met through accommodations and a goal.
d. The Parent stated they were concerned the Student did not have a behavior plan. They added the Student frequently texted the Parent to ask to be picked up to avoid getting into fights. The team agreed to using the ICS in place of a behavior plan.
e. The Student's goal stated:
    i. "By the next annual IEP, when provided weekly check-ins and self-monitoring tools, [the Student] will have no more than 1 missing assignment across all subjects on 4 out of 5 check-ins."
f. The Student's special education and related services section indicated they would receive special education services for English Language Arts (ELA) in the general education classroom in a general education building daily for the same duration as general education peers receive instruction." It also indicated the Student would have special education services for weekly check-ins in the general education classroom, one time per week, for the amount of time needed to check grades and for missing assignments.
g. Accommodations included extended time, the ability to complete independent work and assignments in a less distracting environment, texts read aloud, a copy of notes, access to movement breaks, speech to text application on their computer, and homework check-ins.

   h. Supports for school personnel stated adults working with the Student would be familiar with the ICS found in the social-emotional section of the IEP.
   i. The Student did not require Extended School Year (ESY) services.
3. On March 14, 2025, the Student's Progress Report indicated the Student struggled with absences that quarter. The Student had 6 to 15 missing assignments at the time of check-ins. They received a score of "slight regression."
4. On May 21, 2025, the Student's Progress Report indicated they struggled to recover academically due to frequent absences. The Student had 5 to 12 missing assignments at the time of the check-ins. They received a score of "slight improvement."
5. On October 15, 2025, the Student's progress report indicated they maintained performance toward their goal of having no more than one missing assignment across all subjects. The comments noted the Student's attendance significantly impacted their assignment completion and grades, especially in morning classes, as the Student frequently arrived late.
6. On November 7, 2025, a Notice of Meeting was emailed to the Parent, who picked it up at the office. The notice stated a meeting was scheduled on December 18, 2025, for the Student to discuss possible changes to and to conduct an annual review of the Student's IEP.
7. On December 10, 2025, the Case Manager shared the ICS with teachers who worked with the Student and asked for updates and feedback.
8. On December 17, 2025, the Student's progress report indicated the Student had "moderate regression" toward their IEP goal of having no more than one missing assignment across all subjects. The comments noted the Student's attendance continued to significantly impact their assignment completion and grades, especially in morning classes. The Student had 8 to 19 assignments missing when check-ins were conducted.
9. On December 18, 2025, an IEP for the Student was developed, which included the following information:
   a. Transition-related strengths such as good people skills, communication, cooking, and organization.
   b. The Student had not yet earned any credits toward the required 28 to graduate.
   c. The Student required special education services in a general education classroom for English Language Arts (ELA), science, and social studies.
   d. The Student did not require any related services.
   e. The Student had behaviors that impeded their education or that of others.
   f. The Student had needs in the area of social-emotional, which included:
      i. Self-regulation, engagement, accountability, and understanding how their anxiety and emotions impacted their ability to follow school rules.
      ii. Additional support in less structured settings.
      iii. Instruction in self-advocacy and responsibility for missed work.

iv. Strategies to increase motivation and engagement.

g. The Student's ICS did not change from the previous IEP.

h. The Student's social-emotional needs would be met through accommodations.

i. The Student had needs in the area of written language that required special education, and the needs would be met through accommodations. Supplementary aids and services, and a goal.

j. The Student had needs in daily living/functional skills that required special education, and the needs would be met through accommodations and a goal.

k. The Parent indicated they agreed the Student needed a study skills support to help make up missing assignments. They also expressed concern that the IEP may not accurately reflect the Student's behavioral and emotional regulation challenges.

l. The Student's goals included:

   i. "By the next annual IEP, when provided weekly check-ins and self-monitoring tools, [the Student] will have no more than 5 missing assignment[s] across all subjects on 4 out of 5 check-ins."

   ii. "By the next annual IEP, when given a writing prompt and access to a keyboard, [the Student] will write at least 5 complete sentences using correct capitalization, punctuation, and spelling with 75% accuracy."

m. The Student's special education and related services section indicated they would receive special education services for ELA, science, and social studies in the general education classroom in a general education building daily, for the same duration as general education peers receive their instruction.

n. Accommodations included extended time, access to a separate quiet environment away from distractions, access to read-alouds, a copy of notes, and movement breaks.

o. Support for school personnel indicated adults working with the Student would become familiar with the Student's ICS, which was located in the IEP.

p. The data was not indicative of the Student needing ESY services.

10. On December 18, 2025, IEP Notes stated the Student had frequent absences and tardies, which affected their academic performance. The Parent indicated the Student had concerns with using the bathroom at school for bowel movements and called the Parent to pick them up when they needed to go. The team discussed the Student using the restroom in the nurse's office for privacy.
    The Parent agreed the Student needed study skills to make up missed work. The team indicated missing work due to absences was affecting the Student's academic performance. The Case Manager indicated they had already spoken to the Student about adding study skills, and the Student had agreed. The team agreed to update the ICS with "helpful supports" the team had discussed.
11. A PWN dated December 18, 2025, indicated the following:

a. The IEP team met that day to review data, the Student's IEP, and placement. It stated the Student would receive special education in the general education classroom for ELA, science, and social studies, and would have study skills in a special education classroom.
b. The team updated the ICS.
c. A section dated January 12, 2026, stated the Parent consented to the addition of study skills services in a special education classroom for the same amount of time as the Student's general education peers. Consent was not given for the Student to receive special education services in a general education classroom for science and social studies for the same amount of time as their general education peers. The Parent declined to add inclusion services for the Student in science and social studies.
d. A section dated January 21, 2026, stated the Student would receive special education transportation services to and from school to help support social-emotional challenges. It also stated the Student would receive special education services in a general education classroom for science and social studies for the same amount of time as their general education peers. Lastly, it stated the Student would receive study skills in "a special education classroom in a general education classroom."
e. A section dated January 30, 2026, indicated consent was only being given for the Student to receive special education services for science and social studies in a general education classroom in a general education building for the same amount of time as their general education peers. The Legal Education Decision Maker (LEDM) rejected specialized transportation and special education services for study skills.
f. The PWN indicated the notice was first emailed to the Parent on December 19, 2025. The notice was emailed to the Parent on January 8, 2026, and on January 23, 202[6].

12. On December 19, the Case Manager emailed the Parent a copy of the IEP and the ICS. They noted the Student would have study skills, and the related services section was updated to reflect that change. They confirmed they needed the Parent's signature on the consent form prior to making the changes.
13. On December 19, 2025, the Parent emailed the Case Manager to explain that, after reviewing the Student's current IEP, they requested it be revised to "more accurately" reflect the documented impact of the Student's behavioral regulation challenges on the Student's access to learning. The Parent noted they did not agree with the IEP statement indicating the Student's behavior did not impede their learning, citing the IEP, which listed missed instructional time, disciplinary removals, difficulty with regulation and transitions, and impact on academic performance. The Parent stated the IEP described how the Student performed well when present and also documented inconsistent engagement, difficulty requesting help in certain settings, attention challenges in less-structured environments, frequent redirection, missed instructional

time, and incomplete work.

The Parent requested the IEP be revised to reflect how behavioral regulation challenges intermittently impede the Student's access to learning. They also reported concerns with the Student's ICP in relation to using a seat change, which was a known trigger that led to dysregulation, elopement, or shutdown. The Parent indicated this method of discipline created predictable escalation and directly undermined the purpose of the ICP, which was to prevent escalation.

The Parent then addressed the lack of feedback regarding the ICP and expressed concern that the plan was not being "consistently implemented during times when [the Student] was dysregulated." The Parent asked the Case Manager to revise the IEP to "accurately reflect" the impact of the Student's behavioral and regulation challenges on their access to learning, avoid attributing academic impact solely on attendance and missing work, and clarify the importance of consistent implementation of the ICP to include avoidance of known triggers as consequences.

14. On January 8, 2026, the Parent emailed the Case Manager and the Middle School Principal to follow up on their request to revise the IEP. They indicated they had not received a revised draft.

    The School Psychologist replied to the Parent that day and indicated they updated portions of the IEP to include changes that did not require parent consent, including:

    a. Updating the social-emotional section to reflect additional parent concerns that were expressed after the meeting.
    b. Updating the support for school personnel to reflect quarterly training for staff instead of annually, and when new staff are hired.
    c. Updating parental concerns to reflect the Parent's additional concerns.

    The School Psychologist added they needed the Parent's consent to add study skills to the Student's schedule and stated they would resend the PWN to the Parent for their signature.

    The Parent replied, stating the revisions did not reflect the "substantive changes" they requested. They asked to have their input removed verbatim. They requested the "school-authored sections" of the IEP, including present levels, to be revised to reflect the impact of the Student's disability. They added the draft IEP contained internal inconsistencies between "identified needs and the supports/services checked or described."

    The Middle School Principal responded to the Parent on January 9, 2026, stating school-sourced input on the IEP could not be adjusted because it was gathered from practitioners based on the data, and the School would remove the Parent input from the document as requested. The Principal stated, "As we have mentioned, we would like to arrange a meeting to make these adjustments and additions on the [sic] behalf of [the Student]. This meeting can be completed with your attendance virtually or by phone if that is beneficial."

    The Parent responded they requested communication regarding the Student's IEP take place in writing via email. They confirmed they were not refusing to participate in the

IEP process and were requesting written communication to ensure clarity, accuracy, and appropriate documentation. They stated they were awaiting a revised IEP draft that addressed their concerns and requested changes. The Parent asked that, if the team disagreed with any requested revisions, they provide a PWN indicating so, along with the reasons and supporting data.

15. On January 12, 2026, the Parent emailed the Middle School Principal regarding "ongoing attendance issues" in the Student's FACS class. The Parent stated they had given permission to move the Student from that class to a study skills class, but it hadn't been implemented yet due to an administrative delay. The Parent shared the Student had received four tardies during that class and indicated the Student had expected to be attending a different class, which was causing "increased frustration".

    The Middle School Principal replied to the Parent to state they were unable to begin special education services for the Student in the area of study skills until they had consent via the PWN.

16. On January 13, 2026, the School Psychologist emailed the Parent a revised consent form to allow the Student to attend the study skills class. The Parent responded they were waiting to sign until the pending clarification and revision questions regarding the IEP and PWN were resolved. They stated once the documentation reflected the limited consent "clearly and consistently," they would respond promptly.

    The Middle School Principal emailed the School Psychologist to share they had emailed the Parent twice, requesting an in-person meeting to better understand their concerns.

17. On January 22, 2026, the School Psychologist emailed the Parent a draft copy of the IEP. The Parent replied on January 23, 2026, requesting "several concerns" be addressed before they would provide consent to the proposed changes. The Parent noted the Student's baseline goal for missing assignments was 8 to 13 at a time, whereas the goals indicated no more than two at a time. They stated they felt it was not "reasonably aligned with the Student's ability and asked for the goals to be revised to show incremental progress.

    The Parent addressed the IEP, which stated the Student did not require support in ELA, and added the Student was failing the class and had several missing assignments. The Parent asked for clarification on how the IEP's wording aligned with the Student's current performance. The Parent asked for clarification on how the weekly check-ins were conducted, who was responsible for them, and how they were documented. The Parent asked for confirmation the Student's schedule would not be substantially changed by adding a study skills class, and requested the period during which it would occur and the name of the assigned teacher. They concluded by confirming they were not requesting additional school-based counseling or social work and noted the Student's needs were being met outside of school.

    On January 27, 2026, the Middle School Principal emailed the School Psychologist, the Case Manager, and the Director of Special Services to say they would reply to the Parent about the schedule change once the Parent provided consent. The Middle

School Principal recommended "identifying a couple of options" for check-ins and suggested using the "EL teacher," because the Student already had a relationship with them. The Case Manager replied they also felt the "study skills teacher" would be a good option because the Student often missed the EL class. The School Psychologist replied the Student was receiving ELA services and no change to that was being proposed. They also stated the Parent could not "consent to schedules or people, only services."

18. On January 28, 2026, the Parent emailed the School Psychologist to inquire about a response to their January 23, 2026, email. They asked for a written reply regarding the status of their January 23, 2026, requests and when they could expect a written response or revised documentation. The Middle School Principal responded to the Parent on January 29, 2026, and shared the Student's revised schedule, subject to the Parent's consent. The Middle School Principal indicated services were available to the Student in science and social studies, should the Student wish to access them. The Middle School Principal then indicated transportation was offered as a support to increase the Student's attendance. They asked the Parent to provide specific verbiage they wanted reviewed on the IEP, as the team had already made three adjustments to the IEP to address parent concerns. The Middle School Principal offered a meeting with the team members to best address concerns.

    The Parent replied they did not consent to an in-person, virtual, or phone meeting at that time. They then discussed the same items they had mentioned in previous emails, including the scheduling for study skills, whether services were appropriate for science and social studies, transportation wasn't a barrier to the Student attending school, and was not required, as the Student's anxiety and avoidance behaviors were impacting their attendance. They requested a written response to their emailed concerns from January 23, 2026.

    The Middle School Principal replied the next day, indicating they would move forward without implementing study skills since consent was not given. They confirmed consent for science and social studies was provided. The Middle School Principal noted transportation services did not have parental consent and would therefore not be provided. They indicated the IEP draft had been updated and required no further changes.

19. On February 2, 2026, the Parent emailed the School Psychologist, the Middle School Principal, the Director of Special Services, and the Case Manager to state they did not consent to the determinations outlined in the PWN dated January 30, 2026, which concluded services were adequate and appropriate. They added their written concerns regarding "implementation and disability-related barriers" were not adequately addressed. The Parent added they were not consenting to the determinations in the PWN and requested communication remain in writing.
20. On February 4, 2026, the School Psychologist responded to the Parent and stated they recorded the Parent's response to the PWN in the Student's record. They added the school team remained willing to reconvene at any time to discuss the Student's needs.

21. According to an incident report dated February 6, 2026, the Assistant Principal entered a general education classroom where a substitute was present. They read the lesson plans, which indicated the Student and two peers were to go with a paraeducator to the breakout room. The Student indicated they did not want to leave the room and was told by the Assistant Principal to follow the substitute plans the teacher had left. The Student "stormed out" of the classroom, and the Assistant Principal read the substitute plans to the Student in the hall. The Assistant Principal told them they had two choices: to work in the breakout room or work in the office. The Student walked away to the "athletic entrance area."

    The Assistant Principal directed the Student to either the breakout room or the office. The Student cussed at the Assistant Principal. The Assistant Principal indicated all they did was ask the Student to choose between the two options. The Student walked away to the office. The incident report noted the Student would receive one day of ISS. The Parent was notified of the incident on the same day.

    According to video footage dated February 6, 2026, the Student was observed arriving in the hallway holding a paper. Two other students were already waiting in the hall outside the classroom. Several other students arrived and were in the hall when the Assistant Principal arrived. The Assistant Principal spoke for approximately 1 minute before the Student walked away. Video footage shows the Student walking through the halls for approximately 10 minutes with the Assistant Principal trailing slightly behind.

22. On February 6, 2026, the Parent emailed the Middle School Principal to clarify concerns regarding the implementation of the Student's IEP. The Parent indicated the Student became upset when they were removed from class without prior warning. The Student escalated and was repeatedly engaged by the administration, leading to arguments and profanity. The Parent stated those behaviors were explicitly identified in the Student's IEP under "Level 2 (Defensive/Beginning to Lose Rationality)." The IEP detailed the adult response during this stage, which included allowing the Student to express emotions regardless of language, avoiding power struggles, and focusing on de-escalation and disengagement until regulation was restored.
23. According to a 2024-25 school year report card, the Student received a C for the third quarter and a D- for the fourth quarter of ELA. The report card indicated the Student has eight excused absences, 18 unexcused absences, and 20 tardies.
24. According to a 2025-26 school year report card, the Student received a D+ in ELA for quarter one and an F for quarter two. The report card indicated the Student had two excused absences, two and a half unexcused absences, and 58 tardies.
25. On February 6, 2026, the Parent filed the complaint.
26. On February 9, 2026, a Notice of Meeting was emailed to the Parent by the Case Manager indicating a meeting had been scheduled for February 24, 2026, to discuss possible changes to the Student's IEP and to develop postsecondary goals.

27. On February 9, 2026, the Middle School Principal emailed the Student's teachers to notify them the Student would be in ISS for the rest of the day and the following day through "2nd hour."
28. According to an Attendance Report dated February 9, 2026, the Student missed their zero and first hour blocks due to tardiness or unexcused absences almost daily. A pattern of beginning-of–the-day absences was documented. Between February 17, 2025 and February 9, 2026, the Student had at least one absence or period tardy every day.
29. According to an undated Forced-Choice Reinforcement Menu, the Student self-rated their preference as independent rewards, then consumable rewards, and then peer approval. Adult approval was rated the second lowest, and competitive approval scored zero points, indicating the Student never chose that option on the survey.
30. According to a Student Discipline Report dated February 12, 2026, the Student had 15 behavior incidents during the 2025-26 school year. Offences included five referrals for tardiness, two referrals for disrespect, five referrals for not being in an assigned area, one referral for unacceptable behavior, one referral for failure to comply, and one titled "misc" for excessive Tardy Kiosk Entries (TKI)s.
31. On February 24, 2026, the Parent submitted a reply to the LEA's response, stating the Parent requested the IEP be updated to include clarification that attendance and tardiness were disability-related barriers connected to anxiety and avoidance. Additionally, they requested written clarification of "re-engagement procedures: when the Student was late, absent, or experiencing anxiety-related avoidance."

    The Parent concluded that, while the LEA issued multiple PWNs and proposed services and scheduling changes, the IEP was not revised, and the Parent did not receive a PWN formally refusing the requested revisions.
32. On February 27, 2026, the Parent submitted a written response to follow up after their interview. The Parent explained the Student escalated verbally, which included cussing, when they felt confronted or overwhelmed. They added, other times, the Student eloped to prevent escalation and regulate.
33. The Parent stated the Student's anxiety medication contributed to "morning fatigue," but they shared anxiety and avoidance were more consistent factors impacting attendance. The Parent expressed concern the IEP was missing "disability-related attendance barriers."
34. The Parent explained when the Student's supports were not implemented consistently, the Student's anxiety escalated rather than stabilized and created increased avoidance, difficulty re-engaging in class, and ongoing attendance challenges.

Parent Interview

35. In an interview with the Complaint Investigator, the Parent noted another person was present during their interview.

36. The Parent stated after the December 18, 2025, IEP meeting, they reviewed the document and noticed the IEP stated the Student's behavior "does not impede [the Student's] learning." The Parent emailed the Case Manager to express their disagreement with that statement, noting the IEP stated the Student missed instructional time, had disciplinary removals, had difficulty with regulations, and transitions impacted the Student's academic performance. Additionally, the IEP documented the Student demonstrated inconsistent engagement, difficulty requesting help in certain situations, attention challenges, challenges in less-structured environments, frequent redirection, missed instructional time, and incomplete work. They wanted the impact of the Student's behavior reflected in the IEP.
37. The Parent noted concerns about the implementation of the Student's ICS. They disagreed with the School using seat changes as a behavior strategy because the plan stated "removing" the Student was a known trigger that led to dysregulation, elopement, and shutdown. Additionally, they reported a lack of feedback from classroom teachers regarding the implementation of the Student's plan, suggesting it wasn't being used.
38. The Parent recalled the Case Manager asked to schedule a meeting, and the Parent replied they wanted everything in writing instead. The Parent shared they couldn't remember how they replied to the Case Manager, but indicated they did not feel the need for a meeting and wanted to have changes in writing.
39. The Parent shared their understanding of the incident that took place on February 6, 2026, which was a summary of the incident report from that day. The Parent noted they received the discipline report from the Middle School Principal and were told the Student would have one day of ISS and services would be provided to the Student in ISS.
40. The Parent was concerned about the ISS because they felt the Student's ICS was not in effect when the Student had the incident. The Parent stated the Assistant Principal did not disengage with the Student and continued to ask the Student to make a choice. The Parent added the reason for the suspension was because the Student cussed, but confirmed the Student's plan specified the Student did so when they escalated. The Parent explained the Student became dysregulated because they were removed from the classroom when they had not done anything wrong.
41. The Parent confirmed the Middle School Principal did not respond to their concerns other than to reiterate the Student would have ISS the following day.
42. The Parent asserted the Student's problem with attendance had never been a transportation issue. The Parent noted their sibling takes the Student to school daily. The Parent confirmed the Student was late to school because they were not waking up. They added, some days it was because of anxiety and avoidance, and some days it was from a medication "hangover". The Parent stated the Student had improved their social skills since beginning the current medication, but the only impactful side effect was morning tiredness.

43. The Parent shared, because the LEA failed to implement IEP supports, the Student has discussed being stressed and saying they were "dying from stress". The Student texted the Parent these statements.

General Education Teacher 1 Interview

44. In an interview with the Complaint Investigator, General Education Teacher 1 was joined by the Director of Special Services, and the Attorney for the LEA.
45. General Education Teacher 1 shared they had the Student in their first-block class since the first day of school. They noted when the Student was in class, the Student was engaged, listened, and did their work. General Education Teacher 1 added the Student was aware of assignments and their accommodations and did very well in class. They confirmed the Student had several friends and worked well in groups to complete assignments. General Education Teacher 1 described the Student as having many friends, being respectful, and generally happy. They noted the Student wanted to do well and do the work.
46. General Education Teacher 1 reported the Student missed "quite a bit of [the] first hour." They shared that, in January and February 2026, the Student was absent or tardy on 19 days. General Education Teacher 1 added the Student would often come later in the day and explained the Student had access to their assignments through the online classroom. They noted the School offered a fourth-hour block in which the Student could eat lunch and then receive assistance with schoolwork. General Education Teacher 1 shared the only explanation they heard regarding absences was the Student "just doesn't get up."
47. General Education Teacher 1 recalled being provided a paper copy of the Student's ICS and also a digital one through email. They noted it was also explained at the Student's IEP meeting. General Education Teacher 1 shared they had all the Student's accommodations in a folder so they could access it whenever they needed it.

General Education Teacher 2 Interview

48. In an interview with the Complaint Investigator, General Education Teacher 2 was joined by the Director of Special Services and the Attorney for the LEA.
49. General Education Teacher 2 shared that the Student had been in their math class for the last two years, had been doing "very well," had "shown pretty good growth" on assessments, and had B and C grades throughout the year. The use of the ICS was not needed in the math class as the Student had never been "disrespectful or deviant" to the General Education Teacher 2. The Student was described as "works very, very hard in class". The Student did require breaks at times and was offered brain breaks. The Student interacted with peers "age-appropriate[ly]," and the Student missed "a lot of class" and missed "more class than normal".
50. General Education Teacher 2 was absent on February 6, 2026, and provided the Substitute Teacher with lesson plans that directed the Student to work in a "breakout

room with our para[professional] and a couple of other kids." Other students from the class worked in other areas of the School for these breakouts.

Case Manager Interview

51. In an interview with the Complaint Investigator, the Case Manager was joined by the Director of Special Services, and the Attorney for the LEA.
52. The Case manager confirmed the PWN dated December 18, 2025, was delivered to the Parent following the IEP meeting. They noted the Parent agreed to everything at the meeting but wanted to review the IEP. The following day, the Parent requested changes to the IEP. The Case Manager stated they met with the School Psychologist to make the updates. The Case Manager noted the School Psychologist shared the next two versions of the PWN with the Parent.

    The Case Manager confirmed the third date listed on the PWN was a typo and should have shown January 23, 2026, instead of 2025 as the date it was sent to the Parent.

    The Case Manager affirmed the LEDM on the PWN referred to the Parent, but added they did not type the information into the form. They confirmed the School Psychologist filled it out, and added they were not aware of anyone else who would be the LEDM for the Student.

    The Case Manager explained the PWN included changes from three different dates and confirmed they wrote the initial PWN and stated the School Psychologist had "taken over" after that.
53. The Case Manager indicated they communicated with the Parent through email, and noted the School Psychologist, the Director of Special Services, and the Middle School Principal had been responding after "things kind of escalated." The Case Manager noted the Parent had asked all communication be through email rather than over the phone. The Case Manager shared they had asked the Parent "multiple times" for a "sit-down" meeting or a phone call, but the Parent wanted everything in writing.
54. The Case Manager explained the Student didn't exhibit any behavior and added that, once at school, the Student was respectful and nice. The Case Manager indicated they did not know what the anxiety was about getting to school and noted the Student never told them.
55. The Case Manager shared the Student thrived in a structured environment and stated they noticed problems during assemblies and "things like that".
56. The Case Manager confirmed it was hard to get the Student to school, adding the Student was late "almost every day". They shared the Student rarely made it to first hour and was often late to second hour. The Case Manager reported the Student also left school frequently.
57. The Case Manager indicated they spoke with the Parent prior to the IEP meeting to problem-solve. The Parent mentioned wondering whether the Student was being bullied during their first block, but this was disproved by speaking with General Education Teacher 1 and the Student.

58. The Case Manager reported when the Student enrolled at the School, none of the classroom teachers saw a reason for a behavior plan, but the Parent was hesitant to remove the plan, so the IEP Team agreed to use an ICS instead. The Case Manager stated they developed the scale at the Student's IEP and shared it with teachers. They asked teachers for input prior to this year's IEP meeting and updated it. The Case Manager noted they had instructed teachers not to share it with the Student, but to use it if the Student was exhibiting behaviors, and noted how adults should respond.
59. The Case Manager confirmed they did not have the Student in any of their classes this school year and shared they were not called to assist if a student was exhibiting escalated behavior because they had a class of students. They noted if someone had a question, they would send a chat.

Assistant Principal Interview

60. In an interview with the Complaint Investigator, the Assistant Principal was joined by the Director of Special Services and the Attorney for the LEA.
61. In an interview with the Complaint Investigator, the Assistant Principal described their observations of what took place on February 6, 2026. They recalled being in the Student's class when the Student was being directed by the Substitute Teacher to a breakout room outside of the Classroom which was "a smaller quiet setting" and the Student was to work with a paraprofessional. The Student didn't want to leave the Classroom and was offered a choice of the breakroom or the office to complete their work. The Assistant Principal could tell the Student did not want to go to either location, and they asked the Student to step into the hallway. The directions were provided to the Student again, and the Student did not "seem upset or escalated." The Student chose to take a walk and was located several minutes later by the gym.
62. The Assistant Principal continued that they had restated the options for working in the breakroom or the office. At this point, the Student "did become extremely escalated and started cursing me out. It was pretty intense. … I just said, '[[t]his is what you need to do"'. The interaction lasted "less than a minute". The Student then walked past the Assistant Principal to the office in an escalated state. Once at the office, the Principal took over. An incident report was filled-out, and the Principal communicated with the Student and the Parent about the behavior and the consequence. The Assistant Principal did not have information about any ISS that may have been assigned to the Student, but did recall the Student had not "responded to people in this manner" before. The Assistant Principal reported the Student had received referrals for use of electronic devices and tardiness.
63. The Assistant Principal shared the ICS was first introduced at the Student's annual IEP in 2024. They described the Case Manager "communcat[ing] out to the teachers of what the plan [was], how to utilize, and even offer assistance … ."

Middle School Principal Interview

64. In an interview with the Complaint Investigator, the Middle School Principal was joined by the Director of Special Services and the Attorney for the LEA.
65. The Middle School Principal recounted the Student had "a few" behavioral incidents throughout the year and noted the incidents were not "excessive" compared to other middle schoolers.
66. The Middle School Principal indicated the Parent had requested school staff not meet with the Student without the Parent being notified, and indicated school staff honored that request. The Parent requested communication take place via email beginning in January 2026. The Middle School Principal shared there were fewer phone calls and in-person meetings following that request.
67. The Middle School Principal indicated school staff, such as the School Counselor and Assistant Principal, had conversations with the Parent about the Student's attendance. Attendance was also discussed at the December 18, 2025, IEP meeting. The Middle School Principal shared the Parent had concerns about potential peer difficulties, but the School Counselor had followed up and did not provide the Middle School Principal with "a lot of details" about that.
68. The Middle School Principal confirmed they attended the IEP meeting on December 18, 2025, and noted the meeting was "fairly typical." The Middle School Principal recalled "few concerns" were noted in the meeting, and confirmed the Parent wanted to review the IEP after the meeting.
69. The Middle School Principal acknowledged they had requested an in-person meeting "multiple times" to better understand the Parent's concerns, adding a two-way conversation allowed them to ask clarifying questions and for information to be explained, "more directly". They noted they did not believe they "required" in-person meetings.
70. The Middle School Principal confirmed that, on February 6, 2026, after the Student was brought to the office, they called the Parent to notify them of the incident, and the Parent requested a follow-up email. According to the Middle School Principal, the Student did not follow the directions from the sub plans, engaged disrespectfully with the Assistant Principal, and used profanity in the halls, before eventually arriving at the office. The Middle School Principal affirmed the Student's ICS was used during the incident.
71. The Middle School Principal confirmed the Student served two periods of ISS on February 9, 2026, because the Student was absent on the day following the suspension and completed it the following Monday.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #266, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP with fidelity, specifically regarding behavioral supports and adult-led de-escalation strategies, rather than relying on compliance-based management and "power struggles". K.A.R. 91-40-16(b)(3)(4-5), K.A.R. 91-40-19(a); 34 C.F.R. § 300.323(a)(d).

According to K.A.R. 91-40-16(b)(3)(4-5) and 34 C.F.R. § 300.323(a)(d), each agency shall ensure an IEP is in effect for each exceptional child at the beginning of each school year. The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and other service provider who is responsible for its implementation. Each teacher and provider is informed of the individual's specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

According to K.A.R. 91-40-19(a), each agency, teacher, and related services provider shall provide special education and related services to an exceptional child in accordance with the child's IEP and shall make a good faith effort to assist the child to achieve the goals and objectives stated in the IEP.

The Parent alleged the LEA failed to implement the Student's IEP with fidelity, specifically regarding the required behavioral supports, de-escalation strategies, and the ICS. The Parent further alleged staff relied on compliance-based management and "power struggles" rather than the adult-led de-escalation required by the IEP.

The LEA responded the Assistant Principal acted in full compliance with the Student's IEP and the ICS during the February 6, 2026, incident. By providing the Student with options for alternative workspaces and allowing them time to self-regulate without immediate redirection or physical presence, the Assistant Principal reportedly prioritized the Student's autonomy and avoided a power struggle. The LEA further asserted the staff involved were properly trained in Nonviolent Crisis Prevention Intervention (CPI) and the Student's behavior was managed through "appropriate and measured" behavioral supports.

The investigation into the implementation of the Student's IEP and ICS revealed conflicting accounts of the February 6, 2026, incident. Documentation and the Parent's testimony indicated when the Student expressed a desire not to move to a breakout room as directed by a substitute teacher's plans, the Assistant Principal engaged the Student in the hallway, providing a choice between the breakout room or the office. The Parent alleges this approach constituted a "power struggle" and violated the ICS, which specifically directed staff to avoid

scolding, avoid insisting on information, and allow the Student to express emotions regardless of language during defensive or risk-behavior stages. While the Assistant Principal reported the Student was not initially escalated and the interaction lasted less than a minute, security footage shows the Assistant Principal trailing the Student through the halls for approximately 10 minutes. The Student eventually used profanity and was assigned an ISS, a consequence the Parent contends was a known trigger for further dysregulation and directly contradicted the supportive measures outlined in the Student's IEP.

The Assistant Principal allowed the Student to take a break by wandering the halls with line-of-sight supervision, and allowed the Student to de-escalate for ten minutes before they asked the Student to make a choice of work locations.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to implement the Student's IEP with fidelity, specifically regarding behavioral supports and adult-led de-escalation strategies, rather than relying on compliance-based management and "power struggles."

Issue Two

Whether USD #266, in accordance with state and federal regulations implementing the IDEA, appropriately reviewed and revised the Student's IEP to address identified deficiencies and parental concerns following the December 18, 2025, IEP meeting. K.A.R. 91-40-16(a), K.A.R. 91-40-18(b), K.S.A. 72-3429(f)(2); 34 C.F.R. § 300.324(b).

According to K.A.R. 91-40-16(a), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. K.A.R. 91-40-18(b) states, if, as a result of its consideration of the special factors described in K.S.A. 72-987(c) and amendments thereto, an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive a FAPE, the IEP team shall include those items in the child's IEP.

According to K.S.A. 72-3429(f)(2) and 34 C.F.R. § 300.324(b), each agency shall ensure that the IEP team reviews the child's IEP periodically and revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate; the results of any reevaluation conducted under this section; information about the child provided by the parents; the child's anticipated needs; or other matters.

The Parent alleged the LEA failed to appropriately review and revise the Student's IEP to address identified deficiencies and parental concerns raised following the December 18, 2025, IEP meeting. The Parent alleged the LEA conditioned the resolution of these deficiencies on in-person meetings and refused to provide written amendments or corrections despite documented issues with how the Student's disability and supports were framed.

The LEA responded they had made exhaustive, good-faith efforts to collaborate with the Parent and resolve outstanding IEP disputes despite significant scheduling hurdles and parental resistance. The LEA confirmed outreach, including over a dozen contact attempts by teachers, psychologists, and directors, following the December 2025 annual meeting and subsequent winter breaks. The LEA contended that while the Parent had engaged via email to express disagreement, they had repeatedly declined to attend meetings or provide formal, signed consent on PWNs as required by federal law. The LEA remained committed to the Student's plan and intended to proceed with the scheduled February 24, 2026, meeting to ensure the provision of services, with or without the Parent's physical presence.

Following the December 18, 2025, IEP meeting, the Parent requested substantive revisions to the IEP to accurately reflect how the Student's behavioral regulation challenges and anxiety served as barriers to learning and attendance. Correspondence shows the School Psychologist updated portions of the IEP regarding the Parent's concerns and staff training, but the LEA maintained school-sourced data regarding the Student's "present levels" could not be adjusted.

Throughout January 2026, the Parent and LEA staff engaged in an extensive email exchange regarding inconsistencies in the draft, specifically concerning the alignment of academic goals with the Student's current performance and the lack of a signed PWN refusing the requested revisions. Although the LEA offered multiple in-person or virtual meetings to resolve these discrepancies, the Parent requested to communicate strictly in writing to ensure documentation accuracy.

The Student had documented attendance concerns throughout their attendance history, which the Parent indicated was directly related to the Student's disability-related anxiety and avoidance behaviors. Most recently new medication contributed to the Student not waking up in time for school. The LEA made several revisions to the Student's IEP incorporating additional parent concerns into the social-emotional and parental concerns sections, and to reflect quarterly staff training instead of annual training for school personnel support. The Parent then requested their input be removed from the parent input section of the IEP. According to CFR § 300.320(d)(2), IEP content only needs to be in one place in the IEP.

The LEA refused to further alter the IEP to include additional information from the Parent. According to K.A.R. 91-40-26 and CFR §300.503(b) the LEA was thereby required to provide a PWN to the Parent a reasonable time before the LEA refused to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. Evidence does not support this occurring.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to review and revise the Student's IEP to address identified deficiencies and parental concerns following the December 18, 2025, IEP meeting.

Issue Three

Whether USD #266, in accordance with state and federal regulations implementing the IDEA, provided the Student a FAPE, specifically regarding the impact of disciplinary removals, including the February 6, 2026, ISS, and the loss of instructional access resulting from IEP non-implementation and associated dysregulation and elopement. K.A.R. 91-40-2(a)(1)(d), K.A.R. 91-40-1(z); 34 CFR §§300.17, 300.101(a)(c).

According to K.A.R. 91-40-2(a)(1)(d) and 34 CFR §300.101(a)(c), each agency shall provide a FAPE in accordance with K.S.A. 72-966 and amendments thereto. A FAPE must be available to all children residing in the State between the ages of 3 and 21, inclusive. Each State must ensure that a FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade. The determination that a child is eligible under this part must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

According to K.A.R. 91-40-1(z) and 34 CFR §300.17, "Free appropriate public education" and "FAPE" mean special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the state board; include an appropriate preschool, elementary, or secondary school education; and are provided in conformity with an IEP.

The Parent alleged the LEA's failure to implement the IEP and its use of disciplinary removals, specifically the ISS on February 6, 2026, constituted a denial of a FAPE. The Parent further alleged the Student lost access to instruction due to preventable dysregulation and elopement caused by the LEA's failure to provide required behavior supports.

The LEA responded the Student's one-day ISS on February 9, 2026, was a lawful exercise of disciplinary authority that remained fully compliant with the IDEA. They argue that while an IEP requires the provision of behavioral supports, it does not immunize a student from the school's code of conduct or proportionate consequences for misconduct. According to the LEA, the ISS did not constitute a "change of placement" because the Student was afforded the opportunity to progress in the general curriculum and receive IEP services alongside peers.

The Investigation regarding the provision of a FAPE centered on the Student's loss of instructional time due to disciplinary removals and disability-related attendance barriers. On February 6, 2026, the Student was assigned one day of ISS following a verbal escalation with the Assistant Principal, which was served on February 9, 2026, during two class periods. The Parent alleged the LEA failed to recognize the Student's high rate of tardiness and absences as manifestations of anxiety and avoidance behaviors rather than mere "morning fatigue" or transportation issues. While the LEA offered specialized transportation to improve attendance,

and a study hall period to assist the Student with missing assignments, the Parent rejected these services, asserting it did not address the underlying emotional disability. Furthermore, the Parent contends the failure to consistently implement the ICS during periods of dysregulation led to increased elopement and avoidance, thereby denying the Student the necessary supports to access their education effectively.

Investigation facts indicated the LEA followed the Student's ICS during the incident on February 6, 2026, and although the ISS was not aligned with the Student's ICS, the IEP did not specify the Student was exempt from school-wide behavior consequences. Additionally, the use of ISS did not prevent the Student from accessing their special education services and accommodations for the half day they were present in ISS. According to Van Duyn v. Baker School District 5J, 2007 , the court defined "material failure" as occurring when the services provided to a disabled child fall significantly short of those required by the IEP. It stated that there must be "more than a minor discrepancy between the services provided to a disabled child and those required by the IEP." In this instance, the ISS did not constitute a material failure.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to provide the Student a FAPE, resulting from IEP non-implementation and associated dysregulation and elopement.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at K.A.R. 91-40-26 and CFR §300.503(b) require the LEA to provide a PWN prior to refusing to initiate or change the identification, evaluation, or education placement of the Student or the provision of a FAPE.

In this case, the evidence supports the finding that USD #266 USD #266 failed to provide a PWN to indicate the refusal to revise the IEP. Documentation, Interview, and the LEA Response letter of February, 20, 2026 support this.

Based on the foregoing, USD #266 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #266 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 C.F.R. 300.301(c) and K.A.R. 91-40-8(f) by completing and providing the Parent with a PWN indicating the LEA's refusal to revise the Student's IEP according to the Parent's specifications.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #266
ON FEBRUARY 16, 2026

DATE OF REPORT: MARCH 17, 2026

This report is in response to a complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #266, Maize Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #266.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on February 16, 2026, and the 30-day timeline ended on March 18, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #266, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), conducted a Manifestation Determination Review (MDR) prior to implementing a disciplinary change of placement exceeding 10 consecutive school days. K.A.R. 91-40-33, K.A.R. 91-40-35; 34 § C.F.R. 300.530(a-f).

ISSUE TWO: Whether USD #266, in accordance with state and federal regulations implementing the IDEA, provided the Parent with timely notice and procedural safeguards, specifically the right to participate, review records, and provide input, by mischaracterizing the nature of a scheduled meeting. K.S.A. 72-3430; 34 §§ C.F.R. 300.530(h), 300.504.

ISSUE THREE: Whether USD #266, in accordance with state and federal regulations implementing the IDEA, provided the Parent with timely notice of meetings and sufficient preparation time for the MDR meeting and subsequent disciplinary hearing, thereby ensuring

the Parent's opportunity for meaningful participation and the ability to advocate for the Student's needs. K.A.R. 91-40-25 (a)(b), K.A.R. 91-40-17; 34 §§ C.F.R. 300.501(a)(b), 300.322(a)(1)(b)(1).

ISSUE FOUR: Whether USD #266, in accordance with state and federal regulations implementing the IDEA, applied the relevant protections and supports to the Student during a period of significant removal from in-person instruction, while having "knowledge" that the Student was a student suspected of having a disability prior to the behavior that precipitated the disciplinary action. K.A.R. 91-40-7, K.S.A. 72-3436; 34 §§ C.F.R. 300.111 (a), 300.534 (a)(b).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on March 5, 2026. The following LEA staff were interviewed on March 5 and 6, 2026: the Associate Principal, the Executive Director of Tiered Supports, the School Counselor, the School Psychologist, the Director of Special Education, and the Hearing Officer.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. District Hearing Testimony Transcripts
2. Email, re: Request for District Guidance, Evaluation Status, and Discipline Protections, 02/09/26
3. Result of Expulsion Hearing Letter, 02/10/26
4. Written Notice of Expulsion Hearing Results, 02/10/26
5. Medical Letter, 11/17/25, 12/15/25, 01/29/26
6. Email, re: 504 Evaluation Meeting, 02/16/26-02/17/26
7. Enrollment Notification, 10/09/25
8. Email, re: 504 Evaluation Meeting, 02/14/26-02/14/26
9. Email, re: [the Student], 11/18/25-11/20/25
10. Attendance Report, 10/15/25-03/13/26
11. Email, re: parent request for IEP evaluation, 11/29/25
12. Report Card, Term 2 Semester 1 2025-26 School Year
13. Email, re: parent request for 504 evaluation, 11/20/25-02/16/26
14. Student General Education Intervention Plan, no date
15. Email, re: parental request for 504 evaluation, 12/09/25
16. Email, re: question about student information-transferred to [the LEA], 12/15/25
17. Email, re: phone call summary, 12/18/25
18. Email, re: medical documentation, 504 protections, designated point of contact [the Student], 01/29/26

19. Email, re: [the Student], 02/05/26
20. Email, re: Urgent district guidance requested: student support, discipline, and pending 504/IEP-[the Student], 02/08/26
21. Email, re: [the Student] Long term suspension/expulsion hearing packet, 02/09/26
22. Email, re: Request for district guidance, evaluation status, and discipline protections, 02/08/26
23. Email, re: Formal objection and request for proper IDEA MDR notice, 02/10/26
24. Email, re: Response to parental requests, 02/10/26
25. [Outside Provider] behavioral and mental healthcare, 01/29/26
26. Prior Written Notice and Consent, 12/15/25
27. Parental Request for 504 Evaluation, Notice of Rights, Receipt for 504 Notice, 12/09/25
28. Notice of Hearing Results, 02/10/26
29. Expulsion/Expulsion Written Notice of Hearing Results, 02/20/26
30. Extended-term Suspension/Expulsion Hearing Notice, 02/10/26
31. Notice to Student of Short-Term Suspension after Informal Hearing, 02/05/26
32. Notice to Student of Short-Term Suspension after Informal Hearing, 10//31/25
33. Email, re: Online course assignment as part of educational evaluation, 02/12/26
34. Email, re: Edgenuity classes for LTS student, 02/16/26
35. Prior Written Notice for identification, special education and related services, educational placement, change in services, change in placement and request for consent 02/10/26
36. Manifestation Determination Worksheet, 02/09/26

Background Information

This investigation involved a tenth grade student enrolled at a high school in USD #266. The Student is not currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA). The Student transferred to the School on October 9, 2025, from School 2. They are currently in the process of Section 504 identification and eligibility for an IEP. The Student struggled with substance abuse.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. A Notice to Student of Short-term Suspension After Informal Hearing document dated October 31, 2025, informed the Student they were suspended from school for 10 days, beginning on October 31, 2025 through November 13, 2025. The reasons for suspension included willful violation of student conduct and conduct that disrupts or interferes with school operation. The "What occurred" section detailed a vape was

found on the Student's body, then the administration of a urinalysis test, which came back positive. The Student was suspended for 10 days, but would be able to return after five days if the Student and the Parent met with the LEA Mental Health and Substance Use Therapist. The first day the Student could return after the full 10 day suspension was November 14, 2025; if they met with the LEA Mental Health and Substance Use Therapist, the return date was indicated as November 7, 2025. Noted at the bottom of the document in handwriting, "[October 31, 2025 Emailed: [Parent]."

2. A November 17, 2025, letter from the Outside Evaluator indicated the Student was evaluated for depression and anxiety due to concerns with focus and concentration. It stated, "[The Student] has a difficult time making it to school, staying in school and being successful in the classroom related to [the] severity of [their] anxiety and depression. [Parents] are hopeful to get a 504 plan set up for [the Student] so that [they] may be supported in [their] social, emotional and educational needs."
3. In an email exchange on November 18, 2025, the School Counselor confirmed they would discuss the Parent's concern regarding the Student's attendance being impacted by anxiety and depression with the School's General Education Intervention (GEI) Team. The Parent responded, thanked the School Counselor for their support, provided a doctor's note with the Student's diagnosis, and stated, " … I believe moving forward with a 504 plan is a great idea."
4. In an email on November 20, 2025, to the School Counselor, the Parent formally requested a Section 504 evaluation for the Student, citing ongoing mental health and medical concerns.
5. A notice to the Associate Principal on November 20, 2025, stated "High Vape Index" in the office bathroom at 12:33 p.m.
6. In a November 29, 2025, email to the School Counselor, the Parent formally requested a comprehensive IEP evaluation for the Student to assess academic, emotional, behavioral, and executive functioning skills. The request cited concerns over failing grades and how the Student's diagnoses of anxiety and depression impacted focus and task completion. Additionally, the Parent provided their observations, noting that the Student shut down when overwhelmed and struggled with organization despite putting forth effort. On the same day, the Parent emailed the Associate Principal with the same request.

   The School Counselor responded on December 2, 2025, and confirmed that the School team continued to work through the GEI process to identify interventions that would help the Student, regardless of the outcome of a 504 plan. They provided the Parent with an input packet to complete for the 504 process.
7. In a December 1, 2025, email exchange to the Parent, the Associate Principal acknowledged the Parent's formally requested IEP evaluation and shared the School Psychologist was now on the email communication, and would be the person to start the process of an IEP evaluation.

   In an additional email exchange on the same day, the Associate Principal emailed the Parent and School team confirming that the 504 evaluation process and the requested

special education evaluation had been initiated. The Associate Principal clarified that a 504 plan would not protect the Student from school discipline involving drugs or automatically excuse attendance issues, noting that medical notes would still be required for tardies. The email requested further input from doctors or the Parent to identify effective interventions for a GEI plan, as teachers reported they did not yet have a clear grasp of the Student's specific struggles.

On December 2, 2025, the Parent responded to the Associate Principal and School Counselor, providing further insight into the Student's struggles. The Parent noted that the Student felt lost and overwhelmed in class despite putting forth effort, and reported that anxiety was significantly affecting the Student socially and emotionally. To assist the Student immediately while data for the GEI and 504 processes were being collected, the Parent requested several "baseline supports." These included frequent teacher check-ins, clear written instructions, extended time for tests and assignments, organizational support, access to the counselor when overwhelmed, the ability to take movement breaks, and a reduced-distraction workspace. Finally, the Parent acknowledged the start of the IEP evaluation and requested to be kept updated on the evaluation plan and procedural safeguards.

8. On December 9, 2025, the Parent sent an email to the School Counselor and Associate Principal answering questions about the Student's history of trauma and its impact on the Student's educational access. The Parent again requested several supports and requested to be kept updated on the special education evaluation plan and procedural safeguards. The School Counselor confirmed receipt of the Parent-provided information.
9. A Parental Request for 504 Evaluation dated December 9, 2025, indicated the following:
    a. The Parent suspected the Student had a disability affecting their education.
    b. Nature of disability stated anxiety and depression, along with ADD/ADHD, and indicated the family was waiting on testing to be completed.
    c. The Parent indicated they'd make medical records available to the team.
    d. The Parent indicated their permission for a school psychologist or teacher to administer tests to the Student and to assist with the evaluation.
    e. The form was signed by the Parent and dated.
10. A Receipt for Section 504 Notice of Parents and Student Rights, dated December 9, 2025, verified that the Parent received a copy of the Parent and Student Rights Notice, with the Parent's signature and the date.
11. In an email on December 12, 2025, to the School 2 Principal, the Associate Principal inquired about the Student's behaviors, interactions with peers, and any concerns while in attendance at School 2. School 2 Principal responded and shared that there were no concerns regarding the Student.
12. PWN Prior Written Notice (PWN) for Evaluation or Reevaluation and Request for Consent dated December 15, 2025, stated:
    a. The LEA proposes conducting an initial evaluation of special education services.

b. Information to be collected in all areas, including health/motor ability, vision, hearing, social/emotional status, behavior status, general intelligence, academic performance, communicative status, and transition skills.
c. Explanation stated the Parent requested the evaluation.
d. Other options considered indicated continuance of general education with no evaluation was rejected due to the LEA's agreement to complete the Parent-requested evaluation.
e. Data used for the basis of the proposed action indicated Parent input.
f. Other factors considered stated no detrimental educational or social effects anticipated from the evaluation.
g. The Parent was emailed a copy of the parent rights on December 15, 2025.
h. The Parent indicated their consent by marking a box and signing, dated December 15, 2025.

13. On December 18, 2025, the School Counselor emailed and provided the Parent with a summary of their recent meeting and a draft of the GEI plan. They confirmed that the GEI process was active, with teachers gathering feedback on the effectiveness of classroom interventions. They explained that a structured GEI plan would be implemented in January 2026 to collect six weeks of data before determining eligibility for a Section 504 plan. Additionally, the School Counselor noted that the IEP evaluation was proceeding concurrently and could take up to 60 school days to complete in accordance with federal and state guidelines.
14. A January 29, 2026, open letter from the Outside Evaluator stated the Student had been diagnosed with Generalized Anxiety Disorder (GAD) and Attention-Deficit/Hyperactivity Disorder (ADHD). The letter also noted, “Please note that anxiety-related behaviors are not the result of willful misconduct. Disciplinary approaches may exacerbate anxiety symptoms and should be minimized whenever possible.”
15. In an email exchange between January 30, 2025 through February 3, 2026, the LEA team and Parent discussed the Student’s ongoing GEI plan and the transition toward formal disability evaluations. The Associate Principal noted that while the GEI process was four weeks underway, teacher-led attempts at classroom interventions had been largely unsuccessful, and they planned to assign two days of In-School Suspension (ISS) for the Student's 11 tardies. The Parent formally objected to the discipline, asserting that the tardies were a direct manifestation of the Student's severe social anxiety and requesting immediate baseline supports such as quiet workspaces and movement breaks. To expedite formal support, the Parent provided consent on February 2, 2026, to proceed with a Section 504 evaluation concurrently with the existing IEP evaluation process. Following this consent, the LEA attempted to schedule a 504 eligibility meeting for February 12, 2026, noting that while the law requires a "reasonable time" for evaluations, it does not mandate a specific statutory timeline for Section 504 following a GEI request.

16. In an email exchange between February 4 and 5, 2026, the Associate Principal informed the School team that the Student had a vape on their body, tested positive for THC, and this was their 3rd offense, so a pending manifestation determination review (MDR) and potential hearing would need to take place. The School Psychologist confirmed the meeting would be held as a Section 504 MDR.
17. A Notice to Student of Short-term Suspension After Informal Hearing document dated February 5, 2026, informed the Student they were suspended from school for five days, beginning on February 5 through February 11, 2026. The Student would be allowed back on campus on February 16, 2026, pending an MDR and the potential expulsion hearing. During the suspension, the statement indicated, "It is [the Student's] responsibility to touch base with all of their teachers to obtain any work they may miss and make arrangements for any tests they need to make up." A handwritten note at the bottom stated, "[February 5, 2026] Emailed: [the Parent]."
18. In an email exchanged on February 5 and 6, 2026, to the Associate Principal and School Counselor, the Parent stated, " … I have a good understanding of the MDR meeting. I will be prepared … ."
19. A Notice of Section 504 Committee Meeting dated February 8, 2026, to the Parent indicated a planning meeting to review education needs to the Student was scheduled for February 9, 2026, at 11 a.m. at the School. The notice indicated that parents are not "required" Section 504 team members, yet their input is welcomed. The meeting reason was indicated by an "X" next to "Manifestation Determination (prior to disciplinary removal constituting a change in placement)" and was signed by the Associate Principal.
20. In an email exchange between February 6 through 9, 2026, between the School team and the Parent, the Parent requested LEA "guidance" regarding the Student's Section 504 status, "MDR appropriateness," discipline and support, and next steps. The Parent thanked everyone for "communication regarding the proposed MDR" and stated their goal was to "collaborate" with the LEA to ensure the Student's " … rights, medical needs, emotional well-being, and counseling progress are fully considered."
    Additionally, on this date, the Parent requested time prior to the MDR meeting, to "receive and review all relevant documentation … [LEA] guidance regarding protections, evaluation timelines, and next steps."
    On February 7, 2026, the Special Education Director responded to the Parent and clarified that an MDR was a legal requirement for students under evaluation for Section 504 or IDEA protections before a long-term suspension or expulsion could be implemented. They explained that the purpose of the MDR was to provide the Student with disciplinary safeguards by determining if the conduct was related to a disability or a failure to implement necessary supports. The Special Education Director further confirmed that the Student was under "concurrent evaluation" for both Section 504 and IDEA, with special education consent having been received in mid-December 2025. To ensure the meeting occurred within required timelines, they offered three alternative times on February 9, 2026, and noted that the LEA would expedite the IDEA evaluation to the extent possible.

Additionally, on this day, the Parent emailed the Associate Principal and detailed the law requiring timelines for MDRs and declared, "timelines must be followed." They provided times they were available for the meeting and stated, "I have also reviewed the Kansas State Department of Education Parent Rights in Special Education (Procedural Safeguards). ... it is important to understand that because [the Student] is not a typical student, [they] must be afforded the protections guaranteed under IDEA and Kansas procedural safeguards."

On February 8, 2026, the Associate Principal emailed the Parent to clarify that the MDR was scheduled for February 9, 2026, to ensure legal compliance before the Student reached 10 days of suspension. They noted that the MDR was part of the School's effort to determine whether the behavior was "directly and substantially related to a disability" and to preserve the Student's rights. Indicated in the email was a notice of meeting attachment. Later that morning, the Parent requested clarification on any "statutory or [LEA] requirements" governing the timing and participants of the GEI and Section 504 meetings. Executive Director of Tiered Supports responded on February 9, 2026, explaining that there is "no statutory or regulatory requirement under Section 504 that mandates a specific timeline" following a GEI process. They further clarified that federal law requires 504 evaluations to be conducted within a "reasonable time" rather than a prescribed window. The Associate Principal then sent a follow-up email welcoming the Student to attend the meeting, confirmed the meeting as an MDR, stated "This will be separate from a meeting where we review 504 eligibility," and provided the meeting time of 8:00 a.m. on February 10, 2026, should the expulsion proceed.

21. The MDR was held on February 9, 2026. The MDR panel consisted of the Associate Principal, the School Counselor, and the English Teacher. The Executive Director of Tiered Supports, the Student, the Parents, and other members of the Student's family were also present. The panel found the code of conduct violation was not a result of the Student's disability, or the failure of the LEA to appropriately accommodate the Student.
22. Following the MDR held on February 9, 2026, the Parent sent a formal email to the Special Education Director expressing a "strong disagreement" with the team's conclusion that the behavior was not a manifestation of the Student's disability. The Parent asserted that the LEA had been on notice of suspected disabilities since the evaluation request on December 15, 2025, and argued that the LEA failed its "affirmative obligation under Child Find" by failing to implement interim supports prior to the disciplinary removal.

    Additionally, the Parent formally requested an Interim Alternative Educational Setting (IAES) to ensure access to a free appropriate public education (FAPE), a Functional Behavioral Assessment (FBA), and a Behavior Intervention Plan (BIP). Later that evening, the Parent invoked "stay-put" protections under the IDEA, requesting that the Student remain in their current placement or an IAES pending the resolution of the dispute.

    On February 10, 2026, the Special Education Director responded, stating that stay-put protections did not apply because the Student had not yet been formally determined eligible under IDEA. They clarified that the MDR was conducted as a disciplinary

safeguard for a student not yet eligible and encouraged the Parent to participate in the scheduled disciplinary hearing. The Parent replied by reiterating that protections apply when a LEA has prior knowledge of a suspected disability, regardless of a formal eligibility determination. The Parent also noted that the LEA had failed to provide the required Procedural Safeguards Notice and requested its immediate delivery. Later that afternoon, the Special Education Director provided the formal response to the Parent requests and attached the requested Procedural Safeguards.

23. An email dated February 9, 2026, to the Parent, the Special Education Director responded to the Parent's inquiry. They informed the Parent of the following:
    a. The Student was in process and under evaluation for Section 504 and IDEA.
    b. "While under evaluation for Section 504 and/or IDEA, a student is protected under 'child find / knowledge of disability' rules, thus a MDR is required.'"
    c. "While evaluations are pending, schools and parents can discuss temporary, non-binding accommodations and supports. No matter where we are in the process, it is important that the student is ready and willing to accept and make use of support. Sometimes, especially with high school[-]age students, this takes a fair amount of time and trial for the school to find the "right fit." Such supports do not require eligibility and do not prejudge outcomes."
    d. "[The Associate Principal] can update you on where they are with [the Student's] 504 evaluation. With regard to the special education evaluation, the school has 60 school days from the date of consent. As mentioned in my response over this weekend, I will ask the team to expedite the evaluation to the extent they are able to do so."
24. In an email on February 9, 2026, to the Parent, the Discipline Administrative Assistant attached documentation for the Student's long-term-suspension/ expulsion hearing. The date of the hearing was indicated as February 10, 2026, at 8 a.m., and the location was listed as an LEA building. The email indicated 19 attachments, which included "The Student Parent Notification," a description of the discipline, the Student's out-of-school suspension paperwork, and Parent notifications, incident reports, probation notices, an attendance report, transcripts, progress reports, discipline reports, and Student reinstatement documents.
25. On February 10, 2026, the LEA Hearing Officer presided over a disciplinary hearing regarding the Student, who was alleged to have possessed a THC vape device, failed a drug test, and violated school-based probation. The LEA Hearing Officer provided the family with a copy of the IDEA procedural safeguards. The Associate Principal testified that the Student had prior drug-related violations in October and November of 2025, which had resulted in a probation period extending through December 2026. The Parent testified in disagreement with the results of the MDR held on February 9, 2026, asserting that the team did not fully consider the Student's diagnoses of anxiety, depression, and ADHD. The LEA Mental Health and Substance Use Therapist also provided testimony, suggesting that the Student would be well served by attending School Program 1. Ultimately, in their written decision, the LEA Hearing Officer found

that the Student had committed the violations and ordered an extended-term suspension through March 13, 2026, with a return to school after spring break on March 23, 2026, under strictly updated probation conditions.

26. In a letter to the Parents dated February 10, 2026, the LEA Hearing Officer issued a Written Notice of Hearing Results to the Parent and Other Parent detailing the results of an extended-term suspension hearing. The LEA Hearing Officer determined that the Student would be suspended from the School for 25 school days, ending on March 13, 2026, followed by a probationary period lasting until March 12, 2027. While suspended, the Student was expected to maintain academic progress through an online outreach program and was prohibited from entering school property or attending school activities, except for meetings with a LEA drug counselor. The notice also informed the Parents of their right to appeal the decision within 10 calendar days and provided information regarding behavioral improvement programs.
    Additionally, the document detailed the reason for the February 10, 2026, hearing under state law, and established a timeline of disciplinary actions involving the Student. The record indicated that the Student was previously disciplined on October 21, 2025, for possession of a vape and THC gummies, resulting in a probationary period that was initially set to last until November 2026. A second violation occurred on November 20, 2025, involving another vape, which led to an extension of the Student's probation into December 2026. Following a third incident on February 5, 2026, involving a THC vape and a positive drug test, the LEA initiated an MDR on February 9, 2026, which concluded that the behavior was not a manifestation of their disability. The Hearing Officer ordered an extended-term suspension effective from February 5 through March 13, 2026, totaling 25 school days. The Student was permitted to return to School on March 23, 2026, but remained subject to strict probationary conditions through December 22, 2026.
27. A February 10, 2026, Extended-term Suspension/Expulsion Hearing Notice detailed:
    a. Box checked, "Expelled 91-186 days" from all school and program activities within the LEA.
    b. Based on an incident that occurred on February 5, 2026.
    c. Incident detailed, "[The Student] is on school-issued probation and part of that probation is to use only the front office single stall restroom. This morning at 9:43 [a.m.], [the Student] set off the vape sensor in this restroom. Upon an initial search, nothing was found. Because of [their] probation, [the Student] then needed to take a urinalysis drug test. When [they] came back into the office, the security officer saw something in [the Student's] hoodie pocket. It was a THC vape. [The Student's] drug test was also positive for THC. Because of [them] being in possession of THC and testing positive while on school-issued probation, [the Student] will be suspended for 5 school days, pending an MDR and a potential expulsion hearing."
    d. The behavior violated the following:

i. "Willful violation of any published regulation for student conduct adopted or approved by the board of education;" and

ii. "Conduct which substantially disrupts, impedes or interferes with the operation of any public school."

e. Board policies violated:

i. "#11 - Cumulative incidences [sic]."

ii. "#12 - Possession, consumption, or under the influence of illegal drugs;" and

iii. "#14 - Positive drug test result, tampering with a drug test, or refusal to take a drug test."

28. In an email on February 10, 2026, to the Parent, the Special Education Director provided the Parent with a PWN, consent form, and Procedural Safeguards. They further explained a copy of the Procedural Safeguards was, " … previously provided to you electronically on December 15, 2025, as well as the copy provided at today's disciplinary hearing … ."

29. In an email exchange from February 14 through February 17, 2026, between the Parent, the Associate Principal, and the Executive Director of Tiered Supports, the Associate Principal requested the Parent's availability to review the 504 evaluation.
On February 16, 2026, the Executive Director of Tiered Supports responded regarding the Student's Section 504 eligibility meeting. They stated that the team would review relevant information to determine if the Student met the criteria for protection under Section 504, but noted that federal regulations generally exclude students currently using illegal drugs from such protections. The Executive Director of Tiered Supports cited district documentation of recent drug use, including positive screenings in 2025 and 2026, to explain that the Student was not eligible for protections at that time based on these regulations. They clarified that the meeting remained important for documenting concerns and discussing progress through interventions so the team could move forward quickly if the Student's eligibility status changed in the future. Additionally, they indicated if anything changed with the Student, like successful completion of a "rehabilitation program" and evidence the Student was no longer using, the team could "reconvene to consider eligibility."
The Parent responded and acknowledged the Executive Director of Tiered Supports' email regarding the 504 meeting and requested the LEA provide "specific federal regulations" linked to the determination of the Student's not being eligible for a 504 plan.
The Executive Director of Tiered Supports replied to the Parent, provided the requested regulations, and stated, "The team will not predetermine eligibility and is not asserting that your [child] is categorically ineligible for Section 504. The team will determine eligibility through the formal meeting process after reviewing all relevant data. Any medical information that you have available will be helpful to the team when reviewing the disability and how the disability manifests for your [child]. A student may have a disability but still not receive protections for actions directly related to current

illegal drug use. … No final decisions regarding eligibility will be made prior to the team's full review and discussion."

30. A PWN dated February 10, 2026, indicated:
    a. The LEA refused to initiate the identification, educational placement or provision of special education and related services.
    b. Description of the action proposed or refused stated, "The [LEA] refused to provide the following IDEA services and supports to a student not yet eligible for special education: Interim special education services, supports, or placements, including an IAES and/or 'Stay-Put Placement' A separate or interim Functional Behavioral Assessment (FBA) for purposes implementing behavioral interventions prior to eligibility Development and implementation of a Behavior Intervention Plan (BIP) under IDEA Reconvene the MDR team under IDEA prior to a determination of eligibility for the student under IDEA."
    c. The explanation stated the Student has not yet been "determined" eligible for special education and related services under IDEA.
    d. Options considered included implementation of a BIP, conducting a FBA, and providing interim special education services, supports, or placements, including an IAES or "Stay-put placement," were rejected because special education services and supports are created and implemented following an eligibility determination under IDEA.
    e. Data used for the action included teacher and staff input and observations, review of the Student's attendance, discipline and educational records, Parent input, "[MDR] applicable to students not yet eligible conducted on [February 9, 2026]," State and federal regulations related to eligibility and discipline.
    f. Other relevant factors stated, "The [LEA] has initiated a comprehensive initial evaluation to assess [the Student] in all areas of suspected disability, including social-emotional and behavioral functioning, using assessment tools and strategies determined appropriate by the evaluation team. Written consent was received on December 15, 2025. The [LEA] will complete the evaluation without delay, consistent with applicable timelines and expedite the evaluation to the fullest extent practicable. Upon completion of the initial evaluation, the eligibility team will determine whether [the Student] is eligible for special education and related services under IDEA based on evaluation data. If [the Student] is determined eligible, the IEP team will reconvene to reconsider the MDR in light of the eligibility determination and evaluation results, consistent with IDEA requirements. If, after reconsideration, the team determines that the conduct was a manifestation of [the Student's] disability, the [LEA] will: [r]eturn [the Student] to the placement from which [the Student] was removed, unless otherwise agreed by the team; and determine whether compensatory education or services are warranted, consistent with IDEA requirements and [the Student's] individual circumstances. If, after reconsideration, the team

determines that the conduct was not a manifestation of the Student's disability, the disciplinary action imposed will remain in effect.

31. In a February 12, 2026, email to the Parent, the Special Education Director informed the Parent that as part of the Student's educational evaluation process, the LEA planned to gather additional information regarding their academic skills through sessions with licensed personnel and the assignment of online coursework. The Student was assigned online math and English courses at no cost to the family. The Special Education Director noted that these courses provided an opportunity for the Student to make academic progress and earn high school credits during their period of extended suspension. Additionally, they mentioned that sessions with licensed staff would be scheduled to review the Student's learning needs and performance, and that these meetings could occur either face-to-face or online. The Special Education Director concluded by stating the School would soon provide further direction regarding the enrollment process and access to these specific courses.
32. In a February 16, 2026 email exchange with the Online Program Coordinator, the School Counselor requested the Student be added to the Online Program for "initial credit," for two courses and explained the Student was "long-term suspended." They also inquired about an email template to send to families regarding logging in to the program and "becoming familiar" with the Online Program.
    The Online Program Coordinator replied they had changed the target dates for both courses to March 13, 2026, added two teachers, established the Parent to receive daily progress notifications, and the Online Program information guide.
33. In an additional February 16, 2026 email exchange between the Principal and the School Counselor and School staff, the Principal requested that Instructional Support Teacher 1 and Instructional Support Teacher 2 were added to the Student's courses as "instructors/moderators." Instructional Support Teacher 1 responded they were able to "monitor and work" with the Student and they had, " … access through my work with students that are placed in an alternative education setting."
34. An undated Student GEI Plan indicated the following:
    a. Type of GEI included enrichment, academics, social-emotional learning-behavioral, and health.
    b. Strengths listed "kind and easy to talk with[.]"
    c. Concerns stated a medical diagnosis of anxiety, depression and ADHD.
    d. Interventions and strategies to be used in classrooms by teachers listed check-ins with the Student throughout class, provided clarification and support, allowing the Student to request a quiet, separate setting for testing, and allowing a counseling break pass if needed.
    e. Classroom accommodations were not indicated.
35. A Student Report card from the School for Term 2 of the 2025-26 school year indicated:
    a. Biology, F.
    b. Introduction to Health Care, F.

c. Painting 1, no mark.
d. Algebra 1, F.
e. Business Essentials, F.
f. Weight Lifting, no mark.

36. An undated Discipline report for the Student stated three offenses of possession/drug use on October 31, 2025, November 20, 2025, and February 5, 2026.
37. An undated attendance report for the Student indicated the following:
    a. Out-of-School Suspensions on: October 31, 2025; November 3, 4, 5, and 6, 2025; February 6, 9, 10, 11, 16, 2026 through March 13, 2026.
    b. In-School-Suspensions on November 20, 2025; February 3 and 4, 2026.

Parent Interview

38. In an interview with the Complaint Investigator, the Parent and the Other Parent shared they believed the February 9, 2026 meeting was an MDR. However, the Parent shared "they had us sign a paper at the very end and it was very confusing because it said 504."
39. The Parent reported the Assistant Principal, the School Counselor, and the English Teacher served as the MDR panel. They stated there was an observer from the District as well. The Parent stated after introductions, they shared about the Student's background and trauma. They indicated the trauma was "why we thought [the Student] was self-medicating and doing the things that [they're] doing[.]"
40. The Other Parent shared they believed the IEP would be discussed and "whether or not [the Student's] behaviors were a product of [their] trauma and [their] disability." They expressed the MDR panel said "We don't see it that way." The Other Parent described the MDR decision vote as "very informal." The Parent reported the Assistant Principal voted first, and according to the Parent stated "Thank you for sharing, but I don't think that this is anything to do with a manifestation of [the Student's] disability." The next two panel members agreed with the Assistant Principal and both voted that the behavior was not a manifestation of the Student's disability. The Parent perceived the School Counselor and the English Teacher were influenced by the Assistant Principal.
41. The Parent stated they asked if they could appeal the MDR decision and was told "You can appeal it, but nothing's going to change." The Parent shared they felt like they weren't allowed to disagree with the decision. The Other Parent stated they were told by the MDR panel that if they appealed, the panel would still make the same decision. They indicated the MDR panel did not ask their opinion of the Student's behavior.
42. The Parent reported during the MDR, the team discussed long-term suspension for the Student. The Other Parent stated, at the end of the MDR on February 9, 2026, they were handed large packets containing the documents for the expulsion hearing on February 10, 2026. When they got home and opened the information packets, the Parent saw the documents were marked "expulsion" and felt "kind of lost." They indicated there was one packet for the Parent and Other Parent, and one packet for the Student.

43. Regarding the expulsion hearing on February 10, 2026, the Parent shared "we showed up ready just to share our information." They reported they shared their disagreement with the MDR during the expulsion hearing, and requested stay put protections. The Other Parent stated they shared the Student knew what they did was wrong. They expressed "Unfortunately, [the Student had] … very bad anxiety, and [the Student] internalizes everything." The Other Parent acknowledged the Student was self-medicating and indicated neither parent supported the behavior. They reported the Student was receiving therapy and "seeing a doctor for meds."
44. During the expulsion hearing, the Other Parent described the Student's diagnosis as "anxiety, depression, and ADHD." They mentioned these conditions were "connected to past trauma and have intensified as academic and social demands have increased." The Other Parent further described the results of these conditions as "impair[ed] judgment and coping skills, which contribute to poor decision-making rather than intentional misconduct." They stated during the hearing, they asked for an alternative placement for the Student.
45. The Parent shared "… when I did a little research, it seemed like we had 10 days to do the MDR meeting." They acknowledged they asked for the expulsion hearing to be held on February 10, 2026 because they were leaving town on February 11, 2026. The Parent expressed they did not feel they had enough time to review documents or seek legal counsel for the MDR or the expulsion hearing. The Other Parent shared they believed they would still be within the 10 calendar days if the hearing was held when they returned from their trip. They stated the LEA refused their request to move the dates of the MDR and expulsion hearing to after their return.
46. The Parent shared they had concerns the Student had been "academically declining" since arriving at the School on October 9, 2025. They stated they told the LEA about these concerns and on November 20, 2025, "applied for the 504." The Parent shared the LEA responded by beginning the "GEI" process to gather data about the Student. According to the Parent, the LEA said it would take six to eight weeks to begin trial accommodations for the Student because the Student was new to the LEA. They asserted after the hearings, the LEA emailed to inform the Parent the Student was not eligible for a 504 plan, and "[T]hey basically were saying that … if they do drugs, they basically are not entitled to the 504." The Parent stated a 504 plan meeting was never convened.
47. The Parent expressed "… once I realized that [the Student] was failing … classes, then I thought, okay, we need to go the IEP route because I don't think the 504 is going to be enough." They reported they put their request in writing and reiterated their concerns during the MDR. The Parent shared that accommodations were discussed during the MDR, including a "counseling pass" and access to a quiet area.
48. The Parent shared they had "applied for the IEP" prior to the February 9, 2026 MDR. They stated they received PWN on December 15, 2025 with the IDEA procedural safeguards attached. Therefore, it was the Parent's understanding the Student was covered under procedural safeguards for a pending IEP during the MDR. When they

brought up the IEP during the MDR, the Parent report "they just kept saying [the Student] doesn't have [an] IEP."

49. The Parent reported, during their trip, they remained in email contact with the LEA, to attempt "to come up with a resolution on my own, and … felt like we were not getting anywhere." Therefore they filed the complaint. They stated IEP testing for the Student was scheduled after they filed. The Parent stated the Student was receiving online instruction, and was "not being provided the education that I feel [the Student] deserves and is entitled to." They reported the Student went to an LEA building to access the instruction, for one hour a day, three days a week.

Special Education Director Interview

50. In an interview with the Complaint Investigator and the Attorney for the LEA, the Special Education Director shared a timeline of relevant events. They stated the discipline incident occurred the morning of February 5, 2026, which was a Thursday. They indicated the Student received an out-of-school suspension and the Associate Principal contacted the Parent that day "at least twice." The Special Education Director reported PWN for the MDR was sent home on February 5, 2026. They stated the Parent and Student signed the notice. The Special Education Director recalled the Parent emailed a records request after business hours on Friday, February 6, 2026. They indicated they and the Executive Director of Tiered Supports both responded to the Parent's inquiries over the weekend. The Special Education Director reported the Executive Director of Tiered Supports stated the Parent did not ask for additional information prior to, during, or after the MDR on Monday, February 9, 2026. They indicated all records other than disciplinary records reviewed during the MDR were previously available to the Parent through the LEA's parent portal for their student information system. The Special Education Director reported "The conduct that was subject to the MDR was the same conduct that was documented on that out-of-school suspension form that was provided both by [the Discipline Administrative Assistant] and by [the Associate Principal] on the 5th; the description of the incident provided to the Parent prior to the MDR and the incident description that were reviewed by the MDR team during the MDR on the 9th were identical in nature." The Special Education Director asserted "[T]he Parent was seeking guidance. The [LEA] believes that guidance was provided."
51. The Special Education Director clarified the MDR was "conducted under Section 504." They shared "The information available for review consisted primarily of data gathered through the GEI process … [and] documentation provided from the Parent from the Student's outside therapist." The Special Education Director shared the MDR panel consisted of the staff most familiar with the Student. They shared "[R]ecords that the team were discussing during the MDR were part of the Student's existing educational record and were previously communicated and shared between the School and the Parent and were not newly created for the purpose of the MDR." They reiterated the Parent had ongoing access to the Student's educational records through the LEA parent portal. The Special Education Director indicated the Parent and other family members provided input during the MDR.

52. The Special Education Director reported they were not present at the MDR and indicated all staff members who were at the MDR hearing would have also been present at any IEP proceedings. They expressed "It's also important to note that normally under section 504, the meeting would've concluded after initially reviewing the behavior in question because there was drug use and possession involved." The Special Education Director acknowledged the panel chose to "conduct a full MDR because the Student had been referred for and consent had been obtained for an initial evaluation." They indicated the MDR panel "applied the legal standard" to make their decision. The Special Education Director explained "The law requires more than a general connection or explanation. It requires evidence that the disability itself directly cause[d] the behavior in question to occur." They further clarified "Neither Section 504 nor IDEA promote or protect the use of THC in any form in the school setting. In fact, it's clear such deliberate actions are excluded from disciplinary protections."
53. The Special Education Director understood the Parent disagreed with the results of the MDR. They expressed "[The Parent] wants to continue to advance the idea that the Student uses THC to treat [their] anxiety. And while this might be true, it doesn't change the outcome." The Special Education Director indicated it was "highly unusual" for drug possession to be considered a manifestation "because such behavior usually involves a student taking a deliberate action that is clearly against school rules." They stated "Disabilities do not in general directly cause a student to possess or use an illegal substance at school."
54. The Special Education Director indicated that while consent for the IDEA evaluation had been obtained before the MDR, the evaluations had not been started before the disciplinary incident. Therefore, eligibility under the IDEA had not been determined at the time of the MDR. Further, the Special Education Director stated "I think it's important that on record, the district says there's no dispute that the Student has a disability that's eligible under Section 504." They acknowledged the Student experienced anxiety.
55. Regarding the disciplinary hearing, the Special Education Director confirmed "[I]t was the Parent's request, not the [LEA's] preference that the timeline for the disciplinary hearing was moved up." They stated the disciplinary incident on February 5, 2026 triggered the 10-day MDR window. The Special Education Director shared "The concern was … [the Student] had other disciplinary exclusions earlier in the year, and they were similar. So to be able to separate those out in terms of whether or not that was a pattern of removal, we treated it as such." They explained the LEA originally scheduled the MDR for February 11, 2026, and the Parent declined due to a planned trip. The Special Education Director reported "the hearing officer made an exception" to move the expulsion hearing to February 10, 2026 so the Parent could attend.
56. Responding to questions from the Attorney for the LEA, the Special Education Direct described the "10-Day FAPE-free zone." They explained the LEA had a "basis of knowledge" the Student had a potential disability under section 504, therefore "we have to consider the disciplinary change of placement in totality" within the 10-day window.

However the LEA did not have an obligation to provide services to the Student prior to the tenth day.

57. The Special Education Director indicated the Parent was waiting for the eligibility determination for the IEP before continuing with the 504 process. They reported parental rights were provided when the Student was initially referred to special education, and again at the expulsion hearing. The Special Education Director stated most of the communication with the Parent was through email and expressed the Parent was "not willing to come in and allow us to try to walk [the Parent] through and clarify things[.]" They surmised "[The Parent] believes because [they have] provided paperwork, and … provided outside documentation to support … [the Student] has a disability, that [the Student was] automatically eligible and covered" under the IDEA. The Special Education Director reiterated the Student's IDEA eligibility had not yet been determined. The Special Education Director asserted "we've offered multiple times to schedule [a 504 plan] meeting and [the Parent] has declined and instead is choosing to wait."
58. Regarding provision of services, the Special Education Director explained "The Student [was] not technically entitled to any of these services under Section 504 because [they are] a self-admitted, and the Parent has acknowledged, a current drug user and [the Student] is long-term suspended due to drug use. The [LEA] does not provide educational services to students under Section 504 that are long-term suspended or expelled." However, the Special Education Director indicated "under the umbrella of the evaluation" for the IDEA, the Student was receiving services they "wouldn't otherwise be entitled to" in the form of online classes during their suspension. They asserted the online education promotes many of the accommodations the Student would experience in an in-person setting.
59. The Special Education Director reported the Student was receiving online instruction in math and English language arts with Instructional Support Teacher 1. They indicated Instructional Support Teacher 1 was continuing to gather data to develop and trial accommodations for the Student, including accommodations to support the Student during online instruction. The Special Education Director reiterated the LEA was not legally required to offer the Student online instruction. They stated they told the Parent "Should [the Student] later be determined eligible for special education services, the IEP team will develop an individualized plan, and at such time, the [LEA] will consider whether any compensatory services are warranted based on the individual facts and circumstances."
60. Regarding specific accommodations, the Special Education Director stated the Student had been receiving universal accommodations such as "teacher check-in, quiet setting, take breaks … [and] alternate passing periods[.]" They were not aware of what accommodations were in place between the Student's suspension on February 5, 2026 and the MDR on February 9, 2026.

Executive Director of Tiered Supports

61. In an interview with the Complaint Investigator, the Executive Director of Tiered Supports shared there were several emails between the LEA and the Parent regarding scheduling the MDR. They reported the formal notification was sent to the Parent via email on February 8, 2026, and the MDR was scheduled for February 9, 2026. The Executive Director of Tiered Supports indicated the Associate Principal handled most of the communication around the MDR. They stated the Associate Principal informed the Parent the MDR was "for the protection of [the Student] for [their] safeguards[.]"
62. The Executive Director of Tiered Supports believed it was clear that the February 9, 2026 meeting was an MDR and not an eligibility meeting for either a 504 or an IEP. They reported a separate email was sent to schedule a 504 eligibility meeting for a separate date.
63. The Executive Director of Tiered Supports explained the parental safeguards were emailed to the Parent several times, including both the 504 and IEP evaluation requests, and given to the Parent in person at the MDR.
64. The Executive Director of Tiered Supports indicated they did not respond to or fulfill any records request for the Parent.
65. Regarding accommodations, the Executive Director of Tiered Supports shared, before the disciplinary hearing, the Student was "on a GEI plan" to gather data to develop supports. They were not aware of the nature of accommodations provided after the hearing.

Associate Principal Interview

66. In an interview with the Complaint Investigator, the Associate Principal was joined by the Special Education Director and the Attorney for the District.
67. The Associate Principal indicated they were responsible for handling the Student's discipline, which included drug possession and use, and tardiness. They noted the Student attended full-time and confirmed the possession and use occurred on school grounds during the school day.
68. The Associate Principal described their School policy for when a student is found in possession of drugs or when they test positive for drugs. They noted policy dictates a ten-day out-of-school suspension, which could be reduced to five days if the student, parent, or both attended a substance-abuse counseling program for a first offense, which was what occurred the first time for the Student. The second incident occurred within 30 days of the first, so the Student received an updated probation. When the third incident occurred, the Associate Principal issued a five-day suspension for the Student because they "didn't want to go over 10" days. The Student met with the substance-abuse counselor again.
69. The Associate Principal explained when the Student had out-of-school suspension, they had access to their learning through their online classroom or by reaching out to their teachers. The Associate Principal noted that the Student had emailed their teachers for

work during that time. The Associate Principal confirmed the Student was enrolled in an online math and English class and was receiving one-on-one assistance with certified teachers for three hours each week during the 25-day suspension as part of the special education evaluation.

70. The Associate Principal received a 504 request from the Parent on or about November 20, 2025. They indicated they began the process of gathering data for the 504 evaluation after the Student was caught in possession of drugs on school property for the second time. The Associate Principal explained they gathered data for six weeks. Afterward, the Parent, the School Counselor, and the Associate Principal decided to continue gathering data after winter break.
71. The Associate Principal indicated they had a "504" or an "MDR" meeting on February 9, 2026, because of the process required prior to an expulsion hearing. The Parent was notified at the time of the suspension on a phone call, and was sent the formal notice on February 8, 2026.
72. The Associate Principal reported that during the MDR meeting, the team discussed the 504 diagnoses and reviewed teacher input provided in writing or in person; however, the Associate Principal added it was not considered a 504 meeting. At the end of the meeting, the Parent and Other Parent signed the MDR document, and were provided with the hearing documents.
73. During the expulsion hearing on February 10, 2026, the Associate Principal recalled having one witness, who was the security officer. Both Parents, the Student's Aunt, and the Mental Health and Substance Use Therapist attended. The Associate Principal shared the hearing officer sent the formal decision after the meeting ended, indicating the Student had been suspended for 25 school days.
74. The Associate Principal shared the School had attempted to schedule a 504 meeting "multiple times." However, the Parent stated they wanted to wait until after the special education evaluation meeting had occurred, which was scheduled for March 9, 2026.
75. The Associate Principal confirmed the Parent received their rights under Section 504 and for special education when the evaluation began, and then received the 504 rights again at the MDR meeting. The Parent was given their rights for special education prior to the disciplinary hearing.

School Counselor Interview

76. In an interview with the Complaint Investigator and the Attorney for the LEA, the School Counselor stated they were a member of the GEI team. They shared the purpose of the team was to "facilitate the 504 process." The School Counselor reported all the school counselors, the Associate Principal, the School Psychologist, the Mental Health Liaison, and the School Social Worker were the members of the team. They shared their primary role on the team was "communication and facilitating." The School Counselor described the duties of the team as, when a student was identified as potentially having a disability, "... we do data collection ... It depends on if we're addressing a concern that's medical, whether it's health, whether it's academic, what data needs to be taken

into consideration. And so we will determine if there is a need, and then we will look at the recommended interventions to put in place to support the need. We'll communicate that with teachers to explain what … suspected disability that a student has, and then what we're trying to accomplish … for the student."

77. Regarding the GEI process, the School Counselor explained "We typically collect data for anywhere from four to eight weeks … . We'll check in with the student, check in with teachers. … Typically, the goal of a GEI plan is to determine what kind of plan or support a student needs long-term, whether that's a 504 plan or whether it's gen[eral] ed[ucation] interventions that just need to be provided without a plan." They indicated the GEI team was responsible for managing and updating 504 plans.
78. Regarding specific accommodations for the Student, the School Counselor reported four had been developed based on the data collected for the Student. Those accommodations were teacher check-ins, separate quiet setting for testing, preferential seating, and access to a separate quiet setting for classwork. The School Counselor stated the Student was referred to the GEI team on November 20, 2025, and the initial GEI plan was shared with teachers on December 16, 2025.
79. The School Counselor explained between November 20, 2025 and December 16, 2025, they communicated with the Parent to exchange paperwork and receive data about the Student. During that time, they also communicated with the Student's teachers, sharing the intent for a 504 evaluation, and "giving teachers an opportunity to submit that feedback to me as well, compiling grades, contacting [the] previous school to find out if there were any behaviors that they noticed that related to the same things [the Parent] expressed seeing." The School Counselor stated the communication with teachers included "an informal list" of interventions to trial with the Student for data collection purposes.
80. The School Counselor confirmed the February 9, 2026 meeting was an MDR and not a 504 meeting. They elaborated "[T]here was a violation at school and [the Student] was on probation. … part of the probation procedures … include drug testing in the instance of being caught with a vape at school. And so with a positive drug test that led to discipline. And because [the Student] had already been in the process of … if [they] would qualify for a 504 plan, then we had the meeting to determine if the action was related to [the Student's] disability." The School Counselor confirmed the violation was drug related, and confirmed section 504 does not protect students from discipline for drug related offenses.
81. The School Counselor acknowledged the Student's anxiety, ADHD and depression diagnoses. They shared these were all considered during the MDR, along with "feedback from [the Student's] parents, from [the Student], from teachers, and from [the Student's] doctor … [and] the interventions that we were trying through our gen[eral] ed[ucation] intervention process."
82. The School Counselor reported the Student began meeting with the LEA Mental Health and Substance Use Therapist after their second drug-related violation. The second violation occurred on November 20, 2025, the same day the Parent requested a 504

evaluation. The School Counselor indicated the Student continued to meet with the LEA Mental Health and Substance Use Therapist between their out-of-school suspension and the disciplinary hearing. They expressed that although the Student had consistently received drug counseling, the Student continued to use.

83. Regarding the online instruction, the School Counselor stated it was not available until after the hearing. They indicated the program included platform tutorials, "guided notes", and other online resources. The School Counselor confirmed the Student "had two different facilitators to check in with and to monitor [their] progress."

School Psychologist Interview

84. In an interview with the Complaint Investigator, the School Psychologist shared they became involved with the Student and the Parent through the Child Find process as a member of the GEI team. They recalled they began receiving emails from the Parent "about [the] middle of December [2025]." The School Psychologist indicated the main point of contact for the Parent was the Associate Principal, and they were copied on many emails "because [the Parent] knows that I'm the school psych[ologist]."
85. The School Psychologist indicated the GEI team first discussed the Student on December 3, 2025. They stated the Parent requested an IEP evaluation on November 29, 2025, and consent was granted on December 15, 2025. The School Psychologist explained they officially become involved in the process "[w]hen I receive parental consent to test."
86. The School Psychologist confirmed the Student was receiving drug counseling prior to the February 9, 2026 MDR. They also confirmed the Student was receiving universal accommodations prior to their out-of-school suspension on February 5, 2026.
87. The School Psychologist described where on PWN forms the parental rights and procedural safeguards are referenced and confirmed those documents were sent to the Parent with each PWN.

Hearing Officer Interview

88. In an interview with the Complaint Investigator and the Attorney for the LEA, the Hearing Officer explained the proximity of the MDR and the disciplinary hearing. They shared "After notice is given, we have 10 days to schedule … the hearing. … I had actually set the hearing to be done on February 11th, … the [LEA] came back to me and said that the [Parent] had notified them … they were going to be out of town … and asked to have the hearing moved up. So I moved it up to Tuesday, February 10th."
89. Describing the disciplinary hearing process, the Hearing Officer stated "It's required by state law before any long-term suspension or expulsion can be completed by the school district. I'm appointed by the school board to hold the hearings and we conduct the hearings consistent with … a series of laws that set out the requirements for the hearing."
90. The Hearing Officer reported, during the disciplinary hearing, the Parent shared they disagreed with the results of the MDR, invoked stay put protections, and referenced

MDR procedures. The Hearing Officer indicated "As far as I know from my training, that had no bearing on the hearing that we were having at the time." They stated the Parent's concerns about the MDR were "not within my jurisdiction. … and I have to trust that the school followed through on that the way the law intends."

91. The Hearing Officer confirmed the disciplinary hearing was triggered by the Student's drug related offenses. As they understood the law, neither section 504 nor the IDEA protected the Student from disciplinary action for illegal drug use.
92. The Hearing Officer reported the Student provided a written statement, which was summarized out loud by the Parent during the hearing. The Hearing Officer stated the Student admitted to their drug use in the statement, and took responsibility for their actions.
93. Regarding suspension and expulsion, the Hearing Officer indicated the length of removal was at their discretion. They stated the LEA requested the Student be removed for 91 to 186 days, which constitutes an expulsion. The Hearing Officer decided to remove the Student for 25 days, constituting a long-term suspension. They explained their decision was based on the academic calendar and fell within "a natural break in the schedule." Additionally, the Hearing Officer reported they considered similar cases and the resulting removals.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #266, in accordance with state and federal regulations implementing the IDEA, conducted an MDR prior to implementing a disciplinary change of placement exceeding 10 consecutive school days. K.A.R. 91-40-33, K.A.R. 91-40-35; K.S.A 72-3433(a)(2)(B); 34 C.F.R. § 300.530(a-g).

According to K.A.R. 91-40-33, the phrase "change in placement for disciplinary reasons" means that school personnel or a special education due process hearing officer has ordered any of the following changes in placement of a child with a disability: the child is suspended or expelled from school for more than 10 consecutive school days, the child is subjected to a series of short-term suspensions constituting a pattern that meets all of the following criteria: the suspensions cumulate to more than 10 school days in a school year, each incident of misconduct resulting in a suspension involved substantially the same behavior, the length of each suspension, the total amount of time the child is suspended, and the proximity of the suspensions to one another indicate a pattern, or the child is placed in an interim alternative educational setting. If school personnel order two or more short-term suspensions of a child with a disability during a school year, these suspensions shall not constitute a change in placement for disciplinary reasons if the suspensions do not constitute a pattern as described above. School officials shall have the authority to determine whether a series of short-term suspensions of a child with a disability constitutes a change in placement for disciplinary reasons. This determination shall be subject to review through due process proceedings.

According to K.A.R. 91-40-35, an agency shall not be required to provide special education or related services to a child with a disability who has been suspended from school for 10 or fewer school days during any school year, if the agency does not provide educational services to nondisabled children who are suspended from school. A child with a disability shall be entitled to continue to receive special education and related services if the child is suspended from school for more than 10 cumulative school days in any school year. If a child with a disability is suspended from school under either of the circumstances stated above, the agency that suspended the child shall provide, commencing on the 11th day of suspension and during any subsequent day or days of suspension, special education and related services that are needed to enable the child to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the child's IEP.

If a child with a disability is placed in an interim alternative educational setting in accordance with the law and any amendments, the agency shall provide special education and related services to the child. The services provided shall enable the child to continue to progress in the general curriculum, although in another setting, and to receive those services and modifications, including those described in the child's IEP, that will enable the child to meet the goals set out in the IEP. The services shall include services and modifications that address the child's misbehavior and that are designed to prevent the misbehavior from recurring.

According to K.S.A 72-3433(a)(2)(B) and 34 C.F.R. § 300.530(g), school personnel may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of an agency.

The Parent alleged the LEA imposed a disciplinary removal totaling 30 days without holding a proper MDR.

The LEA maintained it complied with the IDEA and Section 504 requirements by conducting a MDR meeting on February 9, 2026, before the Student reached ten cumulative days of disciplinary removal [after the LEA had knowledge the Student may be a student with a disability]. The initial two removals for drug use occurred before the Student was referred for or determined eligible for special education. The LEA noted that the third violation resulted in a 25 day suspension allowed under the “special circumstances” provisions of the IDEA.

The code of conduct violation that triggered the MDR consisted of an out-of-school suspension totalling five school days. The previous two violations occurred prior to the Student entering the evaluation process, therefore they were not covered under procedural safeguards. However, because all violations were for similar offenses, and the Student had begun the IDEA eligibility process, the LEA considered the possibility of a pattern. Therefore an MDR was initiated.

The record showed an MDR was scheduled and held within 10 school days from the beginning of the five day suspension. While consent for evaluation had been obtained prior to the violation that triggered disciplinary proceedings, IDEA eligibility for the Student had not yet been determined. Therefore, the Student was not considered a special education student at the time of the hearing. Further, under the IDEA and state regulations, removal for drug related offences was specifically permitted. Due to the violations being drug related, the MDR panel had no obligation to proceed. In an abundance of caution, the panel completed the MDR.

Based on the foregoing, according to IDEA and Kansas special education regulations, it is not substantiated that the LEA failed to conduct an MDR prior to implementing a disciplinary change of placement exceeding 10 consecutive school days.

Issue Two

Whether USD #266, in accordance with state and federal regulations implementing the IDEA, provided the Parent with timely notice and procedural safeguards, specifically the right to participate, review records, and provide input, by mischaracterizing the nature of a scheduled meeting. K.S.A. 72-3430; 34 C.F.R. §§ 300.530 (h), 300.504.

According to K.S.A. 72-3430, the parents of exceptional children shall have the right to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a FAPE to such child.

The parents of exceptional children shall have the right to written prior notice whenever an agency proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child. Parents shall have the right to receive the notice in their native language, present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a FAPE to the child, request mediation in accordance with this act, consent, or refuse to consent, to the evaluation, reevaluation or the initial placement of their child and to any substantial change in placement of, or a material change in services for, their child, unless a change in placement of their child is ordered pursuant to the provisions of the law and related amendments, or the agency can demonstrate that it has taken reasonable measures to obtain parental consent to a change in placement or services, and the child's parent has failed to respond.

Additionally, a parent shall have the right to be members of any group that makes decisions on the educational placement of their child, and a list of the rights available to the parents of exceptional children shall be given to the parents only one time each school year, except a copy also shall be given to the parents upon initial referral or parental request for evaluation, upon request of a parent, and upon the initial filing of a complaint.

According to 34 C.F.R. § 300.530 (h), on the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents with the procedural safeguards notice described in 34 C.F.R § 300.504. For purposes of this section, the following definitions apply: Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)). An illegal drug means a controlled substance, but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional, or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

The Parent alleged the District scheduled a meeting they believed to be an MDR, but later characterized it as a Section 504 meeting, and procedural safeguards were not provided, discussed, or applied; specifically, parental rights to participate, review records, and provide input.

The LEA asserted that the purpose of the February 9, 2026 meeting was clearly communicated in a written notice and confirmed by correspondence with the Parent.

Signed paperwork indicated the Parent was provided with parent rights and procedural safeguards in December 2025, prior to the MDR, and again on February 10, 2026.

The MDR meeting was not intentionally mischaracterized. Documentation confirmed the MDR was held under the framework of Section 504, and the Student had not yet been determined eligible for accommodations or special education services under either Section 504 or the IDEA. Additional documentation indicated the Parent was aware the MDR was not an eligibility meeting.

The record reflected the Parent expressed understanding of and preparation for an MDR meeting. Testimony provided by staff confirms the LEA offered guidance, and all information considered during the MDR was previously made available to the Parent. Documentation showed the meeting was properly noticed, and the Parent was provided the procedural safeguards prior to disciplinary action or the change in placement. Further, the LEA followed state and federal regulations in scheduling and completing the MDR.

Based on the foregoing, according to IDEA, Section 504, and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Parent with timely notice and procedural safeguards, specifically the right to participate, review records, and provide input, by mischaracterizing the nature of a scheduled meeting.

Issue Three

Whether USD #266, in accordance with state and federal regulations implementing the IDEA, provided the Parent with timely notice of meetings and sufficient preparation time for the MDR meeting and subsequent disciplinary hearing, thereby ensuring the Parent's opportunity for meaningful participation and the ability to advocate for the Student's needs. K.A.R. 91-40-25 (a)(b), K.A.R. 91-40-17; 34 C.F.R. §§ 300.501(a)(b), 300.322 (a)(1)(b)(1).

According to K.A.R. 91-40-25(a)(b), each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child; and the provision of a FAPE to the child. Each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each meeting concerning their child or are afforded the opportunity to participate. These steps shall include scheduling the meeting at a mutually agreed-upon time and place and providing prior written notice of any meeting to the parents of the child.

According to K.A.R. 91-40-17, each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place, informing the parents of the information specified in the regulation, and providing written notice to the parents of any IEP team meeting at least 10 days in advance of the meeting. The notice shall indicate the purpose, time, and location of the IEP team meeting and the titles or positions of the persons who will attend on behalf of the agency.

The notice shall inform the parent that the parent has the right to invite to the IEP team meeting individuals whom the parent believes to have knowledge or special expertise about the child. If a parent of an exceptional child cannot be physically present for an IEP team meeting for the child, the agency shall attempt other measures to ensure parental participation, including individual or conference telephone calls. An agency shall take action to ensure that parents understand the discussions that occur at IEP team meetings, including arranging for an interpreter for parents who are deaf or whose native language is other than English. An agency may conduct an IEP team meeting without parental participation if the agency, despite repeated attempts, has been unable to contact the parent or parents or to convince them that they should participate. If an agency conducts an IEP team meeting without parental participation, the agency shall have a record of the attempts that the agency made to contact the parents to provide them notice of the meeting and to secure their participation. The record shall include at least two of the following: detailed records of telephone calls made or attempted, including the date, time, and person making the calls and the results of the calls, detailed records of visits made to the parent's home, including the date, time, and person

making the visit and the results of the visit, copies of correspondence sent to each parent and any responses received, and detailed records of any other method attempted to contact the parents and the results of that attempt.

A regular education teacher of an exceptional child, as a member of an IEP team, shall participate to the extent appropriate in the development, review, and revision of the child's IEP. This participation shall include assisting in making the following determinations: the appropriate positive behavioral interventions and strategies for the child, the supplementary aids and services needed by the child, and the program modifications or supports for school personnel that will be provided to assist the child. If qualified to do so, an agency member of the IEP team may serve in the role of two or more required members of a child's IEP team. In asking individuals with knowledge or special expertise about a child to be members of the child's IEP team, the party asking the person to participate shall have the sole discretion in determining whether the invited person has knowledge or special expertise regarding the child.

The Parent alleged the Section 504 meeting, which was thought to be an MDR, was scheduled and conducted in a manner that prevented meaningful parent participation and did not allow adequate time to prepare or advocate for the Student's needs. Additionally, the Parent alleged a disciplinary hearing was held one day after the aforementioned meeting, which left the Parent insufficient time to prepare and meaningfully participate.

The LEA stated it met mandatory timelines by conducting the MDR within ten school days of the disciplinary decision. The LEA gave notice of meetings within the time required by regulation. The LEA offered alternative meeting times to accommodate the Parent’s schedule.

In this case, Section 504 and special education processes were running concurrently. The LEA provided the Parent with notice under Section 504 and completed a similar process to that under the IDEA for parent notification. The Parent agreed to attend and participated in the meeting. There is no evidence that the LEA failed to notify the Parent of the MDR meeting in a manner that did not allow the Parent to attend or participate.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to provide the Parent with timely notice of meetings and sufficient preparation time for the MDR meeting and subsequent disciplinary hearing, thereby ensuring the Parent’s opportunity for meaningful participation and the ability to advocate for the Student's needs.

Issue Four

Whether USD #266, in accordance with state and federal regulations implementing the IDEA, applied the relevant protections and supports to the Student during a period of significant removal from in-person instruction, while having "knowledge" that the Student was a student suspected of having a disability prior to the behavior that precipitated the disciplinary action. K.A.R. 91-40-7, K.S.A. 72-3436; 34 C.F.R. §§ 300.111 (a), 300.534 (a)(b).

According to K.A.R. 91-40-7, each board shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction, including children with exceptionalities who attend private schools, are highly mobile, including migrant and homeless children, or are suspected of being children with disabilities even though they are advancing from grade to grade. Each board's policies and procedures under this regulation shall include age-appropriate screening procedures that meet the following requirements: for children from ages five through 21, observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening as required by state law; and implementation of procedures ensuring the early identification and assessment of disabilities in children.

Any board may refer a child who is enrolled in public school for an evaluation if school personnel have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child, or school personnel have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met: the child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel, the child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction, the assessment results were provided to the child's parent or parents, the assessment results indicate that an evaluation is appropriate, the parent of the child requests, and gives written consent for, an evaluation of the child, and the board agrees that an evaluation of the child is appropriate.

According to K.S.A. 72-3436 a child who has not been determined to be eligible for special education and related services under this act and who has engaged in behavior that violated any rule or code of conduct of the school district, may assert any of the protections provided for in this act if the school district had knowledge, as determined in accordance with this section, that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

A school district shall be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred, the parent of the child has expressed concern, in writing, to supervisory or administrative personnel of the appropriate educational agency or to a teacher of the child, that the child is in need of special

education and related services, the parent of the child previously has requested an evaluation of the child, or the teacher of the child, or other personnel of the school district, previously has expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of such school district or to other supervisory personnel of the district.

A school district shall not be deemed to have knowledge that a child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services under this law, or the child has been evaluated, but it was determined that the child was not a child with a disability. If a school district does not have knowledge that a child is a child with a disability prior to taking disciplinary action against the child, the child may be subjected to the same disciplinary action as is applied to children without disabilities who engage in comparable behaviors.

If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary action described by this act, an evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district and information provided by the parents, the school district shall provide special education and related services in accordance with the provisions of this act, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities, which may be long-term suspension or expulsion from school.

The Parent alleged the Student experienced significant removal from in-person instruction without the protections and supports required for students suspected of having disabilities.

The LEA acknowledged it was aware that the Student was suspected of having a disability before the February 5, 2026 incident and, consequently, applied relevant procedural safeguards and protections. The LEA expedited a comprehensive special education initial evaluation. The LEA provided online instruction in two core classes.

The Student was in the evaluation process for a student suspected of having a disability at the time of the disciplinary action that led to their removal. However, eligibility for special education services had not yet been determined. Therefore, the Student did not yet have an IEP, and the LEA was not required to provide special education services. The LEA chose to complete a MDR as a safeguard for the Student, and accommodated the Student's educational needs through online instruction during their long term suspension as a safeguard.

Additionally, According to K.S.A 72-3433(a)(2)(B) and 34 C.F.R. § 300.530(g), school personnel may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of an agency.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to apply the relevant protections and supports to the Student during a period of significant removal from in-person instruction, while having 'knowledge' that the Student was a student suspected of having a disability prior to the behavior that precipitated the disciplinary action.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #234
ON FEBRUARY 19, 2026

DATE OF REPORT: MARCH 19, 2026

This report is in response to a complaint filed with our office by ------ on behalf of her daughter, ------. For the remainder of this report, Ms. ------ will be referred to as "the parent." ------ will be referred to as "the student."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" as used in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. For the remainder of this report, USD #234 will be referred to as "the LEA."

Investigation of Complaint

The investigator spoke by telephone with the Special Education Director for the LEA on February 23 and March 10, 11, and 12, 2026. The investigator spoke by telephone with the student's mother on March 11, 2026.

In completing this investigation, the complaint investigator reviewed the following materials:

- IEP for the student dated January 22, 2026
- Email exchange dated February 17, 2026 between the student's special education teacher to the parent
- Email exchange dated February 18, 2026 between the parent and the student's special education teacher
- Email exchange dated February 20, 2026 between the parent and the Special Education Director
- Notice of Meeting for February 20, 2026
- Conference Record dated February 20, 2026
- Notice of Meeting for February 26, 2026
- Email exchange dated March 10 and 11, 2026 between the parent and the Special Education Director
- Narrative report of the student's behaviors while in the Focus Room on February 19 and 20, 2026
- IEP Amendment Between Annual IEP Meetings dated February 26, 2026

- Amended IEP for the student dated February 27, 2026
- Prior Written Notice for Identification, Initial Services, Placement, Change of Services, Change of Placement, and Request for Consent dated February 26, 2026
- Excerpt from behavior plan explaining the use of goal cards
- Sample of the student's daily visual schedule
- Online calendar for the LEA for the 2025-26 school year
- Behavior Logs for the student for January 28 and February 10 through 13, 2026
- Online handbook for the school
- Online Board of Education Policies document

Background

This complaint involves a 10-year-old girl who is enrolled in the 4th grade in her neighborhood elementary school. According to her IEP, the student receives case management, crisis management, and therapy services through the local mental health center and has mental health diagnoses of "Oppositional Defiant Disorder, Severe and Unspecified Disruptive, Impulse Control, and Conduct Disorder." In her formal complaint, the parent also states that the student has been diagnosed with "Severe ADHD...DMD (sic), [and] Anxiety..."

The student was first determined to be eligible for special education support under the categorical designation of Specific Learning Disability in February 2024 while in 2nd grade. At that time, she was attending a full day of school, but in September 2024 the student began attending school on a modified day basis beginning two hours a day (8:00 to 10:00 AM). At the time this change was made, the student was exhibiting physical aggression (biting, kicking, scratching, pinching, headbutting, pushing, punching with a closed fist, and hitting with an open hand). She was also demonstrating verbal aggression (swearing, screaming, yelling at others, and name calling) as well as threatening behaviors. The occurrence of these behaviors increased during the student's 3rd grade year, but the student's IEP team decided to increase the amount of time she would spend at school for 4th grade by 15 minutes (7:45 to 10:00 AM). In-school time was increased again in November 2025 because her behavior had improved, and the student began attending "special classes" (PE, Music, Library, Art, and Technology) from 8:00 to 9:00 AM, and moving to the Resource Room from 9:00 to 10:15 AM. More time was added to the student's school day as of December 8, 2025 (8:00 to 10:30 AM), and 15 minutes more were added on December 15, 2025.

After the winter break the student had difficulty returning to her previous schedule which had been increased by an additional 15 minutes (7:45 to 10:45 AM). There were several incidents of previously described behaviors, and the student eloped from the building.

Issues

In her complaint, the parent identified the following issue:

> With limited notice to the parent, the district implemented a new building-wide behavior plan that resulted in the student being placed in a "Focus Room" where she was considered to be "on restriction" and was not allowed to participate in her "specials" (PE, Music, Library, Art, and Technology). This action was taken by the LEA without first conducting an IEP meeting to discuss how the change would impact the student and despite the parent having stated that she did not want the plan to be implemented until a meeting had been held.

Position of the Parent

It is the position of the parent that she and the student were given insufficient notice of the LEA's plan to implement a new behavior program that could directly impact the student's participation in general education "specials" (art, music, PE). The parent asserts that the new program was implemented without any opportunity for a meeting to first discuss the program.

Position of the District

The district stipulates that information regarding the new program was neither timely nor clearly provided to the parent.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

One of the procedural safeguards afforded to parents is the required Prior Written Notice of certain proposed special education actions (K.S.A. 72-3430(b)(2)). This notice must be provided to parents within a reasonable amount of time before the date the school proposes to initiate or change the

- identification,
- evaluation,
- educational placement of their child, or
- provision of special education and related services (FAPE) to their child.

Additionally, the informed written consent of the parent must be obtained before any substantial change in placement of, or a material change in services for, their child, can be made (K.S.A. 72-3430(b)(6); K.A.R. 91-40-27(a); and 34 C.F.R. 300.300).

School officials may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (K.S.A. 72-6115(a)).. (It should be noted that partial days count as full school days.)

Any removal of a student from the placement(s) specified in his/her IEP to any other location for disciplinary reasons would count as a day of suspension, unless the disciplinary setting meets the requirements for exception to the disciplinary protections described in the Federal Register, August 14, 2006, p. 46715. Those requirements were explained by the Office for Special Education Programs (OSEP) as follows:

> *"It has been the Department's long-term policy that an in-school suspension would not be considered a part of the days of suspension addressed in Sec. 300.530 as long as the child is afforded the opportunity to continue to appropriately participate in the general curriculum, continue to receive the services specified on the child's IEP, and continue to participate with nondisabled children to the extent they would have in their current placement. This continues to be our policy. Portions of a school day that a child had been suspended may be considered as a removal in regard to determining whether there is a pattern of removals as defined in Sec. 300.536."*

If contemplating a suspension or an expulsion of a child with a disability, school districts must follow the requirements of K.S.A. 72-6115.

The school need not provide educational services during the first 10 days of removal in a school year, unless it provides educational services to a child without disabilities who is similarly removed.

Investigative Findings

At JCDA, Board of Education policies for the district states:

"Each principal shall develop rules and regulations to govern student conduct consistent with board policies. The rules shall be reviewed by the board and adopted as policy by reference. The rules of conduct shall be published in student handbooks."

On page 8, under the heading "Discipline/Detention," the Student Handbook for the student's school (found on the website for the school under the title "2022-23 EW Parent Student Handbook) states that "consequences [for a violation of discipline rules] will be set on an

individual basis to fit the situation and the child's needs...ISS (in-school suspension) may be used and is served in a supervised room. The Focus Room may also be used for student's unable to behave appropriately in the regular education classroom.

Staff members from the LEA attended a conference in November 2025 where they heard about a behavior management program being used in a district in Nebraska. The LEA then sent staff to that district to learn more about the program. Subsequently the decision was made to implement the full version of the program in the LEA's alternative educational setting called the Tiger Academy. The LEA determined that a modified version of the program would also be implemented on a school-wide basis at the student's school as well as at another elementary school.

A major component of the new program involves the use of the building's "Focus Room." According to the LEA, the Focus Room is used for students to "self-regulate in a location that is not in-school suspension [ISS]."

The LEA reports that at the student's school (and the LEA's K-2 elementary building) both exceptional and unidentified students access the Focus Room in the following ways:

1. A student may ask to be allowed to go to the Focus Room if they are getting upset or need to self-regulate.
2. A teacher is able to send a student to the Focus Room to self-regulate due to work refusals and being uncooperative.
3. A student who elopes, engages in physical aggression, or does major destructive damage to property can be required to spend time in the Focus Room.

In some cases, students who are in the Focus Room are also placed "on restriction"

- meaning that they are not allowed to leave the room to attend "specials" (classes such as PE, Music, Library, Art, or Technology).

According to the Special Education Director, the student is sent to the Focus Room if she has eloped, displayed physical aggression, or engaged in major destruction of property.

At 2:34 PM on February 17, 2026, the student's special education teacher sent an email to the student's parents writing:

> *"Good afternoon. We have started using a new Behavior Data System for [the student]. It is a system that our district purchased from a behavior school. I will start sending home her behavior log each day and would like for you to sign it and return it the following day. I will send todays log home tomorrow. [The student] went to specials this morning and then refused to do anything else. With the new system comes different levels. Since [the student's] percentage was below 90% she will spend the day in the Focus Room tomorrow. Which is considered Restriction. She has to have a 90% or better tomorrow and if it is not a 90% or better she has to stay in the Focus Room until she does. Then she will move to Level 3. She*

> *will return to my room on Level 3. She has to have three days of overall 90% to move down to Level 2. She has more privileges and freedom on Level 2 and 1. This is similar to the system that they are using at Tiger Academy, which is the new Behavior School. It sounds strict, but we are seeing progress in students. It's all about expectations, accountability, and consistency. Please let me know if you have any questions."*

At 4:34 PM, the parent sent an email back to the special education teacher asking

> *"Will she start the day there? or still do specials"*

The teacher responded at 5:26 PM writing

> *"She will start her day there. There are no specials when they are in restriction."*

No evidence was provided by the LEA to show that the parent was provided with or had access to any additional information regarding the new behavior program, it's structure, and/or how the program would impact the student. The parent was not provided with any information to explain the program levels or the point system that would be used to make decisions as to how the student would be moved in and out of the Focus Room as a consequence of her behavior.

According to the parent's written complaint, she was unable to reach anyone at the school by telephone on the afternoon of February 17, 2026 to get more information about the change and opted to keep the student home from school on February 18, 2026.

At 7:25 AM on February 18, 2026, the parent sent an email to the special education teacher writing

> *"I ask that a phone call, meeting or detailed info be sent to me before any of this happens please. I need more time and information so that I fully understand what is happening so that I can understand and explain to her. This affects her behavior plan and the IEP. By the time I responded to this and called it was too late and I had no time to know what would happen today."*

The special education teacher responded via email at 12:04 PM writing

> *"We can have a team meeting on Friday at 9:00. I think it would be good if the whole team was available. This would include the behavior specialist. Please let me know if this works for you."*

The parent wrote back at 12:14 PM stating

> *"Ok. As long as none of these changes occur until after this meeting, I am good w/this."*

The student returned to school on February 19, 2026. At around 10:30 AM that morning, the parent received a call from the building principal notifying the parent that the student had "a bad day." The parent learned that the behavior plan had been implemented and the student had been placed on restriction.

An IEP team meeting was held on February 20, 2026. The parent participated via telephone and waived her right to 10-day notice of the meeting. The decision was made to table discussion by the team. It was agreed that the parent and the Special Education Director would meet to discuss the parent's concerns at a later date.

On February 26, 2026, the student's IEP was amended.

As noted in the background section of this report, the student attends school on a modified day for 3 hours. According to the "Services" section of her January 22, 2026 IEP and her amended February 26, 2026 IEP, the student was to receive the following direct services:

- 20 minutes one day per week of special education services for language outside of the regular education classroom;
- 100 minutes one day per week of special education services to "assist with social emotional/self-regulation..." outside of the regular education classroom;
- 60 minutes five days per week of special education services to "assist with social emotional/self-regulation..." in the regular education classroom; and
- 120 minutes four days per week of special education services to "assist with social emotional/self-regulation..." in the regular education classroom.

The student's January 22, 2026 IEP includes a Behavior Plan. The "Implementation Steps/De-escalation Strategies" section of that plan includes the following statement:

> *"If [the student] begins behaviors from the 'escalation phase," then staff will minimize verbal statements to 2 or fewer per minute, and point to the calm down corner as a reminder for [the student] to use it. If [the student] begins to move from her desk, or leave the immediate area and is disrupting normal classroom operation, staff will evacuate the room of additional staff and students to reduce the audience, so that one staff remains to document and one to engage. Staff will switch roles and set a 30 minute timer. If [the student's] behaviors begin and continue to the crisis stage, then staff will call the Focus Room to attempt to de-escalate and work with [the student] in the classroom. If [the student] continues to escalate, then Focus Room staff will walk her to the Focus Room and continue to utilize de-escalation strategies to help her return to baseline."*

On February 26, 2026, this section of the student's IEP Behavior Plan was amended to include the following:

> *"... Focus Room staff will walk her to the Focus Room and continue to utilize de-escalation strategies to help her return to baseline which is 90% on her data logs" (emphasis added).*

Additionally, the "Other" section of the Behavior Plan was amended on February 26, 2026 to include the following statements:

> *"The IEP team for [the student] will meet a minimum of 10 school days ahead of any building protocol, practice, or policy being implemented with [the student] to explain and discuss with*

the parent(s) for managing behaviors in said building and compare the new building protocol, practice, or policy to [the student's] behavior intervention plan (BIP). The BIP will continue to be in effect and will be followed in accordance with the new behavior practice being put in place in said building. The behavior intervention plan will have 90% added to the strategies section to specify the percentage for [the student] returning to baseline. If [the student] is in restriction for five consecutive full days without making progress to return to the classroom and/or special education resource room setting, the team will meet.

The Behavior Plan included in both the student's January 22, 2026 IEP and the February 26, 2026 Amendment also included the following statement:

"Follow school/district behavior policies/practice."

On February 26, 2026, the LEA provided the parent with prior written notice of the following proposed changes to the student's IEP:

"Effective 2/26/2026, as agreed by the team during the IEP team meeting on 2/26/2026, [the student's] IEP will reflect the following language in the social emotional present level module and the behavior intervention plan:

- **The IEP team for [the student] will meet a minimum of 10 school days ahead of any building protocol, practice, or policy being implemented with [the student] to explain and discuss with the parent(s) for managing behaviors in said building and compare the new building protocol, practice, or policy to [the student's] behavior intervention plan (BIP). The BIP will continue to be in effect and will be followed in accordance with the new behavior practice being put in place in said building.*
- **The behavior intervention plan will have 90% added to the strategies section to specify the percentage for [the student] returning to baseline.*
- **If [the student] is in restriction for five consecutive full days without making progress to return to the classroom and/or special education resource setting, the team will meet."*

In a telephone call on March 11, 2026, the parent told the investigator that after having learned more about the building's behavior program she was now comfortable with how that plan was being used with the student and felt that both she and her daughter had a better understanding of how the program worked.

During the period of February 17 through March 13, 2026, the student was in the Focus Room on restriction for 9 school days (February 19, 20, 23, 24, and 25 and March 9, 10, 11, and 12, 2026). While in the Focus Room, she was supported by a paraeducator and received special education services including speech. However, because she was on restriction, she was not allowed to participate in her specials (PE, Music, Library, Art, or Technology).

Summary and Conclusions

In this complaint, the parent's expressed issue was that the LEA did not timely and effectively communicate with her about the new building-wide behavior program and how that program would impact the student. The LEA acknowledges that communication with the parent was not ideal. At its core, however, this complaint centers on the implementation of a building-level disciplinary program and the use of a "Focus Room."

While the online handbook for the student's elementary school states that the Focus Room may be used "for students unable to behave appropriately in the regular education classroom," the LEA contends that placement in the Focus Room is not punitive and is not intended to be in-school suspension (ISS). The LEA asserts that the in-school suspension room is located in a different area of the building. According to the LEA, students may elect to go to the Focus Room when they need a quiet environment to refocus and deescalate. The student's January 2026 IEP identified the Focus Room as a place to which the student could be directed when she was having trouble recovering from an episode of escalation.

However, a suspension (disciplinary removal) is a suspension even if referred to by any other name. Once the new building-wide behavior plan was implemented, the Focus Room became a setting into which this student could be placed as a consequence for displaying what were deemed unacceptable behaviors. While the Focus Room is not labeled "ISS," placement in the Focus Room "on restriction" removed the student’s access to the general school environment and to general education opportunities in the student's specials - even though the student's IEP required 60 minutes per day of special education support in a general education setting.

For a period of 10 school days, an LEA may use in-school suspension for children with disabilities just as they would for children without disabilities. The comments in the federal regulations which were cited above state that, if in-school suspension is a place where children are held without opportunities to progress in the general curriculum, receive IEP services, and/or participate with children without disabilities to the same extent they would have in the placement described in their IEPs, the days spent in that setting count as school days of suspension. This student's placement on restriction in the Focus Room can continue beyond the allowable 10-day period only if the IEP team proposes a change in placement that properly addresses the removal of any requirement in her IEP which calls for 60 minutes a day of services in a general education setting and the parent gives written consent for that change. It is the student's IEP team, not a building-wide behavior plan, that determines services and placement for a student with a disability.

The prior written notice form provided to the parent on February 26, 2026 following an IEP meeting on that date did not address how the continued use of the Focus Room as a consequence for inappropriate behavior could result in a change of placement - the removal of 60 minutes per day in the general education setting. The February 26, 2026 amendment to the

student's IEP did not alter the requirement that the student receive 60 minutes of special education services in a general education setting.

The student has been on restriction in the Focus Room for a total of 9 school days between February 17 and March 13, 2026. While in the Focus Room, the student was supported by a paraeducator and received all special education and related services, but she was not allowed to attend specials (PE, Music, Library, Technology, and Art), and has not been afforded the opportunity to participate with children without disabilities to the same extent she would have in the placement described in her IEP. Special education laws allow the district one more day of restriction before any potential violation of statutes and regulations could be substantiated. Therefore, no violation is identified at this time. However, the LEA is strongly encouraged to take immediate action to address how this child will be served should her disciplinary removals to the Focus Room exceed the 10-day limit.

Corrective Action

Information gathered in the course of this investigation has not substantiated noncompliance with special education statutes and regulations on issues presented in this complaint. Because the LEA has not yet exceeded a 10-day disciplinary removal period, an assertion that the LEA has violated special education laws is premature, and no corrective actions are ordered at this time.

Diana Durkin

Diana Durkin Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 234
Fort Scott Public Schools: 26FC234-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on February 19, 2026, by ------- on behalf of her daughter, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on March, 19, 2026. That Complaint Report concluded that there was not a violation of special education statutes and regulations

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The parent presented one issue in this complaint. That issue was described in the complaint report to be:

> With limited notice to the parent, the district implemented a new building-wide behavior plan that resulted in the student being placed in a "Focus Room" where she was considered to be "on restriction" and was not allowed to participate in her "specials" (PE, Music, Library, Art, and Technology). This action was taken by the LEA without first conducting an IEP meeting to discuss how the change would impact the student and despite the parent having stated that she did not want the plan to be implemented until a meeting had been held. (Report, p. 3)

The complaint, as presented, alleged that the LEA did not timely and effectively communicate with the parent about a new building-wide behavior program and how that program would impact the student. The new building-wide behavior program allowed district officials to assign any student to a "Focus Room" for "students unable to behave appropriately in the regular education classroom." (Report, p. 11).

The report added that, "While the Focus Room is not labeled "ISSI" placement in the Focus Room removed the student's access to the general school environment and to general education opportunities in the student's specials - even though the student's IEP required 60 minutes per day of special education support in a general education setting" (Report, p. 11).

The investigator concluded that special education law did not require notice or parent participation in decision making through an IEP meeting in this instance because this building-wide behavior plan was not a plan for this individual student. It was in essence a building-wide in-school suspension plan. Both federal and state special education laws and regulations allow a school district to suspend a child with a disability for up to ten school days for any violation of a district code of conduct and without any special education services (34 C.F.R. 300.530 and K.A.R. 91-40-34).

Part of the investigator's analysis was the finding that this student was removed for disciplinary reasons to the "Focus Room," "for a total of 9 school days between February 17 and March 13, 2026 (Report, p. 12). Thus, at the time of issuing the report, the school district remained within its authority to suspend the student for any violation of school rules. For that reason, the investigator determined that the assigning of the student to the Focus Room for nine school days was a disciplinary action, and was not a change in placement. As such, it was not a matter for consideration by the student's parent or IEP team and did not trigger any of the parent's rights to participate in decision making under special education laws and regulations.

The Appeal Committee agrees with the investigator's analysis. The student was suspended for a total of 9 school-days for misbehavior. The suspension was within the authority of school

administration and was not a change of placement. School administration was not required to consult with the student's IEP team or the parent before implementing the suspension.

In her appeal of the complaint report, the parent also states that she believes her parental right to request information about the student's sudden assignment to the Focus Room (including a request for video footage of the student's behavior), her right to make a request for the special education mediation process, and gaps in communication regarding behavior logs were not addressed in the complaint report. These issues were not in the original complaint and so were not included in the complaint report. They cannot be first addressed through this appeal process.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report. The complaint report is sustained in full.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 2nd day of April, 2026.

Appeal Committee

Brian Dempsey

Mark Ward

Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON FEBRUARY 16, 2026

DATE OF REPORT: MARCH 23, 2026

This report is in response to a complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #437, Auburn/Washburn Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #437.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on February 16, 2026, and the 30-day timeline ended on March 18, 2026.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), has been implementing the Individualized Education Program (IEP) as written, with the LEA staff available, or whether non-LEA staff was required to implement the Student's IEP. K.A.R. 91-40-16(c); 34 § § C.F.R. 300.323, 300.156(a)(b).

Investigation of Complaint

The Parent was interviewed on March 9, 2026. The following LEA staff were interviewed on March 6, 2026: Nurse 2, the Assistant Principal, and the Assistant Director of Student Programs.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Nurse 1 Detailed Hours Timesheet, 02/17/25-09/19/25
2. Nurse 5 Detailed Hours Timesheet, 10/31/25
3. Nurse 3 Detailed Hours Timesheet, 12/19/25
4. Nurse 2 Detailed Hours Timesheet, 08/01/25-02/16/26
5. Health Office Visit Report, 11/10/25-02/17/26
6. Nurse Visit Notes, 08/13/25-08/29/25
7. Nursing Notes and Billing Log, 02/03/25-04/11/25
8. Extended School Year (ESY) Time Sheet/Personnel Categorical Aid Time and Effort Summer 2025, 06/26/25
9. Emergency Action Plan and Individual Health Care Plan (IHCP), 02/23/26
10. Nurse 1 License Verification Form, 02/18/26
11. Nurse 5 License Verification Form, 02/24/26
12. IEP, 03/10/25
13. IEP, 03/25/24
14. IHCP, 2024-25 School Year
15. Communication Log - Specific to Nursing Services During Complaint Period, 09/19/25-02/17/26
16. Prior Written Notice (PWN), 03/10/25
17. Nurse 3 License Verification Report, 02/18/26
18. Nurse 2 License Verification Report, 02/18/26
19. Nursing Notes and Billing Log, 03/03/25-05/23/25
20. Service Log Details, 09/18/25-10/31/25
21. Office Visit Notes, 12/16/25-02/18/26
22. Student Period Attendance Detail, 2025-26 School Year

Background Information

This investigation involved a twelfth-grade student enrolled at a high school in USD #437. The Student is currently receiving special education or related services under the category of multiple disabilities (other than deaf-blind) as a child with a disability per the IDEA. The Student has had a nurse assisting them during school hours since they began kindergarten.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. Relevant information from the Student's IEP, with a meeting date of March 10, 2025, included:
    a. The Impact of Exceptionality stated, "… Multiple Disabilities is defined by coexisting impairments, the combination of which causes such severe educational needs that those needs cannot be accommodated in special education programs solely for one of the impairments. [The Student] presents as a child with Multiple Disabilities including significant cognitive and adaptive behavior delays, physical/motor difficulties that impact [their] functioning and performance, cortical visual impairment, and impairments in communication. [The Student] has Cerebral Palsy, [the Student] is non-ambulatory, non-weight bearing & has poor trunk control. [The Student] is dependent in all [their] care. [The Student] receives all [their] nutrition via gastrostomy tube feedings. [The Student] also has a seizure disorder for which [the Student] takes medication for. There is a shunt in place to avoid the condition of hydrocephalus. [The Student] was diagnosed with Cortical Visual Impairment (CVI) … on 06/07/2017. … [The Student's] visual functioning impacts how [the Student] sees and processes [their] academic curriculum. [The Student] needs visual accommodations and strategies. [The Student's] disabilities significantly impact [their] ability to see content, as well as the ability to comprehend and understand. [The Student] also learns at a significantly slower pace than [their] same age, typical peers. This requires [the Student] to receive individualized instruction in order to access the curriculum. These together impact [their] ability to progress, function, and perform in the classroom and school setting and in the general education curriculum."
    b. The Student had an IHCP, and the Student "… has a personal nurse with [them] on the bus and at school due to emergency medication."
    c. The Student required special transportation to and from school. "The related service of special transportation includes an estimated travel time for arrival (home to school) and departure (school to home) that is subject to route changes and is based on the school calendar." For their special transportation, the Student required a wheelchair lift, a bus aide, and air conditioning. Bus personnel needed training in order to provide services for the Student.
    d. In the Services and Supplementary Aids section:
        i. School Nurse services would be provided by a school nurse in the regular education classroom at the school from March 10, 2025 through March 9, 2026, for 61 minutes five days a week. This would be for advisory and passing periods.
        ii. School Nurse services would be provided by a school nurse outside the regular education classroom at the School for March 10, 2025 through March 9, 2026, for 85 minutes five days a week. This would be for vitals, physical assessment, feedings, bolus, an ankle-foot orthosis (AFO), range of motion,

diapering, perineal care, Mic-Key button care, skin assessment, brushing their teeth, and washing their face.

iii. The Student would receive special education transportation for extracurricular activities, provided by the special education classroom teacher, at the School, from March 10, 2025 through March 9, 2026, for 40 minutes five days a week. The Student would receive nursing services during transportation.

iv. The Student would receive school nurse services, provided by a school nurse, for extracurricular activities at the School, from March 10, 2025 through March 9, 2026, for 40 minutes five days a week. (D176-D177, D185-D186, D190-D192, D194-D197)

2. A PWN, dated March 10, 2025, confirmed the information and services stated in the aforementioned IEP. The Parent checked that they gave consent and signed the PWN on April 2, 2025. (D281-D282, D284)
3. The Student's previous IEP, with a meeting date of March 25, 2024, included services from March 25, 2024 through March 24, 2025. The IEP included the same transportation and school nurse services, with the same number of minutes, as the IEP created in March 2025. (D209, D233-D234, D237, D238)
4. Progress Report dated during the 2025-26 school year indicated the following:
   a. Goal: "When alert, comfortable, ready to learn, & presented with [their] own personal eye gaze device (charged and working), [the Student] will be able to engage with minimal assistance in at least four novel recreational activities using eye-gaze technology."
      i. December 19, 2025: "Progress adequate to meet annual goal."
      ii. October 8, 2025: "Progress adequate to meet annual goal."
   b. Goal: "When participating in positioning out of [their] wheelchair and assisted into prone on forearms, and reclined or prone on vibroacoustic wedge, [the Student] will be able to visually interact with [their] environment."
      i. February 13, 2026: "Progress adequate to meet annual goal."
      ii. December 12, 2025: "Progress adequate to meet annual goal."
      iii. October 2, 2025: "Progress adequate to meet annual goal."
   c. Goal: "When in speech therapy, [the Student] will be able to independently utilize [their] [Augmentative and Alternative Communication] (AAC) device to communicate for a variety of functions (including but not limited to commenting, describing items and feelings, labeling actions, answering questions, appropriately protesting)."
      i. December 19, 2025: "Progress adequate to meet annual goal."
      ii. October 8, 2025: "Progress adequate to meet annual goal."
5. An LEA timesheet for Nurse 1 showed they worked at the School for 906 hours between February 17, 2025 and September 19, 2025. (D1-D3) An LEA timesheet for Nurse 5 showed they worked at the School for seven hours on October 31, 2025. (D4)

An LEA timesheet for Nurse 3 showed they worked at the School for ten hours on December 19, 2025. (D5) An LEA timesheet for Nurse 2 showed the number of hours they worked at the School, but not the total, between August 27, 2025 and February 16, 2026. (D6-D8)

6. Health Office Visit Reports for the School showed Nurse 1 provided nursing care for the Student on February 24, 25, 26, 27, and 28 2025; March 3, 4, 6, 7, 10, 11, 12, 13, 24, 25, 26, 27, 28, and 31, 2025; April 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 22, 23, 24, 25, 28, 29, and 30, 2025; May 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, and 23, 2025; and August 13, 14, 15, 20, 21, 22, 25, 26, 27, 28, and 29, 2025. While there were some minor changes in the daily reports, detailed notes about the Student's routine included:
    a. The Student was picked up from their home, and the Parent provided updates about the Student, such as how well they had slept, their current mood, and if the Student had already received one of their medications. Nurse 1 provided an overview of the Student's mood, including whether they appeared alert. Nurse 1 also took and recorded the Student's temperature and performed a skin assessment. They noted when the Student's Mic-Key button was in place. Nurse 1 secured the Student on the bus.
    b. The Student's feeding tube was connected, and feeding started at 69mL/hour. Nurse 1 checked the G-tube site to see if it was clean and dry, and the AFOs were placed.
    c. In the morning, usually around 9:40 a.m. (though times varied slightly), Nurse 1 assisted with a two-person transfer of the Student to the changing table for perineal care. The feeding tube was stopped to do this. The Student's Mic-Key button was cleaned, and a skin assessment was performed. The Student was secured in their wheelchair, their teeth brushed, and their face washed. The Student's feeding tube was reconnected and restarted at 69 mL.
    d. The Student was administered albuterol around 12 p.m.
    e. In the afternoon, usually around 2 p.m., Nurse 1 performed a two-person transfer of the Student for a diaper change. The feeding tube was stopped to perform this care, which included a diaper change. Then the Student's feeding tube was reconnected and restarted at 69 mL.
    f. Around 2:50 p.m., Nurse 1 prepared the Student to go home by stopping the feeding tube and flushing the tubing. Nurse 1 provided a report to the Parent.
    g. An ESY time sheet for Nurse 1, dated June 26, 2025, showed Nurse 1 provided nursing services on June 2-5, 9-11, 17-19, and 23-26, 2025, for the Student. (D60-D72, D96-D148, D149, D301-D304, D306-D365)
7. Health Office Visit Reports for the School showed Nurse 2 provided 90 hours of nursing care for the Student on September 18, 25, 26, and 30, 2025; October 1, 2, 3, 6, 7, 8, 9, 13, 14, 15, 20, 21, 22, 23, 24, 27, 28, 30, and 31, 2025; November 10, 11, 12, 13, 14, 18, and 19, 2025; December 1, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, and 22, 2025; and

January 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 20, 21, 22, 23 and 30, 2026. Their arrival times ranged from 7:45 a.m. to 8:05 a.m., and discharge times ranged from 2:08 p.m. to 4:02 p.m. While there were some minor changes in the daily reports, detailed notes about the Student's routine included:

a. The Student was picked up from their home, and the Parent provided updates about the Student, such as how well they had slept, their current mood, and if the Student had already received one of their medications.

b. The Student was wheeled out of the house backwards, as requested by the Parent. The bus driver wheeled the Student onto the lift and locked their wheelchair on the ramp. The Student was lifted into the bus, and the bus assistant/paraprofessional secured the Student and applied safety restraints. Once they arrived at the School, the bus driver, paraprofessional, and Nurse 2 transferred the Student off the bus. Nurse 2 wheeled the Student into the School and to the special education suite to retrieve their feeding bag and tubing setup. The Student had a communication device.

c. The tubing was already primed by the Parent. Other times, Nurse 2 prepared the feeding bag and primed the tubing. Nurse 2 flushed the tubing with 60mL, per the provider's orders, before starting feeding. The Student's feeding tube was connected, and feeding started at 69mL/hour, as ordered by the provider. Nurse 2 also checked the G-tube site to see if it was clean and dry. Nurse 2 set up the Student's communication device on their wheelchair.

d. During a restroom break, Nurse 2 paused the feeding pump, disconnected and capped the tubing, then transferred to the changing table. Nurse 2 and a paraprofessional transferred the Student to the changing table, and perineal care was performed. Nurse 2 performed a skin assessment and noted if the Student's brief was wet or if they had had a bowel movement, and applied a new brief. Nurse 2 transferred the Student to their wheelchair and applied their AFO. The Student's feeding tube was reconnected and restarted at 69 mL.

e. Details about the Student's breathing and skin condition were noted.

f. The Student was administered albuterol at approximately 12 p.m. per the provider's orders.

g. During a second restroom break, Nurse 2 followed the same procedures as described above regarding the Student's perineal care. Nurse 2 transferred the Student to their wheelchair, and their feeding tube was reconnected and restarted at 69 mL.

h. During the 6th hour of the school day, the Student's feeding tube was still running at the rate ordered by the provider. Nurse 2 added one container of Pediasure peptide to the feeding bag, as ordered.

i. During a third restroom break, Nurse 2 followed the same procedures as described above regarding the Student's perineal care. Nurse 2 transferred the Student to their wheelchair.

j. The Student was allowed to stretch out while Nurse 2 read to them. The Student was transferred back to their wheelchair. Once the Student was secured in their wheelchair, their feeding tube was restarted at 69mL/hour, per orders.

k. Nurse 2 removed the AFOs and placed them in the Student's backpack. Nurse 2 removed the communication device from the Student's wheelchair and shut it down. They placed the device into its case and secured it in the Student's bag.

l. Nurse 2 stopped the feeding tube and turned off the pump. They disconnected the feeding tube, flushed it, and capped it before the Student boarded the bus, per the Parent's request. The Student was wheeled to the bus, and the bus driver performed the same process described above. Upon arriving at the Student's house, the Parent was given an update about the Student's day.

m. The notes also included details about the Student's participation in their classes and their mood.

n. On January 27, 28, and 29, 2026, and February 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, and 16, 2026, Nurse 2 was on lifting restrictions. On these days, the Health Office Visit Reports included additional information stating that Nurse 2 received assistance from trained professionals to lift and transport the Student, with Nurse 2 present and supervising. A paraprofessional helped Nurse 2 wheel the Student out of the house and assisted them with securing the Student on the bus. Notes from the reports indicated different teachers helped wheel the Student from class to class, but Nurse 2 remained with the Student. During the Student's restroom breaks, other staff members, including paraprofessionals, Certified Nursing Assistant (CNAs), and physical therapists, assisted Nurse 2 in transferring the Student on and off the changing table. (D9-D34, D37-D59, D366-D404, D411, D417, D423, D426, D427, D447, D450, D451)

8. Relevant information from a Nursing Care document for the Student for the 2025-26 school year included:

   a. The Student had diagnoses of a seizure disorder, a partial complex seizure disorder, generalized convulsive epilepsy, cerebral palsy, periventricular leukomalacia, hydrocephalus with shunt, dysphagia with gastrotomy feeding, and left and right hip surgery.

   b. For the Student's epilepsy/seizure disorder, the Student would be monitored for signs of seizures. If the Student vomited during a Tonic-Clonic type seizure, staff would follow the Seizure Action plan, observe and record seizure activity and its length, and keep a record in the health office. The document contained the Student's medication for current seizures and emergency seizure medication. The Student would remain in their wheelchair if a seizure occurred while in it.

   c. The Student had a G-tube (Mic-Key button) and an Infinity pump. The Student could have Pediasure Peptide per their Mic-Key button at 69-70 mL/hour. When changing the Student's position, staff should monitor for raspy breathing, coughing, and watery eyes. The Student's feeding tube would be stopped and disconnected during

bus transport. If the Mic-Key button should become dislodged, staff should cover the area with gauze and replace it as soon as possible, per the doctor's orders.

d. The Student was non-ambulatory, and their mobility was dependent on their wheelchair. The Student was a "2:1 transfer or Hoyer lift." Instructions for lifting the Student were included. The Student would have a position adjustment every two hours by taking breaks out of their wheelchair. Staff would monitor the Student for non-verbal signs of illness, pain, or discomfort. If the Student showed non-verbal signs of pain, staff would reposition the Student and ensure the environmental temperature was not too warm.

e. The Student had hip surgery in 2020 and 2024.

f. The Student was non-verbal.

g. The Student would receive Budesonide upon arrival at school and receive Albuterol at noon. The Student would be monitored for symptoms of shunt malfunctions.

h. "To accomplish the outcomes detailed within this plan, [the Student] will have nursing services throughout [their] day." This included when the Student was on the bus, during all times in general education settings, and when receiving special education and related services.

i. The document was dated February 23, 2026. (D153-D158)

j. A Nursing Care document for the Student for the 2024-25 school year included the same information as the plan for the 2025-26 school year. (D251-D256)

9. A License Verification Report for Nurse 1 indicated they had an active, unencumbered Registered Nurse (RN) license in the state of Kansas. The license was issued on August 26, 1985, and would expire on April 30, 2026. (D164) A License Verification Report for Nurse 5 indicated they had an active, unencumbered RN license in the state of Kansas. The license was issued on January 26, 2012, and would expire on November 30, 2027. (D166) A License Verification Report for Nurse 3 indicated they had an active, unencumbered RN license in the state of Kansas. The license was issued on August 21, 1991, and would expire on March 31, 2027. (D289) A License Verification Report for Nurse 2 indicated they had an active, unencumbered RN license in the state of Kansas. The license was issued on June 16, 2010, and would expire on September 30, 2027. According to the report, "unencumbered" meant the nurse had a full and unrestricted license to practice by the state board of nursing. (D291)

10. Relevant information from a timeline created by the LEA included:

a. September 19, 2025 - The Assistant Principal called the Parent and informed them of Nurse 1's resignation.

b. September 22 and 23, 2025 - The Assistant Principal called and updated the Parent on the search for a nurse.

c. September 24, 2025 - The Assistant Principal informed the Parent that nursing services for the Student would be provided by Nurse 2, who had been working in the School's clinic. Nurse 2 would switch to being the Student's one-to-one nurse.

d. September 25, 2025 - A virtual meeting was held with the Parent and the IEP team to discuss the change in the Student's nurse provider.

e. December 15, 2025 - LEA staff initiated contact with a nursing agency to seek a contract nurse because the LEA had been unsuccessful in hiring a new nurse. The LEA's intent was to hire a nurse for the clinic or the Student, so Nurse 2 could return to the clinic. Due to the lack of a new hire, Nurse 2 remained the Student's one-to-one nurse. The Assistant Principal spoke with the Parent about contacting the nursing agency.

f. January 2-6, 2026 - As of January 6, 2026, the nursing agency confirmed they did not have a nurse available to meet the School's needs.

g. January 22, 2026 - The Principal confirmed with the Assistant Director of Student Programs that they intended to speak with Nurse 2 about continuing Nurse 2's assignment as the Student's one-to-one nurse for the remainder of the school year. Five days later, the Principal confirmed they had spoken to Nurse 2 about the change and assigned Nurse 2 as the Student's one-to-one nurse.

h. January 27, 2026 - The Assistant Director of Student Programs spoke with the Parent and shared Nurse 2 had been assigned to the Student just before the nursing agency found a candidate. It was agreed the Parent would speak with the candidate because it had been difficult to find nursing services for home or school. The Parent was frustrated with the Student's nursing services schedule.

i. January 29, 2026 - The Parent met with the contract nursing candidate, and the Assistant Director of Student Programs informed the Parent that Nurse 2 had been assigned to work with the Student. The Assistant Director of Student Programs stated they would check with the nursing agency to determine whether the candidate wanted to work part-time or cover transportation time and/or ESY for the Student. The Assistant Director of Student Programs spoke with the nursing agency to "pause" the hire because a nurse from the School had been assigned to the position. They asked the candidate if they were interested in part-time work.

j. January 30, 2026 - The Assistant Director of Student Programs spoke with the Parent and indicated the candidate was not interested in part-time or substitute work. The decision was confirmed, with Nurse 2 remaining with the Student.

k. February 4, 2026 - The Assistant Director of Student Programs emailed the nursing agency and acknowledged the Parent was "unhappy" with the LEA's decision not to hire the contract nurse. The Parent expressed concern about the LEA's decision to keep Nurse 2 in the position rather than hire the contract nurse.

l. February 10, 2026 - During a phone call with the Special Education Director, the Parent expressed frustration with the Student's nursing plan.

m. February 12, 2026 - During a phone call, the Special Education Director proposed adjusting the Student's IEP to have a CNA on the bus with the Student. The Parent was "frustrated and resistant." The Special Education Director reiterated the LEA's job was to provide services during the school day, and while the current setup was

not ideal, the LEA was meeting its obligation. The Special Education Director offered to contact the nursing agency to see if a candidate was willing to work before and after school, but the Parent refused.

n. February 16, 2026 - LEA staff realized the Student's current IEP did not include full-day nursing services, even though the School had been providing full-day services.

o. February 17, 2026 - During an IEP meeting, the IEP team clarified they had been providing full-day nursing services consistent with the Student's IHCP and would ensure the services on the IEP were reflective of a one-to-one nurse. (D269-D271)

11. According to a Student Period Attendance Detail report for the 2025-26 school year generated on February 24, 2026, the Student was marked absent for the "nurse out" on separate 6 days, for an assembly one day, for illness four days, for a medical appointment one day, for weather three days, and for a school activity one day. All absences were excused. According to this report, the Student was not marked tardy for any class period. (D298-D299)

Parent Interview

12. In an interview with the Complaint Investigator, the Parent noted that once the School decided to use Nurse 2 as the Student's nurse, the transportation times changed, and the Student was being picked up 45 minutes later than previously. The Parent noted due to the late pick-up, the Student missed "the majority" of their first-hour class. The Parent added they had to change the Student's schedule to study hall for their first-hour class so the Student would not miss "important classes." (P1, 00:37, 00:57, 01:44, 02:37) The Parent indicated they were told the schedule was temporary until they found another nurse. (P2, 03:36)
13. The Parent explained the Student had the same bus schedule since starting eighth grade. The Student used to get picked up at 7:10 a.m. The Parent confirmed they worked from home and they had not lost their employment as a result of the changes to the Student's schedule. (P2, 04:33, 04:46)
14. The Parent reported they did not hear from the nursing agency until after winter break, when the nursing agency called to ask if they wanted to meet a candidate. The Parent indicated they had notified the School they wanted to move forward with the nurse from the nursing agency. The Principal explained the School would continue with Nurse 2 for the remainder of the school year and look for another nurse next school year. (P3, 05:50, 06:50)
15. The Parent noted they used a "TA Nurse" from an agency until the Student was in seventh grade, but noted when they moved to the School, they had been using the school nurse. (P4, 09:24)
16. The Parent confirmed the Student missed four days of school during the transition between Nurse 1 and Nurse 2. (P4, 11:01) The Parent noted the Student's schedule changed for their morning arrival at school, but they arrived home at the same time as before. (P5, 11:55) They added the LEA had not offered to make up the time the Student missed. (P5, 11:42)

17. The Parent did not notice any differences in the nursing services provided by Nurse 2 as compared to Nurse 1. They communicated the only difference was the pickup time. They indicated they were not called or told about it before it happened. (P6, 14:43)
18. The Parent noted they did not receive a PWN regarding changes to the Student's schedule. (P6, 16:12)

Assistant Principal Interview

19. In an interview with the Complaint Investigator, the Assistant Principal was joined by the Special Education Director. (P1, 00:37, 01:03)
20. The Assistant Principal confirmed the contract nurse was hired to provide services during the school day and on the bus ride to and from school. (P1, 01:39)
21. The Assistant Principal explained, after Nurse 1 resigned, they worked to find a replacement nurse as soon as possible. The Assistant Principal noted they reviewed Nurse 1's schedule and "realigned what the hours were going to be" for the new position. The Assistant Principal noted they had reached out to a nursing agency and people in their community, and confirmed the job was listed as an open position. (P2, 02:00)
    The Assistant Principal recalled the position was initially considered temporary and noted that Nurse 2 agreed to be the Student's nurse while they looked for a permanent staff member. (P2, 02:00, 03:40)
    The Assistant Principal confirmed there were "several days" during which the Student did not receive services between Nurse 1's resignation and Nurse 2's start. (P2, 04:04) The Special Education Director confirmed it was 4 days from September 19, 2025, through September 24, 2025, and noted there was a weekend in the date range. (P3, 04:52) The Special Education Director reported Nurse 2 started on September 25, 2025, and their position was made permanent on January 22, 2026. (P3, 05:53, 06:20) The Director of Special Education acknowledged they did not notify the nursing agency that they no longer needed its services after deciding to make Nurse 2's position permanent. (P3, 07:13) They added the nursing agency found someone almost at the same time and contacted the Parent. (P3, 08:12)
22. The Special Education Director explained the Student continued to have the same bus route, but their pickup and drop-off times changed when Nurse 2 was hired. They explained Nurse 1 worked 6:30 a.m. to 3:30 p.m. and noted it was not "super feasible" for a nurse. The Special Education Director clarified they were not required to provide an extra hour of support at either end of the Student's school day and noted that they had to provide "comparable services" as those provided to peers. (P4, 09:44; P5, 10:43)

Assistant Director of Student Programs Interview

23. In an interview with the Complaint Investigator, the Assistant Director of Student Programs was joined by the Special Education Director. (P1, 00:38, 00:49)
24. The Assistant Director of Student Programs stated there was little turnaround time after Nurse 1 resigned. They confirmed the "high school administration" had contacted

the Parent, and the Parent had chosen to keep the Student home while staffing was being determined. They added, "high school administration" had asked Nurse 2 to step in and support the Student while the LEA posted the position and looked into "other options." (P1, 01:30)

The Assistant Director of Student Programs noted it was challenging to find qualified applicants. They noted they interviewed "some" applicants and had offered the position to two candidates, both of whom declined. The Assistant Director of Student Programs explained the Special Education Director contacted the nursing agency afterward to see if they could help with staffing. (P1, 02:48)

The Assistant Director of Student Programs decided to assign Nurse 2 to the Student and to continue seeking applicants, and affirmed they wanted stability for the Student. The nursing agency found a viable candidate and informed the Parent around the same time the LEA decided to keep Nurse 2 in their position. (P2, 04:39)

25. The Assistant Director of Student Programs stated the School "administration" told the nursing agency they did not require that solution and would continue with the current plan. (P2, 06:15)
26. The Assistant Director of Student Programs noted the Parent believed the nurse from the nursing agency would be able to provide before and after-school care. (P2, 07:19) The Assistant Director of Student Programs clarified the LEA coordinated and collaborated with outside agencies, but they were only responsible for providing care during the school day, other than before and after school transportation services. (P3, 08:08)
27. The Assistant Director of Student Programs shared that they asked the Parent whether they wanted to speak with the nursing agency, as the Parent had additional nursing needs to address. They added that the Parent didn't have a say in the service provider; however, they wanted the Parent to have the option to ask potential providers about ESY and summer school. (P4, 12:34)

Nurse 2 Interview

28. In an interview with the Complaint Investigator, Nurse 2 was joined by the Special Education Director. Nurse 2 confirmed they worked as the Student's one-to-one nurse. Nurse 2 reported working with the Student from the time the Student got on the school bus until the Student was dropped off at home at the end of the day. (P1, 00:46, 01:22, 02:20)
29. Nurse 2 explained there was one day they could recall leaving early without coverage, and confirmed they had coverage for the Student all other times. (P2, 03:30) Nurse 2 recalled "physical therapy" had to train anyone working with the Student on how to lift the Student and how to use the Hoyer while Nurse 2 was on lifting restrictions. Additionally, Nurse 2 shared school staff helped when Nurse 2 was on a push-pull restriction. (P3, 04:44)
30. Nurse 2 stated before the restriction, they asked CNAs in the special education suite or paraeducators who had been trained to help transfer the Student. (P3, 04:44, 05:22)

31. Nurse 2 described their familiarity with the procedures required for the Student's daily support, which included G-tube care, diaper changes and hygiene, administering breathing treatments, and checking vitals. (P3, 05:47, 06:52, 07:08)
32. Nurse 2 explained that, as a nurse, they had been trained and had experience caring for and running a feeding tube and a feeding pump. They noted they were unable to consult with Nurse 1 before leaving, so they had to speak with the Parent, review the orders, and communicate with staff about when and where certain procedures occurred. (P4, 08:14)
33. Nurse 2 confirmed they began providing nursing services to the Student on September 25, 2025, after Nurse 1 resigned. (P4, 09:16, 09:32)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, has been implementing the IEP as written with the LEA staff available, or whether non-LEA staff was required to implement the Student's IEP. K.A.R. 91-40-16(b); 34 §§ C.F.R. 300.323, 300.156(a)(b).

According to K.A.R. 91-40-16(b) and 34 § C.F.R. 300.323, each agency shall ensure an IEP is in effect before special education and related services are provided to an exceptional child. Those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless a reasonable justification for a delay can be shown. An IEP is in effect for each exceptional child at the beginning of each school year. The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider is informed of that individual's specific responsibilities for implementing the child's IEP, as well as the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

According to 34 § C.F.R.300.156(a)(b), the State Education Agency (SEA) must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including those personnel who have the content knowledge and skills to serve children with disabilities.

The qualifications must include those for related services personnel and paraprofessionals that are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel provide special education or related services. They must ensure that related services personnel who deliver services in their discipline or profession meet the requirements of paragraph (b)(1) of this section; have not had certification or licensure

requirements waived on an emergency, temporary, or provisional basis; and allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services under this part to children with disabilities.

The Parent alleged that the LEA failed to hire an outside agency nurse for the Student's home and school care, which affected the Parent's employment.

The LEA responded they were aware of issues with nurse staffing but confirmed they maintained one-on-one nursing services throughout the Complaint period. The LEA also acknowledged there were instances of late arrival or early departure totaling approximately 1% of the Student's present minutes, but the Student continued to make measurable progress toward their IEP goals.

The Student is a child with multiple disabilities, requiring one-to-one nursing services, specialized transportation, and gastrostomy tube feedings. The Student's IEP and IHCP, reviewed on March 10, 2025, mandated nursing services during the school day and during transportation. Following Nurse 1's resignation on September 19, 2025, the Student missed four days of school while the LEA searched for a replacement. The LEA assigned Nurse 2 to the one-to-one role on September 25, 2025. Although the LEA initially sought a contract nurse through an external nursing agency, they decided to make Nurse 2's assignment permanent in January 2026, despite the Parent's preference for a nursing agency candidate and concerns regarding a 45-minute delay in morning transportation. Nurse 2, a licensed RN, had provided consistent care, including tube feedings and seizure monitoring, while using trained staff for transfers during periods of physical-lifting restrictions. An attendance report generated on February 24, 2026, showed the Student had excused absences for various reasons, including six days for "nurse out" and four days for illness, but recorded no tardies for any class period. On February 17, 2026, the IEP team met to formally update the Student's IEP to reflect the full-day one-to-one nursing services that were being provided.

According to Endrew F. v. Douglas County School District, the Court held that, to meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make appropriate progress in light of the child's circumstances. Although the Student missed six days of school due to staffing needs, they demonstrated progress toward their goals. Evidence does not show the lack of staffing caused the Student to regress or lose progress.

Based on the foregoing, according to IDEA and Kansas special education regulations, it is not substantiated that the LEA failed to implement the IEP as written, with the LEA staff available.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #431
ON FEBRUARY 18, 2026

DATE OF REPORT: MARCH 23, 2026

This report is in response to a complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #431, Hoisington Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #431.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on February 18, 2026, and the 30-day timeline ended on March 20, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #431, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provided the Parent with PWN (PWN) that accurately reflected the Parent's actions, proposals, and opinions, and key data related to the Student. K.A.R. 91-40-26(a-c); 34 CFR § 303.421.

ISSUE TWO: Whether USD #431, in accordance with state and federal regulations implementing the IDEA, provided the Parent and their Advocate with an opportunity to participate in special education meetings, including receiving draft documents in advance of meetings, meetings being scheduled at a mutually agreed date and time, and whether the Parent's input was included in the Student's IEP. K.A.R. 91-40-26; 34 CFR 303.322; K.S.A. 72-987(d)(1), 34 CFR § 300.324(a)(1)(ii).

ISSUE THREE: Whether USD #431, in accordance with state and federal regulations implementing the IDEA, made a special education placement decision by the Student's IEP team, including the Parent. Further, whether the LEA considered a continuum of placement options and, based on the Student's needs, determined the least restrictive environment for the Student. K.A.R. 91-40-21; 34 CFR §§ 300.114-116, 300.327.

ISSUE FOUR: Whether USD #431, in accordance with state and federal regulations implementing the IDEA, utilized a variety of sources, including information from the Parent, when making decisions about the Student's eligibility for special education services. K.A.R. 91-40-10(d); 34 CFR § 300.306.

ISSUE FIVE: Whether USD #431, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP in accordance with the starting dates included in the IEP. K.A.R. 91-40-16; 34 CFR § 300.323.

ISSUE SIX: Whether USD #431, in accordance with state and federal regulations implementing the IDEA, violated FERPA regulations when another student's personally identifiable information was provided to the Parent. 34 CFR § 303.401(a)(b).

ISSUE SEVEN: Whether USD #431, in accordance with state and federal regulations implementing the IDEA, provided the Student with a free appropriate public education (FAPE) when IEP services were not implemented, procedural violations occurred, and the Parent did not have an opportunity to participate in the special education process. K.A.R. 91-40-2, 91-40-3; 34 CFR § 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent by video call on March 13, 2026. The following LEA staff were interviewed by video call on March 12, 2026:

1. Special Education Teacher 1
2. Special Education Teacher 2
3. Special Education Director

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Emails, ranging from 9/17/2025 thru 2/3/26
2. Attendance by Class, 2024-25 School Year
3. Grade Card, 2024-25 School Year
4. Collaborative Team Meeting Agenda, no date
5. Meeting Notes, no date
6. Request for Evaluation, no date

7. Attendance by Class, 2025-26 School Year
8. Reading Assessment, Spring 2025
9. Medicaid Service Logs, 11/21/24-05/13/25
10. Timeline of Events at the School, 12/16/[24]-05/13/25
11. Eligibility Determination Letter, 02/28/25
12. Meeting Notes, 08/12/25
13. Handwritten Meeting Notes, 08/12/[25]-01/27/[26]
14. Timeline of Events, 08/20/24-02/12/26
15. PWN, 08/25/25
16. IEP Amendment Form, 08/25/25
17. Amendment IEP, 08/26/25
18. Daily Speech Log, 08/26/25-02/23/26
19. Amendment IEP, 08/26/25
20. PWN, 08/27/25
21. Easy ABC, 09/25/[25]-12/25/[25]
22. BASC Evaluation with Parent Input Forms, 11/13/[25]
23. Functional Behavior Assessment Report, 11/17/25
24. USPS Mailed Envelopes, 12/01/25
25. Notice of Special Education Meeting, 12/04/25
26. Evaluation and Eligibility Report, 12/15/25
27. IEP, 12/15/25
28. PWN, 12/15/25
29. Initial Evaluation, 12/16/25
30. PWN, 12/17/25
31. USPS Mailed Envelopes, 12/18/25
32. Notice of Special Education Meeting, 12/18/25
33. Notice of Special Education Meeting, 12/18/25
34. IEP Team Planning Sheet, 01/06/[26]-01/08/[26]
35. Letter, re: Educational Accommodations for [the Student] with Attached Documents, 01/08/26
36. IEP, 01/13/26
37. Prior Written Notes, 01/15/26
38. IEP Amendment Form, 01/15/26
39. PWN, 01/15/26
40. DocuSign History, 01/15/26-01/23/26
41. USPS Mailed Envelopes, 01/15/26

42. Amendment IEP, 01/19/26
43. IEP Team Planning Sheet, 01/26/[26]-02/17/[26]
44. Proposed Daily Schedule, proposed at team meeting 01/27/26
45. IEP Team Meeting Attendance, 01/27/26
46. IEP Team Meeting Notes, 01/27/26
47. DocuSign History, 02/02/26-02/10/26
48. [the Student's] Schedule and Staff Coverage, 02/02/26-04/03/26
49. IEP Amendment Form, 02/02/26
50. IEP Amendment, 02/03/26
51. PWN, 02/03/26
52. USPS Mailed Envelopes, 02/03/26
53. DocuSign History, 02/12/26-02/17/26
54. Notice of Special Education Meeting, 02/12/26
55. PWN, 02/17/26
56. Behavior Log, 02/19/25-02/18/26
57. KSDE 26FC431-001 Timeline, 02/19/25-02/18/26
58. IEP Team Planning Sheet, 03/10/[26]-03/31/[26]

Background Information

This investigation involved a third grade student enrolled at in an Elementary School in USD #431. The Student is receiving special education or related services as a child with a disability per the IDEA. The Student had an IEP dated December 16, 2024, with an amendment date of August 26, 2025. The Student was homeschooled for four years prior and was receiving speech therapy. The Student was also diagnosed with post-traumatic stress disorder (PTSD) and autism spectrum disorder (ASD). The LEA found the Student eligible for other health impairment (OHI). The Student received outpatient occupational therapy once per week. The IEP team determined for the 2024-25 and 2025-26 school years, the Student would receive speech-language services in a pullout setting for fifteen minutes two times per week. The Parent suggested starting the Student with social/non-academic activities. The Parent reports [the Student's] tolerance level is 30–45 minutes, requests unlimited breaks, and consistency with staff. The Parent did not believe [the Student] could handle five days/week of 30 minutes, requested two days, but wants regularity in support. The IEP team proposed to amend the Student's special education minutes through a gradual increase in length of day and frequency of attendance, with the intent of supporting the Student's access to instruction and social emotional needs on February 3, 2026. The team recommended five days a week and a placement at the Transitional Learning Center (TLC).

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. The Student had an IEP dated December 16, 2024, with an amendment date of August 26, 2025. Relevant information included:
    a. Both parents attended and participated in person, as the legal education decision makers.
    b. In the "Input" section, it was written, "Parents have reported that they do notice [the Student's] articulation errors in [their] conversational speech. They do take [the Student] for outpatient speech services to address these errors. [The Parent] also reports that [the Student] has a very strong vocabulary and loves clever word play. … [The Student] also has struggles with speech sounds. Other parent comments are documented throughout the IEP."
    c. The Wechsler Intelligence Scale for Children - Fifth Edition (WISC-V) was administered to the Student by the School Psychologist on November 20, 2024. The Student scored "very high" in verbal comprehension and visual spatial, "high average" in fluid reasoning and full scale IQ, "average" on working memory, and "very low" on processing speed. Relevant information from the educational impacts stated, "[The Student] may benefit from having [their] writing assignments chunked and guided notes."
    d. In November 2024, the Student was evaluated for outpatient occupational therapy by an outside provider. It was determined the Student would receive outpatient occupational therapy once per week. The Student underwent three school-based occupational therapy observations in the classroom on November 4, 2024, and December 2 and 9, 2024. A Sensory Profile occupational therapy evaluation of the Student was completed on November 18, 2024. At the time, it was determined the Student's sensory needs did not significantly impact their ability to function in the educational setting and they did not require specially designed instruction.
    e. The Student had a need in the area of articulation. It was written "[The Student] was administered the Photo Articulation Test. [They] made substitutions on the R and TH phonemes. … [The Student's] speech and language delay may negatively impact [them] socially and academically. [They] may become shy or frustrated when [they] [are] unable to express [their] needs and wants. These errors may affect [their] self-esteem and willingness to participate in classroom activities." The IEP stated this would be met by the following goals:
        i. "Within 36 instructional weeks, [the Student] will produce the TH in all positions of words in sentences with 80% accuracy when describing/naming objects/pictures as observed by the SLP over two data sessions." The Student's baseline was 20%, based on data and Speech-Language Pathologist (SLP) observation.

ii. "Within 36 instructional weeks, [the Student] will produce the R in the initial position of words with 80% accuracy when describing/naming objects/pictures as observed by the SLP over two data sessions." The Student's baseline was zero, based on data and SLP observation.

f. In the Social Emotional / Adaptive section, the Parent reported the Student seemed unhappy at times due to their post-traumatic stress disorder (PTSD) and autism spectrum disorder (ASD).

g. The Student was given the Behavior Assessment System for Children, Third Edition (BASC-3). Raters assigned their scores between September 2024 and December 2024.

h. The Student was given the Woodcock-Johnson IV Tests of Achievement, Form A in reading, math, and written language on October 14, 2024.

i. The IEP noted the Student did not require any accommodations, modifications, or supplementary aids.

j. The Student would receive the following services at the School, every second week, August 21, 2025 through December 14, 2025, and provided by the SLP: speech-language services outside of the regular education classroom for five minutes one day a week, and speech-language indirect services for five minutes one day a week. These services were noted as an amendment to the IEP made on August 26, 2025.

k. The IEP team determined for the 2024-25 and 2025-26 school years, the Student would receive speech-language services in a pullout setting for fifteen minutes two times per week.

l. It was marked "yes" that the Student would receive special education services outside of the general education classroom; the IEP team considered placement in the regular environment with supplementary aids and services; and the team considered the nature and severity of the Student's disability when determining their placement. It was written the IEP team did not anticipate any harmful effects to the Student from their minimal time pulled out of class.

2. A letter from an outside provider to the Parent, dated February 28, 2025, indicated the provider determined the Student was eligible for Intellectual/Developmental Disability (IDD) services.

3. The Parent completed a Parent Input Form on August 10, 2025. Relevant information included:

    a. The Student had diagnoses of autism, attention-deficit/hyperactivity disorder (ADHD), sensory processing disorder (SPD), proprioceptive and vestibular dysfunction, pediatric insomnia, sleep apnea, irritable bowel syndrome (IBS) and gastrointestinal struggles, issues with speech articulation, a phonological disorder, and PTSD. The Parent stated the Student could perform academically within their window of tolerance.

4. Relevant information from meeting notes from an August 12, 2025 meeting included:

a. The attendees were the Parent, the Superintendent, the Therapist, the Principal, Teacher 1, Teacher 2, the Family Resource Specialist, the Autism and Behavior Coach, the SLP, the Special Education Director, an outside case manager, and the Advocate.
b. It was written, "[The Parent] frequently resists or creates barriers to team recommendations, moving between agencies when answers are not aligned with [their] expectations. … [The Parent] reports [the Student's] tolerance level is 30–45 minutes, requests unlimited breaks, and consistency with staff. [The Parent] does not believe [the Student] can handle five days/week of 30 minutes, requested 2 days, but wants regularity in support. … We have to take into consideration the information shared by both parents and agencies involved (past/present)."
c. The Parent suggested starting the Student with social/non-academic activities. It was noted the School had done that.
d. The Therapist stated they saw the Student weekly, and noted the Student's progress depended "heavily" on their emotional state that day. They indicated the Student was sometimes engaged, and sometimes withdrawn or dysregulated.
e. The Autism and Behavior Coach stressed the importance of maintaining demands as part of school expectations, while incorporating easier tasks to reduce the Student's frustration.

5. PWN, no date, indicated the IEP team had met on August 12, 2025 to determine whether the Student was eligible for special education, if special education and related services were needed by the Student, the appropriate placement, and any additions or changes to the Student's services to enable them to meet their IEP goals and participate in the general curriculum. It was checked that the Student would receive a material change in services and placement, for which parental consent was required.
    a. It was proposed the Student would receive speech-language services, outside the regular education classroom and as indirect services, for five minutes every other week. The services would be effective the date the form was signed and would remain in effect for the duration of the current IEP.
    b. The IEP team agreed the Student required these services so they may progress in the general education curriculum. The option to not provide services to the Student was rejected.
    c. The data used for the proposed action included parent input, the Student's current IEP and schedule, and student data.
    d. The IEP team believed the benefits of the proposed action outweighed any potential harmful effects.
    e. The Parent signed the PWN on August 26, 2025. The Other Parent signed the PWN on September 2, 2025.

6. An IEP amendment, dated August 25, 2025, summarized the speech-language services described in the aforementioned PWN. It was signed by the Parent on August 26, 2025 and marked they agreed with the amendment. The Other Parent also marked that they agreed and signed the amendment on September 2, 2025.
7. The Special Education Director emailed the Parent on September 17, 2025 and introduced them to the Clinical Director from the Applied Behavior Analysis (ABA) provider who would perform the Functional Behavioral Assessment (FBA).
8. The Parent completed the Parent Rating Scales (PRS-C) of the BASC-3 for the Student on November 13, 2025. In the comments section, the Parent wrote the Student struggled due to their neurotype and trauma. They indicated the Student's emotional regulation was developmentally behind and exacerbated by their PTSD. The BASC-3 also indicated the Other Parent had completed the PRS-C on October 28, 2025 and Teacher 1 completed the TRS-C on November 6, 2025. The Clinical and Adaptive T-Score profile showed the Other Parent rated the Student as "clinically significant" in hyperactivity, atypicality, withdrawal, and the behavior symptoms index. Teacher 1 rated the Student as "clinically significant" in atypicality, withdrawal, and the behavior symptoms index. The Parent rated the Student as "clinically significant" in hyperactivity, aggression, externalizing problems, anxiety, depression, somatization, internalizing problems, atypicality, withdrawal, and the behavior symptoms index. The Content Scale and Index T-Score profile showed the Other Parent rated the Student as "clinically significant" in anger control. Teacher 1 rated the Student as "clinically significant" in developmental social disorders. The Parent rated the Student as "clinically significant" in anger control, developmental social disorders, and emotional self-control.
9. Relevant information from an FBA, dated November 17, 2025, included:
    a. The Student was referred for an FBA to assess behaviors of concern to include aggression (hitting, kicking, and scratching), and some self-soothing behaviors, such as pacing, throwing/hitting objects, or knocking them down. The behaviors had proven disruptive to the Student's learning and that of others, interfered with the Student's progress and performance in skill acquisition, and were detrimental to the Student's ability to create and maintain social relationships with adults and peers.
    b. Assessment procedures included the Functional Analysis Screening Tool (FAST) and Antecedent, Behavior, Consequence (ABC) data. School staff collected ABC data between August 25, 2025 through October 28, 2025. Assessments and observations were completed by three separate clinical supervisors/board certified behavior analysts with no pre-existing background information to determine the function of the behavior in the school setting.
    c. The Student had the following percentages for the frequency of certain behaviors: physical aggression, 36%; refusal to come in, 27%; not following directions, 18%; and 9% each for physical aggression/disruption and misuse of materials/property destruction and not following directions/disruption.

d. The Parent included detailed information about the Student. The Parent stated the Student's behavior concerns in school included dysregulation, meltdowns, shutdowns, hypervigilance, and PTSD-related fight/flight/fawn reactions. The Parent advised they supported the Student's needs by keeping things structured and predictable. The Parent shared documentation from the Therapist which stated, "When kids feel safe and are regulated, they can manage hard things. … [the Student] is not at that point with school. … They are to call only [the Parent] to deal with behavior issues."
e. The Other Parent believed the Student should attend school for a full day. They did not think the Student would learn how to cope with a school schedule if they were not being introduced to it properly.
f. On October 9 and 28, 2024 a board certified behavior analyst observed the Student and noted approximately three instances of aggression, eight instances of property destruction, and fifteen instances of screaming within a thirty minute observation period.
g. Recommendations included:
    i. Environmental modifications by removing or hiding triggers or adding comforting elements.
    ii. Providing a reinforcer on a fixed schedule, independent of the behavior, to decrease motivation for the behavior.
    iii. Incorporate sensory strategies that could help the Student regulate their emotions, such as access to weighted blankets, fidget tools, or quiet spaces.
    iv. Prioritize teaching and practice of coping and self-regulation skills.
    v. Prioritize communication skills to express emotion and safety.
    vi. Develop social connections and support networks.
    vii. Establish routines to build predictability and safety.
h. Suggestions for antecedent interventions, replacement behaviors, and consequence/response interventions were also included.

10. The Special Education Director emailed the Parent and the IEP team on November 24, 2025 and stated they tried to call the Parent, but were unable to leave a message. They stated the IEP team was trying to schedule the Student's evaluation and IEP meeting, which were due December 16, 2025, and asked what time was best for the Parent. The Special Education Director provided two meeting date options. While they wrote the days and dates correctly, the Special Education Director wrote the month as November, when it was actually December. The Special Education Director emailed the Parent again on December 1, 2025 and offered the same meeting dates. The Parent replied they were available on December 15, 2025 at 9:30 a.m. They asked the Special Education Director to verify if they meant December for the meeting, which they confirmed. The Special Education Director also attached the Notice of Meeting (NOM) confirming the December 15, 2025 meeting at the School.

11. An envelope from the LEA addressed to the Parent was postmarked December 1, 2025. Handwritten on the envelope was, "3rd attempt. Copy provided [the Parent] on 12/15/25."
12. An undated NOM proposed a meeting date of December 15, 2025 to review the results of the Student's re-evaluation. The Other Parent signed it on December 4, 2025. The documentation of delivery indicated the Special Education Director sent the notice to the Parent on December 1, 2025 by mail and e-mail.
13. The School Psychologist emailed the PWN, the FBA, the evaluation and eligibility report, and the Student's IEP to the Other Parent and the Special Education Director the morning of December 15, 2025. The Special Education Director emailed the same documents to the Advocate about 30 minutes later.
14. Relevant information from the Student's Evaluation and Eligibility Report, with a meeting date of December 15, 2025, included:
    a. The reason for the re-evaluation was to determine if the child continued to be eligible as a student with a disability, determine the Student's present levels of performance and educational needs, whether the Student continued to require special education services, and whether additions or modifications to services were needed to enable the Student to meet IEP goals and participate in the general education curriculum.
    b. A special education evaluation was conducted on December 16, 2024 and it was determined the Student did not meet eligibility criteria for special education services, as their academic performance and classroom behavior did not significantly impact their educational performance at the time. The Student qualified for speech and language services in the area of articulation. The Parent provided documentation the Student had diagnoses of autism, ADHD, SPD, pediatric insomnia, obstructive sleep apnea, IBS issues, speech articulation / phonological disorder, vestibular and proprioceptive dysfunction, and PTSD. These needs impacted the Student's behavior, social skills, emotional regulation, and executive functioning.
    c. The School team met with each parent separately on August 12, 2025 to discuss the Student's attendance plan. It was determined the Student would attend school two days per week on Tuesdays and Thursdays, for 30 minutes each day, from 1:00 p.m. to 1:30 p.m. During the meeting, the Parent reported the Student's tolerance level was 30-40 minutes, and the Student was eligible for the I/DD waiver and had an updated autism evaluation.
    d. The Autism and Behavior Coach observed the Student on September 29, 2025, October 7, 14, and 16, 2025, and November 6, 2025. They stated the Student demonstrated strengths in conversational engagement, turn-taking during structured activities, and the ability to make choices when offered. The Student's participation and behavior varied significantly day-to-day, with sessions influenced by their level of regulation, motivation, and preferred topics. They noted patterns of behavior including preferred-interest focus, fidgeting and

movement, difficulty with competition/loss of control, and transition variability. The Autism and Behavior Coach noted the Student showed dysregulation through physical aggression when overstimulated, avoidance behaviors, loud vocalization and aggressive pretend play, and required adult physical support to leave the room on some days. They indicated the Student's participation increased with preferred books or games, and when regulated, they demonstrated the ability to correct mistakes independently. They noted the Student responded well to staff on days when rapport and routines were strong, the Student required frequent verbal prompts and redirection during dysregulation moments, and the Student occasionally sought teacher acknowledgement through noises or actions. They stated the Student's behavior tended to escalate when expectations increased or when preferred items were removed, their level of engagement fluctuated across sessions, and staff consistently provided positive feedback.

e. The School Psychologist observed the Student on December 2, 2025.

f. Both parents and Teacher 1 completed input forms. Their comments and concerns were documented throughout the report.

g. Results from the Student's previous evaluation meeting on December 16, 2024 were summarized in the report to provide additional context. This included the Sensory Profile evaluation, the WISC-V, parent input about the Student's academic skills, the Woodcock-Johnson IV tests, and a Photo Articulation Test. An update on this test stated as of December 4, 2025, the Student could produce the TH phoneme with 60% accuracy and the R phoneme with 70% accuracy.

h. The FBA used structured ABC data collection across 21 observed episodes (including antecedent frequencies, behavior types, consequence patterns, and response patterns), qualitative staff narratives from August-December 2025, parent input and consistent behavioral themes across settings, and direct observation notes from school providers across multiple sessions. The FBA concluded that across settings, the Student demonstrated a pattern of high-intensity dysregulation, including physical aggression, property destruction, and refusal/avoidance behaviors. The FBA concluded the Student, across arrival, transition, and instructional periods, when presented with demands, transitions, or adult directives, was likely to demonstrate physical aggression, property destruction, refusal behaviors and/or disengagement. A secondary function of escape/avoidance of non-preferred tasks or transitions was also present.

i. There was a summary of the BASC-3 and the scores provided by the Parent, the Other Parent, and Teacher 1.

j. The Recommendations/Eligibility section stated, "Based on a comprehensive review of [the Student's] file, previous evaluation results, current classroom and behavioral performance, [FBA] findings, reported diagnoses, and behavioral rating scales, [the Student] meets eligibility for special education under OHI."

The Student's diagnoses were listed. Behavioral ratings from the BASC-3 indicated elevated concerns across multiple domains, and challenges were observed in adaptive functioning, particularly in adaptability and social skills. The report stated, "These findings, combined with observed difficulties with attention, focus, and classroom engagement, indicate that [the Student's] health and behavioral challenges significantly impact [their] ability to access the curriculum and demonstrate [their] skills in the classroom, adversely affecting [their] educational performance, consistent with the definition of OHI. [The Student] continues to qualify for speech-language services in the area of articulation."

k. It was checked "yes" that the Student continued to be a child with an exceptionality, continued to need special education and related services, and there were additions/modifications needed to special education and related services to enable the child to meet their IEP goals and participate in the general curriculum.

l. The report stated during the most recent re-evaluation, the Student was assessed in all areas related to the suspected exceptionality, which included a review of their previous evaluation, updated health information, an analysis of cognitive and academic achievement data, an assessment of social/emotional behavioral functioning through an FBA, observations, screening measures, and parent and teacher input. It was written, "Multiple sources of data—including standardized assessments, behavior observations, record review, and stakeholder input–were used to ensure a comprehensive understanding of [the Student's] current functioning and educational needs."

m. Upon completion of the recent evaluation, a team of qualified professionals and the Student's parents met to review the information and engage in collaborative decision-making.

n. The Student met the criteria for OHI and Speech Language Disabilities.

o. The Other Parent, the Advocate, a general education teacher, the Autism and Behavior Coach, the SLP, the Special Education Director, the Superintendent, Teacher 1, Teacher 2, the School Psychologist, the Family Resource Specialist, the School Counselor, and the Therapist signed the report on December 15, 2025. The Parent signed the report on January 13, 2026.

15. An undated Request for Evaluation/Re-evaluation Extension form indicated:

a. The team met on December 15, 2025 to review the Student's evaluation and draft IEP. The team completed the review of the evaluation and eligibility, but more time was needed to finalize the IEP. The IEP team, including both parents, agreed to extend the evaluation timeline to allow for completion of the IEP. The proposed new due date was January 14, 2026.

b. The Other Parent signed the form on December 16, 2025.

16. A PWN indicated a meeting was held on December 15, 2025 to review the Student's re-evaluation and determine if the Student was eligible for special education and related services. The PWN indicated the Student was eligible for special education services with a primary exceptionality of OHI and a secondary of a speech-language impairment.
    a. It stated the IEP team recommended the Student receive special education services and placement under OHI, based on a comprehensive review of evaluations, classroom performance, behavioral assessments, and reported diagnoses. The Student continued to qualify for speech-language services.
    b. It was written the Student qualified for special education under OHI because their health and behavioral challenges significantly impacted their ability to access the curriculum and demonstrate their skills in the classroom.
    c. Under rejected options, it was stated the IEP team considered a range of options, including providing supports and accommodations in the general education classroom without special education services, tiered interventions and behavior support through a Response to Intervention (RTI) model, counseling or mental health services alone, and a modified placement with reduced attendance and 1:1 support, which was currently in place. The IEP determined, after reviewing the data, those options were not sufficient to meet the Student's needs.
    d. The PWN stated multiple sources of information were used to determine eligibility and placement, including previous evaluations, classroom performance data (observations and teacher input), FBA results, behavior rating scales, medical records, and parent input.
    e. It was noted the IEP team strived to provide instruction alongside peers to the greatest extent possible, but the Student's behavioral, attention, and health challenges limited their ability to benefit from full-time general education placement. The IEP team also considered the potential harmful effects of not providing special education services. They determined providing services under OHI ensured the Student could receive specialized support in a safe and effective learning environment. A handwritten post-it note said, "[The Parent] did not return printed copies provided [at the] TLC visit."
    f. The Other Parent signed the PWN on December 15, 2025. The documentation of delivery showed the School Psychologist emailed the PWN to the Parent on December 17, 2025.
17. New relevant information from the Student's IEP, dated December 15, 2025, included:
    a. A post-it note which read, "[The Parent] did not return. Printed copies provided [at] [the] [Transitional Learning Classroom] visit."
    b. All IEP team members, other than the Parent, but including the Other Parent, signed the IEP on December 15, 2025.
    c. The Student would receive speech-language services outside the regular education classroom, and indirect services, from the SLP at the School for five

minutes one day a week, every second week from December 15, 2025 through May 20, 2026.

d. The Student would receive special education services outside of the general education classroom, and the IEP determined the nature or severity of the Student's disability was such that placement in the regular education environment with supplementary aids and services could not be achieved satisfactorily. The IEP team did not anticipate any harmful effects from the minimal time the Student was pulled out of class.

18. The Special Education Director emailed the Parent and the IEP team on December 16, 2025 asking for times when the Parent was available to visit the Transitional Learning Classroom (TLC). The Parent replied two days later and asked what times were available after the holiday break so they could check with those who would be coming with them. The Special Education Director stated that to maintain student confidentiality, any visits with additional people had to be scheduled after 3:15 p.m. They indicated January 6 and 7, 2025 were available, and offered to find a time over the holiday break. On December 19, 2025 the Parent stated via email neither of those days worked and asked for any before school options. The Special Education Director reiterated a visit with guests had to occur after 3:15 p.m., and offered January 12, 2026 as an option. The Parent replied on January 4, 2026 and stated due to childcare and appointments, they were only available on January 5 and 6, 2026. The Special Education Director forwarded that information to the Principal and asked for their availability. The Special Education Director emailed the Parent on January 5, 2026 and offered to meet on January 6, 2026 at the Education Center, and the Parent agreed.
19. The Special Education Director emailed the IEP team, including the Parent, on December 16, 2025 and asked them to complete a spreadsheet with their meeting availability by December 18, 2025 to accommodate "as many schedules as possible so we can identify a date to continue reviewing [the Student's] IEP." They stated they emailed both parents the evaluation extension form.
20. The Family Resource Specialist emailed the Special Education Director on December 18, 2025 and stated the Parent had been attempting to send emails about scheduling the IEP meeting, but thought maybe the Special Education Director was not receiving them, because they encountered similar issues. The Family Resource Specialist included an email from the Parent on December 16, 2025 which read, "It looks like there are not going to be dates that work for all parties the first week of January [2026]. Can we open up scheduling to include the second week as well to increase the chance of everyone being available?"
    a. The Special Education Director replied that day and stated they had not received any email communications. They indicated the remaining available meeting dates were January 7, 2026, with three time slots, and January 8, 2026, with one time slot. The Special Education Director offered the Parent to call or text them with meeting availability if they were experiencing email difficulties. The Family Resource Specialist emailed and asked if dates from the second

week of January could also be added. The Special Education Director said, "The dates listed during the first week of January [2026] reflect what we discussed at the meeting."

b. On December 18, 2025, the Parent forwarded the Special Education Director the e-mail they had sent to the Advocate, the Family Resource Specialist, and the Special Education Director two days earlier requesting more meeting dates.

21. A copy of an envelope from the LEA addressed to the Parent was postmarked December 18, 2025.
22. The Special Education Director emailed the IEP team, including the Parent, on December 18, 2025 and attached the NOM for the Student's next IEP meeting. They stated the notice was being mailed to both parents and sent electronically. They stated that given the need to finalize the Student's IEP and start services, the School was moving forward with a meeting on January 13, 2026. They stated unless neither parent could attend, the meeting would not be rescheduled. They acknowledged the meeting time might not be "perfect" for everyone, but the LEA had provided 11 possible date and time combinations in an effort to accommodate different schedules.
    a. A screenshot of an Excel spreadsheet showed IEP meeting date options with multiple times on January 6, 7, and 8, 2026. The School staff and the Other Parent chose "yes" or "no" for the dates, but there was nothing chosen by the Parent, the Advocate, the Therapist, or the Special Education Director.
    b. A screenshot of an Excel spreadsheet showed six meeting IEP date options, with January 13, 2026 at 9:30 a.m. chosen by all of the School staff.
23. A letter from a doctor of optometry, dated January 8, 2026, was addressed to the IEP team regarding the Student's IEP. The doctor wrote the letter to "provide professional insight regarding [the Student's] diagnosis of Convergence Insufficiency" and how it impacted the Student's learning environment. They indicated convergence insufficiency could act as a secondary "stressor" during sustained academic work, and a student could experience physical discomfort, increased distractability, and a lower threshold for frustration. They recommended the team consider using frequent visual breaks, modified visual materials, a slant board, and consider the Student's environment.
24. An undated NOM had a proposed meeting date of January 13, 2026 at the School, with virtual attendance also offered. The purpose of the meeting was to discuss the Student's IEP and that during the meeting on December 15, 2025, the IEP team had agreed to reconvene during the first week of January to review the Student's IEP. Documentation of delivery showed three attempts were made to get the document to the Parent, including emailing the form and sending it by mail twice on December 18, 2025. It was handwritten on the PWN a fourth attempt was made when the Special Education Director hand delivered it to the Parent on January 13, 2026. The Parent signed the NOM on January 13, 2025. The Other Parent signed the NOM on December 18, 2025.
25. New relevant information from the Student's IEP, dated January 13, 2026, included:

a. In the Communication section, input from the Parent stated the Student received speech services through their IEP. There was a goal which stated, "Within 36 instructional weeks, [the Student] will produce the TH and R phonemes in a 90 second conversational speech sample with 70% accuracy when describing/naming objects/pictures as observed by the SLP over two data sessions." The baseline was the same as the goal. The evaluation procedure was data and SLP observation.

b. In the Social Emotional/Adaptive section, it was determined the Student had a need in this area which required special education or related services.

   i. The Student's needs were listed as: learning appropriate ways to seek adult attention and supports; needing support regulating during transitions, directives, and academic demands; needing functional communication skills to request help, breaks, or attention; and needing coping strategies to tolerate academic demands or non-preferred tasks and changes in routine. The Student's need would be met through accommodations, modifications, a behavior intervention plan, and goals.

   ii. Goal 1 - "Within 36 instructional weeks, when presented with a transition, direction, or non-preferred task, [the Student] will use an appropriate communication strategy (e.g., "I need help," "I need a break," "not yet," or pointing to a visual, moving to break space as its intended purpose), and begin the expected task or transition within 1 minute, with no aggression, property destruction, or refusal behaviors, in 4 out of 5 opportunities, as measured by staff data collection and observation." The Student's baseline was using "an appropriate communication strategy (e.g., "I need help," "I need a break," "not yet," or pointing to a visual) and begins the expected task or transition within 1 minute, with no aggression, property destruction, or refusal behaviors, in 0 out of 5 opportunities." The evaluation procedure was teacher observation and data tracking.

   iii. Goal 2 - "Within 36 instructional weeks, when presented with a non-preferred academic task, [the Student] will remain engaged for 5 consecutive minutes, without escape-maintained behaviors, in 80% of opportunities, as measured by duration data." The Student's baseline was, "When presented with a non-preferred academic task, [the Student] is able to remain engaged for 5 consecutive minutes, without escape." The evaluation procedure was teacher observation and data tracking.

c. A Behavior Intervention Plan (BIP) included target behaviors of property destruction, aggression, and refusal. A hypothesis of the function of the target behavior stated, "According to ABC data and FBA results, [the Student's] behaviors—including aggression, property destruction, and refusal or avoidance of tasks—appear to serve two primary functions: gaining adult attention and avoiding or escaping non-preferred academic tasks or demands. This is supported by consistent patterns in the data showing that these behaviors

often occur immediately before or during task presentation and are frequently followed by staff redirection, increased adult interaction, or removal of task demands."

i. The BIP stated the Student had deficits in functional communication, emotional regulation, coping skills, task engagement and work completion, problem-solving, social skills, impulse control, behavioral inhibition, and frustration tolerance. The BIP offered replacement behaviors, how the Student would be taught the replacement behavior, prevention and intervention strategies, classroom/environment strategies, crisis response plan/consequences, and a plan for home and school communication. Communication between home and school would occur at least weekly, and daily communication would occur if the targeted behaviors occurred or severe behaviors were observed. The Student's parents would be included in opportunities for conferences or virtual check-ins to problem-solve and update the behavior plan.

d. In the Accommodations/Modifications/Supplementary Aids section, the Student would receive the following accommodations in all settings, through the completion of the assignment, from January 13, 2026 through January 13, 2027:

i. "[The Student] will receive modified assignments that reduce the volume, complexity, or length of tasks while maintaining access to essential grade-level content. Modifications may include fewer items, simplified directions, alternative formats, or adjusted expectations for output. As academic tolerance improves, assignment demands may be gradually increased." This would be provided across core academic classes and assignments.

ii. "To support the development of academic tolerance, instructional tasks and assignments will be chunked into small, manageable segments with clear start–stop points. [The Student] will receive step-by-step directions and frequent check-ins to ensure understanding and reduce overwhelm. As tolerance increases, chunk size may be gradually expanded based on student readiness and team discretion." This would be implemented across core academic classes and tasks.

iii. A quiet and separate location for all state, LEA, and classroom assignments and tests.

iv. "[The Student] will not be required to show written work for math problems. [The Student] may provide answers verbally, through assistive technology, or by writing only the final answer, unless demonstration of the process is the specific skill being assessed." This would occur in all math assignments, quizzes, and classroom activities, except when the goal of the task was explicitly to assess the Student's problem-solving process.

v. "[The Student] will be offered the option of completing instructional tasks 1:1 with a teacher or paraeducator when classroom demands become overwhelming or when [the Student] requires reduced stimulation to remain

engaged. The 1:1 will be used to provide SEL support, reteaching, guided practice, or task initiation support. As [the Student's] tolerance improves, the duration and frequency of 1:1 support will be gradually reduced to promote increased independence within the classroom environment." This would be implemented across core academic classes and tasks.

e. Anticipated services, taking place in an off-site building, included:
   i. Indirect speech-language services for five minutes one day a week, every fourth week, from August 25, 2026 through January 6, 202[7].
   ii. Non-school location speech services for ten minutes one day a week, every fourth week, from August 25, 2026 through January 6, 2026.
   iii. Non-school location special education services for sixty minutes, five days a week, every week from August 17, 2026 through January 6, 2026.
   iv. Non-school location special education services for sixty minutes, five days a week, every week from January 6, 2026 through May 20, 2026.
   v. Non-school location special education services for sixty minutes, four days a week, every week from January 6, 2026 through May 20, 2026.
   vi. Non-school location special education services for sixty minutes, three days a week, every week from January 1, 2026 through May 20, 2026.
   vii. Non-school location special education services for sixty minutes, two days a week, every week from January 1, 2026 through May 20, 2026.
   viii. Non-school location speech services for ten minutes one day a week, every fourth week, from January 6, 2026 through May 20, 2026.
   ix. Indirect speech services for five minutes one day a week, every fourth week, from January 6, 2026 through May 20, 2026.

f. The LRE section stated that for the remainder of the 2025-26 school year, and the start of the 2026-27 school year, the Student would attend the TLC at the Education Center (a non-school location). For the 2025-26 school year, the Student would receive:
   i. Special education services for sixty minutes, two days in the week of January 6-9, 2026.
   ii. Special education services for sixty minutes, three days in the week of January 12-16, 2026.
   iii. Special education services for sixty minutes, four days in the week of January 19-23, 2026.
   iv. Special education services for sixty minutes, five days per week, beginning January 26, 2026 through the end of the school year.
   v. Speech language services in an off-site non-public building for ten minutes once every fourth week.
   vi. Speech language services in a consult setting five minutes once every fourth week.

g. The IEP team first considered placement in the regular classroom with supplementary aids and services. The Student would receive services at an LEA offsite location. There were no parent signatures on the IEP.

26. Relevant information from an undated PWN included:
    a. On December 15, 2025, the IEP team met to review the Student's evaluation/assessment data, to determine whether the Student was eligible for special education and if services were needed by the Student, the Student's placement, and any additions or changes to services or placement needed to ensure the Student met their goals and was able to participate in the general education curriculum.
    b. The PWN noted the Student was eligible for special education services under the exceptionality of OHI and speech-language impairment. There was a change in placement and services which required parental consent. Comprehensive evaluation results indicated the Student qualified for special education under OHI and continued to qualify for speech/language services in articulation. The IEP team concluded regular education could not meet the Student's educational needs without the materials, methods, services, or other assistance through special education.
    c. The PWN listed the services described in the aforementioned IEP from January 13, 2026.
    d. The services were effective the date the form was signed and would remain in effect for the duration of the current IEP.
    e. The action was proposed because the Student qualified for special education under OHI because their health and behavioral challenges significantly impacted their ability to access the curriculum and demonstrate their skills in the classroom. The Student's diagnoses affected their sleep, alertness, attention, behavior, social skills, emotional regulation, and executive functioning. The Student continued to require speech-language services in the area of articulation.
    f. Under options considered and rejected, it was written the IEP team considered several options to support the Student, including general education with accommodations, tiered interventions through RTI, counseling or mental health services alone, and modified placement with reduced attendance and 1:1 support. These options were rejected because the Student's behavioral, attention, and health challenges significantly interfered with their ability to access instruction and demonstrate skills independently. Previous interventions were insufficient, and counseling alone would not provide the specialized academic and behavioral support the Student needed. Reduced, limited sessions were also not adequate for meaningful educational progress. Therefore, the team determined placement in special education with specialized supports and related services was necessary for the Student to access the curriculum safely and effectively.

g. Multiple sources of information were used to determine eligibility and placement, including previous evaluations, classroom performance data (observations and teacher input), FBA results, behavior rating scales, medical and health records, and parent input.

h. The IEP team considered factors relevant to the Student's placement, including the LRE. While the team strived to provide instruction alongside peers to the greatest extent possible, the Student's behavioral, attention, and health challenges limited their ability to benefit from full-time general education placement. The team also considered the potential harmful effects of not providing special education services, including decreased access to the curriculum, difficulty demonstrating skills, increased frustration, and further impacts on social, emotional, and behavioral functioning. Providing placement and services under OHI ensured the Student could receive specialized support in a safe and effective learning environment.

i. The documentation of delivery showed the School Psychologist hand- delivered the PWN to the Parent on December 15, 2015.

27. The Parent emailed the Advocate, the Family Resource Specialist, and the Special Education Director on January 13, 2026 with seven meeting date options. The Special Education Director replied they would send a calendar invite and NOM once they confirmed availability with School staff. The same day, the Special Education Direct shared a spreadsheet with the Parent's meeting dates with the School staff and asked for them to reply within two days.
28. The Special Education Director emailed the Parent and the IEP team on January 15, 2026 to notify them about an IEP meeting scheduled for January 27, 2026. They indicated a calendar invitation would be sent, and the NOM, the IEP amendment, and a PWN reflecting stay-put services for the Student were attached to the email. They stated the documents would be mailed and sent electronically to both parents.
29. A copy of an envelope from the LEA and addressed to the Parent was postmarked January 15, 2026.
30. An IEP amendment form, dated January 15, 2026, indicated the IEP team proposed to amend the Student's IEP to the following: special education services for 30 minutes, 2 times a week. It was stated the services were effective the date the form was signed. The Parent checked they agreed and signed the form on February 3, 2026. The Other Parent signed the form on January 19, 2026.
31. An undated PWN summarized what was included in the aforementioned amendment from January 15, 2025. It also indicated:

a. In the section explaining what action was proposed, it was written the Student qualified for special education services under OHI and "The IEP team has engaged in an extensive, ongoing problem-solving and evaluation process regarding [the Student's] educational needs, placement, and services. This process has included multiple team meetings dating back to August 2024, individual meetings with each parent, joint parent meetings, review of prior

special education records, implementation of phased school reentry supports, collection of school based data, completion of a comprehensive reevaluation, and incorporation of outside agency input, including a[n] [FBA], resource room support and attendance through the evaluation process. … [The Parent] expressed opposition to the proposed TLC placement and indicated concerns regarding [the Student's] ability to attend school for extended periods, sharing that [the Student] can tolerate only 30-45 minutes of activity and that [they] would not be able to handle five days a week that was asked by staff in August at the start of the evaluation. [The Parent] also requested that special education services be provided in the home or even directly outside the school building. [The Other Parent] stated that [they] [do] not wish to remove the TLC option entirely but would like to continue working jointly as parents to determine next steps. Due to the lack of parental agreement, the [LEA] is implementing stay-put and will continue [the Student's] current services while the IEP is amended accordingly. Due to ongoing disagreement regarding placement, [the Student] will remain in [their] current placement and receive services under the amended IEP in accordance with stay-put provisions. The IEP team will reconvene on January 27, [2026] to continue collaborative discussions focused on [the Student's] individualized educational needs."

b. In the options considered and rejected section, it was written the IEP team considered a range of options to support the Student. A continuation of the Student's current placement without additional supports, a general education placement with existing supports alone, and homebound services (per the Parent's request) were rejected due to the Student's escalating verbal and physical aggression and documented behavior needs, and the IEP team did not believe homebound services were the Student's LRE because it was isolating and did not provide a FAPE. The IEP team considered limiting school attendance to shortened days, but determined reduced attendance alone did not adequately address the Student's educational and behavioral needs, and were in favor of the Student attending school for more than two days a week for thirty minutes.

c. Multiple sources of data were used to support these decisions, including previous evaluations, classroom performance data (observations and teacher input), FBA results, behavior rating scales, medical and health records, and parent input. The PWN noted the Parent had provided documentation from outside providers, but it was not based on observation or participation in the Student's educational setting, and providers had only received information from the Parent and no school input had been requested. The PWN noted multiple IEP and collaborative meetings had occurred over the past year-and-a-half to provide parents with meaningful opportunities for input. The parents participated in tours of the TLC, and follow-up meetings were held on January 13, 2026 to address questions and discuss placement considerations. The LEA acknowledged the Student's parents held differing viewpoints regarding their

educational needs. While the LEA considered parent input, decisions continued to be guided by educational data, observations, and the Student's demonstrated needs within the school environment.

d. The other factors section stated, "The school district proposed that [the Student] receive special education services in the district's [TLC], an offsite program designed to provide structured behavioral and instructional supports. At this time, due to parent disagreement, the district is maintaining [the Student's] current placement and services under stay-put and proposes to amend the IEP to reflect the services [the Student] will receive under the current plan while collaborative discussions continue. The district proposed placement in the TLC program beginning with one hour per day and gradually increasing to five days per week, with the intent to reconvene the IEP team to review progress and consider additional increases in time based on [the Student's] response to intervention. This proposal was made in response to [the Student's] ongoing behavioral needs and the data collected through evaluations and observations in the educational setting."

e. The Other Parent signed the PWN on January 19, 2026. The documentation of delivery showed two attempts on January 15, 2026 to provide the Parent with the documentation by email and mail.

32. New relevant information from the Student's IEP, with an initiation date of January 19, 2026, included:

    a. The Student's anticipated services were to be provided at the School between January 19, 2026 and February 2, 2026:

        i. Special education services outside of the regular education classroom, provided by Teacher 2 for 30 minutes, 2 days a week, every week.

        ii. Speech-language services provided by the SLP outside of the regular education classroom for 5 minutes, 1 day a week, every 2nd week.

        iii. Indirect speech-language services provided by the SLP for 5 minutes, 1 day a week, every 2nd week.

33. A screenshot of a spreadsheet showed seven IEP meeting date options with multiple times on January 26 and 27, 2026, and February 3, 9, 10, 16, and 17, 2026. All parties, including the Parent chose "yes" or "no" for the dates they were available or unavailable.

34. An undated NOM proposed a meeting to be held on January 27, 2026 to discuss possible changes to the Student's IEP. The Other Parent signed the NOM on January 15, 2026. The documentation of delivery showed the Special Education Director made two attempts to provide the document to the Parent on December 18, 2025, by email and by mail.

35. An undated attendance list showed the Parent, Teacher 1, the Special Education Director, and the Advocate attended the IEP team meeting on January 27, 2026.

36. Relevant information from notes about the January 27, 2026 IEP meeting included:

a. The Special Education Director provided the Parent copies of the "stay put" amendment and PWN which had been signed by the Other Parent, as well as a copy of the NOM, and stated copies had been mailed, emailed, and electronically signed. They stated the Parent had not returned any signed documents, but since the School had one parent's signature, they were legally able to proceed with the changes.
b. The Special Education Director asked the Parents if they had collaborated on a plan, and they had not. The Autism and Behavior Coach reviewed the proposed plan drafted by the School since one had not been made by the Parents. The plan included the days the Student would attend, arrival instructions, transitions to the resource room, time with peers and staff, reading/math work time, lunch, and dismissal. Additional supports were read and goals discussed, along with prior proposals from the School, including attending the TLC.
c. The Parent shared a 9 a.m. start time for the Student would cause additional stress. The IEP team considered changing the time frame the Student attended to aid in the consistency of staff working with them. The team's goal was to have the Student attend school for longer periods of time. The Parent wanted to slowly start incorporating the changing of times.
d. The notes stated there had been no communication from the outside professionals to the School that the Parent stated they were receiving recommendations from. According to the notes, the School staff were met with "barriers" from the Parent any time something was proposed. It was noted the outside professionals the Parent worked with never observed the Student in the educational setting.
e. The IEP team created a plan that would "work for everyone," by adding an additional day and staggering the Student's time in 15-minute increments. The schedule was for February 2, 2026 through April 3, 2026. It was noted if the Student was doing well, the team would discuss changing the plan again. It was written if the Student showed four consecutive dysregulations within a week, the team would reconvene and review the Student's schedule, and use data to assist in that process.
f. The Parent asked what data would be used to track the Student's regulated and dysregulated states. The team would use the ABC tracker, review the frequency of dysregulation, duration, and what time of day it occurred. Also, the Autism and Behavior Coach and the Parent would communicate about the Student's day to avoid any confusion.
g. Listed IEP accommodations were: writing (the Student could use different writing utensils), presenting the Student with options of where to work, predictable preferred breaks, oral responses, and extended times.
h. The Parent would review their schedule and share their availability with the team for the week before or after spring break, by February 6, 2026.

37. Relevant information from a potential daily schedule for the Student, which was proposed at the January 27, 2026 IEP meeting, included:
    a. The schedule would be in effect from February 2-27, 2026, and the Student's time at school would increase. The Student would attend school on Monday, Tuesday, Thursday, and Friday from 11:00 a.m. to 12:00 p.m. It was written this schedule would provide the Parent with a month to adjust appointments currently scheduled on Wednesdays.
    b. The Student would arrive at the School between 10:55-11:00 a.m., and staff would meet the Student at the main doors of the building. The Student would transition to the resource room and decide where they wanted to work.
    c. A note stated that during the first four days the Student attended school, they would spend from 11:10 -11:25 a.m. learning how to request a break and creating a break space, with the Student's input.
    d. From 11:25-11:50 a.m., the Student would be in the lunch group with their peers.
    e. From 11:50 a.m. to 12:00 p.m., the Student would choose what order they wanted to work in, and participate in a preferred activity if they completed their work system.
    f. At 12:00 p.m., staff would take the Student to the office and the Parent would take the Student to their car.
    g. Additional notes stated the Student would have a dedicated break space in the testing room/calming corner, and noted this time of day was least disruptive to the resource room and had the fewest students. It was written, "This plan consists of things with the concerns [the Parent] mentioned at the last meeting, we have addressed those in this plan and the plan is applicable for the school setting. We also do not have a chance to get [the Student] to a point of practice in 30 minutes, 2 days a week. [The Parent] may say that [they] [want] an alternative location; however, [the Parent] also has not wanted [the Student] in a different location due to familiarity; [the Student] is most familiar with the [resource room] this year and last. Things [the Parent] requested - [c]oming outside to get [the Student], assisting with arrival, pairing with peers, teaching [the Student] how to take a break, will continue … ."
38. New relevant information from the Student's IEP, dated February 3, 2026, included:
    a. Accommodations/Modifications/Supplementary Aids offered in the resource room setting from February 2, 2026 through December 14, 2026:
        i. The Student would be offered a choice of designated work locations within the resource room to support engagement and regulation. This would be offered at the start of instructional tasks and following transitions, through the completion of the instructional task.
        ii. When the Student demonstrated signs of dysregulation, they would be offered access to their designated break space and pre-identified break

options. This would be offered up to three times per instructional period until regulation was regained.

iii. The Student could take a structured break to support task completion. This would be offered upon completion of instructional tasks, and breaks would not exceed seven minutes per occurrence.

iv. The Student would be prompted to notify staff when they were ready to begin or resume a task. Instructional tasks would begin once the Student indicated readiness following the prompt. This would be offered when the Student demonstrated signs of dysregulation, until regulation was regained.

v. The Student would not be required to show written work when the instructional objective was mastery of content rather than process. This would be offered for math assignments through the completion of the assignment.

vi. The Student could provide oral responses in lieu of written responses to demonstrate understanding. This would be for instructional tasks through the completion of the task.

vii. The Student would participate in a brief check-in with a staff member to identify current feelings/emotional state to support regulation. This would be offered at least once at the start of the Student's day and at least once more during their 60 minutes of attendance. It would last through the completion of the periodic check-in.

b. The IEP team proposed to amend the Student's special education minutes through a gradual increase in length of day and frequency of attendance, with the intent of supporting the Student's access to instruction and social emotional needs. Anticipated services included:

i. February 2-6, 2026: attending Tuesday and Thursday from 12:45 p.m. through 1:45 p.m., with special education services outside of the regular classroom for 60 minutes, 2 times per week.

ii. February 9-13, 2026: attending Monday, Tuesday, and Thursday, from 12:45 p.m. to 1:45 p.m., with special education services outside of the regular classroom for 60 minutes, 3 times per week.

iii. February 16-20, 2026: attending Monday, Tuesday, Thursday, and Friday from 12:30 p.m to 1:30 p.m., with special education services outside of the regular classroom for 60 minutes, 4 times per week.

iv. February 23-27, 2026: attending Monday, Tuesday, Thursday, and Friday from 12:15 p.m. to 1:15 p.m., with special education services outside of the regular classroom for 60 minutes, 4 times per week.

v. March 2-6, 2026: attending, Monday, Tuesday, Wednesday, Thursday, and Friday from 12:00 p.m. to 1:00 p.m., with special education services outside of the regular classroom for 60 minutes, 5 times per week.

vi. March 9-27, 2026: attending Monday, Tuesday, Wednesday, Thursday, and Friday from 11:45 a.m. to 12:45 p.m., with special education services outside of the regular classroom for 60 minutes, 5 times per week.

vii. March 30, 2026 through the duration of the IEP until updates were determined by the IEP team: Monday, Tuesday, Wednesday, Thursday, and Friday from 11:30 a.m. to 12:30 p.m., with special education services outside of the regular classroom for 60 minutes, 5 times per week.

viii. Speech-language services outside of the regular classroom for five minutes, every other week.

ix. Indirect speech-language services for five minutes, every other week.

39. An IEP amendment form, dated February 2, 2026, described the proposed changes to the Student's services and accommodations, which were detailed in the aforementioned IEP from February 3, 2026 and discussed in the January 27, 2026 meeting. The Other Parent signed the form on February 3, 2026.

40. An undated PWN summarized the changes in the aforementioned February 3, 2026 IEP. The PWN stated the services were discussed by the IEP team and proposed by the LEA following team discussion, including parent input, during the January 27, 2026 meeting and would be effective upon signature of the amendment.

    a. The PWN stated the LEA refused the assignment of a 1:1 paraprofessional and the addition of a declarative language accommodation, which were requested by the Parent. The LEA denied the request for a 1:1 paraprofessional because it was not educationally necessary since the Student demonstrated success accessing instruction and regulating behavior without continuous adult proximity. The team was concerned a 1:1 assignment could increase dependency. It was written declarative language was an instructional strategy utilized by the staff, and not an accommodation or service requiring documentation in the IEP. The team proposed the Student attend school Monday, Tuesday, Thursday, and Friday through February to allow time for medical appointments to be adjusted. The Parent declined this proposal, stating changing the number of days attended while increasing the length of day would be too significant a change for the Student. The team declined to implement this option and proceeded with a gradual daily increase model.

    b. The LEA proposed a gradual increase in the Student's school day and weekly attendance to support the Student's access to consistent daily instruction to build stamina and predictability, minimize dysregulation with abrupt schedule changes (as indicated by the Parent), and align supports with the Student's demonstrated ability to attend and engage. The Student previously demonstrated success coming into the building at 11:00 a.m. with incremental increases in attendance and duration, and the team determined a phased approach best balanced the Student's needs with continuity of instruction. The Parent had not been in favor of bringing the Student to school more often.

c. The Other Parent signed the PWN on February 3, 2026. The documentation of delivery indicated the Special Education Director had mailed and emailed the form to the Parent on February 3, 2026.

41. The Special Education Director emailed the Parent and the IEP team on February 3, 2026 and stated the PWN and IEP amendment related to the January 27, 2026 meeting were attached. They indicated the documents would be sent electronically for review and to be signed, in addition to mailing paper copies. The Special Education Director reminded the Parent they needed their meeting availability by the end of February 6, 2026 to schedule a meeting during either March 9-11, 2026 or March 23-27, 2026. They stated the School had not received the PWN and IEP amendment paperwork from the Parent, which was previously sent electronically, by email, in the mail, and in person from the January 13, 2026 meeting regarding the "stay put" services. They stated the changes were made to the IEP because the School received signed documents from the Other Parent.
    a. The Parent replied on February 6, 2026 and stated they and their advocates and providers were available to meet on March 23, 2026. The Parent also included meeting options on March 30 and 31, 2026. The Special Education Director replied on February 9, 2026 and stated they would connect with the IEP team by the end of the week to confirm the final meeting date. They also suggested more meeting dates. The Parent responded that day and stated meeting dates should align with the Student's schedule, and then with the full IEP team, which they stated included themself as the legal education decision maker, the Student's providers, and the Parent's IEP advocates. The Parent asked to pause any further planning on the newly added dates. The Special Education Director replied the next day and stated both parents were recognized as legal education decision makers, and the School would work with both parents. They said, "When scheduling IEP meetings, the school prioritizes the availability of required IEP team members and the parents. We also make every reasonable effort to consider the schedules of additional participants, including outside providers or advocates, when that information is shared with us. … [T]he district is responsible for ensuring meetings occur within appropriate timelines, and we may proceed with a properly noticed meeting when required team members are available, even if not all optional participants are able to attend. In the event that neither parent were able to attend a meeting, we would certainly communicate about rescheduling."
42. A copy of the exterior of an envelope from the LEA and addressed to the Parent was postmarked February 3, 2026.
43. The Special Education Director emailed the Parent and the IEP team on February 12, 2026 and stated the next IEP meeting was scheduled for March 23, 2026. They indicated the NOM was attached to email and would be sent electronically and by mail.
44. An undated NOM proposed a meeting for March 23, 2026 to discuss possible changes to the Student's IEP. The Other Parent signed the NOM on February 12, 2026. The

documentation of delivery showed the Special Education Director emailed and mailed the NOM to the Parent on February 12, 2026.

45. An undated PWN stated the LEA declined the Parent's request to hold a separate meeting with the School team. The explanation stated the LEA was required to provide timely notice of meetings and a meaningful opportunity to participate to each parent, so the LEA would not schedule a meeting with only one parent while excluding the other. It stated if both parents received proper notice, the IEP team could proceed with meeting even if only one parent could attend. Following the meeting, the LEA would ensure the parent who did not attend received relevant information and documentation. The LEA considered and selected the option to schedule a meeting with the School team and provide notice to both parents and offer multiple participation options (in-person, phone, and virtual). Documentation of delivery showed the PWN was hand delivered to the Parent on February 17, 2026 by the Principal.
46. Service Logs for fiscal year 2025 detailed the Student received speech-language services from the SLP from 1:00-1:15 p.m. Each session contained a progress code of 3, which meant the Student "maintained performance." The notes contained the following relevant information:
    a. February 25, 2025 - "Initial R words with 50%."
    b. February 27, 2025 - "TH sentences with 50%. Initial R words with 50%."
    c. March 6, 2025 - "Initial R words with 70% accuracy. TH sentences with 50%."
    d. March 11, 2025 - Initial R words with 60%."
    e. March 25, 2025 - This session was only ten minutes. "0% on R and TH."
    f. March 27, 2025 - "R initial words with 40%."
    g. April 1, 2025 - "R initial words with 0%. TH sentences with 10%."
    h. April 3, 2025 - "0."
    i. April 8, 2025 - "R words with 30%. TH sentences with 50%."
    j. April 10, 2025 - "Initial R words with 40%."
    k. April 22, 2025 - This session was 20 minutes. "TH sentences with 80%. Initial R words 70%."
    l. April 24, 2025 - "TH 80%. Initial R words with 80%."
    m. April 29, 2025 - This session was five minutes. "60% initial R words."
    n. May 1, 2025 - "Initial R words with 70%."
    o. May 8, 2025 - This session was three minutes. "TH 0. R 0."
    p. May 13, 2025 - "R initial words with 80%[,] medial 70%[,] final 50%[,] blends 80%. TH sentences with 70%."
47. An undated Daily Log contained handwritten notes. It described two goals for the Student: to produce TH in all positions of words in a sentence, and to produce R in the initial position of words. The log contained information about the Student's speech-language services from August 26, 2025 through February 23, 2026.

48. Behavior Logs for the Student from February 19, 2025 through February 18, 2026 described the Student's behaviors, classroom activities, levels of engagement, and moments of regulation and dysregulation.
49. The Student's grade two reading assessment from spring 2025 indicated the Student scored an 18/19 on foundational reading skills, 5/8 on reading comprehension of literary text, and 7/8 on reading comprehension of informational text. The Student earned full credit for reading common high-frequency words, for knowing the phoneme-grapheme correspondences for common consonant digraphs, and for knowing and using text features to locate key facts or information in a text efficiently. The Student's grade card for grade two showed they had an "A" in physical education in the first quarter, an "A" in math during the second quarter, an "A" in physical education, a "C" in math, and an "A+" reading/writing, art, and music for the third quarter, and an "A+" in art and music during the fourth quarter. The Student was absent 34.5 days in quarter one, 16 days in quarter two, and 8 days each in quarters three and four.
50. Attendance records indicated the Student had 83 absences during the 2024-25 school year and three absences during the 2025-26 school year.
51. Relevant information from an undated letter written by the Parent, requesting the Student be evaluated for an IEP, included:
    a. The Student has a diagnoses of autism, SPD, pediatric insomnia, obstructive sleep apnea, IBS and gastrointestinal, speech articulation and phonological disorder, sensory seeking and avoiding through proprioceptive and vestibular dysfunction, and PTSD. They stated these disabilities and medical needs affected the Student's sleep and wake time, behaviors, social skills, emotional regulation, nervous system regulation, ability to meet demands, and executive processing.
    b. The Parent included information about the Student's needs, techniques to help the Student, collaboration with goal building, techniques the Parent had used, and things the Student was used to.
    c. The Parent requested to have a paraprofessional assigned to the Student to allow them to participate in their LRE and have an adult that was "always available to meet [their] needs within a couple of minutes." The Parent requested the Student's primary classroom be a resource room, and a slow transition from the Student's current school in a reverse chaining process.
    d. The Parent stated the Student struggled with demand avoidance and needed trauma-informed approaches. They indicated the focus should be on lowering demands, reducing workload, adapting to individual needs, reducing anxiety triggers, not forcing compliance, offering flexibility, and increasing co-regulation.
    e. Staff should chunk the Student's work into small requests, use low demand options, using priming to help the Student prepare for a change before it happens, give short and flexible warnings to transitions, remind the Student about what is coming, have a visual schedule of the day but allow the Student input in some choices, and provide a predictable but flexible routine.

f. The Parent also requested staff should not force homework unless the team and the Student agreed it would be a success, give extended time to complete work, allow the Student to opt in and out of group projects, reduce the Student's workload, provide check-ins during class, allow preferential seating and changes in seating, allow assistive technology, allow the Student to write in capital letters, use tactiles and manipulatives, use dry erase boards, and remind the Student of instructions and repeat as necessary.

g. The Parent provided techniques to help calm the Student's nervous system, such as reducing demands and sensory inputs, limiting instructions, offering quiet time and space, collaborating with the Student to discover strategies and solutions, listening to the Student, and supporting them. They stated dysregulation could look like threats, hitting, throwing, trying to escape, pinching, kicking, and using objects to control. The Parent advised emotional check-ins, expressing feelings, and using positive affirmations could help the Student. The Parent advised staff should schedule movement breaks for the Student, incorporate mindfulness techniques, and offer breaks.

h. The Parent indicated items that could help the Student were a fidget stool or wobble chair, a sensory sack, dimming sheets over light fixtures, LED black lights in calming space, a calming room, sensory sand, fidgets and sensory toys, stuffed animals, a sensory tent, a crash pad, a swing, a trampoline, a weighted blanket, beanbags, and a support dog.

i. If the Student experienced a "meltdown," the Parent indicated staff should remove demands, make the space safe, offer reassuring words, offer visual support, and offer the Student a favorite place to go.

j. The Parent included a list of school activities the Student was used to.

52. Relevant information from handwritten notes taken by School staff for different meetings showed:

a. August 12, 2025 - In a meeting with the Parent, the Parent stated the Student was most successful in the afternoon. The Parent wanted to prioritize social activities and online learning. A separate meeting with the Other Parent was held the same day.

b. October 3, 2025 - During a staff meeting, reasonable expectations for the Student were noted as making choices within given parameters and slowly increasing soft academic demands.

c. November 18, 2025 - During a staff planning meeting, it was noted a BIP was in process and included possible dates for an evaluation meeting. It was noted the Special Education Director's recommendations were to add the number of school days before extending the Student's time.

d. December 12, 2025 - It was noted the Parent stated the Student had to have multiple options and not request them. The notes stated the Parent was emailing about visiting the TLC and had not signed the IEP.

e. December 18, 2025 - During a staff meeting, the notes indicated a joint discussion legal document must be in place for both parents to sign. Notes indicated if the Other Parent did not feel comfortable signing without the Parent, then "it becomes a 'stay put' situation."

f. January 13, 2026 - During an IEP meeting, the Parent suggested "staff go into [the] home."

g. January 27, 2026 - During an IEP meeting, the Parent proposed backward chaining to get to 11 a.m. through February 2026.

53. Relevant information from the LEA's timeline included:

a. August 12, 2025 - The LEA held separate parent meetings to discuss the Student's needs and schedule. The Parent shared the Student's tolerance level was about 30-45 minutes and requested they attend school on Tuesdays and Thursdays for 30 minutes. The LEA proposed the Student attend five days a week, which was rejected by the parents. The Student would attend school in the resource room from 1:00-1:30 p.m. The Parent signed and returned the PWN.

b. August 6, 2025 - The Parent signed the PWN and amendment form to amend speech services.

c. December 15, 2025 - During the reevaluation meeting, both parents asked to tour the TLC before agreeing to or rejecting the proposed placement. The LEA agreed and set up separate meetings with the parents.

d. December 18, 2025 - Since the signed extension deadline would expire on January 14, 2026, the School selected a meeting date and time during the second week of January which aligned with the extension deadline and the Parent's request, and sent a NOM to the parents 27 days prior to the meeting scheduled for January 13, 2026.

e. February 13, 2026 - The Parent requested a team meeting without certain members, including the Other Parent, citing not being able to share certain information with the Other Parent present. The Parent shared their disagreements with the January 15, 2026 and February 3, 2026 PWNs.

f. February 17, 2026 - The LEA provided PWN to both Parents, denying the Parent's request from February 13, 2026 to a team meeting without certain members, including the Other Parent.

54. Relevant information from a timeline provided by the Parent included:

a. On August 8, 2025, the Principal asked if the Parent was available on August 12, 2025 to meet and discuss a plan for the Student returning to school. The Parent agreed and asked for the Advocate and the Therapist to be invited. The Principal agreed and asked for their email addresses.

b. A reevaluation and planning meeting took place on August 12, 2025. The purpose of the meeting was to discuss a reevaluation for special education services. At the time of the meeting, the Student had no IEP outside of speech

services. The Parent stated the Student had a 30-45 minute tolerance range. The Parent requested consideration of moving the Student's speech services to an indirect service temporarily during the reevaluation, and targeting speech goals through play-based interactions outside of speech time rather than table-based tasks. The Parent requested consideration of an online curriculum, and the School stated they would look into curriculum and device options. The Advocate asked if existing behavioral data collected by the School the year prior would be incorporated into the reevaluation process, and the Principal indicated it would be provided for consideration.

c. During an IEP meeting on December 15, 2025, the team reviewed the evaluation and determined the Student was eligible for special education services. The Parent wrote the LEA presented a completed draft IEP at the meeting, and the Advocate stated they were concerned the document reflected predetermination. The Parent wrote that the draft IEP appeared to be fully developed prior to the meeting and parent input had not been incorporated. The Parent wrote they expressed disagreement with portions of the proposed IEP and attempted to suggest revisions, and requested collaborative discussion. During a review of the IEP, the LEA staff referenced a potential change of placement to an off-site facility, and the Parent requested the IEP be reviewed in its entirety before further discussion. Due to time constraints, the meeting ended before a full review was completed. The Parent wrote the Special Education Director "repeatedly" stated only one parent signature was required for implementation and indicated the IEP had to be signed by the following day. A 30-day extension was issued and no finalized IEP was agreed upon or signed at the meeting. Over the following month, the LEA sent multiple electronic documents to be signed, including the IEP draft, but the Parent refused to sign.

d. On December 16, 2025, the Special Education Director provided eleven proposed meeting times across three days, a majority of which were scheduled in the afternoon. The Parent wrote they had previously indicated afternoon meetings were not workable. The Parent requested more options.

e. The Parent wrote that on December 18, 2025, the IEP team had been previously informed the Parent was unavailable on Wednesdays due to standing medical appointments for the Student, and that every other Thursday afternoon did not work due to court-ordered visitation.

f. On January 6, 2026, the Parent visited the proposed TLC placement, which was a separate building and classroom setting in another town. The Parent wrote they were informed the classroom may include students of varying grade levels, and at times, the Student could be the only student in the classroom. The Parent observed a seclusion/padded room in the facility, and had concerns the building had asbestos. The Parent was concerned the Student's behaviors, such as kicking, licking, or throwing items, could potentially disrupt the asbestos. The Parent wrote the Special Education Director contacted the Advocate after the

TLC meeting and stated they did not understand why the Parent was dissatisfied "after being offered an IEP." It was written the Advocate responded that the Parent had anticipated an IEP in the Student's current special education setting.

g. During a January 13, 2026 IEP meeting the Parent gave a presentation about the Student's disability profile, tolerance level, unmet access needs, and provided a packet of supporting documentation. The notes indicated the Parent stated the Student required access to breaks as needed, staff prompting to request breaks, and a dedicated break space for regulation. The Parent indicated fixed, 10-minute break limits resulted in repeated escalation when the Student was dysregulated. The notes indicated the Parent stated the Student had not been provided access to necessary accommodations prior to consideration of a more restrictive LREA, provider information was being disregarded, and the proposed plan reflected predetermination. The Parent's notes showed the LEA stated the TLC remained their proposed plan and they did not have another, that the LEA only required one parent signature for implementation, and the LEA stated outside provider information would not determine services and LEA professionals were sufficient to make programming decisions. The Parent wrote an LEA staff member said, "We are not only listening to [the Parent's] opinions." A revised IEP was presented which included expanded programming and a BIP. The Parent stated the revised IEP, including the BIP, had not been collaboratively developed or reviewed prior. The Parent wrote LEA staff stated if an agreement was not reached, the LEA could make the decision unilaterally.

h. During a January 27, 2026 IEP meeting, the Parent's notes indicated LEA staff provided a revised document at the start of the meeting that had not been shared in advance, and the Parent had not reviewed prior to the meeting. The Parent consulted with the Advocate on how to respond. The Parent disputed how a PWN characterized their exchange with the Advocate as a request to cancel the meeting. The notes indicated the revised document removed the out-of-LEA placement language, the Student's placement remained at the School, a designated break space was included, and a schedule increase was proposed. The notes showed the LEA proposed increasing the Student's attendance to five days a week, one hour per day. The Parent stated this represented a rapid change instead of a gradual one, larger schedule shifts corresponded with increased dysregulation, and the Parent supported increased attendance if the Student tolerated it without negative mental health impacts. The Parent wrote they wanted an afternoon time, but the LEA wanted the morning due to staff schedules.
   The Parent requested a pause clause if the Student's dysregulation continued for multiple consecutive days, and stated the Special Education Director declined this and offered to hold a meeting if this happened and TLC placement would be reconsidered. The Parent wrote they requested data on frequency of break request, staff- prompted versus Student-initiated breaks, duration required for regulation, and time to return to baseline, and wrote the LEA

declined to add this. The Parent requested "clearer written language" regarding writing accommodations, vision-related needs, movement needs, and seating supports. The Parent requested a 1:1 paraprofessional and declarative language as support, and were later listed as refused in the amendment. The notes indicated the Special Education Director stated the LEA's decisions were necessary because the Student needed to adapt to real-world expectations. The Advocate requested behavior data supporting a schedule increase and intervention decisions, and no data was provided during the meeting. The Parent's notes indicated not all components of the proposed plan were reviewed in full and no collaboratively finalized IEP was agreed upon.

i. The Parent wrote that through the 2024-26 timeline, they consistently requested gradual schedule increases, access to the special education classroom, a dedicated break space, and consideration of outsider provider input. The Parent wrote the LEA staff responses "repeatedly" involved an accelerated schedule increase, a limitation of break access, delayed or denied eligibility determinations, and placement discussions prior to a finalized and collaborative IEP.

55. Relevant information from an undated document titled, "Collaborative Team Meeting Agenda," included:
    a. A review of the Student's current performance and relevant classroom/behavioral/engagement data collected by School staff.
    b. A review of outside provider information.
    c. A review of the Student's FBA and the Positive Behavior Intervention Plan (PBIP) proposed by the School on December 15, 2026.
    d. Reviewing the Student's schedule and any proposed schedule considerations.
    e. Next steps and follow up to schedule any additional meetings.
56. Relevant information from undated meeting notes indicated:
    a. The attendees included the Superintendent, the Principal, Teacher 1, Teacher 2, the Autism and Behavior Coach, the SLP, the Special Education Director, and the Other Parent.
    b. The Student's school transition plan included starting small by attending school for 30 minutes on Tuesdays and Thursdays, and gradually increasing the time at the request of the Parent. There would be an exploration of an online program to support engagement. In the past, the Student struggled with lasting an hour and sometimes refused to start tasks.
    c. The Parent requested a reevaluation during a 504 meeting. The School Psychologist would send the paperwork and protocols.

Interview Summaries

Special Education Teacher 1

57. During an interview with the Complaint Investigator, Special Education Teacher 1 indicated there were not any delays in implementing the Student's IEP services or accommodations. The initially proposed timeline was followed. "We had to implement the stay-put process because [both of the Parents] were not in agreement with our proposal, so we remained with the services that were initially proposed at the start of [the Student's] IEP." The stay-put process was put into effect in December, 2025.
58. Special Education Teacher 1 explained when they first began working with the Student, they spent much of their time one-on-one in the resource room, focusing on getting to know the Student through preferred activities and play to understand their interests and tolerance for different tasks. They often went to the playground, where they built rapport by engaging in conversations driven by what the Student noticed or enjoyed, such as bugs, space, Minecraft, or Pokémon, and relied heavily on observing the Student's reactions since they rarely stated dislikes verbally. As the relationship developed, academic tasks were introduced to gauge the Student's reading and math abilities following their prior homeschooling, paying close attention to their body language and behaviors—like turning away or discarding materials—to understand their comfort level. Throughout their work together, interactions with the Student took place primarily in the resource room and on the playground, aside from brief moments during morning drop-off.
    Both of the Parents participated actively throughout the IEP process, consistently sharing their thoughts and concerns about the Student's learning and needs. They responded to questions openly, with the Parent regularly providing updates about how the Student's day or morning had begun, and the Other Parent offering insight into the Student's routines and behaviors during visits or weekends at their home. Together, they supplied ample information that helped the team better understand how to support the Student and approach their learning effectively.

Special Education Teacher 2

59. During an interview with the Complaint Investigator, Special Education Teacher 2 explained there were no reported delays or lapses in implementing the Student's IEP services or accommodations; the team followed the previous IEP under stay-put requirements until the new plan was finalized, and all services continued as each updated IEP was signed. Staff described taking a flexible, responsive approach to the Student's daily needs, giving the Student time and breaks when they arrived, adjusting activities based on their engagement, and offering multiple options to support their participation. Most of the work with the Student took place in the resource room, where Special Education Teacher 2 gradually became their consistent daily support after December, 2025, ensuring continuity in their services and interactions.
    Both of the Parents participated actively throughout the IEP process, consistently offering input and sharing information that helped the team support the Student. The

Parent frequently communicated updates during drop-off, especially when the Student was having a difficult morning, and the Parent provided comfort items from home—such as the fabric "kangaroo hut" burrow and a fanny pack of tools—to help the Student regulate at school. Both of the Parents contributed during meetings and responded to documentation, offering insight into the Student's needs and routines. The team used the items and information they provided to create supportive break spaces and incorporate familiar materials that helped the Student engage more successfully.

Special Education Director

60. During an interview with the Complaint Investigator, the Special Education Director explained the School team reported that there had been no mistakes or errors in the PWNs sent to both of the Parents during the Complaint period, explaining that the notices were intended to document proposed or refused actions rather than serve as transcripts of meetings. They stated that all notices accurately reflected the decision-making process. They also described working closely with both of the Parents, offering multiple meeting dates, scheduling well in advance, and primarily accommodating the Parent's availability while ensuring the Other Parent received required notice. The only scheduling challenge occurred when the Parent provided availability outside the previously discussed timeframe, but the team still arranged the meeting within required timelines and provided proper notice through mail, email, and DocuSign.

    Both of the Parents' input was consistently incorporated into the Student's IEP, as both were always invited to meetings and their comments were documented directly in the IEP sections noting "[the Parent] stated" or "[the Other Parent] stated." Their perspectives were included in discussions about accommodations and modifications, and their differing observations were considered while the team focused on the Student needs within the School environment. Decisions were never made without the Parents present, and meetings regularly included their chosen advocates, the Crisis Center, and the Therapist, whose participation further reflected both of the Parents' input. Through multiple meetings over the past year, the team used both of the Parents' contributions to help shape informed decisions aimed at providing the Student with appropriate support in the least restrictive environment.

61. The Special Education Director explained the team relied on multiple sources of data to determine that the TLC was the Student's least restrictive environment. An outside provider, conducted an FBA using five BCBAs (Board Certified Behavior Analysts) who observed the Student without prior information to ensure impartiality, producing data on safety concerns, antecedents, behaviors, and consequences. Staff also collected daily qualitative and quantitative logs, including ABC data, and the LEA's Autism and Behavior Coach conducted extensive observations. During a January 2026 meeting, the Parent presented information about the Student's triggers, trauma history, and behavioral patterns, which aligned with the behaviors observed at school. All of these data points—outside evaluations, internal documentation, professional observations,

and parental input—consistently indicated the Student's behaviors in the School setting interfered with learning, supporting the conclusion that the TLC was the most appropriate and least restrictive placement and is 10 minutes away from the Student's current School.

62. The Special Education Director indicated the Parent believed the December 15, 2025 IEP draft was predetermined, but the School team recalled that they had brought a draft as a starting point, which was their standard practice for all IEP meetings. They noted that the Parent had not requested the documents in advance, though they would have provided them if asked. During the meeting, they explained that the draft was only a proposal and that decisions would be made collaboratively with the Parents' input. They emphasized that nothing was presented as final, and the team even arranged follow-up steps—such as parent observations and a tour of the TLC program—to ensure the process remained open and flexible rather than predetermined.
    To determine the Student's eligibility, the team used a wide range of internal and external data, including qualitative and quantitative daily logs, ABC data, and both the school-based FBA and the FBA conducted by the Outside Provider. They also considered parent input, therapist observations, and information from previous evaluations. Although some Outside Provider reports—such as an autism evaluation and an ophthalmology report—were not received until after the reevaluation meeting, the team reviewed them once they were made available and expressed willingness to meet again to discuss their relevance. All available data at the time of the evaluation were incorporated into the eligibility determination, and the team held lengthy, detailed meetings to ensure the Student's services were appropriately aligned with their needs. The IEP team reviewed the Optometrist's January 8, 2026 report after receiving it at the January 13, 2026 meeting, noting that some of the attached documents were not new and had already been considered in a previous evaluation. Because the information arrived after the reevaluation process, the team did not discuss it in depth during that meeting but expressed willingness to revisit the recommendations once they had time to review them fully and obtain a release to speak directly with the provider. Several of the Optometrist's suggestions—such as frequent breaks, use of a slant board, and certain visual supports—were already in place or available in the classroom, while others, like larger print materials or high-contrast adjustments, had not been identified as necessary based on the Student's school performance. The team emphasized that they were open to further discussion with the Vision Specialist but needed adequate time and opportunity within scheduled meetings to address the recommendations alongside the broader needs of the Student's educational program.
63. The Special Education Director explained the School confirmed that it had received the Parent's letter in August 2024, and that the information it contained was considered during the December 2024 evaluation. When asked about delays in implementing the Student's IEP services, the team explained that the Student's services had been provided consistently throughout the school year. The Student initially received 30 minutes of resource room support twice a week as an intervention, and when the

December 15, 2025 reevaluation meeting occurred, the team discussed services and the proposed TLC placement. Because the family wished to observe the TLC program first, the team remained in a stay-put situation, continuing only speech services in the IEP while extending the evaluation timeline with the Parent's consent.
As meetings continued into January, 2026 the team amended the IEP to formally include the 30 minutes of resource room support twice a week the Student had already been receiving. Only one Parent signed the amendment, but because neither Parent had sole educational decision-making rights, one signature was sufficient. The team then met again on January 27, 2026 to consider a unified plan the Parents hoped to develop, but no joint proposal was presented. The School instead proposed increasing the Student's time at school by extending their daily minutes and adding more days per week, a plan that aligned with suggestions from the Educational Advocate. Each change was documented through PWNs and amendment forms, and services were implemented as soon as signed consent was received. Based on this timeline, the School reported that there had been no delays in implementing the Student's IEP services.

64. When asked about undated meeting notes in the LEA Materials, the Special Education Director explained the meeting notes were recalled as coming from a team meeting early in the school year attended by the Other Parent, held after they requested that all parties meet together rather than separately. At that time, both of the Parents had already provided consent for the evaluation process, and the team discussed what the Student's school schedule would look like at the start of the year while confirming that a full evaluation would move forward. Additional notes shown later were not from a team meeting at all but were part of LEA's proposed resolution agenda prepared by the School Psychologist. When asked about date discrepancies on a separate document, the Special Education Director explained that the page reflected anticipated services tied to the proposed TLC placement, and because it was only a proposal, the dates had not been finalized or aligned with active IEP timelines.
The stay-put provision referenced in the January 13, 2026 PWN referred to the IEP in place from the December 15, 2025 meeting, during which the team proposed the TLC placement but both of the Parents requested time to tour and observe the program. Because both of the Parents did not agree to the proposed change, the Student's placement and services remained exactly as they had been—speech-only services at the School—while the team awaited further discussion at the next meeting. The Student never attended the TLC, and their placement remained at the School throughout the process, with stay-put ensuring continuity of their existing services until the IEP could be amended with Parental consent.

Parent Interview

65. During an interview with the Complaint Investigator, the Parent explained the transition from four years of homeschooling to public school began with a collaborative and highly structured plan. Following the Parent's warnings regarding the Student's pediatric insomnia, asynchronous development, and potential for trauma-based meltdowns, the

School Principal initially implemented a "slow-fade" approach. This included shortened schedules starting in the afternoon, the presence of an emotional support dog, and the development of a strong rapport with a Special Education Teacher. During the evaluation phase, the Student thrived under the one-on-one attention and the School's willingness to monitor their signals rather than force compliance. This supportive environment allowed for the successful completion of the WISC and Woodcock-Johnson testing, which documented significant deficits despite the Student's high-functioning "splinter skills."

66. The Parent further explained they felt that the information documented in the PWNs was inaccurate because it did not reflect what actually occurred during the meetings. The Parent believed the School portrayed them as having provided extensive input when, from their perspective, very little meaningful discussion had taken place. The Parent recalled that the December 15, 2025 meeting was scheduled at the last minute, leaving no time to adequately review or discuss the proposed IEP, and the Parent felt the team rushed through the process while insisting the document had to be completed that day. The Parent also believed the School entered the meeting with a fully written IEP and a predetermined plan to remove the Student from the School, despite the fact that they had never had an IEP before and the evaluation process had not yet been completed.
    The Parent also expressed concern that the School dismissed or minimized information from outside providers, often attributing those statements to the Parent rather than acknowledging them as professional input. The Parent felt that the team focused on issues like truancy and logistics rather than discussing the Student's actual needs, despite the Parent having provided detailed information about the Student's autism, PTSD, sensory challenges, and the support they required. The Parent believed the co-op staff who joined during the evaluation process escalated the Student's difficulties, and the Parent felt the proposed IEP failed to address foundational needs such as teaching the Student how to take breaks and establishing a sense of safety. Overall, the Parent viewed the PWNs as misrepresenting the discussions, the level of collaboration, and the true nature of the Parent's concerns.
67. According to the Parent, the situation with the LEA deteriorated when leadership ignored the successful "slow-fade" strategy and insisted on a more rigid, morning-heavy schedule. Despite the Parent's explicit concerns about truancy and the Student's writing aversion, the Special Education Director increased the school hours and pushed the Student toward "failure" as a prerequisite for services. Ultimately, the LEA denied an IEP for anything other than speech, with the Special Education Director reportedly stating they would not "waste" special education funds on a child who shredded paper or hid under desks. Consequently, the Student was moved to a regular education classroom without the Student's established support or social story preparation. This lack of specialized training led to a significant incident where the Student felt "attacked" during a game, resulting in a physical altercation and a subsequent cycle of dysregulation. While the Principal and the Counselor attempted to implement an Outside Expert's methods, the absence of formal special education placement caused the Student to

spend the majority of the year in the office, failing to make academic or emotional progress. The lack of formal special education resources meant the Student lacked a consistent, specialized environment. When scheduling conflicts or substitute shortages forced changes to their routine, such as moving the Student from the meeting room or swapping dodgeball for kickball, the Student's stability rapidly declined.
WISC scores showed verbal intelligence in the 97th to 98th percentile, the Student suffered from convergence insufficiency, a vision condition that made worksheets blurry and physically exhausting. Without formal accommodations, the pressure of state testing and standard worksheets triggered "trauma-based" responses, including an incident where the Student barricaded themself with a broom and another where they threw plates in a state of "terror." The Parent provided the School with specialized OT reports and visual "break cards" to preempt these meltdowns, but the staff lacked the special education training to implement them effectively. Ultimately, the Student's asynchronous development meant that while the Student was intellectually gifted, they were developmentally unable to meet the physical and emotional demands of a standard classroom, leading to a cycle of reduced hours and eventual academic failure.

68. The Parent indicated the conflict between the Parent and the LEA intensified during the subsequent school year as the Special Education Director shifted the focus away from the Student's clinical needs toward rigid attendance and scheduling enforcement. Despite the Parent's warnings of school avoidance, pediatric insomnia, and the physical toll of "dragging" a dysregulated child to school, the Special Education Director insisted that the Student's behaviors were intentional and required "boundaries" to prepare them for the "real world." While the school-level staff initially attempted to maintain a low-demand environment (e.g., reading a favorite book), the introduction of outside BCBA evaluators and a more demanding schedule led to a breakdown in the Student's allostatic load. The LEA's insistence on a "forced choice" model and the denial of sensory breaks—despite the Parent's offer to provide equipment and the School OT's recommendation for sensory support—resulted in a series of severe meltdowns. These incidents eventually escalated to the point of staff calling the police, which the Parent attributed to the LEA's refusal to honor the Student's need for regulation over compliance.
69. The Parent indicated they opposed the proposed TLC placement due to the 40-minute commute to a peer-isolated environment that lacked safety from environmental hazards like asbestos and relied heavily on seclusion and physical restraints. Despite professional testimony from a therapist regarding the psychological damage of punitive measures and an optometrist's confirmation that the Student's academic refusal stemmed from medical convergence insufficiency rather than intentional defiance, the LEA prioritized a "behavioral" narrative over trauma-informed care. Procedural failures further stalled the Student's support, as the LEA reportedly omitted a 50-page behavior log and clinical autism evaluations from the FBA, ultimately failing to produce a finalized, written IEP nearly a year and a half after the initial request while continuing to ignore the Student's documented writing aversion and asynchronous development.

70. The Parent indicated the Student succeeded when the Student "… had accommodations, so let's take [them] away to make sure [the Student] fails so we can prove [the Student] needs them. That's what I was told by the Director [of Special Education]."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #431, in accordance with state and federal regulations implementing the IDEA, provided the Parent with PWN that accurately reflected the Parent's actions, proposals, and opinions, and key data related to the Student. K.A.R. 91-40-26(a-c); 34 CFR § 303.421.

According to K.A.R. 91-40-26(a-c) and 34 CFR § 303.421, in providing any notice to the parent or parents of an exceptional child in accordance with K.S.A. 72-990 and amendments thereto regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes a description of other options that the agency considered and the reasons why those options were rejected; and a description of other factors that are relevant to the agency's proposal or refusal. The notice shall be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

The Parent alleged the PWN misstated the Parent's actions and proposals, attributed provider statements to the Parent's opinion, and included incorrect key data.

The LEA responded, "The District provided complete, accurate PWN on all occasions it needed to do so. The provided PWNs reflect the notes from the meetings, and in the case of the [January 27, 2026] meeting, the audio recording of that meeting." The LEA indicated, "The PWN should not be a transcript of the meeting, and should not include extraneous information, to focus on compliance with IDEA requirements."

The PWN for the review of assessment data meeting on December 15, 2024 stated , "Multiple sources of information was [sic] used to determine eligibility and placement for [the Student], including previous evaluations, classroom performance data (observations and teacher input), Functional Behavioral Assessment (FBA) results, behavior rating scales, medical and health records, and parent input." The Other Parent attended the meeting and signed consent. The PWN for eligibility and related services needed by the Student for the meeting on January 13, 2026 indicated the Student was eligible for special education services for OH and Speech/Language Impairment.

The school team proposed to amend the Student's special education minutes "to the following special education services: SE-G-30 minutes, 2X a week." The services are effective the date the PWN was signed. The PWN noted the Student's health and behavioral challenges significantly

impact the Student's disability to access curriculum and demonstrate classroom skills. The IEP team considered the Student's diagnoses. According to the PWN the "IEP team engaged in an extensive, ongoing problem-solving and evaluation process regarding the Student's needs. Both of the Parents were present at the meeting." Evaluation data was reviewed. Both of the Parents requested additional time to review the proposed IEP and services prior to providing consent. The team agreed to reconvene to finalize the IEP and discuss placement and service delivery.

It was noted the Parent expressed opposition to the proposed TLC placement and indicated concerns regarding the Student ability to attend school for extended periods, sharing the Student can tolerate only 35-40 minutes of activity and couldn't handle five days a week. The Parent also requested special education services be provided at home. The Other Parent did not want to remove the TLC placement option entirely but wanted to work jointly with the Parent. Due to lack of parental agreement the LEA implemented a stay-put at the December 15, 2025 IEP meeting and continued the Student's current services.

The LEA conducted assessment procedures using the Functional Analysis Screening Tool (FAST) and extensive Antecedent-Behavior-Consequence (ABC) data collected by school staff between August 25 and October 28, 2025. To ensure objectivity, three separate clinical supervisors and Board Certified Behavior Analysts (BCBAs) performed observations and assessments without reviewing any pre-existing background information. This approach was intended to determine the specific function of the Student's behavior within the School setting through an unbiased lens; however, some of the historical data and clinical diagnoses previously provided by the Parent and the School Principal were not included. The team felt the assessments given were sufficient to support the appropriate FBA for the Student.

The PWN for the meeting on January 27, 2026, indicated the IEP team amended the Student's special education minutes "through a gradual increase in length of day and frequency of attendance, with the intent of supporting the Student's continued access to instruction and social and emotional needs." The LEA considered and refused the Parent's request of an 1:1 paraeducator and the addition of a Declarative Language accommodation. All PWN's had all of the required components contained in K.A.R. 91-40-26(a-c); 34 CFR § 303.421.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA did not provide the Parent with PWN (PWN) that accurately reflected the Parent's actions, proposals, and opinions, and key data related to the Student.

Issue Two

Whether USD #431, in accordance with state and federal regulations implementing the IDEA, provided the Parent and their Advocate with an opportunity to participate in special education meetings, including receiving draft documents in advance of meetings, meetings being scheduled at a mutually agreed date and time, and whether the Parent's input was included in the Student's IEP. K.A.R. 91-40-26; 34 CFR 303.322; K.S.A. 72-987(d)(1), 34 CFR § 300.324(a)(1)(ii).

According to K.A.R. 91-40-26 and 34 CFR 303.322, the agency shall be required to provide a parent with a copy of the procedural safeguards available to parents only one time during each school year, except that a copy shall also be provided to the parent upon initial referral of the child for an evaluation or upon parental request for an evaluation; upon receipt by the State department of education of the first complaint filed with it by the parent; upon receipt by an agency of the first due process complaint filed against it by the parent; upon the parent's child being subjected to disciplinary removal from the child's current placement; and at any time, upon request of the parent.

The agency shall inform the parent of any free or low-cost legal or other relevant services available in the agency's area if the parent requests the information or the parent or agency initiates a due process complaint involving the parent's child.

According to K.S.A. 72-987(d)(1) and 34 CFR § 300.324(a)(1)(ii), in developing each child's IEP, the IEP team shall consider the strengths of the child and the concerns of the parents for enhancing the education of their child.

The Parent alleged the LEA limited the meaningful participation of the Parent and the Parent Advocate at special education meetings, did not provide a draft of documents, the IEP did not reflect the Parent's proposals, and the LEA did not schedule IEP meetings at a mutually agreed date and time.

The LEA responded stating both of the Parents were provided with meaningful parental participation in the IEP process. The team collaboratively scheduled meetings for the Student. On one occasion, the School “put forth [ten] various meeting dates, which did not work for everyone.” When the signed extension deadline approached, the School scheduled the meeting to ensure compliance with the IDEA deadlines and sent notice to both of the Parents, 27 days prior to the scheduled meeting. Both of the Parents and the Advocate attended the meeting. Both of the Parents were notified of all meetings “10+ days in advance and were provided with a 10-day Notice of Meeting for each meeting.” Parent input was obtained by meeting discussions, parent input forms, rating scales, parent presentation/demonstration, email communications and documented parent requests.

The Parent did not make a request to review the IEPs in advance of the IEP meetings. The LEA indicated they would have provided them if the Parent had requested them. The IEP team

"strives for consensus." Both of the Parents and the Advocate provided input, which was documented in meeting records. The team provided ample notice for each IEP meeting with a properly constructed NOM, and sent calendar invitations for each meeting.

Both of the Parents' comments were documented directly in the IEP sections noting "[the Parent] stated" or "[the Other Parent] stated." Their perspectives were included in discussions about accommodations and modifications, and their differing observations were considered while the team focused on the Student needs within the School environment. The team provided both the Parents and the Advocate time to present their views and concerns according to K.S.A. 72-987(d)(1) and 34 CFR § 300.324(a)(1)(ii).

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA limited the meaningful participation of the Parent and the Parent Advocate at special education meetings, did not provide a draft of documents, the IEP did not reflect the Parent's proposals, and the LEA did not schedule IEP meetings at a mutually agreed date and time.

Issue Three

Whether USD #431, in accordance with state and federal regulations implementing the IDEA, made a special education placement decision by the Student's IEP team, including the Parent. Further, whether the LEA considered a continuum of placement options and, based on the Student's needs, determined the least restrictive environment for the Student. K.A.R. 91-40-21; 34 CFR §§ 300.114-116, 300.327.

According to K.A.R. 91-40-21; 34 CFR §§ 300.114-116, and 300.327, each agency shall ensure that the children with disabilities served by the agency are educated in the LRE. Each agency shall ensure that a continuum of alternative educational placements are available to meet the needs of children with disabilities. These alternative educational placements shall include instruction in regular classes, special classes, and special schools; instruction in a child's home; and instruction in hospitals and other institutions; and make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement.

In determining the educational placement of a child with a disability, including a preschool child with a disability, each agency shall ensure that the placement decision shall be made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options. The decision shall be made in conformity with the requirement of providing services in the LRE.

Each agency shall give notice to the parents of any meeting to discuss the educational placement of their child. The notice shall comply with K.A.R. 91-40-17. If a parent cannot attend a meeting regarding the child's educational placement in person, the agency shall offer

alternative methods for the parent to participate, including conference calls and video conferencing. An agency may conduct a meeting to determine the appropriate educational placement of a child with a disability without the participation of a parent if the agency, despite repeated attempts, has been unable to contact the parent or to convince the parent to participate.

If an agency conducts a meeting to determine the appropriate educational placement of a child without the participation of a parent, the agency shall have a record of the attempts that the agency made to contact the parent. An agency shall take action to ensure that parents understand, and are able to participate in, any discussions concerning the educational placement of their children, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

Each agency shall ensure that each exceptional child's placement is determined at least annually, is based on the child's IEP, and, for a child with a disability, is as close as possible to the child's home. Unless the IEP of a child with a disability requires some other arrangement, the agency shall ensure that the child is educated in the school that the child would attend if nondisabled. In selecting the LRE for a child with a disability, the persons making the educational placement decision shall give consideration to any potential harmful effect on the child or on the quality of services that the child needs. An agency shall not remove a child with a disability from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

In providing, or arranging for the provision of, nonacademic and extracurricular services and activities, including meals, recess periods, and other nonacademic services and activities, each agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child. Each agency shall ensure that each child with a disability receives the supplementary aids and services specified in the child's IEP as being appropriate and necessary for the child to participate in nonacademic settings.

If it is determined that the placement in a specialized public or private school or facility is necessary to provide a FAPE to a child with a disability in accordance with the child's IEP, the agency shall provide for the placement, including nonmedical care and room and board, at no cost to the parent or parents of the child. Each agency that operates any separate facility for the education of children with disabilities shall ensure that the facility is comparable to those operated for nonexceptional children, and each facility shall be appropriate to the chronological ages of the students and the instructional program being provided.

The Parent alleged the LEA predetermined the Student’s placement and failed to document a discussion of LRE and alternatives before recommending more restrictive options.

The LEA responded they had consistently included least restrictive environment considerations in every IEP that would assign the Student to a placement outside the general education environment, whether the resource room or the TLC program.

The IEP team considered the continuum of alternative placements and the supports/services needed for the Student to access the general education setting and make progress, which was documented. The Parent felt the placement was predetermined but documentation provided evidence the LEA did consider a continuum of alternative placements which were decided at the meeting, not prior. The School consistently offered and encouraged the Student to attend school more each day and proposed different schedule options to support the Student's educational needs. Decisions were made through team consensus or a LEA decision. The Parent requested services be provided in the Student's home. The LEA denied the request and provided PWN, indicating the home services were more restrictive than the LEA's proposal of the Student's placement in the TLC as required by K.A.R. 91-40-21; 34 CFR §§ 300.114-116, 300.327.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA, in accordance with state and federal regulations implementing the IDEA, made a special education placement decision by the Student's IEP team, not including the Parent. It is also not substantiated that the LEA did not consider a continuum of placement options nor that they did not determine the least restrictive environment for the Student.

Issue Four

Whether USD #431, in accordance with state and federal regulations implementing the IDEA, utilized a variety of sources, including information from the Parent, when making decisions about the Student's eligibility for special education services. K.A.R. 91-40-10(d); 34 CFR § 300.306.

According to K.A.R. 91-40-10(d) and 34 CFR § 300. 306, each evaluation team, in determining whether a child is an exceptional child and what the educational needs of the child are, shall draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The evaluation team shall ensure that the information obtained from all of the sources is documented and considered.

The Parent alleged the LEA did not consider the outside provider's diagnoses and input when determining eligibility of the Student.

The LEA response indicated the team had considered the information from both of the Parents and outside providers that was available at the time of the meeting. According to the LEA, two of the reports discussed in the Complaint were not provided until after the Student's eligibility meeting and that none of the outside providers had observed the Student in the

school setting or contacted school employees for input into their reports. The LEA felt the outside providers were "working off limited data."

According to documentation, the LEA considered all outside information and data regarding the Student that was available at the time of each meeting. Some of the outside provider information the Parent referred to was given to the team after the eligibility meeting. The team indicated many of the vision-related needs documented were already being implemented under the accommodation provision of the IEP. To determine the Student's eligibility, the team used a wide range of internal and external data, including qualitative and quantitative daily logs, ABC data, and both the school-based FBA and the FBA conducted by the Outside Provider.

The team considered additional outside data when they developed a plan for the Student. When developing the FBA, the team, in addition to LEA evaluators, used outside provider data that was reflected in the FBA. The IEP team reviewed the Optometrist's January 8, 2026 report after receiving it at the January 13, 2026 meeting, noting that some of the attached documents were not new and had already been considered in a previous evaluation according to the Special Education Director. The Parent frequently communicated updates during drop-off, especially when the Student was having a difficult morning, and the Parent provided comfort items from home—such as the fabric "kangaroo hut" burrow and a fanny pack of tools—to help the Student regulate at school. The IEP team considered all outside data if available during the time of each meeting according to K.A.R. 91-40-10(d); 34 CFR § 300.306.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA, in accordance with state and federal regulations implementing the IDEA, did not utilize a variety of sources, including information from the Parent, when making decisions about the Student's eligibility for special education services.

Issue Five

Whether USD #431, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP in accordance with the starting dates included in the IEP. K.A.R. 91-40-16; 34 CFR § 300.323.

According to K.A.R. 91-40-16 and 34 CFR § 300.323, each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency shall ensure that an IEP is in effect before special education and related services are provided to an exceptional child, those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless a reasonable justification for a delay can be shown, an IEP is in effect for each exceptional child at the beginning of each school year, the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each

teacher and provider is informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged that the LEA failed to provide special education services per the dates in the Student's IEP.

The LEA responded that they have "always fully implemented the [S]tudent's IEP services in accordance with the IEP start dates and promptly implemented changes following IEP team decisions and required parental consent." When extensions were granted or amendments were made, the LEA initiated services consistent with the agreed plan while maintaining documentation of consent, implementation dates, and service delivery.

According to records provided, the December 15, 2025 IEP aligned with the PWN of January 19, 2026. Regarding the February 3, 2026 IEP, the team proposed a structured amendment to the Student's special education minutes, centered on a gradual reintegration plan designed to build the Student's stamina and support their social emotional needs. This transition was scheduled to occur in phases throughout February and March 2026, starting with only two days a week for one hour and progressively increasing in frequency, which was requested by the Parent. By the beginning of March of 2026, the proposed schedule shifted to a full five-day week, with the start times incrementally moving earlier—from 12:45 p.m. to 11:30 a.m.—to slowly extend the Student's presence on campus while keeping the daily duration of instruction consistent. When the Parent and the Other Parent wanted more time to discuss placement in the TLC, a stay-put option was put into place so the Student would still receive services.

Throughout this process, the Student was slated to receive 60 minutes of special education services outside of the regular classroom during each scheduled visit. In addition to these core instructional supports, the plan included specific speech-language services to be delivered every other week. These consisted of five minutes of direct services outside of the regular classroom and an additional five minutes of indirect services. This comprehensive schedule was intended to remain in effect through the duration of the IEP, or until the team determined that further updates to the Student's minutes were necessary based on their progress and access to instruction. According to past and present IEP dates the Student's IEP's were implemented in accordance with the starting dates included in the IEP. K.A.R. 91-40-16; 34 CFR § 300.323.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA did not implement the Student's IEP in accordance with the starting dates included in the IEP.

Issue Six

Whether USD #431, in accordance with state and federal regulations implementing the IDEA, violated FERPA regulations when another student's personally identifiable information was provided to the Parent. 34 CFR § 303.401(a)(b).

According to 34 CFR § 303.401(a)(b), each State must ensure that the parents of a child referred under this part are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with Federal and State laws. As required under sections 617(c) and 642 of the Act, the regulations in 34 CFR §§ 303.401 through 303.417 ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this part by the Secretary and by participating agencies, including the State lead agency and EIS providers, in accordance with the protections under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR part 99. Each State must have procedures in effect to ensure that participating agencies (including the lead agency and EIS providers) comply with the part C confidentiality procedures in 34 CFR §§ 303.401 through 303.417.

The Parent alleged that the LEA emailed the Parent, including another student's personally identifiable information.

The LEA responded they understood their obligation to protect student information. Human error happened in this case, where another student's personally identifiable information was inadvertently disclosed via email to the Parent.

Upon notification, the LEA issued a corrective communication requesting the deletion of disclosed email and provided the correct documents. The LEA notified the parents affected about the disclosure. The LEA maintains standard confidentiality language in email ("The content of this email is confidential and intended for the recipient specified in this message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.") The LEA did not contest this allegation. 34 CFR § 303.401(a)(b).

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is substantiated*** that the LEA violated FERPA regulations when another student's personally identifiable information was provided to the Parent.

Issue Seven

Whether USD #431, in accordance with state and federal regulations implementing the IDEA, provided the Student with a FAPE when IEP services were not implemented, procedural violations occurred, and the Parent did not have an opportunity to participate in the special education process. K.A.R. 91-40-2, 91-40-3; 34 CFR § 300.101.

According to K.A.R. 91-40-2, each agency shall provide a FAPE in accordance with K.S.A. 72-966 and amendments thereto, and with this article. Each agency's obligation to provide a FAPE shall extend to exceptional children residing on Indian reservations, unless these children are provided a FAPE by the Secretary of the Interior under federal law. Each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday.

Each agency shall make a FAPE available to any child with a disability, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination of whether a child advancing from grade to grade is a child with a disability shall be made on an individual basis in accordance with the child find activities and evaluation procedures required by this article. Each agency shall provide special education and related services based on the child's unique needs, not on the child's area of exceptionality.

According to K.A.R. 91-40-3 and 34 CFR § 300.101, each agency shall ensure that children with disabilities have available to them the same variety of educational programs and services that are available to nondisabled children served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education. Each agency shall provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities, including the provision of supplementary aids and services as determined to be necessary by the child's IEP team.

Nonacademic and extracurricular services and activities shall include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the agency and assistance in making outside employment available.

The Parent alleged that the cumulative procedural violations materially interfered with the Parent’s opportunity to participate in educational decision-making and resulted in substantive harm to the Student through delayed and inconsistent access to appropriate supports.

The LEA responded they have always fully implemented the Student’s IEP, as reflected in the service logs and supporting records provided. The LEA provided both of the Parents with meaningful opportunities to participate in the special education process through timely

meeting notices, multiple scheduling attempts, in-person and virtual participation options, and documentation of parent input and requests.

According to 34 CFR 300.513, to the extent any procedural concerns are substantiated, a procedural violation constitutes a denial of FAPE only if it: 1) impeded the child's right to a FAPE, 2) significantly impeded the parent's opportunity to participate in the decision-making process regarding provisions of FAPE, or 3) caused a deprivation of educational benefits. The LEA provided service logs for fiscal year 2025 detailing the Student received speech-language services from the SLP from 1:00 p.m. to 1:15 p.m. Each session contained a progress code of 3, which meant the Student "maintained performance." Behavior Logs for the Student from February 19, 2025 through February 18, 2026 described the Student's behaviors, classroom activities, levels of engagement, and moments of regulation and dysregulation.

Eight PWN's were sent to both of the Parents via email ranging from December 16, 2024 through February 17, 2026. Documentation of Notice of Special Education Meetings were for December 4, 2025, and February 12, 2026. Both of the Parents were notified of all meetings "10+ days in advance and were provided with a 10-day Notice of Meeting for each meeting." Parent input was obtained by meeting discussions, parent input forms, rating scales, parent presentation/demonstration, email communications and documented parent requests.

The LEA maintained the Student's placement when both of the Parents wanted to take time to think about TLC placement at a December 15, 2025 meeting, confirming Parent consideration and input. Both of the Parents participated in the educational process throughout the Student's years on an IEP.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA did not provide the Student with a FAPE when IEP services were not implemented, procedural violations occurred, and the Parent did not have an opportunity to participate in the special education process. K.A.R. 91-40-2, 91-40-3; 34 CFR § 300.101.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. The LEA violated FERPA regulations when another student's personally identifiable information was provided to the Parent. 34 CFR § 303.401(a)(b).

In this case, the evidence supports the finding that USD #431 did violate FERPA regulations by sending another student's information to the Parent. The Parent was asked to delete the other student's personal information and the parents of the student whose records were sent to the wrong parent was notified.

A. Federal regulations at 34 CFR § 303.401(a)(b). specify the LEA must ensure that the parents of a child referred under this part are afforded the right to confidentiality of personally

identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with Federal and State laws.

In this case, the evidence supports the finding that USD #431 sent another student's information to the Parent therefore violating FERPA requirements.

Based on the foregoing, USD #431 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #431 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA)at 34 CFR § 303.401(a)(b). by completing staff training on FERPA requirements.
2. Within 45 calendar days after the staff trainings to discuss FERPA requirements USD #431 shall submit the associated signed documentation showing staff participation in this training.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #200
ON FEBRUARY 11, 2026

DATE OF REPORT: MARCH 26, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ----------, by their parent, ----------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD # 200, Greeley County Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #200.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on February 11, 2026 and the 30-day timeline ended on March 13, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #200, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provided the Parent a properly formed Prior Written Notice (PWN) within a reasonable time before proposing or refusing to change the eligibility of the Student for special education and related services. Further, whether the LEA issued a PWN to indicate whether they were refusing the IEE or initiating due process. K.A.R. 91-40-26, K.S.A. 72-3430(b)(2); 34 CFR § 300.503(a)(b).

ISSUE TWO: Whether USD #200, in accordance with state and federal regulations implementing the IDEA, ensured that a group of qualified professionals and the Parent determined whether the Student was a student with a disability. K.A.R. 91-40-10(a)(1)(2)(d)(1); 34 CFR § 300.306(b)(1)(i).

ISSUE THREE: Whether USD #200, in accordance with state and federal regulations implementing the IDEA, ensured the Parent had the opportunity to inspect and review all educational records and participate in any meeting concerning the Student with respect to the identification, evaluation, or education placement of the child; and the provision of a Free Appropriate Public Education (FAPE) to the child, and whether the LEA provided a PWN to the Parent. K.A.R. 91-40-21, 91-40-17, 91-40-25; 34 CFR §§ 300.322, 300.501(b)(c).

Investigation of Complaint

The Parent did not respond to a request for information. The following LEA staff were interviewed on March 2, 2026: the Special Education Director, the School Psychologist and the Superintendent.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Prior Written Notice, 11/03/25
2. Notice of Special Education Meeting, 12/16/25
3. IEP Meeting Participants Signatures, 12/16/25
4. Evaluation/Eligibility Team Report, 12/16/25
5. Prior Written Notice, 12/16/25
6. Team Meeting Notes, 12/16/25
7. Prior Written Notice, 01/07/26
8. Prior Written Notice, 01/29/26
9. Psychological Evaluation, 08/29/25-12/08/25
10. School Letter, re: Withdrawal of Due Process Complaint (Without Prejudice), 02/11/26
11. i-Ready Diagnostic Results, 08/14/25, 12/08/25, 01/26/26
12. Teacher Recording Sheet, 08/21/25, 10/21/25, 11/03/25, 11/13/25
13. Progress Monitoring 1, 01/08/26
14. Progress Monitoring 2, 01/15/26
15. Progress Monitoring 3, 01/26/26
16. Phonological Awareness Skills Test (PAST)-Formal Diagnostic Form A, May 2025
17. Phonemic Awareness Summary Report, 2025-26 School Year
18. Emails dated 8/27/25-02/05/26
19. Activity Worksheets, various dates
20. Screenshot of Email, re: Diagnoses, no date
21. Activity Worksheets, various dates
22. Tricky Word Assessment Record, 11/17/[25]-01/15/[26]
23. Activity Worksheets, no dates

24. Notice to Parents of Special Education Due Process Hearing, 01/28/26
25. Policies, Practices, and Procedures, 2025-26 School Year
26. Formal Cooperative Complaint, 12/19/25
27. Meeting Notes, 01/26/26

Background Information

This investigation involved a first-grade student enrolled at an elementary school in USD #200. The Student is not currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA). The Student has a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD), Adjustment Disorder, and Dysgraphia. The Student is creative and kind, loves sharing stories, and is empathetic towards peers.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with staff in the LEA.

1. A Phonological Awareness Skills Test administered in May 2025, and again in July 2025, scored the Student at 39/84 points and 64/84 points respectively.
2. The following were the Student's iReady Reading Diagnostic results:
    a. August 14, 2025: Emerging K
    b. December 8, 2025: Mid 1
    c. January 26, 2026: Grade K
3. Letter Names and Sounds assessment data gathered between August 21, 2025 and January 26, 2026 indicated general proficiency with the following significant anomalies:
    a. 26/41 sounds on August 21, 2025 versus 36/41 sounds on October 21, 2025.
    b. 35/41 sounds on both November 19, 2025 and January 8, 2026 versus 21/41 sounds on December 11, 2025.
4. Letter Writing worksheets dated from August 21, 2025 to January 26, 2026 demonstrated the Student's struggles with handwriting and showed growth in writing both uppercase and lowercase letters.
5. Work samples spanning the 2025-26 school year indicated the Student was able to successfully complete work in class, with assistance occasionally.
6. An undated Phonemic Awareness assessment indicated the Student was proficient in six of eight categories, and developing in two of eight categories.
7. The Student's beginning and middle of the year benchmark for phonics skills showed the Student was proficient or developing in the skills taught.
8. Behavior "Check-in, Check-out" sheets recorded between October 20, 2025 and January 22, 2026 indicated overall positive behavior. Notable incidents included sleeping in class on the following dates:

a. November 4 thru November 6, 2025.
b. January 14, January 19, and January 21, 2026.

9. In an email on October 29, 2025, the Special Education Director informed the School Psychologist the Parent would be contacting them to request an evaluation for the Student.
10. On October 30, 2025, the Parent emailed the School Psychologist to officially request a special education evaluation for the Student. The School Psychologist responded the same day, and set up a meeting with the Parent for the next week.
11. The Parent emailed the report from the Outside Evaluator to the School Psychologist on November 3, 2025. On the same day, the Parent emailed the Student's diagnosis from the Outside Therapist to the School Psychologist.
12. A PWN for an initial evaluation and request for consent was signed by the Parent on November 3, 2025.
13. A Tricky Word assessment administered on November 17, 2025 indicated the Student scored 23/46 words correct. A second assessment administered January 15, 2026 reported the Student was able to correctly identify 31/46 tricky words.
14. A Notice of Special Education Meeting proposed a meeting on December 16, 2025 to review the results of the Student's evaluation. The Notice included information about developing an IEP. Documentation of delivery reported the Notice was sent via email on November 17 and December 15, 2025 to the Parent and the Other Parent, and via text to the Parent on December 11, 2025. The Parent signed the Notice on December 16, 2025.
15. On December 5, 2025, the Parent emailed the School Psychologist an "updated report" for the Student.
16. On December 11, 2025, the School Psychologist emailed a draft of the Eligibility/Evaluation report to the Parent, the Other Parent, the Superintendent, the School Counselor, the General Education Teacher, the Speech Language Pathologist, the Occupational Therapist, and the Special Education Provider. The email read "Attached is [the Student's] DRAFT [sic] evaluation/eligibility report for you all to review before [their] meeting on 12/16[/25]. More information may be added prior to or at the meeting. No decisions have been made. At the meeting, we will review the report and determine eligibility for special education. If [the Student] is found eligible then we will write an IEP, if not then we will consider next steps including supports or accommodations."
17. An IEP Meeting Participants page dated December 16, 2025 included signatures from the Parent, the Special Education Provider, the General Education Teacher, the Superintendent, the School Psychologist, the School Counselor, and the Outside Therapist.
18. An Evaluation/Eligibility Team Report for an initial evaluation dated December 16, 2025 included the following relevant information:

a. The Parent requested an evaluation due to the Student's academic and behavioral struggles.
b. The LEA acknowledged the Student experienced ADHD, Adjustment Disorder, and Dysgraphia, as diagnosed by the Outside Evaluator.
c. The Student demonstrated work avoidance by doodling or fidgeting. Observations specifically remarked on the Student practicing tying their shoes instead of working.
d. Classroom observations by the School Psychologist reported the Student's "behavior was similar to peers". The General Education Teacher was observed checking on the Student five times, as opposed to three times for peers, and the Student asked for help two times, as compared to once by peers.
e. Behavior Data recorded positive behavior 80% of the time.
f. Motor Skills testing indicated no gross motor issues, and highlighted fine motor concerns about grip and handwriting.
g. Concerns from the IEP team recorded learning and social/emotional difficulties including outbursts and refusals, as well as concerns with sensory sensitivity and visual-motor difficulty.
h. The Student was able to write their name independently and accurately, and numbers 1-10 without a model. When asked to write uppercase letters A-Z without a model, the Student was able to write the letter "P" and reported they weren't sure what came next. Reversals and mixed casing were present. The Student presented as left-handed when writing, and was able to cut with scissors with either hand, more successfully with their left hand.
i. The Student's sensory processing ability was evaluated by the School Psychologist as below average across all categories. Evaluations indicated "over-responsivity" for vision and touch inputs, and "under-responsivity" for hearing, taste/smell, body awareness, and balance. Recommendations were included for supports for sensory processing and visual-motor skills.
j. The Parent reported the Student did not like coming to school. It was noted the Student "experiences clinginess or separation anxiety at drop-off time." They shared the Student had a good memory, however often needed directions repeated. The Parent stated the Student was a good communicator.
k. The General Education Teacher stated the Student did not have significant social issues. They reported the Student followed school rules 80% of the time. The General Education Teacher reported the Student "can always follow single-step directions. Sometimes [they need] 2-3 step directions repeated and sometimes more than once." However, the Student had "frequent tantrums, beyond what is typical for [their] age." The General Education Teacher shared the Student displayed "some aggression or refusal to follow rules," especially when tired from mental focus. They shared the Student "can experience notable emotional distress, including symptoms of anxiety and depression, especially

after a change in routine or weekend." The General Education Teacher "noted challenges with learning, attention, and executive functioning skills, such as planning, organization, and task initiation." All areas of concern were noted as "typical" of an ADHD diagnosis. Areas of potential growth were identified as emotional regulation, positive growth mindset, relationship building, resilience, routines and adapting to change, and practicing SEL tools.

l. Outside evaluations indicated the following:
    i. "[C]linically significant social-communication difficulties that may interfere with everyday interactions."
    ii. Supported ADHD and Adjustment disorder diagnoses, with risk indicated for anxiety, depression, somatization, and difficulties with self-regulation.
    iii. Supported sensory sensitivities and below-average processing speed.
    iv. Found the Student's language, communication, and social-emotional skills to be age-appropriate.

m. Overall evaluations indicated the Student performed at a low average capacity compared to peers. While they were making steady progress academically, concerns existed around self-regulation, fine motor skills, sensory processing, adaptive skills, and writing.

n. Recommendations included ongoing interventions and reducing sensory overload and distractions, frequent check-ins, and possible occupational therapy or OT consultation.

o. The document indicated "The Student is not eligible for special education because: Special education services are not necessary to enable this student to receive educational benefits in accordance with [their] abilities or capabilities."

p. Under "Assurances":
    i. The statement "Upon completing the most recent evaluation or reevaluation of the [S]tudent, did a team of qualified professionals AND the parent determine whether the [S]tudent is a student with an exceptionality" was marked "Yes."
    ii. The statement "Was the [S]tudent assessed in ALL areas related to the suspected exceptionality, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities? Explain: All areas of concern that were reported by the parent and teachers were evaluated including social/emotional, reading, math, fine motor, and sensory, among others" was marked "Yes."

q. A Statement above the signatures included "Legal education decision-maker(s) may indicate if they agree/disagree. However, consent is not necessary in order to determine eligibility."

r. The Parent and IEP team signed the document on December 16, 2025.

19. Team Meeting Notes dated December 16, 2025 indicated the Parent, the School Psychologist, the General Education Teacher, the Special Education Provider, the School Counselor, the Superintendent, and the Outside Therapist attended the meeting. The Parent raised concerns that evaluations were not done in a typical classroom setting, therefore "the testing doesn't necessarily reflect [the Student's] performance in class." They shared the Student was often tired and had been sleeping in class. The School Psychologist reported the Student "does not meet necessary criteria for some of the exceptionality considerations on prong 1 and based on progress monitoring and performance did not meet criteria for prong 2." They stated the Student "may need some accommodations, but not specially designed instruction at this time." The General Education Teacher reported they were currently offering accommodations to the Student. An addendum to the document indicated the Parent emailed further concerns on December 19, 2025.
20. A PWN dated December 16, 2025 stated the team met to determine "[w]hether this [S]tudent was eligible for special education." The Identification/Eligibility section box was checked. The PWN informed the Parent the Student was not eligible for special education services at that time. The PWN stated the Student "does not need specially designed instruction at this time as evidenced by progress monitoring data." The documentation of delivery indicated the School Psychologist emailed the PWN to the Parent on December 16 and 19, 2025, and the Special Education Provider "hand-delivered" the notice on December 16, 2025. The PWN indicated "Consent NOT Required" on the Identification/Eligibility section. The PWN was not signed by the Parent.
21. In a letter titled "Formal Cooperative Complaint - Section 504 Process, IDEA Eligibility, and Denial of [a] FAPE" dated December 19, 2025, the Parent shared concerns arising from the December 16, 2025 eligibility meeting, and requested corrective action from the LEA. Concerns included:
    a. Consideration of retention, impact of private tutoring, and access to instruction.
    b. Lack of communication around progress monitoring.
    c. "Denial of meaningful parent participation" due to no written record of the Parent's disagreement with the eligibility determination.
    d. Concerns the strong iReady data came from adult support during assessment.
    e. Disagreement around what is considered "normal" for the Student's age range, and concerns about the Student sleeping during instruction.
    f. Lack of documented accommodations, and recognizing the need for adult support.
    g. Disagreement occupational therapy (OT) cannot be provided as a stand-alone service rather than a related service.
    h. The Parent emailed the letter to the Other Parent, the School Psychologist, the General Education Teacher, and the Superintendent on December 19, 2025.

22. On December 19, 2025, the School Psychologist emailed the Occupational Therapist and the Special Education Director to ask if stand-alone OT services were an option for the Student. The Occupational Therapist replied on January 6, 2026. They stated while the State does allow OT as a stand-alone service, the Student "falls just below the average range but remains within two standard deviations of the mean and is not considered clinically significant." The Occupational Therapist added they supported the team's exploration of the least restrictive environment for the Student, including consultation with the General Education Teacher to implement accommodations. They stated they would be willing to provide pull-out OT services if that was determined necessary for the Student to access their education. The Special Education Director responded on January 7, 2026 the team would "stand behind the evaluation determination". They indicated they would reach out to the Occupational Therapist for support. The Occupational Therapist agreed.
23. In an email on January 6, 2026, the Special Education Director asked the School Psychologist to review a proposed PWN. The Superintendent was copied on the email. The School Psychologist responded the information looked correct, and they would enter it into the proper form. They asked for clarification on "what boxes to check … ." The Special Education Director responded on January 7, 2026 with an edited PWN for review. The School Psychologist emailed a final copy to the Superintendent and Special Education Director the same day.
24. An updated PWN dated December 16, 2025 included the following additional information:
    a. "Special education and related services needed by this student" and "The appropriate educational placement to provide special education and related services identified in this student's Individualized Education Program (IEP)" were added as reasons for the team meeting.
    b. The "Identification, Educational Placement, or Provision of Special Education and Related Services" section box was checked.
    c. The notice indicated "Consent NOT Required" on the Identification, Educational Placement, or Provision of Special Education and Related Services section.
    d. Indicated the LEA refused specially designed instruction and proposed a 504 plan.
    e. Stated "The [S]tudent's reported sleeping behaviors were limited in duration, increased in occurrence just recently, and did not demonstrate an ongoing pattern impacting educational performance. … Parent participation in the Student Intervention Team (SIT) process is not required when a student is making progress within the initial tiered interventions. General education supports and consultative services remain appropriate to address the [S]tudent's needs."
    f. The Documentation of Delivery reported the Superintendent emailed the PWN to the Parent on January 7, 2026.

25. Emails dated January 5 thru January 14, 2026 indicated the Superintendent, the School Psychologist, and the Special Education Director planned to meet with the Parent on January 22, 2026. On January 21, 2026, the Superintendent emailed a draft of a 504 plan for the Student to the Parent, the Other Parent, the School Psychologist, the General Education Teacher, the Special Education Director, and the Special Education Provider. In the same email, the Superintendent indicated the General Education Teacher was ill. The Parent asked to postpone the meeting so the General Education Teacher could attend. The meeting was rescheduled for January 26, 2026.
26. In an email chain beginning on January 22, 2026, the Parent requested the full educational records for the Student. They sent a follow up email on January 26, 2026. The Superintendent responded the same day that the LEA was in the process of digitizing the Student's records. The School Psychologist sent several evaluation documents on January 26, 2026. On January 27, 2026 the Special Education Director responded they would collect the records as soon as possible, and informed the Parent the LEA legally had 45 days to respond to the request. They stated they were "finishing up" a PWN for the Parent, and hoped to send it that night or the next morning. The Superintendent emailed a draft of the Student's 504 plan on January 28, 2026.
27. On January 26, 2026, the Parent emailed the Superintendent, the Special Education Director, the General Education Teacher, the Special Education Provider, the School Psychologist, and the Other Parent indicating they wanted to proceed with a 504 plan for the Student and the Parent requested an IEE.
28. An second addendum to the Team Meeting Notes for December 16, 2025 dated January 26, 2026 stated "[The] Parent wanted it documented in the staffing team report that [they] did not agree with the team's initial determination since [they were] not able to mark disagree on the eligibility report."
29. Meeting Notes dated January 26, 2026 indicated the Parent, the Special Education Director, the Superintendent, the School Psychologist, the Family Advocate, the General Education Teacher, and the School Counselor participated. It was noted a virtual meeting invitation was sent to the Other Parent.
    The purpose of the meeting was to discuss the Parent's concerns and a 504 plan. The Parent asserted their request for an IEE. The Superintendent stated the LEA would go to due process on the IEE. The Family Advocate asked for a PWN including all the information discussed at the meeting. The Special Education Director stated they would provide one. The Parent agreed to continue with a 504 plan at a future meeting.
30. A PWN dated January 26, 2026 included the following relevant information:
    a. The team met on January 26, 2026 to determine "[w]hether this [S]tudent was eligible for special education; [s]pecial education and related services needed by this student; [and] the appropriate educational placement to provide special education and related services identified in this student's Individualized Education Program (IEP)."
    b. Under the Identification/Eligibility section, the Student was found not eligible for special education services because the Student "does not meet the criteria as a

child with an exceptionality, [and] [s]pecial education services are not necessary to enable this student to receive educational benefits in accordance with [their] abilities or capabilities."

c. The box was checked for "The [LEA] refuses to initiate or change the identification, educational placement, or provision of special education services."

d. Notes in the PWN reported on January 22, 2026, the Parent emailed "a second dispute for the [LEA's] refusal of finding [the Student] eligible for an IEP. [The Parent's] complaint and disagreement with the team's determination will be included in [the Student's] evaluation record."

e. Parent requests recorded in the PWN included an IEE, reconsideration of eligibility, and implementation of an IEP. The LEA proposed a 504 plan. The Parent also requested "[r]econvening of the eligibility team within the required legal timelines [and] [i]ssuance of a Prior Written Notice (PWN) addressing each component of this request."

f. An Explanation of Actions reiterated the Student's age appropriate school performance, and the implementation of interventions and accommodations. This section asserted "The Student requires the implementation of accommodations, which can be implemented through a 504 plan which was requested by the Parent on December 19th, 2025." The LEA again offered a 504 plan. Regarding the IEE, the LEA acknowledged the outside testing and stated "[t]he outside report was considered and included in the [LEA's] evaluation due to its thoroughness with testing. The [LEA] understands that by refusing to pay for an IEE that they will be filing for due process." The LEA acknowledged the Parent's first complaint email and stated they responded with the updated PWN that was sent on January 7, 2026. The LEA stated the original purpose of the January 26, 2026 meeting was to discuss the first complaint and draft a 504 plan. They acknowledged the second complaint sent just prior to the meeting, and indicated the PWN for January 26, 2026 addressed the requests presented by the Parent.

g. An Options Considered and Rejected section acknowledged the Parent's disagreement and stated "the team stands behind the evaluation determination that intervention data and assessment results from [the Student's] evaluation do not support placement in special education." The notes reported the General Education Teacher did not modify curriculum for the Student, and was already implementing accommodations successfully. Regarding the IEE, this section explained "[T]he team does not feel a third evaluation in the span of six months is warranted and questions the validity of results if duplicate assessments are given."

h. The PWN included a detailed list of evaluations, and an acknowledgment of the Parent's disagreement with the LEA's decision.

i. Documentation of Delivery indicated the Director of Special Education mailed and emailed the PWN to the Parent on January 29, 2026.

31. A Notice to Parents of Special Education Due Process Hearing was signed by the Special Education Director on January 29, 2026.
32. In an email dated January 30, 2026, the Special Education Director told the School Psychologist they had mailed the evaluation reports, all PWNs, and the Due Process Hearing notice to the Parent,
33. A document dated February 11, 2026 indicated the due process complaint was withdrawn because the Student was unenrolled from the LEA. On this same date, the Parent notified the KSDE and the Complaint Investigator that they wanted to proceed with the Investigation.

Special Education Director Interview:

34. In an interview with the Complaint Investigator, the Special Education Director explained that they spoke with the Parent on October 29, 2025, regarding the Parent's concerns over the Student. They recalled Parents' concerns included behavior, the Student being dyslexic, and the Student Intervention Team (SIT) process.
35. Regarding PWNs, the Special Education Director shared that the Student was found ineligible for special education services during a meeting on December 16, 2025. Following this determination, a PWN was sent to the Parent on the same day, and again on December 19, 2025, due to the Parent asking the team to "reconsider" eligibility. Additionally, the Special Education Director indicated the team "fully considered the outside evaluation" in the eligibility process.
    Additionally, the Special Education Director confirmed the Parent requested an IEE via email on January 22, 2026. In response to this request and a subsequent meeting on January 26, 2026, the LEA issued a PWN and a Due Process Hearing Notice. While the Due Process Notice contained a typographical error listing the year as "2027," the Special Education Director confirmed it was sent on January 29, 2026, and was intended to cover the Due Process Hearing.
36. When asked about a delay in the delivery of PWN, the Special Education Director shared that was "not the intent at all". They explained the delay was actually due to their attendance at a "professional development" event. The Special Education Director clarified that they sought the Other Parent's updated address to ensure both active guardians remained involved. To document the Parent's disagreement with the eligibility decision, the LEA added notes to the staffing team report and included the Parent's dissatisfaction in the PWN.

School Psychologist Interview:

37. In an interview with the Complaint Investigator, the School Psychologist stated they received the outside evaluation report for the Student on December 5, 2025. They shared that testing started as soon as the LEA received Parent consent, and some testing occurred after receiving the outside report. The LEA's results were consistent with the outside data, showing the Student's scores in the average to low-average range.

38. The School Psychologist recalled that during the December 16, 2025 meeting, the team reached a consensus that the Student was ineligible for an IEP because the Student was making progress through general education interventions. The team did not dispute the existence of a disability but determined that SDI was not required at that time.
39. When asked about providing the Parent with a copy of the report, the School Psychologist shared they provided multiple versions of the evaluation eligibility team report to the Parent. A draft copy was sent on December 11, 2025, prior to the eligibility meeting. A second draft followed on December 19, 2025, as the team was still compiling information. The final evaluation report was not provided until January 26, 2026, shortly before a subsequent meeting.
40. The School Psychologist explained the second PWN regarding the December 16, 2025, meeting was prompted by the need to address concerns raised by the Parent in an email and a formal complaint. They defined accurate documentation of parental disagreement as ensuring those views are included in the meeting notes or the evaluation report.

Superintendent Interview:

41. In an interview with the Complaint Investigator, the Superintendent noted that the second PWN was delayed approximately one day, 36 hours, to ensure all information regarding next steps and due process was accurate. Additionally, the Special Education Director clarified that the specific email exchange regarding the Other Parent's address verification was between them and the Parent only.
42. The Superintendent explained the LEA maintains a policy of communicating with both parents if they retain guardianship or custodial rights, regardless of their marital status. Regarding meaningful parent participation, they defined "accurate documentation" as reflecting the parent's disagreement in the meeting notes and the subsequent notice. They noted that during the December 2025 meeting, the Parent participated and expressed their views but ended the meeting early for another appointment, which led the District to attempt scheduling future meetings to discuss a 504 plan.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #200, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provided the Parent a properly formed Prior Written Notice (PWN) within a reasonable time before proposing or refusing to change the eligibility of the Student for special education and related services. Further, whether the LEA issued a PWN to indicate whether they were refusing the IEE or initiating due process. K.A.R. 91-40-26, K.S.A. 72-3430(b)(2); 34 CFR § 300.503(a)(b).

According to K.A.R. 91-40-26 and 34 CFR § 300.503(a)(b), in providing any notice to the parent or parents of an exceptional child regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes a description of other options that the agency considered and the reasons why those options were rejected; and a description of other factors that are relevant to the agency's proposal or refusal. The parent understands the content of the notice.

According to K.S.A. 72-3430(b)(2), the parents of exceptional children shall have the right to a written prior notice in accordance with K.S.A. 72-3432, and amendments thereto, whenever an agency proposes to initiate or change; or refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

The Parent alleged the LEA failed to provide a PWN after the LEA found the Student ineligible for special education. Additionally, the Parent requested an IEE, and the LEA did not issue a PWN to indicate whether they were refusing the IEE or initiating due process.

The LEA responded, stating on December 11, 2025, the Parent and IEP team received a draft Evaluation/Eligibility Report for review, with the clarification that the report remained open for additional information prior to the December 16, 2025, determination meeting. The team's objective was to review the report to determine eligibility; if they were found eligible, an IEP would be developed, and if not, the team would consider alternative supports or accommodations. The Parent received the draft and attended the meeting, during which the team evaluated eligibility for Other Health Impairment (OHI), Specific Learning Disability (SLD), and Emotional Disturbance (ED). After reviewing multiple assessments against KSDE Prong 1 and Prong 2 criteria, the team concluded that while they met Prong 1 indicators for disability (ADHD, Adjustment Disorder, and SLD Dysgraphia), they did not meet Prong 2, as evidence showed they were making sufficient progress in the general education setting with appropriate accommodations.

The record indicates the LEA issued three documents identified as PWNs related to the December 16, 2025, eligibility meeting and subsequent parental complaints. The Initial PWN, dated December 16, 2025 informed the Parent that the Student was not eligible for special education services, citing that the Student "does not need specially designed instruction at this time". This PWN was updated on December 16, 2025 and sent January 7, 2026. The update formally added that the LEA refused special education eligibility for the Student and proposed a 504 plan. It included an explanation for the refusal, noting that general education supports and consultative services were appropriate and that parent participation in the SIT process was not required for a student making progress in initial tiered interventions. The first PWN was properly formed and detailed the outcomes of the eligibility meeting. The subsequent PWN issued in January 2026, provided additional information, but this information did not make the first PWN deficient.

Following a meeting on January 26, 2026, the LEA issued a PWN that refused to reconsider eligibility, again offered a 504 plan, addressed the Parent's second dispute, and included the LEA's acknowledgment that by refusing to pay for an IEE they would be filing for due process. The Notice also included a full explanation of actions and options considered and rejected, which is critical for a properly formed PWN. This PWN appears to be properly formed and directly addressed the Parent's requests and the LEA's final determination on eligibility and the IEE.

The primary area of concern for compliance is the timeliness of the PWN following the December 16, 2025, eligibility meeting. The initial PWN was provided on December 16, 2025, and the updated PWN was not sent until January 7, 2026, 22 days from the meeting. IDEA regulations require the PWN be provided "within a reasonable time." In this case, the PWN was provided the same day the decision was made. The delay in the second PWN was a result of the LEA wanting to provide more clarity, seek contact information for the Other Parent, and the LEA's winter break. The first PWN contained all the required elements and was properly formed.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to provide properly formed PWNs to the Parent within a reasonable time.

Issue Two

Whether USD #200, in accordance with state and federal regulations implementing the IDEA, ensured that a group of qualified professionals and the Parent determined whether the Student was a student with a disability. K.A.R. 91-40-10(a)(1)(2)(d)(1); 34 CFR § 300.306(b)(1)(i).

According to K.A.R. 91-40-10(a)(1)(2)(d)(1) and 34 CFR § 300.306(b)(1)(i), after completion of appropriate evaluation procedures, a team of qualified professionals and the parent of the child who has been evaluated shall prepare a written evaluation report that includes a statement regarding the determination of whether the child has an exceptionality; the basis for making the determination; the relevant behavior noted during the observation of the child; the relationship of that behavior to the child's academic functioning; educationally relevant medical findings, if any; and if the child was evaluated for a specific learning disability, the additional information specified in subsection (e). Each team member shall certify in writing whether the report reflects the member's conclusion. If the report does not reflect that member's conclusion, the team member shall submit a separate statement presenting the member's conclusion. Each evaluation team, in determining whether a child is an exceptional child and what the educational needs of the child are, shall meet the following requirements: the evaluation team shall draw upon information from a variety of sources, including aptitude and

achievement tests; parent input; teacher recommendations; physical condition; social or cultural background; and adaptive behavior.

The Parent alleged the LEA predetermined the Student's eligibility when they provided documentation that showed significant disability-related needs but denied special education eligibility.

The LEA responded, the eligibility determination was made by a group of qualified professionals and the Parent in accordance with K.A.R. 91-40-10 and 34 CFR § 300.306. The group included individuals qualified to interpret evaluation data, the Student's general education teacher, the Student's special education teacher, a licensed school psychologist, an LEA representative, and the Parent.

The IEP team reviewed and considered multiple sources of evaluation data, including standardized assessments, observations, intervention progress-monitoring data, parent input, and outside evaluation results, to determine whether the Student met eligibility criteria for special education. Based on the comprehensive evaluation information and team discussion, the group determined the Student did not meet eligibility criteria for special education services. Accordingly, USD #200 ensured that a group of qualified professionals and the Parent determined whether the Student was a child with a disability in compliance with K.A.R. 91-40-10 and 34 CFR § 300.306.

The IDEA requires that a team of qualified professionals and the Parent determine whether a student is a student with a disability. The Parent attended the December 16, 2025 eligibility meeting and "participated and expressed their views." The Eligibility Report was marked "Yes" that the determination was made by a team that included the Parent. The Parent specifically alleged a "denial of meaningful parent participation" due to the lack of a written record of their disagreement with the eligibility determination. The LEA updated the records after the Parent noted their disagreement on December 19, 2026.

On December 16, 2025, the LEA convened a properly formed team of qualified professionals and the Parent. The special education eligibility decision was that the Student was not eligible for special education because the Student was "making progress through general education interventions" and that "special education services are not necessary to enable this student to receive educational benefits." The LEA acknowledged outside diagnoses, and the General Education Teacher reported they were currently offering accommodations to the Student. Evaluations also identified concerns around sensory processing, fine motor skills, and executive functioning. The Parent was concerned that the testing was not reflective of the Student's performance in a typical classroom. The LEA agreed the Student had a disability, but the Student's disability did not require SDI.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to make a special education eligibility decision for the Student without qualified personnel and the Parent.

Issue Three

Whether USD #200, in accordance with state and federal regulations implementing the IDEA, ensured the Parent had the opportunity to inspect and review all educational records and participate in any meeting concerning the Student with respect to the identification, evaluation, or education placement of the child; and the provision of a FAPE to the child, and whether the LEA provided a prior written notice to the Parent. K.A.R. 91-40-21, 91-40-17, 91-40-25; 34 CFR §§ 300.322, 300.501(b)(c).

According to K.A.R. 91-40-21, each agency shall give notice to the parents of any meeting to discuss the educational placement of their child. The notice shall meet the requirements of K.A.R. 91-40-17. If a parent cannot participate in person at a meeting relating to the educational placement of the child, the agency shall offer to use other methods to allow the parent to participate, including conference calls and video conferencing. An agency shall take action to ensure that parents understand, and are able to participate in, any discussions concerning the educational placement of their children

According to K.A.R 91-40-17 and 34 CFR § 300.322, each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place, informing the parents of the information specified in subsection (b) of this regulation, and providing written notice to the parents of any IEP team meeting at least 10 days in advance of the meeting.

According to 91-40-25 and 34 CFR § 300.501(b)(c), each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child; and the provision of a FAPE to the child. The notice shall indicate the purpose, time, and location of the meeting and the titles or positions of the persons who will attend on behalf of the agency or at the agency's request. If neither parent of an exceptional child can be physically present for a meeting concerning the child, the agency shall attempt other measures to ensure parental participation, including individual or conference telephone calls. A meeting shall not include the following informal or unscheduled conversations involving agency personnel and conversations on issues including teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP; and preparatory activities that agency personnel engage in to develop a proposal or response to a parent's proposal that will be discussed at a later meeting.

The Parent alleged they were unable to meaningfully participate because the LEA did not provide information in a timely manner after determining the Student did not qualify, citing the need to verify the Other Parent's contact information before providing the notice.

The LEA responded it ensured the Parent had the opportunity to inspect and review educational records, participate in meetings concerning identification and placement, and receive prior written notice in accordance with K.A.R. 91-40-21, 91-40-17, 91-40-25, and 34 CFR §§ 300.322 and 300.501. A draft Evaluation/Eligibility Report was emailed to the Parent and all IEP team members on December 11, 2025, prior to the December 16, 2025, determination meeting. The Parent attended the determination meeting and participated in the discussion regarding eligibility. The team considered the evaluation data and the Parent's input prior to making its determination. Any alleged procedural delay did not impede the Parent's opportunity to participate in decision-making or deprive the Student of educational benefit. Accordingly, USD #200 complied with IDEA requirements regarding parent participation, access to educational records, prior written notice, and the provision of a FAPE.

In late October 2025, the Parent requested the LEA conduct a special education evaluation of the Student. The LEA immediately responded and scheduled a meeting with the Parent for the following week. The Parent provided the LEA with a report from an Outside Therapist, and this information along with assessment data from the LEA was reviewed at the December 16, 2025 eligibility meeting in which the Parent attended. The LEA provided the Parent with a draft evaluation report and eligibility statement prior to the December 16, 2025 meeting, in which this information was reviewed with the Parent. After the Student was found to not be eligible for special education services, the LEA continued to work with the Parent to schedule another meeting to consider a 504 plan for the Student.

On January 22, 2026, the Parent made a written request for the "full education records" for the Student. The evaluation report was sent to the Parent in various stages of completion, with the final report and other evaluation documents provided to the Parent on January 26, 2026. On January 27, 2026, the LEA sent the Parent several evaluation documents, and informed the Parent the LEA had 45-days to respond to the request for records. The LEA's deadline for responding to the Parent's request for records was March 8, 2026, which is outside the Complaint Investigation look back period.

The facts demonstrate that the LEA fulfilled its obligation to ensure the Parent had the opportunity to participate in meetings, and review information that would be reviewed at the eligibility meeting. The Parent attended the key eligibility meeting and actively requested a postponement of a subsequent meeting to ensure the presence of all necessary personnel. The LEA's accommodation of this request supports a finding that the Parent's participation was facilitated.

The analysis of issue 1 determined that the LEA did provide the Parent with PWNs regarding the Student eligibility status and the LEA's decision about the Parent's request for an IEE.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to provide the Parent with an opportunity to participate in special education meetings and review records about the Student.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #204
ON FEBRUARY 23, 2026

DATE OF REPORT: MARCH 26, 2026

This report is in response to a complaint filed with our office on behalf of a student, ----------, by their educational advocate, ----------. In the remainder of the report, the student will be referred to as "the Student" and the advocate as "the Complainant."

The Complaint is against USD #204, Bonner Springs Edwardsville Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #204.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on February 23, 2026 and the 30-day timeline ended on March 25, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #204, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), correctly implemented the Student's Individualized Education Program (IEP) accommodation for the use of headphones on February 4, 2026. Further, whether the Student's IEP was implemented as written from November 19, 2025, through February 4, 2026. K.A.R. 91-40-16; 34 CFR § 300.323.

ISSUE TWO: Whether USD #204, in accordance with state and federal regulations implementing the IDEA, was required to provide IEP service logs when requested by the Parent and the Complainant, an Educational Advocate. Further, whether or not failing to provide IEP service logs hindered parent participation. K.A.R. 91-40-25; 34 CFR § 300.501(a).

ISSUE THREE: Whether USD #204, in accordance with state and federal regulations implementing the IDEA, utilized compliant Independent Educational Evaluation (IEE) criteria

after the November 19, 2025 Report of Complaint was issued. K.A.R. 91-40-12(b)(2)(A)(g)(1)(2); 34 CFR § 300.502(a)(2)(e).

ISSUE FOUR: Whether USD #204, in accordance with state and federal regulations implementing the IDEA, issued a timely Notice of Team Meeting when inviting the Parent to the February 4, 2026 IEP meeting. K.A.R. 91-40-17(a); 34 § C.F.R. 300.322(a).

ISSUE FIVE: Whether USD #204, in accordance with state and federal regulations implementing the IDEA, provided the Student with a free appropriate public education (FAPE) from November 19, 2025 to the filing of the Complaint when the Student's IEP was not implemented, and the LEA had procedural deficiencies. K.A.R.

91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

ISSUE SIX: Whether the KSDE, in accordance with state and federal regulations implementing the IDEA, provided compliant State monitoring and oversight of the LEA's corrective action described in the November 19, 2025 Report of Complaint. K.A.R. 91-40-51(e); 34 § C.F.R. 300.600(e).

Investigation of Complaint

The Complaint Investigator interviewed the Parent and the Complainant on March 13, 2026. The following LEA staff were interviewed on March 13, 2026: the Special Education Director and the Cooperative Designee. The Dispute Resolution Coordinator was interviewed on March 17, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. IEP, 03/25/25
2. Prior Written Notice, 03/25/25
3. Evaluation/Eligibility Report, 05/08/25
4. Evaluation/Eligibility Report, 05/08/25, duplicate
5. Prior Written Notice, 05/08/25
6. Prior Written Notice, 11/13/24, duplicate
7. Report of Complaint, 11/19/25
8. Meeting Summary, 02/04/26
9. Email, re: Headphones, 02/04/26
10. Email, re: Formal Legal Notice of IDEA and Kansas Special Education Violations, Continued Noncompliance Under KSDE Corrective Action, and Intentional Significant Disproportionality - [the Student], 02/05/26-02/17/26

11. Email, re: Updated Prior Written Notice (PWN) for Evaluation, 12/12/25-12/19/25
12. Email, re: 26FC204-001, 12/03/25-02/11/26
13. Email, re: Missing Items for Corrective Action 26FC204-001, 02/12/26
14. Email, re: [Kansas Open Records Act] KORA Request: Immediate Production of IEE Records ([the Student]/[the District]), 11/21/25-12/05/25
15. IEE, no date
16. Report Card, 2025-26 School Year
17. Student Progress Report, 03/25/25-03/24/26
18. Email, re: IEE, 12/05/25
19. Progress Monitoring - Evaluate Social Interactions with Peers, 11/21/[25]-02/02/26

Background Information

This investigation involved a first-grade student enrolled at Delaware Ridge Elementary School in USD #204. The Student is currently receiving special education or related services as a child with a disability per the IDEA under the category of Developmental Delay. This investigation includes an allegation related to complaint case number 26FC204-001, as detailed in the November 19, 2025 Report of Complaint and required corrective action.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant, the Parent and staff in the LEA.

1. An IEP dated March 25, 2025 indicated:
    a. The Student met the eligibility criteria for Developmental Delay under the IDEA.
    b. A re-evaluation date of May 8, 2025.
    c. The Student did a notable job participating in whole-class instruction and can communicate their needs.
    d. The Student's disability affects the Social-Emotional and Sensory domains.
    e. Special considerations stated the Student needed assistive technology.
    f. Special education transportation services were provided five days per week for 20 minutes per day, effective March 25, 2025 through March 24, 2026, as a related service.
    g. From March 25, 2025 through March 24, 2026, Special Education Services were provided five days per week for 50 minutes to support the social-emotional goal.
    h. Program modifications, accommodations, and supports effective March 25, 2025 through March 24, 2026, stated:
        i. "Access to a calm[-]down corner or other reduced sensory input space and/or headphones when [the Student] is around overstimulating environments and if [the Student] is accessing a sensory room for a

calming break, an adult will guide [them] to appropriate proprioceptive activities (heavy work/low and rhythmic swinging) vs. vestibular (spinning/jumping) activities[.]" Provided in general education settings and school areas for "Whenever [the Student] is showing a need for reduced sensory input or requests a break[.] When [the Student] is over-stimulate[d] [they] may indicate this by hiding under things, putting hands over [their] ears, being more impulsive, have difficulty concentrating[.] [F]or 3-5 minutes or until [the Student] shows [the Student] is ready to return to activities for the break, access to headphones for the duration of the activity or until [the Student] takes them off";

ii. "[A]ccess to visual of daily schedule";

iii. "[A]dult/peer proximity in hallway (not alone to transition to other locations in the school building[,] such as from class to nurse's office)";

iv. "The Student will have access to preferential seating";

v. "The [S]tudent will have access to social stories / problem[-]solving boards[,] such as what to do when [the Student] feels frustrated or how to identify and react to the size of a problem"; and

vi. "The [S]tudent will have access to visual and oral examples and/or visuals of directions."

2. PWN dated March 25, 2025, the LEA proposed a change in service minutes for the Student, specifically setting special education transportation to 20 minutes and services supporting their social-emotional goal to 50 minutes, both occurring five days per week. The explanation for this proposal stated, "This action is proposed based on the significant growth that [the Student] has made during [their] Kindergarten year as described in the present levels."
3. A May 8, 2025 Evaluation/Eligibility report stated:
    a. The Student had an "outside medical diagnosis of Autism Spectrum Disorder (ASD)."
    b. The summary indicated the Student was performing at or above the average range across all developmental and academic areas. "[The Student] is able to participate and make progress in the general education classroom without support through special education services. … [the Student] no longer meets eligibility criteria for developmental delay and is no longer eligible for special education services."
    c. The Parent did not indicate agreement or disagreement, and any members who dissented were required to submit a report of dissent.
4. PWN dated May 8, 2025, indicated that the Student no longer qualified for special education services because they no longer met the eligibility criteria, and support was no longer necessary.
5. A Report of Complaint dated November 19, 2025 stated:

a. An allegation that the LEA violated the IDEA when they failed to respond to the Parent's request for an IEE in a timely manner, and imposed cost limits.
b. Following the LEA's proposal to dismiss the Student from special education, the Parent hired the Complainant. After the Complainant requested an IEE on May 13, 2025, the LEA waited four months to respond. Their September 9, 2025 response "illegally imposed an $800 cost cap on the IEE."
c. The conclusion indicated, based on relevant information, the LEA was "found OUT of compliance … for limiting the [P]arent's options for obtaining an IEE at public expense due to the cost limitations included in the LEA's IEE Notification Letter."
d. Corrective action included:
    i. For the first issue:
        1. "Within 15 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations … ."
        2. "Within 15 days, the LEA will provide the [P]arent with PWN proposing to conduct a reevaluation of the [S]tudent with additional assessment to include, at a minimum, the [P]arent surveys … ."
        3. "Within 30 days of receiving [P]arent consent, the LEA will reconvene the [S]tudent's IEP team to review the results of the additional assessments and consider the results of the IEE (if available) to make an eligibility determination of the [S]tudent. The LEA will provide the [P]arent with appropriate [PWN] of the eligibility determination and any changes or revisions made to the IEP, as appropriate, as well as a copy of the Evaluation/Eligibility Report following the IEP team meeting. Within [five] days of the date of the IEP team meeting, the LEA will provide SETS with a copy of the [S]tudent's Evaluation/Eligibility Report and the PWN provided to the [P]arent."
    ii. For the fourth issue:
        1. "The LEA will approve the [P]arent's choice for providing the [S]tudent's IEE at [the Center] and pay for the full cost of this comprehensive IEE. The LEA will provide a copy of the paid invoice to SETS no later than 45 days from the completed evaluation by the agency."
        2. "Within 30 days from the date of this investigation report, the LEA will update the IEE Notification Letter with cost limitations that are commensurate with the current rates of the three agencies listed in the IEE Notification Letter. The LEA will provide SETS with a copy of the updated IEE Notification Letter no more than 45 days from the date of this investigation report."

6. In an email exchange from November 21 through December 5, 2025, between the Complainant and the Superintendent, the following was discussed:

a. On November 21, 2025, the Complainant requested Student records pertinent to the IEE, all invoices completed by the LEA, and all documents related to the $800.00 "cap."
b. The Superintendent responded and explained the LEA had started the process of gathering the records requested and shared any records related to the IEE invoices and payments would be redacted before the release and the documents and emails that pertain to the $800.00 cap were "already known to you" and offered to provide additional copies of those emails.
c. On December 5, 2025, the Superintendent emailed regarding the IEE invoice/payment and confirmed the LEA had yet to receive any invoices related to IEEs.

7. In nine documents titled "Evaluate Social Interactions with Peers," five items were rated on a point system with handwritten comments regarding the Student and their interactions. The documents were dated as follows: "11/21/26," "12/2/26," "12/3/26," "12/12/26," "1/8/26," "1/14/26," "1/22/26," "1/28/26," and "2/2[/26]." In an interview with the Complaint Investigator, the Cooperative Designee explained these documents to be a "rubric" that was "addressing processing social interactions," which is the Student's IEP goal. They indicated the documents were "previously" provided to the Parents and/or the Complainant, and "we've also just shared a summary of how the total or averages in [the Student's] progress reports each quarter." They indicated email was the typical way these would be shared.
8. In an email on December 3, 2025, to the Dispute Resolution Coordinator, the Cooperative Designee indicated a "Statement of Assurance RE: 26GC204-001" and that the LEA would "comply" with the following regulations:
    a. 34 C.F.R.300.303(b)(2)
    b. 34 C.F.R.300.304(b)(1)(i)
    c. 34 C.F.R.300.306(c)
    d. 34 C.F.R.300.502(b)(1)
    e. Additionally, the Dispute Resolution Coordinator responded and declared, "This statement of assurance is received and will be added to the case file."
9. In an email on December 5, 2025, to the Complainant, the Cooperative Designee confirmed the initiation of the IEE process and requested that the selected IEE provider send the invoice to the Cooperative, with attention to the Special Education Director. The Cooperative Designee added, "Upon receipt of the completed evaluation, the IEP team will reconvene to review the results and determine any next steps." The Complainant subsequently acknowledged and thanked the Coordinator for the approval. Additionally, the Cooperative Designee clarified the IEE is "separate" from the in-house LEA re-evaluation process mandated by the corrective action. They confirmed the Complainant was "free to move forward with the IEE."

10. In a December 16, 2025, email to the Dispute Resolution Coordinator, the Cooperative Designee indicated an attachment with the "updated IEE notification letter per the corrective action."
11. In a December 17 and 18, 2025, email exchange between the Complainant and the School Psychologist, the following was discussed:
    a. On December 17, 2025, the School Psychologist confirmed receipt of the signed consent form and noted the signature date of December 12, 2025. They proposed a meeting date of February 4, 2026.
    b. The Complainant responded the same day, acknowledged the meeting date, and inquired about the 30-day timeline and corrective action requirements.
    c. Later in the day, the School Psychologist responded, stating that they obtained the 30-day timeline from the November 19, 2025 Corrective Action report.
    d. The Complainant replied and questioned why the role and responsibility of the School Psychologist was "limited by the corrective action that KSDE set forth." They stated IDEA set a 60-day limit from signature to complete an IEE and stated, "To limit the scope of your ability to perform a proper IEE is violating that."
    e. On December 18, 2025, the School Psychologist responded, clarified their role, and quoted the corrective action plan, "Within 30 days of receiving parent consent, the LEA will reconvene the [S]tudent's IEP team to review the results of the additional assessments and consider the results of the IEE (if available) to make an eligibility determination of the [S]tudent]. This means that we need to reconvene by February 10, 2026[,] to keep us within that timeline of 30 days."
    f. Later that day, the Complainant replied, requesting confirmation of payment of the IEE and documentation confirming the individual who would submit the documentation and the IEE Notification Letter, along with the date.
12. In a December 19, 2025 email to the Parent, the Cooperative Designee confirmed that payment information for the IEE had previously been provided via email on December 5, 2025. Additionally, they stated that the LEA would complete each requirement detailed in the November 19, 2025 Corrective Action report and stated, "Compliance with these requirements is monitored by KSDE officials." Furthermore, they inquired about the proposed meeting date of February 4, 2026, at 1 p.m. The Parent replied and confirmed the meeting time "works for us."
13. Meeting notes dated February 4, 2026 stated:
    a. The Parent, the Complainant, the Special Education Director, the Special Education Teacher, the School Psychologist, the Principal, and the First Grade Teacher were all present at the meeting.
    b. The purpose of the meeting was to share the results of the evaluation that was "conducted at the school level."
    c. The Complainant requested "information" regarding when the Student received services. The Special Education Teacher "offered a planning matrix" to which the

Complainant requested service logs. The Special Education Director shared that service logs were not a "requirement."

d. The Complainant requested to view progress reports. The Special Education Teacher showed the progress report forms, along with data, and then explained how they were used to report progress. The Complainant requested more information on progress, and the Special Education Teacher would provide "additional information about how and when skills have been assessed."

e. The Complainant stated they did not receive a meeting notice and requested one. The School Psychologist created and provided a notice of meeting.

f. The meeting did not include an eligibility determination or the creation of an IEP.

14. In an email exchange on February 4, 2026, The Parent informed staff that the Student was experiencing sensory overload but was afraid to use noise-reducing headphones, stating, "I don't cover my ears because I'll get in trouble for not listening." The First Grade Teacher and the Special Education Teacher responded by providing the Student with direct verbal reassurance that the headphones were permissible to use at any time during the day. Staff noted that while the Student appeared "cheery" at school, they would work to encourage their self-advocacy to overcome the "risky" feeling the Student associated with speaking up about their needs.
15. In an email exchange on February 5 through February 17, 2026, the following was discussed:
    a. On February 5, 2026, the Complainant provided formal legal notice to the LEA alleging that a staff member had removed the Student's headphones during a school activity, which the Complainant characterized as a failure to implement a documented IEP accommodation and a denial of a FAPE. During an IEP meeting on February 4, 2026, the Cooperative Designee stated that "a service log is not a KSDE requirement," a claim the Complainant contested as factually incorrect and a hindrance to meaningful parental participation.
    b. On February 11, 2026, the Special Education Director responded, clarifying that the LEA verified service delivery through schedules and staff assignments rather than individual logs, and noted that staff had not reported any issues regarding headphone use. Additionally, the LEA acknowledged that while the Parent participated in the February 4 meeting, a formal written Notice of Meeting "should have been generated in advance" to ensure procedural compliance.
    c. On February 17, 2026, the Special Education Director answered the Complainant's February 12, 2026, requests and indicated:
        i. Confirmation that service delivery in the LEA was implemented and verified through schedules, staffing assignments, and student attendance records. "Based on these records, [the Student's] IEP service minutes in the general education setting are being implemented consistently and as written."

ii. They again acknowledged that the meeting notice should have been created prior to the meeting, and confirmed the Parent participated in the meeting.

iii. Regarding the headphone accommodation, they confirmed " … no one reported any concern or issue involving [the Student's] use of headphones on February 4, 2026," in addition to verifying the LEA would address issues as they arise.

16. In a February 11, 2025 email to the Dispute Resolution Coordinator, the Cooperative Designee indicated an attachment of the evaluation report, which was reviewed at the February 4, 2026 meeting. They shared that no eligibility was determined due to the IEE not being completed. The Dispute Resolution Coordinator replied, confirmed receipt, and confirmed that the file was being added to the case file.
17. In a February 12, 2026 email to the Cooperative Designee, the Dispute Resolution Coordinator indicated documents were received with the "exception" of:
    a. "Completed eligibility report-I have a copy of the eligibility report, however it is incomplete as it relates to whether or not the child is eligible."
    b. "PWN … as it relates to whether or not the child is eligible for special education services."
    c. "Paid Invoice for IEE … I have documentation that two options were provided to the [P]arent with cost limitation."

    The Dispute Resolution Coordinator detailed, "Since the required corrective action is already late according to the investigator's final report orders, KSDE is requesting the missing components be submitted no later than Friday, February 20, 2026." The Cooperative Designee responded and clarified that the IEE process with an outside provider had yet to be completed by the family, and the LEA had not received an invoice. They stated the family expected completion in "mid-to-late March [2026]." Because of this timeline, at the February 4, 2026 meeting, the results of the IEE were not available.
18. In an undated IEE document provided to the Parent prior to Complaint , the LEA presented a list of three providers that met the LEA's requirements to conduct an IEE. If the Parent found another provided they wanted to use, they were to contact the LEA so this could be considered further. The LEA requirements for a provider indicated:
    a. Evaluation to be conducted in-person in the city area.
    b. The qualifications of the examiner must be "similar" to those of the LEA's school psychologists.
    c. Cost not to exceed $800.00.
    d. "Once you have selected an agency to conduct the evaluation, at the conclusion of testing, please provide a copy of the evaluation report to the [Cooperative] and have the agency send their invoice to: [the Cooperative] with attention to [the Special Education Director]."

19. In an additional IEE Document to the Parent, that was undated, by revised on December 15, 2025, the LEA requirements stated the cost not to exceed $3,500.00.
20. A Student [IEP] Progress Report document for the IEP year of March 25, 2025 through March 24, 2026, indicated a summary statement of "Making progress toward annual goal" for structured and unstructured play.
21. First Grade Attendance records for the Student detailed:
    a. 18 excused absences.
    b. Two unexcused absences.
    c. 20 total absences.
    d. One tardy.

Complainant and Parent Interview

22. In an interview with the Complaint Investigator, the Complainant claimed the Student's accommodation of headphones for regulation in the classroom or school setting was not met. The Parent, who was present in the interview with the Complainant and the Complaint Investigator, explained a situation where a staff member denied the Student's use of their headphones. The Student shared with the Parent the staff member "took them away," said the Student did not need them, and then put them on a table out of the Student's reach. This came after the Parent "emailed [special education] and gen[eral] ed[ucation] teachers that morning, and I explained the situation, and they both responded with, 'Yes, we will reinforce that [the Student] can have [the headphones]. We don't know why [they are] worried about it.'"
    The Parent described the impact on the Student of not having access to their headphones. "It was another two hours that evening of reassurance. [The Student] was crying. [They were] upset. [They were] all over the place." The Parent had to reassure the Student multiple times they could talk with other teachers about what they needed.
23. The Parent shared after the February 4, 2026 incident, where the Student was denied use of their headphones, they were unsure if anyone talked to the staff member. "They said they talked to the teachers … but that was all that I ever heard of them even looking into it. So nobody has had a conversation with me. And I have asked [the Student], 'Has anybody talked to you about the headphones? And [they] said, 'No.'" The Parent stated, "It's frustrating because it took [the Student's] voice away. It's been hard to get [the Student] to be able to advocate for [them]self, and [they] finally did after reassurance that [they are] going to be okay," and then a staff member "took them away in the middle of practicing for a program."
24. The Complainant reported they requested the LEA "get verification of [IEP] minutes served," and the LEA provided them with a school schedule. Additionally, the Complainant claimed the LEA relayed they were "not required to keep any type of data logs" and were "not required to report to [the Department] how their minutes are being provided and when they are." Therefore, the Complainant never received a document to confirm whether the Student was receiving their special education minutes for their social-emotional goal. "Part of our issue is that we can't verify whether or not and how

[the Student] is being accommodated and provided [their] minutes. … Denying us the ability to verify [minutes and service] is denying [the Parent] the ability to participate fully in [the Student's] IEP because we're only given very limited information."

25. The Complainant stated the purpose of the February 4, 2026 meeting "was to go over the evaluation that the [LEA] had to perform to make up for what they didn't do." They explained the LEA had denied their request for an IEE "due to a supposed district board policy approved IEE policy cap of $800.00."
26. The Complainant stated they later learned the alleged policy cap on IEE was not board policy, and they have asked for documentation of "where they came up with that number, … how this cap was designed, because it didn't match the current market value for current running of IEEs to be performed." The Complainant explained their original complaint (now concluded with corrective action ordered by the Department) was that the $800.00 cap was "being used as a reason to deny a request for an IEE, even though [the LEA] agreed that the assessment that they performed was insufficient and that they agreed that we needed to have an IEE." The Complainant indicated when the Department ordered the corrective action for the LEA to pay for the IEE, they also ordered the board policy to be updated, but the Complainant then discovered there was no policy that clarified a particular cap.
27. The Complainant shared they have received the requested IEE, "and it is complete." They also shared that an IEP meeting was set for March 25, 2026 "to finish up the IEE evaluation from May of 2025."
28. When the Complaint Investigator presented the Complainant and the Parent the IEE indicating "district requirements" of a cost "not to exceed $3500.00," both replied they had never seen the letter. When presented with the IEE indicating "district requirements" of a cost "not to exceed $800.00", the Complainant replied they received that letter on September 8, 2025.
29. The Complainant indicated their belief the Student was not being provided a FAPE because, due to the delayed IEE, the Student "has not been able to have an updated IEP or have any goals modified. [They have] not been able to have access to any further accommodations. … [They have] been denied services." the Parent added, "We wouldn't have even had to waste time on filing complaints if they would have just done what they were supposed to do and given [the Student] an IEE. By doing that, we had to pause and file a formal complaint, which is taking time. [The Student's] not getting the education that [they] need. … This started almost a year ago; [the Student] is a year behind. [Their] testing is kindergarten level, and we're at the end of first grade. And in this whole time, we could have had [the Student] with … I mean, after seeing the results of the testing, I'm telling you, [the Student] has missed so much in this time that we have wasted, and it's not fair to [the Student]."
30. The Complainant shared the Student "is falling behind socially, [and] falling behind academically. [They are] now further behind [than their] peer group. We're having to seek out OT and speech services on a private level because the [LEA] is not stepping up and doing their own interventions."

31. When asked about their concerns the Department was not monitoring the ordered corrective action, the Complainant explained the LEA had "misrepresented themselves and denied our request" to obtain an IEE, and to "have an ability to have updated goals, and an [updated] IEP, and [updated] accommodations for nearly over a year." They explained their understanding that the Department has to "identify the non-compliance, and they have to ensure that the violations are corrected as soon as possible. They can't do that if the information that's being provided by the [LEA] is false, are not policies, are not presented to … They're falsified to parents." The Complainant further explained this takes away a parent's right to access resources and supports needed to "make sure their children are getting up-to-date assessments and provisions."
32. The Complainant reported they did not receive a Notice of Meeting for the February 4, 2026 meeting "that was mandated by [the Department]." When they notified the Special Education Director, they said the Parents should have received a notice of meeting, but they did not feel the Parents or the Complainant were unable to participate in the meeting due to not receiving the notice.

Special Education Director Interview

33. In an interview with the Complaint Investigator, the Special Education Director stated they did not know when the IEE that indicated "district requirements" of a cost "not to exceed $3500.00", was sent to the Parent or the Complainant. They indicated the Cooperative Designee would have sent it, but they confirmed they "updated" it on December 15, 2025. "After we got the corrective action plan, I looked at the portion that I needed to update as I created the IEE letter. I updated the amount of money commensurate to the market values in this area. Once I updated that, I sent that to [the Cooperative Designee] to then follow up with the corrective action plan, which was to get that to the family. And that initiated them starting their evaluation based on that amount. I have not been invoiced or have not received anything back from that."

Cooperative Designee Interview

34. In an interview with the Complaint Investigator, the Cooperative Designee indicated the Complainant "didn't use the term service log" when they were "asking about documentation for when [the Student] gets [their] services." The Cooperative Designee responded to the Complainant by sharing the times someone was scheduled to go into the Student's classroom (general education setting) via email.
35. The Cooperative Designee recalled the February 4, 2026 meeting was "to review the [LEA] additional evaluation data," and "we did not have the independent evaluation data yet, but the previous corrective action asked that we meet within 30 days of parent consent, so we wanted to meet that deadline." They shared there was LEA data to review during that meeting, but they did not discuss eligibility because they did not have the independent evaluation results yet.
36. The Cooperative Designee indicated after they received the corrective action from the previous investigation, "We told the family to proceed with their selected provider for

the IEE," and they planned to schedule a follow-up meeting once they received the results. They clarified, "We were asked to submit a new IEE letter as a cooperative, which we did provide to [the Department]. And the main component that needed to be adjusted was the cost that was listed."

Dispute Resolution Coordinator Interview

37. In an interview with the Complaint Investigator, the Dispute Resolution Coordinator explained their role in ensuring compliance with corrective action was scheduling, calendarizing, and familiarizing themself with the final report. They also enter dates on the calendar for "general supervision and to supervise the corrective action process."
38. In reference to the corrective action for the previous case, the Dispute Resolution Coordinator reported they reached out to the LEA's special education director or an administrator, and notified them on [February 12, 2026] that they were missing three different pieces of corrective action. And then I gave them a date requesting the missing components be submitted by Friday, February 20th." They added, "while dates are outlined in the final report, [the LEA has] a year from that date to come into compliance." They indicated they review all of the Department's cases that still have pending corrective action in the summer and they "reach out to districts again."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #204, in accordance with state and federal regulations implementing the IDEA, correctly implemented the Student's IEP accommodation for the use of headphones on February 4, 2026. Further, whether the Student's IEP was implemented as written from November 19, 2025 through February 4, 2026. K.A.R. 91-40-16; 34 CFR § 300.323.

According to K.A.R. 91-40-16, each agency must ensure services are implemented no later than 10 school days after parental consent is granted, unless there is a reasonable justification for a delay. The child's IEP must be accessible to every regular education teacher, special education teacher, and related service providers responsible for its implementation. Every teacher and provider must be informed of their specific responsibilities and the specific accommodations, modifications, and supports that must be provided for the child.

The Complainant alleged on February 4, 2026, the headphone accommodation was not implemented correctly. Additionally, further IEP implementation during corrective action through February 4, 2026 is being questioned.

On March 3, 2026, the LEA indicated after consulting with relevant school staff, the LEA has no evidence pointing to any incident involving the use of headphones on February 4th, 2026, or any other date. When the concern was initially raised via email to the Superintendent on February 5, 2026, the LEA requested additional information details (e.g., location, time, staff

involved) to allow a thorough review; the Parent did not provide further information. The LEA contends the Student's IEP, which was effective March 25, 2025, has been implemented as written. Documentation of services, accommodations, and supports demonstrates consistent delivery of all IEP requirements throughout the period in question.

The evidence regarding the implementation of the Student's IEP accommodation for headphones on February 4, 2026, presents a clear conflict between the Parent's account and the LEA records. The Student's IEP specifically mandates access to headphones when the Student is in overstimulating environments or demonstrates a need for reduced sensory input. During an interview, the Parent alleged a staff member denied the Student use of these headphones on February 4, 2026, during a program practice, reportedly telling the Student they were not needed and placing them out of reach. The Parent noted this caused significant emotional distress for the Student, requiring hours of reassurance that evening. This concern was raised in a formal legal notice by the Complainant on February 5, 2026, characterizing the incident as a failure to implement a documented accommodation. However, the LEA contends, after consulting with staff, there is no evidence of such an incident occurring on that date or any other. The Special Education Director further stated that staff reported no issues regarding headphone use, and the LEA had requested specific details from the Parent that were never provided.

Regarding the broader implementation of the IEP from November 19, 2025, through February 4, 2026, the LEA maintains that all services, accommodations, and supports were delivered consistently and as written. The Special Education Director indicated that service delivery was verified through schedules, staff assignments, and attendance records, rather than individual service logs. The LEA further supported this claim of progress by citing the Student's Progress Report, which noted the Student was "making progress toward annual goals." Conversely, the Complainant argued that the lack of specific service logs prevented the Parent from verifying whether the Student actually received the required 50 minutes of social-emotional support five days per week. The Complainant alleged that this lack of transparency hindered meaningful parental participation and that the Student has fallen behind both socially and academically because the IEP was not being properly updated or fully implemented during the lengthy delay surrounding the IEE process.

While the specific allegation regarding the denial of headphones on February 4, 2026 remains a matter of conflicting testimony between the Parent and the LEA, the overall record indicates that the LEA maintained baseline legal compliance and met the fundamental requirements for implementation under the IDEA.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to correctly implement the Student's IEP accommodation for the use of headphones on February 4, 2026 and failed to implement the Student's IEP as written from November 19, 2025 through February 4, 2026.

Issue Two

Whether USD #204, in accordance with state and federal regulations implementing the IDEA, was required to provide IEP service logs when requested by the Parent and the Complainant, an Educational Advocate. Further, whether or not failing to provide IEP service logs hindered parent participation. K.A.R. 91-40-25; 34 CFR § 300.501(a).

According to K.A.R. 91-40-25 and 34 CFR § 300.501(a), each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child and the provision of a FAPE to the child.

The Complainant alleged the LEA did not provide service logs to the Parents upon request.

The LEA responded that during the February 4, 2026 team meeting, the LEA provided information regarding scheduled service delivery times and documentation of goal progress monitoring. While daily service logs were not shared, the LEA offered alternative documentation to ensure the Parent had meaningful access to information about the Student's services. Based on this, the LEA believes parent participation was not impeded. The LEA remains committed to working with the Parent to provide access to information in accordance with state and federal requirements.

The Special Education Director and school staff clarified service delivery is verified through a combination of school schedules, staff assignments, and student attendance records. The LEA asserts these records confirm the Student's 50 minutes of daily special education services for social-emotional goals were implemented consistently and as written in the March 25, 2025, IEP.

Regarding the allegation that the lack of logs hindered the Parent's participation, the evidence indicates the LEA provided alternative documentation to the Parent and the Complainant during the February 4, 2026 meeting. This information included a "planning matrix," which detailed scheduled service times, progress report forms, and specific skill assessment data. Furthermore, the LEA utilized a "rubric" titled "Evaluate Social Interactions with Peers" to track the Student's specific social-emotional goals, with summaries of this data shared with the Parent via email, and quarterly progress reports. Though the dates on these were slightly misrepresented, they indicated compliance.

Because the LEA provided evidence of service delivery through these alternative means and shared progress data to facilitate discussion, the investigation does not find that the absence of a specific "service log" document constituted a procedural violation that impeded the Parent's right to participate in the educational process.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA hindered parent participation by failing to provide IEP service logs,

and instead provided alternative documentation to demonstrate the Student was receiving special education services.

Issue Three

Whether USD #204, in accordance with state and federal regulations implementing the IDEA, utilized compliant IEE criteria after the November 19, 2025 Report of Complaint was issued. K.A.R. 91-40-12(b)(2)(A)(g)(1)(2); 34 CFR § 300.502(a)(2)(e).

According to K.A.R. 91-40-12(b)(2)(A)(g)(1)(2) and 34 CFR § 300.502(a)(2)(e), if an agency decides to provide an IEE at public expense, the agency shall provide to the parents, upon request for an IEE, information about where an IEE may be obtained and the agency criteria applicable for IEEs. If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria that the agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE. Except for the criteria described in paragraph (1) of this subsection, an agency shall not impose conditions or timelines related to obtaining an IEE at public expense.

The Complainant alleged the IEE criteria remain out of compliance, even after the Report of Complaint, which was issued on November 19, 2025.

The LEA stated all corrective actions required by Complaint 26FC204-001 were implemented, including providing the Department with an updated IEE information letter. The Parent was informed of their right to obtain an IEE from a qualified provider and was provided guidance regarding invoicing and payment. The LEA followed the Department-approved procedures to ensure compliance with IEE requirements.

As part of the mandated corrective action in the November 19, 2025 Report of Complaint, the LEA was required to update its IEE Notification Letter with cost limitations commensurate with current market rates and approve the Parent's choice of center for a comprehensive IEE at public expense. The Special Education Director confirmed the cost limitation was updated to $3,500.00 on December 15, 2025, and sent to the KSDE on December 16, 2025. The document was also sent to the Cooperative Designee for distribution, both the Parent and the Complainant explained during interviews that they had never seen this updated document. Neither LEA Director was able to confirm that the updated IEE notification letter had been provided to the Parent once updated. The LEAs responsibility to communicate with the Parent about the revised IEE criteria was limited to, "The LEA will approve the [P]arent's choice for providing the [S]tudent's IEE at [the Center] and pay for the full cost of this comprehensive IEE." The evidence shows the LEA compiled with the corrective actions ordered for revising the IEE criteria, and notifying the Parent.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to utilize compliant IEE criteria after the November 19, 2025 Report of Complaint was issued.

Issue Four

Whether USD #204, in accordance with state and federal regulations implementing the IDEA, issued a timely Notice of Team Meeting when inviting the Parent to the February 4, 2026 IEP meeting. K.A.R. 91-40-17(a); 34 § C.F.R. 300.322(a).

According to K.A.R. 91-40-17(a) and 34 § C.F.R. 300.322(a), each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed on time and place. Each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP meeting or are afforded the opportunity to participate. These steps shall include notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed-upon time and place.

The Complainant alleged timely notice was not provided for the February 4, 2026 IEP meeting.

The LEA responded that the meeting date and time were agreed upon via email and confirmed by the Parent on December 19, 2025, which was well in advance of the required ten-day notice period. While the formal Notice of Meeting was provided at the meeting itself, the Parent and the Complainant had prior knowledge of the scheduled meeting and were in attendance, which allowed for full participation. The LEA recognizes the formal notice should have been generated prior to the meeting, and has taken steps to ensure timely formal notices are provided in the future.

On December 17, 2025, the School Psychologist proposed the February 4, 2026, meeting date to the Complainant via email. The Parent subsequently confirmed on December 19, 2025, that this meeting time was acceptable. However, the Complainant later reported that a formal Notice of Meeting was never received prior to the actual date of the meeting. While the LEA argued that the email confirmation on December 19, 2025 occurred well in advance of the required ten-day notice period, they conceded that the formal, written Notice of Meeting was not generated or provided until the meeting was already in progress. The LEA acknowledged this error, stating the formal notice should have been generated in advance to ensure full procedural compliance with state and federal regulations.

Despite the lack of timely formal notice, parental participation was not impeded because the Parent and the Complainant were aware of the schedule and were both in attendance at the February 4, 2026 meeting. However, the School Psychologist's creation and delivery of the

notice at the time the meeting had convened, and upon the Complainant's request, confirmed the LEA did not meet the technical requirement to issue a timely notice.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA failed to issue a timely Notice of Team Meeting for the February 4, 2026 IEP meeting.

Issue Five

Whether USD #204, in accordance with state and federal regulations implementing the IDEA, provided the Student with a FAPE from November 19, 2025 to the filing of the Complaint when the Student's IEP was not implemented, and the LEA had procedural deficiencies. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2, K.A.R. 91-40-1(z) and 34 CFR §§ 300.17, 300.101, each agency shall provide a FAPE in accordance with K.S.A. 72-966 and amendments thereto, and with this article. Each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning no later than the child's third birthday. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality. A FAPE means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the state board and the requirements of these regulations; include an appropriate preschool, elementary, or secondary school education; and are provided in conformity with an IEP.

The Complainant alleged that by failing to provide the headphone accommodation on February 4, 2026, the LEA failed to meet its obligation to provide the Student with a FAPE.

The LEA responded that the March 25, 2025 IEP had been implemented consistently and in full. Documentation demonstrates that IEP services, accommodations, and supports have been provided without interruption. While minor procedural issues occurred (e.g., timing of formal notice of meeting), there has been no lapse in services, and the Student has had full access to a FAPE.

Based on the evidence provided, the District fulfilled its obligations under the IDEA and Kansas special education regulations, resulting in no denial of a FAPE. Although there was a dispute regarding the use of headphones on February 4, 2026, the District's records and staff reports indicate that accommodations were available and provided. Furthermore, despite the lack of specific service logs, the District verified delivery of all IEP services and supports through staff schedules and progress reports showing the Student's continued progress.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Student with a FAPE from November 19, 2025, through the date of this Complaint.

Issue Six

Whether the KSDE, in accordance with state and federal regulations implementing the IDEA, provided compliant State monitoring and oversight of the LEA's corrective action described in the November 19, 2025 Report of Complaint. K.A.R. 91-40-51(e); 34 § C.F.R. 300.600(e).

According to K.A.R. 91-40-51(e), If a report requires corrective action by an agency, that agency, within 10 days of the date of the report, shall submit to the state director of special education one of the following: (A) Documentation to verify acceptance of the corrective action or actions specified in the report; (B) a written request for an extension of time within which to complete one or more of the corrective actions specified in the report, together with justification for the request; or (C) a written notice of appeal. Each appeal shall be made in accordance with subsection (f).

According to C.F.R. 300.600(e), in exercising its monitoring responsibilities, the State must ensure that when it identifies noncompliance with the requirements of this part by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the noncompliance.

The LEA responded they have communicated all required corrective action measures to the Department in accordance with the previous complaint report. Documentation of these communications and follow-up actions demonstrates ongoing cooperation with the Department and adherence to state oversight requirements.

The Department's monitoring and oversight of the required corrective action followed established state and federal procedures for general supervision of an LEA's compliance with the IDEA. In this instance, the Dispute Resolution Coordinator actively monitored the timelines and reached out to the LEA on February 12, 2026 to notify them that three specific pieces of corrective action were missing. The Department subsequently requested that these missing components, including the completed eligibility report, the corresponding PWN, and the paid invoice for the IEE, be submitted no later than February 20, 2026, noting the corrective action was already late according to the original investigator's orders.

While the Complainant alleged the Department failed to ensure violations were corrected because the LEA provided false information or non-existent policies, the Dispute Resolution Coordinator clarified that while dates are outlined in the final report, LEAs technically have up to one year from the report date to fully come into compliance. This is in alignment with the IDEA provision that corrective action be completed within one year of finding non-compliance. Furthermore, the Department maintains an ongoing oversight cycle where officials review all cases with pending corrective action during the summer and re-engage with districts to ensure final resolution. Evidence indicates the Department received the required statement of assurance on December 3, 2025, and the updated IEE notification letter on December 16,

2025, demonstrating an active exchange of documentation between the LEA and state officials to meet the specific requirements of the November 19, 2025 Report of Complaint.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the KSDE failed to provide compliant State monitoring and oversight of the LEA's corrective action described in the November 19, 2025 Report of Complaint.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at K.A.R. 91-40-17(a) and 34 § C.F.R. 300.322(a) specify there must be a formal Notice of Meeting to officially summon the team and protect their rights.

In this case, the evidence supports the finding that USD # 204 failed to issue a timely Notice of Team Meeting for the February 4, 2026 IEP meeting.

Based on the foregoing, USD #204 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #204 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 § C.F.R. 300.322(a) and K.A.R. 91-40-17(a) by appropriately issuing Notice of Team Meetings prior to IEP team meetings.
2. Further, by April 30, 2026, USD #204 will complete the following: (1) Create a standardized IEP Meeting Compliance Checklist that must be uploaded to a student's digital file at least seven days before any scheduled meeting. (2) The checklist must include a line item confirming the date the formal Notice of Meeting was sent and the method of delivery (e.g., USPS, hand-delivered, or encrypted email). (3) USD #204 will provide a randomized 10% sample of IEP files over the next semester, and the Department will perform an audit to ensure the formal notice precedes the meeting date.
3. Additionally, by April 30, 2026, USD #204 will conduct a mandatory training session for all USD #204 special education staff (specifically School Psychologists and IEP Coordinators) regarding the requirements of K.A.R. 91-40-17(a) and 34 C.F.R. § 300.322. USD #204 will provide the Department with the contents (slides, notes, etc.) of the mandatory training, along with a sign-in sheet verifying attendance, no later than May 15, 2026.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 204
Bonner Springs - Edwardsville Public Schools: 26FC204-002

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on February 23, 2026, by -------, a person hired by the student's parents to act as an advocate of the student, -------. ------- is not an "education advocate" as that term is defined in K.S.A. 72-3404(o). In the remainder of this decision, ------- will be referred to as "the complainant," and ------- will be referred to as "the student." ------- parent will be referred to as the parent. An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on March, 2026. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the Education Advocate filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the Education Advocate, the Complaint Report, the Education Advocate's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

Issue One

Whether USD #204, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), correctly implemented the Student's Individualized Education Program (IEP) accommodation for the use of headphones on February 4, 2026. Further, whether the Student's IEP was implemented as written from November 19, 2025, through February 4, 2026. K.A.R. 91-40-16; 34 CFR § 300.323.

The student is in the first grade (Report, finding of fact 29, p. 16). It is uncontested that this student's IEP "mandates access to headphones when the Student is in overstimulating environments or demonstrates a need for reduced sensory input" (Finding 1(h)(i) Report p. 5).

The Complainant alleged that on February 4, 2026, the parent sent an email to staff saying that a staff member denied the Student use of these headphones on February 4, 2026, during a program practice, reportedly telling the Student they were not needed and placing them out of reach (Report, p 20).

On March 3, 2026, the LEA indicated after consulting with relevant school staff, that the LEA has no evidence pointing to any incident involving the use of headphones on February 4th, 2026, or any other date (Report p. 19).

When the concern was initially raised via email to the Superintendent on February 5, 2026, the LEA requested additional information details (e.g., location, time, staff involved) to allow a thorough review, but the Parent did not provide further information (Report p. 20). The LEA, after consulting with staff, told the investigator that it found no evidence of such an incident occurring on that date or any other. The Special Education Director further stated to the investigator that staff reported no issues regarding headphone use, and the LEA had requested specific details from the Parent that were never provided (Report, p. 20).

The investigator commented that this evidence presents a clear conflict between the Parent's account and the LEA's account (Report, p. 20). In the conclusion section of the report on this issue, the investigator concluded that "While the specific allegation regarding the denial of headphones on February 4, 2026 remains a matter of conflicting testimony between the Parent and the LEA, the overall record indicates that the LEA maintained baseline legal compliance and met the fundamental requirements for implementation under the IDEA (Report, p. 21)."

The Appeal Committee agrees with the investigator's conclusion on this issue. An allegation has been made and denied, with little evidence supporting either version. The Office of Special Education Programs (OSEP) has provided guidance to states in conducting special education complaints where the evidence is evenly balanced creating a classic "he said-she said" situation. OSEP said that a state may use a "preponderance of the evidence" standard in making determinations as to whether a public agency violated a requirement of Special Education law Letter to Reilly, 64 IDELR 219, (OSEP 2014).

A "preponderance of the evidence" standard means making a decision based on whichever side appears to be "more likely than not" correct, even if the "more likely than not" is only at 51%.

In this issue, the complainant made an allegation that was denied by school staff. The district said, "that service delivery in the LEA was implemented and verified through schedules, staffing assignments, and student attendance records." (Finding of Fact 15(c)(i)). Further, when the concern was initially raised via email to the Superintendent on February 5, 2026, the LEA requested additional information and details from the parent (e.g., location, time, staff involved) to allow a thorough review; the Parent did not provide further information (Report, p. 20).

The investigator correctly described this issue as "a matter of conflicting testimony between the Parent and the LEA", and then added, "the overall record indicates that the LEA maintained baseline legal compliance and met the fundamental requirements for implementation under the IDEA" (Report, p. 21). That assessment was based on schedules, staffing assignments, student attendance records and statements made by staff members during interviews. That "overall record" does not prove that services were provided but it is the best evidence presented on this issue and is substantial (not merely preponderance) evidence that IEP services were provided to the student.

The Appeal Committee affirms the conclusion of the investigator on this issue.

Issue Two

Whether USD #204 was required to provide IEP service logs when requested, and whether failing to provide them hindered parent participation.

The Complainant alleged that the LEA did not provide service logs to the Parents upon request. The report did not say whether such logs existed. However, it appears that the LEA did not have specific service logs, as the report says, "The Special Education Director and school staff clarified service delivery is verified through a combination of school schedules, staff assignments, and student attendance records" (Report p. 22). The LEA provided the documentation of service delivery that it did have, including "a 'planning matrix,' which detailed scheduled service times, progress report forms, and specific skill assessment data (Report, p. 22)." The report also notes that the LEA "utilized a "rubric" titled "Evaluate Social Interactions with Peers" to track the Student's specific social-emotional goals, with summaries of this data shared with the Parent via email, and quarterly progress reports (Report, p. 22).

The investigator summarized the reasoning for her conclusion as follows: "Because the LEA provided evidence of service delivery through these alternative means and shared progress data to facilitate discussion, the investigation does not find that the absence of a specific "service log" document constituted a procedural violation that impeded the Parent's right to participate in the educational process."

The applicable federal regulation is 34 C.F.R. 300.613(a), which says that an LEA "must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part (emphasis added)." When a parent requests information that the LEA does not have, the LEA has no obligation to create a new document that contains the requested information. It is only required to allow parents to inspect information that it has already "collected, maintained, or used." In this instance the district responded to the parent's request by producing the relevant information that it "collected, maintained, or used" to verify service delivery. The parent may believe that the documentation provided by the LEA is insufficient to verify service delivery, but the evidence supports the conclusion that the district was not in violation of the requirement to allow the parent to inspect and review the records that it does collect, maintain or use for special education purposes.

The Appeal Committee affirms the conclusion of the investigator on this issue.

Issue Three

Whether USD #204 utilized compliant IEE criteria after the November 19, 2025 Report of Complaint was issued.

This part of the complaint refers to a previous complaint, with a file number of 26FC204-001. The November 19, 2025 report in complaint number 26FC204-001, required the corrective action, specifically including:

Issue Four

Violation of 34 C.F.R. §300.502(b)(1) and (2) were found. Corrective action is required as noted below:

1. Within 15 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. §300.502(b)(1) which require the LEA to respond to a parent request for an IEE in a timely manner.
2. The LEA will approve the parent's choice for providing the student's IEE at Meadowlark Psychology and Developmental Center and pay for the full cost of this comprehensive IEE. The LEA will provide a copy of the paid invoice to SETS no later than 45 days from the completed evaluation by the agency.
3. Within 30 days from the date of this investigation report, the LEA will update the IEE Notification Letter with cost limitations that are commensurate with the current rates of the three agencies listed in the IEE Notification Letter. The LEA will provide SETS with a copy of the updated IEE Notification Letter no more than 45 days from the date of this investigation report.

In this issue, the complainant asserts that corrective action 3 has not been completed because:

> *The current report states that the Special Education Director updated the cost limitation to $3,500 on December 15, 2025 and sent that revised letter to KSDE on December 16, 2025. But the report also expressly states that* ***both the Parent and the Complainant said they had never seen the updated document,*** *and neither LEA representative could confirm that the updated letter had actually been provided to the parent. Despite that, the report concluded the district complied with corrective action and used compliant criteria.*

The complainant further argues that "*Compliance with IDEA cannot rest solely on sending a revised letter to KSDE while the parent continues operating without the corrected criteria.*"

First, the Appeal Committee notes that the LEA has agreed to pay the full cost of the student's IEE.

Second, the Appeal Committee reviewed all of the corrective actions submitted by the LEA in 26FC204-001 and determined that all requirements were completed and notified the LEA of that determination. With regard to the contested corrective action 3 (see above), the Appeal Committee notes that corrective action 3 requires that "The LEA will provide SETS with a copy of the updated IEE Notification Letter…" The corrective action does not require the LEA to provide a copy of the revised Notification Letter to the parent. Thus, the fact that the revised Notification Letter was not sent to the parent does not constitute a failure to implement the corrective action in the 26FC204-001 complaint report.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Issue Four

Whether USD #204 issued a timely Notice of Team Meeting for the February 4, 2026 IEP meeting.

The investigator determined that the district did not provide timely notice of a February 4, 2026 IEP meeting and required corrective action. The investigator noted that "Despite the lack of timely formal notice, parental participation was not impeded because the Parent and the Complainant were aware of the schedule and were both in attendance at the February 4, 2026 meeting (Report p. 25)."

The complainant does not appeal this conclusion, but asserts instead that the investigator viewed this notice incident "as systemic enough to require structural remediation, not merely a one-off clerical error," and so that substantiated violation should have informed the analysis of Issues One, Two, Five, and Six rather than being compartmentalized.

The Appeal Committee disagrees with the complainant's analysis because: (1) the violation in this issue was a procedural violation, not found to be "systematic", (2) the violation was specifically found to have not impeded the parent from participating in the decision making process, and (3)

there was no finding of even a procedural violation in Issues One, Two, Five, and Six, much less a "systemic" violation.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Issue Five

Whether USD #204 provided the student with FAPE from November 19, 2025 to the filing of this complaint when the IEP was not implemented and the LEA had procedural deficiencies.

Here the complainant asserts that a long list of procedural violations addressed in the report were treated as "isolated defects," that nullified their cumulative harm, resulting in a denial of a free appropriate public education (FAPE) to the student. The problem with this assertion is that the investigator substantiated only one procedural violation among the six issues presented in the complaint, and that violation was found to be merely procedural because it did not impede the parents opportunity to participate at the February 4, 2026 IEP meeting.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Issue Six

Whether KSDE provided compliant state monitoring and oversight of the LEA's corrective action described in the November 19, 2025 Report of Complaint.

The complainant asserts that the provision in 34 C.F.R. 300.600(e) requires corrective action to be taken "as soon as possible" and the acceptance by the Kansas State Department of Education(KSDE) of corrective actions after their due date violates the requirements of this regulation.

34 C.F.R. 300.600 refers to state monitoring reports, using the categories in 34 C.F.R. 300.603(b)(1), and submitted in a state's performance report to the United States Department of Education. The obligation of a state department of education to monitor the completion of corrective action in a formal complaint report is in 34 C.F.R. 300.151(b), which states in relevant part that:

> *In resolving a complaint in which the SEA has found a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority under Part B of the Act, must address--*
>
> *(1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement);*

While the outside limitation of completing corrective actions within one-year likely applies to corrective actions in a formal complaint, as part of a state educational agency (SEA) supervisory authority, this regulation does not require that corrective actions in a complaint report be completed "as soon as possible." States are permitted to take into account unique circumstances when describing reasonable timelines for corrective actions. When a state education agency (SEA) determines that an LEA has not met the timeline for completing a corrective action required by a complaint report, the (SEA) is required to resolve that situation. The manner in which such situations are resolved is not specified in law. Typically, such situations require only a reminder to the LEA that the corrective action specified in a complaint report is over-due. That was the process used by KSDE in 26FC204-001.

> *The investigator correctly found that*
>
> *In this instance, the Dispute Resolution Coordinator actively monitored the timelines and reached out to the LEA on February 12, 2026 to notify them that three specific pieces of corrective action were missing. The Department subsequently requested that these missing components, including the completed eligibility report, the corresponding PWN, and the paid invoice for the IEE, be submitted no later than February 20, 2026, noting the corrective action was already late according to the original investigator's orders. (Report, p. 27)*

The LEA responded by providing all of the requested information. The investigator also found that a revised IEE notification letter was provided to KSDE in an email dated 12/16/25. The file at KSDE verifies the date of delivery and the content of the notification letter. The revised IEE notification letter was revised to raise the reimbursement cost of an IEE to "Not exceed $3,500.00."

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 8th day of April, 2026.

Appeal Committee

Brian Dempsey

Mark Ward

Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #394
ON FEBRUARY 16, 2026

DATE OF REPORT: MARCH 26, 2026

This report is in response to a complaint filed with our office on behalf of a student, -------- by their parents, --------. In the remainder of the report, the student will be referred to as "the Student" and the parents as "the Parents."

The Complaint is against USD #394, Rosehill Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #394.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on February 16, 2026, and the 30-day timeline ended on March 18, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #394, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), followed the requirements for suspensions of students with disabilities, including providing educational services when required. K.A.R. 91-40-33, 91-40-34(a)(b), 91-40-35 91-40-36; 34 CFR § 300.530.

ISSUE TWO: Whether USD #394, in accordance with state and federal regulations implementing the IDEA, conducted a manifestation determination review (MDR) within the required timelines. K.S.A. 72-991a, K.A.R. 91-40-38; 34 CFR § 300.530(e).

ISSUE THREE: Whether USD #394, in accordance with state and federal regulations implementing the IDEA, implemented behavior supports for the Student as described in their IEP. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323.

ISSUE FOUR: Whether USD #394, in accordance with state and federal regulations implementing the IDEA, developed an IEP that met the Student's behavioral needs. K.A.R. 91-40-18(a)(b); 34 CFR § 300.324.

ISSUE FIVE: Whether USD #394, in accordance with state and federal regulations implementing the IDEA, failed to provide the Student with a free appropriate public education (FAPE) when education services were not provided during suspensions, the Student missed "large amounts of instruction," and the Student is not making meaningful progress. K.A.R. 91-40-2; 34 CFR § 300.101(a)(c).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on March 9, 2026. The following LEA staff were interviewed on March 9, 2026: The School Psychologist, The Principal, the SEL Coordinator, two Special Education Teachers, and the General Education Teacher.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Program DRAFT, 02/11/25
2. Medical Note, 01/30/26
3. Communication Log, 10/31/25-01/20/26
4. Letter to the Superintendent, 10/26/25
5. Letter, re: Formal Complaint Determination Under Policy KN, 12/12/25
6. Notice to Student of Short-Term Suspension After Informal Hearing, 10/20/25, 10/23/25, 11/13/25, 12/08/25
7. Manifestation Determination Review Request, no date
8. IEP Amendment Between Annual IEP Meetings, 11/21/25, 01/23/26, 02/05/26
9. Email, re: Conference Summary and Plans for [the Student's] Discharge, 01/30/26-02/03/26
10. Parent Communication, 09/11/25-01/20/26
11. Antecedent-Behavior Consequence Data, 10/23/25-01/06/26
12. Annual IEP, 01/06/26
13. Attendance Profile, 2025-26
14. Trauma-Informed Functional Behavior Assessment, no date
15. Meeting Notes, 01/06/26, 01/23/[26], 02/05/26, 10/28/25
16. Student Progress Report, 2025-26 School Year
17. Email, re: [the Student], 10/26/25-10/27/25
18. Progress Report, 05/22/25
19. Placement Review Request, no date

20. Email, re: COMCARE Follow up, 10/31/25-11/07/25
21. Email, re; [the Student], 01/26/26
22. Email, re: Amendment for [the Student], 01/27/26-01/30/26

Background Information

This investigation involved a third-grade student enrolled at an elementary school in USD #394. The Student is currently receiving special education or related services as a child with a disability under the category of Emotional Disability (ED) per the Individuals with Disabilities Education Act (IDEA).

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. On February 11, 2025, an IEP was developed for the Student and contained the following relevant information:
    a. The Student's ED impacted their ability to fully participate in social time with their peers and instruction on regulating their emotional responses.
    b. The Student's behavior impacted the learning of others or themself and required general education supports, accommodations, modifications, and positive behavioral supports.
        i. Goal:
            1. "The Student will demonstrate and improve emotional regulation by identifying and expressing their feelings and understanding the consequences of their actions with an accuracy of 80%."
            2. Baseline was 15% accuracy.
    c. The IEP included academic goals for reading, writing, and math.
    d. Services provided included:
        i. Special education services for 30 minutes, five days per week, each week in the special education room during reading.
        ii. Special education services for 90 minutes, five days per week, each week in the regular education classroom with special education support during academics.
    e. Relevant accommodations included:
        i. Positive behavioral support anytime throughout the day when the Student needs positive encouragement.
        ii. Separate quiet location for tests.
2. A Progress Report dated May 19, 2025 reported:

   a. For "Goal 2: By February 10th, 2026, with the use of conversations with a trusted adult and given choices, [the Student] will demonstrate and improve emotional regulation by identifying and expressing [their] feelings and understanding the consequences of [their] actions appropriately with an accuracy of 80%.
   b. Baseline: 15% accuracy.
   c. Statement of Progress Data: "[The Student] is at 50% accuracy when it comes to [their] emotional regulation by identifying [their] expressions, [their] feelings, and understanding the consequences of [their] actions."

3. Parent Communication Logs dated between September 11, 2025 and January 20, 2026 detail behavior incidents for the Student. Notable items reported:
   a. A "positive office referral" on September 11, 2025 for "participating and completing work."
   b. The Student threw their shoes at staff, other students, or across school property, including kicking a shoe into the General Education Teacher's face, on September 29 and October 2, 2025.
   c. School property abuse or destruction on October 3 and October 28, 2025.
   d. Out of School Suspensions on October 24, 2025 and January 20, 2026.
   e. Class disruption, eloping, and disrespectful behavior during music class on October 15, October 16, and October 28, 2025.
   f. Kicking playground balls, including while other students are handling them, and other physically aggressive behavior on September 29, October 2, October 13, and October 16, 2025.
   g. A note from the General Education Teacher on September 29, 2025 read "We want [the Student] to be a part of our classroom, but there has been a dramatic shift this past week in [their] behaviors."
   h. A note from staff on October 13, 2025 stated "Lining up from recess is a constant issue with [the Student] not following instructions and defying and disrespecting teachers."
4. On October 6, 2026, the Parent was called to pick up the Student due to behavior. The Other Parent picked up the Student. The Student's Attendance Profile did not document it as an OSS for that day. (P1)(D131)
5. On October 20, 2025, the Student became frustrated after being told they would have lunch and recess detention for referrals the Student received the previous week. The Parent was called about the frustration, and was called a second time to pick up the Student after the Student threw a chair at their teacher. The Other Parent picked up the Student, however the School noted the Student left after the end of the school day. The Student's Attendance Profile did not document OSS for that day. (P1)(D131, D316)
6. On October 20, 2025, a Notice To Student of Short-Term Suspension After Informal Hearing was issued, indicating the Student had been suspended from school for one day beginning on October 21, 2025, and ending on October 22, 2025. The reason for

the suspension was listed as, "Conduct that endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school-supervised activity."

7. The Student's Attendance Profile documented the Student as absent on October 21, 2026 and did not indicate the Student had OSS. (D131)
8. On October 23, 2025, a Notice To Student of Short-Term Suspension After Informal Hearing was issued, indicating the Student had been suspended from school for two days beginning on October 24, 2025 and ending on October 28, 2025. The reason for the suspension was listed as, "Conduct that endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school-supervised activity."
9. The Student's Attendance Profile documented the Student as absent on October 24, and October 27, 2025, and did not indicate the Student had OSS. (D131)
10. An undated Trauma-Informed Functional Behavior Assessment (FBA) for the Student reported the following relevant information:
    a. The FBA was recommended due to unsafe behavior.
    b. Interventions implemented beginning October 23, 2025 included:
        i. Alternate Seating Options.
        ii. Visual timer.
        iii. Visual schedule.
        iv. Task Analysis.
        v. Fidgets Provided.
        vi. Token system.
        vii. Feelings Meter (I feel, I need).
        viii. Alternate schedule.
    c. Behavior data reported during two time periods, October 23 to November 20, 2025 and December 1, 2025 to January 6, 2025. It was noted the Student's behavior was tracked in a more restrictive environment during the second time period.
    d. The assessment noted "[The Student] currently receives all core instruction (math, reading, and writing) in the special education resource room and participates with non-identified peers during specials, lunch, and recess with paraprofessional support. Throughout the school day, staff document the occurrence of target behaviors."
    e. Observed behaviors included:
        i. Extreme aggression.
        ii. Property destruction.
        iii. Disrespect towards staff.
        iv. Refusal/noncompliance.

v. Unsafe behaviors (i.e. attempting to touch an electric outlet, tie strings around [their] neck, etc.)

f. Data from October 23, 2025 to November 20, 2025 reported:
    i. 27 occurrences of extreme aggression.
    ii. 15 occurrences of property destruction.
    iii. 9 occurrences of disrespect toward staff.
    iv. 36 occurrences of refusal/non-compliance.
    v. 8 occurrences of unsafe behavior.
g. Data from December 1, 2025 to January 6, 2026 reported:
    i. 5 occurrences of extreme aggression.
    ii. 4 occurrences of property destruction.
    iii. 3 occurrences of disrespect toward staff.
    iv. 12 occurrences of refusal/non-compliance.
    v. 2 occurrences of unsafe behavior.
    vi. 4 occurrences of disruptive behavior.
h. A "Collaborative Problem Solving - Assessment and Planning Tool (CPS-APT)" for "Lagging Skills" indicated the following:
    i. Strengths:
        1. Understanding what others are saying.
        2. Following the flow of conversations.
        3. Quickly understanding people who are talking.
        4. Keeping track of time.
        5. Thinking about more than one thing at a time.
        6. Being energetic at the time time [sic]; getting energy up when expected to.
        7. Changing their mind if offered a different idea or solution.
        8. Paying attention to what others are saying or doing.
    ii. Difficulties:
        1. Handling feelings when angry, frustrated or annoyed.
        2. Handling feelings when disappointed or sad.
        3. Handling feelings when nervous, worried or anxious.
        4. Pausing before they respond.
i. Triggers were described as restricted access to preferred activities/items, losing in game, and transition to specials.
j. The FBA recommended universal precautions and a proactive regulation plan.
k. Strategies suggested included:
    i. Calm and neutral tone.

ii. One person at a time talks to the Student.
iii. Do not engage in power struggles.
iv. Give personal space at all times.
v. Allow break from instruction if appropriate.
vi. Restate expectations for tasks.
vii. Allow the Student to access a personal calm down space.
viii. Concise verbal communication.
ix. Call/text support staff for assistance with behavior escalations.
x. If the Student refuses help from support staff, the administrative staff will be called to assist.
xi. If the Student refuses administrative staff support, SRO will be called to assist and the Student will be escorted to the office.

11. According to a behavior log dated October 23, 2025 to November 20, 2025, the Student showed the following behaviors during this time range:
    a. 27 incidents of extreme aggression (head banging, shoving desks, throwing objects/furniture, punching a computer).
    b. 15 incidents of property destruction (breaking materials, ripping paper, writing on desks, damaging furniture).
    c. Nine incidents of disrespect toward staff (arguing, refusing, talking back, telling staff to "shut up").
    d. 36 incidents of refusals or non-compliance (refusing work, not transitioning, refusing lunch, talking back).
    e. Eight incidents of unsafe behavior (tying a sweatshirt around the neck, removing/ripping clothing, and dangerous or unsafe actions).
12. Antecedent-Behavior Consequence Data tracking sheets dated from October 23, 2025 to January 6, 2026 documented the setting in which the behavior occurred, the antecedent events, the behavior, and the consequence(s) given to the Student. Details of behavior incidents were documented in a "other comments" section. The data tracking sheets corresponded to parent communication and behavior logs.
13. On October 26, 2025, the Parent emailed the Principal regarding disruptive behavior during the week of October 13, 2025, and out of school suspensions for the Student on October 21and October 24, 2025. The Parent stated the Student was suspended for "[c]onduct that endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school-supervised activity." They expressed "I would like clarification on what [the Student's] first suspension was for and what educational codes were broken, what was done per [their] IEP before the behavior and after." They recounted an incident with a notebook which led to a second suspension on October 24, 2025. The Parent asserted the reason for the second suspension was listed identically to the first. They again requested clarification on codes broken and interventions implemented.

In a reply on October 27, 2025, the Principal indicated the second suspension was in regard to violent drawings within the Student's notebook. They stated this violated an LEA conduct code. Therefore the Principal followed LEA protocol and suspended the Student. They asserted they consulted the Student's IEP before making a decision. The Principal reported "staff provided support during and after the situation to help [the Student] process what occurred and to plan for [their] safe and successful return to school. At that time, [the Student] was not receptive to our attempts to engage, but we remain committed to supporting [the Student] as [they] continue to adjust and grow." The Principal did not address the first suspension.

14. On October 26, 2025, the Parent sent a letter to the Superintendent to file a formal complaint against staff working with the Student, including the Principal. The Parent requested two suspensions be expunged. They indicated the reasoning for the suspensions was listed as "Conduct that endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school-supervised activity."
    The Parent provided written summaries of the accounts in question and indicated the Student's IEP protocol was not being followed or reviewed. They also noted proper corrective actions were not taken to prevent emotional distress in the classroom setting. They stated both suspensions contained the same statement and provided no "information or elaboration" of what happened.
15. IEP meeting notes dated October 28, 2025 indicated the Principal, the LEA Coach; the Superintendent, the Parent, the School Psychologist, Special Education Teacher 1, the Assistant Director, the Educational Advocate, the SEL Coordinator, and the General Education Teacher were in attendance. The team discussed the Student's school year to date. They noted new behaviors and increased self-selection of the special education classroom. The Parent asked why the Student was doing work in the special education classroom, and Special Education Teacher 1 replied the Student was allowed to use the space to regulate and complete work before returning to the general education classroom. The team discussed existing interventions and accommodation for the Student, as well as behavior data. It was noted the Student "went from 10% ability to regulate emotions to about 50%." Staff shared the strategies they were using with the Student, such as choices, reminders, timers, visual schedules and tools, and breaks. The Parent raised concerns the Student purposefully dysregulated to gain access to the resource room. They asked that staff remove the resource room as a consequence for the Student's behavior. The Parent suggested "having a conversation in the moment." The team stated they would continue to collect data on the Student's behavior and attempt to identify time periods when the Student was most likely to escalate. A functional behavior assessment (FBA) was proposed, as well as a change in placement to increase special education minutes. The team discussed outside therapy services in tandem with in-school options. They agreed to meet in 4-6 weeks.
16. Prior written notice (PWN) indicating a "material change in services" was "hand delivered" to the Parent by the Special Education Teacher on October 28, 2025. The

description stated "Due to an increase in unsafe behaviors the team is proposing that [the Student's] special education minutes be adjusted to meet [their] current needs." The team proposed 205 minutes in the general education setting and 240 minutes of specially designed instruction (SDI) in the special education setting. The consent section was marked as "I give consent" and signed by the Parent on October 28, 2025. An IEP Amendment Between Annual IEP Meetings notice attached to the PWN showed a box was checked indicating the team and the Parent agreed to the amendment. Additionally, a box was checked indicating the team and the Parent did not "wish to convene an IEP meeting." The second form was signed by the Parent and the Principal on October 29, 2025.

17. The SEL Coordinator emailed the Parent on October 31, 2025 with information about outside wraparound mental health services. They stated they inquired if the agency they contacted could provide in-school services and had not yet received an answer. On November 7, 2025, the SEL Coordinator updated the Parent that the agency could not provide in-school services and they would reach out to another agency.
18. According to a communication log dated November 4, 2025, the Student was disrespectful and disruptive during music by saying no to everything the Music Teacher said. The Student refused to participate and "turned around the entire time."
    The Student was defiant at the beginning and at the end of physical education (PE) class. The Student said no to instructions, did not get off the stairs when asked, refused to sit down and "huddle up" with other students, and used "disrespectful words and actions."
    The Student packed their backpack and left the resource room without permission at the end of the day. The Special Education Teacher called the SEL Coordinator, who could see the Student leave the lunchroom and run out to get on the bus.
19. According to a communication log dated November 5, 2025, the Student threw cups and kicked a classmate during class.
20. According to a communication log dated November 7, 2025, the Student refused to sit at their table group in the library. The Librarian indicated after the Student said no three times, they told the Student they would have to call someone to pick them up. The Student said, "OK." The Librarian again asked the Student if they wanted them to call someone, and the Student replied, "Yes." The Librarian indicated they chose to ignore the behavior while the Student sat banging their head on the concrete wall. The Student was not forced to join the activity, and a paraeducator stood near the Student.
21. According to a communication log dated November 11, 2025, the Student became frustrated with a game on their computer and "slammed their fist" on it. The Student was given a warning the computer would be removed if the Student hit it again. The Student hit the computer again and it was removed by the Special Education Teacher. The Special Education Teacher discussed what could happen to the Student, and the Student expressed understanding and rejoined the group.
    The Student did not participate in the reading class and wrapped their hoodie sleeves around their neck. The Student was asked not to do that because it was unsafe. The

Student chose not to eat lunch, stating they were not hungry.
The Student got upset during a schoolwide practice for a music concert. The Student ran from the line and hid in the corner of the gym. The Student tried to "rip out" a large electrical cord. They banged their head on and kicked the side of the bleachers. The Student was given the choice to cool down in the resource room or in the office. The Student chose the resource room and was able to communicate how they were feeling and why they became upset. They returned to the gym.

22. According to a communication log dated November 12, 2025, the Student refused to go through the lunch line. A tray of food was offered to the Student. Notes indicated if the Student refused to go through the line, they would be required to spend lunch recess in the office. The Student was told the expectation.
    The Student destroyed the materials in their break box during class. The Student returned to their seat when the timer went off, but shoved their desk. The Student was offered breathing exercise [cards] and threw them. They continued to destroy materials, rip up papers, and shove and hit their desk. They were removed from the classroom. The Special Education Teacher offered restorative questions, but the Student did not engage.
23. According to a communication log dated November 13, 2025, the Student shoved their table, and after being told to fix it, complied and went to the resource room.
    In the resource room, the Student ripped papers and destroyed items in their desk. The Student's desk was removed from the area. The Student threw a chair which almost hit another student. The classroom was evacuated. The Student continued to break items in the classroom. They threw the prize box, unplugged the printer, and tried to knock it off a shelf.
    When the SEL Coordinator arrived, the SRO was standing near the Student who was sitting on the floor. The Special Education Teacher left the room, and the SRO told the Student they needed to move to the office. The Student did not respond to the SRO, so the SRO said again they needed to go to the office so the Student would not have to go home. The Student yelled, "No," and hit the SRO's hand. The Student then kicked the SRO in the shin repeatedly. The SRO said they were going to escort the Student out of the room and the SEL Coordinator followed.
    The Student entered the SRO's room, knocked a chair over, kicked it, and ripped material off it. The Student pulled on a printer cart. The Student was told to stop and was told they could sit. The Student eventually sat on the floor. The Student touched an electrical outlet, and the SRO and SEL Coordinator ignored the behavior. The SEL Coordinator asked the Student if they were ready to talk, a couple of times with pauses in between. After the Student continued to ignore the SEL Coordinator, the SEL Coordinator stopped engaging with the Student.
    After the SEL Coordinator left the room, the Student escalated and threw small objects, materials, and blinds. When the Principal arrived, the Student threw one of their shoes at the Principal and the other at the SRO. The Student broke blinds, a shelf, and damaged an electrical outlet. The Student kicked the walls, shelves, door, and furniture, and then threw a binder at the Principal. The Principal offered a paper to tear as a

strategy, and the Student did not respond. The Student vomited and also cut their finger while ripping down the blinds.

The SRO directed the Student to stop destroying property. The SRO "positioned" the Student in a chair and blocked them from throwing additional items. The Other Parent arrived and left with the Student. The Principal indicated they would call the Parent and send home the In-School Suspension (ISS) documentation.

24. On November 12, 2025, the Principal called the Parent to pick up the Student. According to the Student's Attendance Profile, the Student was not marked as absent or OSS. (P1)(D131)
25. On November 13, 2025, a Notice To Student of Short-Term Suspension After Informal Hearing was issued, indicating the Student had been suspended from school for one day beginning on November 13, 2025, and ending on November 13, 2025. The reason for the suspension was listed as, "Conduct that endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school-supervised activity."
26. A Placement Review Request documented the process for placing the Student in the Special Day School. The documented noted the following process:
    a. The request was initiated on November 13, 2025.
    b. Staff from the Special Day School observed the Student on November 14 and 19, 2025.
    c. The Special Day School met with the LEA to make recommendations on November 21, 2025.
    d. The LEA and Parent observational visits and an IEP meeting to discuss the transition were scheduled on January 21, 2026.
    e. No decision or transition information was reported on the document.
27. According to a communication log dated November 14, 2025, the Student became frustrated with a game on their computer and punched it several times. They were verbally redirected and reminded not to treat school property that way.

    The Student refused to transition to reading even after multiple countdown warnings and a visual timer. The Student left and slammed the classroom door. The Special Education Teacher asked the Student to come back, and they did, but hid under their desk. The Special Education Teacher gave the Student time to calm down before engaging again. The Special Education Teacher reminded the Student to transition without disruption to earn tokens.

    The Student was upset their "break box" was not in the general education classroom when it was their break time. The Student threw papers, hit their head on their desk, and attempted to throw their desk, but their behavior was stopped. The Student chose to leave to calm down in the resource room and slammed the classroom door on the way out.

    In the Library, the Student shoved another student's book across the table, disrupting the activity they were working on. The Student hid under the furniture. The Librarian

watched the Student without engaging with the Student. The Student threw their toy and shoved a bean bag. The Student walked out of the library while another staff member monitored, and eventually came back and sat in a chair until class was over.

28. According to a communication log dated November 17, 2025, the Student left the line in the cafeteria and sat down at a table. When asked to rejoin the line, the Student threw their shoe across the room, ran from the cafeteria, returned, and sat back at the table. The Student hit their head on the lunch table and increased the force until the Principal calmly asked them to stop.
29. According to a communication log dated November 20, 2025, the Student refused to join class after two verbal countdown warnings. They were given the option to stay in the resource room and complete make-up work or go to science and social studies. The Student chose to go to the resource room.
30. On November 21, 2025, an IEP Amendment Between Annual IEP Meetings form stated the team proposed increasing the Student's special education minutes due to an increase in unsafe behaviors.
    The PWN accompanying the amendment indicated that the Student's minutes would increase to 60 minutes per day, five days per week, for science and social studies, and 30 minutes per day, five days per week, for "Rocket Reading." The proposal noted the Student would receive 330 minutes of support in the special education classroom for ELA, math, "Rocket Reading," science, social studies, and social-emotional learning.
31. According to a communications log dated December 2-8, 2025, the Student's behaviors included aggression, property destruction, and frequent non-compliance across multiple school settings. Incidents included kicking objects, punching a computer screen, destroying materials, and culminated in the student hitting the SEL Coordinator twice with a shoe on December 8, 2025. Following this last behavior, the Parent was informed that the Student would receive an Out-of-School Suspension. The Parent asked about an FBA and when the IEP team would meet again.
32. On December 5, 2025, the Parent noted the Student was sent home by the Assistant Superintendent via a text message. The LEA noted the Assistant Superintendent called the Parent at 2:30 [p.m.] and the Student stayed at school until the end of the day. The Student's Attendance Profile shows no absence for that day. (P1)(D131, D317)
33. On December 8, 2025, a Notice To Student of Short-Term Suspension After Informal Hearing was issued, indicating the Student had been suspended from school for one day beginning on December 9, 2025, and ending on December 10, 2025. The reason for the suspension was listed as, "Conduct that endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school-supervised activity."
34. On December 12, 2025, the Superintendent sent a letter to the Parent stating an investigation was conducted and determined "the recommendation the [the Student] be suspended (two times for a total of three days) was not supported by LEA policy, special education procedures, or the provision of [the Student's] IEP (referenced in your

complaint and reviewed in the investigation)." They agreed to have the Student's suspensions expunged.

35. A Progress Report dated December 17, 2025 reported:
    a. For "Goal 2: By February 10th, 2026, with the use of conversations with a trusted adult and given choices, [the Student] will demonstrate and improve emotional regulation by identifying and expressing [their] feelings and understanding the consequences of [their] actions appropriately with an accuracy of 80%.
    b. Baseline: 15% accuracy.
    c. Progress as of December 15, 2025: Anticipate Meeting Goal
    d. Statement of Progress Data: "With the use of conversations with a trusted adult and given choices, [the Student] is able to demonstrate and improve emotional regulation by identifying and expressing [their] feelings and understanding the consequences of [their] actions appropriately with an accuracy of 30%. Behavior in the last few weeks has impacted [the Student's] ability to reach [their] goals."
36. According to communication logs dated December 18, 2025-January 6, 2026, the Student displayed behaviors including physical aggression toward peers and staff, along with property destruction. These incidents included throwing a ball at another student's face, ripping papers, throwing a chair, and being consistently non-compliant with staff directions and choices to transition. The most serious escalation involved the Student pinning a paraeducator against the wall in an attempt to get a ball back during Physical Education class.
37. On January 6, 2026, the Student's IEP was updated and contained the following relevant information:
    a. Participants were listed as the Parent, the Special Education Teacher, General Education Teacher 1, the Principal, the School Psychologist, the Special Education Coach, and the Assistant Director.
    b. The Student's behaviors of throwing and non-compliance were "motivated by tangible results. [The Student] is not demonstrating a significant sensory seeking or avoidance behavior when these behaviors are observed."
    c. The IEP noted the Student "may miss time in the general education classroom due to difficulties managing and regulating [their] emotions."
    d. Social Emotional Goals:
        i. Goal 1: "By January 5th 2027 [the Student] will improve behavior during routine tasks and transitions by following adult directions and using appropriate coping skills, reducing defiant or aggressive behaviors to no more than 2 occurrences per week, as measured by teacher observations and behavior logs." Baseline was "currently displaying defiant or aggressive behavior more than 5 times a week."
        ii. Goal 2: By January 5th 2027, [the Student] will use an appropriate coping strategy (such as taking a break, using a calm-down card, or requesting help) to manage frustration or anger in 4 out of 5 observed

opportunities, resulting in a reduction of defiant or aggressive behaviors during nonpreferred tasks, as measured by teacher observations and behavior tracking data." Baseline was the Student "experiences difficulty managing [their] emotions and maintaining regulation during certain tasks and transitions. These moments can impact [the Student's] ability to follow directions and fully engage in learning activities. [The Student] is able to manage frustration or anger in 0 out of 5 observed opportunities."

e. The Student maintained one goal each in the areas of reading and math, and removed their writing goal.

f. The IEP noted "At times, [the Student] can become dysregulated when asked to complete a simple task, for example writing [their] name on [their] paper. When [the Student] is dysregulated [they] often times becomes [sic] violent and aggressive towards peers and staff."

g. Accommodations included:
    i. Separate setting for assessments.
    ii. Math manipulatives.
    iii. Visual schedule on desk or in line of sight.
    iv. Single step directions.
    v. Extended time on assignments and assessments.
    vi. Speech to text for writing assignments more than five sentences long.

h. A Behavior Plan included:
    i. Behaviors of concern were "Repeated disruptive and unsafe behaviors (i.e., extreme aggression, property destruction, disrespect towards staff, refusal/noncompliance, and/or other unsafe behaviors)."
    ii. Triggers were noted as "Restricted access to preferred activity/item, being asked to complete work, being asked to get off technology, losing in a game, and transitions to specials."
    iii. "Hypothesis" was listed as "Seeking Control, Inability to Regulate Emotions [sic], and connection seeking."
    iv. Strategies to address the behavior included "The use of a Proactive Regulation Plan, visual schedule, [s]cheduled breaks, [a]lternate schedule, [a]lternative seating options, [p]ersonal calm down space."
    v. Targeted Behaviors included:
        1. Extreme Aggression
            a. Baseline 27 Occurrences
        2. Refusal/Noncompliance
            a. Baseline 36 Occurrences
        3. Property Destruction

a. Baseline 15 Occurrences

vi. Implementation Steps/De-escalation Strategies included:

1. "Staff with verbalize that they will be available when [S]tudent is ready to talk[.]"
2. "Allow [the] [S]tudent to re-regulate on [their] own[.]"
3. "Offer time to rest after reaching peak dysregulation[.]"
4. "Offer [the Student] feelings meter once [they are] calm enough to communicate[.]"

i. Services provided included:

i. Special education services five days each week outside the general education classroom for:

1. SEL, 10 minutes.
2. ELA, 120 minutes.
3. Rocket Reading, 30 minutes.
4. Math, 60 minutes.
5. Science/Social Studies, 60 Minutes.

ii. Special education services five days per week in the regular education classroom with special education support for:

1. Specials, 60 minutes.
2. Lunch/Recess, 55 minutes.

38. IEP meeting notes dated January 6, 2026 stated the participants were Special Education Teacher 1, the Assistant Director, the Principal, the Occupational Therapist, the General Education Teacher, the School Psychologist, the County Coach, the Speech Language Pathologist, the Assistant Superintendent, the SEL Coordinator, and the Parent. The results from the Student triennial assessments were shared. The Student was reported as low average across assessments. The Parent shared concerns about academic success in regards to the assessments and believed the Student was "farther behind than staff may think." They asked "How can we say [the Student] is doing well academically when [their] academic scores … show [the Student] is low[?]" The Parent noted the team did not know if the Student's work refusal was "because [the Student] does not want to or because [they] can't or does not know how to do it." Special Education Teacher 1 expressed the Student wanted to do well academically and was doing the same work as their peers. The team noted that while the Student typically enjoyed specials, the transition between the classroom and specials was difficult. The School Psychologist presented strategies for handling the Student's behavior. The Assistant Director recommended sensory headphones for the Student.
39. A PWN dated January 6, 2026 indicated the team would meet on January 23, 2026. The detail sections indicated a "material change in services" and a "substantial change in placement" were proposed, each requiring parental consent. The description stated "Per parent agreement, [the Student] will receive virtual special education services at

[their] home for a total of 60 minutes (30 minutes in the morning and 30 minutes in the afternoon), 5 days per week between the dates of 01/26/2026 - 02/09/2026. A meeting will be held prior to [the Student's] return to school." The PWN acknowledged the proposed placement was restrictive, and reported "[The Student] is currently receiving outside inpatient therapy at [Mental Health Hospital], if and when [they are] able, [the LEA] is ready, willing, and able to provide the outlined services between the dates of 01/26/2026-02/09/2026." The delivery section indicated PWN was emailed to the Parent by the School Psychologist on January 23, 2026. An IEP Amendment Between Annual IEP Meetings notice accompanied the PWN. Neither document was signed.

40. Communication logs documented that on January 7, 2026 the Student destroyed materials, used pens to stab their own legs, knocked over a shelf, and ripped down lights, followed by kicking the Assistant Superintendent and attempting to put objects in electrical outlets. Due to the high level of dysregulation and danger, the School Resource Officer (SRO) was called to assist, and a family member was eventually called to pick up the Student. LEA Staff initially attempted non-responsive, non-confrontational strategies such as removing the Student's desk, offering a choice of completing work or going to the office, allowing the Student time to calm down, and providing reminders about earning a break. As the student's behavior escalated to property destruction, the SRO was called to assist. Staff used clear directives (telling the student to stop), offered choices (let go of the lights or SRO called), and ultimately backed away when the Student became physically aggressive toward the Assistant Superintendent.
41. Communication logs documented that on January 20, 2026, the Student's frustration led to throwing a bookshelf, hitting the Principal, and physically striking the SRO in the face, knocking off their glasses. The SRO was forced to place the Student in handcuffs to gain control of the situation, resulting in a one-and-a-half-day out-of-school suspension. The LEA Staff's initial responses involved offering choices (e.g., hot lunch, where to eat lunch), setting a timer to talk, and engaging the Student in cleaning up the mess with the Principal. When the Student's aggression escalated to hitting the Principal and SRO, the SRO was forced to place the Student in handcuffs to contain the dangerous behavior. The handcuffs were removed once the student complied with directions to sit and calm down. Following the incident, the SRO provided the Student's lunch, the Parents were contacted for an immediate pick-up, the Principal discussed the use of handcuffs with the Parent, and the Student was issued a one-and-a-half-day Out-of-School Suspension (OSS).
42. On January 23, 2026, an IEP Amendment Between Annual Meetings indicated the Student would receive virtual special education services for 60 minutes, five days per week, at their home from January 26, 2026, through February 9, 2026. A meeting would be held prior to the Student's return to discuss further special education services and placement that would best meet the Student's needs.
    The PWN that accompanied the amendment stated the Student's placement had changed while they were receiving inpatient therapy at the Mental Health Hospital, and

when the Student was able, the School was ready, willing, and able to provide the outlined services.

43. Notes dated January 23, 2026 indicated the Principal, the Superintendent, the General Education Teacher, the Parent, the School Psychologist, the Assistant Director, the Special Day School Principal, Special Education Teacher 1, and Special Education Teacher 2 met to discuss the Student's educational and behavioral needs. The Parent requested the Student remain at home for two weeks. The team strategized options for supporting the Student during that time. They decided on twice daily check-ins for half an hour each. The Assistant Director acknowledged the Special Day School Principal was in attendance and the Parent indicated they planned to visit the next week. The Parent had questions regarding in-school counseling and one-on-one paraeducator support. They had concerns the Student was being instructed with younger peers. Special Education Teacher 1 assured the Parent they were preparing grade-level specially designed instruction for the Student, however the special education classroom was physically located in a lower grade level building. The team agreed to meet again in two weeks.
44. On January 26, 2026, the Parent emailed the LEA to inform them the Student had been checked into inpatient care at the Mental Health Hospital.
45. On January 27, 2026, the School Psychologist emailed the Parent a copy of the IEP amendment from January 23, 2026. The Parent informed the School Psychologist the Student was hospitalized. The School Psychologist reached out to the Assistant Superintendent for advice in handling the new information. The Assistant Superintendent suggested changing the dates of the amended services to after the Student was discharged. The School Psychologist updated the amendment and resent it to the Parent on January 30, 2026.
46. On January 30, 2026, the Mental Health Hospital provided a note excusing the Student from school due to being admitted to the Mental Health Hospital on January 26, 2026 and being discharged that day. An additional note requested the Student be excused from school from January 26, 2026, through February 6, 2026 for inpatient mental health treatment and continued recovery following discharge.
47. On January 30, 2026, the Parent emailed the Superintendent to summarize what was discussed at their meeting the previous week. The Parent noted two Emergency Safety Interventions (ESI) incidents: one in which manual restraints were reportedly used for five to nine minutes, and another in which the Student was carried to the car by school staff. The Parent confirmed they wanted documentation of the incidents, who authorized the restraints, what de-escalation methods were used, and the steps the LEA was taking to prevent recurrence. Additionally, the Parent requested information on how the events were documented in the Student's cumulative record. The Parent asked if all suspensions had been reviewed and whether an MDR should have been held.
48. The Parent emailed the IEP Team and mentioned the need for a safe space for the Student at the IEP meeting "a month before," and as of January 23, 2026, they were "still

working on space." The Parent indicated the IEP Team identified the need for a one-to-one support, but it was not implemented or added to the IEP. The Student was moved from the third-grade pod to the second-grade pod with a different special education teacher.

49. A PWN dated February 5, 2026 indicated the team met to consider "[a]ny additions, changes or modifications to the special education and related services or educational placement that are needed to enable your child to meet the measurable annual goals set in the IEP and to participate, as appropriate, in the general curriculum." The detail sections indicated a "material change in services" and a "substantial change in placement" were proposed. The description stated "Per parent decision and team agreement, [the Student] will receive virtual special education services at [their] home for a total of 60 minutes (30 minutes in the morning and 30 minutes in the afternoon), 5 days per week between the dates of 02/09/2026 - 02/20/2026. A meeting will be held prior to [the Student's] return to school." Further, the PWN reported "The team had previously discussed that [the Student] receive virtual special education services between the dates of 01/26/2026-02/09/2026; however, [they] began receiving inpatient therapy at [Mental Health Hospital]. [The Student's] therapist noted [they] should remain at home for the week of 2/2/26 through 2/6/26, to get adjusted and start aftercare and begin receiving virtual special education services during 02/09/2026 - 02/20/2026." The PWN acknowledged the proposed placement was restrictive. The delivery section indicated the PWN was emailed to the Parent by the School Psychologist on February 5, 2026. An IEP Amendment Between Annual IEP Meetings notice accompanied the PWN. Neither document was signed.
50. Meeting notes dated February 5, 2026 documented a virtual meeting. The notes stated the meeting was a "formality" to "clarify" the change of services documented in the recent amendment to the Student's IEP. The change of services included online instruction twice a day for one half hour each session. The sessions would provide specially designed instruction in ELA and math.
51. An attendance profile printed on February 23, 2026 for the dates August 6, 2025 through March 15, 2026 indicated the Student was enrolled 131 days, present 99 days, absent 32 days, and tardy one day. Five days for out-of-school suspension were recorded.
52. On February 15, 2026, in a document to the Superintendent, the Principal, the "IEP Team/ and Staff," the Parent formally requested an MDR for "immediate consideration of interim services" and discussion on an appropriate out-of-district placement for the Student. Their request was based on repeated suspensions, use of restraints, and removals from school which resulted in the Student missing "significant instructional time."

    The Parent indicated the LEA was unable to provide a FAPE to the Student because of the use of restraints, more than 10 suspensions and absences due to the Student's disability, the behavior intervention plan (BIP) not preventing recurring behaviors, the IEP being implemented inconsistently, disability-related behaviors being disciplined

rather than supported, escalations staff were unable to manage, and not making meaningful progress in current setting.
The Parent requested an immediate IEP meeting to review placement, an updated FBA and BIP, compensatory education for missed instructional time due to suspensions or removals, interim "district-funded services," and consideration of an out-of-district non-public or therapeutic day school placement.

53. The Student's third grade report card documented the Student had received 3 As and a B for second quarter. No first quarter grades were recorded. The Student's first and second quarter "Approaches to Learning" ratings were all in the emerging or developing ranges.

Parent Interview

54. During an interview with the Complaint Investigator, the Parent stated they sent a document to the LEA on January 21, 2026 about an incident where the Student was restrained in handcuffs on January 20, 2026. The Parent stated they sent a document to the LEA on February 15, 2026 requesting a formal MDR.
55. The Parent explained the Student started having issues at school in September 2025. They indicated the Student had had minor transition issues, but nothing violent. The Parent started receiving calls from the Principal and a teacher on September 29, 2025 stating the Student kicked off their shoe and hit a teacher with it when it was kicked off. They also stated they were made aware of incidents which happened on September 30, 2025 and October 30, 2025.
56. The Parent stated the Student's behaviors were documented in an FBA. According to the Parent, whenever a behavior incident occurred with the Student, they received a call from the School to pick up the Student, or sometimes the Student was suspended.
57. The Parent stated they were told "no" by the LEA when they asked, "Can we not use restraints? Can we not use suspension because of [the Student's] disability?" The Parent explained the School Psychologist conducted an FBA in October 2025 to determine possible changes to the Student's IEP. The Parent perceived School staff were not following the Student's IEP because they were not providing the Student with breaks, timers, and shortened or preferred assignments. The Parent stated the School moved the Student from the general education classroom to the special education classroom, and then at one point, the Student had no general education time. The Parent stated School staff never provided the Student with a chance to regulate and return to class, never provided the Student access to a calm room, and there would always be "four or five people" standing around when the Student had an "outburst." The Parent stated they asked several times to only have one person try to calm the Student down.
58. The Parent stated they knew of at least two instances when School staff used restraints or "put hands" on the Student. They indicated the School did not provide one-on-one support. The Parent stated they had to keep picking up the Student from school "more and more and more." The Parent stated they picked the Student up from school on September 29 and 30, 2025, and October 6, 20, 23, and 30, 2025.

59. The Parent stated they were provided a copy of the October 28, 2025 IEP amendment in person. The Parent indicated the November 21, 2025 IEP amendment included the Student receiving direct pull-out services for science, social studies, and rocket reading, and it would increase the Student's special education from 240 minutes to 330 minutes per day. They stated the School wanted to make adjustments to "support safety, regulation, and access to learning."
60. The Parent believed that anytime the Student had to leave school due to their disability, the School should still provide services. They said, "… because [the Student] had missed so much school due to [their] disability … I was trying to prevent how to keep [them] from getting so far behind because now [the Student] [is] so far behind from missing so much school this year." The Parent recalled the Student had been sent home 15 times during the 2025-26 school year and suspended nine times. They stated they did not receive formal paperwork for the suspensions on January 7 and 8, 2026. They said, "… even though they called me and told me to pick [the Student] up, they had [the Student] marked as present when [they] should have been marked as absent. And some of them, [the LEA] said [the Student] was suspended, but they just marked [them] as absent or tardy." The Parent described some suspensions were half days, and some were one, two, and three days.
61. The Parent explained on December 8, 2025 they asked the Principal if the School could utilize something other than suspensions because those did not appear to be working. They stated the Principal said, "okay," but there was never any follow-up.
62. The Parent perceived scheduling an MDR should have come from the School. The Parent stated they did some research, discovered there should have been an MDR, and requested one.
63. The Parent stated they emailed the Superintendent on January 26, 2026 and explained the Student could not participate in online school that week because they had been checked into a mental hospital. They explained the Superintendent emailed them on February 2, 2026 and requested a meeting on February 5, 2026 to discuss their request for the two-week online home study.

Principal Interview

64. During an interview with the Complaint Investigator, the Principal explained the following abbreviations: "E" stood for excused, "A" for absent, "O" for out-of-school suspension, and "U" was for unexcused.
65. The Principal stated they had records of the Student being suspended for nine days: October 21, 24, and 27, 2025, November 13, 2025, December 9, 2025, and January 7, 8, 20, and 21, 2026. When asked if they noticed a pattern to the Student's suspensions, the Principal indicated the Student had engaged in violent behaviors such as throwing items, taking items apart, and hitting staff members.
66. The Principal pointed out that the Student's attendance profile showed they were absent on October 24, 2025, and asked why that was not marked with an "O" if they had been suspended. The Principal indicated it was because the Student's behavior had

occurred at the end of the school day on October 24, 2025. They explained it was connected to a previous incident which had happened on October 23, 2025. The Principal shared that staff had shown them a sketchbook the Student had brought to school which included drawings depicting violence, including guns and "illustrations of harming and killing classmates." The Principal confirmed the Student had been suspended for a full day on October 24, 2025 and the attendance sheet should have been marked with an "O."

67. When asked to describe the Student's escalating behaviors, the Principal stated there was an FBA in place and staff "go through that process, but it's like a flip of a switch sometimes." The Principal explained staff used the strategies in the FBA, but time could be "very short in terms of when [the Student] becomes violent." The Principal defined "violent" as the Student throwing items, hitting people, destroying classrooms, damaging property, accidentally harming themselves, and causing self-inflicted harm such as hitting their head. The Principal indicated there were times when staff was able to de-escalate the situation, and other times when strategies were not successful in the moment.
68. The Principal stated they measured the success of interventions by the Student's response "in the moment." They explained staff had tried different strategies based on the Student's interests and different observations. The Principal stated the Student did not like interacting with multiple people when they escalated, so there was a plan to only have one person talk to the Student and engage with them. If the Student did not like that, staff would "back off" and give the Student space. They shared the staff had tried symbolisms so the Student did not have to speak and only had to point to things, if they were able to.
69. The Principal stated they met with the Parent on October 14, 2025 during parent-teacher conferences about the Student, but it was not an IEP meeting. They discussed the Student's IEP and received permission from the parents to perform an FBA. The Principal stated during that meeting, the Parent wanted them to enforce consequences and discussed how the School was addressing the Student's behavior. At the time, the Student was receiving verbal warnings for their behavior.
70. When asked about the IEP amendment from November 21, 2025, the Principal explained School staff had noticed the Student's behaviors were increasing over time and they were less successful in class.
71. The Principal stated they did not conduct an MDR because at the time, based on their dates, they believed they had not reached the ten-day threshold yet.
72. The Principal explained there was discussion during an IEP meeting about services for the Student during the period from January 22, 2026 through February 23, 2026. They indicated the Parent shared the Student would be away from school, and the School would offer 30 minutes of online instruction in the morning and the afternoon. The Principal believed the services were implemented virtually by Special Education Teacher 1, and for all of the days in that time period. The Principal clarified the services were offered from February 9, 2026 through February 16, 2026, because the Parent chose to

keep the Student home during the other times. The Principal stated they had asked how else they could help during an IEP meeting, and the Parent stated it would violate HIPAA and the Parent was not interested in sharing that information. The Principal stated they were trying to get a release so they could work together during those times.

School Psychologist Interview

73. During an interview with the Complaint Investigator, the School Psychologist explained that for the Student's BIP, staff reviewed data which was collected between October 14, 2025 and January 2026. The team identified some areas in which the Student was struggling by reviewing observations and data collected by Special Education Teacher 1. Using that information, they and the SEL Coordinator met with Special Education Teacher 1 and identified different interventions which had already been implemented that the Student used. They also identified other interventions which worked well for the Student in the past and wanted to continue to use.
74. The School Psychologist explained the interventions which had been followed including alternative seating options, a visual timer, access to the Student's own area / a calm down space, a visual schedule, and access to fidgets. They added a token system was a strategy the Student had used previously but it was not in the BIP. They indicated the Student had used, and continued to use, a feelings meter, and an alternative schedule.
75. When asked how the BIP was communicated to staff, the School Psychologist explained everyone had met to review the behavior assessment. They shared Special Education Teacher 1 gave the document to their paraprofessionals to review. The School Psychologist stated they also talked to the support staff who would be called if the Student's behavior escalated.
76. The School Psychologist confirmed they conducted the FBA. They explained the FBA was triggered because the Student had started demonstrating behaviors in the classroom, and the FBA was conducted to determine if a behavior assessment was necessary because the Student had not had one previously.
77. The School Psychologist recalled a meeting during parent-teacher conferences on October 14, 2025 where they received consent to conduct the FBA and develop a BIP. They indicated there was another meeting on October 28, 2025 to discuss an increase in the Student's special education service minutes based on some of Special Education Teacher 1's data. The School Psychologist stated they were not involved in formal meetings between October 28, 2025 and January 6, 2026, and were unaware there had been a November 21, 2025 amendment to the Student's IEP. The School Psychologist later recalled the team amended the IEP to add minutes during the Student's rocket reading because the data from October 23, 2025 to November 20, 2025 showed the Student was struggling in rocket reading, science, and social studies. They indicated the team met on November 20, 2025 to discuss an increase in the Student's support minutes to have them be in the special education classroom for rocket reading, science, and social studies. They indicated the attendees would have included themself, the Principal, Special Education Teacher 1, the General Education Teacher, and the Parent.

78. Regarding when the Student was in inpatient treatment, the School Psychologist recalled a meeting was held to discuss the Student receiving virtual services. They indicated the dates discussed for virtual services were January 26, 2026 to February 9, 2026. They indicated the Parent called the Superintendent and stated the Student was attending outpatient therapy and would not be able to start the two weeks of virtual services. They shared the Parent had sent an email that the Student would not be able to start virtual services until February 9, 2026 and have it go through February 20, 2026.

SEL Coordinator Interview

79. During an interview with the Complaint Investigator, the SEL Coordinator stated the Student transitioned smoothly into the third grade and they had not dealt with any behavioral issues with the Student until shortly before parent-teacher conferences. The SEL Coordinator described some of the Student's behaviors as "silent defiances," such as covering their mouth or eyes with tape. They indicated if staff ignored those behaviors, the Student would knock a book off a desk or other similar behaviors. The SEL Coordinator stated a teacher asked what behaviors from the Student they should acknowledge or ignore to see what the result was.
80. The SEL Coordinator stated they did not work directly with the Student and were in a support staff role. They explained they were called in after parent-teacher conferences when the Student was escalating and had more behaviors. They described a time when they were called into the art room because the Student was having escalated behaviors and staff had to keep everyone safe. They intervened on that occasion, but in general, the classroom teacher or special education teacher would handle situations with the Student.
81. The SEL Coordinator stated their main role was helping create the Student's behavior plan and participating in the FBA process. They stated the BIP contained steps to take if the Student became dysregulated and their behavior escalated, such as who should respond and how. The SEL Coordinator indicated if the general education or special education staff could not handle the situation, then support staff was called in to help de-escalate it. According to the SEL Coordinator, if support staff could not help, then administration was called, and then the school resource officer, if additional support was needed.
82. The SEL Coordinator described their role was to support staff during meetings and brainstorm ideas and strategies to implement which could help the Student be successful.

Special Education Teacher 1 Interview

83. During an interview with the Complaint Investigator, Special Education Teacher 1 explained there was a meeting on August 22, 2025 to discuss the Student entering third grade because they knew the Student had some behaviors and they wanted to work with Special Education Teacher 2 to get the Student's background and history. They met with the Principal on September 30, 2025 to create a plan for the Student's behavior. Special Education Teacher 1 stated the Student shared with the Principal they

would like to work in the resource room because they felt the environment was calmer and the classroom could be too loud sometimes. They stated the Principal told the Student they would create a plan to meet their needs and the Student would be able to complete independent work in the resource room.

Special Education Teacher 1 had indicated they wanted the Student to remain in the general education classroom for the "duration of time" the lessons were being taught, and then the Student could complete independent work in the resource room. They explained using that information, the team created a behavior chart which was shared with the Student. They stated the Student was always able to come to their room to complete work, and the Student also had visual schedules, visual timers, and a feelings meter.

Special Education Teacher 1 said after talking with the Parent, the Parent asked if an "I need" could be added. They described this as a way for the Student to communicate they needed a break. They indicated the Student had a personal calm down space in their classroom, and they created a "break tub" for the Student to use when they needed a break, which was available in their classroom and the general education classroom. They stated this allowed the Student to not have to leave the general education classroom to take a break. They indicated all of these strategies were in place prior to January 21, 2026.

84. Special Education Teacher 1 explained that after October 28, 2025, they were collecting data to monitor the Student's behavior and there was a communication log shared with the Parent. They stated the Student continued to have visuals for their feelings, and at one point the Student asked if they could work in a tent, which was provided. Special Education Teacher 1 also incorporated the use of green, yellow, and red folders to help the Student with their work. Special Education Teacher 1 stated they gave the Student the ability to pick where they wanted to sit. They explained the Student came into third grade without a BIP, and the team created one, in addition to a "new IEP" they thought would be a better fit for the Student. Special Education Teacher 1 stated they made a plan for the Student during lunch and used a flow sheet for the Student so it was easy for them to read.
85. When asked about the Student's escalating behaviors, Special Education Teacher 1 stated the Student would break materials, tear up papers, and bang their head on the desk. If staff asked the Student to stop, the Student would say, "or what" and "do it" when they stated they would call the Parent.
86. Special Education Teacher 1 felt the most successful intervention strategy for the Student was when there were limited people in the room and limited conversations happening, and when staff were clear and direct with the Student and providing them choices. They would sometimes have the paraprofessionals remove other students from the room to remove any extra talking or stressors.
87. Special Education Teacher 1 stated they collected data on the Student, and the School Psychologist performed some observations. They collected the data by using an ABC

sheet on their computer and also recording some "minute-by-minute" data based on the Student's refusal or non-compliant behavior.

88. Special Education Teacher 1 believed an MDR was not convened for the Student because the School had not reached the threshold of days.
89. When asked about the January 6, 2026 behavior plan and how staff verbalized they were available to the Student, Special Education Teacher 1 explained when the Student had behaviors, they tended to shut down and not answer. They indicated staff would tell the Student they would give them a certain amount of time and then return to the Student and see if they were ready to engage. If the Student was not ready, staff would tell the Student to let them know when they were ready to talk and reiterated they were available. They indicated usually when that option was provided, the Student would approach staff when they were ready.
90. When asked about allowing the Student to regulate on their own, Special Education Teacher 1 stated that strategy was used after receiving input from the Parent. They stated the Student had told staff when they were mad, they did not want anyone to talk to them, which was why staff allowed the Student to "come down" on their own. Special Education Teacher 1 explained the Student was always given the opportunity to rest in their classroom. Special Education Teacher 1 stated they had multiple copies of the feelings meter available to the Student, and if the Student did not respond when asked if they were ready to talk, the feelings meter was provided and staff asked the Student to point to where they were on the meter.
91. Special Education Teacher 1 described there was an incident and then the Parent kept the Student out of school. They indicated the School received an email on January 27, 2026 the Student was in inpatient therapy and the team checked if they had to write an IEP amendment because it had been agreed upon earlier the Student would receive virtual services. Special Education Teacher 1 indicated the IEP was amended because the Student was not receiving services at that time, and on January 28, 2026, an updated amendment was sent to the Parent noting the School would change the amendment dates.

    They stated the team had a virtual meeting with the Parent on February 5, 2026 and indicated the Student's IEP would be amended for the Student to receive virtual services for 30 minutes in the morning and afternoon between February 9 through 20, 2026. Special Education Teacher 1 also sent a meeting link for the Student's online learning. They recalled the Student did not attend portions of their virtual learning on February 9, 10, 12, 13, 16, and 17, 2026. Special Education Teacher 1 explained they worked on the Student's math with them during those sessions, and also sent copies of the work via email and in the mail.
92. Special Education Teacher 1 stated a meeting was held on November 21, 2025 to discuss a potential increase in the Student's service minutes, due to the data they had collected and because the Student's behaviors were increasing. It was proposed for the Student to have 330 minutes for support in ELA, math, rocket reading, science, social studies, and social emotional learning. They stated the team also discussed different

recommendations they had received and determined an increase in service minutes was appropriate due to the Student's increase in "aggressive behavior." They stated after the meeting ended, the Assistant Superintendent called the Parent and discussed the proposed changes and the Parent agreed over the phone. They stated the Parent was not invited to the meeting on November 20, 2025 because at the time it was only a team meeting and not an IEP meeting. Special Education Teacher 1 stated an IEP amendment was emailed to the Parent but never returned.

Special Education Teacher 2 Interview

93. During an interview with the Complaint Investigator, Special Education Teacher 2 stated they co-teach with Special Education Teacher 1 and helped them because the Student was in their class the previous year.
94. When asked how they were available to the Student, as described in the BIP, Special Education Teacher 2 indicated the Student was with them the majority of the time and they would help the Student when they were in their classroom. When the Student needed to rest and regulate after an escalation, they asked the Student how many minutes they needed and would set a timer. When the timer was up, they would ask the Student if they needed more time. Special Education Teacher 2 would offer the Student two choices of what to finish and they would work on it together. If the Student stated they were frustrated, they asked again how long the Student needed. When asked how they utilized the feelings meter, Special Education Teacher 2 stated they pointed to it and asked the Student to show where they were at, or watch where their gaze went to on the meter.
95. Special Education Teacher 2 described the Student's behavior from January 2026 forward, as a "wave" and they tried to use the strategies in the BIP. They found giving the Student options was a successful intervention strategy. Special Education Teacher 2 stated they helped collect data about the Student by completing a chart which tracked behavior and the Student's participation.
96. During January 22, 2026 through February 23, 2026, Special Education Teacher 2 stated they followed the Student's IEP and had 30 minutes of online instruction with the Student in the morning and afternoon. They indicated there was a period of time the Student did not attend due to mental health issues. They stated they offered SDI worksheets in language and reading during the virtual sessions.

General Education Teacher Interview

97. During an interview with the Complaint Investigator, the General Education Teacher described the interventions they used with the Student prior to October 29, 2025. They detailed using positive reinforcement, giving choices, providing preferential seating, and using a feelings meter. They stated the Student received 30 minutes of pullout special education services and was in the general education classroom the rest of the day. They indicated the Student also had the opportunity to go to Special Education Teacher 1's classroom, but they "didn't need that." The General Education Teacher shared they had a classroom calming kit with breathing exercises which was available and offered to

the Student. They indicated the Student received extended time and, as behaviors started to increase, they implemented breaks, decreased demands, and limited access to supplies.

98. The General Education Teacher stated the October 28, 2025 IEP amendment changed the Student's setting. They described the Student had reading and math with Special Education Teacher 1, and spent social studies and science in their classroom. They continued using the same behavior strategies with the Student.

99. The General Education Teacher recalled during the meeting on November 21, 2025, the team reviewed data recorded about the Student and determined to change their placement to receive all of their services in Special Education Teacher 1's classroom. The General Education Teacher indicated the Student was not in the general education setting after January 2026, and was pulled out for core reading, math, science, social studies, and rocket reading, and was in the general education setting for lunch, recess, and specials.

100. The General Education Teacher stated the first time they saw the Student "shut down" was on September 12, 2025. They indicated around September 17 and 18, 2025, when more academics were being implemented into the day, was when they saw the Student refuse to participate. They explained the Student was given the opportunity to finish some of their work in Special Education Teacher 1's classroom, but then became dysregulated and threw items. They stated that around September 29, 2025, staff started seeing the Student have a lot of behaviors across specials, teachers, and recess, and it progressed from there. They indicated staff tried to de-escalate the behaviors and have the Student spend time in Special Education Teacher 1's classroom, but their behavior continued to escalate.

101. The General Education Teacher stated that providing the Student with choices and extended time, avoiding power struggles, allowing the Student to have time to self-regulate, and offering the Student the ability to return to an activity, were the most successful intervention strategies. Most of the time they observed the Student shut down and be unreceptive to what was being offered.

102. According to the General Education Teacher, data was being collected about the Student, including a communication log which was shared with the Parent. They stated the data collection started with informal behavior tracking and then progressed to ABC documentation. They stated Special Education Teacher 1 collected the ABC data.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #394, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), followed the requirements for suspensions of students with disabilities, including providing educational services when required. K.A.R. 91-40-33, 91-40-34(a)(b), 91-40-35 91-40-36; 34 CFR § 300.530.

According to K.A.R. 91-40-33, the phrase "change in placement for disciplinary reasons" means that school personnel or a special education due process hearing officer has ordered any of the following changes in placement of a child with a disability: the child is suspended or expelled from school for more than 10 consecutive school days; the child is subjected to a series of short-term suspensions constituting a pattern that meets all of the following criteria: the suspensions cumulate to more than 10 school days in a school year, each incident of misconduct resulting in a suspension involved substantially the same behavior, the length of each suspension, the total amount of time the child is suspended, and the proximity of the suspensions to one another indicate a pattern; the child is placed in an interim alternative educational setting.

If school personnel order two or more short-term suspensions of a child with a disability during a school year, these suspensions shall not constitute a change in placement for disciplinary reasons if the suspensions do not constitute a pattern as described in paragraph (a)(1)(B). School officials shall have the authority to determine whether a series of short-term suspensions of a child with a disability constitutes a change in placement for disciplinary reasons. This determination shall be subject to review through due process proceedings.

"School officials" means a regular education administrator, the director of special education or the director's designee or designees, and a special education teacher of the child with a disability. "Short-term suspension" means a suspension as authorized by K.S.A. 72-8902(a) and amendments thereto.

According to K.A.R. 91-40-34(a)(b), school personnel may impose one or more short-term suspensions upon a child with a disability during a school year for violations of any school rule if these short-term suspensions do not constitute a pattern amounting to a change in placement for disciplinary reasons as specified in paragraph (a)(1)(B) of K.A.R. 91-40-33. School personnel may order a change in placement of a child with a disability to an interim alternative educational setting.

According to K.A.R. 91-40-35 and 34 CFR § 300.530, an agency shall not be required to provide special education or related services to a child with a disability who has been suspended from school for 10 or fewer school days during any school year, if the agency does not provide educational services to nondisabled children who are suspended from school. A child with a disability shall be entitled to continue to receive special education and related services if the

child is suspended from school under either of the following circumstances: for more than 10 cumulative school days in any school year, but with these suspensions not resulting in a change of placement for disciplinary reasons; or for more than 10 consecutive school days in any school year for behavior that has been determined not to be a manifestation of the child's disability.

If a child with a disability is suspended from school under either of the circumstances stated in paragraph (b)(1), the agency that suspended the child shall provide, commencing on the 11th day of suspension and during any subsequent day or days of suspension, special education and related services that are needed to enable the child to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the child's IEP.

If a child with a disability is placed in an interim alternative educational setting in accordance with K.S.A. 72-991a and amendments thereto, the agency shall provide special education and related services to the child that meet the following requirements: the services provided shall enable the child to continue both of the following: to progress in the general curriculum, although in another setting; and to receive those services and modifications, including those described in the child's IEP, that will enable the child to meet the goals set out in the IEP. The services shall include interventions and modifications that address the child's misbehavior and are designed to prevent its recurrence.

According to K.A.R. 91-40-36, if a child with a disability is properly suspended from school for more than 10 cumulative school days in any school year, the special education and related services to be provided to the child during any period of suspension shall be determined by school officials of the agency responsible for the education of the child. If a child with a disability is suspended from school for more than 10 consecutive school days or is expelled from school for behavior that has been determined not to be a manifestation of the child's disability, the child's IEP team shall determine the special education and related services that will be provided to the child.

If a child with a disability is placed in an interim alternative educational setting as a result of the child's possession of a weapon or illegal drug, the child's IEP team shall determine the following: the special education and related services to be provided to the child in the interim alternative educational setting; and those services and modifications that will be provided to address the misbehavior of the child and that are designed to prevent the misbehavior from recurring.

If a child with a disability is to be placed in an interim alternative educational setting by a due process hearing officer because the child is substantially likely to cause injury to self or others, school officials shall propose to the hearing officer the special education and related services to be provided to the child, and those services and modifications to be provided to address the behavior and prevent its recurrence. The hearing officer shall determine whether the services

proposed by the school officials are appropriate. If so determined, those services shall be provided to the child. If determined to be inappropriate, the hearing officer shall order any modification in the services to be provided that the hearing officer determines necessary to provide the child with an appropriate education.

An agency shall convene IEP meetings under this regulation as expeditiously as possible and shall be required to give only 24 hours' prior notice of an IEP meeting to the child's parents.

The Parents alleged the Student was suspended for more than 10 school days during the 2025-26 school year, and the LEA did not provide educational services during the suspensions.

The LEA responded, stating per the formal Complaint, the Parent claims the Student was suspended for more than 10 school days. On February 17, 2026, the Director of Special Education contacted the Parent to discuss the potential visit of the special education day school and the dates for which the Parent believed the Student had been suspended. The Parent later sent an email with the dates listed that they believed to be suspension days. The Director of Special Education then worked with the team to verify dates and ensure accuracy of suspension documentation. Per the suspension documentation, the district verified 10 days of suspension. As such, education services for students with disabilities are not required until the 11th day of suspension, and this district is not out of compliance.

In October 2025, the LEA suspended the Student from school on two different occasions for a total of three days. The Parent questioned the validity of these suspensions, whether the Student's IEP was followed, and requested the suspensions be expunged from the Student's record, which the LEA agreed to do. In November and December 2025, the Student was suspended for another two days, and suspended for four days in January 2026, for a total of nine days the 2025-26 school year and at the time the Complaint was filed. Although the Special Education Director stated in their interview the Student was suspended for 10 days, the Parent, the Principal, and the data reviewed by the Complaint Investigator reported nine total days which does not trigger the LEA's requirement to conduct a MDR.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to follow the suspensions procedures, nor was the LEA required to provide the Student services during the suspensions.

Issue Two

Whether USD #394, in accordance with state and federal regulations implementing the IDEA, conducted a manifestation determination review (MDR) within the required timelines. K.S.A. 72-991a, K.A.R. 91-40-38; 34 CFR § 300.530(e).

According to K.S.A. 72-991a, the parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination, or an agency that believes

that maintaining the current placement of a child is substantially likely to result in injury to the child or to others, may request a hearing.

According to K.A.R. 91-40-38 and 34 CFR § 300.530(e), if an agency proposes to change an educational placement for disciplinary reasons, the agency shall implement the provisions of K.S.A. 72-991a and amendments thereto. An agency may conduct the manifestation determination at the same IEP team meeting held to develop or review a behavioral intervention plan under K.S.A. 72-991a and amendments thereto. If, in making a manifestation determination, deficiencies are identified in the child's IEP or placement, or in the provision of services to the child, the IEP team shall make any changes it deems appropriate, and the agency shall implement those changes.

An agency shall convene meetings under this regulation as expeditiously as possible and shall be required to give only 24 hours' prior notice of a meeting to the child's parent or parents. If a parent files a due process complaint concerning the manifestation determination, a resolution meeting between the parties shall be held within seven days of the complaint's filing, unless the parties agree, in writing, to waive the resolution meeting or engage in mediation. If the matter has not been resolved to the satisfaction of both parties within 15 days of the filing of the due process complaint, the due process hearing may proceed

The Parent alleged the LEA did not hold a timely MDR meeting.

The LEA responded, stating the law states that a Manifestation Determination Review (MDR) is required only if a student is removed for more than 10 consecutive school days or if a series of removals totaling more than 10 days creates a pattern constituting a change in placement. Because the district verified exactly 10 days of suspension and these specific legal criteria were not met, a mandatory MDR was not warranted.

After completing research, the Parent perceived scheduling an MDR should have come from the School, and requested one be scheduled. The Principal stated they did not conduct an MDR because at the time, based on their dates, they believed they had not reached the ten-day threshold. The evidence documented nine days of suspension for the 2025-26 school year at the time, which would not have triggered the requirement for the LEA to conduct an MDR.

Based on the evidence reviewed, the Student was removed from school for ten days due to behavior, which constitutes discipline even if the informal removals were not recorded as OSS. Although the Superintendent redacted two days from the official record at the Parents' request, the Student was still excluded from school due to behavior. Additionally, regarding a specific instance where the Parent was requested to retrieve the Student on December 5, 2025, the Student remained on campus until the conclusion of the instructional day. Consequently, this timeframe does not constitute a loss of educational opportunity or a formal removal from the learning environment.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is substantiated*** that the LEA failed to follow requirements when it did not conduct an MDR.

Issue Three

Whether USD #394, in accordance with state and federal regulations implementing the IDEA, implemented behavior support for the Student as described in their IEP. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323.

According to K.A.R. 91-40-16(a)(b) and 34 CFR § 300.323, each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency shall ensure that the following conditions are met: an IEP is in effect before special education and related services are provided to an exceptional child, those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless a reasonable justification for a delay can be shown, an IEP is in effect for each exceptional child at the beginning of each school year, the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation, each teacher and provider described in paragraph (4) of this subsection is informed of the following: that individual's specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged the LEA did not ensure behavior supports were in place for the Student.

The LEA responded, citing the district implemented a progressive series of actions to ensure the Student had access to behavioral and academic strategies and supports.

The Student's February 11, 2025 IEP included goals for academics and emotional regulation and relevant accommodations were positive behavioral support and a separate quiet location for tests. The SEL Coordinator reported that the Student had transitioned smoothly into third grade and behavioral issues only began shortly before parent-teacher conferences. The Student's behaviors included "silent defiances" such as covering their face with tape, which would escalate if ignored, prompting staff to consult on which behaviors to acknowledge or ignore. Staff interventions included providing a personal calm down space, a "break tub" for in-class breaks, and using timers and the feelings meter. In late October 2025, the IEP team met and the LEA reported on implemented support of allowing the Student to use the special education classroom as a space to self-regulate and complete work. Staff were actively using existing strategies, including offering choices, reminders, timers, visual schedules and tools, and breaks, which was noted to correlate with the Student's emotional regulation improving from 10% to about 50%.

Despite the Parent's concern that the Student was purposefully seeking the resource room, the team agreed to continue collecting behavioral data to identify escalation patterns. To

further address the Student's needs, the team proposed a FBA, a change in placement to increase special education minutes, and a discussion of outside therapy services in tandem with in-school options. The LEA collected data on the Student's behavior starting at the end of October 2025 through the beginning of January 2026.

The communication logs for November 2025 document a series of escalating behaviors including refusal, property destruction, and aggression. Incidents ranged from the Student refusing to sit in the library and banging their head on a wall to hitting a computer and running away from a school concert practice. The most severe incident on November 13, 2025 involved the Student destroying property, forcing a classroom evacuation, and physically assaulting the SRO and the Principal by hitting and kicking. Staff responses included ignoring the behavior, removing items, offering choices like the resource room, and, in the severe case, the SRO physically intervening. These logs demonstrate the profound challenges in emotional regulation during this period, despite various de-escalation attempts by school personnel.

The communication logs detail two major incidents in January 2026. The Student destroyed materials, engaged in self-injurious behavior, and became physically aggressive toward the Assistant Superintendent, necessitating the involvement of the SRO. By late January 2026, the Student threw objects and physically struck the Principal and SRO, which resulted in the SRO using handcuffs to gain control and the Student receiving a suspension. In both instances, LEA staff attempted de-escalation strategies, but the escalation of the Student's behavior required SRO assistance to manage the situation.

The Parent perceived that the School's staff were not following the Student's IEP protocols, specifically by failing to provide breaks, timers, and shortened or preferred assignments. Furthermore, the Parent complained that the School moved the Student to the special education classroom until there was no general education time and that multiple staff members surrounded the Student during outbursts, contrary to their request for only one person to intervene.

The Principal reported that the success of de-escalation strategies was inconsistent and was measured by the Student's "in the moment" response, with staff trying different approaches based on observation and the Student's interests. Specifically, there was a plan to have only one person interact with the Student during escalation, offering space and non-verbal communication options via symbolism if needed. The School Psychologist confirmed implementing various interventions (like a feelings meter) and communicating the Behavior Intervention Plan (BIP) to all relevant staff, also noting that the Parent delayed the Student's planned virtual special education services from an initial start of January 26, 2026, to February 9, 2026, due to the Student attending outpatient therapy.

Special Education Teacher 2 provided virtual instruction for 30 minutes twice daily from January to February 2026, using strategies like giving the Student options, though the Student had periods of non-attendance due to mental health issues. Both Special Education Teacher 1

and 2 implemented various interventions, including positive reinforcement, a feelings meter, preferential seating, and breaks with decreased demands, to support the Student's behavior. The General Education Teacher provided support such as a classroom calming kit, extended time, breaks, and decreased demands as the Student's behaviors increased. The teacher noted that the October 28, 2025, IEP amendment changed the Student's placement for reading and math, but they continued using the same behavioral strategies. The most successful strategies were providing choices, offering extended time, avoiding power struggles, and allowing time to self-regulate, though the Student was often observed to shut down and be unreceptive.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to implement the behavior supports as described in the Student's IEP.

Issue Four

Whether USD #394, in accordance with state and federal regulations implementing the IDEA, implemented behavior support for the Student as described in their IEP. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323.

According to K.A.R. 91-40-16(a)(b) and 34 CFR § 300.323, each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency shall ensure that the following conditions are met: an IEP is in effect before special education and related services are provided to an exceptional child, those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless a reasonable justification for a delay can be shown, an IEP is in effect for each exceptional child at the beginning of each school year, the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation, each teacher and provider described in paragraph (4) of this subsection is informed of the following: that individual's specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged the LEA did not ensure behavior supports were in place for the Student.

The LEA responded, citing the district implemented a progressive series of actions to ensure the Student had access to behavioral and academic strategies and supports.

The Student's February 11, 2025 IEP included goals for academics and emotional regulation and relevant accommodations were positive behavioral support and a separate quiet location for tests. The SEL Coordinator reported that the Student had transitioned smoothly into third grade and behavioral issues only began shortly before parent-teacher conferences. The Student's behaviors included "silent defiances" such as covering their face with tape, which

would escalate if ignored, prompting staff to consult on which behaviors to acknowledge or ignore. Staff interventions included providing a personal calm down space, a "break tub" for in-class breaks, and using timers and the feelings meter. In late October 2025, the IEP team met and the LEA reported on implemented support of allowing the Student to use the special education classroom as a space to self-regulate and complete work. Staff were actively using existing strategies, including offering choices, reminders, timers, visual schedules and tools, and breaks, which was noted to correlate with the Student's emotional regulation improving from 10% to about 50%.

Despite the Parent's concern that the Student was purposefully seeking the resource room, the team agreed to continue collecting behavioral data to identify escalation patterns. To further address the Student's needs, the team proposed a FBA, a change in placement to increase special education minutes, and a discussion of outside therapy services in tandem with in-school options. The LEA collected data on the Student's behavior starting at the end of October 2025 through the beginning of January 2026.

The communication logs for November 2025 document a series of escalating behaviors including refusal, property destruction, and aggression. Incidents ranged from the Student refusing to sit in the library and banging their head on a wall to hitting a computer and running away from a school concert practice. The most severe incident on November 13, 2025 involved the Student destroying property, forcing a classroom evacuation, and physically assaulting the SRO and the Principal by hitting and kicking. Staff responses included ignoring the behavior, removing items, offering choices like the resource room, and, in the severe case, the SRO physically intervening. These logs demonstrate the profound challenges in emotional regulation during this period, despite various de-escalation attempts by school personnel.

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The Parent perceived that the School's staff were not following the Student's IEP protocols, specifically by failing to provide breaks, timers, and shortened or preferred assignments. Furthermore, the Parent complained that the School moved the Student to the special education classroom until there was no general education time and that multiple staff members surrounded the Student during outbursts, contrary to their request for only one person to intervene.

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based on observation and the Student's interests. Specifically, there was a plan to have only one person interact with the Student during escalation, offering space and non-verbal communication options via symbolism if needed. The School Psychologist confirmed implementing various interventions (like a feelings meter) and communicating the Behavior Intervention Plan (BIP) to all relevant staff, also noting that the Parent delayed the Student's planned virtual special education services from an initial start of January 26, 2026, to February 9, 2026, due to the Student attending outpatient therapy.

Special Education Teacher 2 provided virtual instruction for 30 minutes twice daily from January to February 2026, using strategies like giving the Student options, though the Student had periods of non-attendance due to mental health issues. Both Special Education Teacher 1 and 2 implemented various interventions, including positive reinforcement, a feelings meter, preferential seating, and breaks with decreased demands, to support the Student's behavior. The General Education Teacher provided support such as a classroom calming kit, extended time, breaks, and decreased demands as the Student's behaviors increased. The teacher noted that the October 28, 2025, IEP amendment changed the Student's placement for reading and math, but they continued using the same behavioral strategies. The most successful strategies were providing choices, offering extended time, avoiding power struggles, and allowing time to self-regulate, though the Student was often observed to shut down and be unreceptive.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to implement the behavior supports as described in the Student's IEP.

Issue Four

Whether USD #394, in accordance with state and federal regulations implementing the IDEA, developed an IEP that met the Student's behavioral needs. K.A.R. 91-40-18(a)(b); 34 CFR § 300.324.

According to K.A.R. 91-40-18(a)(b) and 34 CFR § 300.324, in developing or reviewing the IEP of any exceptional child, each agency shall comply with the requirements of K.S.A. 72-987 and amendments thereto, and, as appropriate, shall consider the results of the child's performance on any general state or districtwide assessment programs. If, as a result of its consideration of the special factors described in K.S.A. 72-987(c) and amendments thereto, an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive FAPE, the IEP team shall include those items in the child's IEP.

The Parent alleged the BIP did not prevent the Student's recurring behavior.

The LEA responded that they took a progressive series of actions to ensure the Student was given access to strategies, supports and behavioral and academic curriculum.

The February 2025 IEP noted the Student's behavior as a special factor and the impact of the Student's ED, on their ability to fully participate with peers and instruction. The IEP included a goal and accommodations for emotional regulation. An FBA and BIP were developed in late October 2025 in response to increased Student behaviors and supports such as visuals, fidgets, alternate schedule and seating options, a feeling meter, allowing breaks, having one adult at a time speak with the Student, and support from the SRO were added to the IEP. Time spent in the special education classroom was also increased in late October and November 2025, to address the Student's need for more one-on-one support. In November 2025, the LEA made a referral to a special day school for the Student.

At the beginning of January 2026, the IEP was updated again to include an additional behavior goal with short-term objectives, and additional accommodations were added. The Student's placement was changed to virtual school and the team agreed to meet again at the end of January 2026. The Parent agreed to this placement change as the Student had been placed by the Parent in an outside inpatient setting. At the end of January 2026, the Parent informed the LEA the Student would be home for two weeks, and the IEP team developed temporary daily virtual instruction for the Student. The Student was admitted to an inpatient setting a second time that extended into February 2026, and virtual instruction was to be provided after the Student's discharge.

All of the IEP amendments were documented with PWNs. The Parent did not sign all the PWNs, and the Student was not available at school to implement any school-based changes. The LEA also sought out another program for the Student and this decision had not been formalized at the time the Complaint was filed. Throughout the 2025-26 school year, the LEA responded to the increased needs of the Student by meeting with the Parent, increasing and adjusting the IEP supports and documented the changes.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to develop an IEP that addressed the Student's behavior needs.

Issue Five

> Whether USD #394, in accordance with state and federal regulations implementing the IDEA, failed to provide the Student with a FAPE when education services were not provided during suspensions, the Student missed "large amounts of instruction", and the Student was not making meaningful progress. K.A.R. 91-40-2; 34 CFR § 300.101(a)(c).

According to K.A.R. 91-40-2 and 34 CFR § 300.101(a)(c), each agency shall provide FAPE in accordance with K.S.A. 72-966 and amendments thereto, and with this article. Each agency shall make FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday. An IEP or IFSP shall be in effect by the child's third birthday,

but if that birthday occurs during the summer when school is not in session, the child's IEP team shall determine the date when services will begin.

Each agency shall make FAPE available to any child with a disability, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination of whether a child advancing from grade to grade is a child with a disability shall be made on an individual basis in accordance with the child find activities and evaluation procedures required by this article. Each agency shall provide special education and related services based on the child's unique needs, not on the child's area of exceptionality.

The Parent alleged that the Student did not receive instruction during suspensions, missed significant instructional time, and was not making meaningful progress.

The LEA responded, saying the Student was not suspended for more than 10 school days, therefore, there is no requirement to provide educational services during suspension of 10 days or less.

The May 2025 IEP Progress Report documented the Student's progress on their emotional regulation goal went from 15% to 50%. When the Student transitioned to a new school year, concerns for the Student's behavior became evident in late September-beginning of October 2025. The IEP team met to adjust the IEP and in November 2025, conducted an FBA, developed a BIP, and sought out a different placement option for the Student that the Parent was to visit in January 2026. The December 2025 IEP Progress Report documented the Student's progress toward their emotional regulation goal was at 30%, a decline from the previous quarter. 2025-26 attendance records showed the Student was absent 24 % of the time, with five of these days being out-of-school suspensions. The Student was passing their academic classes, and had emerging or developing skills in their school behaviors.

The Student's behavior increased over the course of the first two quarters of the 2025-26 school year. The District and the Parent met several times to increase and adjust the IEP support, and an alternate program had been offered. The LEA was responding to the Student's increased needs, and the Student was receiving passing grades. Additionally, the four previous issues presented by this Complaint were found to not be substantiated.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to provide the Student with a FAPE.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at K.A.R. 91-40-33, 91-40-34(a)(b), 91-40-35 91-40-36; 34 CFR § 300.530 specifies if an agency proposes to change an educational placement for disciplinary reasons, the agency shall implement the provisions of K.S.A. 72-991a and amendments thereto.

In this case, the evidence supports the finding that USD # 394 did not complete an MDR meeting once the Student reached 10 days of OSS. Documentation, Interview, and the LEA Response letter of November 29, 2022 document this. It is noted that the parent reports a good outcome for her child in spite of the noncompliance.

Based on the foregoing, USD # 394 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD # 394 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 C.F.R. 300.301(c) and K.A.R. 91-40-8(f) by completing a MDR meeting, and, if it is determined the behavior is a manifestation of the Student's disability, USD # 394 shall review and amend the IEP, FBA, and/or BIP to ensure the Student's needs are supported through these documents.
2. Further, by June 1, 2026 USD, # 394 will complete the following: (1) submit a written statement of assurance to Special Education and Title Services (SETS) that the LEA's practices and procedures for discipline for students with disabilities regarding informal removals and when to complete an MDR have been reviewed and revised as appropriate to be responsive and compliant with the Individuals with Disabilities Education Act (IDEA) and the Kansas Special Education for Exceptional Children Act; (2), submit a written statement of assurance to Special Education and Title Services (SETS) that all LEA staff who are responsible for student discipline and initiating and/or participating in an MDR meeting have received training on the practices and procedures.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #459
ON FEBRUARY 19, 2026

DATE OF REPORT: MARCH 26, 2026

This report is in response to a complaint filed with our office on behalf of a student, --------, by their parent, --------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #459, Bucklin Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #459.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on February 19, 2026 and the 30-day timeline ended on March 21, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #459, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provided the Parent with a copy of the final Individualized Education Program (IEP) from the October 2025 and November 2025 IEP meetings. K.A.R. 91-40-18(d); 34 C.F.R. § 300.322(f).

ISSUE TWO: Whether USD #459, in accordance with state and federal regulations implementing the IDEA, provided staff with access to the IEP and implemented emotional supports for the Student. K.A.R. 91-40-16(b)(5); 34 C.F.R. § 300.323.

Investigation of Complaint

The Parent did not schedule an interview with the Complaint Investigator. The Case Manager and the Principal were interviewed on March 9, 2026. The Math Teacher, the Biology Teacher, the Business Teacher, the ACES Provider, the Agriculture Teacher, and the English Teacher completed a survey on March 6 and 9, 2026. In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. IEP Meeting Notes, 11/04/25
2. IEP Amendment Draft, 11/04/25
3. IEP Draft, 10/20/25
4. IEP Final, 10/20/25
5. IEP Final Amendment, 11/04/25
6. Paraprofessional Documentation, 10/20/2[5]
7. Teacher Snap Shot, no date
8. Teacher/Staff Survey, 03/06/26-03/10/26
9. Emails between parties, 08/15/25-02/25/26

Background Information

This investigation involved a fifteen-year-old ninth-grade student enrolled at a High School in USD #459. The Student is currently receiving special education or related services as a child with a disability per the IDEA in the area of Specific Learning Disability.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. On August 15, 2025, the Case Manager shared a document titled "CONFIDENTIAL - 25/26 Teacher IEP [S]napshot" with staff, including the Student's teachers. The Case Manager included the following message: "Here is the working IEP document for your records. PLEASE keep this CONFIDENTIAL! There is updated information for [REDACTED] as I just learned that one of our new students in [REDACTED] grade has an IEP. [REDACTED] I have updated some of [REDACTED] information based on [REDACTED] previous IEP at [REDACTED] last school, but know that this will change as soon as I have a new meeting for [REDACTED]. I will attempt to send out notifications to you when updates are made so that you know to check it."
2. On October 20 2025, both Parents provided the LEA consent, via signature, to "… Communicate and Send Files Electronically."

3. There were several October 20, 2025 IEP documents. Each set of documents contained the following relevant information:
    a. The October 20, 2025 DRAFT IEP included:
        i. A re-evaluation and an IEP were completed on October 20, 2025.
        ii. A signature page was signed by IEP meeting participants.
        iii. In the Parent Notifications and IEP Distribution section, the following was "checked":
            1. "Parents/legal education decision makers with different listed addresses are each to be sent a copy of the IEP."
    b. The October 20, 2025 IEP included:
        i. The signature page was not signed by any of the participants.
        ii. The "Consent to Communicate and Send Files Electronically" was unsigned.
        iii. Accommodations/Modifications: "Safe" person(s) whenever the Student needs to talk with someone when emotions/feelings have escalated, in all settings, both general and special education, for the duration that [the Student] needs for their emotions to be addressed and to be regulated in class from October 20, 2025 to October 19, 2026.
            1. Rationale: "Due to recent bullying concerns, the team agrees that it is important for [the Student] to have people in the building that [they] can go to when needed[,] especially due to current behavioral/social concerns. [The Student] may be able to advocate this need for [themself], but may also benefit from check[-]ins."
4. Prior Written Notice (PWN) dated October 20, 2025 indicated the IEP team met to determine the Student's eligibility for special education, a change in services, a change in placement, and other changes and included a description of the actions proposed and refused, explanations, options considered, a description of the data used, and factors relevant to the proposal or refusal. Consent was provided and documented with the Parent's signature on November 4, 2025. Delivery documentation indicated the document was hand-delivered to each parent on October 20, 2025.
5. A spreadsheet with the Student's name and the date of October 20, 202[5], indicated the Student had access to a "safe" person when emotions were escalated for the duration of the emotions to be addressed and "be regulated in class."
6. On October 23, 2025, the Case Manager emailed the Student's teachers, "I wanted to inform you all about IEP's that have been updated so far this year. I recently finished with … [the Student's] … [IEP] … . The updates have been added to the document shared with you at the beginning of the school year. I will include the attachment below for ease of access. Please review all accommodations to ensure that we are following the laws required of us through IDEA law. And please check back to this document

regularly to refresh yourself on the IEPs of the students you teach. If there was anything changed or added, I did bold it so you could see it more easily."

7. There were several November 4, 2025 IEP documents, one was titled "DRAFT," and one was titled "Amendment IEP." Each set of documents contained the following relevant information:
    a. The November 4, 2025 DRAFT IEP included:
        i. A signature page was signed by IEP meeting participants.
        ii. In the Parent Notifications and IEP Distribution section, the following was "checked":
            1. "Parents/legal education decision makers with different listed addresses are each to be sent a copy of the IEP."
        iii. In the Parental Input section, "Parent meeting to discuss the possible addition to the social/emotional area for concerns about depression and suicidal thoughts due to bullying incident(s) that have occurred. Parents would like for [the Student] to have a "safe" person to go to or a couple of people to go to."
        iv. Accommodations/Modifications: "Safe" person(s) whenever the Student needs to talk with someone when emotions have escalated in all special and general education settings (handwritten) for the duration that [the Student] needs for their emotions to be addressed and to be regulated in class, beginning on October 20, 2025 and ending on October 19, 2026.
            1. Rationale: "Due to recent bullying concerns, the team agrees that it is important for [the Student] to have people in the building that [the Student] can go to when needed[,] especially due to current behavioral/social concerns. [The Student] may be able to advocate this need for [themself]."
    b. The November 4, 2025 Amendment IEP "(Amendment Date: 11/04/25)" included:
        i. The signature page and the consent to communicate and send files electronically were unsigned.
        ii. Accommodations/Modifications: "Safe" person(s) whenever the Student needs to talk with someone when emotions/feelings have escalated, in all settings, both general and special education, for the duration the Student needs for their emotions to be addressed and to be regulated in class, beginning on November 4, 2025 and ending on October 19, 2026.
            1. Rationale: "Due to recent bullying concerns, the team agrees that it is important for [the Student] to have people in the building that [they] can go to when needed especially due to current behavioral/social concerns. [The Student] may be able to

advocate this need for [themself], but may also benefit from check[-]ins."

8. Per the November 4, 2025 IEP Amendment Form and the November 4, 2025 Parent Request IEP Meeting Notes, the Student's IEP was amended to include a "safe person" accommodation. Additionally, the "Parent Input" section of the IEP was updated.
9. A PWN dated October 20, 2025 indicated the IEP team met on November 4, 2025 to discuss changes to the IEP that did not involve services or placement and included a description of the actions proposed and refused indicating the IEP team met to discuss Parent concerns and agreed to update the Parent Input section of the IEP and add a "safe" person accommodation. Explanations, options considered, and a description of the data used were provided. Other relevant factors indicated "Services will begin 11/04/25 and will be provided on the dates that [the Student] is in attendance for the duration of the IEP." Consent was provided and documented with the Parent's signature. Delivery documentation indicated the document was hand-delivered to each parent on November 4, 2025.
10. On November 6, 2025, the Case Manager emailed the Student's teachers, "I wanted to let everyone know about an update to [the Student's] IEP accommodations. Please review the Teacher IEP snapshot to see [their] updated accommodation and ensure that it is being followed when needed."
11. On December 1, 2025, the Principal emailed the Parent regarding an assignment, "… A team of special education experts has conducted a thorough review of the assignment in question … and the specifics of the most recent Individualized Education Plan. All accommodations as written in [the Student's] IEP have been adhered to in the highest standard. None of the written and agreed[-]upon accommodations, as approved by the entire IEP team, make any exceptions for oral presentations. … If you believe the Individualized Education Plan that was written on October 20, 2025, no longer meets the academic needs of your student, please reach out to your student's special education teacher to discuss further options."
12. On February 13, 2026, the Parent emailed the LEA to share their concerns regarding the implementation of the Student's accommodations, "On 02/12/2026, my child reported that the accommodations outlined in their IEP were not followed. Additionally, the manner in which the situation was handled caused embarrassment and humiliation in front of peers. This has had an emotional impact on my child and has made them anxious about attending class." The Parent requested, "Immediate implementation of all IEP accommodations as written" and "A clear plan outlining how the school will prevent further incidents and protect my child's dignity in the classroom." On February 17, 2026, the Principal responded with several meeting date options. On February 18, 2026, the Parent replied to indicate they were not requesting a building-level meeting.
13. A Teacher Snap Shot spreadsheet noted the Student's initials, listed their accommodations, including "'Safe' person(s)-Whenever [the Student] needs to talk with someone when emotions/feelings have escalated," and provided a column of "additional information."

14. On February 24, 2026, the Case Manager emailed the Student's teachers, "I am checking in on a student's accommodation. [The Student] has the ability to go speak with a safe person as a part of [their] social/emotional regulation. I am checking in to see if [the Student] has utilized this in your class." The following teachers replied:
    a. Health Teacher: "[The Student] has not used it in my class."
    b. Business Teacher: "[The Student] has not asked for this."
    c. Math Teacher: "[The Student] has not requested it in my class … ."
    d. English Teacher: "Nope."
15. On February 25, 2026, the Case Manager emailed the Safe Person "… to check in to see if [the Student] has come in to talk with you at all since the beginning of November [2025] when the accommodation was added." The Safe Person replied the same day, "I am one of [the Student's] safe people but [the Student] has not come to me since we last had that conversation. The last time [the Student] came to my office was when [the Student] felt targeted with the … drama incident last semester. I have told [the Student] and [the Parent] that [the Student] is always welcome to see me but [the Student] has not come to my office in a long time."
16. On February 25, 2026, in an email exchange between the Parent and the School Psychologist, the Parent asked if the LEA had the Parent's updated address and requested a copy of the Student's "… last final [IEP] as I cannot make sure it is being enforced." The School Psychologist replied on the same day, confirming the LEA had the correct address and indicated it was updated when "we amended the IEP." The School Psychologist attached a November 4, 2025 IEP and the "Parent Rights" to the email.

Teacher/Staff Surveys

17. Between March 6, 2026 and March 10, 2026, the Student's teachers and support staff were surveyed to gather information regarding the allegations in this case. Survey responses included:
    a. 6/7 staff members responded, including the English Teacher, the Agriculture Teacher, the Math Teacher, the ACES Provider, the Biology Teacher, and the Business Teacher.
    b. Of the 6 staff members surveyed, all 6 confirmed they had access to the Student's October 20, 2025 IEP.
        i. 3/6 indicated they accessed the IEP within one week of October 20, 2025.
        ii. 1/6 was not sure when they accessed the IEP.
        iii. 2/6 indicated they accessed the IEP on December 1, 2025.
    c. 5/6 staff members confirmed seeing, accessing, and/or receiving the October 20, 2025 accommodations spreadsheet electronically from the Case Manager or the Principal between August 15, 2025 and October 23, 2025.

i. The ACES Provider indicated they did not see, access, or receive the October 20, 2025 accommodations spreadsheet until it was shared by the Complaint Investigator during the investigation.

d. 5/6 staff members confirmed being informed of the Student's amended IEP dated November 4, 2025 via email from the Case Manager between November 4, 2025 and December 1, 2025.
    i. The ACES Provider indicated they did not know how they were informed of the Student's November 4, 2025 amended IEP and wrote, "I got access to an updated teacher IEP snapshot Friday[,] March 6th [,] [2026]."

e. 6/6 staff members confirmed seeing, accessing, and receiving the Student's November 4, 2025 IEP Snap Shot via email, a copy, or by shared access from the Case Manager.
    i. 2/6 staff members indicated they accessed or received the document on August 15, 2025 or during inservice week. However, the IEP snapshot was not created until November 4, 2025.
    ii. 3/6 staff members indicated they accessed or received the document between November 4, 2025 and November 6, 2025.
    iii. 1/6 staff members indicated, "I think I got a copy back in Sept[ember] but [G]oogle access on March 6th[,] [2026]."

f. When asked how the "safe person" accommodation was implemented between October 20, 2025 and February 19, 2026, staff members responded with the following:
    i. English Teacher: "Frequent check[-]ins with [the Student], especially when I can see that [the Student] is not working or is getting frustrated. I leave it up to [the Student] to advocate for [themself] if [the Student] needs to see [their] 'safe' person."
        1. The English Teacher added: "I feel that I have a comfortable enough relationship with [the Student] that [they] would feel comfortable asking to see [their] 'safe' person, especially since [the Student] knows that this is in [their] IEP. [The Student] has not once asked me to leave the classroom during my class, even to use the restroom ([the Student] does this before class). The only time that [the Student] leaves is when [the Student] is dismissed for sports."
    ii. Agriculture Teacher: "[The Student] has not asked to see or talk to anyone outside of my classroom during my classes."
    iii. Math Teacher: "It was available to [the Student], but [the Student] has never utilized this accommodation in my class."
    iv. ACES Provider: "I do not have any recollection of [the Student] needing this during the few times I had [the Student] for the 25 minutes we had

for ACES time. I know [the Student] was gone from my room quite a bit[,] but I do not remember [the] exact dates."

v. Biology Teacher: "I have [provided] fill[-]in[-]the[-]blank notes and given [the Student] extra time on work. All my students are told that they can talk to me if they need to."

vi. Business Teacher: "If [the Student] needed to talk with [their] 'safe' person [the Student] was to come to me and tell me [they] needed to be excused from my room. Had [the Student] ever requested this I would have documented it in my planner, sent my admin, the S[pecial] E[ducation] teacher, and [the Student's] 'safe' person an email so we had an electronic confirmation and excused [the Student] from my room."

Case Manager Interview

18. In an interview with the Complaint Investigator, the Case Manager described a multi-step process for finalizing and distributing IEP documents to families. During IEP meetings, the Case Manager provides a draft copy for parents to take home. Following the meeting, the Case Manager records any agreed-upon changes on that draft and enters the updated data into the LEA's computer platform. A finalized copy is only generated once the IEP has been submitted and processed through this system. The Case Manager stated they do not utilize electronic delivery and typically mail all final IEP documents to families. They noted they do not maintain formal documentation of these mailings, such as a log, but rely on a personal paper checklist to track their tasks.
19. The Case Manager described the specific timeline for delivering the Student's IEP to the Parent. For the October 20, 2025 meeting, the Case Manager stated they shared a draft copy at the meeting and intended to send the finalized version the following week. However, the Parent requested an amendment meeting shortly thereafter, which the Case Manager explained put the final processing of the October document on hold. At the subsequent meeting on November 4, 2025, the Case Manager hand-delivered another draft copy of the IEP, which the Parent took. The Case Manager submitted the finalized, amended IEP into the LEA's computer platform on November 26, 2025. They subsequently mailed the finalized version to the Parent during the first week of December 2025.
20. The Case Manager stated they obtained signatures from the Parent at the annual meeting in October 2025 when discussing Student placement, accommodations, and services. At the subsequent amendment in November 2025, they once again obtained signatures.
21. In regards to the Student's safe person accommodation, the Case Manager explained the accommodation was established following a meeting with the Parent to address concerns regarding the Student's social-emotional well-being. The team agreed the Counselor and the Principal would serve as the designated safe persons, and the Student was permitted to visit them whenever they felt the need. The Case Manager instructed both designated safe persons and the Student's teachers to maintain

documentation regarding the frequency of these requests and visits to collect data. However, the Case Manager stated no documentation of the accommodation being utilized exists because the Student never requested to see either designated person.

Principal Interview

22. In an interview with the Complaint Investigator, the Principal stated the delay in providing a finalized IEP following the October and November 2025 meetings was due to a combination of administrative and systemic factors. They explained the October 20, 2025 IEP was never "locked down" by the special education service center because an amendment was requested shortly after, resulting in both meetings being rolled into a single updated document. The Principal noted the finalization process was further delayed by the Thanksgiving holiday break and there were two dates, but really one IEP.
23. The Principal explained staff were kept informed of all student needs through a working document hosted in a platform. This document, which contained all identified general student goals and accommodations, was shared with every teacher and paraprofessional to ensure they had access to changes in "real time." The Principal shared this system puts the necessary information at the teachers' "fingertips" to ensure immediate implementation. The Principal stated the Case Manager updated the document after each IEP with updated IEP information. Additionally, they noted staff were reminded of this document during professional development at the start of the year and through monthly Professional Learning Community (PLC) meetings.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #459, in accordance with state and federal regulations implementing the IDEA, provided the Parent with a copy of the final IEP from the October 2025 and November 2025 IEP meetings. K.A.R. 91-40-18(d); 34 C.F.R. § 300.322(f).

According to K.A.R. 91-40-18(d), each agency shall give the parent a copy of the child's IEP at no cost to the parent.

The Parent alleged they had not received a copy of the finalized IEP after the October 2025 and November 5, 2025 IEP meetings.

The LEA stated their practice was to provide a draft copy of the proposed IEP to all team members, including parents, during the annual meeting, which occurred for the October and November 2025 meetings. Furthermore, LEA policy required corrections to be completed within five working days after the meeting was done, and stated this procedure was followed for both the October and November 2025 meetings. In addition to providing an electronic copy of the IEP at the Paent's request, the District maintained it followed all proper protocols.

During their interview, the Case Manager described how a finalized IEP was only generated once it was processed in the LEA's computer system. They also indicated they only mailed final

copies of IEPs, but did not have any formal documentation of such mailings in this case. The Case Manager stated they gave the Parent draft copies of both IEPs, but did not submit the final IEP in the LEA's computer system until November 26, 2025 and mailed the IEP to the Parent during the first week of December 2025. This was corroborated by the Principal. The Principal also stated the finalization process was delayed by the Thanksgiving break.

From the evidence, it could be determined the Parent did not receive the final version of the October 20, 2025 IEP because it was amended shortly after its creation and resulted in the amended IEP from November 4, 2025. Thirteen school days passed between when the Parent signed their consent on the PWN and IEP Amendment Form on November 4, 2025, and when the Case Manager submitted the IEP into the LEA's computer system. Even though the specific date of the mailing could not be determined from the evidence, approximately 18 school days (not including the holiday break) would have passed since the day the IEP was amended and when the final IEP was mailed to the Parent during the first week of December 2025. The IDEA does not specify a hard deadline of when parents should receive a final copy of the IEP. In this case, there was no evidence to conclusively determine when the Parent actually received the mailed final copy of the November 4, 2025 IEP or corroborate when the Case Manager mailed it. The evidence also did not indicate the timing of the delivery of the IEP negatively impacted the Parent's ability or right to participate in the Student's education.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Parent with a copy of the final IEP from the October 2025 and November 2025 IEP meetings.

Issue Two

Whether USD #459, in accordance with state and federal regulations implementing the IDEA, provided staff with access to the IEP and implemented emotional supports for the Student. K.A.R. 91-40-16(b)(5); 34 C.F.R. § 300.323.

According to K.A.R. 91-40-16(b)(5), each teacher and provider must be informed of their specific responsibilities related to implementing the child's IEP, including the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged without the finalized IEP, they were unable to verify if and how emotional supports were being implemented across staff for the Student.

The LEA stated it was their practice to provide an abbreviated version of the IEP to all faculty and staff working directly with students to ensure they had essential practitioner-level information, including all required accommodations, modifications, and behavioral interventions. While the LEA also provided complete finalized copies of the IEP to any school employee with a legitimate need who requested one, the LEA stated no such requests were made by School personnel in this case. According to the LEA, the building administrator and

special education teacher met with every individual working with the Student to inform them of their specific responsibilities regarding specialized instructional services and support. The LEA disputed any claims educators were unaware of or failed to implement behavioral supports, as the team followed the IEP as agreed.

On August 15, 2025, the Case Manager shared a working IEP spreadsheet with staff, including the Student's teachers. On October 23, 2025, the Case Manager emailed the Student's teachers about updates to the Student's IEP. Their email referenced the aforementioned IEP spreadsheet the teachers received at the start of the school year, meaning the teachers already had access to the IEP. The Case Manager also emailed staff on November 6, 2025, alerting them to a change in the Student's IEP and instructing them to review the Teacher IEP Snap Shot for updated information.

This was corroborated by the information gathered in the staff survey. All six staff members indicated they had access to the Student's October 20, 2025 IEP and the IEP Snap Shot document. A majority of the staff who responded (5 out of 6) indicated they had access to the Student's accommodations spreadsheet and November 4, 2025 IEP amendment. The ACES Provider's response indicated they did not see the accommodations spreadsheet until the complaint investigation started and they were unsure how they were notified about the November 4, 2025 IEP amendment. However, the evidence did not show the ACES Provider's access to these documents negatively impacted the Student's education.

On February 24, 2026, the Case Manager emailed the Student's teachers and asked if the Student had utilized their "safe person" accommodation. The Health Teacher, the Business Teacher, the Math Teacher, and the English Teacher confirmed the Student never requested to use the accommodation. The following day, the designated "Safe Person" confirmed the Student had not visited their office since the accommodation was added in November 2025.

The evidence showed the LEA fulfilled its obligation to provide staff access to the Student's IEP. There was not any data to indicate the IEP was not followed. Every teacher confirmed that while the "safe person" protocol was available, the Student did not advocate for or use it during the specified timeframe.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to provide staff with access to the IEP and implement emotional supports for the Student.

Corrective Action

No corrective action has been ordered as there were no findings.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #475
ON FEBRUARY 11, 2026

DATE OF REPORT: MARCH 10, 0226

This report is in response to a complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #475, Junction City Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #475.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on February 11, 2026, and the 30-day timeline ended on March 13, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #475, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provided the Parent with an opportunity to participate in the February 9, 2026 Individualized Education Program (IEP) meeting. K.A.R. 91-40-17(a)(d)(e)(1)(2); 34 §§ C.F.R. 300.322(d), 300.501(b).

ISSUE TWO: Whether USD #475, in accordance with state and federal regulations implementing the IDEA, made amendments to the Student's IEP through a properly convened IEP meeting, or a written agreement. K.S.A. 72-987(b)(1), K.A.R. 91-40-18(a)(b)(1)(4); 34 §§ C.F.R. 300.322, 300.324.

ISSUE THREE: Whether USD #475, in accordance with state and federal regulations implementing the IDEA, developed an IEP for the Student that included sufficient present levels of academic achievement and functional performance. K.S.A. 72-3429(c)(1); 34 § C.F.R. 300.324.

ISSUE FOUR: Whether USD #475, in accordance with state and federal regulations implementing the IDEA, placed the Student in their least restrictive environment (LRE), and whether the placement decision was made in conformity with the IDEA and Kansas administrative rules. K.S.A. 72-3420, K.A.R 90-40-21; 34 §§ C.F.R. 300.114, 300.116.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on March 5, 2026. The Case Manager was interviewed on March 6, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. IEP, 02/28/25
2. Prior Written Notice (PWN), 02/28/25
3. IEP Amendment Between Annual IEP Meetings, 02/09/26
4. Part of the IEP with Notes, 02/28/25
5. My Daily Report, 01/09/26, 01/13/26, 01/14/26, 01/16/26, 01/21/26
6. Email, re: Meeting, 02/05/26
7. Message Exchange, no date
8. Notice of Meeting, 02/06/26
9. Staffing Summary, 02/09/26
10. Part of the IEP with Notes, 02/09/26
11. Behavior Documentation, 02/05/26-02/10/26
12. My Daily Report, 01/12/26-02/09/26
13. Message Exchange, 01/07/[25]-02/18/[25]
14. PWN, 02/09/26
15. Special Education Standard Operating Procedures, 2025-26 School Year
16. IEP Amendment Between Annual IEP Meetings, 02/09/26
17. PWN, 02/28/25
18. IEP, 02/28/25
19. IEP Goal and Objectives, 02/28/25
20. IEP Goal and Objectives - Related Services, 02/28/25
21. IEP Goal and Objectives, 02/28/25
22. Staffing Summary, 02/28/25

Background Information

This investigation involved a fourth-grade student enrolled at an elementary school in USD #475. The Student is currently receiving special education or related services as a child with a disability per the IDEA. The Student is a happy child and enjoys hugs and attention from staff. The Student shows an ability to work independently on mastered skills when given a structured work system and reinforcement when finished.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. The Student's IEP, dated February 28, 2025, included handwritten notes stating, "This is not the updated IEP" and "No parent input on 2-9-2026". The Parent confirmed they wrote the notes. The information in the IEP was obtained by gathering parent and staff input, and formal and informal assessments. The Student's primary exceptionality was autism. Relevant information included:
    a. Present Level of Academic Achievement and Functional Performance (PLAAFP):
        i. The Student received an autism and Attention-Deficit/Hyperactivity Disorder (ADHD) diagnosis on May 15, 2021. The Parent provided medical documentation on February 5, 2024, stating the Student had a medical history of phimosis and voiding dysfunction.
        ii. Academic Performance (reading, writing, and math) - The Student's barriers of scrolling on computer programs and completing tasks affected their rate of progress in learning programs. The Student made errors on skills they had mastered due to a lack of motivation. The Student did not demonstrate ongoing consistency in skills due to behavioral barriers, but indicated mastery when they showed three consecutive mastery trials or 70% mastery or higher cumulatively over time. The Student could "identify colors and tact the colors" with help from their communicative device. The Student was inconsistent in identifying numbers, but could frequently identify numbers one through five. The Student showed regression in these skills when they returned for the 2024-25 school year, so the goal was changed to decrease the number of items within a trial. Over the past IEP period, the Student mastered 14 new skills across various domains, demonstrating growth in verbal and non-verbal areas. They advanced in language, communication, social skills, academic subjects, and daily functioning. The Student progressed in manding, tacting, and receptive language. The Student's addition of skills in reading, writing, and math suggested they were building a foundation for further

learning and engagement in structured educational environments. The Student's strongest areas were in match-to-sample, play, and reading, while their weakest areas were in echoic and vocal.

1. Goal #1 - "By the end of the IEP year, [the Student] will produce 2-word descriptive phrases to include size or color and known object label when shown pictures[,] scoring 60% cumulative accuracy."
2. Goal #2 - "By the end of the IEP year, [the Student] will be able to independently copy the letter E after staff have provided an example of it and be legible to unfamiliar adults on 3 out of 5 trials."
3. Goal #3 - "By the end of the IEP year, [the Student] will be able to show 1:1 correspondence to 3 or 4 out of 5 trials by counting out the objects when presented with the number."

iii. Functional/Adaptive - The Student could do tasks when provided assistance from an adult to guide them and help them focus. An adult monitored the Student's hygiene and self-care tasks to ensure all steps were completed. The Student could use the restroom independently, but sometimes needed reminders to stay focused. The Student could wash their hands with some reminders, and use a fork and spoon to feed themselves. The Student could open their water bottle and drink from it, but required some help to unscrew the bottle to fill it. The Student played on their own most of the time. During the transition, the Student needed an adult to provide hand-over-hand assistance when walking in the hallways. The Student listened when their name was called and followed basic commands.

1. Goal #1 - "By the end of the IEP year, [the Student] will be able to answer with [their] first and last name when asked, 'what is your name?' and be able to answer when asked, 'what is your address?' with the use of [their] device on 4 out of 5 trials."

iv. Communication - During the past IEP year, therapy focused on the Student's use of communication, including functions beyond requesting preferred items or needs, and on the use of two-word phrases to increase their utterance length. The Student was allowed to use a total communication approach to interact and respond. They required access to low- or high-tech augmentative and alternative communication (AAC) across all educational settings to enable effective communication with adults and peers. When prompted, the Student would "get their words" and be responsible for independently carrying their device. The Student did not demonstrate consistent motor memory for non-meaningful words or

for navigating words across a variety of categories. During the past IEP year, language was modeled on the Student's AAC device and verbally for a variety of functions. The Student was starting to use their voice to say "no" and "like." The Student would imitate up to five two-word utterances with maximum prompting during a session. Based on previous evaluation and current performance, the Student needed to focus on specific vocabulary from common categories. The Student could identify named pictures from two choices with 60% accuracy but was unable to independently navigate their AAC device to select the correct label.

1. Goal #1 - "By the end of the IEP year, [the Student] would produce 2 new object labels for previously unknown objects from categories of clothing, animals, vehicles, furniture, and food when shown picture vocabulary without support."
2. Goal #2 - "By the end of the IEP year, [the Student] will provide 2-word descriptive phrases without support to include size or color and known object label when shown pictures[,] scoring 60% cumulative accuracy."

v. Social/Emotional Behavior - The Student followed directions they understood well without becoming upset. The Student would play next to peers, but would get upset if a peer received attention and they wanted attention. The Student made zero attempts to hit staff or others during the current school year. The Student hit their fist on the table twice in the last 10 days. The Student engaged in non-harmful headbutting when frustrated and trying to communicate. The Student did well regulating their emotions and working through frustrating tasks.

1. Goal #1 - "By the end of the IEP year, [the Student] will decrease scrolling behavior as shown by being able to complete a transfer trial with material [they] [are] asked to point to out of a field of 3 … on 4 out of 10 trials."
2. Goal #2 - "By the end of the IEP year, when shown a video clip of [the Student] being sad, mad, and happy - [the Student] will be able to identify on [their] speech device what emotion [they] [were] showing in the video when asked, 'what feeling?' with an accumulative accuracy of 80% over 10 trials."

vi. Gross/Fine Motor - The Student used strategies throughout the day to help regulate their body for learning. The Student had scheduled breaks throughout the day but was given opportunities for regulation when they requested or appeared dysregulated. Their schedule included:

1. 8:10 a.m. - The Student was provided with high-fives to incorporate proprioceptive input.
2. 8:45 a.m. - A "brain break" where the Student bounced or rolled the ball.
3. 9:10 a.m. - Sensory time where the Student was given a choice board and chose what sensory input they wanted.
4. 9:45 a.m. - Another "brain break".
5. 10:25 a.m. - Recess, where the Student enjoyed swinging, climbing the stairs, and going on the slide. They were given sensory or play choices in the classroom.
6. 11:05 a.m. - Another "brain break".
7. 12:05 p.m. - The Student was given a choice of activities to regulate their body, such as bouncing, standing, and rocking.
8. 12:55 p.m. - The Student was given a movement break in music class after 10 minutes, or earlier if dysregulated.
9. 2:15 p.m. - Recess, where the Student was with their peers in class. The Student enjoyed swinging. The Student had the choice during this time to allow more access to peers.
10. 3:30 p.m. - Bus dismissal, and the Student had the choice to bounce to regulate their body before riding the bus.

vii. Occupational Therapy (OT) - The Student demonstrated emerging motor and sensory-motor skills, with strengths in fine motor skills, sensory-motor and bilateral motor coordination, and self-regulation/social-emotional. Based on observations, data collection, and staff collaboration, it was recommended the Student would work on fine motor development, sensory integration, and social-emotional support. Areas to be considered for a therapist to support in the classroom setting included: improving ability to imitate and write letters, specifically addressing the Student recognizing their name and being able to consistently imitate; continue to work on crossing the middle to incorporate using both sides of their body in functional activities, and expanding self-regulation strategies through the use of all communication to advocate what input the Student required for their body. It was noted the Student demonstrated inconsistent skills due to decreased motivation with some tasks. The Student benefited from a multi-sensory approach, visual supports, and structured activities to encourage skill development. Continued collaboration with the educational team and family would support the Student's progress in those areas.

1. Goal #1 - "By the end of the IEP year, [the Student] would be able to independently copy the letter E after staff have

provided an example and it be legible to unfamiliar adults on 3 out of 5 trials."

b. The Student exhibited delays in communication, academic, social/emotional, and functional/adaptive areas of development. Delays in communication affected the Student's ability to get their needs and wants met. Delays in academic areas affected their ability to display learning and retain skills. Delays in social/emotional areas impacted the Student's ability to build relationships with others, and delays in the functional/adaptive area affected the Student's ability to perform functional/adaptive tasks, such as going to the restroom without adult supervision and following one-step directions in their daily routine.

c. The Student received the supplementary aids and services/accommodations in either all educational settings or the special education Adaptive Social and Communication Skills (ACSS) classroom, starting February 28, 2025.

d. Program Modification Services started on February 28, 2025, and took place in the ACSS classroom. These included:

   i. 1:1 direct instruction and independent work systems, two times per class session, for 20 minutes.

   ii. Essential Elements (EE) standards, when grade level standards were above the Student's level, through the completion of the lesson.

   iii. Training of alternative-augmentative communication and aided language stimulation, once per year for all ACSS staff who work with the Student, for 15 minutes.

   iv. Communication and training with the bus staff on the Student's IEP and transportation considerations, including ensuring the safety vest was used and proper behavior strategies as outlined in the IEP. This would occur prior to the start of the school year and every quarter, and if/when there was a change in staff, for 20-40 minutes to review the plan.

e. Special Education and Related Services from February 28, 2025 through May 21, 2025, and also from August 11, 2025, through February 27, 2026, every week, including:

   i. Speech service for 20 minutes, for two days, in the area of speech-language.

   ii. Occupational Therapy (OT) for 15 minutes for one day a week.

   iii. Special Education for 15 minutes, for five days, in the area of social.

   iv. Special Education for 355 minutes, for two days, in the areas of academics, social/emotional, and life skills.

   v. Special Education for 375 minutes, for two days, in the areas of academics, social/emotional, and life skills.

vi. Special Education for 360 minutes, for one day a week, in the areas of academics, social/emotional, and life skills.

vii. Special Education for 40 minutes, for five days, during lunch/recess.

viii. Special Education for 15 minutes, for five days, after school, while waiting for the bus.

ix. Transportation for 40 minutes, for five days, for transportation to and from school.

f. The Student's educational placement stated the Student would not participate with their non-identified peers in the general education setting during the time they received resource-based speech-language services due to their need for specially designed instruction (SDI) in a small-group setting with limited distractions, and described the aforementioned services.

g. The Parent signed the IEP on February 28, 2025. A Staffing Summary regarding the February 28, 2025, meeting summarized the aforementioned information.

2. Relevant information from the IEP Goal and Objectives documents, related to the Student's February 28, 2025, IEP, indicated:

a. PLAAFP Baseline data: "[The Student] shows an understanding of 1 with 70% accuracy, 2 and 3 with 50% accuracy, 4 and 5 [the Student] does not currently show an understanding for."

b. Measurable Annual Goal: "By the end of the IEP year, [the Student] will be able to show 1:1 correspondence to 3 on 4 out of 5 trials by counting out the objects when presented the number."

c. Short-term objectives or benchmarks:

i. "By the end of quarter one, [the Student] will be able to show 1:1 correspondence to 2 on 3 out of 5 trials by counting out the objects."

ii. "By the end of quarter two, [the Student] will be able to show 1:1 correspondence to 2 on 4 out of 5 trials by counting out the objects."

iii. "By the end of quarter three, [the Student] will be able to show 1:1 correspondence to 3 on 3 out of 5 trials by counting out the objects."

iv. "By the end of the IEP period, [the Student] will be able to show 1:1 correspondence to 3 on 4 out of 5 trials by counting out the objects."

d. PLAAFP Baseline data: "[The Student] is currently able to identify what color something is when asked, 'what color?' [The Student] is able to identify directly taught nouns when asked, 'what's this?' or asked to point out of a field of 3. [The Student] does not currently produce 2-word phrases independently."

e. Measurable Annual Goal: "By the end of the IEP year, [the Student] will produce 2-word descriptive phrases without support to include size or color

and known object label when shown pictures[,] scoring 60% cumulative accuracy."

f. Short-term objectives or benchmarks:

   i. "By the end of the first quarter, [the Student] will produce 2-word descriptive phrases without support to include size or color and known object label when shown pictures[,] scoring 10% cumulative accuracy."

   ii. "By the end of the second quarter, [the Student] will produce 2-word descriptive phrases without support to include size or color and known object label when shown pictures[,] scoring 20% cumulative accuracy."

   iii. "By the end of the third quarter, [the Student] will produce 2-word descriptive phrases without support to include size or color and known object label when shown pictures[,] scoring 40% cumulative accuracy."

   iv. "By the end of the IEP year, [the Student] will produce 2-word descriptive phrases without support to include size or color and known object label when shown pictures[,] scoring 60% cumulative accuracy."

g. PLAAFP Baseline data: "[The Student] can currently copy the prewriting shapes outside of the triangle and square due to the corners."

h. Measurable Annual Goal: "By the end of the IEP year, [the Student] will be able to copy the letter E after staff have provided an example and it be legible to unfamiliar adults on 3 out of 5 trials."

i. Short-term objectives or benchmarks:

   i. "By the end of the first quarter, [the Student] will be able to trace the letter E after staff have provided an example and it be legible to unfamiliar adults on 3 out of 5 trials."

   ii. "By the end of the second quarter, [the Student] will be able to copy the letter E after staff have provided an example and it be legible to unfamiliar adults on 1 out of 5 trials."

   iii. "By the end of the third quarter, [the Student] will be able to copy the letter E after staff have provided an example and it be legible to unfamiliar adults on 2 out of 5 trials."

   iv. "By the end of the IEP year, [the Student] will be able to copy the letter E after staff have provided an example and it be legible to unfamiliar adults on 3 out of 5 trials."

j. PLAAFP Baseline data: "[The Student] has a need to focus on specific vocabulary from common categories (ex., clothing, animals, vehicles, furniture, food) as [the Student] has not securely acquired expressive labels or knowledge of vocabulary on [their] ACC device from modeling alone.

During a recent probe, [the Student] could identify named pictures from 2 choices with 60% accuracy, but [the Student] was not able to independently navigate [their] AAC device to find the correct label (0%)."

k. Measurable Annual Goal: "By the end of the IEP year, [the Student] will produce 2 new object labels for previously unknown objects from each of the categories of clothing, animals, vehicles, furniture, and food when shown picture vocabulary without support."

l. Annual Educational Goal(s) to be supported: "By the end of the IEP year, [the Student] will produce 2-word descriptive phrases without support to include size or color and known object label when shown pictures scoring 60% cumulative accuracy."

m. Short-term objectives or benchmarks:

   i. "By the end of the 4th quarter, [the Student] will produce 1 new object label for previously unknown objects from at least 3 of the categories of either clothing, animals, vehicles, furniture, and food when shown picture vocabulary without support."

   ii. "By the end of the 1st quarter, [the Student] will produce 1 new object label for previously unknown objects from each of the categories of either clothing, animals, vehicles, furniture, and food when shown picture vocabulary without support."

   iii. "By the end of the second quarter, [the Student] will produce 2 new object labels for previously unknown objects from at least 3 of the categories of clothing, animals, vehicles, furniture, and food when shown picture vocabulary without support."

   iv. "By the end of the IEP year, [the Student] will produce 2 new object labels for previously unknown objects from each of the categories of either clothing, animals, vehicles, furniture, and food when shown picture vocabulary without support."

n. PLAAFP Baseline data: "[The Student] is not currently able to," produce 2 new object labels for previously unknown objects.

o. Measurable Annual Goal: "By the end of the IEP year, [the Student] will be able to answer with [their] first and last name when asked, 'what is your name?' and be able to answer when asked, 'what is your address?' with the use of [their] device on 4 out of 5 trials."

p. Short-term objectives or benchmarks:

   i. "By the end of the first quarter, [the Student] will be able to answer with [their] first and last name when asked, 'what is your name?' with the use of [their] device on 2 out of 5 trials."

   ii. "By the end of the second quarter, [the Student] will be able to answer with [their] first and last name when asked, 'what is your name?' with the use of [their] device on 4 out of 5 trials."

iii. "By the end of the IEP year, [the Student] will be able to answer with [their] address when asked, 'what is your address?' with the use of [their] device on 2 out of 5 trials."

iv. "By the end of the IEP year, [the Student] will be able to answer with [their] first and last name when asked, 'what is your name?' and be able to answer when asked, 'what is your address?' with the use of [their] device on 4 out of 5 trials."

q. PLAAFP Baseline data: "[The Student] is unable to identify [their] emotions when asked and currently uses behaviors to communicate when [they] [are] upset."

r. Measurable Annual Goal: "By the following IEP year, when shown a video clip of [the Student] being sad, mad, and happy, [they] will be able to identify on [their] speech device what emotion [the Student] was showing in the video when asked, 'what feeling?' with an accumulative accuracy of 80% over 10 trials."

s. Short-term objectives or benchmarks:

i. "By the end of the first quarter, when shown a video clip of [the Student] being mad, [they] will be able to identify on [their] speech device what emotion [the Student] was showing in the video when asked, 'what feeling?' with an accumulative accuracy of 60% over 10 trials."

ii. "By the end of the second quarter, when shown a video clip of [the Student] being mad and happy, [they] will be able to identify on [their] speech device what emotion [the Student] was showing in the video when asked, 'what feeling?' with an accumulative accuracy of 60% over 10 trials."

iii. "By the end of the third quarter, when shown a video clip of [the Student] being mad and happy, [they] will be able to identify on [their] speech device what emotion [the Student] was showing in the video when asked, 'what feeling?' with an accumulative accuracy of 80% over 10 trials."

iv. "By the following IEP year, when shown a video clip of [the Student] being sad, mad, and happy, [they] will be able to identify on [their] speech device what emotion [the Student] was showing in the video when asked, 'what feeling?' with an accumulative accuracy of 80% over 10 trials."

t. PLAAFP Baseline data: "[The Student] currently is able to point to items shown (errorless), and when field of 3 is mixed, can then choose the correct item with 50% accuracy on known items, [the Student] is unable to complete a transfer trial at this time."

u. Measurable Annual Goal: "By the following IEP year, [the Student] will decrease scrolling behavior as shown by being able to complete a transfer trial with material [the Student] is asked to point to out of a field of 3 … [the Student] is asked to point to a different (already mastered) card out of the field of 3 … then asked for original picture card and able to produce the answer on 4 out of 10 trials."

v. Short-term objectives or benchmarks:

i. "By the end of the first quarter, [the Student] will decrease scrolling behavior as shown by being able to complete a transfer trial with material [the Student] is asked to point to out of a field of 3 … [the Student] is asked to point to a different (already mastered) card out of the field of 3 … then asked for original picture card and able to produce the answer on 1 out of 10 trials."

ii. "By the end of the second quarter, [the Student] will decrease scrolling behavior as shown by being able to complete a transfer trial with material [the Student] is asked to point to out of a field of 3 … [the Student] is asked to point to a different (already mastered) card out of the field of 3 … then asked for original picture card and able to produce the answer on 2 out of 10 trials."

iii. "By the end of the third quarter, [the Student] will decrease scrolling behavior as shown by being able to complete a transfer trial with material [the Student] is asked to point to out of a field of 3 … [the Student] is asked to point to a different (already mastered) card out of the field of 3 … then asked for original picture card and able to produce the answer on 3 out of 10 trials."

iv. "By the following IEP year, [the Student] will decrease scrolling behavior as shown by being able to complete a transfer trial with material [the Student] is asked to point to out of a field of 3 … [the Student] is asked to point to a different (already mastered) card out of the field of 3 … then asked for original picture card and able to produce the answer on 4 out of 10 trials."

3. An undated PWN stated on February 28, 2025, the IEP team reviewed the evaluation/assessment data, current classroom-based assessments and observations, and teacher/staff input to determine: special education and related services required by the Student, the appropriate placement to provide special education and related services identified in the Student's IEP, and any additions, changes, or modifications to the special education and related services or educational program that were needed to enable the Student to meet the measurable goals in their IEP and to participate, as appropriate, in the general curriculum.

a. The PWN included a description of the proposed services the Student would receive, starting February 28, 2025.

b. The explanation of why the services were proposed stated the Student continued to demonstrate communication delays, which negatively impacted them across their educational setting. Due to their needs, the Student required SDI in a setting with fewer distractions and greater opportunities to learn and practice skills. The PWN indicated the Student's special education services and placement in the ACSS specialized program continued to be the most appropriate, given their current barriers and the support needed to enable them to make progress toward their IEP goals.

c. The PWN stated the team considered increasing the Student's general education time. It was rejected due to limited time in the general education setting being meaningful for the Student compared to what they would be doing in the ACSS program classroom, and to the duration the Student was able to remain regulated in that setting without becoming overstimulated.

d. The Parent signed the PWN on February 28, 2025.

4. The Parent sent a text message to the Case Manager on January 13, 2025, which stated, "On [the Student's] home note, it says [they] took off [their] clothes 3 times today. … I think [the Student] [is] not used to wearing diapers[,] that's maybe the reason why [the Student] keeps putting [their] hands down [their pants] … ."

5. An undated text message from the Parent said, "I put [the Student] back on [sic] [their] jumpsuit … to avoid [them] digging down [their] pants."

   a. The Parent sent a text message to the Case Manager on January 29, 2025 which said, "With [the Student] putting [their] hands down [their] pants becoming more frequent I think I need more information about what could be the reason … Same with taking off [their] clothes, what are some of the things in place to help address this?"

6. The Case Manager replied, "I've noticed since [the Student] came back from break, [the Student] has been putting [their] hands down [their] pants multiple times a day and trying to take [their] clothes off."

7. In an undated text message, the Parent shared the Student also put their hands down their pants at home, and the Parent told them "no".

8. On February 5, 2026, the Case Manager sent a chat message to the Parent and the Other Parent. They explained they had taken the Student to the bathroom three times that morning, the Student kept trying to put their hands down their pants, and the Student was frustrated when the Case Manager tried to redirect them. They stated the Student was hitting their hands on the ground, hitting their head with their hand, and trying to hit staff. The Other Parent believed the Student had rashes, which made them uncomfortable.

   a. The Parent asked if the Student was trying to put their hands down the front or back of their pants. The Parent asked for documentation of the Student hitting staff because it was a new behavior.

b. The Case Manager explained they were taking the Student to the bathroom every 20-30 minutes. They acknowledged the Parent had requested the Student go to the bathroom every 15 minutes, but the Case Manager indicated the Student was missing instructional time and was frustrated by having to go to the bathroom that often. The Case Manager stated the Student put their hands down the front of their pants. They stated there was no way they could make the Student remove their hands from their pants.

9. An undated text message from the Case Manager explained the Student put their hands down their pants 26 times the previous day, with durations ranging from three seconds to two minutes and 22 seconds. They stated the Student removed their clothes one time and exposed themselves eight times. The Case Manager explained that during the bus ride, the Student had their hands down their pants for 24 minutes and exposed themself. The Case Manager stated they would continue to use the social story, offer the Student items to keep their hands busy, and take them to the bathroom frequently. They indicated the current day had been better because the Student put their hands down their pants for one minute and exposed themself one time. The Case Manager stated they would place the meeting notice in the Student's folder and indicated the meeting was scheduled for 8:00 a.m. on February 9, 2026.

10. In an undated text message, the Parent requested a hard copy of the Student's IEP. The Case Manager agreed and apologized for forgetting to put the paperwork in the Student's backpack. Handwritten notes beside the text message indicated the Parent did not receive the Student's IEP until the day of the IEP meeting, and it was not the updated version.

11. The Parent emailed the Case Manager and the Principal on February 5, 2026, requesting an IEP meeting due to recent "incidents and concerns" from the Case Manager regarding the Student's behavior. The Principal replied that day with several meeting time options and stated they were notified that morning the Student had tried to pull their penis out on two bus rides. They shared the paraprofessional was trying to prevent it, but it "happened so quickly." The Parent agreed to meet at 8:00 a.m. on February 9, 2026, and said, "This is news to me that [the Student] pulled [their] penis out. All I was told was that [the Student] put [their] hands down [their] pants, and there was no documentation that I received regarding this incident." The Principal stated the Case Manager would send a Notice of Meeting to the Parent the following day.

The Parent asked for clarification on what was meant by the Student removing their clothes and exposing themself. The Case Manager explained the Student removed their shoe and pulled their pants down. They stated the Student barely pulled their pants down and took their genitals out into their hands. The Case Manager indicated it was a relatively new behavior and asked what the team could do to help decrease it. The Other Parent believed the Student's rash made them remove their clothes. The Case Manager indicated the Student was being

supervised, but managed to engage in the behavior in less than five seconds. They explained they used visuals, verbal prompts, redirection, and social stories. The Case Manager stated they followed the same plan on the bus to try to decrease the behavior, but indicated the Student refused to remove their hands from their pants.

12. A Notice of Meeting contained the following relevant information:
    a. A proposed meeting time of 8:00 a.m. on February 9, 2026, at the School.
    b. A contact log which stated:
        i. The Parent requested a meeting on February 5, 202,6 via email.
        ii. The meeting was confirmed on February 6, 2026.
        iii. A meeting notice was sent home with the Student on February 6, 2026.
    c. A box had been checked and beside it read, "… parent requested a meeting to discuss [the Student's] recent behavior and toileting needs at school and on the bus[.]"
    d. The Case Manager marked the box indicating the notice was sent home with the Student.
    e. The Parent initialed the statements: "I plan to attend the meeting as scheduled" and "I consent to waive my right to a 10-day prior written notice of the meeting to develop, review, or revise the IEP for my child."
    f. The Parent signed the Notice of Meeting on February 9, 2026.
13. A Staffing Summary, dated February 9, 2026, indicated:
    a. The team members at the meeting were the Parent, the OT, the Case Manager, the LEA Behavior Consultant, and the Principal.
    b. The Parent requested the IEP meeting to address recent concerns about the Student.
    c. The summary portion indicated the Student had begun putting their hands in their pants often, specifically starting on February 5 and 6, 2026. The Case Manager shared the data from the previous week, and the Parent requested additional information beyond the notes sent home. The Parent explained that at home, they would say "[the Student] hands off" when the Student had their hands down their pants, and indicated the Student responded to this prompt. It was written the Student was being taken to the restroom about every 20 minutes, and the Student was also putting their hands in their pants and pulling their pants down, which might reveal their genitals.
    d. The team discussed preferred items for the Student, and the Parent shared the Student enjoyed music. The team discussed adding an additional device for the Student that would play music while they were on the bus.

e. Due to the Student's increased behavior of putting their hands in their pants and to try to reduce incidents of possibly revealing their genitals, the team suggested:
   i. Temporarily removing general education time (15 minutes), which would change IEP minutes.
   ii. Ensuring preferred objects were presented to the Student during any downtime.
   iii. Using the same phrase the Parent used at home if the Student put their hands down their pants.
   iv. Data would be collected on times in which the Student put their hands in their pants and exposed their genitals (at school and on the bus). The data would be shared with the Parent and the Other Parent daily.
   v. A barrier to block others from seeing the Student if/when they put their hands in their pants and possibly expose their genitals.
   vi. A revised social story.
   vii. The special education teacher would train paraprofessionals to implement any changes as needed.

f. At 8:43 a.m., the Parent stated, "I can't do this" and left the meeting. The team amended the IEP.

14. An undated PWN indicated:
   a. On February 9, 2026, the IEP team reviewed evaluation/assessment data for the Student, current classroom-based assessments and observations, and teacher or other staff observations to determine any additions, changes, or modifications to the special education and related services or educational placement that were needed to enable the Student to meet measurable annual IEP goals and participate, as appropriate, in the general curriculum.
   b. A box was checked, indicating there was a substantial change in the Student's placement.
   c. Beginning February 9, 2026, the Student's time in the general education setting would decrease, and their time in the special education setting would increase. The new minutes in the special education (SE) resource room setting were:
      i. SE for 375 minutes, twice a week, every week.
      ii. SE for 380 minutes, once a week, every week.
      iii. SE for 395 minutes, twice a week, every week.
   d. The IEP team proposed using tangible preferred items to occupy the Student's hands during downtime, for the duration of downtime as needed,

in all educational settings. They proposed using a device to play music daily while on the bus.

e. The IEP team proposed to remove the Student from the general education setting due to some of their current behaviors (such as putting their hand down their pants, taking their clothes off, and exposing their genitals). The team would work with the Student to decrease these behaviors and revisit the Student's general education time at the upcoming IEP meeting. It was stated the team added the accommodations based on the Student's current behavioral needs, did not feel there were harmful effects due to the change, and that the Student's LRE was in the special education setting where their progress could be monitored.

f. It was indicated the PWN was sent home with the Student. A post-it note on the document said, "sign and date." There were no signatures on the document.

15. An IEP amendment form, dated February 9, 2026, summarized the information in the aforementioned PWN. It described the increases to the Student's time in the special education setting, with a green post-it note beside it which read, "check agree or disagree." The amendment was signed by the Case Manager on February 9, 2026. A green Post-it note read, "Sign and date." There was no signature from the Parent. The LEA's materials contained the same document, but there was no Post-it note or signatures.

16. Portions of the Student's IEP from February 28, 2025, included the following handwritten changes:

    a. Services were added for a "device to play music" daily while on the bus, and the use of tangible items during downtime in all education settings, both starting on February 9, 2026. Green Post-it notes were placed beside the services, and each read "please initial and date on highlighted line."

    b. Under Special Education and Related Services to be provided for the 2025-26 school year, one service was crossed out, and three others had new amounts of minutes to be served and the number of days written in by hand. A green Post-it note was placed beside it, which read, "Please initial and date."

    c. Changes to the Student's educational placement, outlined in the above fact, were handwritten onto the IEP. Another green Post-it note read, "Please initial and date on highlighted lines."

    d. There were no dates or initials written on or near where indicated by the post-it notes on the IEP.

17. Relevant handwritten information from the Student's daily reports included:

    a. January 9, 2026 - The Student put their hands down their pants.

b. January 13, 2026 - The Student was putting their hands down their pants on the bus. The Student kept placing their hands down their pants and removing their clothes three times.

c. January 14, 2026 - The Student had their hand down their pants.

d. January 16, 2026 - The Student removed their clothes in the ACSS room and kept putting their hands down their pants.

e. January 21, 2026 - The Student asked to eat several times. The Student got upset and hit their hands on the desk and table.

f. January 29, 2026 - The Student kept putting their hands down their pants and tried to remove their clothes.

g. January 30, 2026 - The Student wore overalls, which worked well to keep the Student's hands out of their pants.

h. February 2, 2026 - It was written that a meeting notice would be sent home the next day.

i. February 3, 2026 - The Student put their hands down their pants eight times that day.

j. February 4, 2026 - The Student kept their hands out of their pants, but they hit the table and floor with their hands when they requested food and did not get it.

k. February 5, 2026 - The Student put their hands down the front of their pants 26 times, ranging from three seconds to two minutes and 22 seconds. The Student was aggressive toward staff that day, hitting their hands on the floor, table, and desk, and their head.

l. February 6, 2026 - The Student pulled their pants down, put their hands down their pants, and exposed themselves.

m. February 9, 2026 - The Student put their hands down their pants and exposed themselves.

n. February 9, 2026 - The Case Manager thanked the Parent for attending the Student's meeting, and asked the Parent to return the paperwork they included in the Student's folder.

18. Relevant information from behavior charts, specifically regarding the Student putting their hands down their pants and taking their clothes off, indicated:

a. February 5, 2026 - There were 26 incidents of the Student putting their hands in their pants, lasting between 3 seconds and 2 minutes 22 seconds. There were two incidents of the Student pulling their clothes down, and eight times the Student's genitals were exposed.

b. February 6, 2026 - There were 16 incidents in which the Student put their hands in their pants, lasting between 2 seconds and 3 minutes 52 seconds. There were two incidents of the Student

pulling their clothes down, and six times the Student's genitals were exposed.

c. February 9, 2026 - There were nine incidents in which the Student put their hands in their pants, lasting between 2 and 5 seconds. There were no incidents of the Student pulling their clothes down, and four times the Student's genitals were exposed.

d. February 10, 2026 - There were 12 incidents in which the Student put their hands in their pants, lasting between 2 and 30 seconds. There were no incidents of the Student pulling their clothes down, and two times the Student's genitals were exposed.

19. Relevant information from the LEA's Special Education Standard Operating Procedures for 2025-26 included:

    a. Any IEP team member could recommend a student's IEP be amended between annual reviews. The process included:

        i. The IEP team, including the classroom teacher and parent(s), discussed the need to amend the current IEP.

        ii. When amending the current IEP to add or remove a related service, the area(s) under consideration must have sufficient data to support the change.

        iii. If the team agreed to amend the current IEP for any reason, the amendment could occur with or without a formal IEP team meeting. If a formal IEP team meeting was held, written notice should be provided at least 10 calendar days prior to the meeting, or if the parent and team agreed to meet earlier, ensure the parent signed the 10-day notice waiver.

        iv. Required forms included a Notice of Meeting (if a meeting was held), the IEP Amendment Between Annual IEP Meetings form, a PWN for Identification/Placement, and amended IEP page(s) with parent initials on each change.

Parent Interview

20. In an interview with the Complaint Investigator, the Parent indicated they were the Student's biological parent.

21. The Parent stated they believed the Student's IEP was amended in August [2025] to add the Student's seizure plan. They added it was their understanding the IEP was going to reflect bus personnel would be trained on the Student's seizure plan.

22. The Parent confirmed they requested the IEP meeting on February 9, 2026, to discuss the "behavior problems" the Student was having. The Parent stated they requested a copy of the IEP prior to the meeting on February 9, 2026, but they were not provided with it until the day of the meeting. The Parent noted "nothing was

decided" at the meeting because the Parent got frustrated and left the meeting before they had a chance to propose solutions.

The Parent indicated they had proposed suggestions for the team to try with the Student and stated the Student's response was, "nothing is working." The Parent shared the team mentioned adding a behavior plan, but confirmed the behavior was new and believed it was too early to consider one. The Parent noted the team proposed removing the Student's 15 minutes of daily general education inclusion during recess. The Parent stated their objection to that, given it was the Student's only time with their general education peers.

The Parent stated they did not agree to any changes during the IEP meeting because they left before the discussion of what changes were needed was finished. The Parent confirmed they received the amendment and PWN from the February 9, 2026, meeting in the Student's backpack the same day as the meeting, but noted they never provided verbal or written consent. The Parent noted that they believed services would remain the same if they did not give permission for any changes.

23. The Parent noted the LEA proposed removing the Student's access to the general education setting to protect other students from witnessing the Student "strip down" or "put hands on [themself]." The Parent indicated they understood, but wanted the LEA to try other accommodations before removing the Student from their only time with non-disabled peers.
24. The Parent shared they felt the School should have reviewed behavior data to demonstrate that the Student's behavior was severe enough to warrant taking the inclusion minutes away.

Case Manager Interview

25. In an interview with the Complaint Investigator, the Case Manager was joined by the Special Education Director.
26. The Case Manager shared the Parent had requested a meeting to discuss the recent increase in the Student's behaviors. The Case Manager recalled sending a notice of meeting home to the Parent and receiving it back signed by the Parent.
27. The Case Manager noted the Parent, the OT, the Principal, and the Case Manager were the only ones to attend the meeting on February 9, 2026. The Parent signed an excusal for the general education teacher because the Student spent the majority of their time in the special education classroom.
28. The Case Manager indicated the team discussed the medical reasons for the Student's behaviors during the meeting on February 9, 2026. The team also discussed the new behavior the Student was exhibiting involving pulling their pants down, exposing themself, and "pulling on [their] genitals".

29. Because the Student had demonstrated the behaviors on the bus, they wore a "black zip-up suit" only on the bus to prevent the behavior. The Case Manager reported the Student knew how to get the suit off.
30. The Case Manager noted the team discussed requiring the Student to go to the restroom every 15 minutes, addressing the Student's sensory needs, providing music as a sensory tool, using social stories, and using "tangible preferred items" to occupy the Student's hands.
31. The Case Manager recalled the team discussed having the Student wear the suit during their recess time to prevent the Student from undressing in front of their peers, or taking away the Student's general education time until the Student could learn how to keep their clothes on. The Case Manager indicated the Parent did not want the Student to look different in front of their peers and disagreed with the Student wearing the suit at recess. The Case Manager stated the Parent was in agreement the Student could lose their general education time "temporarily".
32. The Case Manager shared the Parent "seemed to agree" to reducing the Student's general education time, specifically because the Student's annual IEP was due in two weeks from that date, and they could revisit the need then.
33. The Case Manager explained the Parent came into the meeting "aggressive[ly]" and was not happy when they got there. The Case Manager explained to the Parent the motivators that typically worked with the Student were not working, and they asked the Parent what worked for them at home.
34. After the Parent left the meeting, the Case Manager stated they had summarized the meeting and sent the paperwork home to the Parent. The Case Manager indicated they had noted the changes the team discussed while the Parent was in the meeting before they left. The Case Manager indicated they sent home a consent form to make the noted changes to the IEP, but the Parent never signed it. The Case Manager explained they did not make the changes because the Parent did not provide consent.
35. The Case Manager explained the data used in the Student's IEP dated February 28, 2025. They noted the Student was given a verbal data assessment, their social-emotional skills were based on the Parent's input, and the functional-adaptive was written by their previous special education teacher based on "where [the Student] was at".
36. The Case Manager confirmed the teachers and staff used the IEP Goal and Objective forms and that the progress reports and report cards were sent home. They clarified the Parent couldn't see it as a working document, but could access it once it was printed. The Case Manager indicated it was the primary way they reported progress on the Student's goals.
37. The Case Manager confirmed they sent home a daily behavior log for the Student, which documented the Student's bathroom use and other behaviors. The Special Education Director noted it was not a requirement of the IEP, but something they did in their program to ensure additional communication with families.

38. The Case Manager explained ACSS as Adaptive Social and Communication Skills and noted their program focused on those skills. The Special Education Director explained the Student was placed in that program based on their present levels at the time. The Case Manager confirmed the IEP Team determined the placement continued to be the ACSS classroom.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #475, in accordance with state and federal regulations implementing the IDEA, provided the Parent with an opportunity to participate in the February 9, 2026, IEP meeting. K.A.R. 91-40-17(a)(d)(e)(1)(2); 34 §§ C.F.R. 300.322(d), 300.501(b).

According to 34 §§ C.F.R. 300.322(d), 300.501(b), and K.A.R. 91-40-17(a)(d)(e)(1)(2), each agency shall take steps to ensure one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place, informing the parents of the information specified in this regulation, and providing written notice to the parents of any IEP team meeting at least 10 days in advance of the meeting. Also, an agency shall take action to ensure parents understand the discussions that occur at IEP team meetings, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

An agency may conduct an IEP team meeting without parental participation if the agency, despite repeated attempts, has been unable to contact the parent or parents or to convince them that they should participate. If an agency conducts an IEP team meeting without parental participation, the agency shall have a record of the attempts the agency made to contact the parents to provide them notice of the meeting and to secure their participation. The record shall include at least two of the following: detailed records of telephone calls made or attempted, including the date, time, and person making the calls and the results of the calls; detailed records of visits made to the parent's home, including the date, time, and person making the visit and the results of the visit; copies of correspondence sent to each parent and any responses received; and detailed records of any other method attempted to contact the parents and the results of that attempt.

The Parent alleged the LEA staff's behavior in the February 9, 2026, IEP meeting denied the Parent meaningful parent participation, and the Parent left the meeting.

The LEA responded that the Parent requested the IEP meeting. The notice of meeting was sent home to the Parent, and the Parent attended the meeting.

On February 5, 2026, the Parent initiated a request for an IEP meeting via email to discuss recent behavioral incidents and toileting needs. The School confirmed the meeting for February 9, 2026, and provided a Notice of Meeting on February 6, 2026, which the Parent

signed, and waived the ten-day notice requirement. The Parent attended the meeting alongside the Principal, the Case Manager, the OT, and the LEA Behavior Consultant. During the session, the team discussed data regarding the Student's new behaviors of undressing and genital exposure, and the Parent contributed information about successful prompts used at home. Although the Parent became frustrated and left the meeting at 8:43 a.m. before all solutions were finalized, the record indicates the School provided the opportunity for participation, documented the Parent's input, and responded to the Parent's specific request for the meeting.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Parent with an opportunity to participate in the February 9, 2026, IEP meeting.

Issue Two

Whether USD #475, in accordance with state and federal regulations implementing the IDEA, made amendments to the Student's IEP through a properly convened IEP meeting, or a written agreement. K.S.A. 72-987(b)(1), K.A.R. 91-40-18(a)(b)(1)(4); 34 §§ C.F.R. 300.322, 300.324.

According to 34 §§ C.F.R. 300.322, 300.324, and K.A.R. 91-40-18(a)(b)(1)(4), in developing or reviewing the IEP of any exceptional child, each agency shall comply with the requirements of K.S.A. 72-987 and amendments thereto, and, as appropriate, shall consider the results of the child's performance on any general state or districtwide assessment programs. If, as a result of its consideration of the special factors described in K.S.A. 72-987(c) and amendments thereto, an IEP team determines a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive a Free Appropriate Public Education (FAPE), the IEP team shall include those items in the child's IEP.

According to K.S.A. 72-987(b)(1), except as otherwise provided in this section, each IEP of an exceptional child and any amendment or modification of an IEP shall be made by the child's IEP team. Upon agreement of the parent and the agency, an IEP team can meet in person or by alternative means, including telephone conference calls and video conferences.

The Parent alleged the Student's IEP was amended without their consent.

The LEA replied in Kansas, an IEP can be amended without a meeting if both parties agree; however, in this case, the Parent requested a formal meeting, which was held on February 9, 2026. Although adjustments were discussed, the Parent left the meeting prematurely and declined the Principal's attempt to reconvene and address their concerns. Because the Parent subsequently did not sign or return the amendment paperwork sent home by the Case Manager, the proposed changes could not be legally implemented, and the original IEP remains in place.

Following the February 9, 2026, meeting, the School drafted an IEP amendment and a PWN to increase special education minutes and decrease general education time. These documents, along with the amended IEP pages, were sent home in the Student's backpack with post-it notes requesting the Parent's signature and initials. The Parent did not sign the amendment, or the PWN, and later stated they never provided verbal or written consent for the changes. The Case Manager acknowledged that because the Parent left the meeting early and did not return the signed consent forms, the proposed changes were not implemented. Consequently, while the School documented the proposed amendments, they did not secure the written agreement required by the LEA's operating procedures or State and Federal regulations to finalize changes outside of a completed annual review.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to amend the Student's IEP through a properly convened IEP meeting, or a written agreement.

Issue Three

Whether USD #475, in accordance with state and federal regulations implementing the IDEA, developed an IEP for the Student that included sufficient present levels of academic achievement and functional performance. K.S.A. 72-3429(c)(1); 34 § C.F.R. 300.324.

According to K.S.A. 72-3429(c)(1) and 34 § C.F.R. 300.324, the IEP for each exceptional child shall include: a statement of the child's present levels of academic achievement and functional performance, including how the child's disability or giftedness affects the child's involvement and progress in the general education curriculum; and for those children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objections. In developing each child's IEP, the IEP Team must consider the strengths of the child; the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child.

The Parent alleged the Student's IEP did not include "sufficient documentation or data" to make IEP revisions.

The LEA responded by saying the IEP team believed that sufficient data existed in the present levels to determine appropriately ambitious goals, supplementary aides and services, and thus, inform placement.

The Student's February 28, 2025, IEP detailed present levels across academic, functional, and behavioral domains based on staff input, parent feedback, and various assessments. The PLAAFP noted the Student's primary diagnosis of autism and ADHD, as well as medical history regarding voiding dysfunction. Academically, the IEP identified specific barriers such as "scrolling" and lack of motivation, while noting strengths in reading and play and weaknesses in

vocal imitation. Functional levels described the Student's ability to perform self-care with adult monitoring and the necessity of hand-over-hand assistance for transitions. Baseline data for goals was specific, such as identifying colors with a communicative device and naming pictures from a field of two with 60% accuracy, providing a foundation for the measurable annual goals and short-term objectives.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to develop an IEP for the Student that included sufficient present levels of academic achievement and functional performance.

Issue Four

Whether USD #475, in accordance with state and federal regulations implementing the IDEA, placed the Student in their LRE, and whether the placement decision was made in conformity with the IDEA and Kansas administrative rules. K.S.A. 72-3420, K.A.R 90-40-21; 34 §§ C.F.R. 300.114, 300.116.

According to 34 §§ C.F.R. 300.114, 300.116, and K.A.R 90-40-21, each agency shall ensure children with disabilities served by the agency are educated in the LRE. Each agency shall ensure a continuum of alternative educational placements is available to meet the needs of children with disabilities. These alternative educational placements shall meet the following criteria: include instruction in regular classes, special classes, and special schools; instruction in a child's home; and instruction in hospitals and other institutions; and make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement.

In determining the educational placement of a child with a disability, including a preschool child with a disability, each agency shall ensure the placement decision meets the following requirements: the decision shall be made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options; and the decision shall be made in conformity with the requirement of providing services in the LRE.

Each agency shall give notice to the parents of any meeting to discuss the educational placement of their child. If a parent cannot participate in person at a meeting relating to the educational placement of the child, the agency shall offer to use other methods to allow the parent to participate, including conference calls and video conferencing. An agency may conduct a meeting to determine the appropriate educational placement of a child with a disability without the participation of a parent if the agency, despite repeated attempts, has been unable to contact the parent or to convince the parent to participate. If an agency conducts a meeting to determine the appropriate educational placement of a child without the participation of a parent, the agency shall have a record of the attempts that the agency made to contact the parent. An agency shall take action to ensure parents understand, and are able

to participate in, any discussions concerning the educational placement of their children, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

Each agency shall ensure each exceptional child's placement meets the following criteria: is determined at least annually; is based on the child's IEP; and is as close as possible to the child's home. Unless the IEP of a child with a disability requires some other arrangement, the agency shall ensure the child is educated in the school the child would attend if nondisabled. In selecting the LRE for a child with a disability, the persons making the educational placement decision shall give consideration to any potential harmful effect on the child or on the quality of services that the child needs.

An agency shall not remove a child with a disability from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and other nonacademic services and activities, each agency shall ensure each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child. Each agency shall ensure each child with a disability receives the supplementary aids and services specified in the child's IEP as being appropriate and necessary for the child to participate in nonacademic settings.

According to K.S.A. 72-3420, each school district shall be required, to the maximum extent appropriate, to educate children with disabilities with children who are not disabled, and to provide special classes, separate schooling or for the removal of children with disabilities from the regular education environment only when the nature or severity of the disability of the child is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily.

The Parent alleged the Student’s placement was made without parental participation, not based on documented needs or supports, and the new placement was not the Student's LRE.

The LEA stated they acknowledged the Parent and the IEP team disagree on what constitutes the LRE for this Student. The Parent believes the Student should be integrated more fully into the general education classroom. Based on data and the Student’s present levels, the IEP team remains confident the Student’s LRE was in place to support their wide range of academic, functional, communication, social skills, and behavioral needs.

The IEP team determined that the Student’s LRE was the ACSS specialized program because of significant delays in communication, social-emotional regulation, and functional tasks. The February 28, 2025, IEP and accompanying PWN explained the Student required SDI in a small group setting with limited distractions to make progress. The team considered increasing general education time but rejected it, concluding that the Student would be overstimulated

and that the specialized environment offered more meaningful opportunities for skill practice. While the team discussed "temporarily" removing the Student's remaining 15 minutes of general education recess during the February 9, 2026, meeting to address safety and privacy concerns related to disrobing, the Parent expressed a desire for alternative accommodations to maintain peer access, and no formal change to the placement was finalized without parental consent.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to place the Student in the LRE, nor that the LEA failed to make a placement decision in conformity with the IDEA and Kansas administrative rules.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #259
ON FEBRUARY 12, 2026

DATE OF REPORT: MARCH 31, 2026

This report is in response to a complaint filed with our office on behalf of a student, -------, by their foster parent and educational advocate, -------. In the remainder of the report, the student will be referred to as "the Student" and the foster parent as "the Parent."

The Complaint is against USD #259, Wichita Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #259.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on February 12, 2026 and the 30-day timeline ended on March 14, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USO #259, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provided the Parent with access to the Student's educational records when requested by the Parent. K.A.R. 91-40-25, K.A.R. 91-40-50; 34 C.F.R. §§ 99.3, 300.501, 300.611(b), 300.613.

ISSUE TWO: Whether USO #259, in accordance with state and federal regulations implementing the IDEA, provided the Student with a free appropriate public education (FAPE). K.A.R. 91-40-1(z); 34 C.F.R. § 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent by telephone on February 27, 2026. The following LEA staff were interviewed on March 3, 2026: the Previous Special Education Teacher and the Behavior Interventionist.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Prior Written Notice for Evaluation or Reevaluation and Request for Consent dated August 12, 2022, electronically signed by the Parent on August 15, 2022 giving consent
2. Individualized Education Program (IEP), 11/04/24
3. Educational Enrollment Information for School Placement Form, 08/06/25
4. Enrollment History, 08/22/23-08/13/26
5. Letter, re: Terminated Education Advocate, 11/21/25
6. Walk-in Consultation, 08/14/25
7. IEP Progress Period Detail, 10/17/25
8. IEP,10/27/25
9. IEP Progress Report -Annual Goal, 12/16/25
10. Meeting Notes, 10/27/25
11. BIP Fidelity Checks, 10/07/25-10/15/25
12. Daily Schedule Poster, no date
13. Special Education Contact Log, 08/31/23-02/23/26
14. Prior Written Notice, 10/27/25
15. LEA Letter, re: Positive Behavior Supports Program, 10/28/25
16. Behavior Documentation, 11/13/[25]-02/04/26
17. Daily Attendance Profile, 2025-26 School Year
18. Letter, re: Education Advocate, 11/21/25
19. Check in to Connect Behavior Monitoring Sheets, 10/15/[25]-11 /24/25
20. Check in to Connect Behavior Monitoring Sheets, 11/25/25-02/03/26
21. Behavior Documentation, 01/13/26
22. Meeting Notes, 01/28/26 (D376)
23. Check in to Connect Behavior Monitoring Sheets, 11/25/25-02/03/26
24. Child Study Team Meeting Notes, 02/04/26
25. Incident Report, 02/05/26
26. Emails, 12/15/25-02/22/26

Background Information

This Investigation involved an elementary-aged student enrolled in an elementary specialized program called Positive Behavior Supports (PBS) located in the LEA, but outside of the Student's neighborhood school. The Student is currently receiving special education or related services as a child with a disability per the IDEA under the eligibility category of Emotional Disturbance (ED). The Student transferred to the PBS program at the School on November 3, 2025 from a therapeutic day program for behavior at the Previous School, also in the LEA, which they had attended since the beginning of the 2025-26 school year. Their exit date from the Previous School was listed as October 31, 2025. The Student was enrolled in a different district for the 2024-25 school year.

Additionally, the Student was placed in foster care on July 22, 2025 with the Parent. At that time, the Student was also assigned to the Previous Educational Advocate, who retained educational rights on the Student's behalf until the Parent was appointed the Student's educational advocate on November 21, 2025.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. An IEP dated November 4, 2024 outlined the following relevant information for the Student:
    a. The IEP was originally written on November 4, 2024, initiated on August 14, 2025, and reviewed on November 3, 2025.
    b. An accompanying "Walk-In Consultation" form dated August 14, 2025 indicated that "comparable" special education services from the previous district would be continued in the LEA. The Student would receive special education services in a "special day school setting." The Student would receive speech-language services and counseling services twice per week (unspecified time). The IEP was noted as due on November 3, 2025.
    c. The Student's cognitive abilities were considered "age appropriate," and there were no concerns at the time.
    d. The Student is described as "very friendly." The Student also "comes to school with a smile and is easy to joke around with." The Student enjoys giving teachers hugs, gets along well with peers, and will play Lego with them. The Student enjoys watching videos and coloring.
    e. Social/Emotional present levels update on November 4, 2025: "When [the Student] is told 'no' by an adult, [their] behavior will escalate. [They] will growl, then fold [their] arms across [their] chest and [put] [their] head down. If [the Student] is still unable to get what [they] want, [they] will push items off the table or desk and continue to growl. If [the Student] is left alone, then

[they] often [calm] down. If [they do] not calm down, [they] will use profanity, knock over chairs, and throw items."

f. It was indicated that the Student displayed the following impeding behaviors: "destroy teacher and peers' personal property, [lash] out physically to students and adults, scratch, punch, bite, knock over desks and chairs, kick, throw things, yell/scream, [and] knock/pull items off shelves/desks. [The Student] will also elope from [the] assigned area." It was noted an FSA had been conducted and a SIP was in place.

g. Goals: reading, speech, writing, math, and behavior.

   i. Behavior goal: "By the next annual IEP review, in an individual and/or small group setting, [the Student] will learn/utilize self[-]regulation strategies to handle stressful situations (such as becoming upset, frustrated, or angry 90% of the time in 30[-]minute intervals tracked with behavior logs."

      1. Service provider: Social worker
      2. Score: As of November 4, 2024, it was noted, "[The] Student currently has been handling stressful situations 85% of the time as tracked by [their] behavior logs."
      3. A progress note dated October 17, 2025 stated the Student's score for the goal was 76%. It also stated, "[The Student] continues to struggle with stressful situations, but will continue to work towards meeting this goal."

h. It was determined the Student would receive their special education services in a "special day school setting for the entirety of [their] day." They would also receive speech and counseling services each twice weekly.

i. Accommodations starting November 4, 2024 and reviewed on November 4, 2025 as follows:

   i. Read aloud for all assessments and activities, in all school settings, when the activity or assessment contained reading above a kindergarten level and was not assessing the Student's reading ability, throughout the activity or assessment. The Student was also able to have all the questions and answer choices read to them.

   ii. Frequent breaks in a designated safe spot for two minutes.

   iii. Visual schedule that allowed the Student to see what was happening and what would happen next across all school settings, with a five-second pause between classes. iv.

   Placement updated November 4, 2025: "While [the Student] is attending the day school, [they] will not be allowed to participate in any general education curriculum with [their] non-identified peers. As [the Student's]

behavior improves, [they] will begin transitioning back to [their] home school."

2. The Student's BIP, dated November 4, 2024, identified several strengths and interests, including a love for toys, board games, snacks, and Godzilla. The plan addressed four primary target behaviors: noncompliance or refusal (such as yelling "No" or sleeping), aggression (including screaming, hitting, kicking, or biting themselves or others), elopement from designated areas, and property destruction. Baseline data from late 2023 through September 2024 indicated that while the Student transitioned to a half-day schedule, which decreased the intensity and duration of these behaviors, the frequency remained relatively consistent. The underlying function of these behaviors was determined to be the avoidance of non-preferred tasks, activities, or tangibles.

   To address these challenges, the plan focused on a replacement behavior where the Student was expected to comply with requests within two to three prompts without engaging in aggression. The goal was for the Student to learn and utilize self-regulation strategies to handle stressful, frustrating, or angry situations. Antecedent-based interventions included providing a highly structured environment, clear directions, frequent breaks, and the avoidance of power struggles or unnecessary physical contact. The Student was provided with one-to-one and small-group social work instruction to develop these compliance and coping skills.

   Staff strategies involved identifying early signs of agitation, such as pacing or yelling, and redirecting the Student toward movement breaks or preferred calming activities. If the Student successfully used these strategies, the staff reinforced the choice and processed the emotions involved. When target behaviors occurred, such as growling or swiping objects, the Student was given space and time to settle down before expectations were reviewed. In cases of elopement, staff followed the Student calmly and requested support via radio. If the behavior escalated to a peak level involving physical aggression toward peers or staff, a "Code Red" was called for de-escalation assistance, and Emergency Safety Interventions (ESI) were authorized as a last resort to ensure the safety of the Student and others.

   It was noted that target behavior data would be collected daily, analyzed monthly, and reported to the Parent quarterly. BIP fidelity would be measured quarterly via teacher interviews. "Case manager and support staff' were listed as those responsible for monitoring BIP effectiveness.

3. A Notice of Team Meeting, dated October 7, 2025 was sent to the Previous Educational Advocate, indicating a meeting scheduled for October 27, 2025 to conduct an annual IEP review and discuss possible changes to the Student's IEP.

4. An IEP dated October 27, 2025 outlined the following relevant information for the Student:
    a. The Previous Educational Advocate and the Parent participated in the discussion.
    b. Present levels of academic achievement and functional performance:
        i. The Student struggled to "sustain attention to initiate and complete tasks, exhibit age-appropriate social skills, demonstrate effective emotional-regulation skills, and adapt to unexpected changes in plans or routines." All elementary academic areas were reportedly delayed.
        ii. The Student was described as "kind and caring," enjoying positive interactions with peers and adults, and as someone who often sought connection through hugs and playful joking with staff, which helped build trust and supportive relationships. The Student was also described as having a "wonderful sense of humor," which brought joy to those around them.
        iii. During their time in the therapeutic day school program at the Previous School, the Student had not demonstrated any physical aggression toward staff. It was noted the Student benefitted from consistent routines, positive reinforcement, and clear expectations. The Student reportedly responded well to a token economy system and completed tasks approximately 85% of the time.
        iv. The Student reportedly did not typically like being asked to go to a calming area, but on occasion, responded positively when encouraged to engage in movement-based activities to help them regulate.
        v. The Student experienced difficulty with transitions and, at times, had become upset, screaming or crying.
        vi. The Student demonstrated difficulty regulating their emotions and, at times, had screamed, cried, growled, or used inappropriate language. On one occasion, the Student destroyed part of a classroom by "pushing, throwing items, kicking, hitting chairs, and tearing items off the wall." On another occasion, when upset, the Student had "engaged in self-injurious behavior by scratching and biting their arm and leg."
        vii. Data collected between August 25 and October 15, 2025 indicated the Student followed directions 85% of the time, remained on task 85% of the time, used respectful language 90% of the time, and maintained safe hands, feet, and objects 92% of the time.
    c. Goals in reading, speech, math, writing, and behavior.
        i. Behavior goal: "By the next annual IEP, when frustrated or upset, [the Student] will reduce verbal aggression (e.g., yelling, inappropriate language, or hurtful statements) and instead use appropriate

communication strategies 98% of the time as measured by teacher observations and daily monitoring sheets."

1. An IEP progress report dated December 16, 2025 indicated a progress level of 2 (regression - data below baseline) and a score of 78%. It was noted the Student had demonstrated an increase in disruptive and unsafe behavior since their transition to the School.

ii. Behavior goal: "By the next annual IEP, during classroom activities, [the Student] will remain on task for at least 98% of the scheduled activity time as measured by teacher observations and daily monitor sheets."

1. An IEP progress report dated December 16, 2025 indicated a progress level of 3 (maintained performance - no change from previous progress report/baseline) and a score of 82%. It was noted the Student had demonstrated a "minor" decrease in their ability to attend to task according to daily monitoring.

iii. Behavior goal: "By the next annual IEP review, in an individual and/or small group setting, [the Student] will learn/utilize self-regulation strategies to handle stressful situations (such as becoming upset, frustrated, or angry) 90% of the time in 30-minute intervals tracked with behavior logs."

1. An IEP progress report dated December 16, 2025 indicated a progress level of 2 (regression - data below baseline) and a score of 40%. It was noted the Student was able to utilize self-regulation strategies during stressful situations 40% of the time.

d. Statement of special education services: "Beginning October 27, 2025, [the Student] will receive special education services in a PBS classroom without general education peers. [They] will receive speech-language services 20 minutes weekly, counseling services twice per week for 30 minutes per session, and [the Student] will receive attendant care services for lunch and recess daily for 40 minutes." The Student also required transportation to and from the School with the added accommodation of "hand-to-hand transfer" to a "pre-approved designated individual."

e. Classroom accommodations to begin October 27, 2025:

i. Read aloud for all assessments and activities, conducted daily during literacy instruction and as needed for other classroom activities to support the Student's comprehension and engagement, in all classroom settings for the entirety of the reading activity.

ii. Visual schedule used daily throughout the school day, with staff providing prompts and updates as activities or transitions occur.

iii. Short, frequent breaks as needed throughout the day, in a designated calming area or sensory space within the classroom or

nearby, allowing the Student to regulate safely while remaining supervised. Breaks will last two to five minutes, or longer if needed, until the Student is calm and ready to re-engage in the activity.

f. Least restrictive environment (LRE) selection: "[The Student] will not participate with [their] non-general education peers during academic times due to receiving services in the PBS classroom setting. [The Student] will participate with general education peers during lunch, recess, specials, as well as any extracurricular activities."

g. The Student's BIP, updated on October 27, 2025, targeted four primary behaviors: noncompliance or refusal (such as sleeping or verbalizing "no"), aggression (including hitting, biting, or throwing objects), elopement from assigned areas, and property destruction such as tearing materials. These behaviors were often preceded by the Student growling or swiping objects off their desk. The primary function of these actions was determined to be the avoidance or escape of non-preferred tasks and situations in favor of preferred activities.

The Student was expected to follow directions, complete academic tasks, and remain in their assigned area. Baseline data from late 2025 at the Previous School indicated that the Student followed directions and remained on task approximately 85% of the time, while maintaining safe behavior 92% of the time. To support growth, the plan aimed for the Student to learn self-regulation strategies and maintain on-task behavior at a 98% success rate. Prevention strategies included a structured environment utilizing visual schedules, "first-then" language, and a token economy system where stickers were earned and exchanged for prizes. Additionally, the Student was taught a replacement behavior of appropriately requesting a break or continued access to a preferred item.

Staff responses were designed to prioritize safety while minimizing the reinforcement of negative behaviors. For elopement, staff were directed to guide the Student calmly without chasing and use minimal language. During instances of noncompliance, staff avoided power struggles and provided clear choices or "first-then" prompts. Property destruction was managed by redirecting the Student to safer alternatives, such as crumpling paper, while peak aggression required creating physical space, removing peers, and calling for additional safety support if necessary. Following any incident, staff allowed for de-escalation time and utilized post-incident processing to discuss triggers once the Student was calm. Progress was monitored through daily data collection, monthly team analyses, and quarterly fidelity reviews conducted via teacher interviews.

5. Meeting Notes dated October 7, 2025 showed that the Previous Educational Advocate and the Parent were in attendance. Regarding behavior, the Previous Special Education Teacher reviewed the BIP with the team and asked if there were

any questions. It was noted that no questions were asked. Based on the Student's progress, the team discussed transitioning the Student to a full-time PBS classroom. The Previous Educational Advocate signed consent for the change in special education placement and services.

6. Documentation showed 20-minute BIP fidelity checks were completed with the Previous Special Education Teacher on October 7 and 15, 2025.
7. A PWN dated October 27, 2025, was emailed to the Previous Educational Advocate and indicated the following:
    a. Beginning on October 27, 2025, the Student's placement would change from full-time at a special day school to full-time in a PBS classroom within a comprehensive elementary school, due to demonstrated progress in their behavior and social-emotional skills. The Student's behavior data reportedly indicated consistent improvement, with "a sustained ability to regulate emotions, follow school expectations, and engage in positive peer interactions." Given their progress, the IEP team believed the Student could successfully transition to a less restrictive setting that provided structural supports through the PBS framework. The placement would allow the Student to continue receiving necessary interventions while benefiting from increased access to peers in general education and a broader range of academic and social opportunities.
    b. The data used for the annual IEP review came from daily classroom performance, curriculum assessments, reading comprehension screening probes, and staff input. "The decision to transition [the Student] was based on a comprehensive review of various data sources, including [the Student's] daily behavior tracking sheets, classroom observations, teacher interviews, and overall classroom performance data." The Student's progress was reportedly demonstrated consistently across different settings, reinforcing the team's confidence in the Student's ability to succeed in a full-time placement.
8. An LEA letter dated October 28, 2025 and sent to the Parent's address, indicated the Student would be assigned to a PBS classroom outside of their neighborhood school due to the limited number of schools hosting PBS programs. It also noted the Student would receive transportation as identified in their IEP.
9. Ten behavior documentation antecedent-behavior-consequence (ABC) sheets for the Student from November 17, 2025 through February 4, 2026, detailed a consistent pattern of physical aggression, property destruction, and peer conflict triggered primarily by academic demands, task transitions, and disagreements with peers. Notable incidents occurred on November 13, 2025, and December 1, 2025, where the Student left assigned areas, flipped desks and chairs, threw classroom materials, and engaged in physical altercations with peers. On December 2, 2025, the Student punched a peer in the face and bit them after a toy was accidentally stepped on, resulting in a 30-minute prone restraint. Further high-intensity

behaviors were documented on December 3 and December 17, 2025, involving property destruction and attempts to bite others when the Student was frustrated with technology or refused to participate in holiday-themed crafts.
On January 7 and January 8, 2026, the Student refused to go to lunch, destroyed peer property, used obscenities, and attacked a peer after being asked to sit down. An altercation on January 13, 2026, involving hitting, punching, and scratching, required the School Nurse to examine the Student for facial scratches. On February 4, 2026, the Student became "enraged" and attempted to hit a peer after a desk divider accidentally struck the Student in the face.
Across these incidents, staff documented utilizing several specific strategies from the BIP to manage the Student's behaviors. One of the most frequent strategies used during "peak" behavioral incidents was the evacuation of other students, commonly referred to as a "room clear," to ensure the safety of the Student and their peers. Staff also used the school radio system to request crisis intervention and additional support during high-intensity moments. In at least one instance involving physical aggression toward a peer, staff implemented an ESI, specifically a prone restraint, which was noted as a last-resort safety protocol in the BIP.
Following high-intensity incidents, staff reportedly adhered to the BIP's de-escalation and post-incident strategies. The Student was provided with space and time to regain emotional regulation before staff attempted to address the behavior. Additionally, staff utilized the School Nurse to perform safety checks and examine the Student for injuries following physical altercations or head traumas.
Communication strategies outlined in the BIP were also documented as being implemented. The Special Education Teacher frequently contacted the Parent via telephone to provide verbal reports of behavioral incidents. Staff also used ABC data sheets to provide more detailed, anecdotal tracking of significant behaviors, including incident duration and staff responses.
Furthermore, staff attempted to redirect the Student toward calming strategies or preferred activities when signs of agitation were identified.

10. A 2025-26 attendance profile for the Student during their time in the day treatment program at the Previous School showed four absences and two tardies between August 28, 2025 and October 31, 2025, which was the Student's last enrolled day at the Previous School.
11. A letter from a social services organization dated November 21, 2025, indicated the Previous Educational Advocate's appointment serving the Student was terminated because the Parent had been trained and would serve as the Student's new education advocate. Another letter dated the same date indicated the Parent had been appointed as the Student's education advocate.
12. Based on the Check in to Connect Daily Behavior Monitors documenting the Student's behavioral performance and specific incidents reported in November 2025, the following was summarized:

a. Target behaviors included: safe hands, feet, and objects, staying in the assigned area, being on-task, and using respectful language and voice tones. These behaviors were rated during each of 11 time periods or subjects of the day using a scale of happy (2 points), neutral (1 point), and sad faces (0 points).

b. November 3, 2025: 94%.

c. Undated: 100% with the note, "Amazing!!"

d. November 5, 2025: 100% - "Another STUPENDOUS Day!!"

e. November 6, 2025: 97% - "Woo-Hoo!! GreatJob!!"

f. November 7, 2025: 100% - "Student arrived late," and "Great Math."

g. November 12, 2025: 81%

h. November 13, 2025: 81% - In math, the Student was in another student's space, yelling, screaming, crying, and banging on furniture. The Student also knocked over all the desks and fought with a peer.

i. November 14, 2025: 100% - "AMAZING DAY!!"

j. November 17, 2025: 87%

k. November 18, 2025: 82% - The Student yelled and tried to elope during math, spat food on peers during lunch, and cussed at people during recess.

l. November 19, 2025: 80% - The Student threw an iPad and was yelling during math intervention.

m. November 20, 2025: 63% - The Student threw food and eloped during recess and yelled and cussed during lunch.

n. November 21, 2025: 77% - The Student growled about a game during math and threw objects during their second "specials."

o. November 24, 2025: 74% - The Student was absent from the morning meeting.

p. November 25, 2025: 98%

13. On December 15, 2025, the Behavior Interventionist emailed the School Nurse to request documentation of the Student's facial injury following an incident with another student the previous week. The Behavior Interventionist asked the School Nurse if they had checked on the Student and whether there was any documentation. The School Nurse replied they had checked on the Student and had documentation of what the injuries looked like. They said, "I am not sure if I am allowed to print my documentation out or if they have to request it. I will find out." The Special Education Teacher, who was carbon-copied on the email, added a description of the behavior incident that occurred on December 10, 2025. The Student had reportedly pushed and hit a peer in the head and grabbed something from them. The peer attempted to retrieve the materials from the Student and, in the process, scratched the Student. The School Nurse was called.

14. Based on the Check in to Connect Daily Behavior Monitors documenting the Student's behavioral performance and specific incidents reported in December 2025, the following was summarized:
    a. Target behaviors included: keeping hands, feet, and objects safe, staying in the assigned area, staying on-task, and using respectful language and tone. These behaviors were rated during each of 11 time periods or subjects of the day using a scale of happy (2 points), neutral (1 point), and sad faces (0 points).
    b. December 2, 2025: 50% - The Student was playing with toys during learning, and the toys needed to go home so the Student could focus on learning.
    c. December 4, 5, and 8, 2025: 67%, 94%, and 64%
    d. December 9, 2025: 86% - the Student left early.
    e. December 10, 2025: 92%
    f. December 11, 2025: 86% - The Student kicked a peer during first specials.
    g. December 12, 15, 16, and 17, 2025: 93%, 60%, 74%, and 75%
    h. December 18, 2025: 72% - The Student eloped during the second specials.
15. January 13, 2026 behavior documentation indicated that a peer had tried to take a toy away from the Student, upsetting the Student. The peer and the Student started fighting, hitting, punching, and scratching each other. The room was cleared, and the staff separated the Student and the peer. The Student threw chairs and moved desks. The School Nurse came to check the scratch marks on the Student's face. The Student eventually calmed down.
16. In an email dated January 14, 2026, the Behavior Interventionist informed the Special Education Teacher of a discussion with the Parent regarding the perceived discrepancy between "bigger" behavioral incidents and "decent" daily behavior tracking scores. The Behavior Interventionist explained to the Parent that the Student could still perform well in other subjects if a behavioral situation was contained to a single period. Following a request from the Parent for more comprehensive data to share with the foster care team, the Behavior Interventionist agreed to begin sending home documentation of major behaviors (assault, property destruction, room evacuations, etc.) on the day they occurred. The Behavior Interventionist offered to handle the scanning and distribution of these records and suggested that paraprofessionals be instructed to provide objective, detailed tracking of specific behaviors, such as physical aggression and property destruction, on the back of the ABC behavior documentation sheets.
17. The Behavior Interventionist emailed the School team on January 15, 2026 informing them the Parent requested daily ABC data sheets. The Behavior Interventionist outlined the following things for staff to consider when completing the ABC sheets:
    a. "Be matter[-Jof[-Jfact and non-emotional when writing narratives."
    b. "Include frequency of assaults, bites, property destruction, etc., if possible."

c. "Include whether or not the class needed to be evacuated."

d. "Do not include other students' names."

18. On January 16, 2026, the Behavior Interventionist emailed the School Team notes from an unspecified meeting. They noted the Student maintained "average ability cognitively'' according to November 2023 testing. They wrote, "Skills deficits are likely due to behavior." The notes also indicated there was ABC data for 1O behavior incidents, nine of which were "noncompliance, avoidance of task, and physical aggression," and that these reportedly aligned with the BIP. The notes mentioned the team could hold an IEP amendment meeting to make "minor" changes to the BIP to reflect what was working. Finally, the documented primary behavior "struggles" were related to toys and/or personal space.

19. In a January 16, 2026 email to the Behavior Interventionist, the Parent asked when they would hear from the Social Worker and whether the Behavior Interventionist had the incident report from January 13, 2026. The Behavior Interventionist replied by attaching the incident report to their email and stating they would talk with the Social Worker that day about reaching out to the Parent.

20. On January 21, 2026, the Behavior Interventionist emailed the Special Education Teacher to inform them that the Child Study Team wanted to meet with the Parent to review data and seek clarification on the Parent's thoughts and concerns. The Behavior Interventionist said they would schedule a meeting with all team members to gather behavior data.

21. On January 28, 2026, the Behavior Interventionist emailed the School team and informed them the Parent was not requesting a reevaluation, but would like the BIP reviewed with the IEP team. They stated the Parent's main concerns were the Student's safety, the safety of others, and the Student's behavior affecting the Student's or others' learning. The Behavior Interventionist asked the Special Education Teacher to contact the Parent and set up an IEP meeting with all IEP members. The School Psychologist asked whether there should be a separate meeting to discuss what was and was not working in the Student's BIP and determine whether changes were needed. The Behavior Interventionist responded that once the Special Education Teacher had scheduled an IEP meeting, the Behavior Interventionist would schedule a meeting with the Parent to go over the BIP before the IEP meeting with the rest of the team.

22. The Behavior Interventionist emailed the Special Education Campus Support and the Principal on January 28, 2026 and informed them the Parent had mentioned concerns about the duration of time the Student's peers were required to "miss out on learning." The Parent had allegedly been told by a teacher that when they cleared the room for the Student's behaviors, it often took two to three hours for the peers to be able to return. The Behavior Interventionist stated, "I assured [the Parent] that the duration documentation we currently have of each incident does not exceed one hour and that was one incident that was an hour. The majority are 1O [to] 20 minutes.

23. Meeting Notes documented a clarification meeting on January 28, 2026, during which the Parent, the School Psychologist, and the Behavior Interventionist discussed concerns regarding the Student's safety and potential learning disabilities. The School Psychologist clarified that the Student's average cognitive scores suggested that academic delays were driven by behavioral task avoidance, consistent with an ED exceptionality, rather than a primary learning disability. While the Parent expressed concern that classroom evacuations lasted up to three hours, the staff utilized duration data to clarify that no single incident had exceeded one hour. The Parent also reported physical marks on the Student and shared concerns regarding the safety of all students and the resulting impact on learning. In response, the team proposed reconvening the full lEP team to revise the BIP to improve safety and success, a suggestion the Parent supported.
Additionally, the Parent requested a change in transportation protocols from "hand-to-hand" to "line-of-sight" supervision.
24. Based on the Check in to Connect Daily Behavior Monitors documenting the Student's behavioral performance and specific incidents reported in January 2026, the following was summarized:
    a. Target behaviors included: safe hands, feet, and objects, staying in the assigned area, being on-task, and using respectful language and voice tones. These behaviors were rated during each of 11 time periods or subjects of the day using a scale of happy (2 points), neutral (1 point), and sad faces (0 points).
    b. January 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, and 20, 2026: 82%, 76%, 75%, 71%, 64%, 81%, 68%, 62%, 86%, 60%, and 89%
    c. January 21, 2026: 85% - The Student was not feeling well.
    d. January 22 and 23, 2026: 95%, and 100%
    e. January 27, 2026: 86% - When asked to stay in their seat, the Student called staff a name, hit a peer, and knocked over a desk and chair. The room was cleared for six minutes.
    f. January 30, 2026: 86%
25. Child Study Team Notes dated February 4, 2026 listed the following:
    a. January 14, 2026: The Parent requested the FBA be redone due to concerns with safety and the perception that the Previous School "did not do it well." The last one was presumably completed in 2023. It was noted the current BIP would be reviewed.
    b. January 28, 2026: The Behavior Interventionist reached out to the Parent to discuss their concerns.
26. A February 5, 2026 transportation incident report documented an incident involving the Student when being transported home from the School. The Student reportedly wanted to sit in the front seat of the van and was denied. The Student began yelling,

cursing at the driver, and kicking the seat in front of him. This behavior continued throughout the route.

27. On February 6, 2026, the Behavior Interventionist emailed the Parent to apologize for the delay in sending an ABC data sheet. They said they had been out the previous day and not been provided documentation of an incident occurring on February 4, 2026. The Parent replied they had spoken to the Special Education Teacher on February 4, 2026 and was told the Special Education Teacher was going to send all behavioral incident reports for the Student to the Parent, but the Parent had not received them yet. The Parent stated, "This email will be my formal request," and asked for the following documents for the Student:

    a. Copies of all behavioral incident reports, discipline referrals, or behavior documentation involving the Student for the 2025-26 school year.

    b. Any reports, notes, or documentation related to injuries the Student had sustained at the School.

    c. All documentation regarding staff responses, interventions, or corrective actions taken following each incident.

    d. Any internal communications among staff regarding the Student's safety, behavior, and involvement in incidents.

    e. Any documentation regarding supervision plans, classroom management strategies, or safety measures in place.

    The Parent also mentioned they had been informed by the bus driver of two separate bus incidents within the previous two days, during which the driver had to pull the bus over due to safety concerns related to the Student being "verbally and physically aggressive." The Parent also requested those incident reports and to view the bus footage. The Behavior Interventionist responded, "It will take me some time to get [the requested documents] compiled," and said they would try to get the information to the Parent by

    the end of the day, February 9, or mid-day February 10, 2026. Regarding the bus incidents and footage, the Behavior Interventionist said the School had not received those reports, and the Parent would need to request them directly from the transportation department.

28. On February 6, 2026, the Special Education Teacher responded to a February 4, 2026 email from the Adoption Supervisor requesting information about the Student's behavior. The Special Education Teacher's response included three file attachments, which they stated were "large files." They said they were unable to print a compiled data report from the Check in to Connect program due to technical difficulties, although they were attempting to troubleshoot the issue. In the meantime, they sent all the daily Check in to Connect behavior data sheets to the Adoption Supervisor via email.

29. The Behavior Interventionist emailed the Parent on February 9, 2026 and included 12 attachments of some of the records requested by the Parent. The attached files included ABC behavior data, injury data from the School Nurse, daily behavior monitoring, and internal communications regarding the Student's safety, behavior, and behavior incidents in which the Behavior Interventionist was directly involved.
30. On February 9, 2026, the Parent emailed the Transportation Director and requested a copy of the incident reports from the alleged bus incidents on February 4 and 5, 2026, and requested a scheduled time to view bus footage. The Transportation Director responded the same day with an attached copy of an incident report from February 5, 2026. They also said they were "in the process" of obtaining bus video footage from the two requested days and asked for three school days to gather the information. The Parent replied the same day, asking for the second incident report for February 4, 2026. The Transportation Director responded that they had been unable to determine if a report for that date existed. They said, "It's important to note that not all incidents require a formal report. Sometimes, bus drivers and monitors will maintain open communication with families and discuss bus rides with them, which does not always warrant a formal report." They stated they would review the bus footage and, if there was no existing report, even though one was warranted, they would generate and send it to the Parent.
31. On February 9, 2026, the Special Education Teacher emailed the Parent copies of emails regarding the Student, the Student's break card, and other behavior management strategies used in the classroom. This was in response to the Parent's records request.
32. On February 10, 2026, the Transportation Director emailed the Parent and told them they had not yet received the requested videos. However, the videos were "in the queue," and they expected to have them within the three school days they originally promised the Parent. Regarding the February 4, 2026 bus incident, it was reported the Student started cussing and refusing to sit down after they were told to put toys away. The Student's seat was moved as an intervention.
33. On February 11, 2026, the Transportation Director emailed the Parent and told them that per the Parent's request, bus video footage had been reviewed from the Student's afternoon rides on February 4 and 5, 2026. They stated, "The behavior observed was minor in nature and was appropriately managed by the bus driver and bus monitor at the time." Additionally, the Transportation Director informed the Parent that the video footage was "exclusive property" of the private bus company, and due to the presence of other students on the bus and the LEA not owning the rights to the footage, they were unable to release or share the video recordings.
34. In a February 17, 2026 email to the Special Education Campus Support, the School Counselor documented they had seen the Student 24 times weekly for 30 minutes each time between November 4, [2025] and February 10, [2026].

35. Based on the Check in to Connect Daily Behavior Monitors documenting the Student's behavioral performance and specific incidents reported in February 2026, the following was summarized:
    a. Target behaviors included: keeping hands, feet, and objects safe, staying in the assigned area, staying on-task, and using respectful language and tone. These behaviors were rated during each of 11 time periods or subjects of the day using a scale of happy (2 points), neutral (1 point), and sad faces (0 points).
    b. February 2, 3, and 4, 2026: 53%, 79%, and 71%.
36. A 2025-26 Attendance Profile for the Student's time in the PBS program showed three absences and two tardies between November 12, 2025 and January 29, 2026.
37. A 2025-26 Student Discipline Profile report printed on February 13, 2026 was blank.
38. An undated letter from the Previous School Principal indicated a response to a February 6, 2026 request for records from the Parent. The Previous School Principal noted that they attempted not to duplicate records furnished by the School from whom the original records request was made. They also noted the following:
    a. Behavioral incident reports, discipline referrals, or other behavior documentation: The Student reportedly had zero incident reports during their time at the Previous School.
    b. Reports, notes, or documentation related to injuries the Student sustained at school: These records could be found in the documentation maintained by the School Nurse and provided by the School on February 9, 2026.
    c. Documentation regarding staff responses, interventions, or corrective actions taken following behavior incidents: "All items considered interventions are laid out in the [S]tudent's [BIP], included in the [S]tudent's IEP. Those documents may be accessed through [the online parent portal]."
    d. Internal communications regarding the Student's safety, behavior, and involvement in incidents: The Previous School had no education records responsive to this request. However, they attached behavior data summary information.
    e. Documentation regarding supervision plans, classroom management strategies, or safety measures: The Previous School attached daily teacher lesson plan examples.
39. The Special Education Contact Log for the 2025-26 school year documented the following relevant communications:
    a. October 16, 2025: The first quarter progress report was mailed home.
    b. January 14, 2026: The Behavior Interventionist spoke to the Parent regarding their concerns. They notified the Parent they would speak to the Child Study Team and reach back out to the Parent. They also explained how the Student could still score "decent" on their daily behavior sheet even when the Student engaged in "bigger" incidents.

c. January 15, 2026: The Behavior Interventionist emailed the Parent to inform them they would be sending ABC data sheets for "bigger behavior."

d. January 21, 2026: The Behavior Interventionist emailed back and forth with the Parent to schedule a meeting to discuss the Parent's concerns.

e. January 28, 2026: The Behavior Interventionist spoke with the Parent about their concerns, clarified their desired outcomes, and explained current data. The Parent reportedly stated they were not requesting a reevaluation, but did agree that an IEP team meeting to review the BIP would be helpful.

f. February 17, 2026: The Behavior Interventionist emailed the Parent the requested incident information from December 10, 2025 where the Student was injured at the School. On the same date the Behavior Interventionist also emailed the Parent the one bus incident on file.

40. On February 20, 2026, the Parent sent an email to the Complaint Investigator, attaching 12 documents they claimed were the LEA's "response to [their] records request," which included six files of data sheets, data from the School Nurse, Child Study Team notes, meeting notes, the Student's contact log, and two internal communication files. The Parent also noted that from November 25 [2025] to the present date, the Student had over 15 behavioral incidents, yet the Child Study Team met only once to discuss the Student's safety and behavior, prompting the Parent's concerns.

41. The School Nurse's documentation covering the 2025-26 school year provided detailed records of physical injuries and subsequent medical assessments. Specific relevant incidents were documented as follows:

a. Head traumas and injuries: The logs confirmed multiple instances of head and facial injuries. Specifically, on November 20, 2025, the Student was kicked in the head by a peer, resulting in a hematoma. On February 4, 2026, a desk divider fell on the Student's face, causing redness and swelling near the eye and nose.

b. Bruises and scratches: Several logs documented injuries that the Parent characterized as unexplained. These included bruising on the upper left arm and wrist following a restraint (ESI) on December 2, 2025, redness and a light scratch to the left ear after being punched by a peer on December 3, 2025, and multiple linear scratches to the face and neck caused by a peer on January 8 and 13, 2026.

c. Notification of the Parent: The nurse logs consistently indicated that the Parent was notified via telephone immediately following assessments.

Parent Interview

42. In an interview with the Complaint Investigator, the Parent explained they sought access to written documentation of behaviors the Student had exhibited while attending the School. They noted the Student had 20 incidents since enrolling at the School in November 2025. The Parent recalled receiving verbal reports via phone

call from the Special Education Teacher about the incidents, including assaults, elopement, and difficulties with regulation, but the Student's daily behavioral sheets did not reflect these events.

43. The Parent noted the Student came home with "unexplained bruises," and they became concerned with the Student's safety. They reported the Student had a chair thrown at their head, and added the Student bit other students to the point it drew blood. The Parent noted that while the School Nurse called to report "head traumas," the School failed to provide written reports reflecting those calls. When the Parent requested documentation of these incidents, they reportedly received the "runaround."

44. On January 14, 2026, the Parent reportedly made a formal request for documentation from the School and the Previous School, including a "data report of daily behavior." The Special Education Teacher allegedly informed the Parent that a specific data report could not be produced because the "system [was] broken" or "messed up." However, the Parent confirmed they began receiving daily behavior sheets from the School on January 16, 2026, but wanted reports from the computer system showing data, such as how many times the Student was redirected that month. The Parent also reported receiving records from the Previous School on February 26, 2026, but noted these records lacked daily behavioral sheets and internal communications regarding staff interventions.

45. The Parent requested to view bus video footage following incidents on February 4 and 5, 2026, where the Student allegedly kicked, screamed, was physically and verbally aggressive, and "attacked" other students, requiring the bus to be pulled over three times. The Transportation Director reportedly denied the Parent's request to view the video footage, citing privacy concerns, and provided only a "synopsis" of the February 5 incident, of which the Parent had already received a handwritten report from the bus driver.

46. The Parent alleged that the Student's learning environment was inappropriate, noting the Student's desk was placed facing a file cabinet with tape around its perimeter. The Parent characterized this desk arrangement as "seclusion" and stated it was not a requirement found in the Student's IEP or BIP. The Parent also expressed concern that the Student was "missing out on instructional time" because the classroom was frequently evacuated due to behavioral incidents. It was not specified whether these incidents were based on the Student's or others' behavior.

    a. The Parent provided photographs showing the Student's desk facing the side of a file cabinet in a classroom. Another table with student work and a chair was visible to the right of the Student's desk at the front of the same file cabinet. On the side of the file cabinet were visual cues for the Student. On the floor, blue tape marked a designated area. Other photographs provided showed several visual tools, cues, and schedules throughout the classroom.

47. The Parent also asserted that the LEA was not following the Student's IEP because it was not de-escalating the Student and was only writing up incidents after they occurred. The Parent also alleged that the BIP was not being followed or was insufficient, specifically noting that biting other students was a "new behavior" that had not been previously addressed in the BIP.
48. The Parent stated they requested an IEP meeting in January 2026 to address safety concerns, including the Student biting others and being "attacked" by peers. An IEP meeting scheduled for February 12, 2026, was canceled by the Special Education Teacher on February 11, 2026. The Parent noted the meeting was rescheduled for March 10, 2026.
49. Regarding academic progress, the Parent stated the Student is "way academically behind" and believes the School's focus on behavior, driven by an ED label, may be overlooking a "specific learning disability." The Parent also expressed concern that the Student would not "cooperate or do [their] work" unless provided with toys, a practice they wished to have removed from the IEP.

Behavior Interventionist Interview

50. The Behavior Interventionist reportedly received a records request from the Parent on February 6, 2026 and they said they sent the requested records to the Parent via attachments on February 9, 2026. No documents were withheld or deemed to be outside the scope of the educational record during this process. The Behavior Interventionist reported the Parent expressed frustration to them, reporting that they had previously asked the Special Education Teacher for the records, but felt the information was not provided in a timely fashion
51. The Behavior Interventionist stated their role was to provide crisis intervention and regulation support when the Student reached "peak behavior" or became escalated. The School utilized "ABC behavior data," which included anecdotal tracking of incident duration and specific witnessed behaviors, for significant behavioral events. The Student also used a daily monitor, managed by the Special Education Teacher, to track progress.
52. The Behavior Interventionist believed the Student's behavior was "trending in the right direction" since transitioning to the School in early November 2025. Fewer high-intensity behaviors, such as physical aggression, property destruction, and elopement, were observed during the Student's time at the School compared to previous data. The Behavior Interventionist's communication with the Parent occurred primarily regarding the "ABC data sheets" for large-scale or concerning behaviors.

Previous Special Education Teacher Interview

53. In an interview with the Complaint Investigator, the Previous Special Education Teacher stated the Student was in their classroom from the beginning of the 2025-26 school year until approximately the end of October 2025. During this period, the

Parent never requested to inspect or obtain copies of the Student's educational records. The Special Education Teacher and the Previous Principal clarified that during the Student's time at the Previous School, the Parent was not the legal educational decision maker (LEDM) or the official educational advocate. Furthermore, the Previous Special Education Teacher noted that they would only report behavioral data or provide records to an individual once their status as an educational advocate was verified.

54. The Previous Special Education Teacher described the delivery of IEP services at the Previous School as including break areas, calm-down zones, visual schedules, and "first-then" schedules.

55. The Previous Special Education Teacher asserted the Student was making progress toward their goals during their enrollment. "Really good behaviors" and data indicating readiness were cited by the Previous Special Education Teacher as the reasons for transitioning the Student to a different setting. They reported that behavioral progress was monitored using Check in to Connect data sheets and direct teacher observations.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, provided the Parent with access to the Student's educational records when requested by the Parent. K.A.R. 91-40-25, K.A.R. 91-40-50; 34 C.F.R. §§ 99.3, 300.501, 300.611(b), 300.613.

According to K.A.R. 91-40-25, each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child, and the provision of a FAPE to the child. K.A.R. 91-40-50 defines education records as any document or medium on which information directly related to one or more students is maintained by a participating agency.

This regulation also adopts federal provisions regarding parental access to education records and confidentiality, specifically 34 C.F.R. § 300.611(b), which defines "education records" as the type of records covered under the definition of "education records" in 34 C.F.R. part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

Further, 34 C.F.R. § 99.3 specifies that "education records" are those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. 34 C.F.R. § 300.613 adds specificity to these access rights, requiring agencies to permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency. Agencies must comply with

parental requests to inspect or review these records without unnecessary delay, before any meeting regarding an IEP, and in no case more than 45 days after the request has been made.

According to the Parent, the LEA failed to maintain and provide behavioral data and denied the Parent access to the Student's records. The LEA responded that the position of USD #259 is that, in accordance with state and federal regulations implementing the IDEA, it provided the Parent with access to the Student's educational records upon request. The LEA explained that the Student has been enrolled in two schools in the LEA for the 2025-26 school year. The LEA also explained that the Parent made some requests for records during the time the Student attended the Previous School, but at that time the Parent was not appointed as the Student's educational advocate and therefore did not have rights to the Student's educational records. The LEA's legal obligation at that time was to the Previous Educational Advocate, who maintained educational rights during their appointment as the Student's educational advocate until the Parent was appointed the Student's educational advocate on November 21, 2025 and obtained legal rights to access the Student's records.

In accordance with K.A.R. 91-40-25 and K.A.R. 91-40-50, the LEA's obligation is to provide parents with the opportunity to inspect and review all educational records relating to their child that are actually maintained by the agency. The investigation found that the LEA fulfilled this requirement by providing the Parent with copies of all behavior logs, nurse assessments, and daily tracking sheets currently held in the Student's file. While the Parent alleged they did not receive formal "written reports" from the School Nurse, the evidence confirmed the School Nurse provided the Parent with immediate verbal notifications following assessments and maintained internal written logs of those encounters, which were subsequently disclosed to the Parent during the records request process .

Furthermore, the IDEA does not require an educational agency to create new documents or formal reports that do not already exist in order to satisfy a parental request. Rather, the mandate is to provide access to the records the District maintains at the time the request is made. This is further supported by the fact that the materials submitted by the Parent as evidence for this Complaint were identical to the behavioral and medical records provided by the LEA, indicating the Parent was in possession of the same educational records used by the LEA to inform the Student's programming.

The Student's BIP explicitly established a quarterly reporting frequency to the Parent. The evidence indicated the LEA complied with this requirement by providing quarterly progress reports that aligned with the Student's IEP behavior goals. While the BIP required daily data collection and monthly team analysis, it did not mandate daily or weekly reporting to the Parent as a standard procedure. While the Parent engaged in informal communication regarding data on January 14, 2026, the evidence showed a formal request was sent to the Behavior Interventionist on February 6, 2026. The LEA responded to this formal request on February 9, 2026, within the 45-day time limit of either original date.

Although the Special Education Teacher reported a "system error" that prevented the printing of aggregated trend reports, the LEA fulfilled the request by providing the raw data (daily Check in to Connect sheets) from which those reports were derived. Providing raw data in an alternative format when a specific software-generated report is unavailable satisfies the access requirements, as the substantive information was disclosed. Additionally, the Parent acknowledged receipt of the Student's medical and injury assessments, which documented assessments by the School Nurse following head traumas and peer altercations.

Regarding bus incident footage, the Parent requested to view video footage from transportation incidents occurring in February 2026. Although the LEA denied the request on the grounds that a private company maintained the footage, state and federal regulations under 34 C.F.R. § 99.3 and 34 C.F.R. § 300.611(b) defines "education records" to include those maintained by a party acting for the agency. Because the private bus company provides transportation services on behalf of the LEA, the footage created during these services falls under this definition.

Furthermore, 34 C.F.R. § 300.613(a) mandates that an agency must permit parents to inspect and review records that are collected, maintained, or used by the agency.

In this instance, the Transportation Director obtained and viewed the footage to evaluate the incidents and subsequently developed a written synopsis for the Parent. Because the LEA "used" the record to inform its assessment of the Student's behavior and transportation needs, the Parent's right to access the record was triggered. Per the guidance in Letter to Wachter, the District is required to provide the Parent with the opportunity to inspect and review the actual footage, using redaction or blurring to protect the privacy of other students if necessary. Providing only an accurate synopsis, as seen in the narrowly applied Letter to Grotting, is insufficient when the record has been actively used by the District to make determinations about the Student.

In conclusion, while the LEA complied with the timely provision of the School Nurse's records and raw behavioral data, it failed to provide the Parent with the right to inspect and review the bus video footage from February 2026. Because the video was maintained by a party acting for the LEA and used by the LEA to evaluate the Student's behavioral incidents, it constitutes an "education record" under 34 C.F.R. § 99.3. The provision of a written synopsis in lieu of allowing the Parent to view the actual footage, even with necessary redactions for peer privacy, constitutes a violation of the Parent's access rights under 34 C.F.R. § 300.613 and K.A.R. 91-40-50.

Based on the foregoing, under IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA failed to provide the Parent with access to the Student's educational records upon the Parent's request.

Issue Two

Whether USO #259, in accordance with state and federal regulations implementing the IDEA, provided the Student with a FAPE. K.A.R. 91-40-1(z); 34 C.F.R. § 300.101.

According to K.A.R. 91-40-1(z) and 34 C.F.R. § 300.101 "free appropriate public education" and a "FAPE" mean special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the state board; include an appropriate preschool, elementary, or secondary school education; and are provided in conformity with an individualized education program.

According to the Parent, the LEA failed to provide the Student with a FAPE. The LEA maintained that, in accordance with state and federal regulations implementing the IDEA, the LEA provided the Student with a FAPE.

The Investigation reviewed whether the Student's educational program and placement were reasonably calculated to provide educational benefit following their transition between settings. At the start of the 2025-26 school year, the Student was placed in a more restrictive, separate therapeutic day school program. An IEP and BIP were developed on October 27, 2025, specifically to facilitate the Student's transition to a less restrictive PBS classroom in a comprehensive elementary school. This transition occurred on November 3, 2025.

The Investigation considered the following factors regarding the implementation of a FAPE: adjustment period and implementation, response to behavioral escalation, learning environment, and academic progress. Upon the Student's arrival at the School on November 3, 2025, the LEA implemented the IEP and BIP as written.

Given that the baseline data in the October 2025 BIP was derived from the previous, more restrictive environment, a period of adjustment was necessary for the Student to acclimate to the new setting and for staff to observe the Student's behavioral trends in a less restrictive environment.

While the Parent expressed concern about "new" behaviors, such as biting peers, the LEA maintained consistent tracking through daily monitoring sheets and detailed ABC incident logs. The Behavior Interventionist's statements indicated that, despite these incidents, the Student's behavior was generally viewed as "trending in the right direction," given the transition. By late January 2026, the School team initiated formal discussions with the Parent and the School Psychologist to clarify concerns and adjust the BIP based on incident data collected since the Student's enrollment at the School. This resulted in a proposal to reconvene the IEP team to formalize changes to the behavioral supports.

The Parent also raised concerns about the Student's desk being placed facing a file cabinet with a taped perimeter. The Parent characterized this arrangement as "seclusion" and noted it was not an accommodation explicitly listed in the Student's IEP. However, the October 27, 2025, BIP, designed to support the Student's transition to a less restrictive environment,

mandated the use of a "structured environment" as the primary antecedent-based intervention. This desk configuration was implemented as a strategy to meet the BIP's requirement for structure and to manage the Student's documented triggers for noncompliance, such as external distractions. Staff documentation indicated the Student benefitted from clear physical boundaries and visual schedules to feel secure and prepared.

While not explicitly detailed in the IEP, the Investigation found this desk arrangement was part of the ongoing implementation of the BIP's environmental modifications intended to support the Student's safety and academic focus.

Finally, although the Parent alleged the Student was "way academically behind," the LEA's data suggested that delays were primarily due to the Student's "task avoidance" behaviors rather than a lack of educational opportunity. The School Psychologist clarified the Student's cognitive abilities were in the average range, but behavioral noncompliance directly impacted academic output, which was an issue the BIP was specifically designed to address.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to provide the Student with a FAPE.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at 34 C.F.R. § 300.613 and K.A.R. 91-40-50 specify that each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency. Per 34 C.F.R. § 99.3, education records include those maintained by a party acting for the agency.

In this case, the evidence supports the finding that USD #259 did not provide the Parent with the opportunity to inspect and review bus video footage from February 2026. Although the footage was maintained by a private contractor, it met the definition of an education record because it was "used" by the District's Transportation Director to evaluate the Student's behavior and generate a written synopsis. Documentation and Interviews show the District denied direct access to the footage based on third-party ownership and peer privacy, which is inconsistent with federal guidance in Letter to Wachter.

Based on the foregoing, USD #259 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #259 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 C.F.R. § 300.613 and

2. K.A.R. 91-40-50 by ensuring parents are granted the right to inspect and review all education records, including those maintained by third-party contractors acting on behalf of the District or records used by the District to inform educational decisions.
3. Further, by April 15, 2026, USD #259 will complete the following:
    a. Submit a written statement of assurance to SETS that the LEA's practices and procedures for responding to records requests, specifically those involving video surveillance or records maintained by private contractors, have been reviewed and revised as appropriate to be compliant with 34 C.F.R. § 99.3 and Letter to Wachter.
    b. Provide evidence of a training session for administrative and transportation staff regarding the definition of "education records" and the requirement to provide parental access to records "used" by the agency, regardless of physical location or third-party maintenance.

2. Within 15 calendar days of the date of this report, USD #259 shall provide the Parent with a scheduled opportunity to inspect and review the bus video footage from February 4 and 5, 2026. The District may utilize redaction (such as blurring) to protect the privacy of other students in the footage, provided the redaction does not prevent the Parent from meaningfully reviewing the Student's actions and the District's subsequent behavioral assessments. USO #259 shall submit documentation to SETS confirming this review occurred or was offered to the Parent.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 259
Wichita Public Schools: 26FC259-007

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on February 12, 2026, by -------, the education advocate of -------. In the remainder of this decision, ------- will be referred to as "the education advocate" or "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report addressing the allegations was issued on March 31, 2026. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the education advocate, the Complaint Report, the district's notice of appeal, and the education advocate's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified one issue:

Did the school district provide the education advocate with access to the student's educational records when requested?

The report covers a variety of education records that were requested by and provided to the Education Advocate. The sole issue on appeal involves video footage of a series of bus incidents that occurred during the month of February 2026. The Education Advocate asked to view the video footage of these incidents.

The report found that the district denied the request to view the video footage of these incidents on the grounds that a private company maintained the footage, not the school district. The investigator correctly cited state and federal regulations under 34 C.F.R. § 99.3 and 34 C.F.R. § 300.611(b) defining the term "education records" to include those records that are maintained by a party acting for the agency. Because the private bus company provides transportation services on behalf of the district, the investigator correctly found that footage created during these transportation services fell under this definition of "education records." *Report, p. 31-32

Instead of allowing the Education Advocate to view the video footage of the incident, the Transportation Director obtained and viewed the footage to evaluate the incidents and subsequently developed a written synopsis of the incidents for the Education Advocate. The reason the district provided only a written synopsis of the incidents is because other students were involved in the incidents and so permitting the Education Advocate to view the incidents would necessarily permit the Education Advocate to also view an education record of other students.

The investigator found that:

> *Because the LEA "used" the record to inform its assessment of the Student's behavior and transportation needs, the Parent's right to access the record was triggered. Per the guidance in Letter to Wachter, the District is required to provide the Parent with the opportunity to inspect and review the actual footage, using redaction or blurring to protect the privacy of other students if necessary.* ***Providing only an accurate synopsis****, as seen in the narrowly applied Letter to Grotting,* ***is insufficient when the record has been actively used by the District to make determinations about the Student*** *(Report, finding 45, p. 32)."*

it is the language in bold print that the district finds objectional.

The question presented in this appeal is: What is a school district's obligation to permit a parent to 'inspect and review" the education records of their children when those records include personally identifiable information of other students?

This question has been considered many times with the same results, when analyzed under the Family Educational Rights and Privacy Act (FERPA). FERPA is a general education statute but

includes special education students under 34 C.F.R. 300.611(b) which defines the term "Education Records" of special education students to mean the type of records under FERPA.

In its appeal, the district cites Letter to Grotting 123 LRP 25615 (SPPO 2022). This letter was a response to a complaint filed with the Student Privacy Policy Office (SPPO), the office in the United States Department of Education that regulates FERPA. This SPPO complaint was similar to the complaint submitted by the Education Advocate and appealed by the school district in this complaint. It involved an incident on a school bus involving more than one student. In that SPPO complaint the district provided an explanation of what happened, including that the student:

> *stood up in the aisle and blocked the first set of students who tried to get on the bus. He pushed a 1st grader sitting next to him onto the floor and then leaned on her and kicked her. He threw paper at the bus driver. He took off his pants and his shorts and stood in the middle of the aisle. [The Student] stood up numerous times, moved seats, crawled under seats and stuck his tongue out at students walking by. He yelled "What the frick?" at the bus driver twice. He was singing "I am crazy" and "kitty high five" very loudly. He stood up, danced and sang. He pushed three kids in the face and pushed two more with his backpack. He pulled girls hair. He threw another item across the aisle.*

The SPPO noted that

> *FERPA provides that when education records contain information on more than one student, the parent may inspect and review* ***or "be informed of"*** *only the* ***specific information about his or her own child.*** *(In the case of an eligible student, he or she may only have access to the information that relate to him or her.) See 34 CFR § 99.12(a).*
>
> *Thus, when an education record contains information on more than one student, the parent may inspect and review or "be informed of' only the specific information about his or her own child, unless the information about the other student or students cannot be segregated and redacted without destroying its meaning. See 34 CFR § 99.12(a).*

With regard to videos, if the video contains information on more than one student and concern an altercation, the parents of a student involved in the altercation could have the right under FEPRA to inspect and review the video, even though the video also contains information that is also directly related to other students, so long as the information in these records cannot be segregated and redacted without destroying its meaning... We believe that the District is in the best position to make this determination (Emphasis added).

What this means is that FERPA affirmatively requires school districts to make bus videos that are maintained by the district or by a party acting for the district, available for inspection by parents (even when those videos include images of other students) when the images of the other students can be segregated and redacted without destroying the meaning of the video. Often the question

of whether a video can be so segregated or redacted is in dispute. In such case, the SPPO guidance counsels that "the District is in the best position to make this determination."

Before proceeding any farther, the Appeal Committees notes that on page 32 of the report, the investigator concludes:

> *Because the LEA* ***"used"*** *the record to inform its assessment of the Student's behavior and transportation needs, the Parent's right to access the record was triggered. Per the guidance in Letter to Wachter, the District is required to provide the Parent with the opportunity to inspect and review the actual footage, using redaction or blurring to protect the privacy of other students if necessary.* ***Providing only an accurate synopsis****, as seen in the narrowly applied Letter to Grotting,* ***is insufficient when the record has been actively used by the District*** *to make determinations about the Student. (Emphasis added).*

In its appeal the district asserts that whether the information was "used" by the district does not change the analysis because the regulations define education records as information that has been "collected, maintained, or **used by"** the public agency (emphasis added). There is no special additional duty for disclosure of records that are "used" by a district. Use by the district is merely a factor in determining if the record is an education record (See, Letter to Anonymous, 24 FAB 27 (SPPO 2020). The Appeal Committee agrees that "use" of information triggers no access rights that are in addition to the access rights specified in the pertinent regulations.

An important element in this "special education" complaint is that this special education complaint process itself is limited to allegations of a violation of special education laws and regulations (34 C.F.R. 300.153(b)(1)). FERPA is not a special education law. Although FERPA provides context due to the adoption of the FERPA definition of the term "education record" in 34 C.F.R. 300.611(b) and the inclusion of FERPA consent provisions in 34 C.F.R. 300.622(a), a violation of FERPA, by itself, is not a violation of special education requirements and so not subject to the special education complaint process.

The most relevant special education regulation that applies to this complaint is 34 C.F.R. 300.615. That regulation is titled, "Records on more than one child." It consists of a single sentence, stating: **"If any education record** includes information on more than one child, the parents of those children have the **right to inspect and review only the information relating to their child or to be informed of that specific information** (Emphasis added)." A plain reading of this single-sentence regulation is that when confronted with the situation in this complaint, where a parent's request to review education records includes information on more than one child, the district has two equal options: (1) permit the parent to inspect and review **only the information relating to their child or (2) inform parents of the specific information in the record**. That means there are two options.

This regulation cannot reasonably be read to eliminate the second option when, as in this complaint, the education records being requested includes information on more than one child.

In the conclusion portion of the report, on page 32, the investigator concludes that "Providing only an accurate synopsis (emphasis added), as seen in the narrowly applied Letter to Grotting, is insufficient when the record has been actively used by the District to make determinations about the Student. We have already clarified that the analysis does not change simply because "the record has been actively used by the District." What the Appeal Committee finds important in this part of the investigator's conclusion is the part of the conclusion that the district did provide the education advocate with an "accurate synopsis" of what happened on the bus (see also Finding 45 on page 26 of the report).

The Appeal Committee finds that under the specific facts in this complaint, that the district performed one of the two options that were available to it under 34 C.F.R. 300.615, when it responded to a request for access to information in an education record (that included information on more than one student) by informing the education advocate of the specific information that was contained in the requested record.

Conclusion

For the reasons stated herein, the conclusion in Issue 1 is reversed and the corrective actions are rescinded.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 23rd day of April, 2026.

Appeal Committee

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233. OLATHE PUBLIC SCHOOLS
ON FEBRUARY 12, 2026

DATE OF REPORT: MARCH 27, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #233 (Olathe Public Schools) on behalf of four Catholic private schools in the Archdiocese of Kansas City who enroll parentally-placed private students with disabilities. The complaint was filed by -------, Associate Superintendent – Student Services, at the Office of Catholic Schools for the Archdiocese of Kansas City. In the remainder of the report, ------- will be referred to as "the complainant,."

In addition, the four Catholic private schools operated within the Olathe Public Schools district boundaries will be referred to as follows:

- Prince of Peace Catholic School as "School A"
- St. Paul Catholic School as "School B"
- St. James Academy as "School C"
- St. Thomas Aquinas High School as "School D"

Finally, the parentally-placed private school students with disabilities at any of these four Catholic private schools operated by Archdiocese of Kansas City schools will be referred to as "the students" and the Archdiocese of Kansas City staff will be referred to as follows:

- Lorenzo Rizzi, Associate Superintendent – Student Services, at the Office of Catholic Schools for the Archdiocese of Kansas City
- Steve Perla, president, ADAC Advocacy Group
- Ariella Hellman, staff, ADAC Advocacy Group
- Kim Hammers, Director of Embrace
- Kristen Mcbride, Assistant Principal, Prince of Peace Catholic School

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." In this case, USD #233 employees its own staff to serve students with disabilities and is the responsible public agency.

The complaint is against USD #233 (Olathe Public Schools). In the remainder of the report, USD #233 will be referred to as "the Local Education Agency (LEA)" and the LEA staff will be referred to the as follows:

- Anjanette Tolman, Executive Director of Special Services
- Ashley Niedzwiecki, Assistant Director of Special Services 1
- Judy Martin, Assistant Director of Special Services 2
- Stacy Leatherman, Synergy SE Database Support Specialist
- Sally Boyd, Special Services Specialist

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on February 12, 2026. The investigators requested and were granted a two week extension due to working with staff from both the LEA and Office of Catholic Schools for the Archdiocese of Kansas City and spring break.

Evidence Reviewed

During the investigation, the Complaint Investigators, Donna Wickham, and Nancy Thomas, reviewed all evidence and documentation provided by the LEA and the complainant received by March 20, 2026.

On March 9, 2026, the investigators interviewed the Executive Director of Special Services, and both of the Assistant Directors of Special Services.

On March 11, 2026, the investigators interviewed the Associate Superintendent – Student Services, at the Office of Catholic Schools for the Archdiocese of Kansas City, the President and a staff from the ADAC Advocacy, the Assistant Principal of School A, and the Director of Embrace.

The investigators interviewed the principal of School C on March 12, 2026. The principal of School B participated in an interview with one of the investigators on March 13, 2026 and the principals of Schools A and D provided information via email responses.

The investigators contacted staff from the Archdiocese of Kansas City and LEA by phone and email numerous times to clarify issues and request further evidence throughout the investigation.

Documentation provided that predated the twelve months prior to the filing of this complaint was allowed for consideration because of the systemic nature of the allegations. While all documentation was reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents considered during the investigation:

- LEA Response, dated February 27, 2026
- Agendas and facilitator notes for the Private/Public School Meeting, dated August 28, 2025 and January 28, 2026
- Excel spreadsheet for private school students receiving services as of February 25, 2026
- Database of School C nonresident students whose parents declined special education services
- LEA Private School Participation Submission for 2025 – 2026: Consultation with Private School Representatives and Representatives of Parentally-placed Private School Children
- Kansas State Department of Education Consultation: Documentation of Private School Consultation, signed by principals of four Catholic private schools
- Documentation for one nonresident student parentally-placed at School C including an IEP (dated 10/28/24), emails between parents and resident LEA attempting to arrange speech services during the 2025-2026 school year, Ready, Willing, Able letter (dated 8/25/25, and Prior Written Notice (dated 8/25/25)
- Documentation for second nonresident student parentally-placed at School C including emails between parents and resident LEA attempting to arrange IEP services during July 2025 including learning that their advice for open enrollment was not accurate and using private insurance for related services
- Undated table prepared by the complainant titled, Chart depicts Number of Students in 2025-2026 school year

Emails:

- Email exchange between principal, School C and Assistant Director of Special Services 2 dated between July 29, 2025 at 2:25 p.m. and September 26, 2025 at 5:47 p.m.
- Email exchange between the principal of School B and the Special Services Specialist 2 dated between December 12, 2025 at 2:30 p.m. and January 9, 2025 at 9:37 a.m.
- Email from the Special Services Specialist dated November 6, 2025 at 9:37 a.m. to principals of four schools.
- Email from the complainant to Executive Director of Special Services dated December 8, 2025 at 8:29 a.m.
- Email from the Special Services Specialist dated December 11, 2025 at 1:05 p.m. to principals of four schools
- Email exchange among the Assistant Director of Special Services 2, Synergy SE Database Support Specialist and Special Services Specialist dated between January 8 2026 at 2:40 p.m. and January 15, 2026 at 11:52 a.m.

- Email exchange between the Assistant Director of Special Services 2 and principal of School B dated between January 12, 2026 at 1:23 p.m. and January 13, 2026 at 9:20 a.m.
- Email from Special Services Specialist to Assistant Director of Special Services 2, and Executive Director of Special Services dated January 21, 2026 at 3:09 p.m.
- Email exchange between the Assistant Director of Special Services 2 and principal of School B dated between January 25, 2026 at 2:44 p.m. and March 7, 2026 at 2:29 p.m.
- Email among investigators and Executive Director of Special Services and Assistant Directors of Special Services 1 and 2 dated March 13, 2026 between 10:15 a.m. and March 17, 2026 at 4:40 p.m.
- Email forwarded to investigators by complainant from principal of School A dated March 18, 2026 at 1:46 p.m.

Background Information

This systemic complaint is focused on the LEA's services for nonresident students with disabilities, private school child count, proportionate share calculation and the private school consultation on behalf of four Catholic private schools which are located within the LEA boundaries. The LEA's procedures and collaborations with these four Catholic private schools are being investigated in relation to adherence to IDEA and Kansas regulations and the LEA's stated procedures and practices.

Issue Investigated

Did USD #233 follow state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) for children parentally-placed at the Catholic private schools specific to providing special education services to nonresident students, reporting accurate private school child count data and calculating proportionate share funds following child find activities, and conducting the Consultation.

Although this systemic complaint investigates only one issue, there are three component parts of this issue that will be reported separately: 1) Was the LEA's Consultation timely and meaningful?; 2) Are nonresident students with disabilities who are parentally enrolled in the Catholic private schools denied special education services in the LEA?; and 3) Did the LEA conduct a proper private school child count with respect to students enrolled in Catholic private schools resulting in errors in the proportionate share calculation?

Component One

Was the LEA's Consultation timely and meaningful?

Applicable Law

Federal regulations at 34 C.F.R. §300.134 and state regulations at K.A.R. 91-40-42a provide guidance to ensure timely and meaningful consultation and require responsible public agencies to consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

a) a child find process that includes how parentally-placed private school children suspected of having a disability can participate equitably and how parents, teachers, and private school officials will be informed of the process;
b) the determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities including how the proportionate share of those funds was calculated;
c) how the consultation process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;
d) how, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities. This will include the types of services, how special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children, including how and when those decisions will be made: and
e) a written explanation of the reasons why the responsible public agency chose not to provide services as recommended if the responsible public agency disagrees with the views of the private school officials.

Under 34 C.F.R. §300.135 and K.A.R. 91-40-42b when timely and meaningful consultation has occurred, the responsible public agency must obtain a written affirmation signed by the representatives of participating private schools. If the representatives do not provide the affirmation within a reasonable period of time, the responsible public agency must forward the documentation of the consultation process to the state education authority (SEA). K.A.R. 91-40-42b defines a reasonable period of time as 30 days of the date the affirmation was requested.

Complainant Position

The complainant alleges in their systemic complaint that the LEA failed to share the amount of proportionate share funds available thus denying a discussion of how these limited funds could best be spent on services. Instead, the principals of the Catholic private schools all reported that the LEA presented that these funds would be allocated to salaries for the staff providing the services to students with disabilities at the August 28, 2025 Consultation

meeting. The principals of the Catholic private schools stated their input was not solicited and they would like more input into the program design, especially related to where services are provided.

Local Education Agency (LEA) Position

The LEA responded in their February 27, 2026 written response to the allegations that they did provide the proportionate share calculations and allocated time in each agenda for discussion of the proportionate share calculations as well as to allow time for open discussion and an opportunity for all participants to provide feedback or ask questions. LEA staff acknowledged that, because of delays at the federal level, this information for the 2025-26 school year was shared at the consultation meeting as soon as it became available. They stated that to their knowledge, no private school representative or parent representative expressed any concern or disagreement with using the proportionate share funds to support the staff who provide the services to students attending private schools. The LEA staff indicated that their consultation with private school representatives is ongoing and that the principals of the four Catholic private schools often reach out with questions or requests followed by discussion and decision making.

Analysis: Findings of Fact

1. The LEA provided consultation agendas for meetings held on August 28, 2025 and January 28, 2026. Both consultation agendas included an agenda item which listed the dollar amount of the proportionate share funds available. Both agendas also included time for feedback and questions. The January 28, 2026 consultation agenda included time for private school representatives' remarks and questions. Handwritten notes associated with the August 28, 2025 consultation included the private school census count. However, there is no explanation for how the private school census count is used for calculating the amount of proportionate share funds available during that school year.
2. The LEA's practice is to combine the consultation meeting for special education with the consultation meeting for the Title programs. During interviews, the principals reported that the special education consultation occurs first in the meeting and, since they don't have input into how the special education proportionate share funds are spent, most of the meeting time is devoted to the Title programs where the private schools are able to decide how to spend those proportionate share funds.
3. The LEA staff and two of the principals interviewed by the investigators stated that the consultation meetings are focused more about information dissemination for the special education services, since the meeting covers all available federal programs and services available to private schools.
4. While each consultation meeting agenda allotted time for answering questions, the complainant and principals stated there was not adequate time to hold discussions

make recommendations about ongoing practices and services or discuss building specifics.

5. The LEA, complainant, and building principals all indicated that they have regular and ongoing conversations about special education related to specific students.
6. The principals described conversations held during the 2025-2026 school year to clarify services and private school child count questions and were able to identify the LEA staff to call for assistance.
7. An email from the principal of School B to the Assistant Director of Special Services 2 on January 25, 2026 requested a re-examination of the delivery model for onsite speech therapy services. As a part of this email, the principal made the following request, *"I went into our conversation believing you could change this model if you were convinced it was best. It sounds like there are additional layers of approval to make this happen. If you don't believe changing the model would be best for all involved, I would like to better understand why. If you do believe it would be best but don't think it will gain traction in the approval process, I would like to partner with you through that process to work towards change."* The Assistant Director of Special Services 2 responded on January 28, 2026 stating, *"As I mentioned in our meeting the next step is for me to meet with the [LEA partner school staff] and have a conversation with them. It's my plan this will happen next week. After the meeting occurs, I'll reach out to [staff at School B] and share an update."*
8. On March 7, 2026 the principal at School B followed up in email to the Assistant Director of Special Services 2 on the status of the request and the Assistant Director of Special Services 2 responded later that day indicating that she would be meeting with the LEA partner school staff next week to "brainstorm sped services" and was hopeful that they would be able to come up with "a couple of options to share with staff at School B". The principal at School B indicated no response has been received with an update and the LEA did not provide an update to the investigators on the status of the request when asked on March, 17, 2026.
9. As an example the principals described abandoning their student improvement plan process and adopting the public school's forms and process after experiencing delays in the child find process when submitting their GEI data collected on their forms to the LEA for consideration during the referral process. The principals stated that the child find process has evolved over time in partnership with partner public school staff.
10. The principals stated that they educate their staff and parents about the child find process.
11. The principal from School B stated that they will be meeting monthly with their LEA partner school to discuss specific students who are experiencing learning or behavioral difficulties beginning in March, 2026.
12. In a clarification conversation with the investigators, SETS staff at KSDE indicated that the consultation with private school representatives was an ongoing process that included not only the consultation meetings usually held at the beginning of each school year or each spring but also through ongoing conversations held between the private school representatives and LEA staff.

13. Following the August 28, 2025 consultation meeting in which only the dollar amount of $51,915 for IDEA Private School Proportionate Share (3-21) was shared, the complainant emailed the Executive Director of Special Services on December 8, 2025 requesting information about how the proportionate share funds were used to service parentally-placed school children with disabilities in the LEA. However, the LEA did not respond to this request. The complainant believes this is an example of failing to provide timely and meaningful consultation with a private school representative.
14. The LEA staff stated in their interview with the investigators that they provide all students who are eligible for special education and related services with equitable services through an IEP regardless of whether they reside in the LEA or in another school district outside of the USD #233 boundaries. The LEA staff reported that they first spend the proportionate share funds to provide the required IEP services and then use state and local funds when the proportionate share funds are fully expended to continue to pay for the required IEP services.
15. The principals at two of the Catholic private schools indicated that they no longer make referrals for special education evaluations for students suspected of having a disability who live outside of the LEA's boundaries. The principals reported they have been told by LEA staff that those students, if eligible under IDEA, must seek any special education or related services from their district of residence.
16. The principal of one of the Catholic private schools initially refused to sign the written affirmation of timely and meaningful consultation until the LEA shared the amount of proportionate share funds that were available. An email from this principal to the Assistant Director of Special Services on September 19, 2025 stated, *"Just a reminder I have(sic) been asked not to sign the SPED consultation form until we get our child find and proportionate(sic) share information."* Documentation shows the principal signed the affirmation on September 22, 2025.
17. The 2025-26 Kansas State Department of Education Consultation: Documentation of Private School Consultation forms show that all four of the Catholic private school principals signed the affirmation of consultation forms. The signed forms were dated September 4, 2025, September 15, 2025 and September 22, 2025. One form was signed, but a date was not recorded. During an interview, that principal stated that the form was signed following the August meeting.
18. In the KSDE Special Education Private School Participation Submission for the 2025-2026 school year, the LEA reported that written affirmation of timely and meaningful consultation was obtained from all of the representatives of private schools within the district boundaries.

Conclusion

The IDEA is very clear that representatives of private schools are to be consulted during the design and development of the special education and related services which are to be provided to students with disabilities who are voluntarily enrolled in private schools by their parents. The responsible public agency is to obtain written affirmation from the private school

representatives that this timely and meaningful consultation has occurred. It is important to note that the consultation may take the form of an annual meeting or multiple meetings during a school year. Regardless of how the timely and meaningful consultation occurs, the IDEA requires that the consultation must address five specific topics.

In this case, USD #233 held two consultation meetings during the 2025-26 school year. The first was held on August 28, 2025 and the second was held on January 28, 2026. Principals from all four Catholic private schools attended both meetings. In addition, the LEA and the principals reported ongoing conversations and email exchanges with the Assistant Director of Special Services 2 and partner public school staff centered around individual student services occurring throughout the school year.

USD #233 reported a practice of combining the special education consultation meeting with the Title programs consultation meeting as both are federal programs which require a consultation process. It is noted that these two federal programs have very different requirements for nonresident students who are enrolled in private schools within the district's boundaries as well as how the associated federal funds are spent. The principals stated that the August and January special education consultations consisted of providing information, little time for comments or questions and no time for discussion or decision making. They further stated that the majority of the meeting was spent on the Title programs consultation because of the ability of the private schools to determine how those funds were spent. USD #233 will update the 2026-27 school year presentation materials to allow discussion time. While not required, the LEA may want to consider separating the special education consultation from the Title programs consultation to allow time for meaningful discussion to occur.

The LEA provided documentation to show that written affirmation were in fact signed and obtained within 30 calendar days following the August 28, 2025 meeting from all private school representatives indicating that timely and meaningful consultation had occurred.

As stated previously, the IDEA requires specific topics be addressed during the special education consultation. The first requirement is to explain the child find process for students attending private schools within USD #233's boundaries. In this case, there is evidence to show that the LEA has a procedure for receiving referrals from private schools and that the private school principals are aware of how to make referrals for a special education evaluation for students suspected of having a disability and in need of special education services. While concerns were found in the practices during the referral process, the LEA is in compliance with federal and state regulations regarding having a child find procedure and ensuring the private school representatives are aware of that procedure.

The second requirement is to share the amount of proportionate share funds that are available to be spent and how those funds are calculated. In this case there is evidence to support a finding that the LEA did share the amount of proportionate share funds available

with the private school representatives on the 2025-26 school year. However, there is no evidence showing that the LEA explained how those funds were calculated based on the private school child count and, therefore, USD #233 is found out of compliance.

The third requirement is to have a procedure in place for working with private schools when students are identified as having a disability during the current school year and how those students can access equitable special education and related services. In this case, there is evidence to support a finding that the LEA does have a procedure in place for providing services to private school students who are found eligible for special education and related services. Again, while there are concerns with practices of providing services which will be addressed later in this report, the LEA is in compliance regarding having a procedure in place.

The fourth requirement is to explain the types of services available to private school students with disabilities using proportionate share funds and what will happen to those services when the proportionate share funds are fully expended. In this case, the LEA administrative staff reported that USD #233 provides a free appropriate public education (FAPE) as equitable services to private school students with disabilities attending private schools within the district boundaries, regardless of where the student resides. LEA administrative staff stated that proportionate share funds are spent first when funding special education and related services to students with disabilities in private schools. When these funds are fully expended, USD #233 uses state and local funds to continue to provide FAPE to these students. Please note that the practices for providing FAPE to nonresident students with disabilities attending private schools within the LEA's boundaries will be addressed later in this report. Again, USD #233 is in compliance regarding the requirement to have a plan for the types equitable services available to private school students with disabilities and how to proceed when proportionate share funds are fully expended.

The fifth requirement is to provide a written explanation why the LEA chooses not to provide services as recommended by the private schools. In this case, the principal of School B spoke with the Assistant Director of Special Services 2 and requested speech therapy services be provided onsite at the Catholic private school as provided to School A and followed up this request in an email dated January 25, 2026. The Assistant Director of Special Services 2 responded that this request would be shared with other LEA staff and then get back to the principal within the next couple of weeks. However, a response to the request was never provided by the LEA, and on March 7, 2026, the principal again emailed the Assistant Director of Special Services 2 about the status of the request and, again, no response was provided as to whether the request was accepted or rejected and the reasons why. Because there has been no response in a two month period, the LEA has effectively denied the request without providing a written explanation. For this reason USD #233 is found out of compliance for not providing a written explanation in response to School B's request of January 25, 2026.

Based on the foregoing, USD #233 is found *out of compliance* for not including all of the required topics during consultations with private school representatives during the 2025-26 school year. Specifically, the LEA did not explain how the proportionate share funds were calculated and did not provide a written response to the principal of School B. These omissions resulted in the ongoing consultations with private school representatives not being meaningful as required in the IDEA. As such, corrective action is required.

Corrective Action

The following corrective actions are ordered regarding the Consultation meeting with private school representatives:

1 USD #233 will update the 2026-27 school year presentation materials to explain how the proportionate share funds are calculated. The materials will be provided to SETS prior to the meeting for feedback.

Component Two

Are nonresident students with disabilities who are parentally enrolled in the Catholic private schools denied special education services in the LEA?

Applicable Law

Under federal regulations at 34 C.F.R. §300.13, an elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law. The Kansas state law defines a private elementary school to exclude the education of children prior to kindergarten (K.S.A. 72-3461(c). As such, children with disabilities enrolled in private preschools are not eligible to receive proportionate share services; instead, these children would receive services from their district of residence through the early childhood special education program for children age three through five who are not age-eligible to attend kindergarten.

The Federal regulations at 34 C.F.R. §300.132(a) and Kansas regulations at 91-40-43 require that each public agency provide special education and related services to parentally-placed private school children with a disability in grades kindergarten through grade 12.

Both the federal regulations at 34 C.F.R. §300.131and Kansas regulations at 91-40-43 require the school district where the private school is located to conduct child find activities to ensure students suspected of having a disability and in need of special education and related services are evaluated to determine eligibility. The cost of child find activities cannot be funded by the school district's proportionate share funds.

Both federal regulations at 34 C.F.R. §300.132(c) and Kansas regulations at 91-40-43 require school districts to annually report the number of students enrolled in private schools who were evaluated; the total number of students attending a private school within the school

district's boundaries who have been found eligible for a disability under the IDEA; and the total number of students with disabilities who are receiving special education and related services.

While some of the requirements are the same, there are significant differences between the federal law and the state law for how services are provided to these students.

Federal regulations at 34 C.F.R. §300.132(b) require school districts to develop an individual service plan (ISP) for each student with a disability enrolled in a private school within the boundaries of that school district so long as the necessary services are available under the district's equitable services plan developed through consultation with representatives of the private schools and paid for by the district's federal proportionate share funds.

Under federal regulations at 34 C.F.R. §300.137(a), parentally-placed private school students do not have an individual right to receive some or all the special education and related services that the student would receive if enrolled in a public school.

Federal regulations at 34 C.F.R. §300.137(b) allow the school district to make the final decision with respect to the services provided to parentally-placed private school children with disabilities following the consultation with private school representatives.

If a student with a disability is enrolled by their parents in a private school within the school district's boundaries and will receive special education or related services, federal regulations at 34 C.F.R. §300.137(c)(1) require that school district to initiate and conduct meetings to develop, review, and revise the student's ISP.

Federal regulations at 34 C.F.R. §300.139 specify that the services provided to parentally-placed private school children with disabilities may be delivered on the premises of private schools in a designated school district building, or at a neutral site. The school district, in consultations with private school representatives, determines where special education and related services are provided. In addition, the school district must provide any necessary transportation so private school students with disabilities are able to access the equitable services described in the ISP. However, the school district is not required to provide transportation outside of the school district boundaries. See also, K.S.A. 72-3462 for same under Kansas statutes, including the provision that "Special education services which are provided under this section for exceptional children who attend a private, nonprofit elementary or secondary school which is located in the school district may be provided in the private, nonprofit elementary or secondary school or in the public schools of the school district. The site for the provision of special education services under this section for an exceptional child shall be determined by the school district in consultation with the parent or guardian of the child and with officials of the private, nonprofit elementary or secondary school. This statute also clarifies that "No school district shall be required to provide such services outside the school district."

All Kansas school districts are required to follow both the federal regulations as well as the Kansas regulations. The key difference between the regulations is how equitable services are provided to parentally-placed students with disabilities enrolled in private schools. The Kansas regulations differentiate between the services which must be made available to parentally-placed private school students with disabilities who are residents of the school district where the private school is located as compared to the equitable services which must be made available to nonresident students with disabilities who are parentally-placed in a private school located within the school district boundaries. In addition, Kansas regulations further specify that the school districts must provide equitable services to gifted children who are residents of the school district and are enrolled in a private school within the school district's boundaries.

Complainant Position

The complainant alleges that nonresident students with disabilities who are parentally enrolled in the four Catholic private schools in the LEA are denied special education services because the LEA has adopted a blanket policy excluding nonresident private school students from equitable services without consultation. Because of this blanket exclusion, the principals reported that nonresident students are not referred for an evaluation in the LEA whenever a parent chooses not to seek an evaluation in their school district of residence. Even when students are evaluated by the district of residence, the private school staff are not regularly included in the eligibility determination or the development of an IEP. Private school staff only find out if a student was determined to be a student with a disability through an evaluation in the school district of residence if the parent chooses to share this information with them.

As context, the complainant provided an email from the Executive Director of Special Services of the LEA to the Assistant Principal of School A that preceded the twelve month investigation period. The email was sent when the parent of two nonresident students with disabilities enrolled at School A and sought special education and related services through the LEA. The email stated, *"I have done some checking with KSDE and our own staff council. We are not aware of any new regulations placed on this service provision. As a district in the state of KS, we have always had the flexibility to service students who are not residents but attend a private or parochial school within the boundaries of [the LEA]. Many years ago, the [adjoining] school districts had a gentleman's agreement, and we did some of that. We began serving our own resident students only in approximately 2014 when staffing and transportation started becoming a significant challenge. At this time, we are not serving students who attend private and/or parochial schools if they are not a resident of the [LEA]. I apologize for the inconvenience. Should [complainant] have any further discussion or pieces of information that I am missing, please let me know."*

Local Education Agency Position

The LEA responded that under federal law, parentally-placed private school children with disabilities do not have an individual right to receive some or all the special education and

related services that the child would receive if enrolled in the public school. They assert that *"Under the Act, LEAs only have an obligation to provide parentally-placed private school children with disabilities an opportunity for equitable services funded with Part B funds that the LEA determined, after consultation, to make available to its population of parentally-placed private school children with disabilities. LEAs are not required to spend more than the proportionate Federal share on these services."*

The LEA stated in their interview that, while they are aware that IDEA and Kansas regulations allow the use of individual service plans (ISPs) for the nonresident students the LEA strives to do what is best for students with disabilities and offers equitable services through IEPs that provide FAPE for all students with disabilities who attend private schools within their school district boundaries, regardless of where the student resides. They assert that when the proportionate share funds are fully expended, the LEA uses state and local funds to continue providing the nonresident students with disabilities with their IEP services.

It is important to note that school districts must, at a minimum, meet the federal and state requirements. However, all LEA's have the choice to provide more than is minimally required.

Analysis: Findings of Fact

The findings of Component One are incorporated herein by reference.

1 The LEA staff stated during their interview with investigators that they choose to provide equitable services through an IEP for any student with a disability enrolled in the four Catholic private schools and do not make a distinction between resident and nonresident students. The LEA staff reported preferring to hold higher standards in providing equitable services that provide FAPE rather than only providing the minimum amount and type of services allowed by state and federal regulations.

2 The LEA staff indicated that each of the four Catholic private schools is paired with an LEA partner school where the majority of equitable services are provided. The LEA has a bus schedule for providing transportation between each Catholic private school and its partner school. However, because of the number of eligible students, speech therapy services are currently provided onsite at School A.

3 The KSDE stated to the investigators that, to their knowledge, most school districts in Kansas write IEPs for students with disabilities who are parentally-placed in private schools within their school district boundaries rather than individual service plans. They reaffirmed that, at a minimum, all school districts must meet the IDEA and Kansas regulations but may choose to provide more services than are minimally required and may choose to spend state and/or local funds to provide services after their proportionate share funds have been fully expended if that is determined after consulting with private school representatives.

4 The complainant and principals reported that the LEA does not use individual service plans or IEPs at any of the four Catholic private schools to provide equitable services to students who do not reside within the LEA district boundaries. Instead, the parents of

all nonresident students are told that they need to work with their school district of residence to conduct a special education evaluation to determine eligibility and, if eligible, develop an IEP that would be implemented in the district of residence. The complainant stated that the parents are also told they would need to transport their student to a public school in the school district of residence to receive the special education and related services required by the IEP.

5 The Assistant Director of Special Services emailed and spoke with the investigators on March 17, 2026 after discovering that *"There are no students currently residing outside the school district boundary being served through an IEP or service plan."*

6 The Assistant Director of Special Services also reported that no nonresident students were referred for a special education evaluation during the past two school years. However, records showed that one student from Missouri was evaluated by the LEA during the 2023-24 school year and that student was found eligible for special education services. This student is currently enrolled in one of the Catholic private schools within the district boundaries but the student does not currently have an IEP or ISP. Student records show that an IEP was never developed for the student and offered to the parent. The Assistant Director of Special Services acknowledged this was in error and indicated a plan to contact the parent of the identified student following the spring break and to schedule an IEP Team meeting to develop and offer an IEP for that student.

7 The Assistant Director reported interviewing the two school psychologists who work with the private schools in the LEA. These two staff confirmed that parents of nonresident students are told that services are only available from the district of residence. The Assistant Director of Special Services indicated that training will be provided to the two school psychologists and appropriate partner school staff to ensure that parents and private school staff are provided with accurate information regarding the LEA's equitable services plan.

Conclusion

In this case, the LEA described its practice to providing equitable services as developing an IEP that provides FAPE to nonresident students with disabilities who are parentally enrolled in private schools within the LEA's boundaries. This practice is a result of the consultation described in Component One and is designed to support this practice. The LEA practice exceeds the IDEA and Kansas requirements as outlined in 34 C.F.R. §300.132 and Kansas regulations at 91-40-43. In consideration of this stated practice and the requirements of the IDEA and Kansas requirements there was likely confusion surrounding students who reside outside the LEA boundaries but are enrolled in Catholic private schools in the LEA boundaries.

Based on the foregoing, there is ***no evidence to support a finding*** that the LEA denied special education services to nonresident students with disabilities who are parentally enrolled in one of the four Catholic private schools. As such, corrective action is not required.

Component Three

Did the LEA conduct a proper private school child count with respect to students enrolled in Catholic private schools resulting in errors in the proportionate share calculation?

Applicable Law

Under 34 C.F.R. §300.131 and Kansas regulations at K.A.R. 91-40-42, each responsible public agency must conduct child find activities to locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located within the school district's boundaries. The design of the child find activities must ensure the equitable participation of the parentally-placed private school children and result in an accurate count of these children. The child find activities must be similar to those for public school children regardless of whether the student resides in another school district within the state or resides outside of the state. Procedures for conducting child find activities are determined following the timely and meaningful consultation with private school representatives.

Federal regulations at 34 C.F.R. §300.132(c) requires each responsible public agency to annually submit data to the SEA related to the responsible public agency's records of:

a) the number of parentally-placed private school children evaluated each school year,
b) the total number of parentally-placed private school children determined to be children with disabilities within the school district's boundaries, and
c) the number of parentally-placed private school children who receive equitable services.

Federal regulations at 34 C.F.R. §300.133(b) describe the process for calculating the proportionate amount of federal funds to be used for delivering equitable services for parentally-placed private school children with disabilities. K.A.R. 91-42(b)(1) requires every responsible public agency to provide the state education authority with a count of the number of parentally-placed private school children with disabilities attending private schools located in the boundaries of the responsible public agency based upon data collected and maintained by the responsible public agency the last Friday in October and December 1 of each school year. This annual private school child count *must* be used to determine the amount of federal funds that the responsible public agency must spend on providing special education and related services to parentally-placed private school children with disabilities during the next fiscal year.

Federal regulations at 34 C.F.R. §300.133(d) state that responsible public agencies may choose to use state and local funds to supplement, but in no case supplant, the proportionate amount of federal funds required to be expended for parentally-placed private school children with disabilities as described in the equitable services plan.

Complainant Position

The complainant alleges in the systemic complaint that the 2024-2025 school year proportionate share allocation was implausibly low in comparison to the 2025-2026 school year. The complainant requested but was not provided with an explanation from the LEA. The complainant also reported that, based on a review and comparison of data from the four Catholic private schools, discrepancies were found between the LEA's private school child count and the data from each of the four schools. The complainant believes the LEA is only reporting resident students who are receiving equitable services through IEPs on the private school child count which has resulted in a lower proportionate share of federal funds for the private schools located within the LEA's boundaries.

Local Education Agency Position

The LEA responded in their February 27, 2026 response to the allegations that email communications were sent to all six of the private schools located within LEA's boundaries from the Assistant Director of Special Services to obtain data for the private school child count. The email specifically asked for a "count of students with disabilities attending the private schools regardless of whether they lived within [LEA's] jurisdiction."

The LEA stated that it is not their practice to cease equitable services if all the proportional share funds for a given school year are fully expended. The LEA reported the proportionate share funds are routinely fully expended each school year and subsequently supplemented with state and local funds in order to continue providing equitable services to all students with disabilities who are enrolled by their parent in a private school located within the LEA's boundaries.

The LEA noted that they sought out guidance from the KSDE on this topic to ensure calculations were completed correctly.

Analysis: Findings of Fact

The findings of Components One and Two are incorporated herein by reference.

1 An email from the Special Services Specialist to the principals of the four Catholic private schools sent on November 6, 2025 at 9:37 a.m. requested *"a count of children with disabilities attending your school on Friday, October 31. This count should include all children determined to have a disability that are parentally-placed in a private school regardless of whether or not they are receiving special education or related services or whether the child lives within the jurisdiction of the [LEA]."* The Special Services Specialist also requested the number of identified children who are age 5 and enrolled by their parents in kindergarten whether or not they are receiving services.

2 On December 11, 2025, the Special Services Specialist sent another email to each of the principals at the four Catholic private schools requesting data for the December 1child count. The email stated, *"We ask that you conduct a count of children with*

disabilities attending your school on December 1, 2025 (you previously provided Oct. 31, 2025 data). This count should include all children determined to have a disability that are parentally-placed in a private school regardless of whether or not they are receiving special education or related services or whether the child lives within the jurisdiction of the [LEA]." The email also requested the number of children age 5 and enrolled by their parents in kindergarten whether or not they are receiving services. Emails between the Special Services Specialist and principal of school B document that attempts are made to ensure accuracy and that the LEA was responsive in responding to clarification questions. The principal at school B stated that they turn in the child count, but they are not contacted to reconcile any of the student count numbers or provided with a list from the previous school year to update.

3 The KSDE Special Education Private School Participation Submission for 2025-2026 reported that 40 private school students were evaluated during the preceding school year and 29 private school students were determined to be a student with a disability during the preceding school year. The LEA reported 56 private school students were receiving services from the LEA utilizing the proportionate share of federal funds on December 1. A total of 57 parentally enrolled private school children between the ages 5-21 were identified as eligible to receive equitable services regardless of whether they were receiving any equitable services. The LEA reported that three of these students were five years old and enrolled by their parents in a private school kindergarten regardless of whether they are receiving services. This data was compiled from the six private schools located within the boundaries of the LEA.

4 Although all students attending a private school in the LEA receiving services are to be reported as part of child count, the LEA staff learned and reported to the investigators that only students that reside in the LEA are reported for child count.

5 The complainant stated that the proportionate share for the 2025 fiscal year was $0 and the proportionate share for the 2024 fiscal year was $2,781 and the proportionate share for the 2026 fiscal year was $51, 915. An explanation from the LEA was requested but not provided to explain the year-to-year discrepancy.

6 The complainant provided a chart in the systemic complaint (Appendix D) that listed 63 students who had IEPs during the previous school year; however, no distinction was made between resident and nonresident students with IEPs. The LEA staff sought private school child count clarifications from KSDE on January 8, 2026. KSDE instructed that any student with a disability receiving special education services from the district where the student resides but is enrolled by their parents in one of the four Catholic private schools would be included in the LEA's private school child count used to determine the proportionate share. KSDE also stated that the LEA should report both initial and reevaluations toward the number of private school students evaluated during the preceding school year. Finally, private school students for whom all services were revoked would not count toward the private school child count.

7 However, any student who was exited or withdrew from services without written revocation of consent for special education services would be counted in the private school child count.

8 An email from Assistant Directors of Special Services 2 to the Investigators in response to clarification questions related to the private school child count responded stating, "There were no students listed that lived outside the [LEA] school district boundaries."

9 Additional research by the LEA into evaluations conducted for nonresident students found there were no students evaluated this year or last year who live outside the school boundaries, nor were there any requests for an evaluation. The LEA clarified that regardless of student residence, the district conducts an evaluation according to child find procedures. As noted earlier, the principals of the four Catholic private schools stated that they do not routinely refer nonresident students suspected of having a disability and in need of special education services because equitable services are not provided within the LEA.

10 For context, one of the LEA school psychologists recalled a student, who lived out of state, being evaluated in April of 2024 and discovered the student was found eligible but was not provided with equitable services.

Conclusion

In this case, the district did send out an email with directions to the principals at the four Catholic private schools to collect private school child count data in November and again in December, 2025. The LEA also sought out clarification from KSDE about the child count to provide clearer direction to the private schools and to ensure the private school staff were collecting accurate information regarding resident and nonresident students. The LEA and principals do not have a common tracking system acting as a check and balance or to reconcile any discrepancies. There is evidence that at least one nonresident student who is eligible for special education and attends one of the four Catholic private schools was not included in the private school child count.

It is noted that the LEA did not purposely provide inaccurate data in the private school child count.

Based on the foregoing the LEA is *out of compliance* with conducting an accurate child count and corrective action is ordered. Based on this finding the accuracy of the proportionate share calculation may not be accurate, but this was not directly investigated.

Corrective Action

1. The LEA shall prepare a document describing the child count procedures. The procedures shall include steps to preserve an accurate child count in the future. It will be provided to SETS no later than August 1, 2026.
2. The LEA will prepare a document describing the child count procedures to share with parents and school staff.

a. This document will be distributed during the first consultation meeting for the 2026-27 school year.

b. The purpose of the document and explanation of the steps will be addressed as an agenda item at the next consultation meeting.

c. This document and agenda showing it was provided at the first consultation meeting for the 2026-27 school year shall be provided to SETS no later fifteen days after the consultation meeting.

3. No later than August 21, 2026, the LEA will create a master list of students with disabilities to share prior to the last Friday in October and December 1 child counts. The LEA will provide SETS with a copy of the reconciled master list no later than November 15, 2026.

Summary of Conclusions/Corrective Action

Although only one issue was investigated, there were three components of that issue. During the course of the investigation, it was determined that the findings of fact and conclusions would be presented for each component in an effort to provide a framework for both parties to review and consider each of these interrelated components as they relate to the overarching issue presented by the complainant. Therefore, a summary of conclusions and correction action are also presented below for each of the three components.

COMPONENT ONE: A violation of 34 C.F.R. §300.134 and 34 C.F.R. §300.135 was found. Corrective action is required.

COMPONENT TWO: A violation of 34 C.F.R. §300.137, 34 C.F.R. §300.138, and 34 C.F.R. §300.139 was found. Corrective action is not required.

COMPONENT THREE: A violation of 34 C.F.R. 34 C.F.R. §300.131; 34 C.F.R. §300.132 and 34 C.F.R. §300.133 was found. Corrective action is required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 233,
Olathe Public Schools: 26FC233-007

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on February 12, 2026 by -------, Associate Superintendent – Student Services, at the Office of Catholic Schools for the Archdiocese of Kansas City. In the remainder of this decision, ------- will be referred to as "the complainant." USD 233 will be referred to as the LEA.

An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on March 27, 2026. That Complaint Report concluded that there were violations of special education statutes and regulations.

Thereafter, the complainant requested an extension of time to submit an appeal as the investigator's report was issued on the eve of Holy Week surrounding Easter. That request for extra time was granted. The appeal of the complaint report was filed on April 15, 2026. Upon receipt of the appeal, the LEA was notified and given ten days to respond to the appeal. An appeal committee was appointed and it reviewed the original complaint filed by the complainant, the Complaint Report, the complainant's notice of appeal, and the Local Education Agency (LEA) response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified one issue with three components. Although violations were found, the complainant has appealed the conclusions in all three components. We address each component separately.

COMPONENT ONE: Was the LEA's Consultation timely and meaningful?

The pertinent regulation Is 34 C.F.R. 300.134, which begins with:

To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following…"

Central to this issue is that the term "consult" is not defined in either the relevant statute or regulation. The common meaning of the word "consult" is: "To seek guidance or information from" or "to refer to for information." Webster's Random House Dictionary, (2nd Edition 1999).

In Questions and Answers on Serving Children With Disabilities Placed by Their Parents in Private Schools, 122 LRP 7109 (OSERS 2022), the Office of Special Education and Rehabilitative Services (OSERS) posed two questions related to this issue (Relevant parts of OSERS responses are included and emphasis is added with bold print).

> Question B-1: What is consultation?
>
> Answer: Consultation is a mandatory process that involves discussions between the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities on key issues relating to the equitable participation of eligible private school children with disabilities in Federally-funded special education and related services."
>
> Consultation must be an ongoing process, not solely an annual meeting. See 34 C.F.R. § 300.134(c). Timeliness is critical to effective consultation and requires collaboration between the LEA and private school officials in developing a timeline and selecting dates for consultation.
>
> A unilateral offer of services by an LEA with no opportunity for discussion is not adequate consultation, as such an offer does not meet the basic requirements of the consultation process. Only after discussing key issues relating to the provision of special education and related services with all representatives may the LEA make its final decisions with respect to the services to be provided to eligible private school children with disabilities.
>
> Question B-2: What constitutes meaningful consultation?

Answer: IDEA does not specify what constitutes "meaningful consultation," but in order for consultation to be meaningful, it must be timely and ongoing throughout the school year. See 34 C.F.R. §§ 300.134 and 300.134(c). Establishing a timeline for consultation can help ensure that timely and meaningful consultation occurs throughout the school year. The timeline can include meeting dates and times as well as topics to be discussed. As there is no specific schedule for consultation, States and LEAs are able to determine the appropriate period between consultation discussions based on circumstances in their jurisdictions. The needs, number, and location of parentally-placed private school children with disabilities may vary over time, depending on the circumstances in a particular LEA in a particular year.

In Question D-1 OSERS adds:

Question D-1: What is the process for making decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities?

Answer: Timely and meaningful consultation must occur before any decisions are made that will affect the participation of parentally-placed private school children with disabilities in IDEA Part B programs. 34 C.F.R. § 300.134. Thus, decisions about services may not be made in advance or in the absence of timely and meaningful consultation. After timely and meaningful consultation has occurred with private school representatives and representatives of parents of parentally-placed private school children with disabilities, the LEA where private elementary schools and secondary schools are located is responsible for making final decisions about all aspects of the services to be provided to parentally-placed private school children with disabilities attending private schools located in the LEA. 34 C.F.R. § 300.137(b).

If the LEA disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the LEA must provide to the private school officials a written explanation of the reasons why the LEA chose not to accept the recommendations of the private school officials. 34 C.F.R. § 300.134(e). (See Question B-9 for options available to private school officials to resolve concerns regarding the consultation process.)

Question H-5: When making a determination regarding the services that an LEA will provide to children with disabilities placed by their parents in private schools, could an LEA decide to provide services only to students from their LEA or their State?

Answer: No. Although LEAs have discretion to determine how the proportionate share of IDEA Part B funds will be expended so long as the consultation requirements in 34 C.F.R. § 300.134 are followed for all parentally-placed private school children, LEAs cannot unilaterally determine, prior to or in the absence of the timely and meaningful

> consultation process, that the proportionate share of Part B funds for equitable services can only be expended to meet the needs of children who are residents of that LEA or State.

From this lengthy description, we discern from OSERS analysis that consultation is discussion. That interpretation is consistent with the dictionary definition of the term "consult." Meaningful is also an undefined term, but OSERS opines that "to be meaningful, the discussion must be timely and ongoing throughout the school year." In short, meaningful consultation requires "timely and ongoing discussion" throughout the school year. It does not require a school district to adopt any proposal made by a private school, regardless of how reasonable a private school may consider its proposal to be.

20 U.S.C. 1412(a)(10)(A)(iii) and 34 C.F.R. 300.134 require meaningful consultation with officials at private schools based on the assumption that an LEA will have at least one child with a disability enrolled by their parents in a private school that is located within the boundary of the LEA. If there is no private school within the boundary of an LEA the LEA has no obligation to consult or to spend any portion of its federal subgrant to provide any service under this provision. Accordingly, the consultation (discussion) requirement arises when an LEA does have a private school located within its district and there is at least one child with a disability attending that private school. In that instance there is an obligation for the LEA to spend a proportionate share of its subgrant under section 611(f) on those children. One way to do that is to develop a "services plan" pursuant to 34 C.F.R. 300132(b) to provide services to one or more students until the proportionate share is exhausted, at which time all services may end.

Federal regulations at 34 C.F.R. 300.137(a) clarify that there is no individual right of any student to receive any service under a services plan and (b)(2) the LEA makes "the final decisions with respect to the services to be provided…" In addition to this federal requirement, however, Kansas state law provides children with disabilities who are enrolled by their parents in a private school with far more than just the spending of a proportionate share of federal funds.

K.S.A. 72-3462, in pertinent part, states that

> Every school district shall provide special education services for exceptional children who reside in the school district and attend a private, nonprofit elementary or secondary school, whether such school is located within or outside the school district, upon request of a parent or guardian of any such child for the provision of such services. No school district shall be required to provide such services outside the school district. Any school district may provide special education services for exceptional children who attend a private, nonprofit elementary or secondary school located within the school district, whether or not all such children reside in the school district. Special education services which are provided under this section for exceptional children who attend a private, nonprofit elementary or secondary school which is located in the school district may be provided in the private,

> nonprofit elementary or secondary school or in the public schools of the school district. The site for the provision of special education services under this section for an exceptional child shall be determined by the school district in consultation with the parent or guardian of the child and with officials of the private, nonprofit elementary or secondary school. Special education services provided under this section for exceptional children who attend a private, nonprofit elementary or secondary school are subject to the following requirements: (a) If the services are provided for in the private, nonprofit elementary or secondary school, amounts expended for the provision of such services shall not be required to exceed the average cost to the school district for the provision of the same services in the public schools of the school district for children within the same category of exceptionality; (b) if the services are provided for in the public schools of the school district, the services shall be provided on an equal basis with the provision of such services for exceptional children attending the public schools; and (c) if the services are provided in the public schools of the school district, transportation to and from such public school shall be provided by the school district. (Emphasis added).

These services are provided with an IEP, not a services plan (K.A.R. 91-40-45(c)). Each identified child attending a private school has an individual right to receive all of the services in the child's IEP (K.S.A. 72-3410(a)(2).

K.S.A. 72-3462 has the same consultation requirement as federal law. Like federal law, it says after consultation, "the site for the provision of special education services under this section for an exceptional child shall be determined by the school district." There is nothing in either federal or state law that requires any substantive standard which LEAs must apply when determining the site for services. The only requirement is meaningful consultation: discussion that is timely and ongoing throughout the school year.

The evidence presented in this complaint and explained in the complaint report supports the investigator's finding that there was more likely than not a timely and ongoing discussion between the parties throughout the school year about how services will be provided to children with disabilities attending a private school. To the extent these discussions may appear to lack meaningfulness to officials of the private schools, that appearance is at most, a procedural and not a substantive defect. That is so because the LEA makes available all of the special education and related services in an IEP to all of these students attending a private school located in the district merely upon request. There is no credible evidence that any eligible student attending a private school in this LEA, who requests services, has been denied services.

With regard to out-of-state students attending a private school in Kansas, they belong in the consultation requirement but they have no individual right to receive any special education services under either federal or state law, unless there are unspent federal proportionate share funds, which is not applicable to this complaint.

The evidence presented supports the LEA contention that its consultation process occurs every year and more often when requested. The issues remain largely the same year after year. With a long history of evaluating strategies for this group of children, an LEA is not required to enter the consultation process pretending it has no idea how it is going to evaluate and provide services to children enrolled in private schools.

The consultation process is much less than the "participation" process that parents enjoy when participating in an evaluation or in an IEP meeting for their child. Nevertheless, even when parents are participating in an evaluation or IEP process, school personal can prepare for proposals they suspect may be made at those meetings and arrive at those meetings with their own understanding of the issues that might arise (see 34 C.F.R. 300.501(b)(3)).

In Deal v. Hamilton Cty. Bd. Of Ed., 104 LRP 59544 (6th Cir. 2004) the court said that team members may come to meetings with pre-formed opinions as long as they are willing to listen and have open minds. However, when an educational program is pre-determined (no amount of information will change the determination of the team), a violation of FAPE occurs because it deprives parents of meaningful participation in the IEP process. Also see the same analysis in: R.L. v. Miami-Dade County Sch. Bd., 114 LRP 30126 (11th Cir. 2014), and J.P. v. City of New York Dept. of Ed., 71 IDELR 77 (2d Cir. 2017).

What may appear to officials of private schools to be predetermination may appear to officials of public schools to be the benefit of experience. One does not usually reflect on repetitive tasks before proceeding as usual. Likewise, this consultation process does not require LEAs to reconsider each year how it will proceed with evaluations and services with a blank mind, as if it had never previously considered the issues.

The consultation process does require LEAs to have discussions and be open to questions and proposals as to options that would be more beneficial to students or are more financially beneficial or practical to public schools than previous practices. The evidence does not support a conclusion that "no amount of information will change the determination" of these school officials going forward. The complainant does not provide a single incidence in which the LEA has denied a request from the complaint without discussion and where that request is clearly more beneficial to the LEA.

In the conclusion portion of the report on this component, the investigator concluded that the district held a consultation meeting on August 28, 2025 and a follow-up meeting on January 28, 2026 that included all five of the topics described in 34 C.F.R. 300.134.

Were these consultations meaningful?

There was nothing to indicate that the LEA refused to even consider the private school proposals, moving forward. Each year LEAs engage in extensive planning for the coming school year. That planning must be completed before school begins each year. It is largely impractical to change

plans for a school year when that school year is about to start or is already in progress. The requirement for timely and meaningful consultation is to "consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children…" The design and development of special education and related services for the children does not take place in August of each school year. It has to take place well in advance of each school year. When consultation does take place, the discussions need to be meaningful at the time they take place. Typically, that means the consultation consists of a discussion of how the design and development of special education and related services for the children in private schools will be structured for the next school year.

In its appeal, the complainant asserts that after the consultation session on August 28, 2025 private school representatives did not understand how nonresident students, including out-of-state students, could participate in child find and receive equitable services. From this fact, the complainant concludes as follows:

> This confusion goes to the core of IDEA's consultation requirements. Consultation must ensure that private school representatives have a meaningful opportunity to understand and provide input on how child find and services operate in practice. Where participants leave consultation without understanding how an entire category of eligible students is identified, referred, and served, consultation cannot be considered meaningful under IDEA.

While the Appeal Committee agrees that LEAs should strive to provide a clear delivery of content and information that minimizes questions, it sees no requirement under 34 C.F.R. § 300.134 that all participants leave a consultation meeting fully informed and without any questions. That could not possibly be a reasonable interpretation of the term "consultation" or even of "meaningful interpretation."

There is nothing in this complaint that indicates that when these consultations occurred, the LEA refused to "discuss" concerns expressed by the private school officials regarding the design and development of special education and related services for the future. In this instance, when the private school officials expressed a desire for additional consultation, the LEA scheduled a January 28, 2026 meeting. The complainant asserts that this demonstrates non-meaningful consultation because the school year is already more than half over misses the point that consultation is always prospective, not retrospective. Consultation refers to "discussions" about future processes.

The Appeal Committee finds that there is sufficient evidence to support the conclusion of the investigator on this component.

COMPONENT TWO: Are nonresident students with disabilities who are parentally enrolled in the Catholic private schools denied special education services in the LEA?

In this component, the investigator concluded that:

In this case, the LEA described its practice of providing equitable services as developing an IEP that provides FAPE to nonresident students with disabilities who are parentally enrolled in private schools within the LEA's boundaries. This practice is a result of the consultation described in Component One and is designed to support this practice. The LEA practice exceeds the IDEA and Kansas requirements as outlined in 34 C.F.R. §300.132 and Kansas regulations at 91-40-43.

The Appeal Committee agrees with this analysis. There is no evidence that supports the allegation that the LEA denies special education and related services to any child with a disability attending a private school who has an individual right to such services under either state or federal law. Rather, the evidence shows that the LEA meets the requirements of state law and exceeds the requirements of federal law.

Accordingly, there is sufficient evidence to support the conclusion in the complaint report on this issue.

COMPONENT THREE: Did the LEA conduct a proper private school child count with respect to students enrolled in Catholic private schools resulting in errors in the proportionate share calculation?

The complaint report found a violation on this issue because there was evidence that "at least one nonresident student who is eligible for special education and attends one of the four Catholic private schools was not included in the private school child count."

In its appeal, the complainant objects to corrective action required in the complaint report, saying:

> KSDE identified discrepancies but did not verify the child count or require recalculation of the resulting proportionate share. This reflects a critical analytical gap. IDEA requires not only that procedures exist for conducting a child count, but that the resulting count, and the proportionate share calculation derived from it, be substantively accurate.

The Appeal Committee notes the following:

Kansas administrative Regulation 91-40-51(f) permits the appeal of a complaint report on "any of the findings or conclusions of a compliance report." It does not permit an appeal of the corrective action in a complaint report. When a conclusion that an LEA is out of compliance is reversed on appeal, an Appeal Committee will rescind the corresponding corrective action but when a conclusion is not overturned the corresponding corrective action is not subject to appeal.

Nevertheless, the Appeal Committee reviewed the corrective action ordered in this issue and found that it consisted of the following:

1. The LEA shall prepare a document describing the child count procedures. The procedures shall include steps to preserve an accurate child count in the future. It will be provided to SETS no later than August 1, 2026.
2. The LEA will prepare a document describing the child count procedures to share with parents and school staff.
    a. This document will be distributed during the first consultation meeting for the 2026-27 school year.
    b. The purpose of the document and explanation of the steps will be addressed as an agenda item at the next consultation meeting.
    c. This document and agenda showing it was provided at the first consultation meeting for the 2026-27 school year shall be provided to SETS no later fifteen days after the consultation meeting.
3. No later than August 21, 2026, the LEA will create a master list of students with disabilities to share prior to the last Friday in October and December 1 child counts. The LEA will provide SETS with a copy of the reconciled master list no later than November 15, 2026.

The Appeal Committee finds that the corrective action is appropriate.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal to the Kansas State Department of Education. This Appeal Decision is issued this 5th day of May, 2026.

Appeal Committee

Brian Dempsey

Mark Ward

Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #412, HOXIE PUBLIC SCHOOLS
ON FEBRUARY 20, 2026

DATE OF REPORT: MARCH 23, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #412 (Hoxie Public Schools) on behalf of ------- by one of his guardians, -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the guardian" or "the complainant." Additionally, -------' biological mother is -------. In the remainder of the report, ------- will be referred to as "the mother."

The complaint is against USD #412 (Hoxie Public Schools). In the remainder of the report, USD #412 will be referred to as "the Local Education Agency". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term" local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." Local Education Agency staff will be referred to In the remainder of this report as follows:

- Sharris Werner, Superintendent/Principal
- Amy Rickert, Director, Northwest Kansas Educational Service Center
- Casey Johnson, Classroom teacher
- Angela Shepard, Interrelated Teacher
- Norie Zerr, Paraeducator
- Macalee White, Paraeducator

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on February 20, 2026.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent. The investigator interviewed the guardian by phone on February 23, 2026 and March 9, 2026. Additional

individual interviews were conducted by phone with each school staff on March 9, 10, 11, and 13. An individual interview was conducted with the director of the special education cooperative on March 10, 2026 and the principal/superintendent on March 11, 2026.

The following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. Local education agency undated response
2. Screenshots of text to general educator dated October 9 and 10, 2025, December 5, 2025, December 12, 2025 with no time
3. Printouts of ParentSquare communications dated between October 9, 2025 and February 16, 2026
4. Screenshot of text to special education case manager dated December 3, 2025, February 12, 2026
5. Screenshot of texts between guardian and special education case manager dated December 11, 2025 between 3:48 p.m. and 4:02 p.m.
6. Court Order in the matter of the guardianship of the student electronically filed with the clerk of the county district court on January 27, 2025
7. Screenshot of texts between the guardian and superintendent dated February 5, 2025 between 4:49 p.m. and 6:43 p.m.
8. Co-Guardianship document signed by the District Court Judge and electronically filed by an attorney on February 6, 2025
9. Letter titled, Formal Notice of Parental Rights, dated February 19th 2026 sent to the administration, faculty, and staff from the parent, notarized in the state of Colorado on February 19, 2026 stating mother had no educational decision making responsibilities once guardianship was appointed.
10. Notice of Special Education Meeting (NOM) dated for meeting on March 13, 2025
11. Individualized Education Plan (IEP) and meeting notes dated March 13, 2025
12. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent (PWN) dated March 13, 2025
13. Notice of Special Education Meeting (NOM) dated for meeting on February 23,2026
14. Notice of Special Education Meeting (NOM) dated for meeting on March 5, 2026; signed by mother on March 3, 2026
15. Notice of Special Education Meeting (NOM) dated for meeting on March 10, 2026
16. Copy of five spelling tests, undated
17. Copy of two math worksheets and video of one math worksheet

Emails:

1. Email exchange between general and special education teacher dated December 4, 2025 between 9:45 a.m. and 12:57 p.m. discussing implementing accommodations and refining the accommodations
2. Email from guardian to special education director dated February 15, 2026 at 9:03 p.m. stating that the parent does not have educational decision making involvement
3. Email from guardian to special education director dated February 15, 2025 at 9:18 p.m. stating concerns with the student IEP accommodations and progress.
4. Email exchange among superintendent, special education director and LEA attorney dated February 16, 2026 between 10:13 a.m. and 11:38 a.m.
5. Email exchanges between superintendent and guardian's attorney dated between February 16, 2026 at 2:58 p.m. and February 18, 2026 at 6:20 p.m. sharing court documents and discussing definition of parent per IDEA and Kansas regulation.
6. Email exchanges between superintendent and KSDE attorney A dated between February 17, 2026 at 10:59 a.m. and February 19, 2026 at 8:39 a.m. seeking state department consultation regarding definition of a parent when responding to guardian's attorney.
7. Email exchange between superintendent and KSDE attorney B dated February 16, 2026 between 11:44 a.m. and 12:30 p.m. seeking consultation about who qualifies as an educational decisionmaker
8. Email from superintendent to special education director dated February 18,. 2026 at 4:59 p.m. directing the IEP be scheduled.

Background Information

The subject of this complaint is a fourth-grade student at the local elementary school during the 2025-2026 school year. The student began schooling in the district and later moved to another state. Referral for special education was started in kindergarten but not completed when the student moved away. The student first became eligible for special education and related services as a student with learning disabilities in March 2025. By report, the student has received speech services in the past. The student's IEP dated March 13, 2025 reports, "[student's] reading skills are improving, but [student] still needs support in some areas. [Student] has difficulty staying on task and often needs help breaking down tasks into smaller steps, which can affect [student's] ability to complete assignments independently. While [student's] reading is improving, it is still below grade level, and [student] is not yet fully on track with [student's] peers. [Student's] grandparents are concerned about [student's] reading, and the team agrees that [student] still needs adult support to stay on track. Because of [student's] progress, [student] will now receive all special services within the regular classroom, through inclusion support and accommodations and modifications listed in [student's] IEP. [Student] no longer needs resource room instruction, and the team will continue to monitor [student's] progress and adjust support as needed." The student has one reading goal for decoding and seven accommodations that includes: 1. Materials read aloud for assessments

and assignments, separate, 2. quiet setting for assignments and assessment, 3. check for understanding through scaffolding, 4. modified assignments, 5. modified spelling list, 6. scribe support or shared writing, and 7. Inclusion support for reading and reading in math."

Issues Investigated

Issue One

Did USD #412 follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) when implementing the student's IEP in regard to physically touching/guiding/correcting the student during the 2025-2026 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Parent Position

The parent wrote in her child complaint that "on 2/19/2026 [teacher] grabbed [student's] head and turned it without his consent. [Student] has a past history of abuse making such contact particularly harmful to [student's] emotional well-being that caused distress, fear, and emotional upset for [student]. This violates school safety policies and also student rights."

Local Education Agency Position

The Local Education Agency responded that this allegation reflects a general district practice concern rather than a failure to implement the student's IEP and does not represent a violation of IDEA The LEA asserts that the student's current and prior IEPs have no provisions addressing physical prompting, physical guidance, or staff physical interaction with the student. The IEP team did not identify behavioral or social-emotional needs requiring specially designed instruction, behavioral intervention, or physical supports. Because behavioral needs were not identified as requiring special education services, the IEP contains no behavioral goals, accommodations, or intervention plans related to physical prompting or correction.

Analysis: Findings of Fact

1. The IEP dated March 13, 2025 documents that the student works with the school social worker and sees a family therapist. The LEA states in their response that at the annual IEP meeting held on March 13, 2025, the IEP team, including both the

student's mother and grandmother, reviewed the student's social-emotional and behavioral functioning and documented the following:

- The student had been placed with grandparents by court order and was adjusting to changes in his home environment.
- While the placement created concerns outside of school, these circumstances had not negatively impacted the student's educational performance or peer interactions.
- The student interacted appropriately with peers and adults, worked cooperatively with others, and demonstrated positive engagement in the school environment.
- Emotional needs were supported through general education counseling services rather than special education services.
- The IEP team determined that the student's behavior did not impede the student's learning or the learning of others.

2. None of the school staff working directly with the student stated they were aware of any accommodations in the IEP due to the student's trauma history.
   They additionally stated they had not received any special direction in providing correction or feedback to the student due to the student's disability status.
3. None of the school staff, principal or special education director were aware of the incident until it was made as an allegation in the complaint.
4. The guardians stated in their interview with the investigator that they had not disclosed to the school staff that the student had a history of trauma, nor requested any IEP accommodations or services due to the trauma history. They additionally stated they did not report it to the school because they did not feel they could report it since the principal and superintendent are the same person and they did think it would be treated seriously.
5. The guardians stated in emails reviewed and during interview with the investigator that as a result of the incident they had requested the student move to a different fourth grade classroom but were denied with the response that the other fourth grade classroom was at capacity. The school agrees with this interaction.

Conclusion

As suggested in the complaint this allegation may be addressed with the LEA as a general district practice concern. Following investigation there was nothing in the IEP, nor anything that was discovered through evidence review or interview that would suggest that this allegation is an IDEA issue.

Based on the foregoing, *the LEA is found IN compliance*.

Issue Two

Did USD #412 follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) in regard to recognizing and providing parent participation to the appropriate person (biological mother) when making educational decisions on behalf of the child who had been assigned a legal guardian during the 2025-2026 school year?

Applicable Law

Federal regulation at 34 C.F.R. §300.30 and Kansas state statute at K.S.A. 72-3404 describes those who may be defined as "parent" on behalf of a student with an eligible disability for participation in IDEA activities. A parent may be a biological or adoptive parent of a child; a foster parent; a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child; an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or a surrogate parent who has been appointed. If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent." K.S.A. 72-3404(m)(n)(o) further categorize the definition as "Parent", "Person acting as parent" and "Education advocate".

Parent Position

The complaint alleged that the school is not recognizing the complainant's legal guardianship status. The school staff reached out to the student's mother and invited her to IEP meetings. She has no parental or educational rights to be invited to IEP meetings or participate in making educational decisions for the student since the child is living with court-appointed guardians.

Local Education Agency Position

The local education agency responded that while planning the annual IEP meeting the special education case manager sought guidance from the administration to ensure the correct educational decisionmakers were invited to the meeting. After checking the student's school file the special education case manager discovered there were no clarifying documents of who was the student's educational decision maker. When the guardians learned the mother had been invited they emailed the LEA indicating co-guardianship and providing court documentation. Following receipt of this information, the Director of Special Education consulted with representatives from the Kansas State Department of Education. The LEA determined that the biological mother and father retained educational decision-making rights and IDEA required their continued inclusion in the IEP process, thus concluding that the biological mother, father and legal guardians should be invited to participate in the IEP meeting.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference.

The investigation of this issue focuses only on the complainant's allegation that the school staff incorrectly invited the student's mother to the student's IEP meeting and included her input. References to the biological father in the Findings of Fact are included only to the extent that they provide context. Any findings should not be directly inferred to the biological father as this investigation was specifically focused on the mother.

1. The Notice of Meetings (NOM) dated February 14, 2025, for the March 13, 2025 annual IEP meeting listed the guardians, biological father and mother as educational decisionmakers for the student. The February 23, 2026 for the March 5, 2026 annual IEP meeting mistakenly did not include the guardians as educational decisionmakers and so the meeting was rescheduled for March 10, 2026 to provide notice for the guardians to participate.
2. The Court Order regarding the guardianship of the student electronically filed with the clerk of the county district court on January 27, 2025 documents, "the appointment of a guardian does not terminate a parent's rights." On page 7 of this order it is written that the biological father does not object to the co-guardianship appointment and the mother objects to the appointment of the co-guardianship order, however current legal matter(s) preclude the student from living with the mother at present. A consideration for this appointment is documented as, "Without being appointed co-guardians, Petitioners would have to continue to get his consent regarding the care, medical treatment and educational decisions for the child."
3. The Co-Guardianship document signed by the District Court Judge and electronically filed by an attorney on February 6, 2025 appointed the complainant and spouse as co-guardians of the student with "full power and authority, including all powers of guardians."
4. The guardians stated to the investigator that based on the wording in the guardianship paper "has the powers a parent otherwise would have" they believe that their guardianship covers educational decision making. They state that their attorney reached out to the LEA stating Kansas statute is clear that as guardians they have educational decision making authority.An email exchange between the superintendent and the guardian's attorney verifies this statement.
5. An email from the superintendent to the guardian's attorney dated February 18, 2026 at 6:20 p.m. responded to the assertation that the statute gives the parents the educational decision making as, "The court order does not say who has ultimate (emphasis added) authority to act on behalf of the student when the parent and the guardian disagree. It also does not state that the guardians have sole authority to make educational decisions. If the order is not clear on these things, and the biological parent is asserting the right to make educational decisions, the biological

parent is in the stronger position (especially because the order specifies that it does not terminate the rights of the parent). The ambiguity of the order is that there is not sufficient clarity to determine who the educational decision maker is. If the parties disagree with that interpretation, they can go back to court to seek another order clarifying who has the ultimate authority to make educational decisions."

6. The mother sent a document titled, Formal Notice of Parental Rights to the LEA on February 19, 2026 that stated, '1"his letter serves as formal written notice that I, [name of mother], Do plan and request to exercise All Rights and to be inclusive in all educational decisions regarding the minor children [student] and [sibling]. I hereby request [LEA] to update me of all school records, including but not limited to emergency contact forms, student information systems, and health records. Should you require any supporting documentation or have any questions, you may contact me at the information provided below. I expect confirmation that this notice has been received and that the records have been updated accordingly."
7. The LEA staff reported that LEA's attorney reviewed the guardianship documents and in a phone conversation on February 20, 2026 "stands with the mother having educational rights".

Conclusion

In this case the student's mother has not terminated her educational decision making role or had her educational decision making role severed. The student has grandparents who serve as court appointed co-guardians. Both biological parents and guardians are defined as "parents" under 34 C.F.R. §300.30 and K.S.A. 72-3404. While one of the guardian's court documents acknowledges that appointing guardians allows the guardians to obtain care, medical treatment and educational decisions on behalf of the student without getting prior consent to each decision. This document does not state exclusion of the mother in educational decisions.

The superintendent correctly points out in the February 18, 2026 email to the guardian's attorney that the guardian's court orders do not appoint sole authority to make educational decisions. K.A.R. 91-40-27(c) supports the superintendent's assertion, "Unless a judicial order specifies to the contrary, each agency shall recognize the biological or adoptive parent of an exceptional child who is a minor as the educational decision maker for the child if the parent exerts the parent's rights on behalf of the child, even if one or more other persons meet the definition of parent for the particular child." On February 19, 2026, the mother asserted her intention to serve as an educational decision maker on behalf of the child. As such, in absence of any court documents both parties are educational decision makers for the student as no documentation was provided appointing sole or ultimate authority for educational decision making on behalf of the student.

Therefore, the Local Education Agency *is IN compliance.*

Issue Three

Did USD #412 follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) when implementing the student's IEP in regard to assistance with a schoolwork (specifically spelling and homework)?

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.AR. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Parent Position

The complaint alleged that the "school has not provided adequate support for my child's IEP needs, and staff have not responded to repeated requests for assistance. My child continues to struggle with a heavy workload at home. Despite multiple messages to the IEP teacher requesting help, I received no help. This has caused my child undue stress."

Local Education Agency Position

The Local Education Agency responded that on December 11, 2025, the grandmother contacted the special education teacher through the ParentSquare communication platform expressing concern that the student's spelling list was not being reduced consistent with IEP accommodations. The special education teacher consulted with the general education teacher, who subsequently followed up directly with the grandmother regarding the concern and believed the issue was resolved. Next, on February 15, 2026, the grandmother emailed the Director of Special Education expressing concerns regarding communication and implementation of IEP supports.

During a phone conversation on February 16, 2026, the Director discussed these concerns and explained that the upcoming annual IEP meeting would provide an opportunity for the IEP team to clarify accommodation language to ensure shared understanding of expectations related to reduced spelling assignments and homework modifications. The classroom staff maintain documentation demonstrating implementation of accommodations consistent with the current IEP, including modified spelling assignments and adjusted academic expectations.

Analysis: Findings of Fact

The findings of Issues One and Two are incorporated herein by reference.

1. The IEP dated May 13, 2025 included seven accommodations: 1. Materials read aloud for assessments and assignments, separate, 2. quiet setting for assignments

and assessment, 3. check for understanding through scaffolding, 4. modified assignments, 5. modified spelling list, 6. scribe support or shared writing, and 7. Inclusion support for reading and reading in math. All parties agreed that the only concerns were the modified spelling list and modified assignment related to homework.

2. A signed agreement form dated August 13, 2025 documents that the classroom teacher and special education case manager met to review the IEP at a glance for the student and discussed questions and concerns regarding classroom accommodations/modifications in the student's IEP in order to implement them with fidelity.
3. Paraeducator notes dated from August 25, 2025 through February 20, 2026 document their role in implementing the IEP accommodations.
4. One of the school staff stated that around October 9, the guardian had reached out via ParentSquare about the student's workload being too much. After visiting with the guardian the school staff stated they believed that there was agreement about workload and that accommodations related to workload were being implemented.
5. Emails between the special education case manager and classroom teacher during the first semester verify that the student's IEP accommodations are being used and then discussed adding a spelling pretest to improve the spelling accommodation.
6. The classroom teacher described in an email to the guardian and special education case manager following the December ParentSquare email that the student is provided a below-level list on Monday and given a pretest of the words. On Thursday, the student is tested with a paper/pencil test. On Friday, the test only covers the misspelled words, but the week's score is comprised of Thursday and Friday's correctly spelled words. The school staff stated that following describing the spelling accommodations to the guardian the guardian was assured that the spelling accommodations were made. Samples of graded spelling tests provided by the LEA and guardian show that this process is followed.
7. The classroom teacher also described to the guardian and special education case manager that the number of math problems are reduced and any reading assignments completed by Friday are accepted for the weekly reading grading. The classroom teacher described to the investigator that homework is not assigned. Instead weekly student work is assigned and students are provided time during the day to complete it, managing their own time to ensure it is completed by Friday. The classroom teacher stated that the student was one of many of the fourth graders working on managing their weekly workload. One of the school staff stated to the investigator that at end of day the student and a staff go through the student's "clip" and review what remains for the week and then to check with the teacher to "approve" what goes home since social studies and science rarely are completed outside the class day.
8. The guardian stated during the interview with the investigator in March 2026 that she contacted the school on December 11, 2025 because after reaching out on

December 3 or 4 to discuss the spelling she did not believe the accommodation being made matched the what was written in the IEP. While she believes the student is making progress she does not feel the program is moving him forward. In regard to changes in assignments the student is being sent home with homework that is impacting evening activities important to family life. In fact, in regard to homework, there was an instance one Thursday that the student was made to work on it in class while other worked on a project and the student still unfinished work home and had no para support.

9. On February 15, 2026, the grandparent emailed the LEA requesting written clarification of the current IEP services and accommodations being provided; immediate communication from an IEP teacher regarding support strategies for workload and learning needs, a plan for addressing homework volume, classroom accommodations, and academic supports and a meeting to review IEP implementation and effectiveness.
10. School staff during the most recent IEP (March 2026) stated that the homework and spelling accommodations were explained to the guardian and they stated that the guardian verbally agreed that the accommodations were appropriate and needed not change

Conclusion

Based on the interviews and description of how the two IEP accommodations were discussed and implemented in the classroom and explained to the guardian it is found that the LEA did implement the accommodations and the Local Education Agency *is IN compliance*.

Summary of Conclusions/Corrective Action

1 ISSUE ONE: A violation of 34 C.F.R. §300.323(c)(2) K.A.R. §91-40-16(b)(2) was not found. Corrective action is not required.

2 ISSUE TWO: A violation of 34 C.F.R. §300.30 and K.S.A. 72-3404 was not found. Corrective action is not required.

3 ISSUE THREE: A violation of 34 C.F.R. §300.323(c)(2) K.A.R. §91-40-16(b)(2) was not found. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #262 VALLEY CENTER PUBLIC SCHOOLS
ON FEBRUARY 26, 2026

DATE OF REPORT: APRIL 2, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #262 Valley Center Public Schools on behalf of ------- by his parents ------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the parents."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

Evidence Reviewed

The investigator reviewed all of the evidence initially submitted by both parties and all evidence subsequently requested by the investigator from each party. The following relevant evidence was used to analyze the concerns in this complaint:

- The formal complaint submitted by the parents.
- The response to the complaint submitted by the school district.
- E-Mail correspondence between the parties
- E-Mail correspondence between the parties and the investigator
- The student's most recent evaluation
- The student's current IEP, including Health Care Plan

Findings of Fact

The findings of facts for each concern are those facts that are relevant to the concern and are based upon a review of the documentation and the correspondence with the parties, including supplemental documentation requested by the investigator.

Background Information

The student is a 7 year-old boy in the first grade. He was determined to be eligible for special education with an exceptionality of autism. He has also been diagnosed with mitochondrial

myopathy, epilepsy, dystonia, dysautonomia, ataxia, immunoglobulin deficiency, fluid blood sugars, and adrenal insufficiency. He is non-verbal and communicates his needs to parents by taking parents to what he wants. His IEP includes a "Healthcare Plan" that says the student "requires close supervision, typically involving two to three adults to ensure his safety and to provide consistent redirection during classroom and transition periods."

Concern One

School personnel used "unsafe transportation decision-making and a potential failure to follow medical safety protocols."

Parents Position

in the complaint, the parents stated that:

On January 12, 2026, the student was picked up and transported by district staff for in person instruction. Shortly after pick up, the parents received a phone call instructing them to retrieve the student from a transportation bus barn. No information was provided at that time regarding the student's medical condition, behavior or safety status. During a subsequent phone call the staff stated that they were "trying to contain him" and that another individual might be contacted if the parent did not arrive quickly. The parent was not informed of who was supervising the student, what safety measures were being used, whether medical protocols had been followed, or whether a seizure or medical episode was suspected. Upon the parent's arrival, staff reported that the student had exited his harness and was lying on the bus floor kicking staff members. Less than 10 minutes after returning home, the student experienced a seizure. The parent asserts that the decision to transport the student to a bus barn rather than follow a medical safety protocol raises concerns regarding the appropriate assessment of medical versus behavioral presentation, staff training, safety decision making, and compliance with individualized needs.

LEA Position

The LEA acknowledges that the parent was contacted by the Director of Transportation on January 12, 2026, and asked to come and pick up the student due to safety concerns. At the time of the safety concern, the bus was within ¼ mile of the transportation center, approximately 1¼ miles from the student's home and 5.3 miles from the school (Wheatland Elementary). The student remained on the bus for approximately 15 minutes and then independently walked into the transportation center where he waited for approximately 5 minutes before the parent arrived to pick him up.

Findings of Fact

1. On January 12, 2025, an incident occurred while transporting the student to school. The student had taken off his securement vest shortly after departure and had started climbing on the bus seats and kicking at staff. Bus staff made the decision to pull into

the parking lot at the transportation center since they were within ¼ mile of this location. The Director of Transportation contacted the parent and asked her to come and get the student since they were unable to safely transport him at that time.

2. Upon arrival at the Transportation Center, the student remained on the bus for approximately 15 minutes and then independently walked into the transportation center where he waited for approximately 5 minutes before the parent arrived to pick him up.
3. The transportation Director later reported that he believed that additional supports would be needed in order to keep the student safe on the bus.
4. The student's IEP includes numerous statements regarding his performance in school, and his need for adult supervision for safety reasons while in school, including:
    - [The student's] 's health conditions can be all encompassing and impact his ability to regulate, perform well academically, and attend school. [The student] struggles significantly with interoception and recognizing what his body is communicating, often placing him in a position of fight or flight making his prefrontal cortex inaccessible to him.
    - He requires close staff supervision, typically involving two to three adults, to ensure his safety and to provide consistent redirection during classroom and transition periods.
    - [The student] currently demonstrates the ability to engage in structured tasks with adult support for approximately one to two minutes…When task demands increase or he reaches his tolerance threshold, [the student] engages in behaviors including vocalizations (screaming), throwing materials, and eloping from the instructional area.
    - [The student's] highest level of engagement occurs during outdoor activities, particularly when swinging. When swinging, he demonstrates increased calmness and can sustain engagement beyond two minutes.
    - Due to the frequency and intensity of elopement and mouthing behaviors, 2–3 staff members are required to maintain [the student's safety and provide continuous supervision.
    - When presented with a writing utensil such as a pencil, [the student} consistently snaps the pencil in half, chews on the pieces, and swallows parts of the pencil. This behavior poses a significant safety concern and interferes with his ability to engage safely and appropriately in fine motor and writing activities.
    - [The student] requires a highly structured learning environment with consistent routines, visual supports, and one-on-one adult assistance, including hand-over-hand prompting, to increase engagement and ensure safety during classroom activities. He benefits from brief, hands-on tasks, access to safe sensory materials, and frequent breaks with positive reinforcement to maintain attention and reduce unsafe behaviors.

- At this time, [the student] remains dependent on full adult support to complete all daily living tasks and functional routines. He benefits from consistent verbal prompting, modeling, and hand-over-hand assistance across settings.
- [The student] has a lengthy medical plan and requires constant care. This would need to be taken into consideration when planning for transportation (Emphasis added).

5. The student's IEP includes a section titled, "Health." This section contains a long list of health concerns. This section includes the question: "Does this student require a Health Care Plan? Next to that question is the word "Yes." The following section of the IEP is titled "Healthcare Plan."
6. The "Health Care Plan lists 14 separate health conditions, along with a lengthy list of medications, strategies and goals, behavior and regulatory strategies. This health care plan does not address transportation supports that should be provided.
7. The student's IEP includes a section titled "Current Performance." That section says: "Due to the frequency and the intensity of elopement and mouthing behaviors two to three staff members are required to maintain the student's safety and provide continuous supervision." Notably, this provision is based on "the intensity of elopement and mouthing behaviors," which likely would not arise during transportation while riding in a harness.
8. The student's IEP includes a general section titled "Transportation." This section says, "[the student] has a lengthy medical plan and requires constant care. This would need to be taken into consideration when planning for transportation (Emphasis added).
9. Another, more specific, section of the student's IEP is titled, "Special Transportation." That section states that [the student] "will need a harness and a para to ride on the bus safely (Emphasis added)." Notably, there is no other reference in the student's IEP to add any additional support during transportation. This indicates that at the time the IEP was written, the IEP team believed that a harness to restrain the student's movement and a para to ride on the bus with the student met the safety concerns that the student would face on the bus and so did not believe the student needed the same level of adult support on the bus that he needed in the school environment.
10. On January 12, 2026, the date of the incident, there was a driver and a para present, both of whom had attended training on the student's Health Care Plan.
11. At the time of the safety concern, the bus was within ¼ mile of the transportation center, approximately 1 ¼ miles from the student's home and 5.3 miles from the school (Wheatland Elementary). When the safety concern arose, the driver made the judgement to go directly to the transportation center as it was the closest location where assistance was available.
12. The student remained on the bus at the transportation center for approximately 15 minutes and then independently walked into the transportation center where he waited for approximately 5 minutes before the parent arrived to pick him up.

13. An IEP meeting was held on February 13, 2026, at which the district proposed the addition of nursing services on the bus and at school.
14. The Prior Written Notice (PWN) proposing nursing services states: "The team proposed the addition of nursing services for the length of time that [the student] rides the bus to and from school and during his services while at school." The explanation in this PWN for proposing Nursing services on the bus was as follows: "The addition of nursing services during transportation and at school was proposed in response to safety concerns on the bus. Nursing services would ensure that a medical professional is with [the student] to help ensure his health, safety, and consistent care."

Analysis

This was an unfortunate incident. It occurred on a moving bus and could have resulted in injury to the student or to others on the bus. Fortunately, it did not. It appears the IEP team may have been wrong in determining that a harness and para support were sufficient to transport the student safely. This appearance is bolstered by the IEP team later proposing to add a nurse on the bus to further support the student's medical needs.

The question presented by the parent in this concern is whether such an error in judgement by the IEP team, if there was an error, constituted a violation of law.

No less authority than the United States Supreme Court has provided guidance on that very question. In Endrew F. v. Douglas County School District, 137 S.Ct. 988, 117 LRP 9767 (S.C. 2017) in a special education case involving a boy with autism, the Supreme Court said that the term "free appropriate public education" means that "a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances (emphasis added)."

The court also added this statement, "The 'reasonably calculate' qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials." This statement means that IEP teams must make judgements about what services a student needs going forward. Courts, and other adjudicators (hearing officers and complaint investigators) are to refrain from using the benefit of hindsight to judge the appropriateness of an IEP. An IEP is not inappropriate simply because a student fails to make progress. That is, the court or other adjudicator must look at what the IEP team knew at the time it drafted the IEP, and with that knowledge, determine whether the IEP was reasonably calculated at that moment in time to provide an appropriate education. The Supreme Court was telling adjudicators that they should not use a "Monday Morning Quarterbacking" approach when determining the appropriateness of an IEP. The Supreme Court added that this standard requires that an IEP be reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances, and not whether a court regards it as ideal.

The Supreme Court understood that even with this prospective approach reasonable minds can disagree about whether an IEP is so "reasonably calculated." When that happens the Supreme Court said that deference is given to school officials based on the application of expertise and the exercise of judgment, but that "A reviewing court may fairly expect those authorities to be able to offer a cogent and responsive explanation for their decisions that show the IEP was reasonably calculated to enable the child to make progress appropriate in light of his circumstance at the time it was written.

The evidence presented in this concern demonstrates that this student has significant adult support needs in a classroom. For some reason the IEP team (which includes the parents) apparently did not believe this student needed the same level of adult support on the bus as opposed to the classroom when it drafted and then adopted the student's current IEP. Perhaps that was because the student would be strapped in a harness while on the bus but not while in a classroom. That makes some sense because some of the main safety concerns for the student involved elopement and mouthing objects, which could have been viewed as unlikely while secured in a harness. In hindsight, both the parents and school personnel now appear to believe that determination to have been less than ideal or perhaps even less than appropriate. At the time that decision was made, however, with the understanding that the student would be strapped in a harness during bus transportation with para support, and with the deference the Supreme Court said is to be given to the judgment of school officials in making such decisions, it is concluded that the safety incident on January 12 does not mean that the IEP team failed to develop a proper transportation plan in this student's EP.

The parents stated additional objections in this concern charging that the district's alleged failure to follow an unidentified "medical safety protocol" raises concerns regarding the "appropriate assessment of medical versus behavioral presentation, staff training, (and) safety decision making." In a clarification letter the investigator received from the parent on March 23, 2026, the parent explained this concern as follows:

There was no health assessment completed at any point during the incident. No medical observations were documented, and no qualified medical professional was consulted to assess [the student's] condition. For [the student], situations like this must always be presumed medical in nature when there is uncertainty, given his known needs. That did not occur.

Additionally, we were not provided with any documentation (incident report, medical notes, or observations), and no follow-up communication occurred to assess his condition after the event.

These additional objections , while understandably troublesome to a distressed parent going through the circumstances described in this concern, are not matters addressed by special education law. There is nothing in either federal or state special education law that requires any particular action by a school district when a special education student experiences a "medical incident" at school or on the way to school. Putting aside questions of judgement

during and after this incident, there is no special education legal requirement to conduct a health assessment or to make medical observations, or to consult with a qualified medical professional to assess a student's condition when a medical incident occurs. Accordingly, this additional objection is beyond the authority of this complaint process, which is limited to requirements of special education laws and regulations and not "protocols" of any kind.

Conclusion

The allegation of a violation of law related to this concern *is not substantiated.*

Concern Two

There was a "lack of transparency and failure to provide incident information."

Parent Position

In the complaint, the parent alleges that Following the January 12 incident no incident report or clear timeline was provided to the family. A "FERPA" request was submitted by the parents on February 2 2026, requesting transportation records, internal communications and documentation. The district indicated that portions of those records would take weeks to recover and were not available before the already scheduled February 13, 2026 IEP meeting. The parents agreed to go ahead and hold that meeting. At the February 13, 2026 IEP meeting, district leadership could not answer basic safety questions and repeatedly redirected inquiries to the transportation director. This left unanswered questions, including whether the student was properly secured, who supervised the student, what occurred after the student arrived at the bus barn, whether restraint was used, what medical observations were made, and who determined the situation was a non-medical situation.

LEA Position

The LEA response states,

The district has provided the parent with information related to January 12, 2026, and has offered multiple opportunities for the parents to visit directly with the Director of Transportation.

The parents submitted their FERPA request on February 2, 2026. The Special Education Director emailed parents on February 4, 2026, letting them know that the district had received their FERPA request and asked which records they would like to have prioritized for the February 13, 2026, meeting. All existing records that were available prior to the meeting were emailed to parents on February 11, 2026

The Special Education Director emailed the parents on February 11, 2026, indicating that the IEP documents would be sent that day; however, the remaining documents they had requested would not be available prior to the February 13, 2026, meeting. Parents were asked if they would like to continue with the meeting or postpone the meeting. The Special Education

Director emailed the parents on February 12, 2026, with the agenda for the meeting. The parents were informed that the meeting would continue unless we heard differently from parents. On February 12, 2026, the parents sent a reply saying that they would like to move forward with the meeting.

Findings of Fact

15. In an e-mail from the parent to the district, dated February 2, 2026, the parent made a "formal request for education records for our son."
16. On February 4, 2026 the district responded with an e-mail stating "We have received your request for educational records and are currently working to provide you access to the records maintained by the district. Since we have an IEP meeting scheduled for February 13th, please let me know which records you would like for us to prioritize and we will do our best to provide access by that date. If we are unable to provide the requested records by the date of our IEP meeting, I will reach back out and get your input on how you would like to proceed.
17. On February 11, 2026, the district sent an e-mail to the parent with all IEP documents, and that same day sent another e-mail stating, "Thank you for that clarification [parent]. We will work on an agenda that includes placement options. Do you have specific placements in mind or do you want to discuss as a team at the meeting? In terms of records, I will be sending you all of the IEP documents later today. We are actively working on the other records you have requested; however, we won't be able to get you records beyond IEP documents prior to the meeting on February 13th, Please let me know if you wish to move forward with the meeting or postpone until you receive the records.
18. On February 12, 2026, the district sent an e-mail to the parent saying: "I'm attaching the tentative agenda for tomorrow's meeting. If you would like anything added, please let me know. We'll plan on moving forward with the meeting unless I hear anything differently from you, Also, please reach out if you weren't able to access the IEP records that were sent yesterday.
19. On February 12, 2026, the parent sent a reply e-mail stating" "I'm sorry I never finished this email that I started yesterday. We will go forward with the meeting, thanks. Do you happen to know when those records may be available? I was able to get all of their IEPs all downloaded, so thank you!
20. The February 13 meeting was held.
21. On February 23, 2026, the district sent the parent an e-mail with 7 attachments, saying "Please find the remaining educational records for [the student] attached. Let me know if you have any trouble opening the files. This e-mail also said, "I also wanted to follow up on your request from our meeting on 2/13/26 to view video footage from the transportation building. I followed up with our team and learned that while there are cameras in the parking lot and main office area, the footage is only stored for a limited time. Unfortunately, the recordings from that day were automatically overwritten by the

system before the request was made. I also consulted our Technology Director to see if recovery was possible, but we do not have the capability to retrieve deleted files."

22. This e-mail added:
"I want to emphasize that I take [the student's] safety very seriously and I am committed to addressing your concerns. Based on my conversations with our Transportation Director the staffs primary goal was [the student's] protection. When [the student] unhooked his securement vest they were approximately 5.3 miles from Wheatland Elementary. Since they were only % (1/4) mile from the transportation center, the driver pulled into the parking lot to ensure he was in a secure environment.
Mark [transportation director] noted that [the student] remained on the bus for about 15 minutes before walking independently into the transportation center, where he waited in an office for about 5 minutes until you arrived. He was monitored by 2—3 staff members at all times, and no restraints were used. Since I was not there personally, I would be happy to facilitate a meeting with Mark [transportation director] and any other district staff you'd like to speak with so your questions can be answered directly.
Looking ahead, we remain committed to providing a nurse for [the student's] transportation and services while at school if you consent to this option. We would welcome the chance to partner with you on the nurse's training and the development of a formal transportation safety plan. We should also have a response for you soon about your request for us to contract with Levy in USD 259. Please don't hesitate to reach out with any questions."

Analysis

In the complaint, the parent alleges that following the January 12 incident no incident report or clear timeline was provided to the family pursuant to a FERPA request submitted February 2, 2026, in which the parent requested transportation records, internal communications and documentation, and that the district indicated records would take weeks and were not available before the February 13, 2026 IEP meeting. The parent further alleges that, at the February 13, 2026 IEP meeting, district leadership could not answer basic safety questions and repeatedly redirected inquiries to the transportation director. This left unanswered questions, including whether the student was properly secured, who supervised the student, what occurred after the student arrived at the bus barn, whether restraint was used, what medical observations were made, and who determined the situation was a non-medical situation.

The FERPA request was made on February 2, 2026, eleven days before the February 13 IEP meeting. The district sent the records that it had on February 11, 2026, and asked the parents if they wanted to proceed or cancel the IEP meeting scheduled for February 13, 2026. The parents said they wanted to go forward with the meeting and the meeting was held. At the meeting, the parents requested information that the IEP team was not able to provide.

The pertinent federal regulation is 34 C.F.R. 300.613(a). It says:

> Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to Sec. 300.507 or Sec. Sec. 300.530 through 300.532, or resolution session pursuant to Sec. 300.510, and in no case more than 45 days after the request has been made.

Thus, when a parent makes a request for information in education records the district must respond by permitting parents to "inspect and review" the information contained in those records. Under special education regulations, this right is more restrictive than FERPA, in that it applies only to information that it has "collected, maintained, or used" for special education purposes." Accordingly, the district is not required to provide information it does not have, nor is it required to make additional records to record information requested by a parent.

The district is required by this regulation to provide access to special education records that it maintains before "any meeting regarding an IEP." In this case, the district was unable to comply with this provision and so offered to re-schedule the upcoming IEP meeting, but agreed to proceed with the meeting only after the parents said they wanted to proceed with the meeting without all of the requested information.

The evidence presented shows that (1) the district timely responded to the parents request for access to special education records that were immediately available, (2) the parents agreed to hold the IEP meeting without access to the remaining information, and (3) the remaining information that was in special education records was delivered to the parents within 45 days of the parent's request.

Conclusion

Based on the foregoing, it is concluded that the facts related to this concern *do not constitute a violation of special education laws or regulations*.

Concern Three

Minimization of Safety Incident and inadequate administrative oversight

NOTE: This concern will address only the allegation that district staff repeatedly described the event as a "minor transportation incident." The portion of this allegation that refers to the adequacy of parent's safety concerns will be addressed in Concern 4.

Parent Position

During the February 13, 2026 IEP meeting, district staff repeatedly described the event as a "minor transportation incident."

LEA Position

Although the district acknowledges the parents' concern, it did not minimize it as a "minor incident." In addition, the district does not believe the concern raises any issues under the IDEA that would be appropriately addressed by a formal complaint decision.

Findings of Fact

23. In this concern the parent alleges that district staff incorrectly described the event as a "minor transportation incident." The district denies this allegation.

Analysis

It is not necessary to determine whether the alleged statement that the safety event was a "minor transportation incident" was made. Even if the parents allegation is correct, it is not an issue that can be addressed through the special education complaint process. The complaint process may only be used to allege a violation of special education laws and regulations (34 C.F.R. 300.153). Special education laws and regulations do not require accuracy of the content of the speech of school personnel (or parents for that matter) at meetings or otherwise, or even the accuracy of information that is contained in physical education records.

Special education regulations do set forth another process parents can use when they believe information that is in education records is inaccurate or misleading. This process involves a parent's right to ask a school district to amend an alleged inaccurate or misleading record and the opportunity for a hearing when a district declines to amend the record. These rights are explained in federal regulations 34 C.F.R. 300.618 to 300.621. There is no provision in special education laws or regulations, however, requiring oral statements made by parents or school personnel to be accurate nor is there any process to challenge the accuracy of any oral comments made in any situation.

Conclusion

The allegation of a violation of Special Education laws or regulations on this issue *is not substantiated*.

Concern Four

District staff failed to "consider medical needs in placement decisions."

Parent Position

The parents believe that the district's proposal at the February 13, 2026 IEP meeting to add a nurse to resolve their safety concerns is not enough. This is so because the parent's safety concerns involve "systemic safety practices not simply staffing alone." The parents add that "Placements should not punish students for extreme behaviors that are a result of extreme medical problems by keeping a student homebound well after the issues are resolved."

LEA Position

The LEA's response states that, "The district has provided information related to January 12, 2026, and has offered multiple opportunities for parents to visit directly with the Director of Transportation. District staff acknowledge that the transportation incident on January 12, 2026, posed a safety concern for [the student] and did not minimize it by referring to it as a minor transportation incident. An IEP meeting was convened on February 13, 2026, for the purpose of addressing safety concerns and parents' requests to discuss placement. The district proposed the addition of nursing services for transportation at the meeting on February 13, 2026."

Findings of Fact

The findings of fact stated in previous sections of this report are incorporated into this section and will not be repeated unless necessary to provide clarity. The following finding of facts is based upon a review of the documentation.

24. An IEP meeting was held on February 13, 2026, at which the district proposed the addition of nursing services on the bus and at school.
25. The Prior Written Notice (PWN) proposing nursing services states: "The team proposed the addition of nursing services for the length of time that [the student] rides the bus to and from school and during his services while at school."
26. The explanation in this PWN for proposing Nursing services on the bus and at school was as follows: "The addition of nursing services during transportation and at school was proposed in response to safety concerns on the bus. Nursing services would ensure that a medical professional is with [the student] to help ensure his health, safety, and consistent care."
27. The parent has not responded to the Prior Written Notice and request for consent to add the proposed nursing services.
28. The student has not attended school since January 12 because the parents believe "no safe or appropriate placement has been provided following the incident."
29. The parents' summary of their position regarding this concern is:
    While additional medical support may be beneficial, this proposal does not address the core concern, which is the complete lack of accountability and safety oversight demonstrated during the incident. If accountability cannot be ensured in a known, serious event, it raises significant concern about what may occur in situations that are not directly observed or reported. Additional concerns include: • No follow-up to check on [the student's] wellbeing • No acknowledgment or apology regarding the handling of the situation, including statements that staff were attempting to "contain" him and did not know how much longer they could do so • No incident report or formal documentation provided • No medical observations conducted or reviewed We are also left with unanswered safety questions. For example: • If [the student] was unsafe to transport, why was transportation continued rather than waiting for appropriate support? • If he was safe to transport, why was he not transported to his intended

destination? The repeated characterization of this as a "minor incident" further undermines trust and highlights the systemic nature of the concern.

30. At the February 13, 2026 IEP meeting, the Special Education Director responded to the parents' remaining questions concerning January 12, 2026, and offered to facilitate a meeting with the Director of Transportation and any other district-level staff they would like to have attend. The parent declined this offer.
31. On February 23, 2026, the special education director for the Ark Valley Special Education Cooperative emailed parents the remainder of the educational records for [the student].

Analysis

In her complaint, the parent described the discussion at the February 13, 2026 IEP meeting and her impression of that discussion as follows:

> During discussions with the district, staff acknowledged they could not guarantee that situations requiring immediate pickup would not occur. While we understand that emergencies happen, a placement with adequate resources should be able to manage certain medical episodes without relying on parents ability to instantly appear. Instead, our experience has included being reported to DCF, being expected to respond immediately regardless of logistical reality, and ultimately being required to retrieve our child from a transportation facility during a potential medical event. Although the district suggested that adding a nurse could resolve these issues our concerns are broader and systematic. Similar difficulties have occurred across multiple schools within the district. These ongoing patterns combined with the lack of transparency or answers following the incident, reinforced our belief that the problem is not easily resolved by a single accommodation.

The parent's concern about the medical issue that arose as a result of the incident on January 12 is genuine. The parent's assertion that similar safety incidents have occurred across multiple schools within the district, however, is not supported by any evidence provided in this complaint. The parent's rejection of the district's offer to add nursing services to the IEP for all of time that the student is riding in a school bus and all of the time the student is at school leaves this medical concern unresolved, but unresolved largely because rejected by the parent's decision to refuse to give the legally required consent.

The parents state that they have "unanswered safety questions," mainly that: If [the student] was unsafe to transport, why was transportation continued rather than waiting for appropriate support? Or, if he was safe to transport, why was he not transported to his intended destination? These questions attack the judgement of school personnel in a manner that is designed to allege negligence however the school personnel chose to respond to the January 12 incident. The facts presented in this complaint reveal that the obvious reason the school transported the student to the Transportation Facility was because that was the closest place,

and the fastest way, to get assistance for the student. There is simply no support for the allegation that this decision to take the student directly to the closest facility was deficient in reacting to the safety incident.

This concern is comparable to Concern 1, not in using the benefit of hindsight to question the judgement of an IEP team, but using that same benefit of hindsight to question the judgement of school bus transportation staff during an emergency situation. When the emergency arose, the bus driver drove to the closest facility where assistance was available, approximately one quarter mile away. As the parent alleges, during this incident, no health assessment was completed, no professional medical observations were documented, and no qualified medical professional was consulted to assess the student's condition. That was because by the time his mother had arrived the student had calmed and so he was simply released to the care of his mother upon her arrival.

As for the parent's assertion in this concern that "Placements should not punish students for extreme behaviors that are a result of extreme medical problems by keeping a student homebound well after the issues are resolved," the school did not punish this student nor require that the student no longer attend school. However appropriate the parents deemed the decision to keep the student at home, it was their decision. They may feel like the school forced them into that decision, but their decision to keep the student at home was not made by the school district. Moreover, the offer to add nursing services to support the student in both transportation and school environments shortly after the bus incident, was both timely and reasonably designed to mitigate the perceived safety concerns that were presented in that incident. This proposed additional support has been delayed only because the parents have exercised their right to refuse to give the necessary consent for the district's proposals.

Conclusion

Under all of these circumstances, it is concluded that the allegation that district staff failed to "consider medical needs in placement decisions" *is not substantiated*.

Concern Five

District staff misrepresented the parents position regarding homebound services.

Parent Position

During the February 13, 2026, IEP meeting, homebound services were framed as declined because parents did not want staff in their home. This is not correct. The parents' concerns were based on appropriateness of placement and least restrictive environment requirements.

LEA Position

The LEA response

Although the district acknowledges the parents' concern, it does not believe the concern raises any issues under the IDEA that would be appropriately addressed by a formal complaint decision.

Homebound services were discussed as an option after parents indicated that they did not wish to send [the student] to school with the addition of nursing services. Parents indicated that they did not feel homebound was appropriate and this was documented in the IEP and on the Prior Written Notice.

Findings of Fact

32. The parents' complaint states that "we declined homebound because it does not meet the student's needs or least restrictive environment requirements. This was framed as us not wanting staff in our home. We clarified that this is inaccurate; our concerns relate to appropriateness of placement not refusal of staff presence. Staff responded that FAPE was being offered and that we simply did not like the options provided. No acknowledgement or accountability was ever taken regarding the transportation incident.
33. The Prior Written Notice from the February 13, 2026, proposed amendment to the IEP, states that, "The team discussed the possibility of homebound services if parents chose not to send [the student] to school with the addition of nursing services. Parents do not feel homebound services are appropriate at this time."
34. Within the parental input section of the February 13, 2026, proposed amendment to the IEP, it was also stated that "Parents do not feel that homebound services are appropriate at this time".

Analysis

There is no evidence of any written statement from any school official saying that homebound services were being "declined because parents did not want staff in their home." If there is such a written statement in the students education records, the process for seeking a remedy with regard to the accuracy of that statement is the same as is available as explained in Concern 3 of this complaint.

There is no provision in special education laws or regulations that requires the parties agree on the rationale for placement decisions. Thus, any stated disagreement regarding reasons for placement decisions cannot constitute a violation of law.

Conclusion

Based on the foregoing, it is concluded that there is n*o failure to comply with law* on this concern.

Concern Six

There was a "potential lack of monitoring equipment and documentation on special education transportation."

Parent Position

District staff stated that the bus involved in this incident did not have cameras and they were unsure whether the bus barn cameras existed. Given the students medical fragility and typical safety practices for special education transportation, absence of monitoring raises concerns regarding accountability, incident verification, and safety oversight.

LEA Position

The LEA response states:

Although the district acknowledges the parents' concern, it does not believe the concern raises any issues under the IDEA that would be appropriately addressed by a formal complaint decision.

The district has provided information to the parents related to January 12, 2026, and has offered multiple opportunities for parents to visit directly with the Director of Transportation.

Findings of Fact

35. The parent alleges that "There was a "potential lack of monitoring equipment and documentation on special education transportation."

Analysis

The allegation that there was a "potential lack of monitoring equipment and documentation on special education transportation," does not meet the threshold requirement of a special education complaint. That threshold is to allege that a violation of law has occurred (34 C.F.R. 300.153). This concern, as well as some of the other concerns in this complaint, refer to a "potential failure." There is always a "potential failure" in every endeavor. The complaint process, however, cannot be used to address concerns alleging a potential failure.

Both Kansas regulation K.A.R. 91-40-51(a) and federal regulation, 34 C.F.R. 300.153(b) state that a special education complaint must allege that an education agency "has" violated a state or federal special education regulation or law. Accordingly, allegations of a potential failure to follow legal requirements are beyond the jurisdiction of this investigation and will not be addressed in this report, at least to the extent that "potential failure" is intended to mean that a violation is likely or possible to occur sometime in the future. Moreover, there is no requirement, in either federal or state law that requires monitoring devices on school busses. Thus, absent an IEP requirement for monitoring equipment on a bus, the lack of such equipment is not a violation of law.

To the extent this concern is meant to allege that the district was required to have monitoring equipment on the student's bus at the time this incident occurred as a matter of providing a

FAPE to this student, that is another example of the parent essentially asking the investigator to second-guess the judgement of the IEP team by using the benefit of hindsight. This is exactly the kind of hindsight judgement that the United States Supreme Court said should not be used, as described in detail in Concern 1 of this report.

Conclusion

Based on the foregoing, it is found that the allegation of a violation of law *is not substantiated* in this concern.

Concern Seven

The student was denied meaningful educational access (potential FAPE concern)

Parent Position

More than one month passed after the January 12, 2026 incident without resolution, answers, or safe placement adjustments. The student has lacked safe access to consistent education during this period.

LEA Position

The LEA response states:

The district made multiple attempts to schedule an IEP meeting with no response from parents. The district offered options for meeting dates within three days of the request for a meeting. After no response to the meeting dates was received from parents, the district sent a Notice of Meeting for a February 13, 2026, IEP meeting.

Findings of Fact

36. On the day of the incident, January 12, 2026 the special education director contacted the school psychologist, asking for an IEP meeting to be convened.
37. The special education director emailed the school team on January 13, 2026, explaining the transportation situation and the need to shift the focus of the next IEP meeting to address safety concerns.
38. The school psychologist emailed the parent on January 15, 2026, offering January 28, 2026 or February 3, 2026 as potential meeting dates. There was no response from parents.
39. The school psychologist emailed the parent again on January 19, 2026, to follow up on the options for meeting dates. There was no response from parents.
40. The parents emailed the team on January 20, 2026, about concerns related to the proposed agenda.
41. The special education director emailed the parents on January 20, 2026, offering to visit and clear up any miscommunications about the agenda. There was no response from parents.

42. The special education director attempted to call the parents on January 22, 2026, and the mailbox was full.
43. The special education director emailed the parent on January 22, 2026, and asked her to call. There was no response from parents.
44. The special education director emailed the parents on January 23, 2026, explaining the proposed agenda, offering to add any agenda items they would like to discuss and offering to visit. The meeting dates of January 28, 2026, or February 3rd, were again offered as options. There was no response from parents.
45. On January 28, 2026, the special education director emailed the parents documenting the attempts to schedule a meeting and informing the parents that the district stands ready, willing and able to provide services as outlined in the IEP. The special education director informed the parents that new dates were being gathered for a possible meeting and that the team would be sending a notice of meeting.
46. Parents responded on January 28, 2026, asking for the team to send proposed meeting dates, along with an updated proposed agenda.
47. The special education director emailed on January 29, 2026, asking for input on specific agenda items that parents would like to have included.
48. The Notice of Meeting for the February 13, 2026, IEP was mailed home on January 29, 2026, and emailed on February 3rd, 2026.
49. An IEP meeting was held on February 13, 2026, at which the district proposed the addition of nursing services on the bus and at school.
50. The Prior Written Notice (PWN) proposing nursing services states: "The team proposed the addition of nursing services for the length of time that [the student] rides the bus to and from school and during his services while at school." The explanation in this PWN for proposing Nursing services on the bus was as follows: "The addition of nursing services during transportation and at school was proposed in response to safety concerns on the bus. Nursing services would ensure that a medical professional is with [the student] to help ensure his health, safety, and consistent care." (Emphasis added).
51. The parent has not responded to the Prior Written Notice and request for consent to add the proposed nursing services.

Analysis

If, as the parent alleges, the student has lacked safe access to consistent education during this period after the bus incident, it is not due to a lack of effort on the part of the school district or this student's IEP team. Administration acted immediately to review this incident and to propose an IEP meeting. The parents did not respond to initial attempts by the district to conduct an IEP meeting. When the IEP meeting occurred, the IEP team issued a PWN proposing nursing services for the student both on the bus and at school. That significant proposed change to the student's IEP has stalled only because the parents have exercised their right to refuse to give their consent to the proposal.

This student's parents sincerely want this child with significant needs to be safe and successful. They apparently believe that the proposed nursing services are inadequate to provide that kind of environment. Again, reasonable minds can disagree when presented with difficult circumstances, but in this complaint the offer to provide a medical professional to personally accompany the student at all times during both transportation and at school is not clearly unreasonable. Hopefully, this experience has not so damaged the parents' relationships with school personnel that there can be no future for this student in a public school. Ultimately that choice remains with these loving parents.

Conclusion

It is concluded that there is *no violation of law* on this issue.

Summary of Conclusions

The allegations of a violation of special education laws and regulations is not substantiated. There are no corrective actions.

Corrective Action

Information gathered in the course of this investigation has failed to substantiate noncompliance with special education laws and regulations on the issues presented

in this complaint. Therefore, no corrective action is required.

Mark Ward

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #262 VALLEY CENTER PUBLIC SCHOOLS
ON FEBRUARY 26, 2026

DATE OF REPORT: APRIL 2, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #262 Valley Center Public Schools on behalf of ------- by his parents -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the parents."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

Evidence Reviewed

The investigator reviewed all of the evidence initially submitted by both parties and all evidence subsequently requested by the investigator from each party. The following relevant evidence was used to analyze the concerns in this complaint:

- The formal complaint submitted by the parents.
- The response to the complaint submitted by the school district.
- E-Mail correspondence between the parties
- E-Mail correspondence between the parties and the investigator
- The student's most recent evaluation
- The student's current IEP, including Health Care Plan

Findings of Fact

The findings of facts for each concern are those facts that are relevant to the concern and are based upon a review of the documentation and the correspondence with the parties, including supplemental documentation requested by the investigator.

Background Information

The student is a 15 year-old boy in the 9th grade. He is eligible for special education under the exceptionality of autism. The student does not use spoken language. When his needs are not

being met he can become aggressive by grabbing others, getting out of his chair or head butting a hard surface. The student participates in a functional daily living program that focuses on building independence and self-care, hygiene and personal responsibility across school and home settings. His instruction is guided by the Essentials for Living curriculum and delivered through structured routines, modeling and repetition. The Essentials for Living curriculum Focuses on functional communication, daily living, and adaptive academic skills.

The student participates in learning activities that are significantly modified from grade level expectations and requires direct adult prompting visual supports and intensive repetition. Because he is not able to demonstrate academic skills through traditional testing formats or written responses, the student participates in the dynamic learning maps alternate assessment.

Concern One

We were asked to provide consent for placement without receiving necessary medical safety information required for informed decision making.

Parent Position

On January 22, 2026, during an IEP meeting the team recommended placement at Hope Learning Center. Following the meeting we requested safety information necessary to evaluate the placement including availability and response time of paramedics, emergency medical protocols, and decision making authority during medical emergencies. On at least three occasions, the district staff stated that these questions could not be answered unless we first signed consent for placement. When information was eventually provided we learned that the area where the Hope Learning Center is located relies on volunteer EMT firefighters rather than paramedics and the nearest hospital is approximately 30 minutes away. Based on this information the students "medical team" determined that this placement would not provide safe or timely access to advanced life support and therefore was not a medically viable option. Despite this, the district has continued to characterize our decision as declining a valid placement recommendation rather than recognizing that the placement was medically unsafe and not viable from the outset.

LEA Position

The LEA response states,

The district has repeatedly requested parent consent to communicate directly with [the student's] medical professionals in order to obtain and consider medical input related to his health needs and emergency planning, but those requests have been denied. As a result, the district has not received any documentation or information from [the student's] medical team indicating concerns with the proposed placement or stating that the placement is medically unsafe or not viable. The district remains willing to review and consider any medical

documentation the parents wish to provide so that the IEP team can fully consider it as part of the placement discussion.

Findings of Fact

1. Following the Thursday, January 22, 2026, IEP meeting the school psychologist emailed a PWN to the parents proposing a change of placement to Hope Learning Center. The parents replied to the School Psychologist with questions regarding emergency planning related to [the student], as well as a follow-up email asking about transportation. [The parents] referenced that this would be the final piece in order to move forward.
2. The Hope Learning Center (HLC) is a special day school located in Mount Hope. It is a school within the Maize (USD 266) school district, and not a school within USD 262. However, HLC is available to students within USD 262.
3. On the USD 266 web site HLC is listed as one of four "specialty Programs." Its web page says "Students are recommended for attendance at the HLC through IEP teams from neighborhood schools across nine districts. The HLC provides services for Burrton, Cheney, Clearwater, Conway Springs, Goddard, Maize, Renwick, Sedgwick, and Valley Center public schools."
4. The Hope Learning Center (HLC) is a program that supports students with a wide range of needs who have completed a functional, life-skills, or structured learning curriculum and require additional assistance in defining their interests and supports for adult life. It's objective is to provide support not available in other public or community-based settings after completing relevant academic tasks in traditional schooling. The student's home school determines the need for this program based on the student's needs.
5. The LEA representative at the student's January 22, 2026 IEP meeting, reached out to the Administrator at Hope Learning Center (on January 22, 2026), to let him know the student's IEP team had met and recommended a change of placement for the student and that his mother had medical questions that could not be answered during the IEP meeting so they directed her to reach out to directly to the HLC administration.
6. The Administrator at Hope Learning Center (HLC) responded on Friday, January 23, 2026 for clarification regarding if parents had signed the PWN indicating that the student's placement was HLC. The LEA Representative at the student's January 22, 2026 IEP meeting responded that the parents provided verbal agreement but that the parents requested their questions be addressed prior to signing the consent form.
7. The Administrator at Hope Learning Center (HLC) responded to the LEA Representative at the student's January 22, 2026 IEP meeting on January 23, 2026, stating: "I did receive an e-mail from [the parents]. However, this is a bit of an impossible spot, I cannot engage with specific information or guidance communicating with a family with a student that is not mine. If placement paperwork has not been signed, I do not have recourse to engage with this family on behalf of the student. I do not know the student or anything regarding his care, I would be happy to schedule a collaborative conference or intake IEP to accommodate a new student that requires additional delegations,

planning or interventions that are of concern to the team or family after placement has been determined (emphasis added).

8. On Saturday, January 24, 2026, the school psychologist forwarded the Special Education Coordinator the parent's questions regarding medical response and transportation.
9. On Monday, January 26, 2026, The Special Education Coordinator emailed the parents to let them know that she was working with HLC to answer all of her questions.
10. The Special Education Coordinator met with administration from HLC on Wednesday, January 28, 2026, and had a phone conversation with USD 262's Director of Transportation to get clarifying information related to the parents questions.
11. On January 28, 2026, the HLC sent USD 262 administration a response to the parents' questions:

    Questions from parents:

    With Mount Hope being farther away, that places his closest parent and the hospital at least 30 minutes out at all times. [The student] recently had a breakthrough seizure last week, so this is understandably very fresh in our minds. I'm wondering what the emergency protocol looks like in a scenario where a student experiences a breakthrough seizure that is not controlled by rescue medication?

12. On January 29, 2026 the special education director sent the following responses to the parents:

    Have we experienced this type of situation before?
    - *Yes. HLC has had situations in which a student required an emergency response for seizure activity.*

    What does the emergency protocol look like if a seizure is not controlled by rescue medication?
    - *Staff would follow the Health Care Plan and medical orders on file, which outline when to call 911, when to call the provider first, and what is first aid for a seizure. Staff would also contact you as soon as possible as part of that response.*

    What is the EMT response time to Mount Hope?
    - *Direct coverage at HLC is through a volunteer fire/EMS service. They have responded to the building before with a typical response time of approximately 7—12 minutes, although that could vary, Because you raised an important concern about distance and response time, you may also consider reaching out directly to county first responders to ask about typical response times.*

    Which hospital would he be transported to?
    - *Per the Health Care Plan, Wesley was identified as the preferred hospital (Emergency Room at Tyler and 13th is the closest).*

    How is the situation handled while waiting for EMS?
    - *Staff would follow the Health Care Plan, and the trained staff on site would support [the student] until EMS arrives.*

    If EMS transport is required, would someone familiar with my child ride in the

ambulance with them?

- *That decision is up to EMS, but again, that could be a good question if you decided to reach out to county first responders.*

How are medical decisions made in the interim until we can be reached and/or arrive?

- *In the moment, the nurse follows the medical orders and Health Care Plan and uses professional nursing judgment to respond appropriately until you can be reached and/or arrive.*

How is behavioral safety during transport typically handled? For example, if [the student] becomes dysregulated on the bus and begins engaging in unsafe behaviors such as hitting his head or attempting to get up, we need a general understanding of how situations like that are managed.

- *If [the student] were to start to become dysregulated on the bus, staff would utilize the strategies outlined in his IEP to try to help calm him and keep him and others on the bus safe, If [the student] became dysregulated to the point that his safety, or the safety of others, was in jeopardy, the driver would pull over and call 911.*
- *In addition to in-the-moment response, there are preventative steps staff can take to increase safety on the bus, For example, staff can ensure [the student] is strategically seated away from windows and also strategically seated away from his sister for additional preventative safety measures.*

13. On Thursday, January 29, 2026, along with the correspondence referenced in Finding of Fact 12, the Special Education Coordinator also encouraged the parents to reach out to the county EMS for more specific answers to their questions.
14. The parents responded to the school psychologist on Monday, February 2, 2026, stating they did not agree, and gave their reasons for not agreeing, to the proposed placement change.
15. On Sunday, February 8, 2026, the parents emailed formally clarifying the record regarding [the student's] placement to ensure their position was accurately represented, with the following: Alternative placement viability: The parents stated that the alternative placement (HLC) previously discussed was not a viable option because it did not adequately account for the student's medical needs, including his status epilepticus. Given the requirement for immediate access to advanced life support including timely paramedic response and proximity to hospital care the parents decided that HLC did not meet the safety standards necessary for the student. This communication included this statement: "Our position has consistently aligned with the rest of [the students] educational team: he requires a setting better equipped to provide the supports necessary to meet his educational health and safety needs… While we understand that the student is currently in stay put at the high school our agreement to continue with this setting at this time should not be interpreted as an agreement that it is appropriate or sufficient to meet his needs. We are proceeding based on the districts assertion that it can safely and appropriately educate the student in this setting."

16. The Special Education Coordinator responded on Tuesday, February 10, 2026, to let the parents know that she had printed off their clarifying statements and had uploaded it with the PWN.
17. On Tuesday, February 10, 2026, The Special Education Coordinator let [the parents] know that she would upload their reasons for not signing consent along with the PWN.
18. The Special Education Coordinator emailed [the parents] on Saturday, February 21, 2026, with a rough draft agenda for the upcoming meeting. Within the email, she also asked if there was an updated doctor's Health Care Plan for the student, what the name of the doctor was to be able to communicate regarding [the student's] medical care, clarification regarding the statement of "immediate access to advanced life support", and what placement locations they would like for the school to consider.
19. [The parents] responded on Monday, February 23, 2026, stating that there was not an updated Health Care Plan, that it was the parents' understanding that districts can contract with other districts, such as Wichita Public Schools and that the current health care plan does not specifically reference "immediate access to advanced life support".
20. The current seizure plan that the school has on file does not contain information related to "immediate access to advanced life support".
21. The parents have not provided consent for school officials to speak with the student's doctor.

Analysis

This concern centers around the district's request for consent for a substantial change in placement from a mix of general education and special education environments to a special day school located in a neighboring school district that included specified requirements. A substantial change in placement is defined as the movement of an exceptional child, for more than 25 percent of the child's school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment (K.A.R. 91-40-1(sss)). A proposed substantial change in placement requires parent consent (K.A.R. 91-40-27(a)(3). The very first requirement in the definition of the term "consent" includes the following: "A parent has been fully informed of all information relevant to the activity for which consent is sought…"

The district's January 22, 2026, PWN proposing placement at "a special day school" and requesting consent for that proposed placement is clear that what is being proposed is "a special day school." Not all special day schools, however, are the same. The parents had legitimate questions about safety concerns due to the student's diagnosis of status epilepticus. Status epilepticus is a life-threatening medical emergency characterized by a seizure lasting more than 5 minutes or multiple seizures without full recovery in between. It can lead to permanent brain damage or death if not treated promptly. Treatment typically involves medications to stop the seizure and address the underlying cause.

Given the parents belief that the student requires immediate access to advanced life support including timely paramedic response and proximity to hospital care, the parents asked school officials if the proposed special day school could provide these services. School officials did not know, as this special day school is part of a different school district, which sets its own admission requirements. The school officials referred the parents to an administrator at the special day school. The administrator of the special day school told the parents he could not answer any of their questions unless and until the student was already committed to enroll in the special day school. As a result, there was no one who would or could provide this information to the parents. Ultimately the officials at the special day school did send the district officials a response to the parents' questions, which was shared with the parents. This was complicated because two separate school districts were involved. It was not, however, a situation where a district requests consent for a proposed placement change and the district knowingly withholds important information from the parent that it possesses. The district did not have the information the parents requested, the district promptly contacted the special day school to get that information, and then once it received a reply from the special day school it immediately provided that information to the parents.

While parents have a right to all relevant information in order to grant informed consent, that is complicated when the proposed placement is an out-of-district placement and district officials do not know the answers to a parents questions. In such cases, a district must make reasonable attempts to gather the missing information. This district did just that and immediately upon obtaining the missing information provided the parents with a written response to their questions. Based on those responses, the parents refused to give consent. That is the way districts are supposed to proceed in these kinds of situations.

For the reasons provided above, the allegation of a violation of law due to a failure to fully inform the parent "of all information relevant to the activity for which consent is sought" is not substantiated when, as here, some of the information relevant to the activity for which consent is sought is not known by the school district at the time it makes the proposal but is provided a reasonable time thereafter.

There is a separate issue inherent in the communication between the district and the parents that is not part of the parents' complaint, but will be addressed here in order to provide an opportunity for the parties to avoid additional conflicts in their communications with each other.

When a parent is responding to a district's proposal and the parents' response is proposing a change of placement that is different than the district's proposal, that is a "counter proposal," and the district must respond to that counter proposal with a Prior Written Notice (PWN).

In this complaint, the district made its proposal and requested consent for a substantial change in placement at an IEP meeting on January 22, 2026. On February 23 the parents informed the district in writing that they were not going to provide the required consent for

that proposal. The parents gave their reasons for refusing to give consent. In doing so, the parents were effectively saying that to give consent for a change in placement the placement offer must include immediate access to advanced life support including timely paramedic response and proximity to hospital care. That was a counter proposal.

The parents counter proposal puts the ball in the district's hands. The district cannot simply hold the ball. It needs to act and act within a reasonable time.

The district can act in a number of ways, including (this is not an exhaustive list):

> Search for a special day school that will accept the student and that has the resources the parents believe are necessary and to which they will give consent – even though that special school may be an uncomfortable distance from home;
>
> Create a suitable environment within the Ark Valley Special Education Cooperative that meets the needs of this student and the concerns of these parents, and for which the parents will give consent;
>
> Issue a PWN restating the district's current proposal and refusing the parent's proposal for a placement that provides "immediate access to advanced life support including timely paramedic response and proximity to hospital care."

Whatever it proposes, the PWN MUST include an explanation for why the district is refusing the parent's proposal.

However the district responds, it must inform the parents of its decision with a PWN that is provided within a reasonable time after the parents refusal to provide the requested consent and the making of a counter proposal. A "reasonable time" has long been recognized by the Kansas State Department of Education as "fifteen school days, unless there are unusual circumstances" (See Kansas Special Education Process Handbook, Chapter 1, Section D. Prior Written Notice).

The parents first notified the district that they would not consent to the district's placement proposal and explaining why not on February 8, 2026. Thus, the district had until March 1, 2026 to provide a PWN informing the parents how it would proceed. The parents filed this complaint on February 26, 2026. Accordingly, this complaint concern is premature because the district could not have failed its duty to provide a PWN regarding this concern within 15 school days before the complaint was filed. Because this proposal was made a concern in this complaint, the district has reasonably delayed its response to the parents. The school district may correct this situation by providing a PWN to the parents informing them how it is going to proceed with regard to the parents' request for a change in placement that includes immediate access to advanced life support, including timely paramedic response and proximity to hospital care (including an explanation of why it made its decision) within fifteen school days of receipt of this decision.

As to the secondary allegation in this concern that "the district has continued to characterize our decision as declining a valid placement recommendation rather than recognizing that the placement was medically unsafe and not viable from the outset," this secondary allegation will not be addressed in this complaint because this kind of issue is not subject to the complaint process. Instead, federal special education regulations, at 34 C.F.R. 300.618 through 300.621 specify the process to be used for a parent who believes that information collected, maintained, or used for special education purposes is inaccurate or misleading. That process begins with a parent request to the district to amend the contested record. If the district refuses the request, the district must notify the parent of the refusal and the parent's right to a hearing.

There is no process in law for challenging the accuracy of oral statements made by either party.

Conclusion

As indicated earlier, the allegation in this concern of a violation of law *is not substantiated*.

Concern Two

The district applied "stay put" in a way that maintains a placement already identified by the IEP team as inappropriate and unable to meet (the student's) needs.

Parent Position

During the January 22 IEP meeting, team members agreed that the student's current placement at Valley Center high school was not meeting his needs. After declining the medically unsafe placement, the assistant special education administrator informed us that the student would remain in "stay put" at the high school. The district characterized our decision as declining placement rather than recognizing the recommendation there was medically non-viable. We were informed that hope Learning Center was the only contracted alternative and that no other placements were being considered.

LEA Position

During the January 22 IEP meeting, the IEP team discussed [the student's] current programming and agreed that a change of placement was necessary to meet his needs. The parents indicated agreement with the team that a change in placement was warranted. The point of disagreement was not whether a change was needed, but the specific location of the proposed placement.

With respect to medical safety concerns, the district did not receive additional medical information from [the student's] medical team beyond the health care plan already on file. No new medical documentation was provided that altered the information available to the team at the time of the placement discussion.

In addition, the district explored other potentially viable special education day school options in surrounding districts. The districts that were contacted indicated they do not contract day school placements outside of their own districts. The district communicated to the parents that [the student] would remain in his current placement while the disagreement regarding the proposed placement location remained unresolved.

Findings of Fact

The facts cited in Concern 1 are incorporated into this concern and will not be re-stated except where necessary to add context to the analysis..

22. On January 22, 2026, the student's IEP team proposed a change in placement to a "special day school," (HLC) and a PWN was issued asking the parents to give their consent for this proposed change.
23. On February 8, 2026, the parents informed the district that they were not going to provide the required consent for that proposal because the proposed placement (HLC) did not adequately account for the student's medical needs, including his status epilepticus, which the parents believe requires a placement that provides "immediate access to advanced life support including timely paramedic response and proximity to hospital care."
24. The Special Education Coordinator emailed [the parents] on Saturday, February 21, 2026, with a rough draft agenda for the upcoming IEP meeting, and also asking if there was an updated Health Care Plan, what the name of the doctor was to be able to communicate regarding [the student's] medical care, clarification regarding the statement of "immediate access to advanced life support, and what placement locations they would like for us to consider."
25. [The parent] responded by email on Monday, February 23, 2026, stating that there was not an updated Health Care Plan, that districts do contract with other districts (but did not provide specific information other than Wichita Public Schools to consider), and that the current health care plan does not specifically reference "immediate access to advanced life support".
26. The special education director contacted neighboring districts, specifically including USD 259 and USD 261, and confirmed that those districts do not contract for enrollment in their day schools outside of their districts.

Analysis

The allegation is that "The district applied "stay put" in a way that maintains a placement already identified by the IEP team as inappropriate and unable to meet (the student's) needs." That is a correct statement. When a parent refuses to consent to a proposed substantial change in placement, the proposed change in placement may not be made, even if it is agreed that the current placement is deemed to be "inappropriate and unable to meet (the student's) needs." However, that circumstance is not, by itself, a violation of law. It occurred not because the district applied 'stay put' inappropriately but because the law prevented the district from

implementing its proposal. Had the district proceeded with the proposed change in placement without the requisite consent from the parent, that would have been a violation of law.

The parents assert that "immediate access to advanced life support including timely paramedic response and proximity to hospital care" is medically necessary and any environment that does not offer such support is not medically viable. That is the parents' opinion based on what the parents assert is the opinion of the student's doctor. The district is not in complete agreement because it has been unable to directly talk to the student's doctor and doubts the authenticity of a letter said to have been written by the doctor. In any event, while an IEP team must consider any information that a parent brings to the team, it is the team that has the authority and obligation to weigh the information presented to it and to determine what goes into a student's IEP. A medical doctor cannot prescribe special education and related services. That responsibility is left to the discretion of the IEP team. The parents control the extent to which they allow the student's doctor to communicate with the IEP team, but the IEP team may weigh the effect of a refusal to provide such information when developing an IEP.

Ultimately, it is the district's obligation to provide the placement that is determined by the IEP team to be appropriate for the student. The district apparently believes it has such a placement available at HLC. The parents disagree and have refused to give the necessary consent for that placement. This kind of disagreement between parties is an inherent trait in the concept of team work and is not a violation of law just because it happens.

Conclusion

Based on the foregoing, it is found that the allegation of a violation of law is not substantiated. The district has the time allotted to it in the Analysis section of Concern 1 to respond with a PWN to the parents request for a placement that includes: ""immediate access to advanced life support including timely paramedic response and proximity to hospital care."

Concern Three

The district failed to implement interim supports or safety planning that may deny (the student) access to FAPE and creates safety risks for (the student), staff and peers.

Parent Position

The student received a suspension for behavior labeled as "assault" which the team acknowledged was a manifestation of his disability. During the IEP meeting the team identified impulsive behavioral outbursts as a primary reason for recommending a more supportive placement requiring increased staffing and access to safe regulation areas. Since the suspension the student has attended school only twice. Both attempts were challenging and no meaningful changes to staffing levels, environment, or behavioral supports were implemented. We requested an interim safety and support plan while awaiting the next IEP

meeting to ensure safety for the student, staff and peers. The district responded that the student remains in "stay put" and stated they were ready willing and able to support him but they did not provide a written safety plan, specific staffing adjustments, environmental modifications, or behavior intervention updates.

LEA Position

The LEA response states:

The complaint alleges a failure to implement interim supports or safety planning and states that this may deny [the student] access to FAPE and create safety risks for him, staff, and peers. This characterization is not accurate.

[The student] currently has a thorough Behavior Intervention Plan (BIP) in place. The BIP outlines preventative strategies, replacement behaviors/skills, and reactive response strategies, including crisis response procedures aligned to the team's identified target behaviors. These supports were developed to promote [the student's] access to instruction and to support safety in the educational environment.

In addition, staff working with [the student] have received training in Safety-Care, including de-escalation techniques, supportive responses, and, when necessary, approved physical holds/restraints consistent with training protocols. This training is in place to ensure staff are prepared to respond safely and consistently when [the student] exhibits escalated behavior.

The district also took staffing steps to strengthen support. Specifically, a new paraprofessional was hired who previously worked in a special education day school setting, bringing relevant experience in supporting students with intensive behavioral needs.

Further, the district was actively working to schedule an IEP meeting to collaborate with the parents and the team and to consider whether any additional changes to[the student's] IEP, including supports and services, were needed. Throughout this time, the district remained ready to implement [the student's] current IEP and provide services in his current placement while the team continued the placement discussion.

Findings of Fact

27. On January 28, 2026, the student "punched a staff member in the throat."
28. For this offence, the student received a one-day out of school suspension.
29. On that same date, the special education coordinator emailed the School Psychologist for clarification regarding the parents' recommendation for a "Ready, Set, "Student" plan and if the team was going to circle back to it. The School Psychologist emailed back saying he would forward the email from the parents. The special education coordinator responded with recommending that they schedule an IEP meeting to respond and determine if the "Ready, Set, (the student]" plan needed to be included with the IEP.

30. A new para was hired on February 17, 2026, filling all open para positions, and bringing with him a background of working at a special education day school.
31. The School Psychologist started working on setting up an IEP meeting and reached out for staff availability.
32. [the student's] case manager, emailed a Notice of Meeting to Parents on February 18, 2026, indicating that the IEP meeting had been set for March 3, 2026.
33. In preparation for the meeting, the Low-Incidence Coach, Assistive Technology Team Member, Autism Interdisciplinary Team Lead, Autism Consultant, and Behavior Support Coach were asked to look at [the student]'s IEP and work with the case manager on additional areas of support to meet his needs.
34. The special education coordinator emailed the parents on Saturday, February 21, 2026, with a rough draft agenda and asked for input and answers to specific questions. The parents responded on February 23, 2026, with updated information and a response to some of the questions that had been asked. The special education coordinator responded on February 24, 2026, letting the parents know that the information and questions that parents provided and asked had been added to the agenda.
35. On Monday, March 2, 2026, the special education coordinator emailed the parents with the agenda for the IEP meeting, along with a draft IEP, and a draft Comprehensive Autism Planning System (CAPS) document.
36. The IEP team met on March 3, 2026, and agreed to the following changes:
    a. Update Parent Input section (non-consent item).
    b. Update Health and Social/Emotional present level (non-consent item).
    c. Update the Preventive Measures section of the Behavior Intervention Plan (consent item). This specifically included parent input and recommendation for a plan called "Ready, Set, [the student]".
    d. Organizing the visual schedule through the Comprehensive Autism Planning System (non-consent item).
    e. Update Special Education Services: [the student] will receive 1:1 adult support throughout his school day (consent item).
    f. Update IEP with a partial day start for up to four days and then implement a full day (consent item). Emphasis added.
37. On March 3, 2026, the special education coordinator emailed the parents, letting them know that the district was waiting to hear back from transportation regarding a route for the shortened day, and also attached the completed CAPS document.
38. The School Psychologist emailed the proposed IEP and PWN to parents on March 4, 2026.
39. The parents emailed the special education coordinator on March 4, 2026, asking what the tentative or hopeful plan for the shorter day was. The special education coordinator emailed back on March 4, 2026, stating that she thought a transportation route had

been sorted out and to let her know if mom hadn't heard from LEA Representative at [the student's] January 22, 2026 IEP meeting shortly.

40. The assistant principal contacted parents on March 4, 2026, letting them know that transportation was set up for [the student] to start his shortened day schedule on March 5, 2026.
41. Parents have not returned the PWN that requests consent for the proposed changes..

Analysis

The parents allege that the district failed to implement interim supports or safety planning that may deny (the student) access to FAPE and creates safety risks for (the student), staff and peers.

The facts do not support this allegation. On January 28, 2026, the special education coordinator recommended that the district schedule an IEP meeting to respond to the parents' safety concerns and determine if the "Ready, Set, (the student]" plan needed to be included with the IEP. A new para was hired on February 17, 2026, filling all open para positions, and bringing with him a background of working at a special education day school.

The IEP team met on March 3, 2026, and agreed to update the Health and Social/Emotional present levels, update the Preventive Measures section of the Behavior Intervention Plan, update Special Education Services to add that [the student] will receive 1:1 adult support throughout his school day and update the IEP with a partial day start for up to four days and then implement a full day.

The School Psychologist emailed the proposed IEP and PWN to parents on March 4, 2026, and the assistant principal contacted parents on March 4, 2026, letting them know that transportation was set up for [the student] to start his shortened day schedule on March 5, 2026. Parents have not provided consent for the proposed changes.

Part of the parents' concern is the amount of time it took the IEP team to meet between the student's suspension for aggressive behavior and the subsequent IEP meeting, approximately one month. Understandable! However, instant relief is neither required nor feasible in the complex, procedural laden, team-environment that exists in special education. In order for the IEP team to consider the concerns of the parents, there must be some reasonable amount of planning time to set an agenda, set a meeting date when team members are available, and provide adequate notice of the meeting. There is a procedure by which a district can hold an emergency (or expedited) IEP meeting where parents voluntarily waive their right to a ten-day notice of meeting when it is deemed necessary. The parents did not request an expedited meeting and the law does not require an expedited meeting. These are matters of judgement.

The meeting in this case followed a disciplinary action that had occurred approximately one month prior to the meeting, whereby the student was suspended for one day.. The delay in conducting a meeting, while not a model of efficiency, was not so excessive as to be a violation

of law. In addition, the parents did not respond to a request for consent to implement the proposed changes made at the IEP meeting. That has resulted in an additional delay, which sometimes occurs in these "complex, procedural laden, team-environments that exist in special education."

Parents, of course, are free to delay or to refuse to give consent for proposed services and placements when the proposed services and placements require consent, as these proposals at the March IEP meeting did. But that delay or refusal does not mean that "the district failed to implement interim supports or safety planning that may deny (the student) access to FAPE and creates safety risks for the student."

The evidence does not support the parents' assertion that the student's behavior on January 28 required an "interim supports or safety plan." The IEP process does not contemplate a method for which a district must "implement interim supports or safety planning" outside of an IEP meeting.

There is a method by which an IEP may be amended outside of an IEP meeting, but nothing in law requires that a district use that process. In this situation, the district responded to the parent's concerns at an IEP meeting within a reasonable time and addressed the student's needs. The parents have not consented to the district's proposals to meet the parent's concerns.

Parents, of course, are free to delay or to refuse to give consent for proposed services and placements when the proposed services and placements require consent, as these proposals at the March IEP meeting did. But that delay or refusal does not mean that "the district failed in its responsibilities.

In this concern, the district promptly responded to the parents' concerns by seeking information from the parents and setting an IEP meeting and an agenda to discuss and resolve the concerns of the parents. At the meeting, the IEP team agreed with proposed amendments to the student's IEP. The parents have not provided the requisite consent to make the proposed changes to the IEP. Had the district implemented those proposals without consent it would most certainly have been in violation of the parents' right to refuse consent for proposed.

Conclusion

Based on the foregoing, it is found that the allegation of a violation of law *is not substantiated* on this issue.

Concern Four

Use of disciplinary labeling without adequate implementation of disability related supports may conflict with IDEA protections regarding manifestation behavior and appropriate behavioral intervention.

Parent Position

The student's behavior leading to suspension was acknowledged by the IEP team as a manifestation of his disability. Despite this, documentation labeled the behavior as "assault." The IEP team identified that the student requires additional supports and structured regulation opportunities that were not yet in place at the time of the incident. The use of disciplinary terminology without corresponding supports increases the risk of escalation and may affect future responses by staff or law enforcement.

LEA Position

The LEA points out that:

The term "assault" is a common term. Its use is not a violation of special education laws and regulations.

Findings of Fact

42. The incident occurred on January 28. The student "punched a staff member in the throat" The "Behavior Detail Report" states, "Even though it is part of his disability, assault on staff is not acceptable…"
43. The student received a one-day out of school suspension.
44. The student has received only two days of out-of-school suspension this school year. He received 1 day of Out of School Suspension, without services on September 11, 2025 and one day on January 28, 2026.

Analysis

Special education regulations permit school districts to suspend a child with a disability for any violation of a code of student conduct for up to ten school-days in a school year even when that conduct is a manifestation of the student's disability (34 C.F.R. 300.530). The evidence presented shows that the student's behavior on January 28, 2026 was clearly a violation of school rules and the student had not been suspended for more than ten school days during this school year. Under these circumstances whether the student's behavior was a manifestation of his disability is immaterial. The district was authorized by law to suspend the student.

As for the parents' concern that using the term "assault" increases the risk of escalation and may affect future responses by staff or law enforcement, that may well be an accurate observation. It is not, however, a violation of special education laws or regulations.

Conclusion

Based on the foregoing, it is concluded that the allegation of a violation of law *is not substantiated.*

Concern Five

Limiting placement consideration to existing contracts may restrict access to appropriate placements necessary to provide FAPE.

Parent Position

The district stated that Hope Learning Center was the only alternative placement available through existing contracts. No documentation has been provided showing exploration of additional programs capable of meeting the students educational and medical needs. The IDEA requires consideration of the full continuum of placement options rather than limiting consideration to contracted programs.

LEA Position

The district acknowledges its LRE requirement and it provides a continuum of services, including general education classes, special education classes, special education schools, home instruction, and contracted private placements.

The district recognizes its responsibility under IDEA to ensure that [the student's] placement is determined based on his unique educational and medical needs, and not based solely on existing contractual boundaries or convenience.

The parents have indicated that [the student's] medical team has stated the location of Hope Learning Center (HLC) is not viable due to medical considerations. At this time, written documentation from his medical provider(s) communicating that determination has not been provided to the district. The district remains willing to review and consider any medical documentation the parents wish to share so that the IEP team can evaluate it as part of the placement discussion.

In an effort to support informed decision-making, the district provided the parents with available information regarding medical services and emergency response considerations related to the proposed placement. The district also encouraged the parents to seek further clarification and confirm accurate details by contacting the county EMT service directly, so that medical-response questions could be answered by the appropriate emergency services provider.

Findings of Fact

All previous findings in this complaint report are incorporated into this concern and will not be repeated, except to the extent that they are essential to the analysis of this concern. The relevant additional findings regarding this concern are:

45. The parents have informed the school district that they will not consent to the district's proposal to place the student at the district's proposed special day school, Hope Learning Center.
46. The district contacted surrounding districts with special education day school programs (USD 259 and USD 261) to inquire about the possibility of contracting for placement at one of their day schools. Those districts confirmed that they do not contract for enrollment in their day schools by students who reside outside of their districts.

Conclusion

The evidence clearly reveals that district does not limit its placement considerations to existing contracts. The district contacted two neighboring districts to inquire about whether the day school in either those districts would accept this student. The district does not have existing contracts with either of these neighboring districts for day school placements, and was informed by the neighboring districts that those neighboring districts do not offer such contracts. There may be other viable placement options for this student, although at a greater distance from home, that are available to the district as indicated previously in this report. How viable other options are must be determined by the student's IEP team, including the parents from whom consent must be obtained. But there is no evidence that supports the allegation that this district limits its placement consideration to existing contracts. In fact, the district attempted to arrange placement of this student into a day school with two neighboring districts with which there is no existing contract.

Based on the foregoing, it is found that the allegation that the district limits its placement consideration to existing contracts is unsubstantiated.

Summary of Conclusions

The allegations in this complaint of a violation of law *are not substantiated*. No corrective actions are required.

Mark Ward

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #262 VALLEY CENTER PUBLIC SCHOOLS
ON FEBRUARY 26, 2026

DATE OF REPORT: APRIL 2, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #262 Valley Center Public Schools on behalf of ------- by his parents -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the parents."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

Evidence Reviewed

The investigator reviewed all of the evidence initially submitted by both parties and all evidence subsequently requested by the investigator from each party. The following relevant evidence was used to analyze the concerns in this complaint:

- The formal complaint submitted by the parents.
- The response to the complaint submitted by the school district.
- E-Mail correspondence between the parties
- E-Mail correspondence between the parties and the investigator
- The student's most recent evaluation

Findings of Fact

The findings of facts for each concern are those facts that are relevant to the concern and are based upon a review of the documentation and the correspondence with the parties, including supplemental documentation requested by the investigator.

Background Information

The student is an 11 year-old boy in the 5th grade. He is eligible for special education services under the exceptionality category of autism. In his most recent evaluation, he had low reading scores and very low math and written language skills.

Concern One

Inconsistent implementation of IEP accommodations

Parent Position

Prior to winter break during the 2025-2026 school year, at the students assigned school placement, the student reported that a para educator refused to provide scribing support despite scribing being a documented accommodation in his IEP. The student also reported that expectations and supports varied depending on which adult was present, resulting in inconsistent access to required accommodations and increased anxiety impacting his ability to participate in instruction. The issue was later addressed by classroom staff, and we appreciated that response. However, the occurrence itself raised concern regarding consistency of accommodation implementation across staff.

LEA Position

The district does not agree with the parents' characterization. The team worked collaboratively with [the parent] to address concerns as they were raised and took steps to respond and make adjustments based on parent input. Concerns were addressed through direct conversations and follow-up with paraeducator staff regarding expectations and implementation of accommodations, obtaining parental consent for a reevaluation to ensure the team had current information to guide decision-making, and scheduling meetings to collaborate and problem-solve concerns. In addition, the team incorporated specific suggestions that the parents recommended, and an IEP meeting was held where the parents' concerns were discussed and addressed, and additional supports requested by the parent were added as appropriate to ensure [the student] continued to receive FAPE.

Other than an isolated occurrence in which one of [the student's] accommodations was not immediately provided, the district is unaware of any other IEP implementation issues or concerns. As indicated above, this occurrence was addressed immediately, and additional training was provided.

Findings of Fact

1. The student's IEP specifies that the student "will have access to a scribe as needed for any assignment, assessment or project that requires significant amount of handwriting when assistive technology is not available within the school until the assignment is complete."
2. Scribing is done by any adult who is in this student's area or working with him, including general education teacher, paras, and special education teacher.
3. For this student, a significant amount of handwriting is anything beyond his name. His handwriting is very difficult to read. He writes his name most of the time and

circles/underlines words. Any time writing is needed (even single words or numbers), staff scribe for [the student], with a rare exception of single words.

4. The district acknowledged that there was one incident where scribing was not provided. The specific incident in question occurred when the entire class was asked in specials (counselor) to write or draw something they were currently dealing with---this was a springboard for an empathy lesson that was about to take place. The student asked his support staff to scribe his thoughts. Staff asked the student to "please try to draw a picture for me first." This task was intended to get the student thinking about concerns that they are currently facing. Student was not happy with that request. The parent shared concerns with [the student's] case manager, in December of 2025, about accommodations. The case manager responded by saying she went over accommodations and explanations with paras.
5. Paras were trained on the accommodations to be provided to the student on August 7, 2025 prior to the start of the school year, on December 11, 2025 when new staff joined and on January 13, 2026 with the initiation of the "Reset with student" proposal.
6. General education teachers were provided with access to the students IEP snapshot in early September 20025. The IEP snapshot includes information on goals, special education and related services, accommodations, modifications, supplementary aids and service and supports for school personnel. The building principle requires that general education teachers have access to IEP information for all students by Labor Day.
7. All teachers have access to the list of the students accommodations in student friendly language in the students notebook that travels with him to every class.
8. The LEA submitted a form titled "IEP Accommodation Attestation Form." The attestation form includes the following attestations: (1) I have been provided with [the students] current IEP accommodations; (2) I am familiar with the accommodations and understand my responsibility in implementing them; (3) I have consistently and routinely provided the accommodations as outlined in the IEP to the best of my ability; and (4) I understand that failure to implement I EP accommodations may impact the students access to a free appropriate public education.
9. The "IEP Accommodation Attestation Form" is dated March 31, 2026 and includes the name, position, and signature of 13 school personnel who work with the student, including four paraprofessionals, school counselor, the student's special education teacher, regular education teacher, music teacher, STEM teacher, art teacher, Librarian, physical education teacher, and ELA teacher.

Analysis

The parent asserts that, prior to winter break during the 2025-2026 school year, the student reported that a para educator refused to provide the scribing support in his IEP. The parent also asserted that the student reported that "expectations and supports varied depending on which adult was present."

This kind of allegation is difficult to investigate because it involves a unique perception of what is going on in a classroom, that may or may not be shared by others in the classroom. Along with that difficulty, courts looking at the obligation of school districts to provide the services specified in a child's IEP say that perfect implementation of an IEP is not required. To be a violation of law the failure to implement an IEP must be a material failure, see: Abigail P. v. Old Forge School District, 124 LRP 21769 (3d. Cir. 2024), joining the 4th, 5th, 8th, 9th, and 11th Circuits saying implementation failure must be material to be actionable.

In this complaint, the student reports some concern about the level of support he is receiving in the classroom. His teachers, paraeducators and other staff members who work with him have individually signed a written form titled "IEP Accommodation Attestation Form." The attestation form includes the following attestations: (1) I have been provided with [the students] current IEP accommodations; (2) I am familiar with the accommodations and understand my responsibility in implementing them; (3) I have consistently and routinely provided the accommodations as outlined in the IEP to the best of my ability; and (4) I understand that failure to implement IEP accommodations may impact the students access to a free appropriate public education.

In this instance a student is expressing a general (imprecise) feeling that his IEP implementation depends on "which adult was present." His teachers, paras and other providers uniformly attest in writing that they have provided the services in the student's IEP to the best of their ability. Considering all the information collected in this investigation, there is an insufficient basis for finding a material failure to implement this student's IEP.

Conclusion

Based on the foregoing, it is concluded that the allegation of a violation of law for failure to materially implement the student's IEP *is not substantiated*.

Concern Two

Failure to provide timely proactive support for escalating disability related needs.

Parent Position

Prior to and following winter break, the student demonstrated escalating anxiety, dysregulation, and increasing difficulty attending school. On January 5, 2026, the parents communicated specific concerns, including escalating anxiety and physical symptoms, need for predictable supportive adult interactions, identified triggers including afternoon specials scheduling and extended listening periods, and requests for proactive regulation supports. While individual staff made efforts to support the student, consistent proactive supports were not implemented in a timely or coordinated manner. The students condition continued to worsen, resulting in emotional breakdowns, school avoidance, and increased medical involvement.

LEA Position

The district does not agree with the parents' characterization. The team worked collaboratively with [the parent] to address concerns as they were raised and took steps to respond and make adjustments based on parent input. Concerns were addressed through direct conversations and follow-up with paraeducator staff regarding expectations and implementation of accommodations, obtaining parental consent for a reevaluation to ensure the team had current information to guide decision-making, and scheduling meetings to collaborate and problem-solve concerns. In addition, the team incorporated specific suggestions that [the parent] recommended, and an IEP meeting was held where the parents' concerns were discussed and addressed, and additional supports requested by the parent were added as appropriate to ensure [the student] continued to receive FAPE.

Findings of Fact

10. The parents messaged the case manager on January 5, 2026, asking for an IEP meeting to brainstorm some solutions together. The case manager responded that a re-evaluation was coming up.
11. The parents messaged the case manager on January 5, 2026, with all of the concerns and additional agenda items they wanted included in a meeting. The parents referenced the student having physical symptoms as a result of stress and anxiety.
12. The school psychologist emailed a consent to re-evaluate on 1/5/2026.
13. The case manager responded on January 6, 2026, addressing the parent's concerns.
14. On January 7, 2026, The parents messaged the case manager and suggested potential supports to be added to the IEP.
15. On January 9, 2026, the parents messaged the case manager and communicated extreme concern regarding the card mark that [the student] received. The case manager responded that she would let her know when there was a meeting day and time available.
16. On January 10, 2026, the parents messaged and recommended a Reset with [the student's] routine. The parent responded that she loved this and would make a couple of cards for him and staff. She also added that the school psychologist was going to look for a regulation thermometer visual for a visual check-in.
17. The case manager messaged the parents on January 12, 2026, with a Reset with [the student]. The parent responded that it looked great. The case manager also messaged back that she made a more detailed list for accommodations as well.
18. The parent responded on January 12, 2026, saying it meant a lot to all of them. She also mentioned that [the student] was really excited about it.
19. A meeting notice for an IEP meeting was sent on January 12, 2026, for a meeting on January 23, 2026.
20. On January 23, 2026, the team received an email from [the student's] doctor indicating the need for mental health days.

21. On January 23, 2026, the team met and addressed every parent concern that had been raised, indicating continued collaboration. This meeting resulted in the following actions:
    - Added card mark procedure accommodation: [the student] will use an individual behavior card system targeting IEP-identified behavior needs rather than using the building-wide system (consent item).
    - Added supports for school personnel (non-consent item). Special education staff will review the Reset with [the student] with all teachers at the beginning of each quarter, and again whenever new teachers/support staff begin working with him the length of time necessary to ensure all supports are clearly understood and implemented with fidelity.
    - Updated parental input (non-consent item).
    - Update Present Levels
22. The parents have not provided the necessary consent for these proposals.
23. Prior to when he stopped attending, [the student] had missed 14 days (2 mental health days, 8 days for illness, and 4 marked as other).

Analysis

Prior to and following winter break, the student demonstrated escalating anxiety, dysregulation, and increasing difficulty attending school. On January 5, 2026, the parents communicated specific concerns but allege that "consistent proactive supports were not implemented in a timely or coordinated manner." The facts do not support that allegation. The parents communicated their concerns on January 5, 2025. On January 23, 2026, the IEP team met and addressed every parent concern that had been raised, and added a card mark procedure accommodation whereby the student will use an individual behavior card system targeting IEP-identified behavior needs rather than using the building-wide system, and added supports for school personnel. It also added that special education staff will review the Reset with [the student] with all teachers at the beginning of each quarter, and again whenever new teachers/support staff begin working with him for the length of time necessary to ensure all supports are clearly understood and implemented with fidelity.

The parents have not provided the necessary consent for these proposals. Parents have a right to refuse to give consent for such proposals and when they do so the proposals may not be "implemented in a timely or coordinated manner." Indeed, they may not be implemented in any manner. This is the very kind of result that the law requires when parents refuse to give consent for proposed services.

Conclusion

Under these circumstances, the allegation that the school district is in violation of law *is not substantiated.*

CONCERN 3:

Disciplinary response to disability-related behavior is not appropriate.

Parent's position:

On January 9, 2026 the student experienced significant dysregulation during a STEM class following weeks of documented escalating distress. He received a "Character Card" disciplinary mark despite the behavior being disability related.

LEA's position:

Even if the statements made by the parent in the complaint are true, which the district disputes, their concern is not an IDEA issue. The district's meeting documentation reflects that the IEP team continued the discussion and worked through the parents' disability-related concerns. Specifically, the meeting notes and Prior Written Notice (PWN) indicate the team was able to discuss parent concerns regarding the building-wide card system and recommend an alternative/adjustment to that system to individualize the approach for [the student]. The district remains committed to ensuring his needs are addressed through collaborative, disability-informed problem-solving and appropriate IEP team decision-making.

Findings of Fact

24. On January 6, the student became dysregulated at school.
25. On January 8, the student received a "character card mark" due to his behavior on January 6, pursuant to a "school-wide card mark system." The delay in giving the "character card mark" until January 8 was done to wait until the student was calm enough to talk about it.
26. A Prior Written Notice, dated January 23, 2026, stated that the district added a card mark procedure accommodation, whereby the student will use an individual behavior card system targeting IEP-identified behavior needs rather than using the building-wide system
27. The student has had no suspensions (in-school or out-of-school suspensions).

Analysis

The behavior exhibited on January 9 may well have been related to the student's disability. Nevertheless, school districts are authorized, by law to use the same disciplinary measures on children with disabilities that they use with non-disabled students. An exception to this authority emerges when disciplinary action results in a removal of a student from the educational placement described in the student's IEP for more than ten consecutive days or from a removal for more than ten cumulative days and results in a change of placement (34 C.F.R. 300.530).

The facts in this concern include that this student has not been removed from the educational placement described in his IEP for disciplinary reasons at any time this school year. The

delivery of a "character card mark" due to his behavior on January 6, was a disciplinary action that is used with all students. It was not a removal from school and not violation of special education laws and regulations.

Conclusion

Based on the foregoing, it is concluded that the allegation of a violation of law in this issue i*s not substantiated*.

CONCERN 4:

Administrative responses during IEP process undermining disability-informed decision making.

Parent Position

During an IEP meeting intended to formalize supports and address the students escalating needs the school administrator stated that he "just sees kids as kids" and does not personally see disability. The administrator repeatedly stated, "I don't know what you want me to do about it." Some of his suggested responses included removal from instructional time. These statements raise significant concerns regarding understanding of disability manifestation and IDEA protections. The student attended the meeting and was visibly distressed by these interactions. Following the meeting, the student expressed confusion and concern regarding whether disability needs were understood or respected.

LEA Position

Even if the statements made by the parent in the complaint are true, which the district disputes, their concern is not an IDEA issue. The building administrator's comments were misinterpreted and taken out of context. The context for his comment was that he believes that we should meet the unique needs of all students, regardless of whether their needs are disability-based or not.

The district's meeting documentation reflects that the IEP team continued the discussion and worked through the parents' disability-related concerns. Specifically, the meeting notes and Prior Written Notice (PWN) indicate the team was able to discuss parent concerns regarding the building-wide card system and recommend an alternative/adjustment to that system to individualize the approach for[the student]. The district remains committed to ensuring his needs are addressed through collaborative, disability-informed problem-solving and appropriate IEP team decision-making.

Findings of Fact

28. During an IEP meeting the parent alleges that a school administrator said he "just sees kids as kids" and does not personally see disability. The parent added that the

administrator repeatedly stated, "I don't know what you want me to do about it," and that some of his suggested responses included removal from instructional time.

Analysis

This concern is based on alleged comments of a school administrator at an IEP meeting at which the student was attending. The alleged comments were that the administrator "just sees kids as kids" and does not personally see disability. The allegation further alleges that the administrator repeatedly stated, "I don't know what you want me to do about it." In addition, it is alleged that some of the principal's suggested responses included removal from instructional time.

The parents allege that these statements "raise significant concerns regarding understanding of disability manifestation and IDEA protections," adding that the student attended the meeting and was visibly distressed by these interactions.

As distressing as these comments may have been to the student and to his parents, such comments at an IEP meeting are not a violation of special education laws or regulations. IEP teams often must deliberate over complicated and sensitive issues. It is important that the participants in these meetings be able to express their opinions openly. Since these meetings are meant to be "team" meetings, tact is a useful approach, but is not required by law (this conclusion should not be interpreted as a finding that there was a lack of tact at this meeting).

Conclusion

Based on the foregoing, even if the parent's allegations are accurate, it is concluded that the allegation of a violation of special education laws and regulations *is unsubstantiated*.

CONCERN 5:

Failure to provide FAPE resulting in medically supported unilateral placement.

Parent Position

Despite repeated communication regarding escalating disability related needs, effective supports were not implemented in a timely or coordinated manner. The parents developed a proactive framework (" Reset with [the student]") to support regulation. However, administrative responses during the IEP process undermined collaborative problem solving. Following the IEP meeting, the student reported feeling unsafe returning to school. The student's pediatrician evaluated him and determined that returning to the school environment would be detrimental to his mental health. Based on these cumulative concerns, the parents initiated unilateral placement while continuing participation in the IEP process.

LEA Position

The district does not agree with the parents' characterization. The team worked collaboratively with the parents to address concerns as they were raised and took steps to respond and make adjustments based on parent input. Concerns were addressed through direct conversations and follow-up with paraeducator staff regarding expectations and implementation of accommodations, obtaining parental consent for a reevaluation to ensure the team had current information to guide decision-making, and scheduling meetings to collaborate and problem-solve concerns. In addition, the team incorporated specific suggestions that the parents recommended ("Reset with Student"), and an IEP meeting was held where the parents' concerns were discussed and addressed, and additional supports requested by the parent were added as appropriate to ensure [the student] continued to receive FAPE.

With respect to the parents' assertion that [the students] pediatrician determined the school environment was hostile and that return to school would be detrimental, the district notes that the parent emailed providing formal notice of intent to unilaterally enroll [the student] in a private school setting, along with a parent letter. The parent also emailed the same day, indicating she had attached a medical letter from [the student's] pediatrician. The attachment presented as a medical letter was written in the same font and manner as the parent letter and was not on medical letterhead, did not include a physician's signature, and did not come directly from the physician in the manner other correspondence had.

To ensure the district could fully and thoughtfully consider the parents' request, including any request for tuition reimbursement and whether an additional IEP meeting would be beneficial, the district informed the parents that additional information was needed and stated that a Release of Information would be provided so the district could obtain relevant information directly from [the student's] pediatrician. The parents responded that all communication should go through them rather than permitting direct communication with the pediatrician. In the absence of parent consent to communicate directly with the pediatrician and without medical documentation received directly from the medical provider, the district has not received information from [the student's] pediatrician so that it can independently verify and consider the information.

Findings of Fact

The previous findings of fact in this report are incorporated by reference in this concern. In addition:

29. The student's IEP dated 3/5/2025 (prior to the 1/23/2026 amendment) includes a variety of "regulation" supports, including these accommodations:
    - Special education support for transition in the building and at arrival and dismissal, lunch and recess.
    - Access to sensory tools to increase time in workspace.

- Access to visuals to enhance [the student's] learning and regulation through multiple modalities.
- Access to one non-contingent morning break and one afternoon non-contingent break.
- [The student] will be able to communicate his needs for a break or a regulation break.
- {The student] will have a check-in/check-out time during his daily review time with Spratt or staff.
- [The student] will have access to flexible seating--such as standing, wobble stool, etc.

30. The student's IEP goal regarding behavior regulation states:
    - By the next annual IEP, [the student] will understand and express personal thoughts, mindsets, and emotions in a constructive way. This includes but is not limited to describing personal qualities, (for example, personal strengths, weaknesses, interests, or abilities) identify benefits of various personal qualities and identify reliable self-help strategies (for example, positive self-talk, problem solving, time management, and self-monitoring) [The student] will meet this goal in 90% of observation opportunities.
31. In a 12/20/2025 Progress Report, it is reported that: In the second quarter, [the student] is understanding and expressing personal thoughts, mindsets, and emotions in a constructive way in 99% of observation opportunities. He does a good job in ELA working hard and advocating for himself in asking for breaks when he needs them and returning to class promptly.
32. At the 1/23/26 amendment meeting, an additional accommodation was added, stating that the student "will use an individual behavior card system targeting IEP identified behavior needs rather than using the building-wide system."

Analysis

The parents allege that "Despite repeated communication regarding escalating disability related needs, effective supports were not implemented in a timely or coordinated manner." The evidence supports the district's position that the student's IEP addressed the student's "regulation" needs and that the student is making progress in that area.

This is essentially the same allegation made in Concern 2 that there was a "Failure to provide timely proactive support for escalating disability related needs." As determined in Concern 2, the evidence does not support that allegation because:

a) prior to and following winter break, the student demonstrated escalating anxiety, dysregulation, and increasing difficulty attending school;
b) On January 5, 2026, the parents communicated specific concerns but allege that "consistent proactive supports were not implemented in a timely or coordinated manner;"
c) On January 23, 2026, the team met and addressed every parent concern that had been raised, and added a card mark procedure accommodation whereby the student will use

an individual behavior card system targeting IEP-identified behavior needs rather than using the building-wide system, and added supports for school personnel;

d) The team also added that special education staff will review the Reset with [the student] with all teachers at the beginning of each quarter, and again whenever new teachers/support staff begin working with him the length of time necessary to ensure all supports are clearly understood and implemented with fidelity. and

e) the parents have not provided the necessary consent for these proposals.

The analysis provided in Concern 2 is incorporated by reference here and so will not be restated.

Conclusion

The allegation of a violation of law regarding this concern *is not substantiated*.

Summary of Conclusions

The allegation of a violation of special education laws and regulations is not substantiated. There are no corrective actions.

Mark Ward

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #229
ON MARCH 2, 2026

DATE OF REPORT: APRIL 10, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ------- by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #229 Blue Valley Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #229.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on March 2, 2026, and the 30-day timeline ended on April 1, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #229, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's Individualized Education Program (IEP) when the Student was "kept in the principal's office" for the "entirety of the school day" on February 26, 2026. K.A.R. 91-40-16; 34 CFR § 300.323.

ISSUE TWO: Whether USD #229, in accordance with state and federal regulations implementing the IDEA, changed the Student's placement when the Student was "remov[ed] from recess as a behavioral consequence" and spent the school day in the principal's office on February 26, 2026. K.A.R. 91-40-34(a), K.A.R. 91-40-21; 34 § C.F.R. 300.116, 300.530(b)(1).

ISSUE THREE: Whether USD #229, in accordance with state and federal regulations implementing the IDEA, provided the Student a free appropriate public education (FAPE) when

the Student was restricted from recess and spent the day in the principal's office. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on March 31, 2026. The following LEA staff were interviewed on April 1, 2026: The Principal, the Administrative Intern, and the Social Worker.

In completing this Investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Chronological Timeline of Events, Fall 2025-Post 02/26/26
2. Individualized Education Program, 10/30/25
3. Addendum: Parent Communication with Building Administration, no date
4. Individual Student Safety Plan, 02/26/25
5. Daily Attendance Profile, 2025-26 School Year
6. Email, re: [the Student], 02/25/26-02/26/26
7. Email, re: Follow up to Phone Call, 03/03/26
8. Email, re: [the Student], Summary, 03/09/26
9. Individualized Education Program, 10/30/25
10. [the Student's] 5th Grade Schedule, no date
11. Evaluation Report, 11/28/23
12. Psychological Evaluation, 11/07/22
13. IEP Progress Report, 03/13/26
14. Student Incident Report, 02/25/26
15. Email, re: [the Student] Notes, 03/23/26
16. Email, re: Official Complaint, 03/02/26-03/03/26

Background Information

This Investigation involved a fifth-grade student enrolled at an elementary school in USD #229. The Student is currently receiving special education or related services as a child with a disability per the IDEA under the category Specific Learning Disability (SLD). The Student had a medical diagnosis of Attention-Deficit/Hyperactivity Disorder (ADHD), Dyslexia, and Unspecified Anxiety Disorder. The Student resides with the Parent.

Findings of Fact

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. The Student is friendly and gets along well with others. The Student is respectful and polite to both adults and peers, has a good attitude, listens to and follows directions, and is organized. (D22)
2. According to a Psychological Evaluation dated November 7, 2022, the Student had "five atypical T-scores" which was associated with "a very high likelihood of having a disorder characterized by attention deficits, such as ADHD." The Student's pattern of results was suggestive of difficulty staying focused and sustaining attention over time, they had a "very slow mean" response speed and a high inconsistency in reaction times. (D65)
3. The Student met three out of the required six inattentive symptoms for a diagnosis of ADHD. Based on their self-ratings, the Student met zero out of the required six symptoms. (D65) The Student displayed "strong performance" in executive functioning involving planning, organization, working memory, and cognitive flexibility. (D71)
4. The Student's Evaluation Report dated November 28, 2023, documented the following relevant information:
    a. The Student was diagnosed with a SLD with impairment in reading consistent with dyslexia, an SLD with impairment in written expression, an SLD with impairment in mathematics, and an unspecified anxiety disorder. (D53)
    b. The primary concerns for the Student were related to their academic development and secondarily their executive functioning. (D53)
    c. On the Behavior Assessment for Children, third edition, no concerns were noted for "emotional/behavioral functioning." In the home setting, the Student was noted to exhibit emerging concerns for anxiety and depression. (D53)
    d. The Student met the criteria for Dyslexia. (D54)
5. The Student's IEP dated October 30, 2025 contained the following relevant information:
    a. Current academic achievement indicated the Student's learning was impacted by challenges with attention, task initiation, and independent work in reading and writing. The Student required specially designed instruction (SDI) and accommodations to access and continue to make progress in the general education setting. (D28)
    b. The Parent reported the Student's "biggest weakness" was not asking for help when needed. (D29)
    c. The Student's behavior did not impede their learning or the learning of others. (D29)
    d. Reading goal: "Know and apply grade-level phonics and word analysis skills in decoding words. Use combined knowledge of all letter-sound correspondences, syllabication patterns and morphology (e.g., roots and

affixes) to read unfamiliar multisyllabic words accurately in context and out of context."

i. Service provided by the Special Education Teacher. (D31)

e. Spelling goal: "By October 29, 2026, when given a list of words to encode (spell) from the following skills: Vowel Teams (predictable and unpredictable), Vowel R, Complex Consonants (soft c & g, dge, tch, silent letters), and Long Vowel Silent e syllables, [the Student] will spell them with 85% accuracy, on 2 out of 3 data collection days."

i. Service provided by the Special Education Teacher. (D31)

f. Executive functioning goal: "By October 29, 2026, [the Student] will increase turning in completed assignments, with an overall average of 85%, 4 out 5 data collection weeks."

i. Service provided by the Special Education Teacher. (D32)

g. A statement of special education indicated to ensure participation in extracurriculars and general education events such as field trips, assemblies, and school-wide activities, regularly scheduled IEP services may be bypassed. (D33)

h. Special education services beginning October 30, 2025 through October 29, 2026:

i. Direct services in a special education classroom for 40 minutes, five times every week.

ii. Direct services in a general education classroom for 60 minutes, five times every week. (D33)

i. Accommodations and modifications:

i. Preferential seating, away from distractions and close to the teacher and the board.

ii. Modify written assignments in length.

iii. Access to the restroom.

iv. Frequent checks for understanding.

v. Alternate work space.

vi. Access to a mint or hard candy.

vii. Access to fidgets to help the Student maintain focus.

viii. Speech to text for writing.

ix. Repeated directions.

x. Chunking assignments and assessments.

xi. Up to 1.5 extended time for assignments. (D35)

j. The Student participated in general and special education within their home school. (D37) (P4-P23)

6. A Chronological Timeline of Events provided by the Parent, stated on February 24, 2026, the Principal met with the "same six [students]" regarding the February 18, 2026 incident. There was no new reported incident that prompted the meeting. During the meeting, the Student corrected what they believed to be inaccurate information, however, the correction was interpreted as disrespect or an interruption. An additional disciplinary response followed and instructional time was lost. (P2)
7. According to a Student Incident Report, the Student had one incident, dated February 25, 2026 documented as the offender for a bullying or harassment violation. (D90-D91)
8. On February 26, 2026, an allegation was made regarding a breakfast interaction. The Student denied the allegation. The Student reported they attempted to avoid conflict by moving seats. The Student was advised they would spend time in the office, and was kept in the Principal's office for the entire school day. The Student was not permitted to attend classes, to eat lunch with their peers, or to attend recess. The Parent stated no formal suspension paperwork was issued and there was no Emergency Safety Intervention (ESI) documentation provided. The Parent also stated there was no written notice of the disciplinary action and no documentation explaining how the IEP services were delivered. (P2)
9. On February 25, 2026, the Principal emailed the Parent to inform them the Student would be "spending some time in the office" the following day. (D10)
    a. On February 26, 2026, the Parent responded to the Principal to question why the Principal decided to "revisit the situation" that had originally occurred on February 18, 2026 and had already been "handled." They asked if "talks and consequences" were the only actions taken to resolve the issue. The Parent asked how long the Student was removed from class, beyond the 20 minutes for the phone call between the Principal, the Parent and the Student. The Parent indicated the Student was "stressed" and stated it was "beginning to show through [their] physical health." (D8-D10)
    b. The Principal and the Parent corresponded through email to schedule a time to discuss the details of the incident. (D7)
    c. In an email dated March 23, 2026, the Principal provided clarification on the events of February 25 and 26, 2026. On February 25, 2026, the Principal received a report that the Student called another student a name. They treated the situation as an instance of bullying, assigned the Student in-school suspension (ISS), and prepared a safety plan. The Student attended ISS from 9:45 a.m. until the end of the day. They participated in the schoolwide activity in the morning which conflicted with their usual special education service time. (D92-D93)
10. According to an unsigned Individual Student Safety Plan dated February 26, 2026, if unexpected or inappropriate behavior continued from the Student, further consequences such as separation from school and involvement with the School

Resource Officer would be pursued. The Student would not be allowed to sit with the other student at lunch or in any school setting. If the Student was seated close to them, the Student or the other peer would politely ask to move seats. The Student would not play with the peer at recess or fitness break. Each morning, the Student would report directly to the General Education Teacher's room. If the Student received a school breakfast, they would take their breakfast to the General Education Teacher's room to eat. (P31)

11. On March 2, 2026, the Parent emailed the Superintendent, the Special Education Director, and the School Board to notify them the Complaint had been filed. In the email, the Parent identified they were not provided with the following documents: formal suspension documentation, written notice identifying the disciplinary category, documentation of how the Student's instructional minutes were delivered, information regarding consideration of a Manifestation Determination Review (MDR), and confirmation LEA policy was followed. (D101) In their email, the Parent formally requested:
    a. Written clarification of the disciplinary action taken on February 26, 2026.
    b. Documentation of how the Student's IEP instructional minutes were delivered during their removal.
    c. Confirmation of whether this action constitutes in-school suspension under LEA policy.
    d. Written clarification as to whether this removal qualifies as seclusion under KSDE Emergency Safety Intervention (ESI) regulations.
    e. An immediate IEP meeting to review behavioral supports and ensure procedural compliance.
    f. Written assurance that all future disciplinary measures will follow the IDEA safeguards and LEA policy. (D102-D103)
12. In an undated document titled Parent Communication with Building Administration, the Parent asked whether alternative interventions were implemented beyond administrative conversations and consequences such as social worker intervention, restorative practices, behavioral supports aligned with the Student's IEP, and disability-informed strategies. The Parent further stated they had not received clear information about which supportive interventions were attempted prior to the removal from instruction. The Parent also raised concerns regarding repeated removal from class time. They stated despite efforts to collaborate and clarify concerns at the building level, the February 26, 2026, full-day removal occurred without documentation, IEP implementation clarification, or procedural safeguards. (P26-P27)
13. According to the Student's Daily Attendance Profile for the 2025-26 school year, the Student was marked as having ISS on February 26, 2026. (D5)
14. According to the Student's 5th Grade Schedule, the Student was scheduled to work with the Special Education Teacher between 9:00 a.m. and 9:30 a.m. daily. (D40)

15. On March 2, 2026, the Parent filed the Complaint.
16. On March 3, 2025, the Principal emailed the Parent and stated February 26, 2026, was considered an ISS day. They added, it was assigned as a consequence for the Student's actions on February 25, 2026. The Principal indicated they assigned the ISS as opposed to an out-of-school suspension (OSS) so the Student could work on their schoolwork, meet with the counselor or social worker, work on restorative experiences, and work with the Special Education Teacher for their SDI. (D14)
    a. The Principal added, the Student did not receive their SDI for that day due to a school-wide activity in which the Student was allowed to participate, which occurred at a regularly scheduled time for their SDI. The schoolwide activity ended at 9:45 a.m., and the Student spent the rest of the day in the office with either the Principal, the Administrative Intern, or the Social Worker. (D14)

       On March 3, 2026, the Special Education Director emailed the Parent to follow up after their phone call. The Special Education Director explained the Student's time spent in the Principal's office would only count as a day of removal if the Student did not have access to their general education curriculum, special education services, and access, to the extent appropriate, to their general education peers. They added the disciplinary actions did not constitute an ESI incident. (D15)
17. In an email to the Parent dated March 9, 2026, the Principal described several behavioral incidents that triggered the development of a safety plan following the incident on February 25, 2026. According to the email, the Student made an inappropriate comment to another student during breakfast about them "being gay." After investigating, the Principal learned through other students that the Student had made "multiple comments" similar to that one to the same student throughout the year in unstructured settings. They stated the length of time other students reported hearing these comments ranged "from weeks to months."
    a. The Principal confirmed that, based on the "repetitive nature" of the Student's comments toward the same student, they considered it bullying or harassment and assigned the Student ISS. The Principal noted they considered OSS but wanted the Student to have access to a "restorative day."
    b. The Principal confirmed the Student worked with the Social Worker, the Principal, and the Administrative Intern on behavioral concerns and their schoolwork. They confirmed that the Student did not work with the Special Education Teacher due to the school-wide event's special schedule. They confirmed implementing a safety plan was the District's policy for bullying or harassment situations. (D17-D18)
18. According to a Progress Report dated March 13, 2026, the Student received the following scores toward their IEP goals:
    a. Reading Goal: "[M]aking appropriate progress and on pace to meet goal."

b. Spelling goal: "[M]aking appropriate progress and on pace to meet goal."

c. Executive functioning goal: "[M]aking appropriate progress and on pace to meet goal." (D88-D89)

Parent Interview:

19. In an interview with the Complaint Investigator, the Parent detailed the events of February 26, 2026. They explained the Student spent the school day in the Principal's office, which was later identified as an ISS. The Parent was initially informed by the Principal that the Student would "spend some time in the office" but stated they did not receive clarification that this meant the Student would be isolated from peers and all services for the entire day. Aside from participating in a morning program called "Husky Den," the Student did not receive any IEP services or instruction during the day. (P1, 01:17, 03:03, P2, 05:50, 07:28)

20. Additionally, the Parent shared the Principal confirmed that no IEP services were provided that day and noted the Student did not attend recess or eat lunch with peers. The Parent contended the Student remained in the office with a counselor for the duration of the school day. Regarding academic progress during the ISS, the Student reported to the Parent that they did not complete any schoolwork or receive instruction. Following this event, the Parent observed that the Student's attitude toward school shifted significantly, characterized by increased anxiety and a feeling that the School was no longer a safe environment. (P2, 10:03, P6, 27:48, 28:33, P7, 30:10)

Principal Interview:

21. In an interview with the Complaint Investigator, the Principal was accompanied by the Special Education Director and clarified how ISS was assigned as a consequence for disciplinary infractions or persistent behavioral patterns that had not been corrected through progressive discipline. They shared parent notification generally occurred on the same day as the incident to ensure the family could discuss the situation with the Student at home. While OSS required a formal board policy letter, ISS was normally communicated via telephone. (P3, 07:59)

22. The Principal stated they attempted to call the Parent on February 25, 2026, but were unable to connect and sent an email that evening stating that the Student would be working in the office the following day. During a follow-up call on the morning of the suspension, the Parent requested that the Student meet with a counselor as part of the disciplinary process to help the Student learn and grow. The Parent specifically requested the Social Worker, and the Principal subsequently coordinated that meeting. (P1, 01:47, P2, 02:40, P5, 11:57, 12:38)

23. When assigning ISS to a student with an IEP, the Principal shared that the standard practice is to coordinate with the student's case manager to ensure the continued delivery of SDI. They confirmed their normal practice was for students to attend their regular resource room sessions during ISS. The Principal confirmed they

connected with the Special Education Teacher about the Student's ISS and bringing the Student to their space, and the Special Education Teacher informed them the group was not meeting due to the whole-school activity. Because of the school-wide event, the Student's reading group did not meet.

24. Additionally, the Special Education Director clarified that per a clause in the IEP, missed minutes resulting from school-wide activities are generally not required to be made up, provided that all peers in special education are similarly affected. Furthermore, because the Student maintained access to the general curriculum and special education support was available, the LEA did not classify this ISS as a formal day of removal. (P4, 09:11, 10:03, 10:55, P5, 12:52)

25. The Principal detailed the Student's ISS day. On February 26, 2026, they recalled the Student spending approximately 30% to 40% of their day directly with them. Their time together was primarily devoted to academic work, which accounted for 60% to 70% of their interactions. Specifically, the Principal remembered reviewing reading and social studies materials provided by the Student's teacher. The Principal recalled that approximately 20% of their time was dedicated to social-emotional and restorative work intended to help the Student learn from the disciplinary incident. The remainder of the period involved relationship-building, movement breaks, and a 15-minute recess that included outdoor time. (P2, 02:40, 03:40, P3, 07:03, 07:26)

26. The Principal described the Student initially as "closed up." They noted that the Student became more responsive and engaged after about 20 to 30 minutes of working together by engaging the Student in a personal conversation and rapport building. Following this, the Student became more responsive and displayed a typical, more engaged personality for the remainder of the day. (P3, 05:53)

Social Worker Interview:

27. In an interview with the Complaint Investigator, the Social Worker shared they met with the Student for the first time following a request from the Principal and the Student's Parent. The session took place in their office during the afternoon, starting at approximately 1:15 p.m., while the Student was in ISS. The Social Worker recalled that the Student appeared quiet and "bummed," though not visibly upset or crying. To build rapport, the two engaged in casual conversation about football, and the Student utilized various fidgets located on the Social Worker's table. The Social Worker shared they also took a few laps together around the school library to get the Student moving. They indicated they did not perform any academic work with the Student or implement any specific accommodations from the Student's IEP during this interaction. (P1, 01:41, P2, 02:20, 03:35, 04:28, 04:36)

Administrative Intern Interview:

28. The Administrative Intern recalled spending approximately 1.5 to 2 hours with the Student. During this time, they worked on a social studies assignment involving a reading passage, word bank, and map. They had started working on math before

the Student returned to the Principal's office. Additionally, the Administrative Intern shared they discussed an incident in which the Student used an unkind term with a classmate, and together they researched strategies for breaking habits and developed a plan to use replacement behaviors or deep breathing in the future. (P1, 01:33, 02:31, P2, 03:19, 03:39, 04:13, 05:10)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #229, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP when the Student was "kept in the principal's office" for the "entirety of the school day" on February 26, 2026. K.A.R. 91-40-16; 34 CFR § 300.323.

According to *K.A.R. 91-40-16(b)(3)* and *34 C.F.R. § 300.323*, an IEP must be in effect for each exceptional child at the beginning of each school year.

The Parent alleged on February 26, 2026, the Student was removed from instruction for the entirety of the day and kept in the Principal's office. During this time, the Parent alleged the Student was not permitted to attend classes, did not receive instruction aligned with the IEP, was not allowed to eat lunch with their peers, and was not allowed to attend recess. The Parent further alleged no formal suspension paperwork was provided and there was no documentation provided as to how the Student's IEP services were delivered.

The LEA acknowledged that the Student was placed in ISS on February 26, 2026, but the disciplinary consequence was not considered a "short-term disciplinary day of removal." Additionally, the LEA stated that any interruption to SDI was due to a schoolwide schedule accessible to all students, as stipulated in the Student's IEP. The LEA contended the Student remained in ISS for a full school day, participated in general education activities, and had access to the same schoolwork as their peers.

On February 26, 2026, the Student was placed in ISS following an allegation of bullying, resulting in a full-day removal to the Principal's office. The Parent alleged a total denial of instruction and missed recess. The Principal and an Administrative Intern reported providing academic support, restorative work, and an alternative recess throughout the day in addition to the Student attending the schoolwide event. Per the Student's IEP, regularly scheduled special education services could be bypassed to allow for participation in school-wide activities, which accounted for the Student missing their morning SDI reading group. The Principal noted that ISS is typically communicated via telephone rather than formal paperwork, and an email was sent to the Parent the evening prior after a failed call attempt. During a follow-up call on the morning of the suspension, the Parent requested that the Student meet with a counselor, a request the Principal fulfilled by coordinating a meeting with the Social Worker. The Principal coordinated time with the School Counselor per the Parent's request.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to implement the Student's IEP. The LEA provided academic support and fulfilled counseling requests during the disciplinary removal. Furthermore, the temporary bypass of SDI reading services was consistent with the Student's IEP provisions, and the School's communication efforts met regulatory requirements.

Issue Two

> Whether USD #229, in accordance with state and federal regulations implementing the IDEA, changed the Student's placement when the Student was "remov[ed] from recess as a behavioral consequence" and spent the school day in the principal's office on February 26, 2026. K.A.R. 91-40-21; 34 § C.F.R. 300.116.

According to *K.A.R. 91-40-21* and *34 § C.F.R. 300.116*, educational agencies must ensure that children with disabilities are educated in the Least Restrictive Environment (LRE). This includes providing a full continuum of placement options, ranging from regular classes with supplementary services like resource rooms to more intensive settings like special schools, home instruction, or hospitals. All placement decisions must be made by a knowledgeable group of people, including the parents, and must be based on the child's IEP. These decisions should be reviewed at least once a year and in conformity with the LRE, with the goal of keeping the student as close to home as possible, ideally in the same school they would attend if they did not have a disability.

The agency is responsible for making sure parents can fully participate in these placement meetings by providing proper notice, offering virtual options like video conferencing if the parent cannot attend in person, and arranging for interpreters when necessary. While a meeting can proceed without a parent after repeated, documented attempts to contact them, the focus remains on inclusive participation. Furthermore, students should not be removed from regular classrooms simply because they require modifications to the general curriculum.

Agencies must also ensure that students with disabilities can participate in nonacademic and extracurricular activities, such as meals and recess, alongside their peers without disabilities to the maximum extent appropriate, providing any necessary supplementary aids. If a student's IEP requires a specialized public or private facility to receive a FAPE, the agency must provide this at no cost to the parents, including room and board. Any separate facilities used must be comparable to those for non-exceptional children and appropriate for the students' ages and programs.

According to *K.A.R. 91-40-34(a)* and *34 § C.F.R. 300.530(b)(1)*, each agency's school personnel may impose one or more short-term suspensions upon a child with a disability during a school year for violations of any school rule if these short-term suspensions do not constitute a pattern amounting to a change in placement for disciplinary reasons.

The Parent alleged that the Student was restricted from recess on February 26, 2026, due to behavioral issues and was required to remain in the Principal's Office for the duration of the day. The Parent contended that this disciplinary action constitutes a change in placement.

The LEA responded that although February 26, 2026 was considered an ISS, it did not constitute a removal or a change of placement under the IDEA. The LEA reported that although the Student was assigned an alternative recess, they were not denied a recess. Rather, the recess occurred in an alternative general education setting with general education staff, which is a common general education disciplinary practice.

The LEA treated the Student's full day ISS on February 26, 2026, as an extension of the general education setting. The Principal and Special Education Director maintained that the placement in the office was not a formal removal from the educational program, as the Student remained on campus to work on general education curriculum materials under the supervision of administrative staff and the Social Worker. By utilizing ISS, the School provided a restorative environment where the Student could engage with academic assignments and receive social-emotional support rather than being excluded from the school environment entirely for one full day. As part of this general education setting, the Principal reported that the Student was provided a 15-minute individual recess to ensure a movement break was included in the day.

The Student received a one day ISS, and although they had access to general education activities, they were not provided with special education services during the suspension; the LEA should record February 26, 2026 as a suspension. A change in placement occurs if a student is removed from their current educational setting for more than ten consecutive school days or if a series of removals constitutes a pattern.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the Student's ISS constituted a change in placement because it was a single incident that did not exceed the ten day threshold. By providing access to academic materials, restorative social-emotional support, and an individual movement break, the LEA maintained the suspension as an extension of the general education setting.

Issue Three

Whether USD #229, in accordance with state and federal regulations implementing the IDEA, provided the Student a FAPE when the Student was restricted from recess and spent the day in the principal's office. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101. Each agency is mandated to provide a FAPE to all exceptional children residing in its jurisdiction, ensuring services are provided at public expense, meet state standards, include appropriate schooling, and follow an IEP. A FAPE must be available beginning no later than the child's third birthday and must be provided even if the child has not failed a course or been retained and is

advancing from grade to grade. Ultimately, these services must be based on the child's unique needs rather than their category of disability.

The Parent alleged the previous allegations denied the Student a FAPE.

The LEA's aforementioned responses ensured the continued provision of a FAPE.

The LEA ensured the ISS remained an extension of the general program rather than an exclusionary removal by providing academic materials, a movement break, and the requested counseling. Additionally, the Student's progress report indicated that the Student was making progress toward their IEP goals.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Student a FAPE, by maintaining access to the general education curriculum and providing necessary social-emotional support during the ISS.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #263
ON MARCH 9, 2026

DATE OF REPORT: APRIL 15, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ------ by their parent, ------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #263, Mulvane Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #263.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on March 9, 2026, and the 30-day timeline ended on April 8, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #263, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the accommodations in the Student's IEP when the Student was completing coursework online. K.A.R. 91-40-16; 34 CFR § 300.323.

ISSUE TWO: Whether USD #263, in accordance with state and federal regulations implementing the IDEA, provided the Student with the least restrictive environment when the Student was taking online courses. K.A.R. 91-40-21; 34 CFR § 300.116.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on April 1, 2026. The following LEA staff were interviewed on April 2, 2026: The Special Education Teacher and the Principal.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Plan, 09/24/25
2. Amendment IEP, 12/04/25
3. Progress Report, 03/20/26
4. IEP Amendment Form for Changes not Requiring a Full IEP Team Meeting, 12/04/25
5. IEP, 09/24/25
6. Class Progress Report, 03/13/26
7. Principal Notes, 03/04/26-03/05/26
8. Student Attendance, 09/06/19-03/11/26
9. Class Schedule, 2025-26 School Year
10. Attendance Codes, School Year
11. Bright Thinker Platform Accommodation, no date
12. Reduced Multiple Choice Example, no date

Background Information

This Investigation involved an eleventh-grade student enrolled at a high school in USD #263. The Student has an existing IEP and is eligible for special education services. The Student enrolled in the LEA in October 2025 after previously attending schools in other districts. Following an incident in March 2026 involving an allegedly inappropriate comment by a teacher, the Student was transitioned from an in-person class to an online Science course to maintain educational access.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. An IEP dated September 24, 2025, documented the following relevant information:
    a. The Student had needs in the area of social-emotional.
        i. The Student required support to demonstrate improved self-advocacy skills and assertiveness in conflict situations.
        ii. Needs would be addressed through social work services and a specific goal. (D58)
        iii. Goal: The Student would "be able to demonstrate improved self-advocacy skills and assertiveness during conflict situations, as evidenced by [their] ability to effectively identify and communicate [their] needs in 4 out of 5 observed incidences." (D64)

b. The Student had needs in reading.
    i. The Student had no recorded grades from their previous school and needed a comprehensive academic assessment and targeted support to address their learning gap and attention-related challenges.
    ii. Needs would be supported through paraeducator support and a goal. (D60)
    iii. Goal: By September 23, 2026, with practice on vocabulary words, "[the Student] will improve [their] vocabulary scores to a 75% in English." (D65)
c. The Parent had no concerns. (D61)
d. Time away from peers was considered a potentially harmful effect, but the benefits of special education services were noted to outweigh any harmful effects. (D61)
e. Educational placement and special education services beginning on September 24, 2025 through September 23, 2026:
    i. Social work in the special education resource, pull-out setting for 20 minutes one day per week.
    ii. Special education in the general education inclusion setting for math, science, English, and social studies for 80 minutes, five days per week.
    iii. Special education in the special education resource, pull-out setting for "structured study" for 40 minutes, five days per week. (D66)
f. The Team considered placement in the regular education environment with supplementary aids, but the "severity of the disability is such that services cannot be achieved satisfactorily." (D66)
g. Accommodations:
    i. "A quiet, separate location for classroom assessments/assignments, district assessments, and/or state assessments."
    ii. "Note-taking assistance- such as guided notes or a copy of the teacher's notes at the end of class."
    iii. "Text read aloud by a human or electronic voice reader for classroom assessments/assignments and district/state assessments."
    iv. "Step-by-step explicit instructions, such as a list for classroom assignments."
    v. "Extended time for classroom assignments/assessments, district assessments, and /or state assessments." (D67)
h. Modifications:
    i. "[The] Student will receive fewer answer options for multiple choice assignments/tests in the classroom setting." (D68)

2. On September 24, 2025, prior written notice (PWN) stated the IEP Team met to review the "evaluation/assessment data" for the Student to determine special

education and related services needed by the Student and documented the following:

a. "From 9/24/2025-9/23/2026, [the Student] will receive pull-out … social work services for 20 minutes 1x weekly during study skills or a non-core class."

b. "From 9/24/2025-9/23/2026, [the Student] will receive services in the form of …Regular classroom time with para[educator] support in [s]cience, [m]ath, and [s]ocial [s]tudies for 80 minutes 5 days per week and in the form of … [s]pecial [e]ducation classroom time in [s]tructured [s]tudy for 40 minutes 5 days per week."

c. The action was proposed to allow the Student to receive "enough services" while participating with their peers in the general education classroom.

d. The Team considered providing the Student with additional special education services, but rejected that option because the Student demonstrated that they did not require them.

e. The Team identified a potentially harmful effect as the Student feeling they needed more support than they were receiving. The Team stated the opportunity to work to complete assignments outweighed the harmful effects. (D11-D13)

3. An IEP amendment dated December 4, 2025, noted the following information with an initiation date of November 18, 2025:

   a. The Student had needs in the area of Reading.

      i. Which would be met by general education supports, accommodations, modifications, and/or supplementary aids and services, and a goal.

      ii. The Student's reading goal stated, the Student would independently read a grade-level passage and answer eight out of ten comprehension questions with an average accuracy of 100% on 4 out of 5 trials.

      iii. Baseline: The Student independently read a grade-level passage and answered eight out of ten comprehension questions with an average accuracy of 100% on 4 out of 5 trials. (D28)

   b. Accommodations starting November 18, 2025 through September 23, 2026:

      i. "A quiet, separate location for classroom assessments/assignments, district assessments, and/or state assessments."

      ii. "Note-taking assistance- such as guided notes or a copy of the teacher's notes at the end of class."

      iii. "Text read aloud by a human or electronic voice reader for classroom assessments/assignments and district/state assessments."

      iv. "Step-by-step explicit instructions, such as a list for classroom assignments."

      v. "Extended time for classroom assignments/assessments, district assessments, and /or state assessments."

vi. "Student will receive fewer answer options for multiple choice assignments/tests in the classroom setting. (D29-D30)

c. Special education and related services beginning November 18, 2025 through September 23, 2026:

i. Special education support in ELA, social studies, and math in the general education setting, five days per week for 60 minutes total, 20 minutes each class.

ii. Direct social work counseling in the special education setting, one day each week for 20 minutes. (D32)

4. On November 18, 2025, an IEP Amendment Form for Changes not requiring a Full IEP Team Meeting documented the IEP was amended to reflect the changes needed due to a change in schools and noted the Student would receive their special education services in the general education setting. (D39)

5. A PWN, dated November 18 2025, confirmed the information and services stated in the aforementioned amended IEP. Additionally, the PWN stated the "correction was necessary to fit the current students [sic] needs and to comply with [the] IDEA." The PWN stated the changes were needed to reflect the Student's "learning environment" at the School and added "services in the general education classroom" was the [least restrictive environment] (LRE). The IEP team used "current data, [c]lasssroom data, student input, and [the] school schedule as a basis for the decision." (D41-D42)

6. An email dated December 11, 2025, from the Special Education Teacher to the Parent asked the Parent for clarification, and whether they "wanted the changes that were on the paperwork to [the Student's] IEP." The Parent responded with, "Yes." (D51)

7. A progress report dated January 1, 2026, indicated the Student showed "slight regression" on their reading goal and provided no data points. (D48)

8. A document dated March 4, 2026, noted an incident that took place during the fifth hour in which the Student had their phone out, and the teacher had made an "inappropriate comment." The Parent called the office during the sixth hour and had picked up the Student. The following day, the Student was "adamant" about not returning to the fifth-hour class, so the Principal and Assistant Principal with assistance from the Special Education Teacher, helped the Student choose environmental science via an online program. They called the Parent to let them know. (D77)

9. On March 7, 2026, the Parent filed the complaint.

10. A progress report dated March 10, 2026, indicated the Student showed "slight improvement" on their reading goal and provided no data points. (D48)

11. A grade report from the environmental systems online class dated March 13, 2026, indicated the Student's grade was 81.1%, and the Student was at 85% progress in the class. (D70)

12. An undated Bright Thinker platform document indicated the platform incorporated a setting which restricts the number of multiple-choice answer options and stated, "The student's settings limit answer choices to three options when applicable." (D88)
    a. An additional Bright Thinker screenshot of the Student's profile settings indicated checked boxes next to "Automatically allow retries for below-passing activities" and "Ignore time limit on assessments." (D90)
13. The Student's class schedule for the 2025-26 school year indicated the following classes:
    a. Semester 1:
        i. Welding Processes 2
        ii. Journalism and Media Communication
        iii. American Studies
        iv. Tier Geometry
        v. Animal Science
        vi. English 3
        vii. Study Skills
        viii. Advisory 11
    b. Semester 2:
        i. Welding Processes 2
        ii. Nutrition and Wellness
        iii. American studies
        iv. Tier Geometry
        v. Environmental Science Systems
        vi. English 3
        vii. Study Skills
        viii. Advisory 11 (D84)
14. An undated attendance report for the Student's attendance for an eight-period day indicated the following:
        a. Period 1: 15 excused absences; 2 school exempt absences; 7 unexcused absences, and 5 tardies.
        b. Period 2: 15 excused absences; 6 school exempt absences; 4 unexcused absences, and 1 tardy.
        c. Period 3: 16 excused absences; 4 school exempt absences; 3 unexcused absences, and 2 tardies.
        d. Period 4: 15 excused absences; 5 school exempt absences; 2 unexcused absences, and 2 tardies.
        e. Period 5: 18 excused absences; 3 school exempt absences; 2 unexcused absences, and 1 tardy.

f. Period 6: 20 excused absences; 3 school exempt absences; and 2 unexcused absences.

g. Period 7: 25 excused absences; 4 school exempt absences; 2 unexcused absences, and 1 tardy.

h. Period 8: 23 excused absences; 3 school exempt absences; and 1 unexcused absence. (D78-D79, D86-D87)

Parent Interview

15. In an interview with the Complaint Investigator, the Parent described the decision to place the Student into an online science course as an administrative mandate, rather than a collaborative agreement. The Parent initially proposed the change to allow the Student to complete their Science coursework within a study-skills environment and stated the Principal rejected this request, instead offering a transfer to another district or starting the semester over in a science class or an online class. When the Parent identified these alternatives as unacceptable, they shared the administration moved the Student into the online course, disregarding the Parent's initial proposed change. (P2, 04:06)

16. The Parent shared accommodations such as time and a half, notes, and assignments read aloud were not implemented following the Student's move to an online learning environment and were not explained or made accessible to the Student until shortly before spring break. Although the Special Education Manager attempted to facilitate the transition, they explicitly informed the Parent that certain accommodations could not be met within the new format. (P1, 01:12, 01:45, 02:03, P2, 02:57)

Principal Interview

17. In an interview with the Complaint Investigator, the Principal stated they attempted to handle the situation in a manner that was "best for everybody involved," noting that the transition was from one general education placement to another. They expressed appreciation for the team's efforts in meeting the Student's accommodations and ensuring they received credit for previously completed work. (P12, 13:14)

Special Education Teacher Interview

18. In an interview with the Complaint Investigator, the Special Education Teacher, accompanied by the Special Education Director, explained the Student's accommodations were implemented in the online program through a combination of digital tools and direct facilitator support. The Student was provided with a read-aloud option for passages and questions, and the number of multiple-choice options on assessments was reduced. The Special Education Teacher ensured the online facilitator had updated copies of all required accommodations and they remained available in the classroom to provide hands-on assistance and monitor for technical glitches. (P1, 01:22, 02:43, P2, 04:07, 04:48)

19. The Special Education Teacher shared that although the course appeared to be a "full class," the curriculum was modified to remove 11 labs deemed unnecessary for understanding the core points of the course. They clarified, "… so it was reduced altogether, the whole course." The Special Education Teacher indicated the Student did not start the semester over. (P2, 05:26, P3, 06:19) The Special Education Director additionally clarified the Student's transcripts reflect their time in the original science class in addition to the online course. (P1, 01:11)
20. The Special Education Teacher explained they were not involved in the initial decision to change the Student's course to online, noting that it was an administrative decision. The Principal later contacted them to confirm their availability to assist, and were subsequently looped into the plan for the Student's transition. (P3, 06:29, 06:46, 07:51) The Special Education Director shared the Student took part in the decision-making process and had "advocated for this specific class." (P1, 01:11)
21. When asked about the LRE and course change, the Special Education Teacher described the change as "… it was just an appropriate change for the situation. It also gave [the Student] the freedom to work at [their] own pace, which is actually good for [the Student]. [The Student's] accelerated in this course and [has] done very well in the process." (P3, 07:23)
22. The Special Education Teacher described the instructional model in the study skills classroom as a general education environment where students work on their current coursework or online learning tasks at their own pace, in a quiet environment, and with monitored support and guidance. (P2, 03:04, P4, 08:10, 09:05)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #263, in accordance with state and federal regulations implementing the IDEA, implemented the accommodations in the Student's IEP when the Student was completing coursework online. *K.A.R. 91-40-16; 34 CFR § 300.323*.

According to *K.A.R. 91-40-16 and 34 C.F.R. § 300.323*, an IEP must be in effect for each exceptional child at the beginning of each school year. Each public agency must ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. Each agency must ensure that each teacher and provider is informed of their specific responsibilities for implementing the child's IEP and the accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged accommodations were not being implemented in the Student's online coursework.

The LEA denied the Student's IEP accommodations were not implemented. The LEA stated all accommodations listed in the IEP were implemented in an online general education setting.

The Special Education Teacher reported that the Student's accommodations were integrated into the Bright Thinker online platform. Specifically, the Special Education Teacher noted that "read-aloud" support was provided through the platform's digital text-to-speech tools, and the Student was granted "extended time" on all online assignments and assessments. Additionally, the Special Education Teacher stated that the Student received accommodations in the form of fewer answer options for multiple-choice questions and was supervised by an online facilitator to ensure these supports were functional.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to provide the Student with the accommodations required in their IEP.

Issue Two

Whether USD #263, in accordance with state and federal regulations implementing the IDEA, provided the Student with the least restrictive environment when the Student was taking online courses. *K.A.R. 91-40-21; 34 CFR § 300.116*.

According to *K.A.R. 91-40-21 and 34 CFR § 300.116*, each agency shall ensure that children with disabilities served by the agency are educated in the LRE. Each agency shall ensure that a continuum of alternative educational placements is available to meet the needs of children with disabilities. Alternative placements shall include instruction in regular classes, special classes, and special schools, make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement, all to be provided in conjunction with regular class placement.

Each agency shall ensure that, in determining the educational placement of a child with a disability, are made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options. The decision shall be made in conformity with the requirement of providing services in the LRE.

Each agency shall give notice to the parents of any meetings to discuss the educational placement of their child. If a parent cannot participate in person at a meeting related to the child's educational placement, the agency shall offer alternative methods to allow the parent to participate, including conference calls and video conferencing. An agency may conduct a meeting to determine the appropriate educational placement of a child with a disability without the participation of a parent if the agency, despite repeated attempts, has been unable to contact the parent or to convince the parent to participate. If an agency conducts a meeting to determine the appropriate educational placement of a child without the participation of the parent, the agency shall have a record of the attempts that the agency made to contact the

parent. An agency shall take action to ensure that parents understand and are able to participate in any discussions concerning the educational placement of their children, including arranging an interpreter for parents who are deaf or whose native language is other than English.

Each agency shall ensure that each exceptional child's placement is determined at least annually, is based on the child's IEP, and, for a child with a disability, as close as possible to the child's home. Unless the IEP of a child with a disability requires a different arrangement, the agency shall ensure that the child is educated in the school the child would attend if nondisabled. In selecting the LRE for a child with a disability, the persons making the educational placement decision shall consider any potential harmful effect on the child or on the quality of services the child needs. An agency shall not remove a child with a disability from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

The Parent alleged when they requested the Student be able to finish class coursework in a study skills class, they were offered to start the semester over in an online class that could be completed in a study skills class.

The LEA denied the Student's LRE was changed in a manner inconsistent with the IDEA requirements. The Student transitioned from Animal Science to Environmental Science because Animal Science was only offered with the teacher the Parent requested the Student not have contact with. The LEA worked to respond to the Parent's concern while ensuring the Student could continue accessing the general education curriculum and earn the required science credit. Environmental Science fulfilled the same science credit requirement toward graduation.

In *Letter to Fisher, 21 IDELR 992 (OSEP 1994)*, a change in location does not constitute a change in educational placement if the student's program and opportunities for interaction with nondisabled peers remain the same. The record showed that the online setting was a quiet, general-education location where the Student could work at their own pace with their accommodations. The Student's move from an in-person Animal Science class to a general education study skills room, while working on an online Environmental Science course, maintained the same level of interaction with nondisabled peers and did not alter the Student's LRE by more than 25% of the school day. This shift does not meet the definition of a "substantial change in placement" according to Kansas law. The change was executed as an administrative response to a teacher-student conflict, with Student input, which constituted a change of location rather than placement.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Student with an education in the LRE. Although the move was an administrative response, the fact that the Student remained within a general

education setting establishes that the action was a change of location rather than a change in placement.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 263,
Mulvane Public Schools: 26FC263-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on March 9, 2026, by ------- on behalf of her child, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on April 15, 2026. That Complaint Report concluded that there was no violation of special education statutes and regulations

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified two issues. This appeal only addresses Issue One:

Issue One

Whether USD #263, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the accommodations in the

Student's IEP when the Student was completing coursework online. K.A.R. 91-40-16; 34 CFR § 300.323.

The appeal consists of the following:

1. (*The student's) accommodations were not met. She did not meet with a counselor the entire year as "she wasn't put on a case load" I recorded that from her IEP meeting. She was not given credit for the work she did in her animal science class, she did majority of the work at home and was not given her time and a half as she had to do an entire semester in less than 9 weeks. Her labs were dismissed because they didn't have a way to do them.*
   I want this addressed and not dismissed the way the emotional abuse from the staff is.

   In its response to this appeal, the district asserts that meeting with a counselor was not an issue presented in this complaint and so not an issue subject to appeal. The Appeal Committee agrees. A thorough review of the parent's complaint and the complaint report confirms that meeting with a counselor was neither presented as an issue in this complaint nor considered by the investigator. Accordingly, this issue will not be addressed in this appeal.

2. The remainder of the parent's appeal is a statement that the student "was not given credit for the work she did in her animal science class, she did majority of the work at home and was not given her time and a half as she had to do an entire semester in less than 9 weeks. Her labs were dismissed because they didn't have a way to do them."

The background to this situation needs some explanation.

On March 4, 2026, an incident that took place at school during fifth hour in which the Student had her phone out, and the teacher had made what the parent described as an "inappropriate comment." The Parent called the office during the sixth hour and picked up the Student. The following day, the Student was "adamant" about not returning to the fifth-hour class (Animal Science) taught by the teacher who had made the "inappropriate comment." The Principal and Assistant Principal, with assistance from the Special Education Teacher, helped the Student change from Animal Science to Environmental Science via an online program accessed in a regular education environment at school (Finding of Fact 8, Report, p. 7-8).

In an interview with the Complaint Investigator, the Special Education Teacher, accompanied by the Special Education Director, explained that the Student's accommodations were implemented in the online program through a combination of digital tools and direct facilitator support. The Student was provided with a read-aloud option for passages and questions, and the number of multiple-choice options on assessments was reduced. The Special Education Teacher ensured the online facilitator had updated copies of all required accommodations and they remained available in the classroom to provide hands-on assistance and monitor for technical glitches (Report, p. 10-11).

In that same interview the Special Education Teacher shared that although the course appeared to be a "full class," the curriculum was modified to remove 11 labs deemed unnecessary for

understanding the core points of the course. They clarified, "… so it was reduced altogether, the whole course." The Special Education Teacher indicated the Student did not start the semester over and clarified that the Student's transcripts reflect her time in the original science class in addition to the online course (Report, p. 11).

In her appeal the parent states that the student did work at home and when doing so, she did not get her "time and a half" accommodation. The district's response was as follows:

"The district denies that the student's IEP accommodations were not implemented. When the student began completing Environmental Science coursework through the Bright Thinker online learning platform, staff reviewed the student's IEP accommodations to ensure they could be implemented within the online course and supervised classroom setting."

The district developed a table (chart) outlining each accommodation and how it was to be implemented. This table was also presented to the parent at the annual IEP meeting on April 8, 2026, to explain how each accommodation would be provided within the online learning environment. During the meeting, the parent asked questions regarding the accommodations, and the team provided both the table and verbal explanations to ensure understanding.

As for the accommodation for extended time, the table had three column headings, including:

(1) IEP Accommodation, which stated "Extended Time;"
(2) IEP Verbiage, which stated: "Extended time for classroom assignments and assessments in all settings;" and
(3) Implementation in Online Setting, which stated: "The Bright Thinker platform allows staff to adjust assessment settings. The student's course settings include accommodations to ignore time limits on assessments and allow retries on activities below passing scores, allowing the student to work at an individualized pace.

In reviewing the weight of the evidence presented by the district and the analysis of the investigator, the Appeal Committee finds that sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 27th day of April, 2026.

Appeal Committee

Brian Dempsey; Mark Ward; Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #265
ON MARCH 9, 2026

DATE OF REPORT: APRIL 21, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ------- by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #265, Goddard Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #265.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on March 9, 2026, and the 30-day timeline ended on April 8, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #265, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's IEP on November 12, 2025 when "[the Student's] assigned paraprofessional helped another student instead of supervising [the Student]." Additionally, whether the Student's IEP was implemented as written prior to IEP amendments being made. K.A.R. 91-40-16; 34 CFR § 300.323.

ISSUE TWO: Whether USD #265, in accordance with state and federal regulations implementing the IDEA, was required to convene an IEP meeting to review and revise the Student's IEP after the November 12, 2025 incident. K.A.R. 91-40-16; 34 CFR § 300.324(b).

ISSUE THREE: Whether USD #265, in accordance with state and federal regulations implementing the IDEA, was required to conduct a functional behavior assessment (FBA) prior

to the Parent's request for one on February 10, 2026. K.S.A. 72-3428(h)(1)(A); 34 CFR § 300.303(a)(1).

ISSUE FOUR: Whether USD #265, in accordance with state and federal regulations implementing the IDEA, developed a February 10, 2026 IEP that included current and accurate data to support the reduction in occupational therapy (OT) services, and the denial of increased speech services for the Student. K.A.R. 91-40-18; 34 CFR §300.320(a)(1).

ISSUE FIVE: Whether USD #265, in accordance with state and federal regulations implementing the IDEA, denied the Student a free appropriate public education (FAPE), as a result of the aforementioned issues. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on April 10, 2026. The following LEA staff were interviewed on April 9, 2026: The Occupational Therapy (OT), the speech-language pathologist (SLP), and the Special Education Teacher.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Individual Education Plans, 02/17/25, 02/10/26
2. Progress Report, 01/05/26 & 03/25/26
3. Speech Therapy Re-Evaluation, 06/09/25
4. February 10, 2026 Meeting Transcript
5. Incident Documentation, 11/12/25
6. Power Cards, no date
7. Prior Written Notice , 02/10/26, 02/17/25, 02/18/26
8. Writing Samples, no date
9. Progress Report, 2025-26 School Year
10. Attendance Log, 2025-26 School Year
11. Occupational Therapy Attendance Logs, 2024-25 & 2025-26 School Years
12. Speech Attendance Log, 2024-25 & 2025-26 School Years
13. Student Discipline Report, 03/10/25-03/27/26
14. Report Card, 2025-26 School Year
15. Safety Plan Description, no date
16. Confidential Investigative Report, 03/30/26
17. Emails from September 8, 2025 to March 31, 2026

Background Information

This Investigation involved a second grade student enrolled at an elementary school in USD #265. The Student is currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA).

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. An IEP, dated February 17, 2025, indicated the Student was diagnosed with autism spectrum disorder (ASD). This IEP is also referenced in the LEA materials, with a date of February 4, 2026. The content of the IEP is the same.
    a. The Student displayed decreased fine motor skills, which affected their ability to write, and they required movement throughout the day to be successful. Current performance, as of January 2025, indicated the Student preferred to use their right hand for skilled tasks. They used a four-finger grasp on their writing utensil and were able to trace, copy and write from memory all the shapes, their first name, and 52/52 upper and lower case letters, but threw in a couple lower case letters within the sight words with an occasional reversal 80% of the time. The Student struggled to write with correct letter size and placement. They wrote very large and occasionally started in the middle of the page. The Student held their scissors correctly and cut a straight line and could cut out simple shapes 80% of the time. The Student completed a fine motor task independently with verbal cues 80% of the time with a work system. The Student's needs would be met with General education supports, accommodations, and a goal.
    b. Based on the most recent evaluation, the Student had social emotional needs that required special education or related services. Their behavior did not impede their learning or the learning of others. These needs would be met through accommodations and supplementary aids and supports.
    c. For reading, the Student was able to write their name independently without a prompt, and expressively identify all letters and all letter sounds. When reading CVC words, they were able to identify the initial, medial and ending sound with 95% accuracy. The Student could consistently identify 24/50 sight words, was able to trace all letters, and was beginning to write letters and some words from memory. The Student was able to manipulate a book independently and point to the communication board to identify certain words during group activities. The Student mimicked words and sounds that were said/made by others in the room. Additionally, the Student imitated spoken words and occasionally verbalized words throughout the day. When the Student saw a word they were not familiar with, they replaced it with a word with the same beginning sound. The Student had begun to read CVC and sight words when introduced in different decodable stories. This need

would be met through general education supports, accommodations, modifications, supplementary aids and supports, and a goal.

d. Based upon the most recent ongoing data in written language, the Student had needs that required special education or related services. The Student was able to write all letters from memory when writing words, and was able to write the majority of letters as capital or uppercase letters, rather than what was graphically correct. These needs would be met by general education supports, accommodations, modifications, and supplementary aids and supports.

e. The most recent data collection showed the Student displayed needs in math that required special education or related services. The Student was able to match objects, demonstrated color sorting by separating colors objects into alike groups, and completed number and shape puzzles. The Student was able to expressively identify numbers 0-100 when they were shown a picture card of the number, basic colors and shapes. The Student had been observed singing along to counting songs. The Student needed assistance with counting past 30 and used their hands while counting. The Student was working on adding numbers 0-10 with the assistance of manipulatives. These needs would be met by general education supports, accommodations, modifications, and supplementary aids and supports, and a goal.

f. The Student continued to show the need for special education or related services in the area of communication. The Student's communication skills were described as growing. The Student continued to use gestures, body language, behavior, vocalizations, and facial expressions to express themself. The Student increased their use of more functional and appropriate forms of communication, including verbal speech, basic sign language, and pointed to visual supports/communication symbols, as well as using a speech-generating communication device to enhance language use. The Student used multimodal communication to make requests, direct others, label items, respond to share knowledge, and to accept or deny. They spoke in learned phrases or repeated what they heard. The Student produced phrases or sentences on their device when modeled and used during a repetitive activity. They were able to navigate their device to preferred page sets and learned to find new page sets when needed for specific structured tasks. The Student's verbal speech, articulation, speaking fluency, and vocal characteristics were observed to be adequate for speech production and intelligibility, though they were not age appropriate. Their articulation, speaking fluency, and vocal characteristics should continue to be monitored.

    i. The Student showed growth in their communication and expressive language abilities, but continued to display delays for their age and continued to need support to build skills. The Student was able to

use learned phrases and sentences and navigate their communication system within structured activities. The Student had not independently carried over the use of those skills outside of direct modeling and prompting. The Student's spontaneous utterances were simple and short. Adults should continue to model language and expansion of utterances using multiple modalities. These needs would be met through general education supports, accommodations, supports for school personnel, assistive technology, supplementary aids and supports, and a goal.

g. In the area of daily living/functioning skills, the Student displayed needs that required special education or related services. The Student was able to drink from a straw at school without any issues and hand-fed themself during snack time. The Student went through the lunch line with minimal support and was able to scoop food going down the line. The Student was able to independently take off and hang up their coat and backpack. The Student initiated using the restroom by using verbal icons and was able to independently use the restroom with minimal verbal prompts. They were able to pull up and down their pants when it was time to change their pull-up and they have used a urinal instead of going into a stall. The Student was able to wash their hands and button a variety of button sizes. The Student required assistance when engaging a zipper. The Student was listed as being self-sufficient in most daily living/functional skills. The needs in this area would be met with general education supports, accommodations, and modifications.

h. It was noted the Student's current delays in developmental domains impacted their learning in all areas to include social emotional, math, reading, communication, and daily living/functional skills. The Student had decreased fine motor skills which affected their ability to write and cut in the classroom and they required movement throughout the day to be successful.

i. The IEP included the following goals:

   i. Goal 1: "By the next IEP, when given two minutes of verbal and visual notice or an upcoming transition, [the Student] will transition from a preferred location to a non-preferred location within 10 seconds or with two or less prompts, with 80% success." This would be measured by teacher observation and data collection.

      1. Benchmark #1 stated, "When given two minutes of verbal and visual notice of an upcoming transition, the Student will transition within 10 seconds with 50% success."
      2. Benchmark #2 stated, "When given two minutes verbal and visual notice of an upcoming transition, [the Student] will transition within 10 seconds with 60% success."

3. Benchmark #3 stated, "When given two minutes verbal and visual notice of an upcoming transition, [the Student] will transition within 10 seconds with 70% success."

ii. Goal 2: "By the next annual IEP, when given a single-digit addition equation accompanied with manipulatives, [the Student] will independently add the objects and provide the sum expressively or written with 80% accuracy." Baseline information indicated the Student was able to find the sum of simple addition equations when presented with manipulatives independently when given verbal prompt with 80% accuracy. It also stated when provided with a written prompt, the Student was able to find the sum with 65% accuracy. The goal would be measured by the data tracking sheet.

1. Benchmark #1 indicated, "When given a single-digit equation with manipulatives, the Student will independently add the objects and provide the sum expressively or written with 60% accuracy."
2. Benchmark #2 stated, "When given a single-digit addition equation accompanied with manipulatives, [the Student] will independently add the objects and provide the sum expressively or written with 65% accuracy."
3. Benchmark #3 indicated, "When given a single-digit addition equation accompanied by manipulatives, [the Student] will independently add the objects and provide the sum expressively or written with 70% accuracy."

iii. Goal 3: "By the next annual IEP, when given a book containing only sight words and decodable words on [their] reading level, [the Student] will independently read the full book, with 80% accuracy, no more than two prompts, over three consecutive data days." Baseline information indicated the Student identified 24/50 Fry sight words on average and was able to blend CVC words with 85% accuracy. The goal would be evaluated by use of a data tracking sheet.

1. Benchmark #1 stated, "When given a book containing only sight words and decodable words on [their] reading level, [the Student] will independently read the full book, with 65% accuracy, no more than four prompts, over three consecutive data days."
2. Benchmark #2 stated, "When given a book containing only sight words and decodable words on their reading level, [the Student] was able to independently read the full book, with 70% accuracy, no more than four prompts, over three consecutive data days."
3. Benchmark #3 stated, "When given a book containing only sight words and decodable words on [their] reading level, [the Student] will independently read the full book, with 75% accuracy, no more than four prompts, over three consecutive data days."

iv. Goal 4: "By the next annual IEP, given occupational therapy services, [the Student] will increase [their] fine motor skills to use a functional grasp on [their] writing utensil while writing words and short sentences with the correct capital case, letter size, and placement on the line 80% of the time for legibility." Baseline information stated the Student used a four-finger grasp on their writing utensil. They continued to prefer to write in capital letters even when shown lowercase, but were able to throw in a couple lower case letters within the sight words. They struggled to write the correct letter size and placement. They wrote very large and occasionally started in the middle of the page. The goal would be evaluated through use of OT observation and collection/classroom samples.

v. Goal 5: "By February 16, 2026, provided speech-language services, using [their] chosen mode of functional communication, [the Student] will a) increase [their] average utterance length to three or more word utterances on at least three of five communication opportunities and b) communicate an increasing number of communicative intents (e.g., requesting, directing, describing, responding, labeling, commenting, sharing, greeting, saying farewell, inquiring, accepting/denying, etc.) from four on average to eight across three data collection days." The goal would be evaluated through SLP data and observation.

1. Benchmark #1 stated, "[The Student] will increase [their] average utterance length to three or more word utterances on at least two of five communication opportunities and to communicate an increasing number of communicative intents, (e.g., requesting, directing, describing, responding, labeling, commenting, sharing, greeting, saying farewell, inquiring, accepting/denying, etc.) from four on average to six across three data collection days."
2. Benchmark #2 stated, "[The Student] will increase [their] average utterance length to three or more word utterances on at least three of five communication opportunities and communicate an increasing number of communicative intents (e.g., requesting, directing, describing, responding, labeling, commenting, sharing, greeting, saying farewell, inquiring, accepting/denying, etc.) from four on average to eight across three data collection days.

j. Special education and related services provided from February 17, 2025 through February 16, 2026 included:

i. Direct speech language services either individually or in a group setting, in a special education classroom in a general education building, for 15 minutes, two times a week.

ii. Special education services for all core subjects, breakfast, lunch, and beginning and ending routines, in a special education classroom in a general education building, each day school was in session per the

Student's schedule, for the same amount of time as general education peers.

iii. Special education supports during recess, transitions and all specials, in a general education setting in a general education building, each day school was in session per the Student's schedule, for the same amount of time as general education peers.

iv. OT services individually or in a small group, in a special education classroom in a general education building, for 15 minutes once a week.

v. Special education support on field trips, assemblies, and any non-academic activities, in the general education setting, and when a non academic activity arises, for the duration of the activity.

vi. Access to a special education staff member on a 1:1 basis to facilitate self-help and communication skills, as well as to address safety concerns related to elopement, across all settings in the special education and general education environments, in a general education building and also on field trips, activities, and non-academic activities, when the Student was in attendance, or when there was a non-academic school activity and/or the length of time the Student was in attendance, or for the duration of the non-academic school activity.

k. Accommodations provided every day school was in session, in all settings for the length of the school day, from February 17, 2025 through February 16, 2026, included:

i. Access to alternative modes of communication, including core communication boards with picture based icons as well as a dynamic speech-generating device.

ii. Access to hold a toy or fidget during whole and small group lessons.

iii. Access to visual aids for instruction and expectations to better understand directions each school day when expectations are being reviewed or when there is an opportunity to incorporate visuals. This would be offered throughout the school environment, when appropriate throughout the day.

iv. The Student would receive multiple rewards for positive reinforcement and scheduled sensory breaks while allowing for additional breaks as needed, throughout the school day depending on their behavior, in a general education and special education classroom, when appropriate throughout the school day.

v. The Student would have instructions read to them when written instructions are above their current reading level, across all school settings, in both the general and special education classrooms, for the duration of the task, lesson, or activity.

l. A modification included the Student completing a modified curriculum that was closer to their skill level, daily, in all educational settings for the entire school year, from February 17, 2025 through February 16, 2026.

m. For Supplementary Aids and Services, the Student would have access to visual supports including but not limited to: daily schedule/routines communication board, first/then, and incentive chart throughout the school day as needed in all educational settings, for the school day, from February 17, 2025 through February 16, 2026.

n. Supports for School Personnel included staff working with the Student would have training in Augmentative and Alternative Communication (AAC) and aided language input provided by the SLP or as part of a district provided training, one per year or as new staff were hired, wherever the training was provided, for the length of time needed to complete the training, from February 17, 2025 through February 16, 2026.

o. The IEP stated there were additional services/supports that were added to the IEP to ensure participation in the general education environment to the maximum extent possible. An accumulation of academic data indicated the Student was performing at an instructional level significantly below their peers and required an alternate curriculum. The Student would have attended inclusion for all specials including PE, music, science, library and morning meeting. It was written that the benefits of a more restrictive setting outweighed the benefits of remaining in the classroom. The IEP team determined the benefits of the proposed service setting may have some potentially harmful effects, but due to the nature and severity of the Student's disability, the team determined the benefits of a special education placement outweighed any potentially harmful effects. Partial inclusion in general education was considered during the IEP meeting. The Student had the opportunity to participate in all non-academic and extracurricular activities to the same extent as non-identified peers. The Student had access to assistive technology devices and services, which were documented in the IEP.

2. A prior written notice (PWN) dated February 17, 2025, included:

a. A meeting was held on February 17, 2025 to review the evaluation/assessment data to determine special education and related services, placement, and any additions, changes, or modifications to special education, related services, or placement needed for the Student to meet their IEP goals.

b. A material change in services indicated consent was required. The team proposed an increase or decrease of 25% or more in the duration or frequency of a special education service, a related service or a supplementary aid or a service specified on the Student's IEP. The PWN also indicated a proposed change in placement, for which consent was not required.

c. Actions proposed or refused included updated present levels, goals, and parent input, updated accommodations, and reduced OT from 15 minutes twice a week to 15 minutes once a week. The Student was noted as making progress in OT and no longer required as much time to make gains.

d. More time in the general education setting was considered, but the Student required an alternate curriculum. Data used to make these decisions was listed as Student data, SLP data, OT data, and teacher observations.

e. Parent consent was documented with an "X" in the "I give consent" box indicating consent for placement and the actions specified in the PWN.

3. A Speech and Therapy Reevaluation, dated June 9, 2025, listed the Student's diagnoses as "Autistic Disorder," "Mixed receptive-expressive language disorder," and "Phonological disorder." One of the primary concerns listed was eloping. Additionally, the evaluation noted there were concerns related to the Student's motor development. The Parent listed sensory and social-emotional concerns. It was noted the Student was receiving OT once per week, physical therapy once per week, and speech/language therapy once per week, and those services were listed as ongoing. Objective findings in speech indicated the Student presented with a severe articulation delay, receptive language delay, and a severe expressive language delay.

4. A note drafted by the Principal and the Special Education Teacher after an elopement incident in September 2025, stated the following: "While [the Student] is at school, we are always doing our absolute best to keep [them] and others safe. One of the procedures/accommodations we have put in place are child-proof locks on the classroom doors. [They] are unable to open the classroom doors unless [they] have assistance from an adult. If we are in a general education classroom and [they] elope, we will use the walkies to communicate with other teachers in the building, but this has not been an issue. As for the playground, we have added additional precautions to keep our students safe from elopement. There are carabiners on each lock that prevent the locks from opening unless by an adult. We also have staff standing stations with active eyes who engage with students while on the playground. On the playground, there has been an orange construction fence that is zip tied to the metal bars added as well. [The Student] spends the majority of [their] day with [the Special Education Teacher]. [They] work with [them] directly and attend all inclusion times with [them]."

5. An email exchange dated September 9, 2025 between the Parent and the Special Education Teacher discussed the Student becoming upset, hitting, kicking, attempting to bite, throw items, crying, and screaming. Later that month, in an email dated September 22, 2025, the Special Education Teacher emailed the Parent to discuss the Student's behaviors for the week, specifically when the Student became escalated and/or upset. The Special Education Teacher described two instances when the Student had escalated behaviors.

6. An email exchange, dated October 30, 2025, between the Parent and the Special Education Teacher discussed the Student's behavior with another student in the class. The Parent suggested the Student's 1:1 support could remain between the two students so the Student does not kiss other students or engage in inappropriate behavior. The Special Education Teacher replied and stated the Student had not attempted to kiss anyone that day, and staff are saying "No" to the Student when they exhibit inappropriate behavior.
7. An undated note from Paraprofessional 1, which included four different sources, described a kissing incident that occurred during Science class:
    a. Another student in the class became escalated and that peer's paraprofessional asked for backup. As Paraprofessional 1 assisted with the peer, the Student jumped up and kissed another student.
    b. Paraprofessional 2 described the same information. Paraprofessional 2 contacted the Parent to advise them of the kissing incident, and stated it was the second time they had to contact the Parent due to the Student kissing another student.
        i. Paraprofessional 2 explained Paraprofessional 1 had stepped away from the Student to assist another paraprofessional with an escalated student. The Parent stated it was an IEP violation for Paraprofessional 1 to step away from the Student.
        ii. Paraprofessional 2 indicated they spoke with the Special Education Teacher to get clarification related to the Student's IEP and they were told the 1:1 was for communication and eloping concerns, and the staff did not feel this incident was a violation of the Student's IEP.
    c. An additional note stated the Social Worker spoke with the Special Education Coach. The Social Worker stated the Special Education Coach and the Special Education Director discussed the incident, and did not feel it was a violation of the Student's IEP. The Social Worker relayed this information to the Special Education Teacher.
8. In the LEA's response, they maintained that a formal IEP meeting was not required after the November 12, 2025 incident because the School team promptly reflected on the situation and took immediate corrective action. The behavior, while not preferred, was deemed not a safety concern. Staff created and implemented targeted interventions, such as social stories, power cards, and visuals focused on appropriate peer interactions, which the team deemed adequate to address the behavior. Furthermore, the LEA noted that the Parent did not formally request an IEP meeting or an informal discussion to address the matter at that time.
9. Relevant information from a Progress Report, dated January 5, 2026, included:
    a. Goal #4: "By the next annual IEP, given occupational therapy services, [the Student] will increase [their] fine motor skills to be able to use a functional grasp on [their] writing utensil while writing words and short sentences with

the correct capital case, letter size, and placement of the line 80% of time for legibility."

i. The Student achieved a score of "6" (slight improvement) on March 14, 2025, May 9, 2025, October 14, 2025, and December 19, 2025.

b. Goal #5: "By 02/16/2026, provided speech-language services, using [their] chosen mode of functional communication … [the Student] will a) increase [their] average utterance length to 3- or more-word utterances on at least 3 of 5 communication opportunities and b) to communicate an increasing number of communicative intents … from 4 on average to 8 across three data collection days."

i. The Student achieved a score of a "6" and "7" (slight improvement and moderate improvement) on March 14, 2025 and May 12, 2025, respectively. They earned a score of "8" (mastered) on October 14, 2025 and December 19, 2025.

10. In an email, dated January 28, 2026, between the Parent and the Special Education Teacher, the Parent shared that on the day of the kissing incident, the Student's one-to-one support reportedly "had to assist another para[professional] which [sic] a child that was having a meltdown. I know you said during that call that [the Student] was doing better as long as [their] 1:1 support wasn't pulled away." The Special Education Teacher responded to the Parent, and stated the November 2025 kissing incident had been minimized due to multiple supports and interventions. They stated the Student continued to have strong impulses to kiss or smell another student in the class.

11. An email, dated February 10, 2026, from the Outside SLP to the Parent, stated the Outside SLP had sent the Parent the most recent speech evaluation. The email also stated they were working on the Student's pronunciation of /l/ and /sh/.

12. Relevant information from an IEP dated February 10, 2026 included:

a. The Student had needs related to motor that required special education or related services. It was noted the Student displayed decreased fine motor skills, which affected their writing in the classroom. The Parent indicated they did not have any concerns or comments in the area of motor. Current performance indicated no gross motor concerns. An OT note from February 2026 stated the Student was right-hand dominant and preferred to use their right hand for all skilled tasks. They used a four-finger grasp when writing and they are able to trace, copy, and write from memory all basic shapes, their first name, and all 52 uppercase and lowercase letters. The Student preferred writing in capital letters but did write in lowercase when prompted. Their handwriting was legible approximately 75% of the time when they were provided with visual boundaries and verbal cues. They possessed age appropriate cutting skills, held the scissors correctly, and were able to cut along lines for classroom projects with greater than 80% accuracy. The Student independently completed fine motor task boxes with

a work system over 80% of the time. This need would be met by general education supports, accommodations, supplementary aids and supports, and a goal.

b. Based on most recent evaluation and ongoing data collection, the Student had needs in the area of social-emotional. Current performance indicated the Student made significant progress related to transitioning from preferred to non-preferred activities and utilized a timer and visual schedule. The Student was given a choice for which order they completed the centers in, and the Student consistently chose the same order for activities on their visual schedule. The Student thrived on routine, clear expectations and opportunities for autonomy, was motivated by social interaction, and showed a strong desire to be around their peers in the general education setting. The Student continued to work on age appropriate play time behaviors. The Student exhibited impulsive behaviors that impacted their ability to fully access instruction and positive interactions with peers. When the Student became overwhelmed or upset, they showed not age-appropriate behavior such as hitting, kicking, tossing chairs and eloping. The IEP indicated the Parent had no concerns and made no comment at that time. This need would be met by accommodations and supplementary aids and supports.

c. Based on the most recent evaluation and ongoing data collection related to reading, the Student displayed needs that required special education or related services. Current reading performance indicated the Student demonstrated foundational reading skills and were able to accurately read 49 out of 60 Fry sight words. The Student was able to decode consonant-vowel-consonant (CVC), consonant-consonant-vowel-consonant (CCVC), and consonant-vowel-consonant-consonant (CVCC) words by applying phonics skills. The Student was able to read with 80% accuracy and benefited from explicit modeling for reading new passages. The Student was able to manipulate letters to create words and manipulate a book independently to read. The Student continued to work on comprehending decodable stories and texts but was unable to identify main ideas and key details of a passage. This need would be met with general education supports, accommodations, modifications, supplementary aids and supports, and a goal.

d. Based on the most recent evaluation and ongoing data collection related to written language, the Student displayed needs that required special education or related services. Current writing performance noted the Student was able to write all letters from memory when writing words and the Student wrote the majority of letters as capital letters, rather than what was graphically correct. This need would be met by general education supports, accommodations, modifications, and supplementary aids and supports.

e. Based on the most recent evaluation and ongoing data collection related to math, the Student displayed needs that required special education or related services. The Student was able to identify numbers 0-120 as well as identify patterns and fill in what comes next. The Student was able to add within 10 from memory. The Student required assistance to complete double digit addition and subtraction. The Student was able to use multiple strategies to complete math computations. This need would be met with general education supports, accommodations, modifications, supplementary aids and services, and a goal.

f. Based on the most recent evaluation and ongoing data collection related to communication, the Student displayed needs that required special education or related services. The Student was described as an effective communicator and used speech to share their thoughts, express their needs, and show knowledge in academic tasks. The Student made progress, and their speech and language skills were a strong tool for their daily success. To help the Student be successful, the IEP would focus on self-advocacy, social navigation, and visual supports. The Parent reported they sometimes had trouble understanding the Student. The Student has mastered all of the communication goals from the previous IEP. This need would be met by general education supports, accommodations, supports for school personnel, supplementary aids and services, assistive technology, and a goal.

g. In the area of daily living/functioning skills, the Student displayed needs that required special education or related services. The Student was able to drink from a straw at school without any issues and hand-fed themself during snack time. The Student went through the lunch line with minimal support and was able to scoop food going down the line. The Student was able to independently take off and hang up their coat and backpack. The Student initiated using the restroom by using verbal icons and was able to independently use the restroom with minimal verbal prompts. The Student was able to pull up and down their pants when it was time to change their pull-up and they have used a urinal instead of going into a stall. The Student was able to wash their hands and button a variety of button sizes. The Student required assistance when engaging a zipper. The Student was listed as being self-sufficient in most daily living/functional skills. The needs in this area would be met with general education supports, accommodations, and modifications.

h. It was noted the Parent inquired about receiving more speech therapy if the Student attended more school days. The SLP stated they felt the Student was seen twice a week, which met their needs. The Parent inquired about an FBA to address elopement, kissing, and other behavior needs with concerns

of safety. The Special Education Teacher stated they would discuss the possibility of a FBA with the School Psychologist.

i. The IEP included the following goals:
    i. Goal 1: "By the next IEP, given consult occupational therapy services, [the Student] will increase [their] fine motor skills to be able to write legibly on classroom assignments 80% of the time." Baseline information stated the Student wrote legibly 75% of the time with cues and boundaries. Classroom samples would be used as an evaluation tool.
    ii. Goal 2: "By the next annual IEP review, provided speech-language and special education services, given access to visual reminders or Power Cards, when [the Student] begins to feel overstimulated or frustrated, [they] will use a verbal phrase or a designated visual support to advocate for a need or sensory break in 4 out of 5 opportunities over a 9-week period." The goal would be evaluated by the SLP, special education data, and observation.
    iii. Goal 3: "By the next annual IEP, provided speech-language services, given a preferred activity with a peer or adult, [the Student] will initiate one comment and respond to one follow-up question/comment from the communication partner in 80% of opportunities across a 9 week period." The goal would be evaluated by SLP data and observation.
    iv. Goal 4: "By the next annual IEP, during reading instruction when provided a passage of story on [their] reading level, [the Student] will be able to identify the main idea and three key details about the story with 80% accuracy in 4 out of trials." Baseline information indicated the Student was unable to expressively or receptively identify main ideas and key details of a story of passage. The goal would be evaluated through data collection and teacher observation.
    v. Goal 5: "By the next annual IEP, during math instruction when given double-digit addition and subtraction problems with regrouping, [the Student] will accurately solve the problems with using appropriate strategies (ie. place value, number lines, base-ten etc.) with at least 80% accuracy over three consecutive data days." Baseline information indicated the Student was able to add within 10 from memory and identity numbers 1-120. The goal would be evaluated through the data tracking sheet.
    vi. Goal 6: "By the next annual IEP, during structured and unstructured peer interactions, [the Student] will demonstrate improved impulse control by pausing and using an appropriate response (i,e. keeping hands to self, using appropriate language, waiting turns, etc.) in 4 out of 5 observed opportunities." Baseline data indicated the Student exhibited impulsive behaviors that impacted their ability to fully access

instruction or interact positively with peers. These behaviors included acting without thinking, difficulty waiting their turn, and challenges with self-regulation. The goal would be evaluated through data collection and teacher observation.

j. Special education and related services to be provided from February 10, 2026 through February 9, 2027 included:

i. Direct speech language services either individually or in a group setting, in a special education classroom in a general education building, for 15 minutes two times a week.

ii. Special education services for all core subjects, breakfast, lunch, and beginning and ending routines, in a special education classroom in a general education building, each day that school is in session per the Student's schedule, for the same amount of time as general education peers.

iii. Special education supports during recess, transitions and all specials, in a general education setting in a general education building, each day that school was in session per the Student's schedule, for the same amount of time as general education peers.

iv. OT services individually or in a small group, in a special education classroom in a general education building, for 15 minutes once a week.

v. Special education support on field trips, assemblies, and any non-academic activities, in the general education setting, when a non-academic activity arises, for the duration of the activity.

vi. Access to special education staff member on a 1:1 basis to facilitate self-help and communication skills, as well as to address safety concerns related to elopement, across all settings in the special education and general education environments, in a general education building and also on field trips, activities, and non-academic activities, when [the Student] was in attendance, or when there was a non-academic school activity and/or the length of time [the Student] was in attendance, or for the duration of the non-academic school activity.

j. Accommodations provided from February 10, 2026 through February 9, 2027 included:

vii. Access to alternative modes of communication, including core communication boards with picture-based icons as well as a dynamic speech-generating device, every day school was in session in all school settings for the length of the school day.

viii. Access to hold a toy or fidget during whole group and small group lessons every day school is in session, in all school settings, for the length of the school day.

ix. Access to visual aids for instruction and expectations to better understand directions each school day when expectations are being reviewed or when there was an opportunity to incorporate visuals throughout the school environment, when appropriate throughout the day.

x. "[The Student] will receive multiple rewards for positive reinforcement and scheduled sensory breaks while allowing for additional breaks as needed, throughout the school day depending on [their] behavior, in a general education and special education classroom, when appropriate throughout the school day … ."

xi. "[The Student] will have instructions read to [them] when written instructions are above [their] current reading level, across all school settings, in both the general and special education classrooms, for the duration of the task, lesson or activity … ."

xii. For modifications, the Student would complete a modified curriculum that was closer to their skill level, daily, in all educational settings for the entire school year, from February 10, 2026 through February 9, 2027.

xiii. For supplementary aids and services, the Student would have access to visual supports, including but not limited to: daily schedule/routines communication board, first/then, incentive chart throughout the school day as needed in all educational settings, for the school day, from February 10, 2026 through February 9, 2027.

13. A PWN dated February 10, 2026 included:

a. A meeting was held to discuss special education and related services required by the Student and any additions, changes or modifications needed. The document contained a checked box that indicated a material change in services required consent, and as a result of the meeting, the IEP team was proposing a 25% or more change in the duration or frequency of special education service, a related service or a supplementary aid or a service specified on this student's IEP.

b. A description of the action proposed or refused described the following: updated goals, present levels, parent input, updated verbiage of the program modifications, decreased OT service to monthly consult, and removed support for school personnel.

c. Explanations of why the action was proposed or refused stated that support for school personnel was removed because the Student no longer used AAC as their primary mode of communication; therefore, staff working with the Student were no longer required to have direct training to support their use of AAC. The Student was making significant progress during OT pull out services and the Student was making progress in the special education classroom with the supports provided.

d. More time in the general education classroom was considered, but the Student still required an alternate curriculum for core subjects.

e. Data used as the basis for this decision was obtained from observations, student data, special education data, SLP data and OT data. No harmful effects were anticipated.

14. Relevant information from a transcript of the February 10, 2026 IEP meeting included:

a. The SLP stated the Student had been talking more and producing longer utterances, which the SLP indicated was a "big difference from a couple years ago."

b. The OT explained the Student could copy fonts, was able to write any letter in any size, and responded well to critiques of their work. They indicated the Student liked to write on the chalkboard, but often wrote on any surface the OT provided. The OT stated the Student could add spaces between words, which they were not doing the previous year. The OT explained the Student had made "huge gains" from the previous year. The OT said, "… I'm getting to the point where I can't challenge [the Student] motor wise … I'll have [them] do the hardest activity … [the Student] will do that just [lickety-split] with no help from adults or anything." The OT indicated it was getting difficult to challenge the Student in OT sessions because they were doing well.

c. The Special Education Teacher stated the Student was doing well with transitioning and was working on acceptable playtime behavior. The Special Education Teacher explained the Student mostly played nicely with peers but sometimes had trouble with impulse control. They indicated the Student had challenges with self-regulation and would display "aggressive behaviors" when overstimulated, but stated it had not happened in a while. The Special Education Teacher stated they had interventions in place, including using social stories, visuals in the classroom, visual schedules, and power cards. The Social Worker believed the interventions helped the Student and indicated they had seen "tremendous growth" in the Student over the course of a year.

d. The Special Education Teacher explained the Student had made progress in their reading skills, but they wanted to help the Student increase their volume louder when they read.

e. The SLP stated the Student was talking more, communicated their needs, and shared their knowledge about subjects. The SLP stated they were unsure of what to work on next with the Student because they were doing so well. They wanted to work on teaching the Student strategies for peer interactions, social navigation, and unstructured times.

f. The Parent agreed the Student was talking more but stated sometimes it was hard to understand their pronunciation.

g. The OT proposed moving from a direct service to a consult service because they did not feel they were challenging the Student and stated the Student had all of their fine motor skills. The OT stated they wanted to work with the staff who helped the Student and answer any concerns they had or provide strategies if the Student was struggling. The OT wanted the Student to be in class learning instead of working on fine motor skills tasks, which they perceived the Student had achieved. They indicated the Student would still participate in their group on Fridays. The OT explained they created a goal which stated the Student would increase their fine motor skills to be able to write legibly on their own in the classroom, on classroom assignments 80% of the time. They stated they would review the Student's work samples from class to ensure there was no regression or difficulties with the assignments. The Parent did not have any questions when asked.

h. The Special Education Teacher presented a new social-emotional goal for the Student to demonstrate improved impulse control by pausing and using an appropriate response, such as keeping their hands to themself, using appropriate language, for four out of five observed opportunities. The Special Education Teacher stated the Student's services were not changing, other than the OT services, which were moving from direct to a consult.

i. The Special Education Teacher summarized the changes to the Student's IEP, including decreasing the Student's OT services to a monthly consult.

j. The SLP stated they did not work on speech sounds with the Student because they did not have a problem understanding the Student, but acknowledged the Parent mentioned they had a hard time understanding the Student at home. The Board Certified Behavior Analyst (BCBA) stated there were times when the Student was clear and times when they were not. The SLP indicated the Student had learned phrases they repeated which were clearer and easier to understand. The SLP explained they had not worked on speech production with the Student and were more focused on communication. The SLP indicated they could work on additional speech skills with the Student if they were ready.

k. The SLP had not seen the Student have needs related to verbal speech at school and asked the team if they had seen the Student be frustrated when trying to verbalize something and not being able to understand the Student. The Special Education Teacher stated they understood the Student well, but a person unfamiliar with the Student might have trouble understanding the Student. The SLP stated they could start trying new things with the Student and speak to the other SLP. They indicated they would not adjust the Student's speech time at that moment, but it was not off the table.

l. The SLP explained there was not a specific guideline for how often services were provided, but it was based on the therapist's interpretation of the need and how beneficial it was to have a student pulled out for services or being

exposed to the classroom. The SLP's focus was to ensure the Student was functionally communicating at school, accessing the curriculum, and interacting with others, but not necessarily that a student was "extremely fluent" with their speech. They felt the Student was having their speech needs met at School. The Principal added once the Student started to attend school more often, they could change their services if they saw a need.

m. The Parent discussed a strategy the Student was learning with an outside provider about boundaries, such as which people were appropriate to kiss or hug. The BCBA added this was being worked on with the Student because the Student had had issues kissing people at School. They indicated the Student had responded well to the teachings.

n. The Parent requested the School perform an FBA for elopement, kissing, and aggression, to determine the cause and work to prevent the behaviors. The Special Education Teacher stated they would speak to the School Psychologist and let the Parent know about next steps.

o. The Parent shared with the BCBA the Student had eloped the week before Christmas break. The Parent indicated to the BCBA they felt the SLP was not scheduling more speech service minutes with the Student because they did not have enough time to accommodate it. The BCBA explained to the Parent if the Student's speech and OT skills were not inhibiting their functionality at the School, the team would not work on those skills. The Parent perceived the School was going to avoid conducting the FBA.

15. PWN dated February 19, 2026, included:

    a. The LEA proposed to conduct a reevaluation requiring parental consent. The explanation section stated the action was proposed because the Parent requested an FBA to determine the Student's needs, and the child study team and IEP team believed this to be appropriate. The team considered not doing an FBA but that consideration was rejected, as the FBA was appropriate to determine the Student's needs. The data listed to be used was Parent request and IEP data.

16. A Progress Report, dated March 12, 2026, provided data on all goals. Relevant goal information included for the first goal indicated that the Student demonstrated fluctuating progress, ranging from "slight improvement" to "maintained performance," across 2025 and 2026. For the second goal, which involved independently solving single-digit addition equations using manipulatives with 80% accuracy, the Student mastered the objective in January 2026.

17. In an email exchange, dated March 12 and 13, 2026, the Special Education Teacher informed the Parent about the Student hitting the paraprofessional and attempting to run outside. They shared the Student was unable to escape due to the safety locks. The next day, the Parent responded and requested information about the Student's schedule, classes that were attended, sequence of events, supports, and deescalation strategies that were implemented during the incident. The Parent

asked for specifics related to the day and also asked for documentation related to the incident.

18. Relevant information from a Progress Report, dated March 25, 2026, included the following:
    a. OT goal indicated the Student achieved a score of "6" (slight improvement) on March 14, 2025, May 9, 2025, October 14, 2025, December 19, 2025, and March 13, 2026.
    b. Functional Communication goal indicated the Student had a "6" and "7" (slight improvement and moderate improvement) on March 14, 2025 and May 12, 2025, respectively. They had a score of "8" (mastered) on October 14, 2025, December 19, 2025, and March 13, 2026.
19. Undated speech attendance logs for the 2024-25 and 2025-26 school years documented the Student's participation in speech services. During the Spring 2025 term, the Student was serviced 14 of 17 opportunities across March, April, and May, with the year concluding on May 15, 2025. The 2025-26 service data indicated the following: 5 of 5 opportunities in August; 7 of 11 opportunities in September; 9 of 10 in October; 8 of 8 in November; 6 of 8 in December; 11 of 12 in January; 6 of 7 in February; and 6 of 6 in March.
20. Two undated OT attendance records for the 2024-25 and 2025-26 school years, documented the Student's participation in OT services. During the Spring 2025 term, the Student was served for 12 of 15 opportunities across March, April, and May, with the school year concluding on May 15, 2025. Following February 17, 2025, service frequency was changed to once weekly, indicated by a hand note. The 2025-26 service data reflected the following: 4 of 6 opportunities in August; 5 of 8 in September; 7 of 8 in October; 3 of 6 in November; 4 of 6 in December; 7 of 8 in January; 2 of 5 in February; and 1 of 6 in March.
21. A student discipline entry for the period March 10, 2025 - March 27, 2026 showed one entry on April 3, 2025 in which the Parent was contacted regarding inappropriate behavior. The Parent picked the Student up from school and advised the LEA the Student did not receive their morning medication, which may have led to the behavior.
22. The LEA provided the Complaint Investigator a visual cue card of positive social behavior(s) the Student could participate in with peers, an example of a social story, and an example of the Student's written work.
23. In an undated report card for school year 2025-26, the Student was rated as M, consistently meeting standards/masters the standard, in areas of demonstrating competency in a variety of motor skills and movement patterns, applied knowledge of concepts, principles, strategies and tactics related to movement and performance, demonstrated knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness. The Student received a rating of P, progressing towards the standard, in exhibiting responsible personal and social behavior the respected self and others.

Parent Interview:

24. In an interview with the Complaint Investigator, the Parent explained they received a phone call regarding the events on November 12, 2025. They were told the Student's designated one-to-one paraprofessional diverted their attention from the Student to assist another child who was having a tantrum. During this interval, the Student moved to the other end of a table and kissed a peer. The Parent shared they informed the School that this diversion of support violated the Student's IEP, which mandated one-to-one support throughout the entire school day to address safety concerns such as elopement.
25. The Parent explained the Student exhibited a history of elopement as well as aggressive behaviors such as hitting, kicking, pinching, and intentional urination. Although the School had initiated an FBA a few years prior, the Parent never received the results, and the School declined to create a formal behavior plan at that time because the teacher was already implementing informal supports. During an IEP meeting on February 10, 2026, the Parent formally requested a new FBA to "figure out what it is that the teacher is doing differently that may not be written formally into the IEP." While the School eventually agreed to conduct the assessment, the Parent expressed concern that the School's approach was "reactive instead of being proactive." As of April 10, 2026, the Parent understood the FBA to be ongoing but had received no formal notification of its completion.
26. The Parent shared their concern regarding the School's decisions to reduce OT services and deny an increase in SLP services during the February 2026 IEP meeting. They explained the School proposed a reduction in OT services based on the OT's assertion that the Student had made significant progress in handwriting. However, the Parent reported that the Student's January 2026 progress report indicated they had not met their OT goals, and the March 2026 report showed they only met requirements when provided with significant cues and boundaries rather than working independently.
    a. Additionally, the Parent stated that neither data nor work samples were provided to support the reduction of services at the February 2026 IEP meeting. The Parent requested an increase in SLP services to three sessions per week to address the Student's articulation disorder and expressive language delays. The Parent shared the School denied the increase at the IEP meeting, with the SLP stating the Student was "functional" in the classroom and that the schedule was determined at the SLP's discretion. The Parent expressed concern that the School's refusal to address these communication deficits may have exacerbated the Student's behavioral escalations.

SLP Interview:

27. In an interview with the Complaint Investigator, the SLP reported the Student's speech services remained consistent at twice a week for 15 minutes, and no changes to these minutes were proposed during the February 2026 IEP meeting.

The SLP shared, "I don't recall any issues … on my end about implementing [the Student's] IEP as it's written." The SLP noted that, while they may have suggested an increase in services years prior if the Student had been attending School more frequently, they kept services at twice a week because the Student was attending twice a week.

28. Regarding the Parent's request for increased services to address articulation, the SLP stated that current data and the Student's progress did not indicate a need for additional service time. The SLP acknowledged that the Student had inaccurate speech sound production but asserted that the Student was able to functionally communicate and express needs in the educational setting. The SLP concluded that even if they were to target specific speech sounds, an increase in service minutes was not required to meet the Student's needs within the academic environment.

Special Education Teacher Interview:

29. In an interview with the Complaint Investigator, the Special Education Teacher recalled the November 12, 2025 incident and shared they were not present at that time, but as the case manager, it was relayed to them. They reported that the Student was working in a science class when a peer became violent. The Student's assigned paraprofessional turned to assist with the other student for a "brief second," during which time the Student moved to kiss a peer.
Following the incident, they, along with the Social Worker, called the Parent to discuss the behavior. During this call, the Parent alleged a denial of a FAPE, stating a breach of the one-to-one support-related service. The Special Education Teacher assured the Parent that one-to-one services were being provided and would continue. No changes were made to the Student's service minutes or one-to-one status following the incident, though a goal was updated to focus on "positive peer interactions."

30. The Special Education Teacher stated, "There have been no issues implementing [the Student's] IEP." They explained they use social stories, a token economy, and "structured visual schedules" to assist in the encouragement of predictability to reduce "impulsive behavior."

31. The Special Education Teacher stated that the Student's behaviors were not "consistent enough on a day-to-day basis" to cause "serious concern," noting that the structured classroom environment promoted predictability. When the Student became dysregulated, they typically exhibited repetitive language before escalating to hitting, kicking, pinching, or attempting to bite. Regarding the February 10, 2026 FBA request, the Special Education Teacher facilitated the process by contacting the School Psychologist, and the School team approved the assessment and the process was underway.

32. The Special Education Teacher shared they supported the proposed reduction in OT services, asserting that the Student was "very capable" of writing uppercase and lowercase letters with correct sizing. They characterized the Student's occasional

poor writing as "stubbornness" rather than a lack of ability, noting their work was legible and successful within the classroom curriculum. Regarding SLP services, the Special Education Teacher explained they collaborated with the SLP and agreed that the focus should remain on functional responses and comprehension rather than increasing minutes. The Special Education Teacher stated the SLP and the OT gathered their own data, and they collected work samples as data. They maintained that comparative reviews of the Student's IEPs showed "fantastic progress" and that current interventions were "successful."

OT Interview:

33. In an interview with the Complaint Investigator, the OT reported having a positive rapport with the Student, noting that they followed a consistent "three-basket" work system during sessions. The OT focused on fine motor, visual motor, and visual perceptual skills using various manipulatives like snap cubes and magnets to practice letter formation, placement, and spacing. The OT noted that while the Student preferred writing in capital letters, they were capable of writing lowercase letters and mimicking different fonts when requested.
34. The OT explained their decision to transition the Student from direct to consult services. This recommendation was based on their assessment that the Student could write each letter legibly and in the correct placement, meaning they no longer required "skilled intervention." The OT used a "print tool" which assessed writing as the data to support their decision. The OT intended for the consult services to focus on helping classroom staff and paraprofessionals maintain the Student's consistency, as the Student would sometimes write poorly or in large script when in a poor "learning state." According to the OT, when this reduction was proposed, the Parent stated they were fine with it because they did not care about the Student's writing.
35. When asked about the impact of changes in OT services to the Student, the OT explained there had been no change, as the Parent has not signed the IEP. They have continued to see the Student for OT services.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #265, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP on November 12, 2025 when "[the Student's] assigned paraprofessional helped another student instead of supervising [the Student]." Additionally, whether the Student's IEP was implemented as written prior to IEP amendments being made. K.A.R. 91-40-16; 34 CFR § 300.323.

According to K.A.R. 91-40-16 and 34 C.F.R. § 300.323, an IEP must be in effect for each exceptional child at the beginning of each school year. Each public agency must ensure that the child's IEP is accessible to each regular education teacher, special education teacher,

related services provider, and any other service provider who is responsible for its implementation. Each agency must ensure that each teacher and provider is informed of their specific responsibilities for implementing the child's IEP and the accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged that on November 12, 2025, the Student's assigned paraprofessional assisted another student instead of supervising the Student. Additionally, they alleged the IEP was not implemented as written at the time.

The LEA maintained the Student's IEP was implemented as written, ensuring that all identified services and supports were delivered in alignment with the needs of the Student.

Under the standard established in Van Duyn v. Baker School District 5J, 502 F.3d 811 (9th Cir. 2007), a failure to implement an IEP is only a violation if the deviation from the IEP is "material," meaning there is more than a minor discrepancy between the services provided and those required. Given that the paraprofessional's diversion was momentary and necessary to ensure the safety of all students, and the Student remained in the secure environment designated by the IEP, the brief lapse in proximity did not constitute a material failure to implement the Student's required safety and communication supports. Additionally, prior to the IEP amendment made in February 2026, the evidence indicates the Student's services were consistently delivered in accordance with the existing IEP as written.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that USD #265 failed to implement the Student's IEP as written.

Issue Two

Whether USD #265, in accordance with state and federal regulations implementing the IDEA, was required to convene an IEP meeting to review and revise the Student's IEP after the November 12, 2025 incident. K.A.R. 91-40-16; 34 CFR § 300.324(b).

According to K.A.R. 91-40-16 and CFR § 300.324(b), an IEP must be in effect for each exceptional child at the beginning of each school year. Each public agency must ensure the child's IEP is reviewed periodically, but not less than annually, to determine whether the annual goals for the child are being achieved. IEPs may be revised as appropriate to address a lack of expected progress towards annual goals, results of any reevaluation, parent input, child's anticipated needs, or other matters.

The IEP team must consider the following special factors: In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP. Additionally, consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and

communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode. Finally, consider whether the child needs assistive technology devices and services.

In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. If changes are made to the child's IEP, the public agency must ensure that the child's IEP Team is informed of those changes.

The Parent alleged an IEP meeting was not called to review and revise the IEP for behavior needs after a November 12, 2025 kissing incident.

The LEA maintained the team did not formally meet after the November 12, 2025 incident because the team discussed the behavior informally and took immediate corrective action, implementing additional supports.

Following the November 2025 incident, the LEA implemented informal interventions, including social stories and power cards, to address the Student's behavior. The record showed that the kissing incident was an isolated event and did not rise to the level of an established habit or a major safety risk that would necessitate an immediate formal IEP revision. The LEA's data demonstrated that the behavior was effectively managed through the immediate implementation of informal, targeted interventions, such as social stories and power cards, which allowed the Student to continue making growth in the general education setting. Because the Student's progress remained consistent and the behavior was successfully mitigated without a change in placement or services, the LEA was not required to convene the team prior to the annual review. Furthermore, there is no evidence the Parent formally requested an IEP meeting prior to the annual review in February 2026.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that USD #265 was required to convene a formal IEP meeting immediately following the November 12, 2025 incident.

Issue Three

> Whether USD #265, in accordance with state and federal regulations implementing the IDEA, was required to conduct a functional behavior assessment (FBA) prior to the Parent's request for one on February 10, 2026. K.S.A. 72-3428(h)(1)(A); 34 CFR § 300.303(a)(1).

According to K.S.A. 72-3428(h)(1)(A) and 34 CFR § 300.303(a)(1), each agency shall ensure that a reevaluation of each exceptional child is conducted if the agency determines that the educational or related services needs of the child, including academic achievement or

functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.

The Parent alleged that the LEA should have completed an FBA prior to the Parent's request on February 10, 2026.

The LEA asserted that a FBA was not conducted prior to the Parent's request because the Student was successfully accessing the general education curriculum and making adequate progress toward existing goals.

Prior to the Parent's formal request, the record shows the Student was successfully accessing the curriculum and making significant progress with existing supports. Specifically, quarterly progress reports and teacher observations documented the Student was meeting academic benchmarks, and that the existing supports were effectively reducing elopement and behavior incidents. After the Parent formally requested the FBA at the February 2026 meeting, the LEA promptly issued a PWN to initiate the FBA. The LEA met its obligation by responding to the formal request, as prior data did not indicate the existing behavioral supports required an assessment.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that USD #265 was required to have completed an FBA prior to the Parent request.

Issue Four

Whether USD #265, in accordance with state and federal regulations implementing the IDEA, developed a February 10, 2026 IEP that included current and accurate data to support the reduction in OT services, and the denial of increased speech services for the Student. K.A.R. 91-40-18; 34 CFR § 300.320(a)(1).

According to K.A.R. 91-40-18 and 34 CFR § 300.320(a)(1), in developing or reviewing the IEP of any exceptional child, each agency shall consider the results of the child's performance on any general state or districtwide assessment programs. If an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive a FAPE, the IEP team shall include those items in the child's IEP. The term IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting and that must include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children).

The Parent alleged that at the February 10, 2026 IEP meeting, OT services were transitioned to consult-only services and speech services were not increased. Furthermore, the Parent alleged

that data was not provided to support these changes and that service decisions were dictated by the Student's schedule rather than individual needs.

The LEA maintained the IEP was developed using current and accurate data and supports were aligned with identified needs.

The OT provided evidence that the Student had achieved significant fine motor gains, including legible writing and 80% accuracy in classroom tasks, suggesting that "skilled intervention" was no longer required. Regarding speech, the SLP maintained data showing the Student had mastered previous goals and was communicating functionally within the educational environment. There was no evidence to suggest the need for continued OT services or increased speech services.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that USD #265 developed the February 10, 2026 IEP without current and accurate data.

Issue Five

Whether USD #265, in accordance with state and federal regulations implementing the IDEA, denied the Student a FAPE, as a result of the aforementioned issues. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2, K.A.R. 91-40-1(z) and 34 CFR §§ 300.17, 300.101, a FAPE means special education and related services that are provided at public expense, under public supervision and direction, and without charge. A FAPE must meet the standards of the State board and include an appropriate preschool, elementary, or secondary school education. A FAPE must be provided in conformity with an IEP.

The Parent alleged that the cumulative effect of the aforementioned violations resulted in a denial of a FAPE.

The LEA maintained that it provided a FAPE because the Student's services and supports were appropriately designed, data-driven, and implemented to meet their individual needs.

The record indicates the Student made growth and progress across academic and communication domains. Attendance logs confirm the consistent delivery of services, and the LEA adjusted goals and interventions as the Student met benchmarks. The LEA addressed the Student's evolving needs through data-driven IEP revisions, informal supports, and maintained the required supports such as the 1:1 paraprofessional, safety cards, positive reinforcements and visual supports necessary to access their education.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that USD #265 denied the Student a FAPE, as no violations were found regarding the aforementioned allegations.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 265,
Goddard Public Schools: 26FC265-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on March 9, 2026, by ------- on behalf of her son, -------. In the remainder of this decision, ------- will be referred to as the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on April 21, 2026. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.AR. 91-40-51(f)J was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified five issues. The report concluded that there were no violations of law. The parent's appeal the conclusion in Issue 4. Issue Four is:

Issue Four

Whether USO #265, in accordance with state and federal regulations implementing the IDEA, developed a February 10, 2026 IEP that included current and accurate data to support the reduction in occupational therapy (OT) services, and the denial of increased speech services for the Student. KA.R. 91-40-18; 34 CFR §300.320(a)(1).

Occupational Therapy

The investigator concluded that, with regard to occupational therapy, "The OT provided evidence that the Student had achieved significant fine motor gains, including legible writing and 80% accuracy in classroom tasks, suggesting that "skilled intervention" was no longer required." With regard to speech therapy, the investigator concluded that, "Regarding speech, the SLP maintained data showing the Student had mastered previous goals and was communicating functionally within the educational environment." Finally, the investigator concluded that, "There was no evidence to suggest the need for continued OT services or increased speech services." (See Report, p. 37)

The complainant does not allege that occupational therapy services were reduced. The allegation appears to be only that at an IEP meeting on February 10, 2026, the IEP team proposed reductions in these services based on data that was not current or accurate. The data presented by the district resulted only in a proposal made by the IEP team. That proposal was later withdrawn because the parent refused to give the required consent. No change was made to the student's IEP and no service was withheld.

The complaint process is not available for this kind of dispute, where a parent is alleging only that information maintained by the district is inaccurate.. When a parent believes that information in education records is inaccurate or misleading the federal special education regulations has set out a separate process for challenging the accuracy of the information. That process allows parents to request that the disputed information be amended. If the district refuses to amend the disputed information, the district must inform the parents of that decision and advise the parents that they have a right to request a hearing. If, as a result of the hearing, it is determined that the information is inaccurate or misleading it must amend the information. If, as a result of the hearing, it is determined that the information is not inaccurate or misleading, the district must inform the parents of their right to place in their child's education records a statement commenting on the information or setting forth any reasons for disagreeing with the decisions of the district.

The Appeal Committee notes that in it's response to this appeal, the district will continue to provide OT services directly.

Speech Therapy

With regard to the allegation that the parent's request for additional speech therapy was denied by the IEP team based on inaccurate data, the Appeal Committee notes the following findings in the complaint report:

- The Student made significant progress on his speech goal, achieving a score of a "6" and "7" (slight improvement and moderate improvement) on March 14, 2025 and May 12, 2025, respectively. He earned a score of "8" (mastered) on October 14, 2025 and December 19, 2025. Finding of fact 9b(i), p. 16.
- Based on the most recent evaluation and ongoing data collection related to communication, the Student displayed needs that required special education or related services. The Student was described as an effective communicator and used speech to share their thoughts, express their needs, and show knowledge in academic tasks. The Student made progress, and their speech and language skills were a strong tool for their daily success. To help the Student be successful, the IEP would focus on self-advocacy, social navigation, and visual supports. The Parent reported they sometimes had trouble understanding the Student. The Student has mastered all of the communication goals from the previous IEP. This need would be met by general education supports, accommodations, supports for school personnel, supplementary aids and services, assistive technology, and a goal. Finding of Fact 12.f, p. 18-19.
- In an interview with the Complaint Investigator, the SLP reported the Student's speech services remained consistent at twice a week for 15 minutes, and no changes to these minutes were proposed during the February 2026 IEP meeting. The SLP shared, "I don't recall any issues ... on my end about implementing [the Student's] IEP as it's written." The SLP noted that, while they may have suggested an increase in services years prior if the Student had been attending School more frequently, they kept services at twice a week because the Student was attending twice a week (emphasis added). Finding of Fact 27, p. 30
- Regarding the Parent's request for increased services to address articulation, the SLP stated that current data and the Student's progress did not indicate a need for additional service time. The SLP acknowledged that the Student had inaccurate speech sound production but asserted that the Student was able to functionally communicate and express needs in the educational setting. The SLP concluded that even if they were to target specific speech sounds, an increase in service minutes was not required to meet the Student's needs within the academic environment. Finding of Fact 28, p. 30-31

In a written statement, dated May 7, 2026, the student's speech therapist made the following observations:

- When looking at [the student] globally, his speech and language needs are effectively met within the current timeframe. Increasing service minutes for a single deficit area would necessitate pulling him from other critical educational programming or peer interactions, which would risk a violation of the Least Restrictive Environment (LRE) mandate. The current speech_

language goals continue to address Dominic's needs in relation to his overall academic services. Within the proposed goals, his intelligibility and speech sound production would be addressed as part of his ability to effectively interact and communicate in the school setting.

- The ASHA notes that "more" is not always "better." Clinical efficacy is found in the balance of direct service and the child's ability to generalize those skills. The current frequency provides sufficient intervention to drive progress without causing "therapy fatigue" or disrupting his broader academic development.
- Educational Model: Focuses on providing the support necessary for the student to access their curriculum and participate in school. The current school-based dosage is specifically designed to address the educational impact of his communication needs.
- While supplemental private therapy may follow a medical model, the school's role is to ensure he is making meaningful progress toward his IEP goals, which the current data confirms he is doing.
- Private therapy's goal is clinical remediation, while my goal under IDEA is educational access. Currently, Dominic is demonstrating the ability to communicate effectively within his school environment, which is the standard we are legally required to meet.

It is not uncommon for members of an IEP team to disagree about what constitutes an appropriate educational program for a child with a disability. Frequently, when such disagreements arise, there is a compromise made by both parties to construct an IEP that provides meaningful educational benefit to the student. Other times, the parties become involved in a complaint process like this one or even in due process hearing and court proceedings.

In Endrew F. v. Douglas County School District, 137 S.Ct. 988, 117 LRP 9767 (S.C. 2017) a dispute over what an IEP must offer to constitute a free appropriate public education for a child with a disability went all the way to the United States Supreme Court. In that decision, the supreme court set the standard for what constitutes an appropriate IEP. The court said in order to provide a free appropriate public education, "a school must offer an **IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."**

What does appropriate mean? The Supreme Court gave some guidance on this issue. It said (emphasis added with bold print):

- The IEP must aim to enable the child to make **progress**;
- The required progress need not be ideal, but must be **appropriate in light of the child's circumstances**;
- There is a **wide range of children with disabilities and the benefits obtainable** by children at one end of the spectrum will differ dramatically from those obtainable by children at the other end;
- For children who are **fully integrated** in the regular classroom, an **IEP "typically should" be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade**;

- There is no bright-line rule, the adequacy of a given IEP turns on the unique circumstances of the child;
- A high standard proposed by the student in this case, consisting of an IEP reasonably calculated to provide a child with opportunities to achieve academic success, attain self-sufficiency, and to contribute to society that are substantially equal to the opportunities afforded children without disabilities, is rejected; and
- Deference is given to school officials based on the application of expertise and the exercise of judgment, but "A reviewing court may fairly expect those authorities to be able to offer a cogent and responsive explanation for their decisions that show the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstance.

Progress then is the measuring stick. Not ideal progress, but appropriate progress in light of a child's individual circumstances. When a dispute such as this one is sent to an administrative body such as a state department of education the supreme court directs the administrative agency to give at least some deference to school officials in exercising both expertise and judgement, as long as they are able to offer a cogent and responsive explanation for their decisions.

The Appeal Committee finds that the school district has provided a cogent and responsive explanation for their decisions.

This child is only attending school two days per week and is receiving two sessions of speech services per week. In addition, this student is making appropriate progress in speech therapy as measured by the last four progress reports. It may not be ideal progress, but he is meeting his speech goal and is effectively communicating with staff and other students.

There is another element to this analysis. As the speech therapist opined, more is not always better. That is especially true when more speech services would also deprive the student of other learning and socializing opportunities. This consideration is especially applicable for a student like this one who is only attending school on a part-time basis.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 14th day of May, 2026.

Appeal Committee

Brian Dempsey; Mark Ward; Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #265
ON MARCH 9, 2026

DATE OF REPORT: APRIL 21, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ------- by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #265 Goddard Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #265.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on March 9, 2026 and the 30-day timeline ended on April 8, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #265, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), developed an individualized education program (IEP) that addressed the Student's need for access to written instructional material and assessments after a read-aloud accommodation was removed from the IEP in spring 2025. Further, whether the LEA provided the Student with IEP support for open-ended academic tasks across subject areas, and whether the IEP documented and addressed the Student's educational and functional performance with and without support. K.A.R. 91-40-16; 34 CFR § 300.323.

ISSUE TWO: Whether USD #265, in accordance with state and federal regulations implementing the IDEA, provided the Student with a free appropriate public education (FAPE) when the LEA developed an IEP that did not include accurate or complete data about the

Student's classroom performance and independent functioning. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent and the following LEA staff on April 10, 2026: Teacher 1 and the Instructional Support Teacher.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Emails dated 04/07/25–03/19/26
2. Attendance Log, 2025-26 School Year
3. Classroom Work Samples, no date
4. Fastbridge and Reflex Data Scores, 2025-26 School Year
5. IEP Contact Log, 08/07/25-03/09/26
6. Individualized Education Program, 04/16/24, 04/08/25
7. Neuropsychological Evaluation Summary, 11/20/25
8. Prior Written Notice, 04/03/25, 01/13/26
9. Progress Report, 2024-25 School Year, 2025-26 School Year
10. Report Card, 2024-25 School Year, 2025-26 School Year
11. Written Responses to Questions, 04/13/26

Background Information

This Investigation involved a 10-year-old student enrolled in the fourth grade at an elementary school in USD #265. The Student is currently receiving special education and related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA) under the eligibility category of Orthopedic Impairment (OI). The Student takes medication for Attention-Deficit/Hyperactivity Disorder (ADHD), asthma, and seizures, but does not take medication at school and is on a Health Care Plan.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. An IEP, dated April 16, 2024, indicated the Student required special education or related services in reading.
    a. It was indicated the Student made gains in phonics, which increased their oral reading fluency. The Student was described as being more confident in their reading and as willing to volunteer to read aloud. It was also noted the Student

needed to continue working on fluency, and that unit reading tests had been modified.

b. The Student was noted to be in a high-risk range on a reading evaluation, indicating the Student needed additional support to improve reading accuracy and automaticity. The Student read 39 words with 90% accuracy at an unspecified text level. An additional reading assessment indicated the Student was in the "some-risk" category, meaning they needed additional supports to improve their overall reading skills. It is also noted the Student had previously been scoring 30-40% on comprehension assessments and had improved to 80%.

c. The Student made gains in written language, and their legibility had also improved. The Student wrote with correct letter size and placement and showed adequate spacing between words. The Student could write complete sentences and improve their spelling skills.

d. The Student needed additional instruction and practice in phonics as the patterns became more difficult. The Student's need for modified spelling tests had decreased, and their quarter three phonics grade was 86%. The Student's writing legibility and ability to write in complete sentences had also improved.

e. The Parent stated math and being friendly with other kids were strengths for the Student. The Parent stated the Student's greatest needs were reading and writing, emotional support, and extra time and prompts when called on in class. The Student was receiving more special education support than was stated in their IEP.

f. Goal 4 stated, "By the next annual IEP, [the Student] will increase [their] oral reading fluency to 100-110 words with 98% accuracy as measured by [curriculum-based measurement] CBM progress monitoring." Baseline data indicated the last 3 progress monitoring probes showed 79 words with 99% accuracy, 66 words with 96% accuracy, and 62 words with 95% accuracy. The evaluation procedure used was CBM/[oral reading fluency] ORF grade-level passages.

g. The following services were listed as being provided from April 16, 2024 through April 15, 2025:

    i. Special education support to aid in providing the accommodations and supplementary aids and services outlined in the IEP in a regular or special education classroom, daily per the classroom schedule and determined by the staff working with the Student for 30 minutes.

    ii. Materials read out loud for assignments and assessments daily, when the test is above the Student's instructional level, unless the read aloud invalidates an assessment, in all settings, for the amount of time needed to provide the read aloud.

iii. Access to a quieter space for work and assessments daily, when a non-distractable environment is needed for the Student to focus on the task, in a general or special education classroom, for the time needed to complete the task.

iv. Directions and tasks broken down into tasks or chunks to ensure the Student understands the task daily, in all settings, for the amount of time needed to give directions and check for understanding.

v. Paper/pencil assessment or close proximity to an adult when given an assessment, to discourage the Student from clicking answers in a general or special education classroom for the time needed to take the assessment.

vi. Allow the Student to express knowledge on assignments and assessments in an alternative way, or modify questions and answers to allow for less answer choices, a stem provided, or multiple choice, when given an assessment or assignment that requires the Student to give a lengthy answer or they need time to process the information in order to formulate their ideas, in all academic settings, for the amount of time needed to complete to provide the accommodation in order for the Student to complete the task.

vii. Assignments checked off by a staff member prior to turning in, and if assignments need to be sent home for completion, they are added to a daily communication log, daily before turning in assignments, and at the end of the day, in the general education classroom, for the amount of time needed to check in on assignments.

viii. Additional time to respond to auditory input throughout the school day, in all academic settings, for up to 15 seconds.

ix. Access to sensory breaks as needed throughout the school day, in all settings, for the length of the school day.

x. Access to preferential and/or flexible seating options. This may include close proximity to an adult, seating away from highly distracting areas or students, being allowed to stand, etc., as needed throughout the school day, in all school settings, for the length of the school day.

2. A Progress Report dated March 21, 2025, indicated the following progress toward the Student's IEP goals:
   a. Goal: The Student will write legibly on classroom assignments 90% of the time without verbal cues.
   b. Goal: The Student will increase their oral reading fluency to 100-110 words with 98% accuracy.
      i. Progress was measured by CBM/ORF grade level passages.
      ii. Status code: "8-Mastered."

iii. Comments: The Student met their ORF goal, reading 111 words per minute with 100% accuracy.

3. Relevant information from a transcript of an April 3, 2025, IEP meeting included:
    a. The OT stated the Student had received consult services, meaning the OT consulted with the Case Manager and classroom teacher about the Student's progress and whether they had any concerns about the Student's sensory needs or writing. They indicated the Case Manager and Teacher 2 reported the Student was doing great with their writing and only had occasional sensory needs, which had not impacted them in the classroom. The OT wanted to move the consult service to a support for school personnel, so the staff would contact the OT if they had any concerns about the Student. The OT stated the Student took a little more time with their writing, but they did not believe it was a concern.
    b. The Physical Therapist (PT) indicated the Student had functional mobility in the School setting.
    c. The School Psychologist explained the Student's nonverbal problem-solving was above average, and their visual memory was "weak."
    d. The Case Manager stated the IEP team originally was not going to have support in reading for the Student next year, but determined the Student still needed some support. They explained the Student struggled with "deeper level" questions. The Parent believed the Student needed help with content writing and generating ideas for answers. The Case Manager indicated the Student's work was an "A" but became a "C" because the Student was losing and not completing assignments. They stated accommodations were added, and the Student was receiving paraprofessional support during reading and independent work time. Teacher 2 clarified this would help the Student complete their assignments and turn them in.
    e. The Case Manager stated the Student's writing skills continued to grow, handwriting was not an issue, and their spelling was good. Teacher 2 confirmed this, but indicated sometimes the Student missed writing a word to complete a sentence, which they worked on. The Case Manager stated the Student needed to build their writing stamina. They explained all of the teachers used graphic organizers, which they believed the Student needed. They agreed with the Parent's earlier statement about the Student struggling with idea generation and stated the Student would receive assistance.
    f. The SLP explained they were working with all of the general education teachers on a technique to help students with writing. They indicated they successfully used that technique with the Student. The SLP stated it was a template to help students learn to write paragraphs. The SLP shared the "open-ended question piece" would be hard for students, especially students with ADHD. They referred back to the template and how it supported students by breaking down the steps and pulling everything together at the end.

g. The Case Manager said, "[The Student] currently has an A minus in writing. Independently, [they] can write one paragraph, but [the Student] gets off topic 50% of the time. So with support, [the Student] writes successfully at grade level. So we're gonna keep that support." The Parent perceived the writing support was for sentence structure and grammar, but did not help with generating ideas or putting thoughts on paper. The Case Manager stated the support was for everything. Teacher 2 provided an example of the support by explaining sometimes it looked like a conversation with the Student to help generate ideas and then completing the templates.

h. Teacher 2 stated the Student was in the low-risk category for math, so they were not receiving intervention during math time, but had access to help if needed. They stated a paraprofessional would work with the Student on any math skills the Student was struggling with. The Parent stated they were concerned about the Student working on math word problems. The Case Manager explained that for the 2025-26 school year, the Student would be in a classroom with a paraprofessional who already helped students with word problems. The Parent wanted to have something "extra" in the IEP about math, but the Case Manager stated the Student did not have support in math because the data showed they did not qualify for it. Teacher 2 stated the Student would do their math work in their head and not write it out, but they could relay the information. Teacher 2 stated this was a challenge for most students.

i. The Advocate requested the IEP show when the Student required support, even if it was already being provided through the general education curriculum. The School Psychologist suggested the IEP state, as appropriate, when an accommodation could be provided by the regular education teacher or paraprofessional. The Case Manager referred to an accommodation in the Student's current IEP: having assignments checked by staff for completion prior to submission, and noted this would occur daily.

j. The SLP shared the Student had been on consult services during the 2024-25 year and was functioning within normal limits for communication. The SLP wanted to add a writing accommodation for the Student to have graphic organizers for writing tasks. They added this could be targeted explicitly for certain content areas. The Parent asked if it was only for writing assignments because they were concerned all of the Student's classes were to a point where longer written answers were expected. The SLP stated the accommodation could be used wherever. They indicated it supported the general education teachers already offered, but wanted to add it as an accommodation so it was purposeful.

k. The Advocate asked if it was written in the IEP "that things need to get anchored into or contextualized into familiar topics." The SLP stated it was not, but it was a good accommodation to add. The School Psychologist asked if the accommodation could be worded that "instead of writing out an explanation,

[the Student] can verbally explain it to the teacher or another adult." The SLP agreed and stated it could be applied throughout the school day and did not have to be specific to anything in particular.

l. The Parent stated the Student's current IEP included an accommodation allowing the Student to demonstrate knowledge on assignments and assessments in an alternative way. They were concerned it was being removed. The Case Manager stated they would add the accommodation to the new IEP.

m. The Case Manager proposed a writing goal for the Student, "[The Student will] generate and organize ideas to stay on topic in writing assignments, producing three ideas per assignment and three of four trials. And that's with graphic organizers. … even with the comparison support, we want [the Student] to come up with the ideas because we're trying to get [them] more independent. … for reading, [the Student] will complete reading tasks and assignments 90% of the time. So with the accommodation that we gave [them], with that little support that we're giving [them] at the end of the day, we're gonna see how we do." The Case Manager explained the Student's "C" in reading was due to missing or incomplete assignments, which was why they added an accommodation and provided paraprofessional support during reading time. The Advocate expressed concern the goal was not addressing the root of why the Student was not turning in assignments. The Case Manager clarified the accommodation would be for the Student to check in with a teacher or paraprofessional at the end of the day, as well as during independent reading time, the Student would receive support to turn in their work. The SLP also addressed the Advocate's concern. They explained evidence-based practice showed executive functioning issues were typically supported through accommodations, which were written to work toward independence. Regarding the Student, they stated accommodations would include a routine or a check-in time. They explained the Student checked in with the paraprofessional, and this should transition into the Student performing a check-in for themselves. The SLP did not believe an executive functioning goal was necessary.

n. The Case Manager stated the Student's reading was at 100% accuracy, but they wanted to make sure the Student turned their work in. The Parent's main concern was the writing aspect of assignments.

o. The Advocate expressed concern the Student's incomplete assignments were due to a writing deficit and believed the Student needed to improve their writing skills. They asked which tools were helping to address the Student's writing deficit. Teacher 2 explained the Student was turning in incomplete assignments because they were reading the question, getting distracted, and forgetting to finish it. The IEP team discussed different ways to use visual reminders to help the Student turn in their assignments. This led to the idea of using visual reminders and a check-in with the Student, which the Parent agreed to. The SLP believed this accommodation could lead the Student to independently check

their work. The Case Manager added the Student would have special education support for writing and work completion for reading.

p. The Parent asked why the Student's accommodation to "receive special education support to aid in providing the accommodations and supplementary aids and services outlined in the IEP" was being removed. The Case Manager stated it was because the Student no longer had supplementary aids. They indicated the reading accommodation was added in its place.

q. The Case Manager listed accommodations the Student would still have, including access to a quiet space for assessments, tasks broken down into steps, a staff check-in to ensure the Student understood the tasks, checked assignments, and information repeated as necessary. The Case Manager stated the team added an accommodation for staff to check the Student's assignments for completion prior to turning them in. They indicated the Student would still be provided additional time to respond to auditory input, academic and non-academic questions, verbal requests, and instructions. The Case Manager stated the graphic organizer would be added as an accommodation and the read-aloud accommodation would be removed because the Student "did not want it."

4. Prior Written Notice (PWN) dated April 3, 2025, stated staff met to determine whether the Student required special education and related services and to assess whether any additions, changes, or modifications to services or placement were required. A description of the action proposed or refused stated the team updated present levels, accommodations, and goals, removed supplementary aids, and removed special education services for English Language Arts (ELA) during instructional time. An explanation of why the action was proposed or refused stated the Student no longer showed the need for supplementary aids, flexible seating, and breaks, and the data no longer supported the Student needing full coverage during the ELA block. The team considered keeping supplementary aids and coverage for the Student but determined that they were no longer needed. The data used as the basis for the decision included teacher reports, classroom observations, district assessments, and curriculum-based assessments.

5. An IEP dated April 8, 2025, provided the following relevant information:

    a. The Student wrote with a consistent left-handed grasp and used a quadropod grasp on their writing utensil. They wrote legibly on classroom assignments 90% of the time without verbal cues. The occupational therapist (OT) reported good letter formation and sentence writing, but the student's writing assignments took longer than their peers'. The OT indicated the Student displayed age-appropriate cutting and self-care skills in the classroom.

    b. The IEP stated the Student needed to develop their comprehension skills, including answering higher-level questions, inferring the author's purpose, and making predictions. The Student struggled to complete their work entirely and turn it in on time. Strategies included circling or highlighting the problems to be finished, repeating the numbers to be completed back to the teacher, and

consulting with a peer. This need was met through general education supports and accommodations.

c. In the area of written language, the Student continued to grow their writing skills. They could type and write with good letter formation, and their sentences were mostly in correct order with correct spelling. Needs included building writing stamina and writing complete, coherent sentences. The Student needed graphic organizers and writing templates to help continue their writing. They relied on assistance in expanding their thoughts into paragraphs. Current performance indicated the Student had an A- in writing. This need was met through accommodations.

d. The Parent requested a writing graphic organizer for the Student. It was indicated the Student was successful with the writing strategy, which was already being utilized.

e. A goal for writing stated, "By the next annual IEP, [the Student] will generate and organize ideas to stay on topic in writing assignments, producing at least three ideas per assignment in 3 of 4 trials." Baseline information indicated the Student wrote two sentences independently and in order, staying on topic. With support, the Student was able to write one paragraph using writing prompts, graphic organizers, and templates.

f. The following accommodations were listed as being provided from April 8, 2025 through April 7, 2026:

    i. Special education support for writing and work completion for reading in a general education classroom each day, during class time, for the same amount of time as general education peers have ELA.

    ii. Access to a quieter space for daily assessments when a non-distractable environment is needed for the Student to focus on the assessment, in a general education or special education classroom, for the time needed to complete the task.

    iii. Access to directions, tasks broken down into chunks, and a check-in to ensure the Student understands the task, each day school is in session, in all settings, for the time needed to give directions and check for understanding.

    iv. Additional time to respond to auditory input, throughout their school day, in all academic settings, for up to 15 seconds.

    v. Frequent check-ins from staff for understanding, when answering constructed or open-ended written responses are required, in the general education classroom, for the amount of time needed to complete the task.

    vi. Comprehension contextualization to help the Student connect academic content and skills to real-world or personal situations, when they exhibit

a lack of comprehension, in the general or special education classroom, for the amount of time needed to gain comprehension.

vii. In all academic settings, the Student should be permitted to express their knowledge through alternative methods or modified questions. For assignments and assessments that require lengthy responses or significant processing time, instructors should provide accommodations such as sentence stems, multiple-choice formats, or fewer answer choices. Additionally, the Student must be given sufficient time to process information and formulate their responses to ensure they can successfully complete each task.

viii. A visual schedule outlining the daily routine, including transitions, activities, and tasks, each day school is in session, in the general education classroom, for the entirety of the school year.

g. It was noted the Student did not need modifications or supplementary aids and services. The Student's placement was in the General Education Classroom for the entire school day.

h. The Student had a diagnosis of ADHD that impacted their academic performance and required special education support in order for them to make gains in the general education curriculum. The Student also had weaknesses in auditory processing and memory that caused the Student difficulty processing information presented orally. "At times this does impact [the Student's] ability to follow multi-step directions and complete more complex assignments."

6. In an email exchange between the Case Manager and the Parent, dated April 7, 2025, the following draft IEP changes were included:
    a. Accommodations
        i. Record 3 amended to include Math and ELA assignments.
        ii. Records 4, 5, 6, 7, 8, and 9, "added per our discussion."
    b. Goals
        i. Reworked Goal 3 to reflect the Student would be given a tracking system to help them in their executive functioning goal.
7. In an email exchange between the Case Manager and the Parent, dated April 11, 2025, the Parent indicated they had concerns about the draft IEP they had been sent. The Parent noted the following:
    a. The Student still needed access to a quiet space during assignments, which the Student's teacher had said the Student used.
    b. Regarding highlighting, the goal was to foster long-term independence by providing guided instruction, rather than just the tool itself, to help the Student complete non-writing tasks, such as multiple-choice assignments.

c. The Parent wanted to know how the School planned to help the Student meet a work-completion goal. From what had come home, it looked like the incomplete work was mostly due to the Student's lack of a written response.

d. The Parent also wanted to know how the School would address incomplete work that was not writing-related. The Case Manager responded that any incomplete work at the end of the day, after their check-out, would be taken home to complete.

e. The draft IEP required all subject assignments to be checked before being turned in, but this was changed to only ELA and Math, rather than adding support for word problems, as discussed. The Case Manager responded that Accommodation Record 3 covered that as word problems were in math.

f. The only data specific to word problems came from the Student's classwork and tests, as well as the neuropsychologist's input based on their testing. The Case Manager replied that the data did not support the academic need for special education services in math instruction. The Student still needed it across all academic subjects to accommodate and support the Student's executive functioning throughout parts of their academic day.

g. The Parent suggested that if the Case Manager needed more input from the neuropsychologist, to let them know. The Case Manager indicated they had a copy of the report.

h. The School Psychologist suggested providing the Student with help with word problems and noted that the recorded math test grades were mostly low. The Case Manager indicated that Math remained the Student's strongest subject, and the data did not support the need for special education services in Math.

i. During the IEP meeting, the need for more help with providing longer answers to questions was identified. The Case Manager indicated it was in the IEP, Accommodations Record 7.

8. In an email exchange between the Parent and the Case Manager on April 15, 2025, the Parent suggested the following changes to the Amended IEP:

    a. "By the next annual IEP, [the Student] will utilize pre-taught organizational skills to independently organize, complete and turn in general education assignments 90% of the time."

    b. Benchmarks

        i. "By (Progress reporting time) [the Student] will utilize pre-taught organizational skills to organize, complete and turn in general education assignments 60% of the time with no more than 3 prompts."

        ii. "By (Progress reporting time) [the Student] will utilize pre-taught organizational skills to organize, complete and turn in general education assignments 70% of the time with no more than 3 prompts."

iii. "By (Progress reporting time) [the Student] will utilize pre-taught organizational skills to organize, complete and turn in general education assignments 80% of the time with no more than 2 prompts."

c. "By (Progress reporting time) [the Student] will utilize pre-taught organizational skills to organize, complete, and turn in general education assignments 90% of the time with no more than 2 prompts."

i. Accommodation Record 3 - Instead of, "[The Student] will have assignments checked by a staff member prior to turning in to check for understanding and completion," change to "[The Student] will have frequent check-ins from teacher/adult support to check for understanding of expectation and assignment."

ii. Accommodation Record 8 - Instead of "[The Student] will be allowed to carry and use a marking utensil (such as a highlighter or marker) to independently mark or highlight the problems or questions assigned on worksheets, assignments, or tests," changed to "Adult support will assist or check that [the Student] marked or highlighted the problems or questions assigned on worksheets, assignments, or tests to help identify important or key words."

iii. The Case Manager agreed to change Accommodation Record 3. For Accommodation Record 8, "[The Student] will be prompted to use a marking utensil (highlighter or marker) to independently mark the problems assigned on worksheets, assignments, and tests."

9. An email exchange between the Parent and the Case Manager on April 24, 2025, indicated the Parent wanted to keep the Case Manager's new wording for Accommodation Record 8. For Accommodation Record 5, instead of "[The Student] will have assignments checked by a staff member prior to turning in to check for understanding and completion," changed to "[The Student] will have frequent check[-]ins from a staff member to check for understanding."
10. Written language and math work samples, dated August 8, 2025 through February 26, 2026, indicated the Student was able to complete a writing sample about the Transcontinental Railroad. Teacher 1 noted, "100% independent, checked in, but [the Student] didn't want support." On a math computation sample, the Student scored 8 out of 8 correct. Journal entry samples indicated the Student could write complete sentences to form a paragraph in six minutes.
11. According to a Parent Response document entry dated September 2, 2025:
    a. 2024-25 gradebook screenshots showed unspecified units with no recorded tests, indicating the data used to decide on read-aloud removal was incomplete. An email thread dated March 19, 2026, indicated the Instructional Support Teacher said the work sample data was not differentiated between supported and independent work.
    b. 2024-25 reading assessments showed the Student fell behind in reading comprehension, dropping from the 47th percentile to the 26th percentile.

c. A 2025 Writing Example 1 showed minimal work despite class discussion, additional time, and partner comparison, as noted in a classroom work sample.
d. A 2025 Writing Example 2 showed more writing with more structured assignments, as noted in a classroom work sample.
e. A 2025 incomplete writing assignment indicated the Advocate expressed concern that incomplete assignments were due to writing deficits.

12. An email exchange, dated September 2 and 3, 2025, between the Parent and the Instructional Support Teacher discussed the Parent's frustration with the way questions were asked. The Instructional Support Teacher explained the curriculum used was selected by the LEA, and questions could be adjusted, but there were limits to what could be adjusted. It was also indicated the Teacher, after noticing the test scores, suggested moving the Student to a different location in the classroom. The Teacher advised the Parent they would try this, even though it was not listed in the Student's IEP. The email also informed the Parent of how the Student had adjusted to the start of the school year. The Teacher also advised the Parent that the Student did not do well on a math test, and they would be moved closer to the very small group they pulled out, to ensure the Student was going at a responsible pace and doing their best. It was also explained they used a conference room and the Student sat at the end of the table. It was also stated that their work throughout class time did not match their expectations for the test, and that pulling the Student close may help.
13. An email exchange between the Parent and Teacher 1, dated September 5, 2025, indicated Teacher 1 wanted the Parent to come to school and be shown how to access the Student's daily work. The Parent agreed.
14. An email exchange, dated September 26 to 29, 2025, between Teacher 1 and the Parent, discussed the Student's difficulty focusing, their eyes wandering off, and their brain not being locked in on what was in front of them.
15. A writing sample submitted by the Parent, dated September 12, 2025, indicated the Student wrote one sentence in 5 minutes.
16. In an email exchange between Teacher 1 and the Parent, dated September 28, 2025, the Parent stated the Student could not focus at home as well as at school. The Parent was not sure if the Student was having "staring spell seizures or not." The Parent indicated excitement could trigger the Student. The Parent shared that the Student struggled getting through assignments two years prior when the Student was "regressing with [Continuous Spike and Wave in Sleep] CSWS."
17. According to an IEP Contact Log, dated September 2, 2025, the Parent was emailed to provide an update on how the Student was doing and to note that the Student did not do well on their first math test. The Parent requested tests be sent home for the Parent to review.
18. A neuropsychological evaluation summary dated November 20, 2025, provided the following relevant information:

a. The Parent reported the Student enjoyed school and was doing well with their grades. The Parent also stated the Student had experienced a decline in their state-based testing results. The Parent stated the Student performed best when given a multiple-choice format rather than being asked to generate responses. The Parent further reported the Student had difficulty with word problems and with organizing their thoughts for writing assignments.
b. The Parent recalled the Student occasionally had difficulty keeping track of their schedule when something was out of the ordinary, and that their personal spaces were often messy. The Parent stated the Student's symptoms of impulsivity and hyperactivity were generally well controlled with medication.
c. The evaluation reported improvements in the Student's attention and concentration. Their performance fell within the average range. The purpose of the evaluation was for continued monitoring of cognitive effects related to their epilepsy and potential side effects of the Student's medication.
d. The report stated the Student's full-scale Intelligence Quotient (IQ) was 112, in the above-average range (79th percentile). There was significant variability across the five domain areas that complete the full-scale IQ. The Student's working memory was in the 16th percentile, while their fluid reasoning and visual-spatial domains were reported at the 88th and 82nd percentiles, respectively. The Student's poorer performance was likely attributed to mild symptoms related to ADHD.
e. The Student demonstrated age-appropriate skills across several cognitive domains, including expressive and receptive vocabulary, visual motor integration, and fine motor skills. The Student's academic skills across math computation, spelling, word reading, and sentence comprehension were all in the average range. With regard to executive functioning, the Student performed within the broad average range on tasks associated with attention, concentration, problem-solving, and following multi-step directions. The Parent's ratings fell in the "clinically significant" range for concerns related to self-monitoring and initiation.
f. The Student experienced challenges with broad memory skills, and there was a clinically significant difference in the Student's immediate recall of verbal and nonverbal information, with verbal recall being significantly better. This information indicated the Student had a more difficult time with information presented in a nonverbal manner. The contrast in verbal and nonverbal recall ability impacted the Student's learning and ability to demonstrate what they knew, and accommodations in this area were highly recommended. The evaluation stated, given the clinical significance of these findings, the Student met criteria for an Other Specified Neurodevelopmental Disorder due to Medical Condition, with a specific weakness in nonverbal memory skills.
g. Relevant recommendations were listed as follows:

i. Avoid timed tests and allow extra time on tests and assignments as needed.
ii. Allow the Student to take tests in a different testing environment as needed.
iii. Rules and instructions should be clear and brief, delivered via visual and verbal means.
iv. Helpful strategies included having the Student repeat instructions, allowing the Student to utter instructions to themselves, and rule prompts.
v. Establish eye contact with the Student prior to giving essential instructions. Keep new information brief and repeat it concisely.
vi. Give the Student prompts at the outset of the task, as well as when they are nearing completion of their work.
vii. Reduce copying aspects of work.
viii. Provide extra structure and intermittent deadlines for long-term assignments.
ix. Coach the Student through stages so they are not behind.
x. When planning the Student's schedule, consider the part of the day when they are most attentive and schedule more taxing activities or assignments during those periods.
xi. Help the Student organize and visually connect ideas.
xii. Encourage the Student to highlight keywords in the text.
xiii. Preorganize information for tasks.
xiv. Incorporate word banks and multiple-choice formats when assessing learning.
xv. Clarify and ensure the Student's understanding of the information presented.
xvi. Chunking information into sets or groups of details rather than as a single series.
xvii. Allow the Student to use technology when writing.
xviii. Provide assistance in creating an outline for the pre-writing activities.
xix. Assistance with brainstorming.
xx. Attempt writing assignments for smaller periods of time over longer periods.
xxi. Consider not penalizing the Student for spelling errors when spelled phonetically, when the error does not change the meaning of the sentence.

xxii. Develop a grading model that places greater emphasis on the organization of ideas and content, with less emphasis on grammar, punctuation, and spelling errors.

19. An email, dated December 4, 2025, between Teacher 1 and the Parent discussed the Student's difficulty remembering to turn things in at home and at school. Teacher 1 indicated they were having the Student show Teacher 1 their binder each morning when they sat down and at the end of the day as well.
20. A work sample dated December 8, 2025, indicated the Student wrote one sentence, with no time recorded.
21. Relevant information from a transcript of a February 24, 2026 meeting to review academic progress included:
    a. Teacher 1 explained that, according to testing, the Student had foundational and language arts skills at the fourth-grade level, writing at a fifth-grade level, and reading at a third-grade level. The Parent expressed concern the Student struggled with the questions, not reading.
    b. Teacher 1 said, "[The Student] is a strong reader … but when we're applying it and … analyzing what [the Student] [is] reading … that's where we still want to continue to give [them] some support."
    c. The Parent stated they had not seen many writing assignments, but believed there had to be writing components in almost all of the Student's classes.
22. An email exchange, dated February 27, 2026 through March 2, 2026, between the Parent and the Instructional Support Teacher, discussed the Student's difficulty with distraction, how the Student loved socializing, and the Student was easier to redirect than they were at the beginning of the school year. The Student also demonstrated improved work completion. The Instructional Teacher stated a need to maintain focus and watch for possible seizures, and they did not feel turning in assignments was a good goal, since the Student had been doing fairly well. The Parent asked what supports and/or accommodations were being considered or revised.
23. According to an IEP Contact Log, on February 27, 2026, the Parent asked to have sent home any supports or services the team had already decided on. The Case Manager replied they had not made any decisions but were beginning the process of collecting feedback for the IEP.
24. An email exchange between Teacher 1 and the Parent, dated March 2, 2026, Teacher 1 indicated they were reviewing the Student's educational records, evaluations, and recent performance data "to ensure the IEP accurately reflects [the Student's] needs and the level of support required for [them] to access instruction." Teacher 1 shared the Student was easily distracted some days.
25. 26. An email, dated March 12, 2026, between the Parent and the Special Education Teacher explained "some prompting" referred to days the Student was struggling, and they needed prompting to turn in work. It was further indicated the IEP goal defined mastery as 90% of the time, and the Student was averaging a 93% turn-in rate. Because

the goal's criteria were not 100%, the Special Education Teacher concluded mastery was achieved. The Special Education Teacher explained they considered the prompts when analyzing the goal, and noted the Student needed more prompting at the beginning of the year. The current goal did not specifically track homework submissions. The Student was supported by adults in the classroom; the adults would report when the Student was having a rough day and share how much support the Student needed to complete a task. The Special Education Teacher stated they used all classroom assignments for their data collection, and they were working on writing a goal for the Student to help them remember to turn in homework in the morning, and an additional accommodation was also considered for the next IEP meeting.

26. The Parent also asked in their March 12, 2026 email how independence was defined when determining the goal was mastered, whether performance with an adult prompting was considered successful for independent performance, how the "turning in" component of the goal was measured, particularly for assignments that required delayed submission, what types of assignments were included in data collection and how frequently data was collected and recorded.
27. A Progress Report dated March 12, 2026, indicated the following progress toward the Student's IEP goals:
    a. Goal: The Student will generate and organize ideas to stay on topic in writing assignments, producing at least three ideas per assignment.
        i. Progress was measured by writing assignments/ samples.
        ii. Status code: "4-Slight regression."
        iii. Comments: "[The Student] was presented with a writing task and was able to generate/organize ideas to stay on topic producing at three ideas with some adult support scoring 82%."
    b. Goal: The Student will utilize pre-taught organizational skills to independently organize, complete, and turn in general education assignments 90% of the time.
        i. Progress was measured by classroom observations and assignments.
        ii. Status code: "8-Mastered."
        iii. Comments: "[The Student] was able to utilize strategies [they have] been taught and with some prompting from an adult to complete and turn in the work [they have] been assigned 93% of the time."
28. An email exchange between the Instructional Support Teacher and the Parent, dated March 12, 2026, indicated the Parent stated the recent progress report noted the Student had been able to utilize strategies with some adult prompting. The Parent requested clarification on the following:
    a. "How independence was defined when determining that the goal was mastered." The Instructional Support Teacher responded: Some adult prompting referred to "the random days [the Student] was struggling and needed to prompt [the Student] to turn in [their] work."

b. "Whether performance with adult prompting was considered successful independent performance." The Instructional Support Teacher responded: "I did consider the prompts needed in the overall analysis of this goal. Since most of the time [the Student] was turning them in on [their] own and [their] work was complete above the goals targeted percentage. I knew [the Student] meant the goal percentage part. Normally, I would have called an amendment meeting to change the goal." The Instructional Support Teacher stated they considered the Student's overall needs and knew they remembered the Student struggled to remember things.

c. "How the 'turning in' component of the goal was measured, particularly for assignments that required delayed submission (such as homework or corrections)." The Instructional Support Teacher responded: "The current goal does not clarify specifically tracking homework submission. I did not go over to see if [the Student] was turning in homework when [the Student] came into the building each morning." The Instructional Support Teacher indicated they used daily class assignments that were assigned for a grade, versus any missing assignments for that class.

d. "What types of assignments were included in the data collection." The Instructional Support Teacher responded: "All assignments that grades were taken for the class."

e. "How frequently data was collected and recorded." The Instructional Support Teacher responded: "I use [Teacher 1's] assigned work, so it varies based on what [Teacher 1] is doing week to week. There are no set data points each week." The Instructional Support Teacher indicated they used all the assigned work based on points each week.

29. According to a Report Card for the 2024-25 school year, quarter 4, the Student grades were:
    a. Reading - A
    b. Math - A
    c. Writing - A
    d. Social Studies - A
    e. Respect/Learner responsibility - ranged from meets to progressing.
30. A Report Card for the 2025-26 school year, third quarter, indicated the following grades for the Student:
    a. Reading - B+
    b. Mathematics - B+
    c. Social Studies - A-
    d. Science - A-
    e. Writing - B
    f. Respect/learner responsibility - M - Meets

31. A Reading Assessment Family Report for the 2025-26 school year for reading indicated:
    a. Fall 2025
        i. CBM reading English - some risk.
        ii. District reading assessment- some risk.
        iii. District reading assessment-- on track.
    b. Winter 2025
        i. CBMreading English - some risk.
        ii. District reading assessment - some risk.
        iii. District reading assessment - on track.
    c. A district reading fluency CBM Progress Monitoring document indicated that the Student averaged 114 words per minute (level of text unspecified).
    d. A Math Quiz Test Scores document indicated the Student took a test on August 29, 2025, scoring 55% independently. On March 25, 2026, the Student scored 5 out of 5 correct.
32. The Parent filed the Complaint on March 9, 2026.
33. An email exchange between the Parent and the Instructional Support Teacher dated March 13, 2026, indicated the Parent continued to have concerns about how independence "is being defined and measured related to the goal." The Parent shared that overall percentages appeared high, but there had been multiple documented instances in which both complete and incomplete work remained in the Student's binder.

Parent Interview

34. In an interview with the Complaint Investigator, the Parent recalled during the IEP meeting "last year," the IEP Team told the Parent the Student did not need the read-aloud accommodation, and it was removed from the IEP.
    a. The Parent shared the Student failed a math test at the beginning of the current school year, which was when the Parent began communicating with the Case Manager.
    b. The Parent was told the Student was seated near other students who had a read-aloud accommodation so the Student could "hear the read-aloud."
    c. The Case Manager told the Parent they could try to paraphrase for the Student "to see if that helps." The Case Manager also "suggested" text-to-speech and stated the Student "still had" read-aloud.
    d. The Parent stated the Student was given read-aloud accommodations after it was removed from the IEP, indicating a continued need.
35. The Parent asserted the Student did not have writing supports across subjects, and did not have a specific writing service in their writing class to help with "generating ideas, brainstorming, and getting those ideas out." The Parent added the Student has never had writing support across subjects, and that they had brought it up "in the past," but it

was dismissed. The Parent shared there was nothing in the Student's IEP to support open-ended tasks across subjects, reading comprehension, or helping the Student express ideas the Student gets from reading.

   a. The Parent noted the Student's reading scores from last year showed a "significant drop" in reading comprehension from the fall to the winter, and the scores had not "bounced back up."

36. The Parent explained their understanding of the writing accommodations for the Student, which included having access to a paraeducator in the classroom, and the option to go to "small group" for writing access.
37. The Parent shared the IEP indicated the Student needed check-ins and support or they would have difficulty completing tasks. The Student told the Parent they needed reminders to turn in work.
38. The Parent recalled the Student's progress was tracked using their final grade instead of "how much support [the Student] has on any given task, how [the Student] does on an assignment, or whether an assignment is turned in."
39. The Parent explained why the supplementary aids were removed at the April 3, 2025, IEP meeting. They noted the IEP Team removed the instructional time of the reading service because the Student "was reading fine." The Parent noted the Student's reading comprehension scores were "very low" and added the Student "should still be having service for the instructional for reading." The Parent was unable to recall what data was used to support that decision.
40. The Parent noted a work sample they provided from September [2025] showed the Student needed assistance on a math test "through each problem," and noted the significance was the Student could not "do the problem independently, that it had to be read aloud, it had to be reworded, and that [the Student] had to be guided through it." The Parent stated it was significant because the Student did not have that level of support listed on their IEP.
41. The Parent described another work sample that was created when the Student was in second grade. The Parent stated because it was a "less structured" writing assignment, the Student struggled to generate ideas and put them on paper. The Parent added the writing samples showed that when the Student was given an unstructured writing assignment, they produced minimal writing, and when it was structured, it did "appear to be better" writing. They added, even in the work sample with support, the first paragraph was one sentence long.
42. The Parent said the School Psychologist described "something else going on" with the Student's working memory, and that the Student "scored much higher when a question was read to [the Student] and [they] responded verbally." The Parent stated the School Psychologist's information confirmed the pediatrician's report, which indicated the Student performed better when they were read to and were able to respond verbally.
43. The Parent shared in an email regarding the Parent interview on April 12, 2026, the School Psychologist indicated the Student's Decoding Composite "shows [the Student]

is a good reader. … is a fluent reader … [the Student's] word recognition fluency and decoding fluency are both average." The School Psychologist explained the Student's listening comprehension was better than the Student's reading comprehension. The Student's orthographic processing score showed the Student was not dyslexic, "so something else is going on with [the Student's] working memory." The Parent indicated the School Psychologist said the Student does better if they listen and respond verbally than if they read or write. The Parent shared the School Psychologist indicated despite writing good sentences, the Student did not write as many sentences as would be expected for a student their age.

44. An email dated April 12, 2026, indicated the Parent wanted to clarify interview responses regarding the IEP. The Parent stated, "The IEP does include general language related to check-ins during tasks. While this language is not limited to a specific subject, it does not function as direct or consistent support for open-ended responses across content areas." The Parent explained the check-ins were not defined in a way that ensured support throughout task completion or provided structured assistance for generating or organizing responses. According to the Parent, the IEP:
    a. Identified significant needs in both reading comprehension and written expression, but the services and supports were described in general terms, such as check-ins and assistance during tasks.
    b. Did not clearly define the instructional component, the specific skills being taught, or how the support was delivered.
    c. Identified reading comprehension as an area of need, but the supports focused primarily on access, such as text-to-speech, rather than clearly defining direct instruction in reading comprehension skills.
    d. The Student's difficulty understanding how questions are worded was not directly addressed because the focus was on access rather than ensuring comprehension through clarification or rewording.
    e. The Student did not consistently recognize when they were misunderstanding a question and did not know when they needed support to use text-to-speech.
    f. The Student required check-ins to ensure tasks were completed correctly, which suggested the Student was not independently identifying when they were confused.
    g. The Parent was concerned that the Student relying on text-to-speech without "built-in adult support for monitoring and clarification may not effectively address the Student's needs."
    h. Overall, the Parent was concerned the current IEP language did not clearly define how the Student's needs in comprehension, written expression, and task completion would "be addressed in practice across settings."

Teacher 1 Interview

45. In an interview with the Complaint Investigator, Teacher 1 was joined by the Special Education Director and the Principal. Teacher 1 stated they were the Student's fourth-grade teacher.
46. Teacher 1 described the supports they had in place for the Student. They stated the Student was in their room for core instruction and throughout the day. The Student received read-alouds in math for any questions they had trouble with, and they received support with multi-step problems. The Student received pullout support when they needed a separate environment for testing. Supports were provided by Teacher 1 or a paraeducator in the classroom.
47. Teacher 1 noted the paraeducator provided additional support for the Student. In reading, the paraeducator helped the Student "whenever something's not making sense." They talked to the Student and gave them extra time in reading and writing activities. The paraeducator checked in on the Student to make sure they were where they needed to be. The Paraeducator ensured the Student knew where the reading support access was located, including where to find the computer-based read-aloud. Teacher 1 noted the Student often denied needing support and preferred to read on their own.
48. Teacher 1 shared that having the Student's schedule posted had been helpful. Additionally, the Student required multiple steps to be broken down and written on the board.

Instructional Support Teacher Interview

49. In an interview with the Complaint Investigator, the Instructional Support Teacher was joined by the Special Education Director and the Principal.
50. The Instructional Support Teacher shared the Student's work samples were provided by Teacher 1. They stated the Student was in full inclusion in the general education classroom when they were completed. They shared the Student received the supports listed in their IEP for written expression, and had a paraeducator available when the work samples were completed. They noted the Student "did not always need everything that was listed on the IEP, but they were available."
    a. The Instructional Support Teacher clarified the Student completed the math work sample "completely independent."
    b. The Instructional Support Teacher recalled observing the Student completing an assignment in social studies class independently and added the Student pulled up the prompts like they were supposed to.
51. The Instructional Support Teacher noted Teacher 1 graded the Student's work and then sent it home to the Parent. The Instructional Support Teacher noted the Student needed prompting to turn in work. They added they checked once every week or two, randomly checked for missing assignments, and compared them with the total number of assignments to get the percentage.
52. The Instructional Support Teacher said the data they used was based on what Teacher 1 did in class because the Student had full inclusion. They added, in fourth grade,

students were writing five paragraphs as a multi-step process. They indicated the reason there wasn't daily data was because the projects took longer.

Case Manager Written Response

53. In a written response to the Complaint Investigator, the Case Manager described the data collected toward the Student's written language goal, which included writing samples collected and reviewed over time, collaboration with Teacher 1, review of current grades, classroom-based assessments, district assessments, and daily classroom work. Additionally, the Case Manager used the Student's journal assignments to evaluate the Student's writing skills in a "natural classroom setting," and to document the Student's "writing behaviors, engagement, and application of skills during instruction."
54. The Case Manager recalled the IEP Team's decision to remove supplementary aids was based on a thorough review of classroom data, input from Teacher 1, and related services in coordination with the OT. The Data indicated the Student was not accessing the supplementary aids when they were offered in the classroom and was not advocating for the supports. Additionally, the materials log indicated the Student had not checked out any materials. The Case Manager used that information to determine the "removal of the supplementary aids was appropriate."
55. The Case Manager stated full paraprofessional coverage during ELA was not removed. Rather, it was reduced to "targeted support for work completion, as needed." They noted the adjustment was made after a review of data, including current grades, classroom-based assessments, district assessments, daily classroom work, and curriculum assessments. According to the data, the Student "continued to demonstrate academic growth, access to the general education curriculum, and progress toward [their] IEP goals."
56. The Case Manager explained the Student "often" declined paraprofessional support during ELA and chose not to go to the designated area in the classroom for support. Based on the Student's performance and their "observed independence," the determination was made during the April 8, 2025, IEP meeting to reduce coverage during ELA. The decision was discussed and analyzed by the IEP Team.

Teacher 2 Written Response

57. In a written response to the Complaint Investigator, Teacher 2 noted the Student had not been receiving modifications on their IEP prior to the April 8, 2025 IEP meeting. The stated modifications were not a part of the Student's IEP, and the Student did need accommodations and services, which were continued with the updated IEP.
58. Teacher 2 confirmed the IEP Team reviewed multiple sources of data to determine the Student's level of performance and needs, including current grades, classroom assessments, district assessments, and daily classroom work. Teacher 2 noted, based on the data, the IEP Team determined the Student could access the general education

curriculum "effectively" and made "adequate" academic progress without the need for modifications.

59. Teacher 2 recalled the Student entered the third grade participating in the general education setting, with additional support as needed. They added, the Student's time outside the general education setting was limited to receiving related service minutes. The Student was "making academic growth" and was successfully accessing the general education curriculum.
60. Teacher 2 confirmed the IEP Team reviewed updated data and "determined a reduction in services was appropriate." They added the change was discussed with the Parent and consent was obtained prior to implementation.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #265, in accordance with state and federal regulations implementing the IDEA, developed an IEP that addressed the Student's need for access to written instructional material and assessments after a read-aloud accommodation was removed from the IEP in spring 2025. Further, whether the LEA provided the Student with IEP support for open-ended academic tasks across subject areas, and whether the IEP documented and addressed the Student's educational and functional performance with and without support. K.A.R. 91-40-16; 34 CFR § 300.323.

According to K.A.R. 91-40-16 and 34 CFR § 300.323, each LEA is responsible for organizing and holding meetings to create, review, and update the IEP for every exceptional child they serve. To ensure proper support, the LEA must have an IEP active before any special education services begin and at the start of every school year, with services typically starting within 10 school days of receiving parental consent. The LEA is also required to ensure that every teacher and service provider working with the child can easily access the IEP and clearly understands their specific roles in providing the necessary accommodations and supports.

The Parent alleged the LEA removed the Student's read-aloud accommodation without data and did not provide enough writing support across subjects. Further, the Parent alleged the LEA used inaccurate IEP data.

The LEA responded that it implemented the Student's IEP as written, ensuring all identified services and supports were delivered in alignment with the Student's needs. The LEA indicated evidence demonstrated the IEP was carried out with fidelity and supported by ongoing communication with the Parent, as well as the consistent use of data to guide instructional decisions and service delivery.

Additionally, the LEA responded that the Student was able to access the general education curriculum and make adequate progress toward IEP goals. The LEA noted that the data used in

decision-making reflected the Student's independent performance and was appropriately used to inform instructional planning and support provision. Further, staff provided consistent opportunities for support and maintained communication with the Parent regarding the Student's progress and needs.

The April 8, 2025 IEP provided graphic organizers, templates, and special education support. For reading comprehension and open-ended tasks, the plan utilized contextualization, frequent check-ins, and alternative assessment formats. To manage ADHD and auditory processing weaknesses, the IEP mandated chunked instructions, visual schedules, and a 15-second processing delay. Additionally, task completion was ensured through staff checks, the use of marking utensils, and access to a quiet space for assessments.

The IEP documented that while the Student could independently write two legible sentences, they strayed from the topic 50% of the time without intervention; however, with the use of graphic organizers and templates, the Student successfully produced full paragraphs on grade level. In mathematics, the Student often performed calculations mentally and scored 55% on independent assessments, but achieved perfect scores when an adult guided them through word problems. Although the Student possessed high independent reading fluency, the documentation noted that comprehension of deeper-level questions required external contextualization to be successful. The IEP reflected that, without oversight, the Student's grades dropped because assignments remained unfinished in their binder, whereas adult check-ins and prompting increased the turn-in rate to 93%.

Following the April 8, 2025 IEP, the Student maintained consistent academic performance, earning grades of B to A- across all core subjects by the third quarter of the 2025-26 school year. In math, the Student showed measurable growth, improving from 55% on an independent quiz in August 2025 to a perfect score in March 2026, and achieved 100% fluency in multiplication and division. Reading fluency remained stable, with the Student averaging 114 words per minute, though fall and winter assessments continued to place the Student in the "some risk" category.

Regarding IEP goals, the Student mastered their organizational goal by turning in assignments 93% of the time, although the teacher noted this still required some adult prompting. In writing, the Student demonstrated the ability to complete independent samples. However, progress reports from the same period indicated a "slight regression" in the Student's specific goal to generate and organize ideas, and a November 2025 neuropsychological evaluation confirmed that while general academic skills were in the average range, the Student continued to struggle with self-monitoring and verbal recall.

While there is limited data documenting the Student's access to their accommodations as listed in their IEP, the Student's classroom grades and IEP progress reports indicate the Student was making progress toward their goals with the given supports. Although the Parent requested a specific accommodation, legal precedence does not require the Student be

provided it if there is evidence the Student is able to make meaningful progress with alternative accommodations. (Board of Educ. v. Rowley, 458 U.S. 176 (1982)).

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to develop an IEP that addressed the Student's need for access to written instructional material and assessments after a read-aloud accommodation was removed from the IEP in April 2025. It is not substantiated that the LEA failed to provide the Student with IEP support for open-ended academic tasks across subject areas, nor is it substantiated that the IEP failed to document and address the Student's educational and functional performance with and without support.

Issue Two

Whether USD #265, in accordance with state and federal regulations implementing the IDEA, provided the Student with a FAPE when the LEA developed an IEP that did not include accurate or complete data about the Student's classroom performance and independent functioning. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2 and 34 CFR § 300.101, each LEA must provide a FAPE to students with disabilities and gifted students. A child is entitled to a FAPE even if they are passing their classes and moving from grade to grade. Whether a student who is advancing still qualifies as having a disability is decided on a case-by-case basis through evaluations. Every LEA must provide services based on the child's unique, individual needs rather than just their general category of disability.

According to K.A.R. 91-40-1(z) and 34 CFR § 300.17 a free appropriate public education, commonly known as a FAPE, refers to special education and related services that are designed to support students effectively. To meet this standard, the services must be provided at public expense and stay under public supervision and direction without any charge to the parents. Additionally, these services must meet the specific standards set by the state board and include an appropriate education at the preschool, elementary, or secondary school level. Finally, all services must be delivered in a way that aligns with the requirements of the student's IEP.

The Parent alleged the LEA used inaccurate and incomplete data, which resulted in an IEP that did not align with the Student's needs.

The LEA responded, it met its obligations under the IDEA. The LEA indicated the IEP was developed using current and accurate data, and services were reasonably calculated to enable the Student to make meaningful educational progress in light of individual circumstances. Supports were aligned with identified needs and implemented consistently to ensure access to instruction and participation in the general education environment. The signed PWNs and

email exchanges between both the Parent and the LEA demonstrate the Parent consented to both actions and agreed with the actions.

The LEA met its obligation to provide a FAPE by developing and implementing an IEP that included SDI, related services, and accommodations specifically tailored to the Student's identified areas of need in reading, writing, and executive functioning. Documentation, including quarterly report cards and goal progress monitoring, confirmed the Student made meaningful educational progress, maintained grades of B or higher, and successfully mastered key organizational objectives. While the Parent expressed concerns regarding the granularity of the data used for decision-making, the evidence demonstrates that the IEP was reasonably calculated to enable the Student to progress in light of their unique circumstances. (Endrew F. v. Douglas County School District RE-1, 580 U.S. 386 (2017).

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide a FAPE to the Student when the LEA developed an IEP.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512, SHAWNEE MISSION PUBLIC SCHOOLS
ON FEBRUARY 11, 2026

DATE OF REPORT: MARCH 24, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #512 (Shawnee Mission Public Schools) on behalf of Catholic private schools in the Archdiocese of Kansas City who enroll parentally-placed students with disabilities. The complaint is filed by Dr. Lorenzo Rizzi, Associate Superintendent - Student Services, at the Office of Catholic Schools for the Archdiocese of Kansas City. In the remainder of the report, Dr. Rizzi will be referred to as "the complainant." Of the Catholic private schools operated within the Shawnee Mission Public Schools district boundaries seven provided evidence in consideration of this investigation and will be referred to as follows:

- Holy Trinity Catholic School as "School A"
- Holy Cross Catholic School as "School B"
- Good Shepherd as "School C"
- Bishop Miege High School as "School D"
- John Paul II Catholic School as "School E"
- St. Joseph Catholic School as "School F"
- St. Ann Catholic School at "School G"

Finally, the parentally placed private students with disabilities at any of the Catholic private schools will be referred to as "the students." Evidence is provided referring to two specific students. They will be referred to as "student one" and "student two" in the evidence section, however the names of the students are not included.

The Archdiocese of Kansas City staff will be referred to as follows:

- Lorenzo Rizzi, Associate Superintendent - Student Services, at the Office of Catholic Schools for the Archdiocese of Kansas City
- Steve Perla, president, ADAC Advocacy Group
- Ariella Hellman, staff, ADAC Advocacy Group
- Kim Hammers, Director of Embrace
- Kristen Mcbride, Assistant Principal, Prince of Peace Catholic School

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term" local education agency (LEA)" in this report

will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." In this case, USD #512 own staff serve students with disabilities and is the responsible public agency.

- Sherry Dumolien, Associate Superintendent of Special Education and Strategic Initiatives
- Rebecca Schnoebelen, Facilitator of Federal Programs
- Allison Staroski, Budget Manager
- Emily Demo, Coordinator of Special Education

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on February 11, 2026. The investigator requested and was granted an extension due to working with staff from both the LEA and Office of Catholic Schools for the Archdiocese of Kansas City and spring break.

Evidence Reviewed

During the investigation, the Complaint Investigators, Donna Wickham, and Nancy Thomas reviewed all evidence and documentation provided by the LEA and the complainant received by March 24, 2026.

On March 9, and March 25, 2026, the investigators interviewed the Associate Superintendent of Special Education and Strategic Initiatives.

On March 11, 2026, the investigators interviewed the Associate Superintendent - Student Services, at the Office of Catholic Schools for the Archdiocese of Kansas City, the President and a staff from the ADAC Advocacy, the Assistant Principal, of a Catholic private school and located outside the LEA and the Director of Embrace. Principals and/or staff with special education responsibilities for five Catholic private schools (Schools A-E) provided information via email responses.

The investigators additionally contacted staff from both the Archdiocese of Kansas City and LEA staff by phone and email numerous times to clarify issues and request further evidence throughout the investigation.

Documentation provided that predated the twelve months prior to the filing of this complaint was allowed for consideration because of the systemic nature of the allegations. While all documentation was reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents considered during the investigation:

- LEA Response, dated February 27, 2026
- Non-public/Private School Meeting PowerPoint, dated August 28, 2025 and sign in sheet
- Copy of Summary Notes of LEA meeting dated September 26, 2025
- Appendix D of the complaint, excel spreadsheet prepared by the LEA sharing IDEA proportionate share expense budgets from school years 2023-24, 2024-25, 2025-26
- Appendix E of the complaint, Chart depicts Number of students in 2023-24; 2024-25, 2025-26 school year prepared by the complainant
- Kansas Grant Reporting System Module: Private School Participation
- KSDE submission for the LEA Private School Participation Submission for 2025 - 2026: Consultation with Private School Representatives and Representatives of Parentally-placed Private School Children and Raw data provided by LEA to support the child count
- Documentation for Student One including PWN to conduct special education evaluation dated November 1, 2024; Evaluation Report and PWN for Evaluation Report, IEP and PWN for IEP dated February 7, 2025; PWN dated October 20, 2025; IEP amendment dated October 30, 2025; PWN dated November 10, 2025; IEP dated January 8, 2026
- Documentation for Student Two including Evaluation Report and PWN for Evaluation Report, IEP and PWN for IEP dated March 4, 2025; PWN dated October 20, 2025; IEP amendment dated October 30, 2025; PWN dated November 14, 2025; IEP dated December 12, 2025
- Responses to survey emailed from Schools A, B, C, and D to investigations regarding Components One through Six

Emails:

- Email from facilitator of federal programs to Catholic private schools dated July 17, 2025 at 10:44 a.m.
- Email exchange between complainant and Associate Superintendent of Special Education and Strategic Initiatives dated between September 15, 2026 at 10:08 a.m. and 1 :47 p.m.
- Email exchange between school speech language pathologist at partner public school and School A teacher dated between October 23, 2025 at 1 :27 p.m. and October 24, 2025 at 7:51 a.m.
- Email from partner school speech language pathologist to School F dated November 13, 2025 at 8:44 a.m.
- Email from staff at School A to complainant dated November 13, 2025 at 2:57 p.m.
- Email from complainant to and Associate Superintendent of Special Education and Strategic Initiatives dated December 8, 2025 at 8:31 a.m.
- Email from principal at School E to complainant dated December 18, 2025 at 5:02 p.m.

- Email from staff at School A to coordinator of special education dated February 11, 2026 at 11 :01 a.m.
- Email from School E to investigators dated Mar 13, 2026 at 12:37 p.m.
- Email from staff at School D to investigators dated March 13, 2026 at 1 :33 p.m.
- Email from principal at School C to investigators dated March 15, 2026 at 7:03 a.m.
- Email from budget manager to Associate Superintendent of Special Education and Strategic Initiatives dated March 23, 2026 at 4:12 p.m.

Background Information

This systemic complaint is focused on the LEA's Consultation model, services for nonresident students with disabilities, evaluation procedures, child count, proportionate share calculation and use of proportionate share funds on behalf of the Catholic private schools located within the LEA boundaries. The LEA's procedures and collaborations with these private schools are being investigated in relation to adherence to IDEA and Kansas regulations and the LEA's stated procedures and practices.

Issue Investigated

Did the LEA follow state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) for children parentally-placed at the Catholic private schools by their parents specific to providing special education services to nonresident students, reporting accurate child count data and calculating proportionate share funds following child find activities, planning and conducting the consultation meeting, providing onsite services to resident students with disabilities, and responding to requests for special education evaluation?

Although this systemic complaint investigates only one issue, there are six component parts of this issue that will be reported separately; 1) Was the LEA's Consultation timely and meaningful? 2) Were the proportionate share funds incorrectly spent on staff time for child find activities, gifted education and administrative costs? 3) Are nonresident students with disabilities who are parentally enrolled in Catholic private schools denied special education services in the LEA? 4) Did the LEA refuse to provide onsite services to resident students with disabilities who are parentally-placed in the Catholic private schools? 5) Did the LEA conduct a proper child count with respect to students enrolled in the Catholic private schools resulting in errors in the proportionate share calculation? 6) Did the LEA require RTI before conducting a special education evaluation for students with a suspected disability enrolled in the Catholic private schools?

Component One

Was the LEA's Consultation timely and meaningful?

Applicable Law

Federal regulations at 34 C.F.R. §300.134 and state regulations at K.A.R. 91-40-42a provide guidance to ensure timely and meaningful consultation and require responsible public agencies to consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

a) a child find process that includes how parentally-placed private school children suspected of having a disability can participate equitably and how parents, teachers, and private school officials will be informed of the process;
b) the determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities including how the proportionate share of those funds was calculated;
c) how the consultation process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;
d) how, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities. This will include the types of services, how special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children, including how and when those decisions will be made: and
e) a written explanation of the reasons why the responsible public agency chose not to provide services as recommended if the responsible public agency disagrees with the views of the private school officials.

Under 34 C.F.R. §300.135 and K.A.R. 91-40-42b when timely and meaningful consultation has occurred, the responsible public agency must obtain a written affirmation signed by the representatives of participating private schools. If the representatives do not provide the affirmation within a reasonable period of time, the responsible public agency must forward the documentation of the consultation process to the state education authority (SEA). KAR. 91-40-42b defines a reasonable period of time as 30 days of the date the affirmation was requested.

Complainant Position

The complainant alleges in their systemic complaint that the LEA had predetermined that the proportionate share funding would be allocated to salaries for the staff providing the services to resident students with disabilities at the August 28, 2025 Consultation meeting. They assert that this predetermination is confirmed by an April 18, 2024 email from the LEA's general counsel stating that, "*[LEA] has already determined and allotted all of its federal proportionate share of dollars to resident children attending a private/parochial school located in the [LEA], and so [LEA] has no obligation to and does not provide any services to Missouri students attending a private/parochial school located in the district*' (Appendix A of the complaint)

The complainant alleged that by the time consultation occurred, the LEA had already committed all proportionate share funds to resident students and categorically excluded nonresident students from consideration. As a result, there was no opportunity for meaningful dialogue regarding the services that could be offered to nonresident students in violation of the federal regulations requiring the LEA to jointly discuss the use of proportionate share funds, the services to be provided, and the students to be serviced. The principals of the Catholic private schools stated their input was not solicited and they would like more input into the program design, especially related to where services are provided. When asked to consider the needs of nonresident students, the LEA refused to do so and did not provide a written explanation as required by 34 C.F.R. §300.134(e).

Finally, during the consultation meeting the LEA did not share the child count or the basis for the proportionate share budget or cost for services to allow for meaningful dialogue on how to best use the limited funding available to meet the needs of the group of eligible students. As a result the private school leaders did not sign the affirmation of consultation forms following the 2025 consultation meeting.

Local Education Agency Position

The Local Education Agency responded that an annual consultation meeting was held and all necessary participants and required components as required by the IDEA and Kansas regulations were included. Following the annual meeting an individual meeting with the complainant was held to listen to and discuss the raised concerns. Further, the LEA has 25 private and parochial school partners and only the complainant has raised concerns about the private school participant's role.

Analysis: Findings of Fact

1. The LEA staff stated that the special education and Title programs consultation meeting was announced via email on July 17, 2025 to the complainant and all of the Catholic private schools. For school officials that cannot attend they may receive a recorded copy of the meeting and request follow-up with a special education coordinator. The investigators requested a copy of the audio recording, but the archived timeline had expired and was unavailable to the investigators.
2. The LEA's practice is to combine the consultation meeting for special education with the consultation meeting for the Title programs. The complainant and principals stated that at the August consultation meeting decisions about services were presented for the upcoming school year. The complainant and principals reported the special education consultation occurs first in the meeting and, since they do not have input into how the special education proportionate share funds are spent, most of the meeting time is devoted to the Title programs where the private schools are able to decide how to spend those proportionate share funds.

3. The August 28, 2025 special education Consultation was addressed through six slides. Slide one stated that Federal law requires that children with disabilities in private schools (K-12) be provided an opportunity for participation in special education services, but that the child with a disability in a private school has no individual right to special education or related services at the private school (District picks location) and that the public school district where the private school is located must ensure that a proportionate share of federal funding is used to provide services to this population of children. Slide two listed each of the private schools located in the LEA and the public school partnered for disability and gifted services. Slide three described the legal requirements of the special education consultation, stating "*The private school proportionate share of Title Vl-8 funds is calculated by KSDE. In [LEA], we dedicate all of these funds to pay staff salaries and benefits. As a result, we will exceed the required spending. We could add additional expenses, such as materials expended and cost of transportation*." Slide four presented the required and actual amounts spend during 2023-24, 2024-25 and the required amount for 2025-26. As stated by the complainant the child count and resulting proportionate share calculations were not provided. Slide five listed required child find process aspects to collect during consultation. The slide stated that participant views are requested. Slide six was a screenshot of the General Education Intervention (GEI) summary.
4. The Associate Superintendent of Special Education and Strategic Initiatives explained to the investigator that an error was made at the August 28, 2025 consultation in not explaining how the proportionate share was calculated for all private schools. It was shared with the investigator that the excel spreadsheet provided in a meeting with the complainant (Appendix D of the complaint) served that purpose.
5. Appendix D of the complaint provide the IDEA proportionate share allocation for all private schools budget for three school years as follow $161,030 (2023-24); $163,207 (2024-25); $163,290 (2025-26). The number of private school students determined to be a student with a disability during the preceding school year are also listed for each of the three school years.
6. Following a request from the complainant to meet and discuss concerns and work "first-hand the challenges" the LEA and complainant agreed and they met September 26, 2026 following the August Consultation meeting to address questions and concerns they had. Meeting minutes document the purpose was to discuss "o*ngoing challenges and explore possible solutions regarding the provision of special education services to student attending Catholic schools located in the [LEA] boundaries.*" An action item from the meeting was for the Catholic private schools to gather and provide information on the most common related services needed by students attending their schools to understand and determine ways to better provide support.
7. A second Nonpublic Spring Consultation Meeting is planned for April 28, 2026. The meeting invite was sent out March 11, 2026 by the Facilitator of Federal Programs. The meeting description states it will occur in-person and be informational and focused on Title Grants programs for both current and newly participating schools.

8. The complainant stated this is the first time in memory a second meeting has been held during the same school year. The Associate Superintendent of Special Education and Strategic Initiatives explained this meeting is partly in response to meeting with the complainant in September 2025 to increase involvement of the private schools in the decision making process. Following the April 28, 2026 meeting smaller group meetings are planned for private school staff to gather input and have discussions about 2026-27 school year with the goal of improving the meaningfulness of the consultation.
9. The LEA staff and principals stated that the Catholic private school staff are directed to their public school partner and/or special education coordinators as the "in-district specialist" to answer questions they might have as the consultation meetings are more focused on information dissemination since the meeting covers all federal programs and services available to private schools.
10. The principals state that the child find process has evolved over time in partnership with their partner public schools, rather than through the formal consultation meeting. The five principals contacted wrote that they educate their staff and parents about the child find process based on what they glean from their interactions with the partner public school staff.
11. The LEA has a central coordinating person for requesting evaluations who then funnels the request to the building coordinator to follow through. The five principals/staff providing email responses named a staff person located in the partner public school as the person they would go to for answers to questions.
12. In a clarification conversation with the investigators, SETS staff at KSDE indicated that the consultation with private school representatives was an ongoing process that included not only the consultation meetings usually held at the beginning of each school year or each spring but also through ongoing conversations held between the private school provide all students who are eligible for special education and related services with equitable services through an IEP regardless of whether they reside in the LEA or in another school district outside of the LEA boundaries
13. The LEA staff reported that they first spend the proportionate share funds to provide the required IEP services and then use state and local funds when the proportionate share funds are fully expended to continue to pay for the required IEP services. It was reported that these funds are typically fully expended during October.
14. The LEA staff stated in their interview with the investigators that they provide all Kansas students who are eligible for special education and related services with equitable services through an IEP regardless of whether they reside in the LEA or in another school district outside of the LEA boundaries. The LEA staff reported that they first spend the proportionate share funds to provide the required IEP services and then use state and local funds when the proportionate share funds are fully expended to continue to pay for the required IEP services. The associate superintendent of special education and strategic initiatives stated that this approach results in the funds being fully spent by October and there are minimal funds remaining for the out of state students who do not have IEPs in the LEA

15. An email from the complainant to the Facilitator of Federal Programs dated September 3, 2025 stated,"*I just wanted to let you know that I recommended that our schools do not sign the IDEA/SpEd form until we get clarification from KSDE on how public schools should approach providing services in our schools without a consultation on an individual basis. It is still each school's decision if they want to sign it. The five principals the investigators queried stated that they were instructed to not sign the written affirmation of timely and meaningful consultation until the LEA engaged in discussion about the services and proportionate share funding uses.*"
16. None of the Catholic private school principals attending the consultation signed the written affirmation leading the LEA to provide the attendance sheet and consultation PowerPoint to the KSDE for the 2025-2026 school year.

Conclusion

The IDEA is very clear that representatives of private schools are to be consulted during the design and development of the special education and related services which are to be provided to students with disabilities who are voluntarily enrolled in private schools by their parents. The responsible public agency is to obtain written affirmation from the private school representatives that this timely and meaningful consultation has occurred. It is important to note that the consultation may take the form of an annual meeting or multiple meetings during a school year. Regardless of how the consultation occurs, the IDEA requires that the consultation must address five specific topics.

In this case, USD #512 held one consultation meeting during the 2025-26 school year on August 28, 2025 and the principals from all Catholic private schools attended the meeting. The LEA reported that the written affirmations were not signed by the attendees within 30 calendar days following the August 28, 2025 meeting.

The LEA invited the Catholic private school principals to a second in-person meeting April 18, 2026. The stated intent of the second meeting is to be responsive to the Catholic private schools request for more input about services and use of the proportionate share.

As stated previously, the IDEA requires specific topics be addressed during the special education consultation. The first requirement is to explain the child find process for students attending private schools within USD #512's boundaries. In this case, there is evidence to show that the LEA has a procedure and designated staff for receiving referrals from private schools and that the private school principals are aware of how to make referrals for a special education evaluation for students suspected of having a disability and in need of special education services. While some concerns and varying experiences were found in the practices during the referral process, the LEA is in compliance with federal and state regulations regarding having a child find procedure .. and ensuring the private school representatives ::ir~ aware of that procedure.

The second requirement is to share the amount of proportionate share funds that are available to be spent and how those funds are calculated. In this case there is evidence to support a finding that the LEA did share the amount of proportionate share funds available with the private school representatives. The Associate Superintendent of Special Education and Strategic Initiatives admitted that the LEA did not explain how those funds were calculated based on the private school child count but later remedied that by providing a document that explained it, and therefore, USD #512 is found in compliance.

The third requirement is to have a procedure in place for working with private schools when students are identified as having a disability during the current school year and how those students can access equitable special education and related services. In this case, there is evidence to support a finding that the LEA does have a procedure in place for providing services to private school students who are found eligible for special education and related services. Again, while there are concerns and varying experiences with practices of providing services which will be addressed later in this report, the LEA is in compliance regarding having a procedure in place.

The fourth requirement is to explain the types of services available to private school students with disabilities using proportionate share funds and what will happen to those services when the proportionate share funds are fully expended. In this case, the LEA reported that for Kansas students an IEP is written and free appropriate public education (FAPE) to eligible private school students with disabilities, regardless of where the student resides in Kansas. The LEA stated that proportionate share funds are spent first when funding special education and related services to Kansas students with disabilities in private schools and typically are fully spent during October and proportionate share funds are spent on out-of-state students eligible for special education as funds are available. When these funds are fully spent, USD #512 uses state and local funds to continue to provide FAPE to the Kansas students.

Again, USD #512 is in compliance regarding the requirement to have a plan for the types equitable services available to private school students with disabilities and how to proceed when proportionate share funds are fully expended.

The fifth requirement is to provide a written explanation why the LEA chooses not to provide services as recommended by the private schools. In this case, the complainant and principals made child specific, logistic and LEA practice requests. In all cases it was found that the LEA responded to the complainant, providing an explanation. For the fifth requirement, USD #512 is found in compliance.

Based on the foregoing, *USD #512 is found in compliance* for providing consultation that was timely and meaningful. The associate superintendent of special education and strategic initiates acknowledged that errors were made but amended and corrected during the same school year. Additionally, the LEA is changing practices to provide more opportunities to listen

to and gather input for services provision and use of the proportionate share funds during the current school year. Therefore, no corrective action is ordered.

Component Two

Were the proportionate share funds incorrectly spent on staff time for child find activities, gifted education and administrative costs?

Applicable Law

Federal regulations at C.F.R. §300.131 (d) and Kansas regulations at 91-40-48 state that an agency may use state and federal funds to make personnel available at locations other than at its facilities to the extent necessary to provide special education and related services to exceptional children enrolled in private schools, if those services are not normally provided by the private schools the cost of carrying out the child find requirements, including individual evaluations, may not be considered in determining if an LEA has met its child find obligation for parentally-placed private school children with disabilities.

As stated in 34 C.F.R. § 300.133(a), each LEA is required to spend a proportionate share of IDEA Part B funds on providing special education and related services to children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools in order for the LEA to meet its responsibility for providing equitable services. According to Question 0-1 (page 48) in Office of Special Education and Rehabilitative Services Office of Special Education Programs, Questions and Answers on Serving Children with Disabilities Placed by their Parents in Private Schools Guidance Document, Revised February 2022 an LEA may not use these funds on administrative costs.

34 C.F.R. § 300.8 lists thirteen defined disabilities categories and does not include gifted education. "Giftedness" is not included as a qualifying category under IDEA However, K.S.A 72-3429 requires every exceptional child, including gifted to have an IEP which specifies services, goals and supports.

Complainant Position

The complaint stated that the LEA claims to have spent more than the proportionate share for the past few years. For example, at the August 28, 2025 consultation meeting it was presented that the LEA was required to spend $163,585 for proportionate share, and they actually spend $287,754 on staff time. Given the large amount of funds for staff time and the proportionate share calculation not being provided at the August 28, 2025 consultation meeting the complainant stated a concern that these funds may include staff time for child find activities and administrative costs that are disallowed by IDEA On December 8, 2025 when the complainant requested additional information the LEA provided cost figures in January 2026 that showed that the LEA spent staff time for "GFTSPED" which the complainant interpreted as gifted services. To the extent that this expenditure reflects gifted education the complainant

asserts that gifted services may not be counted toward satisfaction of the IDEA proportionate share obligation, leading the complainant to believe that funds may have been comingled with other federal and local funds.

Local Education Agency Position

As explained in Component One, the LEA's equitable services approach is to provide IEP based services for all Kansas students enrolled at private schools and proportionate share funds for out-of-state students special education services. As such the LEA expends all of its proportionate share funds and then uses general funds for all of the IEP services for Kansas eligible parentally-placed students after that. The document prepared by the LEA was meant to show the complainant all of the resources being provided to the Catholic private schools above and beyond the proportionate share fund expenditures. The presented expenses were not meant to be construed as spendings solely from the proportionate share funds.

Analysis: Findings of Fact

The findings of Component One are incorporated herein by reference.

1. None of the five principals at the schools surveyed or complainant had any specific knowledge or familiarity related to the use of the proportionate share funds being used for staff conducting child find activities, administrative costs, or gifted education.
2. The LEA provides all Kansas students who are eligible for special education and related services with equitable services through an IEP regardless of whether they are reside in the LEA The LEA staff reported that they first spend the proportionate share funds to provide the required IEP services and then use state and local funds when the proportionate share funds are fully expended to continue to pay for the required IEP services. The remaining proportionate share funds provide limited services to out-of-state eligible students enrolled in a Catholic private school.
3. In response to a December 8, 2025 request from the complainant to extract specific information regarding the proportionate share specifically for the Catholic private schools the LEA shared detailed information about how LEA funds are expended for private school students. The LEA staff stated that it detailed how the funds were expended for private school students with disabilities and exceptionalities. The information was meant to show the complainant that the LEA equitable services provided to the private schools exceed what they are required to by federal and state regulation to spend and therefore did not separate where the service was billed, but believe in retrospect that it was not understood, leading the complainant to believe that the proportionate share funds were not properly spent. The LEA response stated, "While there is an allegation about the district counting gifted services as part of their proportionate share, the district intended to share the amount they expend beyond their identified proportionate share. The district is aware that Gifted services are an unfunded required service per KS regulations; the district does not take into account gifted services when calculating proportionate share."

4. The budget manager from the LEA responded to the investigator on March 23, 2026 at 4:12 p.m. replied that the proportional share is allocated solely to cover the salaries of certified staff who deliver required services to the students in private and parochial schools.

Conclusion

The IDEA is clear about how proportionate share funds may be and may not be spent. Those identified in the complaint are not allowed as described IDEA regulation and/or clarified in the revised February 2022 OSEP Q & A document. Confusion about whether the proportionate share funds were used for these activities likely resulted for two reasons. First, as found in Component One, no explanation was provided at the August 2025 consultation meeting as to how those funds were calculated based on the private school child count (proportionate share). Second, the model for providing equitable services in the LEA is to provide IEPs for all Kansas students and limited services for eligible out-of-state students, thereby using all of the proportionate share funds and then tapping into state and local funds. Given this model the LEA did not make a visible distinction when presenting whether the funds expended constituted proportionate share funds or those from the general fund since they are both used in meeting the LEA's equitable service model.

Based on the foregoing, U*SD #512 is found in compliance* and did not incorrectly spend its proportionate share funds on staff time for child find activities, gifted education and administrative costs. Therefore, corrective action is not ordered.

Component Three

Are nonresident students with disabilities who are parentally placed in Catholic private schools denied special education services in the LEA?

Applicable Law

Under federal regulations at 34 C.F.R. §300.13, an elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law. The Kansas state law definition of a private elementary school does not include the education of children prior to kindergarten. As such, children with disabilities enrolled in private preschools are not eligible to receive proportionate share services; instead, these children would receive services from their district of residence through the early childhood special education program for children age three through children age five who are not age-eligible to attend kindergarten.

The Federal regulations at 34 C.F.R. §300.132(a) and Kansas regulations at 91-40-43 require that each public agency provide special education and related services to parentally-placed private school children with a disability in grades kindergarten through grade 1 2.

Both the federal regulations at 34 C.F.R. §300.131 and Kansas regulations at 91-40-43 require the school district where the private school is located to conduct child find activities to ensure students suspected of having a disability and in need of special education and related services are evaluated to determine eligibility. The cost of child find activities cannot be funded by the school district's proportionate share funds.

Both federal regulations at 34 C.F.R. §300.132(c) and Kansas regulations at 91-40-43 require school districts to annually report the number of students enrolled in private schools who were evaluated; the total number of students attending a private school within the school district's boundaries who have been found eligible for a disability under the IDEA; and the total number of students with disabilities who are receiving special education and related services.

While some of the requirements are the same, there are significant differences between the federal law and the state law for how services are provided to these students.

Federal regulations at 34 C.F.R. §300.132(b) require school districts to develop an individual service plan (ISP) for each student with a disability enrolled in a private school within the boundaries of that school district so long as the necessary services are available under the district's equitable services plan developed through consultation with representatives of the private schools and paid for by the district's federal proportionate share funds.

Under federal regulations at 34 C.F.R. §300.137(a), parentally-placed private school students do not have an individual right to receive some or all the special education and related services that the student would receive if enrolled in a public school.

Federal regulations at 34 C.F.R. §300.137(b) allow the school district to make the final decision with respect to the services provided to parentally-placed private school children with disabilities following the consultation with private school representatives.

If a student with a disability is enrolled by their parents in a private school within the school district's boundaries, federal regulations at 34 C.F.R. §300.137(c)(1) require that school district to initiate and conduct meetings to develop, review, and revise the student's ISP.

Federal regulations at 34 C.F.R. §300.139 specify that the services provided to parentally-placed private school children with disabilities may be delivered on the premises of private schools, in a designated school district building, or at a neutral site. The school district, in consultations with private school representatives, determines where special education and related services are provided. In addition, the school district must provide any necessary transportation so private school students with disabilities are able to access the equitable services described in the ISP. However, the school district is not required to provide transportation outside of the school district boundaries.

All Kansas school districts are required to follow both the federal regulations as well as the Kansas regulations. The key difference between the regulations is how equitable services are provided to parentally-placed students with disabilities enrolled in private schools. The Kansas

regulations differentiate between the equitable services which must be made available to parentally-placed private school students with disabilities who are residents of the school district where the private school is located as compared to the equitable services which must be made available to nonresident students with disabilities who are parentally-placed in a private school located within the school district boundaries. In addition, Kansas regulations further specify that the school districts must provide equitable services to gifted children who are residents of the school district and are enrolled in a private school within the school district's boundaries.

Complainant Position

The complainant alleged that nonresident students with disabilities who are parentally enrolled in the Catholic private schools in the LEA are denied special education services because the LEA has adopted a blanket policy excluding nonresident private school students from equitable services. The complainant described an incident in which the LEA informed a Missouri parent that they would need to seek services from the resident public school district. This precluded any consideration of that nonresident student from consideration for equitable services.

Local Education Agency Position

The LEA responded that according to the IDEA, parentally-placed students with disabilities do not have an individual entitlement to receive special education and related services from the LEA in which the private school is located, but they may receive equitable services funded through the IDEA proportionate share. Further, the LEA where the private school is located determines the equitable services offered. Kansas regulations address only Kansas students and provide that Kansas students parentally-placed in a private school located in a different LEA than one in which the child resides may receive individual special education and related services and FAPE from the district of residence or receive equitable services funded through the IDEA proportionate share. During an interview with the LEA staff it was further explained that in meeting the IDEA and Kansas regulations the LEA's practice is to provide services, outlined in student IEPs to all Kansas students enrolled in any Catholic private school located in the LEA boundaries. For students who reside out-of-state the equitable services are fairly limited and funded through the IDEA proportionate share. While the LEA relies of the proportionate share funds for out-of-state and Kansas students who do not reside within LEA boundaries the LEA continues to use state and local funds for the Kansas students, but do not continue services for out-of-state eligible students.

Analysis: Findings of Fact

The findings of Components One and Two are incorporated herein by reference.

1. The complainant defined to the investigators that nonresident students with disabilities are those students with disabilities that reside in Kansas but not in the boundaries of the LEA and students that live out of state (specifically Missouri students).
2. The LEA, complainant and principals reported that the LEA does not use individual service plans for any of the Catholic private schools to provide equitable services to students who do not reside withing the LEA district boundaries.
3. The Associate Superintendent of Special Education and Strategic Initiatives described Equitable services in the LEA for Kansas student residing outside the LEA boundaries are provided guided by an IEP and paid for by proportionate share funds and then local and state funds.
4. The Associate Superintendent of Special Education and Strategic Initiatives stated that when a child with a suspected disability residing out of state is identified through the LEA's child find the parent is told that the either the LEA or the district in which the child resides may conduct the evaluation. The reason to offer this choice is that ultimately an out of state student must seek IEP and FAPE protections at the district of residence and equitable services are fairly limited since the majority of the funds are reserved for Kansas students with disabilities. Due to this, it is often more expedient for the home LEA to conduct the evaluation, write the IEP if found eligible, provide the services than for the LEA to conduct the evaluation, determine eligibility, write the IEP and then provide the IEP to the home LEA to implement.
5. The Associate Superintendent of Special Education and Strategic Initiatives stated that when a Kansas child with a suspected disability residing in an LEA other than the LEA boundaries is identified through the LEA's child find the parent is told that the either the LEA or the district in which the child resides may conduct the evaluation, and if found eligible and write the IEP and provide those services. The reason to offer this choice is that the parents may choose to receive services at the student's home school. Although transportation is not typically provided, it may be a student/parent preference for high school students or those who have a strong home community preference. In the case of a Kansas student attending school in the LEA and attending a Catholic private school in another the LEA will provide the evaluation and provide services at a partner public school with transportation as is done for resident students.
6. The principal described services at School A as determined individually based on the identified goals and transportation is provided to a partner public school for students who reside within the district, but parents provide transportation for students who reside in other districts. The principal stated two parents discontinued IEPs due to the logistics of parents needing to organizing their transportation.
7. The principal at School B reported that student services are provided at partner public schools based on student's level of need. An IEP of a third grader eligible for special education under the category of autism (student one) receives both direct and indirect services. The student receives transportation services to and from the partner public school as written in the IEP. This student resides in a different district. A fifth grader with learning disability as the special education eligibility category lives in another LEA

but attends School B (student two). This student receives direct services. The student receives transportation services to and from the partner public school as written in the IEP.

8. The principal at School C confirmed that students residing outside the LEA boundaries were being served through IEPs and receiving services in the district of residence with parents privately transporting. The distinction provided was that students who live in the LEA were bused to a local public school to receive their special education and related services.
9. The principal at School D reported they have nine Kansas students with IEPs, with four of the students residing outside the LEA's boundaries. They report that for those students their IEPs are "held" within those districts and services are met through in house support plans. In some cases the students were moved to "indirect services" to allow the student to remain at School D without missing school time due to transportation to a partner public school. IEP progress monitoring is done through email communication for collecting data, work samples, teacher feedback and transition documents.

Conclusion

Equitable services are special education and related services, including direct services, provided to parentally-placed private school children with disabilities in accordance with the provisions of IDEA and its implementing regulations in 34 C.F.R. §§ 300.130 through 300.144. Under the IDEA, LEAs have an obligation to provide parentally-placed private school children with disabilities an opportunity to participate in the services funded with IDEA Part B funds. The LEA must make available services to those parentally-placed private school children with disabilities that have been designated to receive equitable services. The amount of IDEA Part B funds is based on the proportionate share calculation. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. 34 C.F.R. § 300.137(a). If a child with a disability who is enrolled in a private school by the child's parents is designated to receive equitable services from an LEA, the LEA must develop, review, and revise a services plan that describes the specific special education and related services that will be provided to the child. See 34 C.F.R. § 300.138(b).

According to the Kansas Special Education Process Handbook, "*The district where the private school is located is not obligated to provide any services to a nonresident child with a disability once it has expended the required proportionate share of funds. The parent of the nonresident child would have to go to the district of residence to request services. The district of residence can offer services in the resident district, but if the parent refuses, the resident school has met its obligation to make FAPE available*."

In this case, the LEA provided equitable services to all Kansas-eligible students special education and related services through an IEP. They allocate their proportionate share funds

first to pay for these services and then use state and local funds to continue paying for the student's services during the school year. The two IEPs examined showed two students enrolled at School B that live in a different LEA but receive IEP services at a LEA partner public school as an example. Principal reported some variation and dependence on parent transportation. The LEA reported it did not use its proportionate share funds for transportation, only staff salaries.

In the case of equitable services to students living in another state enrolled at one of the Catholic private schools the LEA does not write IEPs and provides limited services. While they do and have conducted out-of-state student special education evaluations their practice is to inform the parent that if they want to consider IEP services they may wish to have the evaluation conducted in the home LEA to be fully informed, prior to determining whether to receive limited equitable services at the Catholic private school where the student is enrolled. The LEA stated that equitable services to students is extremely limited due to the limited proportionate share funds and priority to provide IEP services to Kansas students. The associate superintendent of special education and strategic initiatives stated to the investigators that the proportionate share funds are typically spent by October so the LEA's model of equitable services is to prioritize services through an IEP and provide more limited services to out of state students since the services are based on availability of IDEA funding and the needs of the group of private school students. As investigated in Component One it was determined that the consultation was compliant.

Based on the foregoing the LEA is in compliance with providing services to nonresident students with disabilities based on the IDEA and Kansas regulations and the LEA's stated equitable service model. Therefore, no corrective action is ordered.

Component Four

Did the LEA refuse to provide onsite services to resident students with disabilities who are parentally placed in the Catholic private schools?

Applicable Law

Federal regulations at 34 C.F.R. § 300.139(a) state that services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools to the extent consistent with law. The revised February 2022 OSEP Q & A document clarifies that the Department generally believes that, unless there is "*a compelling rationale for these services to be provided off-site, LEAs should provide services on-site, at the child's private school, to not unduly disrupt the child's educational experience*."

34 C.F.R. § 300.137(b) provides more guidance on making the decision by stating that after timely and meaningful consultation and giving due consideration to the views of the private

school officials, the LEA makes the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.

Complainant Position

The complainant asserted that the LEA refused to provide onsite services to eligible students at Catholic private schools in spite of U.S. Department of Education's recommendation that onsite services be provided "unless there is a compelling rationale' for offsite service so as not to "unduly disrupt the child's education experience." However, the LEA was not open to considering onsite services and stated that services could be delivered only at the public schools and was not discussed at the consultation before the decision was made.

Local Education Agency Position

The LEA states in its LEA response that it considers service location through consultation and the development of plans for service delivery. The district serves 25 different private parochial schools. For efficiency of services and the number of students served, the district has provided services on-site. The district also provides transportation to and from the private parochial schools as well as works with the student team to determine the least disruptive time for services to occur.

Analysis: Findings of Fact

The findings of Components One through Three are incorporated herein by reference.

1. Slide thirteen of the August 28, 2025 consultation PowerPoint lists that "How and where special education and related services will be provided for parentally placed private school children with disabilities" is one discussion point of the consultation.
2. Some of the Catholic private school principals stated that arranging services around class schedules can be challenging, but in their survey responses to the investigators did not request onsite services. Many stated they did not think it was an option or permitted.
3. The associate superintendent of special education and strategic initiatives stated that transporting the eligible students to partner public schools has been the model the LEA has adopted to serve students.

Conclusion

Under 34 C.F.R. §300.139(a), services may be provided on private school premises when consistent with law; however, IDEA does not require onsite delivery. An offer to provide services at the public school site generally meets a school district's obligations, even if parents refuse the services at that site. It was determined in Component One that the LEA was in compliance with meaningful and timely consultation as the LEA met this obligation for the school year. As described in the conclusion of Component One the LEA is meeting in small groups to collect input from the school officials and may be considered as a delivery option.

Based on the foregoing, ***the LEA is in compliance*** not providing onsite services to eligible Catholic private school students during the school year and no corrective action is ordered.

Component Five

Did the LEA conduct a proper child count with respect to students enrolled in the Catholic private schools resulting in errors in the proportionate share calculation?

Applicable Law

Under 34 C.F.R. §300.131 and Kansas regulations at K.A.R. 91-40-42, each responsible public agency must conduct child find activities to locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located within the school district's boundaries. The design of the child find activities must ensure the equitable participation of the parentally-placed private school children and result in an accurate count of these children. The child find activities must be similar to those for public school children regardless of whether the student resides in another school district within the state or resides outside of the state. Procedures for conducting child find activities are determined following the timely and meaningful consultation with private school representatives.

Federal regulations at 34 C.F.R. §300.132(c) requires each responsible public agency to annually submit data to the SEA related to the responsible public agency's records of:

a) the number of parentally-placed private school children evaluated each school year,
b) the total number of parentally-placed private school children determined to be children with disabilities within the school district's boundaries, and
c) the number of parentally-placed private school children who receive equitable services.

Federal regulations at 34 C.F.R. §300.133(b) describe the process for calculating the proportionate amount of federal funds to be used for delivering equitable services for parentally-placed private school children with disabilities. K.A.R. 91-40-42(b)(1) requires every responsible public agency to provide the state education authority with a count of the number of parentally-placed private school children with disabilities attending private schools located in the boundaries of the responsible public agency based upon data collected and maintained by the responsible public agency the last Friday in October or December 1 of each school year. This annual private school child count must be used to determine the amount of federal funds that the responsible public agency must spend on providing special education and related services to parentally placed private school children with disabilities during the next fiscal year.

Federal regulations at 34 C.F.R. §300.133(d) state that responsible public agencies may choose to use state and local funds to supplement, but in no case supplant, the proportionate amount of federal funds required to be expended for parentally-placed private school children with disabilities as described in the equitable services plan.

Complainant Position

The complainant alleges in the systemic complaint that they are concerned that the LEA is not including nonresident students in the child count causing the proportionate share calculation to be inaccurately low. The complainant also reported that, based on a review and comparison of their data discrepancies were found between the LEA's private school child count and the data from each of the schools. They noted that the LEA count included three Catholic private schools which are not in the LEA boundaries.

Local Education Agency Position

The LEA responded in their February 27, 2026 response that their child count includes students who are determined eligible for special education under IDEA and are parentally enrolled in private schools located within the LEA boundaries, regardless of the student's home residence. Eligibility determinations are made through Child Find procedures, and the district maintains documentation of referrals, evaluations, and eligibility determinations supporting the count. The LEA has not received any information from KSDE that the submission of data was inaccurate. Further, the LEA states that they submit child count data through the KSDE reporting systems and maintain documentation supporting the count methodology. Differences among district counts and counts maintained by the private school systems may reflect different inclusion criteria and do not indicate inaccuracies in the LEA's child count.

Analysis: Findings of Fact

The findings of Components One through Four are incorporated herein by reference.

1. The LEA maintains a record of all LEA students with IEPs in Skyward. Each student that is enrolled in a Catholic private school is checked as attending a private/parochial school. Two IEPs provided to the LEA showed this designation and the home address was outside the LEA boundaries.
2. Students included in the child count are entered into SpedPro/KidPro in the KSDE system and assigned a unique number in the state that flags any discrepancies.
3. The LEA provided the individual submissions from Schools B, C, D, E, F, and G and the times they were recorded that were summed with the other LEA private schools to make up the child count submissions to KSDE for the 2025-2026 school year
4. The LEA has a staff person whose responsibility it is to input child count and reconcile any discrepancies in between Skyward and SpedPro to ensure the numbers are accurate.
5. The LEA provided information about the 22 students that were reported as evaluated as 20 were students who resided in the LEA and two resided in a neighboring LEA During the 2025-2026 school year no out-of-state evaluations were conducted for students referred from the Catholic private schools.

6. Two evaluations provided by the district are for students at School B that reside outside the LEA boundaries and were conducted by the LEA The associate superintendent of special education and strategic initiatives reported that these evaluations were reported for the 2025-2026 school year.
7. The complainant and investigators discussed during their interview that students younger than aged 5 are not reported in the 5-21 child count and may be inadvertently included in the complainant numbers of students.

Conclusion

Under 34 C.F.R. §300.132(c) the LEA is required to annually submit a) the number of parentally-placed private school children evaluated each school year, b) the total number of parentally-placed private school children determined to be children with

disabilities within the school district's boundaries, and c) the number of parentally placed private school children who receive equitable services to the KSDE. The KSDE has established a form and training manual to ensure accuracy of the child count. In this case the LEA described procedures and a system of checks and balances within the LEA to guide accurate data collection. The LEA provided their data sources from multiple schools and evaluations to show how the data are compiled.

Accurate child count data is prerequisite for computing proportionate share funds. In this case it is found that the procedures and supporting data suggest that the child count data are accurate and as described in the Component One findings the LEA did explain the proportionate share to the complainant when correcting the earlier omission. For these reasons it is found that the LEA did conduct a proper child count with respect to students enrolled in the Catholic private schools and there is not reason to suspect errors in the proportionate share calculation. Therefore, no corrective action is ordered.

Component Six

Did the LEA require RTI before conducting a special education evaluation for students with a suspected disability enrolled in the Catholic private schools?

Applicable Law

According to 34 C.F.R. §300.131 (a) each LEA must evaluate all children with disabilities who are enrolled by their parents in private schools located in the school district served by the LEA as part of their child find requirements. Further, when carrying out that requirement, the LEA must undertake activities similar to the activities undertaken for the agency's public school children (34 C.F.R. §300.131 (c)).

K.A.R. 91-40-7(c)(3), expressly authorize districts to evaluate a child without going through any GEI if the child's parents consent to an evaluation and the school agrees that an evaluation is appropriate.

Complainant Position

The complainant alleged that the LEA "imposed a requirement that parentally placed private school students participate in General Education Intervention (GEI) ... as a condition of initiating an evaluation for special education eligibility. They allege this is a new practice and have told this required by several of the LEA staff who have been working with the schools for several years.

Local Education Agency Position

The LEA responded that while the LEA may review RTI (General Education Interventions or GEI) data as part of its problem-solving process, they do not require GEI nor use it to delay or deny an evaluation. They further state that they regularly consult with staff at private schools and parents of private school children with disabilities on how to best locate, identify and evaluate students who may have disabilities using methods comparable to those used for children in public schools in the LEA.

Analysis: Findings of Fact

The findings of Components One through Five are incorporated herein by reference.

1. The LEA stated that the GEI approach has been used in the public schools for a long time but not consistently used with the private and parochial schools. The LEA staff stated that an emphasis was made during the 2025-2026 school year to extend GEI practices to the private and parochial schools to ensure that comparable services were offered in both locations. The staff stated that is likely why school staff stated it was now required with the schools, but that is not true. There are some cases is which a special education evaluation should not be delayed by the use of GEI and that is true with a student at the public schools as well as a private and parochial school.
2. The GEI requirement is also reflected in Shawnee Mission's August 2025 consultation materials (slide 15), confirming that this practice is systemic.
3. In a November 13, 2025, email from a speech-language pathologist working with School A explained that the LEA's special education coordinators had 'recently instructed' staff to begin GEI speech services for initial evaluation for private school students, a process already used with public school students. The email went on to explain the process and timelines for using GEI practices.
4. An October 24, 2025 email from a LEA speech-language pathologist working at School E documented that a kindergarten teacher was required to complete multiple pre-evaluation screening tools and collect weeks of data collection before an evaluation for the student was considered. In an email dated November 13, 2025 the principal at School E alerted the complainant of this situation.
5. Staff at School A stated that they have a robust multi-tiered intervention system in place that includes both push-in and pull-out models and students are monitored regularly for progress. For academic concerns, the school team never reaches out to the partner

public school for evaluation unless they have already provided significant interventions and they have not been effective. They report parents may reach out and have in the past.

6. The principal at School E summarized a meeting regarding a sixth-grade student with dyslexia that the school would need to demonstrate that the student "did not make progress while receiving frequent and intensive' interventions-described as four days per week for 20-30 minutes per session, typically over a six-to-eight-week period."
7. The principal at School C stated that the partner public school is timely in reaching out after a referral is made and GEI services take place in the student's own classrooms the School C school, by student's familiar teachers.

Conclusion

The KSDE encourages the use of a multi-tiered system of supports for all children, encompassing school-wide support for both academic and behavioral competency. A GEI process is one of those multi-tiered systems preceding an initial evaluation that is available to assist in determining the specific concerns and needs of their child. While child find is required by special education law, GEI is one of Kansas' method of conducting child find for school age children. The Kansas Special Education Process Handbook also describes circumstances; it would not be necessary to begin with the GEI process before referring the student for an initial evaluation. This would most likely occur in an instance where a student with an obvious disability has not been identified previously or in situations in which it would be inappropriate to delay further evaluation to determine the student's need for special education.

The IDEA and Kansas regulations require that an LEA use the comparable evaluation procedures for the private schools as are used in the public schools. In this case the LEA has adopted the use of GEI as a step to gather additional data in consideration of a special education evaluation. While partner public staff misspoke in suggesting that the LEA's attempt to move the public practice of GEI to the private schools as "required" it is not. Examples were not provided by the LEA or complainant of a student being denied a special education evaluation while GEI was ongoing. While the process for GEI can be lengthy and there were certainly experience reported whereby the logistics of completing the paperwork and coordination of reviewing and using the data were frustrating they did not constitute a denial.

Therefore, *the Local Education Agency is in compliance* and did not require RTI before conducting a special education evaluation for students with a suspected disability enrolled in the Catholic private schools. Therefore, corrective action is not required.

Summary of Conclusions/Corrective Action

Although only one issue was investigated, there were three components of that issue. During the course of the investigation, it was determined that the findings of fact and conclusions would be presented for each component in an effort to provide a framework for both parties

to review and consider each of these interrelated components as they relate to the overarching issue presented by the complainant. Therefore, a summary of conclusions and correction action are also presented below for each of the three components.

COMPONENT ONE: A violation of 34 C.F.R. §300.134 and 34 C.F.R. §300.135 was not found. Corrective action is not required.

COMPONENT TWO: A violation of C.F.R. §300.131 (d), C.F.R. §300.133(a), and C.F.R. §300.8 was not found. Corrective action is not required.

COMPONENT THREE: A violation of 34 C.F.R. §300.131, 34 C.F.R. §300.132, 34 C.F.R. §300.137, and 34 C.F.R. §300.139 was not found. Corrective action is not required.

COMPONENT FOUR: A violation of 34 C.F.R. 34 C.F.R. §300.139(a) and 34 C.F.R. §300.137(b) was not found. Corrective action is not required.

COMPONENT FIVE: A violation of 34 C.F.R. §300.131; 34 C.F.R. §300.132 and 34 C.F.R. §300.133 was not found. Corrective action is not required.

COMPONENT SIX: A violation of C.F.R. §300.131 was not found. Corrective action is not required.

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 512
Shawnee Mission Public Schools: 26FC512-013

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on February 11, 2026 by Dr. Lorenzo Rizzi, Associate Superintendent - Student Services, at the Office of Catholic Schools for the Archdiocese of Kansas City. In the remainder of this decision, Dr. Rizzi will be referred to as "the complainant." USO 512 will be referred to as the LEA.

An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on March 24, 2026. That Complaint Report concluded that there were no violations of special education statutes and regulations

Thereafter, the complainant requested an extension of time to submit an appeal as the investigator's report was issued on the eve of Holy Week surrounding Easter. That request for extra time was granted. The appeal of the complaint report was filed on April 15, 2026. Upon receipt of the appeal, the LEA was notified and given ten days to respond to the appeal. An appeal committee was appointed and it reviewed the original complaint filed by the complainant, the Complaint Report, the complainant's notice of appeal, and the Local Education Agency (LEA) response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51 (f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

Issues Investigated

Did the LEA follow state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) for children parentally-placed at the Catholic private schools by their parents specific to: (1) providing special education services to nonresident students, (2) reporting accurate child count data and calculating proportionate share funds following child find activities, (3) planning and conducting the consultation meeting, (4) providing onsite services to resident students with disabilities, and (5) responding to requests for special education evaluation?

The report states that only one issue was presented in this complaint but that there were six "component parts" of that single issue (Report, p. 5). The report concluded that there were no violations of law and so no corrective actions were ordered. We will address each component part as the conclusions all six concerns were appealed by the LEA

Component One

Was the LEA's Consultation timely and meaningful?

The pertinent regulation Is 34 C.F.R. 300.134, which begins with:

> To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the Following ... "

Central to this issue is that the term "consult" is not defined in either the relevant statute or regulation. The common meaning of the word "consult" is: "To seek guidance or information from" or "to refer to for information." Webster's Random House Dictionary, (2nd Edition 1999).

In Questions and Answers on Serving Children With Disabilities Placed by Their Parents in Private Schools, 122 LRP 7109 (OSERS 2022), the Office of Special Education Services (OSERS) posed two questions related to this issue (Relevant parts of OSERS responses are included).

> Question B-1: What is consultation?
>
> Answer: Consultation is a mandatory process that involves discussions between the LEA, private school officials, and representatives of parents of parentally placed private school children with disabilities on key issues relating to the equitable participation of eligible private school children with disabilities in Federally-funded special education and related services."

Consultation must be an ongoing process, not solely an annual meeting. See 34 C.F.R. § 300.134(c). Timeliness is critical to effective consultation and requires collaboration between the LEA and private school officials in developing a timeline and selecting dates for consultation.

A unilateral offer of services by an LEA with no opportunity for discussion is not adequate consultation, as such an offer does not meet the basic requirements of the consultation process. Only after discussing key issues relating to the provision of special education and related services with all representatives may the LEA make its final decisions with respect to the services to be provided to eligible private school children with disabilities.

Question B-2: What constitutes meaningful consultation?

Answer: IDEA does not specify what constitutes "meaningful consultation," but in order for consultation to be meaningful, it must be timely and ongoing throughout the school year. See 34 C.F.R. §§ 300.134 and 300.134(c). Establishing a timeline for consultation can help ensure that timely and meaningful consultation occurs throughout the school year. The timeline can include meeting dates and times as well as topics to be discussed. As there is no specific schedule for consultation, States and LEAs are able to determine the appropriate period between consultation discussions based on circumstances in their jurisdictions. The needs, number, and location of parentally-placed private school children with disabilities may vary over time, depending on the circumstances in a particular LEA in a particular year.

In Question D-1 OSERS adds:

Question D-1: What is the process for making decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities?

Answer: Timely and meaningful consultation must occur before any decisions are made that will affect the participation of parentally-placed private school children with disabilities in IDEA Part B programs. 34 C.F.R. § 300.134. Thus, decisions about services may not be made in advance or in the absence of timely and meaningful consultation. After timely and meaningful consultation has occurred with private school representatives and representatives of parents of parentally-placed private school children with disabilities, the LEA where private elementary schools and secondary schools are located is responsible for making final decisions about all aspects of the services to be provided to parentally placed private school children with disabilities attending private schools located in the LEA 34 C.F.R. § 300.137(b).

If the LEA disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the LEA

must provide to the private school officials a written explanation of the reasons why the LEA chose not to accept the recommendations of the private school officials. 34 C.F.R. § 300.134(e). (See Question B-9 for options available to private school officials to resolve concerns regarding the consultation process.)

Question H-5: When making a determination regarding the services that an LEA will provide to children with disabilities placed by their parents in private schools, could an LEA decide to provide services only to students from their LEA or their State?

Answer: No. Although LEAs have discretion to determine how the proportionate share of IDEA Part B funds will be expended so long as the consultation requirements in 34 C.F.R. § 300.134 are followed for all parentally-placed private school children, LEAs cannot unilaterally determine, prior to or in the absence of the timely and meaningful consultation process, that the proportionate share of Part B funds for equitable services can only be expended to meet the needs of children who are residents of that LEA or State.

From this lengthy description, we discern from OSERS analysis that consultation is discussion. That interpretation is consistent with the dictionary definition of the term "consult." Meaningful is also an undefined term, but OSERS opines that "to be meaningful, the discussion must be timely and ongoing throughout the school year."

In short, meaningful consultation requires "timely and ongoing discussion" throughout the school year. It does not require a school district to adopt any proposal made by a private school, regardless of how reasonable a private school may consider its proposal to be.

20 U.S.C. 1412(a)(1 0)(A)(iii) and 34 C.F.R. 300.134 require meaningful consultation with private schools based on the assumption that an LEA will have at least one child with a disability enrolled by their parents in a private school that is located within the boundary of the LEA If there is no private school within the boundary of an LEA the LEA has no obligation to consult or to spend any portion of its federal subgrant to provide any service under this provision. Accordingly, the consultation (discussion) requirement arises when an LEA does have a private school located within its district and there is at least one child with a disability attending that private school. In that instance there is an obligation for the LEA to spend a proportionate share of its subgrant under section 611 (f) on those children. One way to do that is to develop a "services plan" pursuant to 34 C.F.R. 300132(b) to provide services to one or more students until the proportionate share is exhausted, at which time all services may end.

Federal regulations at 34 C.F.R. 300.137(a) clarify that there is no individual right of any student to receive any service under a services plan and (b)(2) the LEA makes "the final decisions with respect to the services to be provided ... " In addition, Kansas state law provides children with disabilities

who are enrolled by their parents in a private school with far more than the meager spending of a proportionate share of federal funds.

K.S.A. 72-3462, in pertinent part, states that

> *Every school district **shall provide special education services** for exceptional children who reside in the school district and attend a private, nonprofit elementary or secondary school, whether such school is located within or outside the school district, **upon request of a parent or guardian** of any such child for the provision of such services. **No school district shall be required to provide such services outside the school district.** Any school district may provide special education services for exceptional children who attend a private, nonprofit elementary or secondary school located within the school district, whether or not all such children reside in the school district. Special education services which are provided under this section for exceptional children who attend a private, nonprofit elementary or secondary school which is located in school district may be provided in the private, nonprofit elementary or secondary school or in the public schools of the school district. **The site for the provision of special education services under this section for an exceptional child shall be determined by the school district in consultation with the parent or guardian of the child and with officials of the private, nonprofit elementary or secondary school.** Special education services provided under this section for exceptional children who attend a private, nonprofit elementary or secondary school are subject to the following requirements: (a) If the services are provided for in the private, nonprofit elementary or secondary school, amounts expended for the provision of such services shall not be required to exceed the average cost to the school district for the provision of the same services in the public schools of the school district for children within the same category of exceptionality; (b) if the services are provided for in the public schools of the school district, the services shall be provided on an equal basis with the provision of such services for exceptional children attending the public schools; and (c) if the services are provided in the public schools of the school district, transportation to and from such public school shall be provided by the school district. (Emphasis added).*

These services are provided with an IEP, not a services plan (K.AR. 91-40-45(c)). Each identified child attending a private school has an individual right to receive all of the services in the child's IEP (K.S.A 72-341 0(a)(2).

K.S.A 72-3462 has the same consultation requirement as federal law. Like federal law, it says after consultation, "the site for the provision of special education services under this section for an exceptional child shall be determined by the school district." There is nothing in either federal or state law that requires any substantive standard which LEAs must apply when determining the site for services. The only requirement is meaningful consultation: discussion that is timely and ongoing throughout the school year.

The evidence presented in this complaint and explained in the complaint report supports the investigator's finding that there was more likely than not a timely and ongoing discussion between the parties throughout the school year about how services will be provided to children with disabilities attending a private school. To the extent these discussions may appear to lack meaningfulness to officials of the private schools, that appearance is at most, a procedural and not a substantive defect. That is so because the LEA makes available all of the special education and related services in an IEP to all of these students attending a private school located in the district merely upon request. There is no credible evidence that any eligible student attending a private school in this LEA, who requests services, has been denied services.

With regard to out-of-state students attending a private school in Kansas, they belong in the consultation requirement but they have no individual right to receive any special education services under either federal or state law, unless there are unspent federal proportionate share funds, which is not applicable to this complaint.

The evidence presented supports the LEA contention that its consultation process occurs every year and more often when requested. The issues remain largely the same year after year. With a long history of evaluating strategies for this group of children, an LEA is not required to enter the consultation process pretending it has no idea how it is going to evaluate and provide services to children enrolled in private schools.

The consultation process is much less than the "participation" process that parents enjoy when participating in an evaluation or in an IEP meeting for their child. Nevertheless, even when parents are participating in an evaluation or IEP process, school personal can prepare for proposals they suspect may be made at those meetings and arrive at those meetings with their own understanding of the issues that might arise (see 34 C.F.R. 300.501 (b)(3)).

In Deal v. Hamilton Cty. Bd. Of Ed., 104 LRP 59544 (6th Cir. 2004) the court said that team members may come to meetings with pre-formed opinions as long as they are willing to listen and have open minds. However, when an educational program is predetermined (no amount of information will change the determination of the team), a violation of FAPE occurs because it deprives parents of meaningful participation in the IEP process. Also see the same analysis in: R.L. v. Miami-Dade County Sch. Bd., 114 LRP 30126 (11 th Cir. 2014), and I.P. v. City of New York Dept. of Ed., 71 IDELR 77 (2d Cir. 2017).

What may appear to officials of private schools to be predetermination may appear to officials of public schools to be the benefit of experience. One does not usually reflect on repetitive tasks before proceeding as usual. Likewise, this consultation process does not require LEAs to reconsider each year how it will proceed with evaluations and services with a blank mind, as if it had never previously considered the issues.

The consultation process does require LEAs to have discussions and be open to questions and proposals as to options that would be more beneficial to students or are more financially beneficial or practical to public schools than previous practices. The evidence does not support a conclusion that "no amount of information will change the determination" of these school officials going forward. The complainant does not provide a single incidence in which the LEA has denied a request from the complaint without discussion and where that request is clearly more beneficial to the LEA

In the conclusion portion of the report on this component, the investigator concluded that the district held a consultation meeting on August 28, 2025 and a follow-up meeting on April 18, 2026 that included all five of the topics described in 34 C.F.R. 300.134. With regard to the April 18, 2026 meeting, the report says, "The stated intent of the second meeting is to be responsive to the Catholic private schools request for more input about services and use of the proportionate share."

Were these consultations meaningful?

There was nothing to indicate that the LEA refused to even consider the private school proposals, moving forward. The LEA serves students enrolled in 25 private parochial schools located within the district's boundaries. Each year LEAs engage in extensive planning for the coming school year. That planning must be completed before school begins each year. It is largely impractical to

change plans for a school year when that school year is about to start or is already in progress. The requirement for timely and meaningful consultation is to "consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children ... " The design and development of special education and related services for the children does not take place on August 15 of each school year. It has to take place well in advance of each school year. When consultation does take place, the discussions need to be meaningful at the time they take place. Typically, that means the consultation consists of a discussion of how the design and development of special education and related services for the children in private schools will be structured for the next school year.

In its appeal, the complainant asserts that after the consultation session on August 28, 2025 private school representatives did not understand how nonresident students, including out-of-state students, could participate in child find and receive equitable services. From this fact, the private complainant concludes as follows:

> *This confusion goes to the core of IDEA's consultation requirements.*
> *Consultation must ensure that private school representatives have a meaningful opportunity to understand and provide input on how child find and services operate in practice. Where participants leave consultation without understanding how an entire category of eligible*

> *students is identified, referred, and served, consultation cannot be considered meaningful under IDEA*

While the Appeal Committee agrees that LEAs strive to provide a clear delivery of content and information that minimizes questions, it sees no requirement under 34 C.F.R. § 300.134 that all participants leave a consultation meeting fully informed and without any questions. That could not possibly be a reasonable interpretation of the term "consultation" or even of "meaningful interpretation."

There is nothing in this complaint that indicates that when these consultations occurred, the LEA refused to "discuss" concerns expressed by the private school officials regarding the design and development of special education and related services for the future. In this instance, when the private school officials expressed a desire for additional consultation, the LEA scheduled an April 18, 2026 meeting, about which the report says, "The stated intent of the second meeting is to be responsive to the Catholic private schools request for more input about services and use of the proportionate share." The complainant asserts that this demonstrates non-meaningful consultation because the school year is already more than half over misses the point that consultation is always prospective, not retrospective. Consultation refers to "discussions" about future processes.

The Appeal Committee finds that there is sufficient evidence to support the conclusion of the investigator on this component.

Component Two

> Were the proportionate share funds incorrectly spent on staff time for child find activities, gifted education and administrative costs?

The complainant's allegation is that the report relied on the LEAs assertions rather than a review of "accounting records, expenditure ledgers, payroll allocations, or other documentation sufficient to determine what costs were included in the "GFTSPED" category or whether those costs were allowable under IDEA"

LEA responded as follows:

> *In attempting to explain how the proportionate share funds are expended, the district provided financial information indicating that its spending on services actually exceeds what is required by law. The district did not separate where the services were billed, which led to the Archdiocese's belief that the funds were not properly spent. The district's intention was merely to show the amount expended beyond its proportionate share. Gifted services are an unfunded required service under state regulations, and the district does not take those services into account when calculating proportionate share. Therefore, the Archdiocese's position that proportionate share funds were*

misused cannot stand, and KSDE properly reviewed and investigated the evidence provided in making its determination according to 34 C.F.R. § 300.133.

In this component the investigator made the following findings:

1. None of the five principals at the schools surveyed or complainant had any specific knowledge or familiarity related to the use of the proportionate share funds being used for staff conducting child find activities, administrative costs, or gifted education.
2. The LEA provides all Kansas students who are eligible for special education and related services with equitable services through an IEP regardless of whether they reside in the LEA The LEA staff reported that they first spend the proportionate share funds to provide the required IEP services and then use state and local funds when the proportionate share funds are fully expended to continue to pay for the required IEP services. The remaining proportionate share funds provide limited services to out-of-state eligible students enrolled in a Catholic private school (the Appeal Committee presumes this means if there are any remaining funds).
3. In response to a December 8, 2025 request from the complainant to extract specific information regarding the proportionate share specifically for the Catholic private schools the LEA shared detailed information about how LEA funds are expended for private school students. The LEA staff stated that it detailed how the funds were expended for private school students with disabilities and exceptionalities. The information was meant to show the complainant that the LEA equitable services provided to the private schools exceed what they are required to by federal and state regulation to spend and therefore did not separate where the service was billed, but believe in retrospect that it was not understood, leading the complainant to believe that the proportionate share funds were not properly spent. The LEA response stated, "*While there is an allegation about the district counting gifted services as part of their proportionate share, the district intended to share the amount they expend beyond their identified proportionate share. The district is aware that Gifted services are an unfunded required service per KS regulations; the district does not take into account gifted services when calculating proportionate share.*"
4. The budget manager from the LEA responded to the investigator on March 23, 2026 at 4:12 p.m. replied that the proportional share is allocated solely to cover the salaries of certified staff who deliver required services to the students in private and parochial schools.

From these facts, the investigator concluded that the LEA, in accordance with state law, provides services, upon request, through an IEP (as opposed to a services plan) for all special education Kansas students attending a private school, and limited special education services for eligible out-of-state students pursuant to federal law. In doing so, the investigator found that all of the LEAs proportionate share funds were expended on children with disabilities (not including gifted

students). When those funds were expended, the LEA used state and local funds to continue providing services to those children throughout the remainder of the school year. Given this model, the investigator found that while the LEA did not make a visible distinction when presenting whether the funds expended constituted proportionate share funds or those from the general fund, they did exhaust all of the federal proportionate share funds.

While the report did not cite "accounting records, expenditure ledgers, [or] payroll allocations," it did state, in finding three, that In response to a December 8, 2025 request from the complainant to extract specific information regarding the proportionate share specifically for the Catholic private schools the LEA shared detailed information about how LEA funds are expended for private school students. The LEA staff stated that it detailed how the funds were expended for private school students with disabilities and exceptionalities. The information was meant to show the complainant that the LEA equitable services provided to the private schools exceed what they are required to by federal and state regulation to spend."

This finding shows that the district did present supporting documentation to the investigator. In any event, all of these children with a disability attending a private school in Kansas have an individual right to receive all of the services in their IEPs throughout the school year, merely upon request. This right under Kansas law dwarfs the proportionate share of federal funds spending requirement under federal law. By complying with state law school districts meet and exceed the spending requirements of federal law. Nothing presented by the complainant in this appeal of component two produces any doubt in the Appeal Committee that the private school has spent significantly more than its proportionate share of federal funds on these private school children. The extraordinary additional burden to provide a free appropriate public education (FAPE) to private school children with disabilities through an IEP in Kansas schools under state law is such that there could not be any other reasonable conclusion.

The complaint report is sustained on this component.

Component Three

Are nonresident students with disabilities who are parentally placed in Catholic private schools denied special education services in the LEA?

In this component, the investigator concluded that:

> *In this case, the LEA provided equitable services to all Kansas-eligible students special education and related services through an IEP. They allocate their proportionate share funds first to pay for these services and then use state and local funds to continue paying for the student's services during the school year (Report, p. 20)."*

This conclusion is supported by the factual findings in the report, except to the extent that the services provided are referred to in the report as equitable services.

Equitable services are services provided to private school students through a "services plan" (34 C.F.R. 300.132(b)). These "equitable services" are funded through a proportionate share of the IDEA subgrant. When that proportionate share of federal funding is exhausted, the LEA has no continuing obligation, under federal law, to provide any additional services to this group of students. Under this federal provision, an LEA could choose to spend its entire proportionate share of federal funds on one student alone or to all such students until the funds are spent and then end all services to all of these students attending a private school (see 34 C.F.R. 133). Accordingly, "No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school (34 C.F.R. 300.137(a)).

This LEA, however, does not use a "services plan" for any of these students. Instead, it provides special education services to this population of students through an IEP that offers an individual right to a full free appropriate public education (FAPE) throughout the school year. The LEA makes this available to all of the Kansas resident students that attend the private school, upon request. In accordance with state law at K.S.A. 72-3462 when an LEA is providing special education to resident students attending a private school located within the LEA, the LEA determines the site for services.

USD 512 goes beyond even this expanded FAPE provision to include a FAPE offer to non-resident Kansas students attending a private school that is located in the district, though not to out-of-state students. Out of state students would be eligible only for equitable services if there was any remaining proportionate share of federal grant funds. Because of the generous additional FAPE entitlement under Kansas law that provides a year-long individual right to a FAPE through an IEP for these Kansas students in a private school, the proportionate share of federal grant funds is quickly expended.

There was no finding in the complaint report or evidence in the private school's appeal that, when requested, services through an IEP were denied to any student. There may have been instances where a student residing outside the state was denied equitable services under a services plan because the proportionate share of federal grant funds had already been allocated. Accordingly, there is sufficient evidence to support the conclusion in the complaint report on this issue.

Component Four

Did the LEA refuse to provide onsite services to resident students with disabilities who are parentally placed in the Catholic private schools?

In its appeal, the complainant cites the district's Consultation Presentation, Slide 10, which says, "District picks location." The complainant's appeal asserts that "This statement reflects a predetermined position that services would be provided only at public school sites."

The Appeal Committee disagrees with this analysis. The statement in question merely mirrors the Kansas statute at K.S.A. 72-3462 that says when public schools offer a FAPE through an IEP to students attending a private school the public school determines the site for services. There is nothing in "District picks location" that could be interpreted to mean the location is always at the public school. It is likely correct that a public school would have to perceive some additional benefit to providing services at the private school as opposed to the public school, and that the burden of persuasion might legitimately on the private school. There are expenses to providing services at the public school, transporting students to and from services being a significant expense. So, there is room for discussion but the final decision under both federal and state law is reserved to the public school. The private school has not asserted in this appeal that it made a proposal for services to be provided at the private school that was clearly more beneficial to the party making the decision - the public school, and was nevertheless rejected without the opportunity to discuss the proposal.

The conclusion in the report is sustained on this issue.

Component Five

Did the LEA conduct a proper child count with respect to students enrolled in the Catholic private schools resulting in errors in the proportionate share calculation?

The complainant's appeal states that "The report relies on the existence of procedures to conclude that the LEA satisfied its obligations. However, the accuracy of the child count depends not on the existence of procedures, but on whether all eligible students were identified and included." The complainant asserts that the data used by the public school is inaccurate.

That description does not accurately describe the findings in the report in this component. Those findings are as follows:

1. The LEA maintains a record of all LEA students with IEPs in Skyward. Each student that is enrolled in a Catholic private school is checked as attending a private/parochial school. Two IEPs provided to the LEA showed this designation and the home address was outside the LEA boundaries.
2. Students included in the child count are entered into SpedPro/KidPro in the KSDE system and assigned a unique number in the state that flags any discrepancies.
3. The LEA provided the individual submissions from Schools B, C, D, E, F, and G and the times they were recorded that were summed with the other LEA private schools to make up the child count submissions to KSDE for the 2025-2026 school year
4. The LEA has a staff person whose responsibility it is to input child count and reconcile any discrepancies in between Skyward and SpedPro to ensure the numbers are accurate.
5. The LEA provided information about the 22 students that were reported as evaluated as 20 were students who resided in the LEA and two resided in a neighboring LEA During the

2025-2026 school year no out-of-state evaluations were conducted for students referred from the Catholic private schools.

6. Two evaluations provided by the district are for students at School B that reside outside the LEA boundaries and were conducted by the LEA The associate superintendent of special education and strategic initiatives reported that these evaluations were reported for the 2025-2026 school year.
7. The complainant and investigators discussed during their interview that students younger than aged 5 are not reported in the 5-21 child count and may be inadvertently included in the complainant numbers of students.

In the conclusion portion of this component, the investigator noted that "The KSDE has established a form and training manual to ensure accuracy of the child count. In this case the LEA described procedures and a system of checks and balances within the LEA to guide accurate data collection. The LEA provided their data sources from multiple schools and evaluations to show how the data are compiled."

The investigator added that, "In this case it is found that the procedures and supporting data suggest that the child count data are accurate and as described in the Component One findings the LEA did explain the proportionate share to the complainant when correcting the earlier omission. For these reasons it is found that the LEA did conduct a proper child count with respect to students enrolled in the Catholic private schools and there is not reason to suspect errors in the proportionate share calculation.

The complainant questions the accuracy of the data used by the LEA There may well be some flaws in the data, as may often be the case when substantial amounts of data are being gathered and organized. Sometimes inconsistencies may appear in even accurate data. In this case, the investigator cited the LEAs system of checks and balances used to "guide accurate data collection." Assuring complete accuracy of data used to calculate the proportionate share of federal funds is beyond the capacity of this complaint process. However, the Appeal Committee finds that the preponderance of the evidence supports the conclusion of the investigator.

The conclusion of the investigator is sustained on this issue.

Component Six

Did the LEA require RTI before conducting a special education evaluation for students with a suspected disability enrolled in the Catholic private schools?

In its appeal the complainant states, "KSDE's conclusion that the LEA did not improperly use the GEI/RTI process to delay evaluations because no student was actually denied an evaluation, reflects a misapplication of the law. The relevant inquiry is not whether evaluations were ultimately conducted, but whether the LEA delayed evaluations by requiring completion of general education

interventions (GEI/RTI) prior to initiating the evaluation process. Federal law is clear that Response to Intervention may not be used to *delay* or deny an evaluation. See 34 C.F.R. §§ 300.301-300.304."

The Appeal Committee agrees that an RTI process cannot be used to delay an evaluation when it is agreed that an evaluation is appropriate. Absent such agreement, an RTI process is required by state law. Kansas regulation K.A.R. 91-40-7(c) states (emphasis added):

> Any board may refer a child who is enrolled in public school for an evaluation if one of the following conditions is met:
>
> (1) School personnel have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child.
> (2) School personnel have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met:
> (A) The child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel.
> (B) The child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction.
> (C) The assessment results were provided to the child's parent or parents.
> (D) The assessment results indicate that an evaluation is appropriate.
> (3) The parent of the child requests, and gives written consent for, an evaluation of the child, and the board agrees that an evaluation of the child is appropriate.

Accordingly, absent such agreement, an RTI process is required to obtain the necessary data based documentation before proceeding to an evaluation. The complainant cited no instance in which the LEA refused to initiate an evaluation of a student that it agreed would be appropriate.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this component, and they are sustained.

In its appeal, the complainant presents a seventh component that was not a part of the complaint. That seventh component is titled "Failure to Require Corrective Action of Systemic Noncompliance." It expresses the complainant's position that the district requires corrective action for its non-compliance with federal law. Since the Appeal Committee has determined that the district has complied with both state and federal law, it finds this additional part of the appeal to be without merit.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal to the Kansas State Department of Education. This Appeal Decision is issued this 5th day of May, 2026.

Appeal Committee

Brian Dempsey

Mark Ward

Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #259
ON MARCH 17, 2026

DATE OF REPORT: APRIL 20, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ------- by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #259, Wichita Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #259.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on March 17, 2026 and the 30-day timeline ended on April 16, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #259, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's individualized education program (IEP) after their primary teachers took a leave of absence in October and November 2025. K.A.R. 91-40-16 (b); 34 CFR § 300.323 (a)(d).

ISSUE TWO: Whether USD #259, in accordance with state and federal regulations implementing the IDEA, ensured the Student's special education services were provided by a staff member qualified to provide special education or related services to exceptional children. K.S.A. 72-3404(j); 34 CFR §§ 300.156, 300.207.

ISSUE THREE: Whether USD #259, in accordance with state and federal regulations implementing the IDEA, ensured placement decisions were made by a team including the Parent, and whether the LEA ensured the Student was placed in the least restrictive

environment (LRE) when the Mixed Abilities program was removed from the Student's home school. K.A.R. 91-40-21; 34 CFR §§ 300.116, 300.327.

ISSUE FOUR: Whether USD #259, in accordance with state and federal regulations implementing the IDEA, provided the Student with a free appropriate public education (FAPE) by implementing the Student's IEP and providing special education instruction from qualified staff, in the Student's LRE. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on April 14, 2026. The following LEA staff were interviewed on April 13, 2026: The Special Education Director, the Principal, and the IEP Manager. A written statement was submitted by the Paraeducator on April 17, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Program, 01/23/25
2. Assignment Letter to Parents, 03/12/25
3. Extended School Year (ESY) Attendance, 06/02/25–07/10/25
4. Agreement Between Board of Education and SEIU, 07/01/25–06/30/26
5. Individualized Education Plan Progress Report - Annual Goal, 07/10/25
6. Occupational Therapy Medical Log, 08/19/25–03/04/26
7. Speech Language Pathology Medical Log, 08/26/25–03/24/26
8. Staff Assignment Calendar, 10/01/25–12/31/25
9. Reading Progress, 11/18/25–03/25/26
10. Email, re: [the School] Mixed Abilities Classroom, 12/17/25–01/24/26
11. Physical Therapy Synergy Log Notes and Data, 01/07/26
12. Notice of Meeting, 01/09/26
13. Individualized Education Program , 01/15/26
14. Teacher Attendance, January 2026–March 2026
15. Email, re: [the School] Update, 02/06/26–02/14/26
16. Email, re: [the School] Update, 02/06/26–02/26/26
17. Individualized Education Program Progress Report - Annual Goal, 03/24/26
18. [the Student's] Class Schedule, 03/26/26
19. [the Student's] Attendance and Instruction Handmarked Calendar, 25-26 School Year
20. Occupational Therapy Attendance Calendar, 2025-26 School Year
21. Report Card, 2025-26 School Year
22. Speech Language Pathology Calendar, 2025-26 School Year

23. Physical Therapy Medical Log for Providers, 2025-26 School Year
24. [the Student's] Contact Log, 2025-26 School Year
25. Letter, Re: Update from [IEP Manager] - Classroom Support, no date
26. Sub Binder, no date
27. Email, re: Week of 10/20 M-Th, 10/21/25-10/22/25

Background Information

This Investigation involved a sixth-grade student enrolled in a Mixed Abilities (MA) program at a middle school in USD #259. The Student experiences Down Syndrome and is eligible as a child with a disability per the IDEA under the exceptionality of Intellectual Disability (ID). The Student is "happy and pleasant," knows and does well with classroom routines and small groups, and succeeds in schoolwork with visual aids. The Student is nonverbal and uses sounds, gestures, and an augmentative and alternative communication (AAC) device to communicate.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. The Student's January 23, 2025 IEP contained the following relevant information:
    a. The IEP was in effect from January 24, 2025 to January 22, 2026.
    b. Present level of academic achievement and functional performance:
        i. Reading: "[The Student] can match upper and lowercase letters with 100% accuracy. [They are] able to identify 26/26 letters with 100% accuracy. [The Student] is about 75% accurate with letter sound correspondence when given an array of two. When answering comprehension questions about a short story, [they are] able to accurately answer 90% of the time, when given two visual choices."
        ii. Math: "[The Student] is able to identify shapes, colors, and numerals 0-20 with 100% accuracy. When given objects or pictures of objects, [they are] able to count using one to one correspondence, up to 10 with 100% accuracy. [The Student] is able to sort objects into equal groups with visuals with 60% accuracy. [They] will combine groups and count to find out [the] total."
        iii. Writing: "[The Student] is able to trace [their] name and short words with [their] left hand. [The Student] makes [their] best attempts to write [their] name, which is legible. When given a sentence stem and visual choices, [they] will complete a sentence."
        iv. Social/Emotional: "[The Student] appears to be a happy child that enjoys greeting [their] peers and familiar adults. [They] will ask adults for hugs by going up to [adults] and touching arms with [their] hands. [The Student] has

several friends that will engage with [them] at recess and [the Student] will follow along and let them play."

v. Occupational Therapy (OT): "[The Student] has good movement and functional strength in [their] arms and hands. [They are] left hand dominant. [The Student] can lace small beads on string, complete insert puzzles and pick up small items with a pincer grasp (100%). [They] can copy vertical and horizontal lines, cross and a circle (80% of the time). [They] can connect-the-dots for square and triangle shapes with cues. [The Student] can accurately trace lines for shapes and letters with good accuracy (80% accuracy). [They] can write [their] name from memory (5/7 legible letters). [The Student] can make cuts across paper using regular scissors with staff assistance to cut across a line. [They] can use utensils and drink from a straw. [They] can un/zip [sic] a pre-engaged zipper and wash [their] hands after staff prompting."

vi. Physical Therapy (PT): "[The Student] continues to progress with gross motor skill acquisition and functional mobility in the school setting. [They] can walk within the classroom and down the hall with supervision. [They] can transition from seated on the floor to standing using one hand to push up from the floor. [The Student] can tailor sit on the floor and reach to retrieve items to either side of [them] without losing [their] balance. [The Student] typically ascends stairs using one or two handrails and a reciprocal gait pattern and descends stairs using one or two handrails and a step to gait pattern. [The Student] prefers 2 handrails but with prompting can use only one. [They] will occasionally use [a] reciprocal pattern when descending stairs if given tactile prompts. [The Student] can get into and out of a regular classroom chair or armed wooden chair. [They] can access age appropriate playground equipment with supervision."

vii. Adapted Physical Education (APE): "[The Student] demonstrates notable proficiency in seated activities, where [the Student] excels at ball rolling with perfect accuracy at 5-foot distances. [They have] developed strong ball control skills, successfully dribbling with [their] feet and bouncing balls to targets with 60% accuracy. [The Student] shows a clear hand dominance (left) and has developed functional strength in both arms and hands. [They are] particularly successful with implement-based activities, showing consistent grip strength and accuracy when striking objects from a seated position. [Their] ability to maintain balance while reaching from a seated position and [their] successful transitions from floor to standing indicate good core strength and body awareness. These capabilities provide a strong foundation for continued physical development."

viii. Speech: "[The Student] has been a joy to work with this year. [The Student] continues to work hard during speech sessions. [They have] been using [their] high tech communication system to request and comment during

speech sessions. [They] can consistently generate "I+want+object" with 75% accuracy given maximum prompts from the [speech language pathologist] (SLP) for each response. [The Student] prefers to repeatedly point to only one picture but has generated 3 words when modeled. [They] can follow simple directions given by the SLP but sometimes can get distracted by others in the room. We have continue [sic] to encourage [the Student] to use verbal output but [the Student] continues to prefer using [their] high tech communication device."

c. Goals:

i. Speech: "By the next annual IEP, during small group or one-on-one activities, [the Student] will use total communication including but not limited to gestures, high/low tech AAC, and verbal speech to improve functional communication for a variety of purposes (requesting, commenting, describing and stating emotion), with 60% accuracy and with decreased reliance on prompting by SLP and/or teacher, as measured by SLP data and observation."

1. Benchmark 3: "[The Student] will use total communication including but not limited to gestures, high/low tech AAC, and verbal speech to improve functional communication for a variety of purposes (requesting, commenting, describing and stating emotion), with 60% accuracy and with no more than 3 prompts."
2. Benchmark 4: "[The Student] will use total communication including but not limited to gestures, high/low tech AAC, and verbal speech to improve functional communication for a variety of purposes (requesting, commenting, describing and stating emotion), with 60% accuracy and with no more than one prompt."

ii. Adapted PE: "By next annual IEP, while receiving individualized standards-based instruction, [the Student] will improve [their] gross motor skills with 60% accuracy, as measured by teacher observation and data."

1. Benchmark 3: By October 17, 2025, "By the next quarter, [the Student] will strike a suspended object with an implement from a standing position independently, 2 out of 5 trials, as measured by teacher observation and data collection."
2. Benchmark 4: By December 19, 2025, "By the next quarter, [the Student] will strike a suspended object with an implement from a standing position independently with proper follow-through, 3 out of 5 trials, as measured by teacher observation and data collection."

iii. Reading 1: "By next annual IEP, when read a passage/story and given an array of 3 choices, [the Student] can identify illustrations or tactile graphics/objects that reflect aspects of a familiar text, such as setting,

characters, or action if it is a story or a person, place, thing, or idea if it is an informational text, with 80% accuracy as measured by teacher data/observation and assessment."

1. Benchmark 3: By October 15, 2025, "By the end of the third nine weeks, when read a passage/story and given an array of 3 choices, [the Student] can identify illustrations or tactile graphics/objects that reflect aspects of a familiar text, such as setting, characters, or action if it is a story or a person, place, thing, or idea if it is an informational text, with 70% accuracy as measured by teacher data/observation and assessment."
2. Benchmark 4: By December 15, 2025, "By next annual IEP, when read a passage/story and given an array of 3 choices, [the Student] can identify illustrations or tactile graphics/objects that reflect aspects of a familiar text, such as setting, characters, or action if it is a story or a person, place, thing, or idea if it is an informational text, with 80% accuracy as measured by teacher data/observation and assessment."

iv. Reading 2: "By next annual IEP, when read a passage, demonstrate an understanding of text while actively engaged in shared reading of a history/social studies, science, and technical texts/story, [the Student] will demonstrate an understanding of text while actively engaged in shared reading of a history/social studies, science, and technical texts with 80% accuracy as measured by teacher data/observation and assessment."

1. Benchmark 3: By October 15, 2025, "By the end of the third nine weeks, when read a passage, [the Student] will demonstrate an understanding of text while actively engaged in shared reading of a history/social studies, science, and technical texts with 65% accuracy as measured by teacher data/observation and assessment."
2. Benchmark 4: By December 15, 2025, "By next annual IEP, when read a passage, demonstrate an understanding of text while actively engaged in shared reading of a history/social studies, science, and technical texts/story, [the Student] will demonstrate an understanding of text while actively engaged in shared reading of a history/social studies, science, and technical texts with 80% accuracy as measured by teacher data/observation and assessment."

v. Math 1: "By the next annual IEP, when given visuals/pictures, [the Student] will extend the sequence of a non-numeric pattern by selecting an object/picture to show what appears next in a pattern through an active participation response with 80% accuracy as measured by a teacher data/observation/assessment."

1. Benchmark 3: By October 15, 2025, "By the third nine weeks, when given visuals/pictures, [the Student] will extend the sequence of a non-numeric pattern by selecting an object/picture to show what appears next in a pattern through an active participation response with 60% accuracy as measured by a teacher data/observation/assessment."
2. Benchmark 4: By December 15, 2025, "By the next annual IEP, when given visuals/pictures, [the Student] will extend the sequence of a non-numeric pattern by selecting an object/picture to show what appears next in a pattern through an active participation response with 80% accuracy as measured by a teacher data/observation/assessment."

vi. Math 2: "By the next annual IEP, when given guidance and objects/pictures, [the Student] will represent and interpret data on a picture or bar graph, with 80% accuracy as measured by a [sic] teacher data/observation/assessment."

1. Benchmark 3: By October 15, 2025, "By the third nine weeks, when given guidance and objects/pictures, [the Student] will represent and interpret data on a picture or bar graph, with 60% accuracy as measured by a [sic] teacher data/observation/assessment."
2. Benchmark 4: By December 15, 2025, "By the next annual IEP, when given guidance and objects/pictures, [the Student] will represent and interpret data on a picture or bar graph, with 80% accuracy as measured by a [sic] teacher data/observation/assessment."

vii. Social: "By next annual IEP, when [the Student] requires assistance, [they] will independently seek help from adults when needed in 3 out of 4 opportunities with 80% accuracy as measured by teacher data/observation and assessment."

1. Benchmark 3: By October 15, 2025, "By the third nine weeks, when [the Student] requires assistance, [they] will independently seek help from adults when needed in 3 out of 4 opportunities with 60% accuracy as measured by teacher data/observation and assessment."
2. Benchmark 4: "By next annual IEP, when [the Student] requires assistance, [they] will independently seek help from adults when needed in 3 out of 4 opportunities with 80% accuracy as measured by teacher data/observation and assessment."

d. Specially Designed Instruction (SDI), Related Services, and Least Restrictive Environment:

i. 2024-25 school year: "[The Student] will receive special education services in a self contained setting without non-exceptional peers for all core academic areas to work on [their] IEP goals, functional academics, curriculum based on extended state standards, and daily living skills. This will be served through a Mixed abilities classroom. These services will be for 300 minutes two days per week, 315 minutes one day per week, 305 minutes one day every week, and 300 minutes one day every 2 weeks, 285 minutes one day every 2 weeks. [The Student] will receive special education services in a general education setting with non-exceptional peers for 90 minutes three days per week and 45 minutes two days per week for all specials classes, including art, PE, music, library, and tech lab. [They] will receive 40 minutes of attendant care services beyond [their] instructional day for lunch and recess."

ii. 2025-26 school year: "[The Student] will receive special education services in a self contained setting without non-exceptional peers for all core academic areas to work on [their] IEP goals, functional academics, curriculum based on extended state standards, and daily living skills. This will be served through a Mixed abilities classroom. These services will be for 310 minutes four days a week every 3 of 4 weeks, 295 minutes one day every 1 of 4 weeks. [The Student] will attend exploratory classes for 80 minutes five days per week with para[educator] support in a general education setting with non-exceptional peers. [They] will receive 40 minutes of attendant care services beyond [their] instructional day for lunch, restroom, transitions."

iii. "Occupational therapy will be a direct service 15 minutes 1x every 4 weeks either individual or group session, inside or outside [the Student's] classroom setting within the school calendar year."

iv. "[The Student] will receive indirect physical therapy for 15 minutes per month."

v. "[The Student] will receive a total of 30 minutes of speech and language services inside of the special education classroom each week. Typically that will be served as two 15 minute sessions, but that could vary based on scheduling."

e. Accommodations and Modifications, beginning January 24, 2025:

i. Read aloud, as needed, in classroom settings, for the duration of the assignment or assessment.

ii. Communication book/device, anytime communication is needed, in all locations, throughout the day.

iii. Wait time, as needed, in classroom settings, throughout the day.

iv. Scribe, as needed, in classroom settings, for the duration of the assignment or assessment.

v. Visual supports, throughout the day, in classroom settings, throughout the day.

vi. Repeated directions, as needed, in classroom settings, throughout the day.

vii. Slant writing board, as needed, in classroom settings, throughout the day.

f. The Student was eligible for extended year services.

2. On March 12, 2025, the District sent a school assignment letter to the Parent. For the 2025-26 school year, the Student was assigned to the Middle School for sixth grade.

3. An Extended School Year (ESY) Attendance chart showed the ESY was held June 02, 2025 through July 10, 2025. The Student was absent on June 19, 2025 and July 3, 2025 for therapy.

4. A progress report dated July 10, 2025 indicated the following relevant information:

a. Progress codes:

i. 1 - N/A - Your child did not work on this goal during the reporting period (see required note).

ii. 2 - No - Progress is not sufficient to meet this goal by the annual IEP. Goal, Instructional strategies and/or student supports need to be reviewed.

iii. 3 - Prog - Progress has been made towards the goal, but the goal may not be met by the annual IEP. The goal, instructional strategies and student support may need to be reviewed.

iv. 4 - Yes - Progress has been made towards reaching the goal by the annual IEP.

v. 5 - Met- Performance is at or above what is required. The goal has been met.

b. Speech:

i. March 14, 2025: Progress 3

ii. May 22, 2025: Progress 3

c. Adapted PE:

i. March 14, 2025: Progress 4

ii. May 22, 2025: Progress 4

d. Reading 1:

i. March 14, 2025: Progress 3

ii. May 22, 2025: Progress 4

iii. July 10, 2025: Progress 3

e. Reading 2:

i. March 14, 2025: Progress 3
ii. May 22, 2025: Progress 4
iii. July 10, 2025: Progress 3

f. Math 1:
i. March 14, 2025: Progress 4
ii. May 22, 2025: Progress 4
iii. July 10, 2025: Progress 3

g. Math 2:
i. March 14, 2025: Progress 4
ii. May 22, 2025: Progress 4
iii. July 10, 2025: Progress 3

h. Social:
i. March 14, 2025: Progress 3
ii. May 22, 2025: Progress 4

5. A 2025-26 school year OT Attendance Calendar and provider log indicated the Student received OT services for 15 minutes every four weeks from August 19, 2025 through January 9, 2026. A note on the calendar for January 15, 2026 reported "IEP-OT now indirect[.]" The log showed OT consultations on February 10, 2026 and March 4, 2026.
6. A 2025-26 SLP Calendar and provider log reported the Student received speech-language services approximately twice a week, for 15 minutes per session, August 19, 2025 through March 24, 2026.
7. An APE Service Calendar indicated the Student participated in APE approximately twice a week August 25, 2025 through January 21, 2026. The Student had a medical procedure and began participating again in March 2026. Progress with walking up and down stairs was noted on October 29, 2025. Notes written on the document reported the Student stayed at least an extra ten minutes after class two to three times a month. The notes did not indicate why the Student stayed longer.
8. Staffing Calendars for October 2025 through December 2025 recorded Teacher 1 as absent October 7, and October 9, 2025 through March 23, 2026. The same calendars recorded Teacher 2 as absent October 3 through October 7, October 13, October 30 and 31, November 7, and November 13, 2025 through March 23, 2026. There is no data after March 23, 2026. These same documents indicated a "Paraeducator Classroom Supervisor" was assigned to one or both of the classrooms for 13 days in October 2025, six days in November 2025, four days in December 2025, seven days in January 2026, zero days in February 2026, and zero day of March 2026 during the complaint period.
9. On October 21, 2025, Teacher 1 emailed subplans to the IEP Manager for the week of October 20, 2025. Plans covered activities for hours one, two, four, five, seven, and eight for the range of days Monday through Thursday.

10. A letter from the IEP Manager to "MA families," sent out by the Principal on November 18, 2025, let the families of the students in the MA program know the IEP Manager would be "stepping in to support the MA classroom full-time through December 1st [2025]." The IEP Manager explained "I have been asked to support the program at this time because both of the current Mixed Abilities Special Education teachers are out on medical leave. Administration anticipates they will receive an update on their return dates prior to Thanksgiving break. However, even after they do return, I will continue to be involved in the classroom on a half-time basis for the remainder of the school year. This will help provide ongoing continuity for students and families."
11. An undated progress report indicated the following relevant information:
    a. Progress codes:
        i. 1 - N/A - Your child did not work on this goal during the reporting period (see required note).
        ii. 2 - No - Progress is not sufficient to meet this goal by the annual IEP. The goal, instructional strategies and/or student support need to be reviewed.
        iii. 3 - Prog - Progress has been made towards the goal, but the goal may not be met by the annual IEP. The goal, instructional strategies and student support may need to be reviewed.
        iv. 4 - Yes - Progress has been made towards reaching the goal by the annual IEP.
        v. 5 - Met- Performance is at or above what is required. The goal has been met.
    b. Speech:
        i. October 2025: Progress 4, Score "60% accuracy with more than 5 prompts."
        ii. December 2025: Progress 4, Score "70% accuracy with more than 5 prompts."
    c. Adapted PE:
        i. October 2025: Progress "3 of 5", Score 5.
        ii. December 2025: Progress "4 of 5", Score 5.
    d. Reading 1:
        i. October 2025: Progress 4, Score "60%."
        ii. December 2025: Progress 4, Score "75%."
    e. Reading 2:
        i. October 2025: Progress 4, Score "40%."
        ii. December 2025: Progress 4, Score "55%."
    f. Math 1:

i. October 2025: Progress 4, Score "25%."

ii. December 2025: Progress 4, Score "30%."

g. Math 2:

i. October 2025: Progress 4, Score "30%."

ii. December 2025: Progress 4, "Score 50%."

h. Social:

i. October 2025: Progress 3, Score "50%."

ii. December 2025: Progress 3, Score "50%."

12. Handwritten data sheets reported "Quarter 2[,] 25-26" progress monitoring for:

a. Reading 1, monitored between November 18, 2025 and February 19, 2026.

b. Reading 2, monitored between December 9, 2025 and March 25, 2026.

13. A Student Contact Log indicated on November 11, 2025, the Special Education Area Director returned the Parent's phone call to the Assistant Superintendent of Student Support Services' office. They discussed the Student's needs and the "current status of the MA classroom." The Parent offered "if [they] needed to be part of the discussion towards solutions, they would be happy to."

14. In an email exchange between the Parent and the School Board, the Superintendent, and the Assistant Superintendent of Student Support Services dated from December 15, 2025 to January 24, 2026:

a. On December 15, 2025, the Parent thanked the Board for letting them speak at a board meeting. They expressed their ongoing frustration with the lack of a consistent teacher in the Student's classroom and detailed growing concerns around the Student's behavior. The Parent questioned the value of holding the Student's upcoming annual IEP meeting without a dedicated teacher. They asked that the District seek more input from parents with students in the MA program.

b. The Superintendent responded on December 17, 2025 to share that the need for more special education teachers was State-wide, and the District had implemented incentives for teachers to gain special education training. They indicated they would reach out to the staff at the Middle School to relay the Parent's concerns about the upcoming IEP meeting. The Superintendent informed the Parent that improved and expanded methods for parents to provide feedback to the District were forthcoming, and encouraged the Parent to apply for a position with the District.

c. On January 11, 2026, the Parent emailed again to express disappointment the Student's teacher had not yet returned to the classroom. They informed the Superintendent "I did apply to be on the special needs advisory council. I appreciate the opportunity to apply." The Parent went on to inquire about a previous District decision to remove MA classes from certain schools. They stated "With fewer schools to place those in MA, I believe the teachers are

overwhelmed." Further, they asserted "I think the larger class sizes are making it worse for the teachers. It would be a very challenging, sometimes difficult, job with smaller classes and now I think in some regards it is more like a glorified daycare. Yes there is learning happening but not as much as they should be."

d. The Assistant Superintendent of Student Support Services replied on January 12, 2026. They reported "[The IEP Manager was] leading the teaching, lesson planning, and sharing IEP management with another special education teacher at [the Middle School]. For the past several months, we have also assigned a Qualified Behavior Interventionist to support our students in Mixed Abilities at [the Middle School]. Finally, we have moved an additional paraeducator allocation to the MA programs at [the Middle School] to help address needs related to these absences." The Assistant Superintendent of Student Support Services indicated the Middle School classroom size was among the lowest in the District, and thanked the Parent for their feedback.

e. The Parent responded on January 14, 2026 to reiterate the Student was regressing, and questioned why the District was filling the teacher position on a week-by-week basis.

f. On January 24, 2026, the Parent reached out again to inform the group "We had [the Student's] IEP last week and it's now documented that [they] in fact [have] regressed this year. We still don't have our teachers back and the frustration continues." They again questioned the District's decision to reduce the number of MA classes across the District.

15. [Physical Therapy] Log Notes and Data reported the Student received direct PT services on January 7, February 4, and March 11, 2026. It was noted the Student had foot surgery prior to the February 4, 2026 sessions, and the therapist gave recommendations for staff to support the Student's recovery.

16. A Notice of Meeting reported an annual review IEP meeting was scheduled for January 15, 2026.

17. The Student's January 15, 2026 IEP contained the following relevant information:

a. Eligibility remained under intellectual disability.

b. Present level of performance in Reading, Math, Writing , and Occupational Therapy remained functionally stable. Updates included:

i. Social/Emotional: "[The Student] demonstrates several social-emotional strengths within both structured and semi-structured school environments. [They are] generally a happy and pleasant student who enjoys greeting familiar peers and adults, often seeking appropriate physical connection (such as touching an adult's arm to ask for a hug). [The Student] responds positively to supportive interactions and readily accepts help from peers and staff during activities. [The Student]

participates more consistently in small group settings when routines are predictable and visually supported, and [the Student] often follows along with peer play at recess and enjoys being included in group activities. In structured settings such as music, [the Student] demonstrates strong emotional regulation, appears engaged, and transitions smoothly with adult guidance. [The Student] continues to show gradual growth in [their] ability to participate in classroom groups, regulate [their] emotions, and respond to social opportunities when provided with familiar expectations and supportive communication partners."

ii. PT: "[The Student] demonstrates gross motor skills that support [their] ability to access the educational environment. [They] can ambulate throughout the classroom and hallway with appropriate supervision. [The Student] does employ a slower cadence with bilateral out-toeing gait pattern. [They] can transition on/off the floor and in/out of [their] regular classroom chair/desk. [They] can pick up items from the floor and carry items in one or both hands. [The Student] ascends stairs using a reciprocal gait and one handrail. [They] will typically descend stairs using a step-to gait when only one handrail is available. When given bilateral handrails or hand support, [they] will descend stairs using a reciprocal gait and 1-2 tactile cues. [The Student] consistently wears bilateral SMO's [supramalleolar orthosis]."

iii. Speech: "[The Student] is a non-verbal communicator who uses a high-tech voice output communication device to communicate in the education setting. [They have] also been noted to use vocalizations and some gestures. [The Student] is currently able to report how [they are] feeling, and can engage in some structured and non-structured communication tasks using [their] device. When asked questions about a specific topic (i.e., holidays, football, etc.), [the Student] is able to use [their] device to provide an appropriate response. [The Student] benefits from verbal cues and encouragement and pointing models on [their] device."

c. Parent concerns: "Parents are very concerned about the current learning at middle school. They feel like [the Student] is backwards with bathroom training. They are also concerned with the number of notes they get home about [the Student] not wanting to work. This is a new behavior. They feel like the lack of consistency this year has negatively impacted [the Student]! They have questions about how often is [the Student] using [their] talker[?] Is [the Student] participating in class activities, and how [the Student] interacts with [their] peers[?] They would like [the Student] to make improvements with Reading, Math, keyboarding. OT- Buttons, Speech using [their] talker, trying words and writing."

d. Goals:

i. Speech: "By the next annual IEP, during small group or one-on-one activities, [the Student] will use total communication including but not limited to gestures, high/low tech AAC, and verbal speech to improve functional communication for a variety of purposes (requesting, commenting, describing and stating emotion), in 75% of opportunities and with minimum verbal cues/prompts by SLP and/or teacher, as measured by SLP data and observation."

1. Benchmark 1: By March 13, 2026, "By the next annual IEP, during small group or one-on-one activities, [the Student] will use total communication including but not limited to gestures, high/low tech AAC, and verbal speech to improve functional communication for a variety of purposes (requesting, commenting, describing and stating emotion), in 60% of opportunities and with minimum verbal cues/prompts by SLP and/or teacher, as measured by SLP data and observation."

ii. Adapted PE: "By next annual IEP, while receiving individualized standards-based instruction, [the Student] will improve [their] gross motor skills with 100% accuracy, as measured by teacher observation and data."

1. Benchmark 1: By March 13, 2026, "By the third nine weeks, [the Student] will demonstrate skipping, sliding and hopping on 1 foot, 1 of 5 tries, as measured by teacher observation and data collection."

iii. Reading 1: "Within this IEP [t]imeline when given a familiar story or classroom video and 4 picture-step cards, [the Student] will sequence events in logical order with 75% accuracy across 4/5 opportunities as measured by classroom data collection."

1. Benchmark 1: By March 13, 2026, "Within this IEP [t]imeline [g]iven a familiar story or classroom video and 4 picture-step cards, [the Student] will sequence events in logical order with 25 % accuracy across 4/5 opportunities as measured by classroom data collection."

iv. Reading 2: "During this IEP year, when given visual letter cards or digital choices (array of 2-3) [the Student] will identify the sounds associated with the consonant and short vowel letters with 80% accuracy across 4/5 sessions as measured by teacher-made probes and work samples"

1. Benchmark 1: By March 13, 2026, "During this IEP year given visual letter cards or digital choices (array of 2-3) [the Student] will identify the sounds associated with the consonant and short vowel letters with 20% accuracy across 4/5 sessions as measured by teacher-made probes and work samples."

v. Math 1: "By the next annual IEP, when given visuals/pictures, [the Student] will extend the sequence of a non-numeric pattern by selecting an object/picture to show what appears next in a pattern through an active participation response with 80% accuracy as measured by a [sic] teacher data/observation/assessment."

1. Benchmark 1: By March 13, 2026, "By the first nine weeks, when given visuals/pictures, [the Student] will extend the sequence of a non-numeric pattern by selecting an object/picture to show what appears next in a pattern through an active participation response with 20% accuracy as measured by a [sic] teacher data/observation/assessment."

vi. Math 2: "Within this IEP time frame, when given manipulatives, pictures, or digital supports, [the Student] will solve simple addition problems within 10 with visual modeling getting 70% accuracy over 4/5 sessions by work samples and instructional records."

1. Benchmark 1: By March 13, 2026, "Within this IEP time frame given manipulatives, pictures, or digital supports, [the Student] will solve simple addition problems within 10 with visual modeling getting 10% accuracy over 4/5 sessions by work samples and instructional records."

vii. Social Skills: Removed.

e. Specially Designed Instruction, Related Services, and Least Restrictive Environment, from January 15, 2026 to January 14, 2027:

i. "For the remainder of the 2025-2026 and the 2026-2027 school year, [the Student] will receive special education services in a self[-]contained setting without non-exceptional peers for all core academic areas to work on [their] IEP goals, functional academics, curriculum based on extended state standards, and daily living skills. This will be served through a Mixed Abilities classroom. These services will be for 310 minutes four days a week every 3 of 4 weeks, 295 minutes one day every 1 of 4 weeks."

ii. "[The Student] will attend exploratory classes for 80 minutes five days per week with para[educator] support in a general education setting with [sic][.] For the 2025-26 school year, [the Student] will receive special education services in a self[-] contained setting without non-exceptional peers for all core academic areas to work on [their] IEP goals, functional academics, curriculum based on extended state standards, and daily living skills. This will be served through a Mixed Abilities classroom. These services will be for 310 minutes four days a week every 3 of 4 weeks, 295 minutes one day every 1 of 4 weeks. [The Student] will attend exploratory classes for 80 minutes five days per week with para[educator] support in a general education setting with non-

exceptional peers. [The Student] will receive 40 minutes of attendant care services beyond [their] instructional day for lunch, restroom, transitions."

iii. "[The Student] will receive indirect occupational therapy for 10 minutes every 4 weeks to support school-related fine motor, bilateral hand and self-help needs."

iv. "[The Student] will receive indirect physical therapy for 15 minutes per month."

v. "[The Student] will receive a total of 30 minutes of speech and language services inside of the special education classroom each week. Typically that will be served as two 15 minute sessions, but that could vary based on scheduling."

f. Accommodations and Modifications remained the same, beginning January 15, 2026.

g. The Student remained eligible for ESY.

18. The following email exchange between the Parent and the Superintendent and the Assistant Superintendent of Student Support Services occurred from February 6 to February 26, 2026:

a. On February 6, 2026, the Parent emailed the Superintendent and the Assistant Superintendent of Student Support Services. The Parent shared the assigned teachers had not yet returned, explaining "the principal indicated that it's kind of a week by week basis which is extremely frustrating." They reiterated concerns about the Student's regression, and expressed "hesitation" at enrolling the Student at the Middle School the following year. The Parent reported the MA program classrooms had been moved to the basement of the Middle School, which was the only area of the Middle School without an elevator. They stated the Student recently had toe surgery, had a cast, and was using a walker, which made taking the stairs difficult. The Parent expressed liability concerns and praised the Middle School MA staff for their "phenomenal job helping [the Student] navigate[.]" The Parent expressed frustration around not getting updates on the teacher assignment situation, and shared again they applied to the special needs committee.

b. The Assistant Superintendent of Student Support Services responded on February 9, 2026 to share they had drafted an earlier response to the Parent's inquiries, and apologized for failing to send it. They stated they had received the Parent's communications, confirmed they responded to an email on January 12, 2026, and noted they had consulted with other staff members who were also in contact with the Parent. The Assistant Superintendent of Student Support Services stated "We make our responses a team effort, but I'm sorry if it appears that I have personally been ignoring you." They acknowledged the Parent's frustration that the assigned teachers

had not returned and stated no decisions had been made yet for the following school year. They offered to assist the Parent in "exploring other buildings." The Assistant Superintendent of Student Support Services reported the relocation of the classrooms was "done collaboratively between the classroom staff and building administration to allow for a more spacious, safe learning environment." They stated they would confer with the Middle School's physical therapy team to "ensure that an appropriate space is available to [the Student]." Finally, the Assistant Superintendent of Student Support Services thanked the Parent for their participation in the District.

c. The Parent replied on February 14, 2026. They shared they had emailed the previous school year to express disappointment when the MA program was removed from the Student's Elementary School. The Parent told the Assistant Superintendent of Student Support Services "truly it seemed like you didn't care" when the Parent did not receive a response to their concerns. The Parent stated "The answer to your question is we'd love to request that [the Student] go back to [Elementary School]. [They were] thriving there and we still believe that taking MA out of [Elementary School] was a mistake." The Parent reported the assigned teachers had still not returned, and expressed the Student was "suffering and [their] IEP reflects it." The Parent reiterated "[The Student] had made such strides at [Elementary School] and to see [them] regress is very difficult. Please reconsider putting MA back at [Elementary School] and letting [the Student] go back there."

d. On February 23, 2026, the Assistant Superintendent of Student Support Services responded to the Parent "We have noted your desire for Mixed Abilities to return to [Elementary School]. Knowing that we have that request documented, if there comes a point where you wish to request a different building for 2026-27 which currently has a Mixed Abilities program, please feel free to let us know."

e. The Parent responded the same day by asking "What is the reason MA was removed from certain schools?"

f. The Assistant Superintendent of Student Support Services replied on February 26, 2026 "The reason we do not currently have Mixed Abilities at [Elementary School] is due to a lack of physical space (this became an issue when the building was converted to a PreK-8th grade setting)."

19. A progress report dated March 24, 2026 indicated the following relevant information:

a. Progress codes:

i. 1 - N/A - Your child did not work on this goal during the reporting period (see required note).

ii. 2 - No - Progress is not sufficient to meet this goal by the annual IEP. The goal, instructional strategies and/or student support need to be reviewed.

iii. 3 - Prog - Progress has been made towards the goal, but the goal may not be met by the annual IEP. The goal, instructional strategies and student support may need to be reviewed.

iv. 4 - Yes - Progress has been made towards reaching the goal by the annual IEP.

v. 5 - Met- Performance is at or above what is required. The goal has been met.

b. Speech:

i. March 24, 2026: Progress 4, Score "Using high tech AAC device: Requesting and commenting 60% with 5 prompts using moderate verbal cues."

c. Adapted PE:

i. March 24, 2026: Progress 1, with a comment the Student had been out due to surgery recovery.

d. Reading 1:

i. March 24, 2026: Progress 3, Score 15%, with comment "[The Student] was completing [the] previous goal. [They] completed that on 02/19/2026. We started working on this goal after completion. [The Student's] average is still 15%."

e. Reading 2:

i. March 24, 2026: For Mastery, Progress 1, Score 20%, with a comment "[The Student] is inconsistent with this skill." For the short term objective, Progress 4, Score 20%, with a comment "[The Student] is working on this skill. But has shown more independence with this skill."

f. Math 1:

i. March 24, 2026: Progress 3, Score 10%, with comment "[The Student] does this better with 1:1 help to stay on task."

g. Math 2:

i. March 24, 2026: Progress 4, Score 10%, with comment "Making progress needs to be engaged more in the work."

20. A class schedule dated March 26, 2026, reported the assigned primary teacher for the Student was Teacher 1. The Student had Teacher 2 for Math Adapted and Science Adapted. Handwritten notes on the document indicated the Paraeducator spent the most time with the Student.

21. A 2025-26 report card indicated the following:

a. Quarter 1:

i. Tier 3 Math grade: P

1. Score 2 in one out of one assignments.

ii. Social Studies 6 grade: B

1. Score 2.5 in seven out seven assignments.

iii. Language Arts 6 Grade: B

1. Score 2.5 in seven out seven assignments.

iv. Physical Education 1 grade: A

1. Score 3.5 in one of 11 assignments, score 3 in ten of 11 assignments.

v. Explorations in Art grade: c

1. Score 2 in three out of three assignments.

vi. Tier 2 Literacy Decoding grade: P

1. Score 3 in three out of three assignments.

vii. Math 6 Adapted Grade: c

1. No score. Comments report "Lack of interest/attention in class."

viii. Science 6 Adapted grade: A

1. Score 3 in one out of one assignments.

b. Quarter 2/Semester 1:

i. Tier 3 math grade: P

1. No scores and no assignments listed.

ii. Social Studies 6 grade: A

1. Scores and assignments the same as Quarter 1.

iii. Language Arts 6 grade: A

1. Scores and assignments the same as Quarter 1.

iv. Explorations in Art grade: C

1. Score 2 in three out of three assignments.

v. Physical Education 1 grade: A

1. Score 3 in four out of four assignments.

vi. Tier 2 Literacy Decoding grade: P

1. Score 3, no assignments listed.

vii. Math 6 Adapted grade: A

1. Score 3, no assignments listed.

viii. Science 6 Adapted grade: A

1. Score and assignment the same as Quarter 1.

c. Quarter 3:

i. Tier 3 Math grade: P

ii. Social Studies 6 grade: A

iii. Language Arts 6 grade: A

iv. Physical Education 1 grade: A

v. Visual Arts grade: A

vi. T2 Literacy Decoding grade: P

vii. Math 6 Adapted grade: A

viii. Science 6 Adapted grade: A

d. Scoring Rubric:

i. 1- Emerging

ii. 2- Developing

iii. 3- Mastery

iv. 4- Advanced

v. P-Passing[1.1][1.2][1.3]

22. According to an undated Sub Binder document belonging to Teacher 1, students worked on "goals work" located in the "white binder" during their first hour block.

23. On March 17, 2026, the Parent filed the Complaint.

Parent Interview

24. In an interview with the Complaint Investigator, the Parent and Parent 2 shared their observations of the educational impact of the absent teachers on the Student. They shared "[The Student] thrives on consistency[.]" They perceived the lack of consistency at the Middle School resulted in regression for the Student. The Parent expressed "None of them, even … [the] two main teachers have gotten to know [the Student] and to work with [them] on a consistent basis … . And [the Student] needs that consistency." The Parent reported, "We have never had anyone tell us that [the Student] refuses to work in class until this year, or … that [the Student] needs more prompting to do the work or that [the Student] needs more guidance … ." The Parent attributed this behavior to the lack of a consistent licensed teacher in the classroom. Additionally, they expressed concerns over a substitute knowing "what's normal and what's not."

25. The Parent shared concern regarding staff qualifications. They questioned the special education training of the substitutes, and acknowledged the IEP Manager was providing lesson plans that the paraeducators and substitutes implemented. The Parent stated, "[Paraeducators] might be trained in special needs and have some training working with them, but they're not licensed. They don't have the education and the training and the licenses that teachers do." The Parent also stated, "Because [the Student] never knew who was going to be there on any given day when [they] showed up, [the Student] has really, really regressed."

26. Regarding SDI, the Parent shared while they had received progress reports, they were not getting daily updates on the Student's schoolwork. They expressed, "We don't know on a daily basis if there's even a teacher in the room, quite honestly. And I don't know how the teachers, if there is one there, are taking what is in the IEP and implementing it." Parent 2 reiterated the Student "doesn't get papers every day," and indicated schoolwork was sent home "every couple of weeks or every month." The Parent shared they received daily notes from the Paraeducator about the Student's demeanor, "[b]ut we don't get reports as to what they're doing [in class]." They thought primarily the paraeducators were conducting SDI, and expressed

concern there might not always be a licensed teacher in the classroom when students are present. The Parent believed the class size was too large and shared, "I don't feel like [the Student is] getting direct one-to-one with a licensed [teacher] in mixed abilities or special needs teacher. … [The Student] may be getting a lot of one-on-one time with [paraeducators]. They're not licensed." They stated, "I can tell you that their IEP has a number of specific minutes that they're supposed to spend with teachers. I feel 100% confident that those minutes have not been met this year because they've been lacking teachers." The Parent and Parent 2 repeatedly expressed they were unaware of daily classroom activities and lessons.

27. The Parent identified regression in the Student's counting ability. They shared during the 2024-25 school year, the Student was able to count to 40. In the 2025-26 school year, the Parent observed the Student was only able to count to 20. They also expressed concern the Student had not yet brought home a library book in the 2025-26 school year. The Parent shared the Student "likes to be read to."

28. Regarding the physical location of the Student, the Parent described the MA program classrooms as being moved to "a basement. It's down a half flight of stairs … in three classrooms. No other students are in that area as far as general ed[ucation]." They stated the LEA asserted the basement was "[t]he only space they had in the building that could accommodate [the MA program]." The Parent shared there was no elevator to the area, only the stairs. They reported the Student needed additional assistance to navigate the stairs after a foot surgery, but was generally able to use the stairs without issue.

29. Regarding LRE, the Parent explained they and Parent 2 "fought tooth and nail" to keep the Student at their Elementary School when it was announced the Elementary School would become a pre-kindergarten to eighth-grade school. The Parent stated the Student had been at the Elementary School for seven years and was "thriving" there. They disagreed with the LEA's decision to remove the MA program from the Elementary School when the format changed. The Parent claimed the LEA did not ask for parent input when making the decision and perceived the shift as "a horrible mistake." They expressed "[The LEA] has turned the mixed abilities classrooms into glorified daycare centers." The Parent noted they had shared their concerns with the Assistant Superintendent of Student Support Services, and felt dismissed.

30. The Parents described aggressive behaviors the Student began exhibiting after starting at the Middle School. They acknowledged some of those behaviors may be due to natural physiological changes, and noted they were considering autism testing, however, they asserted the behaviors did not start until the Student changed schools. The Parent indicated the staff at the Middle School had not observed the behaviors at the same level the Parents were seeing in their home, and advised the Parent the behaviors may be due to the Student becoming a teenager.

31. Regarding bathroom accidents, the Parents shared the Student needs to be prompted to use the bathroom "every hour on the hour … [o]r at least every two to three hours," and they keep the Student on a schedule at home. They stated they shared this information with Teacher 1 at the beginning of the year. The Parent reported "For a while there … we were getting wet clothes home quite a bit because they didn't have the staff there to get [the Student] to the bathroom as [they] needed."
32. The Parent and Parent 2 repeatedly praised the Middle School staff and asserted their concerns were at the LEA level. The Parent expressed "It feels like from my communications with [the LEA], … it doesn't feel like they care."

IEP Manager Interview

33. In an interview with the Complaint Investigator, the IEP Manager stated "I took over [the MA program] till December 1, [2025] and what I did is organize the classrooms, made sure we had all the data collection from the first quarter and that we could move it to the second quarter." They explained part of their role in the LEA was "making sure that we were collecting the right data … and … were providing … the right instructions for each student, [and] also for the group."
34. The IEP Manager reported their regular schedule for their role placed them at the Middle School "half day every day of the week." They said they primarily worked there in the morning, but the exact timing could shift depending on the needs of their other assigned schools.
35. Regarding teacher absences, the IEP Manager indicated they worked with the paraeducators and general education staff to make sure everyone was aware of the MA program students's needs. They stated they spoke with and emailed all the teachers to make them aware of MA program students' goals. The IEP Manager reported they met with each paraeducator individually to discuss each student. They shared they met with the paraeducators at the Middle School as a group every morning.
36. Regarding substitutes, the IEP Manager indicated they expected each substitute to "read the IEP at a glance for each student … then I would go over specific things for each student." They explained there was a "book" in the classroom that contained the IEP at a Glance, with goals, accommodations, and behavior plans if applicable, for each student in the classroom. They shared the substitutes had access to the book, and were welcome to ask them any questions as well.
37. The IEP Manager explained several other members of school staff and administrators were available throughout the day on a regular basis to assist with the needs of the MA program. They reported the Assistant Principal, the Social Worker, the School Psychologist, and others "in charge of the behavior part of it" regularly checked in on the program. The IEP Manager indicated each of these people was familiar with the students and their IEPs.

38. The IEP Manager described instruction in the MA program as "For each student, we have a little book for the individual work." For group instruction, they reported the program utilized an online and disability-accessible current events newspaper. They indicated any one assigned to supervise a classroom used the same district curriculum, whether it was the assigned teacher, a paraeducator, or a substitute.
39. Regarding SDI, the IEP Manager stated "[The students] have their goals and then I would check with the [paraeducators] and we would create the work that they're going to do individually, and the [paraeducators] would collect a lot of the data." The IEP Manager reported they would occasionally spot check data to make sure it was being recorded uniformly and the paraeducators working with the Student maintained consistency. The IEP Manager gave the paraeducators in the program sheets to use for data tracking, and they used that information to fill out progress reports. They indicated they also used classwork and assessments as data points. The IEP Manager acknowledged they did not document their daily check ins with the paraeducators.
40. The IEP Manager shared they believed changes in the Student's behavior were age appropriate, having more to do with the transition from elementary to middle school, the physical changing of buildings and meeting new staff, and general changes of puberty, than a lack of consistency in teaching staff. They described the Student's behavior as "not atypical of any kid … going to middle school."

Principal Interview

41. In an interview with the Complaint Investigator and the Special Education Director, the Principal indicated the MA program teachers at the Middle School were both on leave due to injuries. They explained the Worker's Compensation process and how that impacted the ability to hire a long-term substitute. The Principal reported they do not make decisions about hiring substitutes, which happens at the LEA level. They shared, "We were just waiting for more information until the [LEA] made the decision to move more to a long-term situation."
42. Regarding substitute qualifications and training, the Principal reported, "If they're on our list we get of who's taking the position … then we know those are … vetted in our qualified subs from the district." They stated, "I'm not sure what formal training occurs outside of my control at the local building level." The Principal shared at the building level, substitutes get a lesson plan, information on the assigned classroom, and in the case of special education, access to the students' IEPs and associated documents. They indicated long-term substitutes are expected to attend staff meetings.
43. The Principal shared their clerical team put together information packets for every substitute in the building on a given day, and they assigned one of the assistant principals to be the liaison with the MA program. They confirmed the IEP Manager was in charge of data collection and assessments for the MA program. They

indicated "one of [the Middle School's] instructional coaches" also administered testing.

44. The Principal shared they were active in the lesson planning for the MA program. They reported once they assessed the teachers' absences as long-term, they received permission from the LEA "to stay on top of things so that we could get some of our other special ed[ucation] teachers involved with the lesson planning." The Principal expressed, "We just wanted to make sure that we were providing a quality experience for those kids, regardless of who was in there … ." They indicated they trained themself on the curriculum so they could be of more assistance.
45. The Principal acknowledged the Parent's concerns regarding the Student's behavior, and surmised there may be more behavioral issues at home than at school. The Principal expressed they did not have academic or behavioral concerns for the Student, describing them as "a cool little [person]." They stated any behavior or academic struggles coming up at the School were age-appropriate and typical of the transition between elementary and middle school.
46. During the Principal's interview, the Special Education Director gave additional information. They reported the Student had "moved to another level higher" within the LEA curriculum for all goals except one math goal. The Special Education Director stated, "That may have been an area where Parents might've seen some, what appeared to be regression because between spring and [the Student's] ESY reports, [they] did go backwards there, but then [the Student] continued to make some steady progress through the fall." The Special Education Director indicated the Student continued to improve on the second math goal throughout the school year.
47. The Special Education Director reported staff had been added to the MA program to address parental concerns. The extra staff included a licensed social worker and a paraeducator.
48. Addressing LRE, the Special Education Director explained the LEA's decision to reorganize the MA program at the LEA level due to changes in funding, staffing, and building needs. They further explained the Student's neighborhood school had never contained an MA program, prompting the IEP team to choose the Elementary School for the Student's elementary education. The Special Education Director confirmed the Parent was involved with choosing the Middle School. They indicated the LRE and educational placement in the Student's IEP remained intact when they switched buildings.

Special Education Director Interview

49. In an interview with the Complaint Investigator, the Special Education Director explained the general protocol for teacher absences in the MA program at the Middle School was to have the present teacher supervise both classrooms, with paraeducators stepping in to lead lessons if a substitute was not available. They asserted this was allowed by the agreement between the LEA and the

paraeducator's union. The Special Education Director reported the paraeducators were "instructional" and had to "go through a certain amount of training for [the Middle School] to be able to hire them as instructional paraeducators." They expressed, "Special ed[ucation] para[professionals] also know how to carry it out because that's what they do. They know the students."

50. The Special Education Director confirmed the IEP Manager was ultimately responsible for lesson planning and progress monitoring for the MA program at the Middle School. They shared the Special Education Team Lead, a qualified licensed staff member, assisted the IEP Manager with lesson planning. The Special Education Director stated the MA program substitutes and paraeducators were expected to implement SDI and accommodations. They indicated MA program staff had data sheets for progress monitoring. They asserted paraeducators were not expected to make lesson plans, but could create or organize lesson materials.

51. Regarding the IEP Manager's role, the Special Education Director explained, "[The IEP Manager is] there half-time and [their] job is in a supporting role. So [they're] there anyway, but they didn't make [the IEP Manager] substitute for this entire time because then [they] also couldn't support [their] other school." The Special Education Director confirmed the IEP Manager met with staff daily, including MA program paraeducators and substitutes.

Paraeducator Written Statement

52. In a written statement emailed to the Complaint Investigator on April 17, 2026, the Paraeducator provided the following information:

    a. The Student demonstrated skills in reading comprehension of stories read aloud and content from educational videos. They disliked math and were often reluctant to count past ten or complete math tasks. The Student preferred to be left alone and engaged in self-stimulatory behaviors, though the Paraeducator perceived the Student understood the expectation was to complete assigned work. Overall, the Student maintained skill level throughout the 2025-26 school year.

    b. The Student displayed disruptive behaviors, like throwing or pushing items, which significantly improved throughout the 2025-26 school year.

    c. "Data is collected consistently to monitor [the Student's] progress, and [their] work is kept in a folder for documentation purposes. Some work was previously sent home due to a misunderstanding, but efforts are now in place to ensure all work remains at school for data collection."

    d. The Student tended to be independent socially and did not "actively engage with peers." However, they frequently sought sensory input by touching staff and general education students on the arms. The Student enjoyed cooking activities. They did not independently use their AAC device, though staff modeled its use.

e. The Student did not independently indicate a need for the restroom, however, they used a recorded button when prompted. The Student was independent with toileting but required supervision to prevent playing in the toilet.

f. The Paraeducator described the Student as "a kind and enjoyable student." The Paraeducator noted "Given the transition to a new school environment and expectations as a sixth grader, some regression in academic skills might be expected as [the Student] continues to adjust to middle school routines." They stated "[The Student] has not shown noticeable impact from the absence of a consistent classroom teacher."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP after their primary teachers took a leave of absence in October and November 2025. K.A.R. 91-40-16 (b); 34 CFR § 300.323 (a)(d).

According to K.A.R. 91-40-16 (b) and 34 CFR § 300.323 (a)(d), each agency shall ensure that an IEP is in place for each exceptional child and is implemented as soon as possible following development of the individualized education program. At the beginning of each school year, each local educational agency must have in effect, for each child with a disability within its jurisdiction, an IEP as defined by federal law. The agency shall further ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation, and that each teacher and provider is informed of their specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged that the Student's IEP was not being met because there were no trained teachers in the Student's classroom after October 2025.

The LEA stated it implemented the Student's IEP after the Student's primary teachers took a leave of absence in October and November 2025.

The January 2025 IEP mandated 300 minutes of daily specialized instruction in a self-contained setting, 30 minutes of weekly speech therapy, 15 minutes of direct monthly occupational therapy, and 15 minutes of indirect monthly physical therapy. The January 2026 IEP mandated 310 minutes of daily specialized instruction four days a week, and 295 minutes of daily specialized instruction one day a week, in a self-contained setting. It mandated 30 minutes of weekly speech therapy, 10 minutes of indirect monthly occupational therapy, and 15 minutes of indirect monthly physical therapy.

Documentation showed the Student received their ESY services in June and July of 2025. Service logs from October 2025 through March 2026 recorded speech therapy was delivered twice weekly, and occupational therapy was provided every four weeks. Documentation indicated the Student attended Adapted Physical Education approximately twice a week from October 2025 to January 2026, and was on medical excusal for February 2026, returning on restriction in March 2026. Physical Therapy logs reported the Student received 15 minutes of direct services January through March 2026. Progress reports following the benchmark schedule established in the IEP indicated the Student was receiving SDI. Work samples and photographic evidence demonstrated the Student's accommodations were being met.

Teacher 1 and Teacher 2 began leaves of absence on October 7 and November 13, 2025, respectively, leaving the MA program without its assigned teachers through March 2026. The IEP Manager provided full-time support in the classroom until December 1, 2025, and subsequently transitioned to a half-day schedule while paraeducators and rotating substitutes managed the program. Lessons plans provided by the LEA indicated both teachers left reasonable and coherent instructions for substitutes and paraeducators. The Student's daily schedule reported they were assigned a paraeducator for every period of the school day as well as for recess, lunch, and toileting assistance. Administrators corroborated that additional staff were allocated to the MA program during the teachers' absence. Documentation suggested there were no gaps in adult supervision.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to fully implement the Student's IEP after their primary teachers took a leave of absence in October and November 2025.

Issue Two

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, ensured the Student's special education services were provided by a staff member qualified to provide special education or related services to exceptional children. K.S.A. 72-3404(j); 34 CFR §§ 300.156, 300.207.

According to K.S.A. 72-3404(j), a special teacher means a person, employed by or under contract with a school district or a state institution to provide special education or related services, who is qualified to provide special education or related services to exceptional children as determined pursuant to standards established by the state board, or assist in the provision of special education or related services to exceptional children as determined pursuant to standards established by the state board.

According to 34 CFR § 300.156, each state must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, ensuring that those personnel have the content knowledge and skills to serve children with disabilities. These qualifications must require that each person

employed as a public school special education teacher who teaches in an elementary, middle, or secondary school has obtained full state certification as a special education teacher or passed the state special education teacher licensing examination and holds a license to teach in the state as a special education teacher. Furthermore, the individual must not have had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis and must hold at least a bachelor's degree.

According to 34 CFR § 300.207, the LEA must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements related to personnel qualifications and section 2102(b) of the Elementary and Secondary Education Act.

The Parent alleged the LEA failed to provide trained staff to implement the Student's IEP.

The LEA responded, stating that it ensured the Student's special education services were provided by a staff member qualified to provide special education or related services to exceptional children.

Documentary evidence and interviews with LEA representatives reported staff positions were added or diverted to assist with the MA program while the assigned teachers were on temporary leave. A qualified behavior interventionist and an additional paraeducator were added to the MA program staff. The Principal designated the Assistant Principal as the primary contact and liaison for the program. The IEP Manager and the Special Education Team Lead created and administered lesson plans. The LEA maintained all assigned staff members were properly trained and credentialed.

While they acknowledged they did not document the supervision, the IEP Manager confirmed they met daily with paraeducators and as needed with substitutes. The IEP Manager created data tracking sheets for the paraeducators, and evidence showed the paraeducators used the sheets.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to ensure the Student's special education services were provided by a staff member qualified to provide special education or related services to exceptional children.

Issue Three

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, ensured placement decisions were made by a team including the Parents, and whether the LEA ensured the Student was placed in the LRE when the Mixed Abilities program was removed from the Student's home school. K.A.R. 91-40-21; 34 CFR §§ 300.116, 300.327.

According to K.A.R. 91-40-21, 34 CFR § 300.116 and 34 CFR § 300.327 the LEA must ensure that the parents of each exceptional child are members of any group that makes decisions on the educational placement of their child. The placement decision must be made by a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. The placement must be determined at least annually, be based on the child's IEP, and be as close as possible to the child's home. Unless the IEP of an exceptional child requires some other arrangement, the child shall be educated in the school that he or she would attend if not exceptional. In selecting the LRE, consideration shall be given to any potential harmful effect on the child or on the quality of services that he or she needs. An exceptional child shall not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

The Parent alleged the LEA changed the Student's placement when they removed a Mixed Abilities program from the Student's home school.

The LEA responded that it ensured placement decisions were made by a team including the Parents.

According to Murray v. Montrose County School Dist., 51 F. 3d 921 - Court of Appeals, 10th Circuit 1995, the IDEA states that a disabled child should be educated in the school he or she would attend if not disabled, unless the child's IEP requires placement elsewhere. It does not further specify where, within an LEA, that inclusion shall take place.

The Parent was notified of changes in the Elementary School's programming and communicated with the LEA about this change outside of the Complaint timeline. The Parent had ample time and the support of the LEA to consider several options for a different physical location for the Student, both prior to and during the 2025-26 school year. The Special Education Director stated the Parent was a member of the IEP team that chose the Middle School for the Student. The Student's special education placement remained the same when their physical location was changed.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA changed the Student's placement when they removed a Mixed Abilities program from the Student's neighborhood school.

Issue Four

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, provided the Student with a FAPE by implementing the Student's IEP and providing special education instruction from qualified staff, in the Student's LRE. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, a free appropriate public education or a FAPE means special education and related services that are provided at public

expense, under public supervision and direction, and without charge; meet the standards of the state board, including the requirements of this part; include an appropriate preschool, elementary school, or secondary school education in the state involved; and are provided in conformity with an IEP that meets all applicable requirements. Each agency shall provide a FAPE to every exceptional child in accordance with state and federal law, ensuring that special education and related services are based upon the child's unique needs rather than the child's area of exceptionality and that a FAPE is made available even if the child is advancing from grade to grade. Furthermore, every exceptional child shall be eligible for graduation upon the successful completion of state and local board requirements, receiving the same recognition and diploma as their non-exceptional peers, unless the child's IEP designates goals other than high school graduation.

According to 34 CFR § 300.101, a FAPE must be available to all children residing in the State between the ages of 3 and 21, including children with disabilities who have been suspended or expelled from school. For children beginning at age 3, each State must ensure that the obligation to make a FAPE available begins no later than the child's third birthday, with an IEP or an IFSP in effect by that date. The determination that a child is eligible must be made on an individual basis by the group responsible within the child's LEA for making such eligibility determinations.

The Parent alleged the Student regressed in their skills since their teacher went on a leave of absence.

The LEA responded that it provided the Student with a FAPE by implementing the Student's IEP and providing special education instruction from qualified staff, in the Student's LRE.

During Teacher 1's absence beginning October 2025 to the Student's annual IEP review on January 15, 2026, the Student missed benchmarks for their Reading 2 goal in October 2025 and December 2025 by 25%. They were within 5% of benchmarks in December 2025 for Reading 1. Both reading goals were changed at the January 15, 2026 IEP meeting. In the March 2026 Progress Report, the Student was at the benchmark for Reading 2. It was noted the Student began working on the updated Reading 1 goal in February 2026, and therefore was still measuring at baseline after one month. No regression was indicated on progress reports for either goal at any point.

During the same period, the Student missed benchmarks for both of their math goals by up to 50%. The Math 1 goal remained the same in the January 15, 2026 IEP, with the Student effectively resetting their progress, and continuing to fall below benchmarks at their March 24, 2026 progress report. A comment on their Math 6 Adapted grade for Quarter 1 reported the Student's lack of focus in math class. A statement from the Paraeducator corroborated the Student's reluctance to complete math assignments. The IEP Manager noted this as typical behavior for a child progressing from elementary to middle school.

The Student maintained their Social Emotional progress throughout the 2025-26 school year until the goal was removed in the January 15, 2026 IEP. Service logs reported the Student received all related services, and progress reports indicated they met all related service goals. Report cards indicated the Student maintained or improved their grades in all classes between Quarter 1 and Quarter 2 of the 2025-26 school year.

As noted above, a change in location does not equal a change in placement.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to provide the Student with a FAPE by not implementing the Student's IEP nor providing special education instruction from qualified staff, in the Student's LRE.

Corrective Action

The Complaint Investigation did not substantiate any of the allegations, and no corrective action is ordered.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233
ON MARCH 17, 2026

DATE OF REPORT: APRIL 20, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #233 Olathe Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #233.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on March 17, 2026, and the 30-day timeline ended on April 16, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #233, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), provided special education and related services to the Student as described in the Individualized Education Program (IEP); and whether the LEA staff implementing the IEP were sufficiently trained. K.A.R. 91-40-16(b); 34 CFR § 300.323.

ISSUE TWO: Whether USD #233, in accordance with state and federal regulations implementing the IDEA, developed an IEP that accurately reflected the Student's needs and supports designed to meet these needs. K.A.R. 91-40-16(a); 34 CFR § 300.320.

ISSUE THREE: Whether USD #233, in accordance with state and federal regulations implementing the IDEA, failed to provide a free appropriate public education (FAPE) to the

Student when the IEP was not designed to meet the Student's needs and the IEP was not implemented by trained staff. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on April 8, 2026. The following LEA staff were interviewed on April 8, 2026: the Principal, the School Psychologist, and the Special Education Teacher.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Prior Written Notice, 04/23/25
2. Interim Process Documentation, 05/19/25
3. Daily Attendance Totals, 08/13/25-01/21/26
4. Email, re: Autism Specialist for [the School], 09/13/24-03/23/26
5. Email, re: [the Student] Behavior Intervention Plan, 01/08/26
6. Email, re: Moving Students to Group I, 09/10/25-03/26/26
7. Behavior Support Plan (BSP), no date
8. Progress Report, 2025-26 School Year
9. Parent-Teacher Conferences - Student Profile, 10/2025
10. Individual Education Program, 05/02/25
11. Behavior Support Plan, no date
12. Daily Schedule, no date

Background Information

This Investigation involved a fifth-grade student enrolled at a therapeutic school (School) in USD #233 (LEA), which was located on the campus of a Psychiatric Residential Treatment Facility (PRTF) where the Student resided. The Student is currently receiving special education or related services as a child with a disability per the IDEA, and is eligible under the category of Specific Learning Disability (SLD).

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. A “Student Entry/Exit” document for the School indicated a May 19, 2025 entry date for the Student, with placement into the School by the Parent. School paused for summer break on May 22, 2025. The Student returned from summer break and attended the School from August 13, 2025 to November 21, 2025, with 68 days enrolled and 68 days of attendance.

2. Information about the School was outlined in a document as follows:
    a. Students were placed into the School by a parent, guardian, or agency due to social-emotional and behavioral needs exhibited at school or home.
    b. The School specialized in trauma-informed instruction, operated in close partnership with a therapeutic treatment plan established by the PRTF, and its calendar aligned with the LEA.
    c. Students at the School had access to the following universal supports:
        i. Small class sizes with a low adult-to-student ratio;
        ii. Specialized staff trained with the Safe Crisis training program for prevention, management, and de-escalation of aggressive or disruptive behaviors;
        iii. Management of emergency safety intervention (ESI) and de-escalation strategies;
        iv. A safe room for recovery and de-escalation;
        v. Positive behavior intervention supports (PBIS);
        vi. On-site counseling services;
        vii. Daily morning triage to assess student needs;
        viii. Pet therapy to promote emotional regulation;
        ix. On-site psychiatric services for mental health support;
        x. Social skills training to enhance interpersonal interactions;
        xi. Frequent breaks/prompts to maintain focus and reduce stress;
        xii. Use of a First/Then process for task completion and classroom engagement;
        xiii. Alternated non-preferred with preferred tasks for increased participation;
        xiv. Reduced academic demands to support individualized learning needs;
        xv. Modified curriculum supports tailored to individual strengths and challenges;
        xvi. Extensive classroom environment accommodations and modifications (including extended time, preferential seating, visual schedule, manipulatives/fidgets, and flexible seating options);
        xvii. Significantly reduced unstructured time/activities to minimize stressors;
        xviii. Supervised use of technology to ensure safety and focused engagement, supervised transitions to/from school, supervised restroom breaks, and short and supervised passing periods between classes; and
        xix. No homework requirements.
3. The LEA Response noted the staff working with the Student "included a certified special education elementary teacher, and two certified special education middle school teachers," and these teachers individualized the Student's English and math

programs. It was also noted the Student's progress during their time in the LEA "did not indicate a need for the IEP team to reconvene."

4. April 23, 2025 PWN from the LEA documented a review of the Student's placement and additions, changes, or modifications to services. Relevant information included:
    a. A proposed change of services was "to immediately begin providing services that are comparable to those described on the Student's IEP." These services would be provided by the School and "the number of minutes the Student will attend school are unilaterally determined by [the School] and not by [the LEA] or the Student's IEP Team."
    b. A proposed change of placement noted, "the educational placement described in the Student's IEP will not be implemented while in this alternative school setting." It was clarified the placement in the School, which was a "psychiatric residential treatment facility," was not an IEP team decision; rather, it was a "unilateral decision of the parents/state or county agency/court."
    c. These changes were proposed because the Student was residing at the PRTF.
    d. Options considered stated, "all options were accepted."
    e. Data used for the proposed action indicated a review of the Student's IEP "and all other available records."
    f. Other factors relevant to the proposal indicated the PRTF was "not an educational placement made by the IEP team," and the LEA would "provide special education services comparable to those outlined in the Student's IEP." It was noted the LEA was not required to provide a comparable placement when the placement of the Student was made by a parent, legal guardian, or a state agency.
    g. The acknowledgement and consent lines were signed by a "parent/legal education decision maker" and were dated April 28, 2025.
5. April 29, 2025 PWN from the Former LEA documented a review of the Student's needed special education and related services, appropriate placement, and additions, changes, or modifications to services. Relevant information included:
    a. A proposed change of services requiring consent included additional direct instruction in the resource room for 30 minutes, five days per week for math and 20 minutes, one day per week for social work, and additional special education support in general education for "90 minutes in [English Language Arts] ELA , math, and science, and social studies." Changes not requiring consent were updating the Student's goals and Behavior Support Plan (BSP).
    b. In the "Explanation of Why the Action was Proposed," the items requiring consent were listed as:

i. The Student needed to improve specific math skills and "close the gap between what [they] can do independently" and what was expected at grade level;

ii. The Student experienced "a few behavior regressions" resulting in time periods with less success at school; and

iii. The Student experienced "more frequent escalations and the introduction of self-injurious behaviors in the school setting this school year[,] [which] indicates a need for additional support to better support [the Student's] regulation and implement [their] Behavior Intervention Plan [BIP] and accommodations."

c. In the "Explanation of Why the Action was Proposed," the items not requiring consent were listed as:

i. The Student's goals were updated to reflect current performance and areas of instructional need; and

ii. ii. The Student's (BIP) was updated to include self-injurious behaviors and "two additional setting events" that were shared by the Parent.

d. Options considered included supporting the Student in a general education setting for math, "but that would not best meet [the Student's] current needs in that content area."

e. Data used for the proposed actions included progress monitoring data, various standard tests, and "collaborating with [the] Parent, special education teachers, general education teacher, school social worker, and [the] Principal."

f. Other relevant factors included the Student not having access to their non-disabled peers when receiving instruction in the resource room.

6. The Student's May 2, 2025 IEP from the Former LEA included the following relevant information:

a. The IEP meeting was an annual review with the most recent evaluation on May 6, 2024.

b. The Student's present levels for reading were documented with reading scores on various tests in the 1st, 3rd, "below 5th," and "below the 10th" percentiles. The Student's scores indicated "a continued need to direct specialized instruction in phonics and fluency." It was noted the Student's direct instruction for reading had been a multisensory reading intervention program that engages multiple senses simultaneously when reading (tracing, tapping, etc.) and "supports learners with dyslexia and other learning disabilities."

c. The Student's goal for reading was, "When presented with an untimed fourth[-]grade passage, [the Student] will be able to read one paragraph with at least 90% accuracy by [the] end of the IEP as measured by Work

Samples." This goal's measurable objectives and baseline data were established using a third-grade curriculum-based measurement (CBM) for accuracy.

d. The Student's present levels for math were documented with math scores on various tests in the 3rd, 4th, 7th, and 8th percentiles. It was noted the Student's behavior "significantly impacts [their] academic performance," and there were gaps in the Student's independent math skills.

e. The Student's goal for math was, "When given two-digit by 1-digit multiplication problems, [the Student] will be able to solve with at least 80% accuracy by [the] end of the IEP as measured by Work Samples."

f. The Student's present levels for social-emotional regulation were documented with multiple types of data collection for behavior, including a point system, measured times for appropriate behaviors, and scores from a comprehensive multi-method tool used to evaluate behavior, emotions, and self-perceptions of a child. The Student needed access to self-regulation breaks, in-class support for co-regulation, and a BIP. Data for the Student's ability to follow instructions was also included. It was noted the Student's dysregulation impacted their ability to follow directions.

g. The Student's goal for regulation was, "When experiencing dysregulation in any setting at school, [the Student] will be able to accept or initiate a coping strategy either independently or with staff assistance on at least 3 out of 5 occasions by [the] end of the IEP as measured by Anecdotal Records."

h. Considerations included a checkmark next to "yes," which answered the question, "Does the Student's behavior impede the Student's learning or that of others?" These behaviors would be addressed with a BIP.

i. The Student had an Individual Health Care Plan on file, but since "medication has changed frequently this school year with many hospitalizations and unwanted side effects, a health care plan is currently not needed."

j. Program Modifications and Supports for "all subjects," for the length or duration of the indicated item, included:

   i. Directions given in a variety of ways when they contained more than one step;

   ii. Text-to-Speech software when the text was above the Student's reading level;

   iii. Read aloud when the text was above the Student's reading level;

   iv. Preferential seating during academic and non-academic instruction;

   v. Math manipulatives for math during independent work;

   vi. Chunking of assignments when given a worksheet with problems or questions;

   vii. Shorten assignments for all assignments and assessments;

viii. Extended time for all assignments and assessments;

ix. Reinforcement system for whole group, small group, and independent work time;

x. Frequent reminder of rules before the start of an activity;

xi. Extra time for transitions when asked to transition to a new activity;

xii. Other testing in a small group during classroom, district, and state assessments;

xiii. Other First/Then visual when the Student completed an activity or task; and

xiv. Other visuals when the Student was presented with math problems, and the Student was demonstrating "low accuracy."

k. Supports for School Personnel indicated the "Staff who support [the Student] will be provided with training by [the Student's] resource teacher and the school social worker on the best ways to support [the Student's] emotional regulation and [their] Behavior Intervention Plan at least one time at the beginning of the school year for 20 minutes. Additional trainings will be provided as necessary when debriefing escalations or if [the Student's] plan is amended."

l. The Service Delivery Statement indicated the Student would receive direct instruction in the special education setting for 60 minutes, five days a week in the area of reading (30) [minutes] and math (30) [minutes], and 50 minutes, five days a week for social emotional instruction, regulation, and incentives or debriefing." The Student would also receive support in the general education classroom for transition and "a portion of all academic areas to implement [their] accommodations and to support [their] regulation."

7. In a May 2, 2025 document from the LEA, titled "Interim Process Documentation," IEP goals and services were outlined as follows:

a. "Transfer IEP Date" was listed as May 19, 2025, while the IEP date was listed as May 2, 2025.

b. The Student's goal for reading was, "When presented with an untimed fourth[-]grade passage, [the Student] will be able to read one paragraph with at least 90% accuracy by [the] end of the IEP as measured by Work Samples."

c. The Student's goal for math was, "When given two-digit by 1-digit multiplication problems, [the Student] will be able to solve with at least 80% accuracy by [the] end of the IEP as measured by Work Samples."

d. The Student's goal for social-emotional was, "When experiencing dysregulation in any setting at school, [the Student] will be able to accept or initiate a coping strategy either independently or with staff assistance on at

least 3 out of 5 occasions by [the] end of the IEP as measured by Anecdotal Records."

e. The Statement of Special Education/Related Services listed special education services provided by a "resource teacher" in an "alternative school" for 360 minutes, five times per week, from May 19, 2025 to May 1, 2026.

f. Annual Consideration of LRE described the impact of the Student's disability on their involvement/progress in the general education curriculum as, "[The Student] demonstrates social/emotional and behavioral needs and currently attends [the School], which is [a PRTF]. … The school environment typically has small class sizes and a high adult-to-student ratio for intensive support, supervision, and instruction." It is noted the Student's needs could not be met in a less restrictive environment, the placement by the Parent into the PRTF "prevents [the Student's] participation in typical general education settings," and access to peers would be "limited."

8. In an undated document, a diagram indicated specifically how adults should respond to the Student based on the Student's displayed behavior. Preferred activity times were listed, along with information to contact the Parent. In an interview with the Complaint Investigator, the Special Education Teacher explained this document would be used to "outline the steps we need to take to meet [the Student's] behavior goals … when a situation happens. … It's kind of a step-by-step guide for us." The Special Education Teacher confirmed the document was created by the Former LEA, but the School used it as a guide.

9. In the Student's undated BIP from the LEA, the following relevant information was included:

a. The related diagnoses were Attention-Deficit Hyperactivity Disorder (ADHD), Oppositional Defiant Disorder (ODD), and Autism Spectrum Disorder (ASD).

b. Problem behaviors were listed as verbal aggression, physical aggression, elopement, property destruction, self-harm, and refusal. Each behavior was described.

c. The Student's preferred items included "painting nails, Just Dance, YouTube, and crafts." Nonpreferred action included "being told no."

d. The goal of the plan was to "decrease aberrant behaviors[,] as well as motivate and teach appropriate alternative behaviors."

e. Procedures for "Body Positioning and Room Organization" included:

i. Remain within arm's length, place oneself between the Student and exits, move away from the Student if they begin to escalate or aggression occurs, and keep the room and floor clear of unsafe items.

f. Procedures for "Placing Demands" included:

i. "State demands with an upbeat, positive tone of voice";

ii. "Use statements, not questions" with examples and non-examples provided;

iii. Reinforce the compliance of the demand with praise; and

iv. Provide options when possible.

g. Procedures for "Noncontingent Reinforcement: Ongoing Attention" included:

i. Free access to staff attention;

ii. Ensure large amounts of positive reinforcement;

iii. Interact with the Student as much as possible;

iv. Use an enthusiastic voice tone;

v. Rotate between activities; and

vi. Offer choices.

h. Procedures for "Denied Access" included:

i. "[The Student] has identified and demonstrated that being told 'no' or denied access is difficult to maintain safety."

ii. Staff should use "naturalistic opportunities to deny access a minimum of one time a session," and five minutes "must pass with safe behaviors before reinforcement" for the same mand[atte]. The example listed was, "The Student asks for a break during class. [Staff] tell [the Student] 'no.' [The Student] sits safely in class for five minutes and asks for a break again. [Staff] reinforces mand[ate]."

iii. "Provide praise and encouragement to [the Student] for tolerating the denied access."

i. The response to "Verbal Aggression" was outlined as providing the Student with replacement language and walking to the safe room.

j. The expected response to "Elopement" included specific language to use for a break, body proximity, prompting for the safe room with specific body positions and tone-of-voice to use, and handling refusal with repeat instruction in a neutral voice every 30 seconds.

k. Response to "Physical Aggression" called for staff providing space, blocking attempts of aggression, and providing instruction to walk to the safe room.

l. Response to "Property Destruction" indicated staff use of proximity and "block all attempts of property destruction," while being prepared for aggression, and the provision of instruction to stop and walk to the safe room.

m. Response to "Self-Harm" outlined the removal of items that could be used for self-harm and instructing the Student to walk to the safe room.

10. In a September 10, 2025 email to the Special Education Teacher, the School Psychologist, multiple staff of the LEA, and multiple staff of the PRTF, the Principal provided notification that the Student would be moving from the elementary school classroom to the middle school classroom. They stated, "It is an odd situation[,] but one that is necessary." The Principal added they wanted the Student to "engage in the middle school curriculum the best that [they] can," but the Student would still

be enrolled in the Special Education Teacher's class. The Principal requested the Special Education Teacher determine how they wanted communication from the middle school and elective teachers, since the Special Education Teacher would continue in their role as the Student's case manager.

a. The Special Education Teacher replied on September 11, 2025, and requested a weekly update about the Student be communicated to them. They included data on the Student, along with shortened versions of the Student's IEP goals. They indicated the Student refused to finish testing, liked to help adults, and "did well when I had [the Student] work for 10 minutes and then [take] a short break" for an allotted time, which was important for staff to "stick to."

11. In a September 13, 2025 email, the Autism Specialist notified the School staff about their service of providing teams "with consultation on best practices for supporting students who have autism." They shared times they would be at the School and invited staff to email them if they needed consultation for a specific student.

12. In an October 2025 Student Profile for Parent-Teacher Conferences, the Student was rated as "almost always" in the category of using technology independently and rated "never" in "makes crude sexual comments during class." For the categories of cursing at adults, blurting out, being able to ask for breaks before becoming escalated, and needing increased supervision and structure during transitions, the Student was rated as "sometimes." For the categories of pro-social behaviors with adults and peers, responding appropriately to adult directions, leaving class without permission, cursing at peers, and working independently without needing frequent adult prompts, the Student was rated as "often."

13. An October 15, 2025 IEP Progress Report indicated the Student was "making sufficient progress" toward their reading goal, had not yet demonstrated progress toward achieving their math goal, and had demonstrated "some progress" toward their social-emotional goal.

14. The Student's first quarter elementary progress report for the 2025-26 school year included a grading scale of an "A" for "excellent performance," a "B" for "very good performance," a "C" for "satisfactory performance," and a "PN" for "progress needed." Skill areas were graded as a "strength," as "progressing," or "improvement needed." The following were the Student's relevant grades:

    a. Spelling – "C" and one skill was a strength;

    b. Speaking – "C", one skill was a strength, and two were progressing;

    c. Reading – "C", one skill was a strength, and two were progressing;

    d. Writing – "C", five skills were a strength, and one was progressing;

    e. Math – "C", three skills were progressing, and two were a strength;

    f. Science – "PN" and one skill was a strength;

    g. Social Studies – "A" and one skill was progressing; and

h. "Learning and Work Habits," which were listed as "Attentive," "Cooperative," "Organized," "Productive," "Respectful," and "Responsible," were all graded as a strength.

15. In a January 7, 2026 email to the Principal, the Autism Consultant indicated the Student was "enrolled with us" and requested the most recent behavior plan for the Student. "In one of [the Student's] last plan of care meetings, I believe it was [the PRTF] staff that mentioned they would share [the Student's] BIP." The Principal followed up on January 8, 2026 and attached the Student's BSP.

16. On March 17, 2026, the Parent filed the Complaint.

Parent Interview

17. In an interview with the Complaint Investigator, the Parent explained the relationship and timeline of the Student's placements. On May 25, 2025, the Student entered the PRTF. "Between September, [2025] and May, [2025], [the Student] had 13 acute stays, which means short-term temporary stays." The Parent recalled that in August of 2025, the Student started at the School, which was on the campus of the PRTF. In November of 2025, the Student was discharged from the PRTF, stopped attending the School, and was re-enrolled into the Former LEA.

18. The Parent indicated the Former LEA had been working with them since September of 2025 to plan the transition back into the Former LEA. During this time, the Parent learned the School had put the Student into "10 to 12 holds a week." The Parent shared the Former LEA observed the Student and relayed to the Parent that in one of the classrooms, "[the Student] did amazing because they had somebody who kind of knew how to deal with autistic kids. They were giving [a] heads-up about things. They had structure, kind of giving [a] heads-up as things were transitioning, that kind of thing. In the other classroom, there was no structure, no heads up about anything, and [the Student] ended up needing a hold." The Parent explained, based on the Former LEA's observations and the reports they received from the School, the Former LEA initiated efforts to enroll the Student in the Special Education Day Treatment School. The Parent shared that their concern regarding untrained staff at the School came from information the Former LEA relayed to the Parent after their observation of the Student.

19. The Parent indicated the Student was moved into a different classroom during their time at the School because the Student "fit better in the older classroom." The Parent additionally reported the PRTF did "18 holds or ESIs" on the Student, they were notified about this "when we were about ready to exit," and they believed this impacted the Student's ability to get into other schools.

20. The Parent reported they did not know if six out of the ten program modifications and supports on the Student's IEP were implemented by the School. They believed four out of ten were not implemented. Those not implemented were the provision of visuals, the use of a reinforcement system, the provision of frequent reminders to the Student of rules before the start of an activity, and allowing the Student extra

time for transition. The Parent stated, "everything was negative, not a positive reinforcement," and "it doesn't sound like [the LEA]" implemented frequent reminders of rules and extra time for transition. The Parent added, "I don't think they did any visuals at all for [the Student]." In reference to the Student's BSP implementation, the Parent indicated the support provided was "inconsistent," "depended on which teacher [the Student] had," and the School staff's primary response to behavior was physical holds, with little positive reinforcement or redirection. The Parent noted one particular teacher was experienced and would offer prompts and warnings, but they believed this approach was not standard practice for all staff. The Parent added they never received "follow-up from the [School] when [the Student] did anything wrong."

21. The Parent shared their belief the School did not know the Student "was at first-grade reading level because on some of the documents I got later after the fact from [the PRTF], it said [the Student] was reading at grade level, which [they] never [have]. [The Student is] dyslexic." When asked about the Student's IEP progress reports from the School, the Parent recalled they "never received any reports" while the Student was attending. They added they worried about how far behind the Student's reading was when they started at the School. "I don't think [the Student's reading] progressed at all while [they were] there," and then when the Student was discharged from the PRTF and returned to the Former LEA, and then they were "out for two months" before the Former LEA secured a placement in the Special Education Day Treatment School.

Principal Interview

22. In an interview with the Complaint Investigator, the Principal clarified the PRTF was a separate entity from the School, the School was located on the campus of the PRTF, and students from the School "are residents [at the PRTF]." The Principal noted the PRTF staff accompany students to the School "in the capacity of supporting their behavioral needs while we meet their academic needs."

23. The Principal explained when the Student enrolled in the School, they obtained records from the Former LEA, reviewed them, and put the Student's IEP in place at the School because "[The Student's] IEP requirements were ones that we could meet" without making changes to the IEP. The Principal acknowledged, "[The PRTF] doesn't have as much to do with the academic side," and did not have contact with the Former LEA. The Principal shared the Student was placed in the Special Education Teacher's room, and accommodations, direct instruction, data review, and data collection were put into place by the Special Education Teacher. The Principal added the Student's BIP contained strategies "we have embedded into our system just as a school in a PRTF," but the Student's additional needs were met in the classroom setting. "We basically just go through and figure out what [the Student's] needs are, and then we built [the Student's] curriculum around what [their] level was." When asked if the services included in the IEP were actually delivered by qualified personnel, the Principal responded, "Yes."

24. The Principal shared the decision to change the Student from the elementary classroom to the middle school classroom was made "for everybody's safety, [the Student's] and the teacher's safety." When the change was made, the Student had not been at the School "long enough that it made sense to change a case manager and change delivery. … The people that were administering [the Student's] instruction from day to day had equal qualifications to [the Special Education Teacher]. So it would just be similar to a regular school environment where you have one case manager who oversees everything, but other special education teachers that may implement some of those services. … It was just a change of location for [the Student], but we maintained continuity for [their] case manager."
25. The Principal explained the Special Education Teacher "visited with" the teachers and aides regarding the Student's IEP and needs. This included de-escalation techniques that the Special Education Teacher "went through with those teachers individually." The Principal added they regularly partner with the PRTF, which provides training to the School staff "specific to autism," and "every teacher that worked with [the Student] attended that training." They indicated de-escalation training was annual, there was "additional autism training and just working with specific special needs," along with special education teachers attending professional development multiple times per year.
26. The Principal clarified that the Student was unenrolled from the School "the week before Thanksgiving," 2025, and the Former LEA was responsible for implementing the Student's IEP from that point in time.

School Psychologist Interview

27. In an interview with the Complaint Investigator, the School Psychologist indicated the transition between classrooms "is pretty structured." They explained a routine where "students are asked to empty their shoes and pockets before each class to ensure that they're not transporting any type of materials between classrooms," and the same protocol exists between the School building and the PRTF building, along with the lunchroom. "Students are given advanced notice of when transitions will be happening," and "every transition is supervised. We don't have lockers or any unstructured time. That also goes for bathroom breaks. … We also have a lot of built-in support throughout classroom tasks. So when one task is ending, and another one is beginning, [students are] given an advanced notice of that. There's lots of visual supports built into the classrooms as far as [the] daily schedule, what will be covered that day, and topics of instruction for that day."
28. The School Psychologist explained specifically for the Student, "We met with each teacher and ensured that [the Student's] IEP goals were made known to them and [the Student's] individual behavior support needs as well. … We have received training in safe crisis management [and] de-escalation strategies," which were all part of the Student's BIP.

29. The School Psychologist provided a rationale regarding the Parent's noted discrepancy in the Student's reading level. "There can sometimes be a discrepancy on what students are able to do at home versus what they're able to do at school, based on the differences of structure [and] support. Different situations have different learning environments and different distractors and things like that. So I can't speak specifically to how [the Student] reads at home, but at school, I know what that looks like here. And our teachers go to great lengths to make sure that the students' results are valid and represent what they're able to do." They indicated they use the Fast Bridge program, along with individualized CBMs to analyze reading skills. The School Psychologist described the Student's reading environments at the School as "small" and "structured" with not more than five or six students in a group, and "when reading skills are being measured, that's done individually."
30. When asked about how the team used the "hold" data to inform IEP decisions for the Student, the School Psychologist reported the Student was "making progress. It was slow, but measurable." They added that the therapeutic team from the PRTF typically "takes the lead" on those interventions, and "sometimes that can look like things becoming more frequent or severe, before they get better. And as a school team, we don't always have all of that information." Additionally, the School Psychologist indicated the PRTF invited the School team to a biweekly plan of care meeting to provide an update on their data and observations. They clarified the PRTF is not a part of the IEP team "per se," and the plan of care meetings are "where that data was shared, and discussions were had about what should be happening with [the Student's] annual IEP. So it wasn't necessarily an IEP team that was called. It was a therapeutic team meeting."
31. The School Psychologist clarified the Former LEA would be responsible for services once the Student was discharged from the PRTF and was not a resident on campus.

Special Education Teacher Interview

32. In an interview with the Complaint Investigator, the Special Education Teacher indicated it was "procedure" at the School to follow the protocols described by the School Psychologist in fact number 27. "It's giving kids a warning. It's giving them time to wrap up their activities. It's telling them what's coming next. It's a visual schedule. All of that is embedded in what we do every day, so that's just part of our procedures." The Special Education Teacher reiterated that they followed the Student's IEP.
33. The Special Education Teacher explained that many of the Students in the School have a diagnosis of autism, ADHD, and dyslexia, "So that's part of how every year at the beginning of the year we talk about this, we have training for it as part of our professional development. We also reach out to district personnel who are trained also in this when we have questions. It's part of our background and part of what we do every day."

34. The Special Education Teacher referenced the Student's IEP progress report when asked about the Student's reading level, noting the Student "was given curriculum-based measures to track [their] progress. And [the Student] was, at that point, 90% accuracy, I believe, in our fourth-grade level. When [the Student] was regulated, [they] can read. [The Student] is a very good reader when [they're] regulated." The Special Education Teacher confirmed the progress report was a product completed by staff at the School.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #233, in accordance with state and federal regulations implementing the IDEA, provided special education and related services to the Student as described in the IEP; and whether the LEA staff implementing the IEP were sufficiently trained. K.A.R. 91-40-16(b); 34 CFR § 300.323.

According to K.A.R. 91-40-16(b) and 34 CFR § 300.323, each agency shall ensure an IEP is in effect before special education and related services are provided to an exceptional child, those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown, and an IEP is in effect for each exceptional child at the beginning of each school year. Further, each agency shall ensure the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation, and each teacher and provider is informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged special education services for the Student, who experiences autism, were not correctly provided due to untrained staff.

The LEA contended "sufficiently trained and licensed staff" provided the Student with special education and related services as required in the Student's IEP.

Upon the Student's entry into the School on May 19, 2025, the LEA issued PWN stating its intent to provide services comparable to those described in the Student's existing IEP, despite the unilateral parental placement into the PRTF. The School's educational environment inherently provided extensive universal supports that mirrored many of the Student's required accommodations, including small class sizes, trauma-informed instruction, PBIS, and significantly reduced unstructured time. Furthermore, the LEA explicitly adopted the Student's transfer IEP goals for reading, math, and social-emotional regulation, and it assigned a certified special education teacher to oversee the delivery of 360 minutes of daily special education services. Although the Student was moved from an elementary to a middle school classroom in

September 2025 for "safety" reasons, the Principal and the Special Education Teacher confirmed the Student remained on the original teacher's caseload to maintain continuity, and the teachers in the new setting held equal qualifications.

Regarding the implementation of specific modifications and behavioral supports, the Student's BSP and program modifications were integrated into the School's daily procedures. While the Parent expressed concern that some modifications, such as visuals, reinforcement systems, and transition reminders were not utilized, the School staff clarified these strategies were "embedded" into the School's standard operating procedures for all students. The School Psychologist and the Special Education Teacher noted students were given advanced notice of transitions, used visual schedules, and received frequent prompts, which aligned with the requirements of the IEP and the BSP. Furthermore, the Special Education Teacher monitored progress through CBMs and reported the Student was making sufficient progress in reading and some progress in social-emotional goals by October, 2025. While the Parent contested the Student's reading level, the School Psychologist clarified the results were based on standardized tools like Fast Bridge and individualized measurements conducted in a structured, low-distraction environment. Further, the IEP transferred from the Former LEA indicated the reading levels were based on third-grade CBMs, while the goals were written for fourth-grade levels.

The LEA staff included certified special education teachers who individualized the Student's programs, and the School specialized in trauma-informed instruction and safe crisis management. The Principal and the Special Education Teacher detailed ongoing training that included annual de-escalation training, professional development on specific disabilities such as autism, and consultation with district experts like the Autism Specialist. When the Student moved to the middle school classroom, the Special Education Teacher met with the new staff to ensure they were briefed on the Student's specific IEP goals and individual behavioral support needs. Although the PRTF staff (who are separate from the School staff) performed physical holds, the School staff regularly communicated with the PRTF to align therapeutic and academic data.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** the LEA failed to provide special education and related services to the Student as described in the IEP; and not substantiated the LEA failed to provide sufficiently trained staff to implement the IEP.

Issue Two

Whether USD #233, in accordance with state and federal regulations implementing the IDEA, developed an IEP that accurately reflected the Student's needs and supports designed to meet these needs. K.A.R. 91-40-16(a); 34 CFR § 300.320.

According to K.A.R. 91-40-16(a) and 34 CFR § 300.320, each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. The term IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with the IDEA, and that must include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children). An IEP must include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum, and meet each of the child's other educational needs that result from the child's disability. For children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives must be included. An IEP must contain a description of how the child's progress toward meeting the annual goals will be measured, and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

An IEP must include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately toward attaining the annual goals, to be involved in and make progress in the general education curriculum in accordance with the IDEA, to participate in extracurricular and other nonacademic activities, to be educated and participate with other children with disabilities and nondisabled children in these activities. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities must be included. An IEP must include statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments, and if the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why the child cannot participate in the regular assessment, and the particular alternate assessment selected is appropriate for the child. An IEP must specify the projected date for the beginning of the services and modifications listed, and the anticipated frequency, location, and duration of those services and modifications.

The Parent alleged the School inaccurately reported reading progress, and the IEP was not followed or changed appropriately based on this information.

The LEA contended the Student's IEP was appropriately developed and the supports included in the IEP were designed to meet the Student's needs.

Upon the Student's May 19, 2025 enrollment at the School, following a unilateral parental placement into the PRTF, the LEA promptly issued PWN, which established the LEA would provide services comparable to those in the Student's previous IEP, while conducting its own evaluations to determine current needs within the new setting. The evidence shows the IEP team incorporated goals in reading, mathematics, and social-emotional regulation that were consistent with the Student's identified disability category of SLD. Although the Parent expressed concerns regarding the accuracy of the Student's reading level and the necessity of more intensive behavioral supports, the LEA based its determinations on curriculum-based measurements and standardized tools such as Fast Bridge, which indicated the Student was capable of fourth-grade level work when regulated.

The design of the IEP and the accompanying BIP reflected a comprehensive approach to the Student's social-emotional needs by leveraging the universal supports already built into the School's therapeutic environment. These supports included trauma-informed instruction, small class sizes, and a high adult-to-student ratio, which the LEA determined were appropriate to address the Student's requirements for a structured environment and frequent de-escalation. While the Parent contended the IEP failed to include necessary 1:1 support and specific sensory modifications, the LEA provided evidence the Student's needs were being met through the school-wide PBIS and the expertise of specialized staff, including the School Psychologist and an Autism Specialist who was available for consultation. The LEA asserted the IEP was designed to provide a FAPE in the LRE available, given the Student's residential status, and with a focus on goals that would allow for academic progress, while also addressing the Student's behavior.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to develop an IEP that accurately reflected the Student's needs and supports designed to meet these needs.

Issue Three

> Whether USD #233, in accordance with state and federal regulations implementing the IDEA, failed to provide a FAPE to the Student when the IEP was not designed to meet the Student's needs and the IEP was not implemented by trained staff. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2 and 34 CFR § 300.101, each agency shall provide a FAPE in accordance with the law. Each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday. Each agency shall make a FAPE available to any child with a disability even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination of

whether a child who is advancing from grade to grade is a child with a disability shall be made on an individual basis in accordance with child find activities and evaluation procedures required by this article. Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

According to K.A.R. 91-40-1(z) and 34 CFR § 300.17, "Free appropriate public education" and "FAPE" mean special education and related services that are provided at public expense, under public supervision and direction, and without charge, meet the standards of the state board, include an appropriate preschool, elementary, or secondary school education, and are provided in conformity with an IEP.

The Parent alleged that the LEA failed to provide a FAPE to the Student when the IEP was not designed to meet the Student's needs and the IEP was not implemented by trained staff.

The LEA contended the Student was provided with a FAPE.

The LEA ensured a smooth transition into the School by adopting comparable services from the transfer IEP and subsequently using standardized evaluative data, such as Fast Bridge assessments, to maintain goals that were appropriate for the Student's abilities. Implementation was also evidenced through the School's existing therapeutic environment, where universal supports such as trauma-informed instruction and visual schedules were embedded into daily routines to meet the Student's social-emotional requirements. Additionally, the LEA had highly trained special education staff who remained consistent during classroom transitions, ensuring the Student's specialized instruction and behavioral interventions were delivered as designed. The alignment between the Student's documented progress and the comprehensive supports provided by the LEA confirms the LEA fulfilled its obligations to provide a FAPE.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Student a FAPE.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON MARCH 16, 2026

DATE OF REPORT: APRIL 28, 2026

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ------- by her parents, -------. In the remainder of the report -------will be referred to as "the student" and ------- will be referred to as the "complainants" or "the parents" or individually as "the father" and "the mother" respectively.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the complaint is against USD #437 (Auburn/Washburn Public Schools) which employs its own staff to meet the requirements of the IDEA. In the remainder of the report, this responsible public agency will be referred to as "the local education agency (LEA)".

In the remainder of the report, the LEA staff will be referred to as follows:

- Heidi Carlson, Director of Secondary Special Services
- Charlie Stoltenberg, Washburn Rural North Middle School (WRNMS) Principal
- Tina Schindler, Special Education Teacher
- Dana Ellis, Board Certified Behavior Analyst (BCBA)
- Braeden Pfau, School Psychologist
- Cheyanne Colwell, General Education Social Studies Teacher
- Bradley McCarter, School Resource Officer (SRO)
- Michelle Lawson, Paraprofessional 1
- Mikyla Brix, Paraprofessional 2
- Linda Davis, Paraprofessional 3
- Charlie Chesmore, Assistant Principal
- Christin Barkemeyer, Dean of Students

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is

considered filed on the date on which it was received by KSDE and the LEA. In this case, March 16, 2026 is considered as the date the complaint was filed.

Evidence Reviewed

The father was interviewed by telephone on April 6, 2026 and the mother was interviewed by telephone on April 7, 2026. The following LEA staff provided written responses to interview questions during the investigation process.

- WRNMS Principal
- Special Education Teacher
- General Education Social Studies Teacher
- SRO
- Paraprofessional 1

In addition, written documentation was provided by both the LEA and the complainants. All the documentation was reviewed, and the following written documentation was used in consideration of the issues:

1. Individual Education Program (IEP) Amendment dated August 6, 2025
2. Prior Written Notice (PWN) signed by the father on August 6, 2025
3. Student's Class Schedule for the 2025-26 school year
4. Paraprofessional Assignment Chart dated between August 12, 2025 and March 12, 2026
5. IEP dated October 13, 2025
6. PWN signed by parents on October 16, 2025
7. Email dated November 13, 2025 at 12:49 PM written by the father to the "Team" which included the WRNMS Principal, the Special Education Teacher, and the BCBA
8. Email dated November 13, 2025 at 1:02 PM written by the WRNMS Principal to the parents
9. Emails dated November 13, 2025 at 6:02 PM written by the BCBA to the parents
10. Email dated November 14, 2025 at 7:02 AM written by the father to the BCBA
11. Email communication dated December 2, 2025 at 2:21, 4:17, and 6:45 between the mother and the Special Education Teacher
12. Email dated December 4, 2025 at 4:31PM written by the Special Education Teacher to the mother
13. Daily Report dated March 9, 2026 handwritten by Paraprofessional 1
14. IEP Goal Progress Reports dated December 29, 2025 and March 13, 2026
15. Emails dated March 9, 2026 written by the mother to the WRNMS Principal at 12:27, 12:35, 12:49, 12:58, 1:05, and 2:41 PM
16. Emails dated March 9, 2026 written by the WRNMS Principal to the mother at 12:43, 1:03, and 2:34 PM

17. Emails dated March 10, 2026 written by the WRNMS Principal to the mother at 8:39 AM and 1:55 PM
18. Emails dated March 10, 2026 written by the mother to the WRNMS Principal at 11:06 AM and 4:33 PM
19. Emails dated March 11, 2026 written by the WRNMS Principal to the mother at 8:05 and 9:44 AM
20. Email dated March 11, 2026 written by the mother to the WRNMS Principal at 8:36 AM
21. Emails dated March 12, 2026 written by the WRNMS Principal to the mother at 9:33 and 10:53 AM
22. Emails dated March 12, 2026 written by the mother to the WRNMS Principal at 10:32 and 11:09 AM
23. Email dated March 12, 2026 written by the Director of Secondary Special Services to the mother at 3:00 PM
24. Emails dated March 12, 2026 written by the mother to the Director of Secondary Special Services at 3:17 and 3:50 PM
25. Email dated March 13, 2026 written by the Director of Secondary Special Services to the mother at 4:58 PM
26. Email dated March 13, 2026 written by the mother to the Director of Secondary Special Services at 8:55 PM
27. PWN dated March 13, 2026 and not signed by either parent
28. The LEA's Response to the Allegations dated April 6, 2026 written by the Director of Secondary Special Services
29. Email dated April 9, 2026 written by the mother to the investigator regarding text messages with the Special Education Teacher
30. Email dated April 20, 2026 written by the Director of Secondary Education to the investigator
31. Emails dated April 20, 2026 written by the parents to the WRNMS Principal, Special Education Teacher, and Director of Secondary Special Services
32. Undated text messages between the mother and the Special Education Teacher
33. Social Studies Quiz for Unit 9.3 – regular version
34. Social Studies Quiz for Unit 9.3 – modified version
35. Social Studies Assignment for Unit 11.2 – regular version
36. Social Studies Assignment for Unit 11.2 – modified version
37. Undated and graded modified quiz for the American Indian Act
38. Modified Social Studies study guide and knowledge check sent home on April 17, 2026
39. Campus Police Officer / School Resource Officer Job Description
40. Kansas Statute 71-6146: School security officers and campus police officers
41. USD #437 School District Calendar the 2025-26 school year
42. 2025-26 school year Timesheets for Paraprofessionals 1, 2, and 3
43. 2025-26 school year Inservice Training Logs for Paraprofessionals 1, 2, and 3

44. 2025-26 Contact Log for BCBA
45. History, Government, Social Studies Alternate Assessment on the DLM website

Background Information

The student is currently enrolled in the 8th grade at WRNMS. Her most recent triennial reevaluation was completed on October 18, 2023. At that time, it was determined that she continued to meet the eligibility criteria for the exceptionality of Multiple Disabilities based on medical diagnoses of Down's Syndrome, Attention Deficit Hyperactivity Disorder (ADHD), and Reactive Attachment Disorder (RAD). There were two IEPs in effect during the 2025-26 school year with the first being an August 6, 2025 IEP amendment to the transfer IEP from USD #345 and the second being the annual IEP developed on October 13, 2025. Both IEPs include special education support in general education classes as well as specialized instruction and related services provided in the low incidence program in the district.

Issues Investigated

Based on the written complaint, five issues were identified and investigated.

Issue One

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by not providing the required special education instruction and support during the general education social studies class during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require each public agency to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The parents reported that the student is not being included in the general education social studies class as required by the IEP. They believe that the student is segregated from her peers most of the class period in a small room adjacent to the social studies classroom and separated by a glass wall. The parent indicated the LEA staff's belief that allowing the student to see her peers does not fulfill the IEP's requirement that the specialized instruction and supports be provided in the general education setting.

In addition, the parents are concerned that the student is not being provided the accommodations and modifications in the social student class as required by her IEP. The parents are frustrated that the social studies schoolwork is not being sent home despite multiple requests. The parents believe this was because these class materials are not being

modified or modified incorrectly. The parents noted that once this child complaint was filed, the LEA began to provide copies or work completed in social studies, but this confirmed their beliefs that the work was not being modified correctly for the student. The parents specifically were concerned with the number of choices the student was given in multiple choice questions and the visuals paired with vocabulary words and concepts.

The parents indicated the student earns good grades on the assignments but then does poorly on quizzes and tests which indicates to them that the student is not learning. The parents indicated they are willing to help the student study but, again, are unable to assist the student because of a lack of materials being sent home by the LEA staff.

LEA Position

The LEA reported that a paraprofessional has been assigned to support the student in the sixth hour general education Social Studies class for 242 minutes per week every day during the 2025-26 school year. The paraprofessional provides direct implementation support for the student's IEP accommodations and modifications under the supervision of the special education teacher.

The LEA indicated that the student is provided with modified versions of tests and assignments on the same lessons presented in the classroom and assigned to the student's peers. The paraprofessional implemented the required accommodations and modifications including reading aloud to the student, giving verbal cues and prompts to remain on task, repetition and review of learned skills, etc. The LEA believes that the student's IEP has been implemented in the social studies class and the student has been provided with the required special education instruction and support in that general education classroom.

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation.

1. The student's IEP requires 234 minutes per day of special education services and support in the general education setting for the following classes: Skills for Success, social studies, science, two elective classes, and advisory. The student receives 42 minutes per day of those required services in the sixth hour social studies class with paraprofessional support during the 2025-26 school year.
2. The IEP requires the following accommodations and modifications in all subject areas, including the social studies class, related to the parents stated concerns for multiple choice questions and the visuals paired with concepts or words.

Accommodation / Modification	Location	Frequency
All classwork, tests, projects, and quizzes are modified to her instructional reading and conceptual level	All subjects	In all educational settings
Pre teach vocab with visuals	All subjects	Daily
Reduced answer, 2 options	All subjects	During all multiple choice assessments

There was no accommodation / modification related to quizzes/assessments and assignments being sent home on a daily basis.

3. The WRNMS Principal reported the school building was recently built and classrooms were designed to include adjacent small group work areas, which are separated by a "glass wall". This design allows the classroom teacher to continue to supervise the classroom when students are working in small groups, receiving interventions or enrichment, or collaborating through project-based learning.
4. The mother sent emails to the WRNMS Principal on March 9, 2026 at 12:27 and 12:35 PM questioning why the student who has an IEP, a BIP, and one-to-one paraprofessional support had missing assignments, but no schoolwork was ever sent home in the social studies class. The mother stated, "*We already know that [the student] and her peers are pulled out of the classroom for separate instruction, but that it is viewed as inclusive because there is a clear window between the typical students and [the student] and her peers with disabilities"* and questioned if the IEP was being implemented. The mother also requested that copies of social studies assignments and assessments be sent home daily.
5. The WRNMS Principal responded via email to the parent that same day at 12:43 and 1:03 PM indicating he would follow up on the mother's concerns about the student's inclusion in the general education social studies class and the lack of schoolwork being sent home. The WRNMS obtained copies of the student's social studies work from the General Education Social Studies Teacher, scanned, and attached those to the email sent to the mother as well as made copies and sent those home with the student at the end of the school day.
6. The mother responded via email to the WRNMS Principal on March 9, 2026 at 12:49 and 12:58 PM stating, "*You may recall that we have requested copies of her work on multiple occasions, and we periodically get copies of other things, but never social studies. [The Special Education Teacher's] response was that her team regularly sins [sic], stuff home to us. So, apparently somebody is stealing it out of her backpack and keeping it for themselves. weird, don't you think?"* The mother also suggested the WRNMS Principal should observe how students with disabilities are being included in the general education classes.
7. On March 9, 2026 at 2:34 PM, the WRNMS Principal responded to the mother via email describing his meeting with the student's school team to address the mother's concerns. He noted that a lot of the work [the student] does in the social studies class in on her Chromebook in Google Classroom so he instructed them to take screenshots of that work to send home so that the parents receive a paper copy of it each day. In addition, he explained how the parents could access the student's assignments in the Google Classroom to see the work that is being assigned to the student each day as well. He encouraged the mother to let him know if schoolwork wasn't making it home so he could intervene. The WRNMS Principal stated, *"In regards to your concerns about what inclusion looks like, we have students, both those with an IEP and those without an IEP that utilize common spaces for a space to work. When students get pulled for small group*

work, they are always in close proximity to the Gen-Ed classroom in a common space that is used by all types of students. When Mila does small group work, it takes place after whole group instruction from the Gen-Ed teacher and when all students are working independently. Teachers report that Mila is often in the Gen-Ed classroom for whole class periods, and that small group work does not take place on a daily basis".

8. The mother responded to this email at 2:41 PM and stated, "*Once again, completely different from what [the Special Education Teacher] told us. Proudly, by the way, as she thought I'd be quite impressed that her students were pulled away, but could see their classroom through the glass. You can PR it all you want. Secondly, this is not the first time we've been told that social studies would be sent to us... Also, this does not answer for how [the student], with an IEP, a BIP, and a one on one has missing work. It also does not explain how she's getting 100% on daily work, and 50% on quizzes. That appears to be a pretty significant gap, don't you think? If I were the principal over those classes, I would wonder why there is such a wide gap?? Especially for a student with an IEP, a BIP, and a one on* one".
9. On March 10, 2026 at 8:30 AM, the WRNMS Principal responded to the parent and stated, *"I was able to touch base with Mila's Social Studies teacher this morning with these specific concerns. She looked into why the assignment was marked missing, and it appears as though it was something she hadn't completed in class - thus the teacher marked it that way to remind herself to make sure Mila was able to attempt it later. I told her to mark it exempt for now, and that we can change the score once Mila is able to attempt it. She also told me that the quizzes are based on how Mila answers the questions when she takes the quizzes. She receives all of her accommodations when she's taking the quiz, and the score is entered based on her answers. With all of that being said, Mila is graded pass/fail for her assignments and overall grade per her IEP. I will scan an example of a recent bell work quiz when I get a chance later today so you can see what the modifications look like and what she's attempting*".
10. The mother responded on March 10 at 11:06 PM, 2026 stating, "*I really do have to ask, do you think that a child with an IEP regularly getting a 50% on their daily quizzes is being appropriately accommodated?? Do you think that that child is appropriately learning the materials and accessing and understanding the curriculum, and being appropriately accommodated?? That seems OK to you??".*
11. The WRNMS Principal responded back to the mother on March 10, 2026 at 1:55 PM. Indicating that he was sending home a copy of a modified social studies quiz so the parent could review the document. He also noted that he would follow up with the social studies teacher about the grading concerns and stated, "*. . . my hunch is that a lot of the daily work is being graded based on completion with quiz scores being graded on mastery of the content. As you stated, a question I'm going to pose to the team, as I would any of my teachers when students do not master the content the first time, is how we can reteach and ensure that the content is being learned. While your question is centered specifically around a student with an IEP who is receiving 8th grade curriculum in a heavily modified format per her IEP . . .With regards to accommodations, I'll review and ensure that I get a comprehensive response to your entire question, but she is receiving her quizzes in a*

highly modified format including only two answer choices, her quizzes are read aloud, and she has a visual on the quiz, all of which align with her IEP. In her accommodations, she has written in that her Pass/Fail is based on effort, which I take to mean the course as a whole - thus [the student] will pass Social Studies as she is an active participant and gives her best effort from what I've been told. If I'm incorrect on this, and this means that each individual assignment is based on effort, then the scores of the quizzes will need to be changed to 100% to reflect her effort. This accommodation is based on what we discussed in her IEP meeting earlier this fall, so if you believe that there needs to be something different, we can certainly amend as needed. Again, as I've stated throughout our interactions, it is my desire to partner with you throughout this process".

12. The mother responded to the WRNMS Principal via an email on March 10, 2026 at 4:33 PM still expressing concerns about the student not passing the social studies quizzes but then began sharing concerns regarding the incident involving the SRO. Note that the issues related to the incident involving the SRO will be addressed in Issue Two and Issue Three in this Investigation Report.
13. The General Education Social Studies Teacher provided the following written response to questions about implementation of the student's IEP:
    The student is included in my classroom through direct instruction, often times when I am teaching the student is blurting or making comments. I always say yeah that is right or yes that is correct. On multiple occasions we have done study review days with buzzers the student is put into groups with peers and joins in the game to the best of their ability.
    The student spends roughly 15-20 minutes in class, sometimes longer depending on direct instruction. There have been multiple days where the student stays during the whole period due to projects and tasks we complete together. Even if they are on the other side of the glass wall, I continue to interact with them, and they continue to have access to me and other peers.
    The assignments/quizzes have reduced answer choice, are read aloud, lowered to a prek-kindergarten level, circle the best answer, and draw lines to what matches. Oftentimes the student would also have box work/tasks they need to complete, they would work on those during assignment work as well.

1. The para provides reteaching, talking through assignments/assessments, providing student redirection due to blurting/behaviors, assistance through assignment completion. I enjoy having her in class and including her while I am up providing direct instruction to the class. The students as well as myself work to include her, my work and their work.
2. Paraprofessional 1 provided the following written responses to questions about the implementation of the student's IEP:
    The teacher always calls on the student at least once a day. She will make sure she calls on every student in the classroom at least once. If the question is open-ended, she will make sure to give the student two choices to choose from and I will support as needed. When the student does have an outburst, the teacher either ignores it or makes it a part of the class and continues teaching the class. There are days we stay in the class the whole time - most

weeks 3-4 days of the week we are in class the entire time. On the days that we leave the class, we are in the class for all whole-class instruction and then the last 10-15 minutes we leave the class because the rest of the class is having quiet work time and I need to be able to talk to the student to provide her modifications. I reread the text to the student, I read all questions and all options. I provide options if options are not made available. I give sentence starters as needed. The teacher provides a modified assignment and I provide additional modifications to ensure the assignment is compliant. The social studies teacher and special education teacher will modify the student's assignments and tests/quizzes.

3. The WRNMS Principal provided the following written response to questions about the implementation of the student's IEP:
I have observed the 6th period Social Studies classroom as a part of regular walk throughs, spending a few minutes each time in the classroom. I have seen a variety of things including the student in question in the gen ed classroom receiving whole group instruction or working in the classroom. I've also seen a group of students pulled out into the hallway in our commons space to work on small group instruction as well. I would note that the common space is utilized by SPED and Gen Ed. students alike for pull out, small group work.

14. The parents received copies of the student's completed work from the social studies class on April 17, 2026. The mother emailed the WRNMS Principal, the Special Education Teacher, and the Director of Secondary Special Services on April 20, 2026 at 3:18 PM sharing concerns about the visuals paired with key concepts by stating, *"Please explain to me how the wave is supposed to represent what the Rio Grande river and that the Mexico choice is represented by what a cactus I have no idea what the next icon is protecting homes what is that a shield? Are these appropriate uses of pictures as choices and explanations of the actual academic content??". The father also emailed the same LEA staff on April 20, 2026 at 3:43 PM stating, "Part of the discussion about what should be modified for [the student] is what are the most important parts of this unit that she should learn about. She can exposed to it but what are the essential parts. We have no idea because we don't know if her study guide is the whole unit. I have no idea what the Week 4 paper is supposed to be about? The quiz is simply reducing the answers by 1 choice. This is not an appropriate accommodation for [the student]. That is a common accommodation for a student with a specific learning disability. There should be visuals to go with answers and it really does not need to be more than two options. We should also be helping with studying to make sure information that she is being exposed to is connecting. We see nothing ahead of time and I don't feel that papers coming home are connected?? Why is that?".*

15. The WRNMS Principal responded to the parents' emails on April 21, 2026 at 8:20 AM stating, "*Thank you for reaching out again yesterday with your questions and concerns. The items that you've shared are actually part of weekly vocabulary work that is done in the Social Studies classroom. Students receive 4 discipline specific vocabulary words each week and Mila reviews the words both in whole group as well as in small group. It is discussed verbally and as well as written on worksheets. They then quiz over the words at the end of the week. Chris, as you've stated, the quizzes should have two selections not three, and include visuals which Tina has modified for Mila's level. With regards to the broader class work, they*

are currently working on Westward Expansion. Tina is going to send home the study guide as well as the quiz in a folder for you today so that you can review the material with Mila. Tina and I have connected and we will make sure that all materials that can be used to help study at home be sent to you in advance, including the quiz so you can see exactly how she'll be assessed".

16. The LEA provided a copy of the Modified History Quiz for 9.3. This quiz included 17 multiple choice questions. Four of those questions had more than the two choices required by the IEP. The quiz included three vocabulary questions for the terms "impressment", "embargo", and "confederation". Only one visual was provided for the term "impressment", which depicted a forearm being held by the wrist by another hand. The two choices for the definition were: 1) a military force made up of local citizens to help protect their town, land, or nation or 2) the act of forcing men into military or naval service. The LEA also provided a copy of the modified assignment for Lesson 11.2.1. This assignment included vocabulary matching questions for the terms "assimilate" paired with , "Indian Removal Act" paired with , and "Indian Territory" paired with . Four of the questions used the same visual paired with different responses i.e. a smiley face for "Yes", "Happy", "Be Free", and "Good Land".

CONCLUSION

In this case, the student's IEP requires special education support in the student's social studies class for 42 minutes per day. Interviews and documentation show this support is being provided. The parent's concerns regarding the student being isolated during the majority of the class period in the adjacent workspace behind the glass wall was not substantiated based on written interviews with the General Education Social Studies Teacher, Paraprofessional 1, and the WRNMS Principal, which all reflected the student being included in the general education setting on a regular basis. Also based on the interviews and information about the new building design, it appears that the adjacent workspace is available for and used by all students in the general education social studies class.

The student's IEP also includes specific accommodations / modifications that are to be implemented for modifying tests/quizzes and assignments. The WRNMS Principal acknowledged and a review of samples of modified work found the student is not always provided with only two choices on multiple choice questions. In addition, the choice of visuals to be paired with terms is not appropriate because on visuals that do not clearly reflect the term (a cactus for Mexico, a wave for the Rio Grande River) and using the same visual for multiple terms (a smiley face for the terms for "Yes", "Happy", "Be Free", and "Good Land"). Finally, the conceptual level of the samples provided does not appear to be aligned to the student's instructional level in order to expose the student to the concepts that will assessed on the History, Government, Social Studies Alternate Assessment (HGSS-AA) in high school.

Based on the foregoing, the ***LEA is found OUT of compliance*** with federal regulations at 34 C.F.R. §300.323(c)(2) for failing to implement the student's IEP, specifically the accommodations and modifications related to test/quizzes and assignments. As such, corrective action is required.

Issue Two

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's behavior intervention plan on March 9, 2026, specifically by involving the building's school resource officer (SRO).

Applicable Law

In the case of a child whose behavior impedes the child's learning or that of others, federal regulations at 34 C.F.R. §300.324(a)(2)(i) require that the IEP Team consider the use of positive behavioral interventions and supports, and other strategies to address that behavior. The IEP Team may choose to address the identified behavior through IEP goals, accommodation/modifications, and/or the development of a behavior intervention plan (BIP).

Federal regulations at 34 C.F.R. §300.323(c)(2) require each public agency to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The parents reported that, on March 9, 2026, the LEA failed to follow the student's BIP which resulted in the student's behavior escalating to the point that the SRO was called to remove the student from the classroom. The parents believe that this situation could have been avoided if school staff had followed BIP.

The parents also indicated that they were not informed of the SRO's involvement with the student and only found out through because of the daily note written by the paraprofessional. After inquiring with LEA administrators about the situation, the parents were provided with differing accounts of what happened. Please note that Issue Three will address these parent concerns.

LEA Position

The LEA reported the student's BIP was implemented as written on March 9, 2026. The BIP includes six "Reactive Strategies" listed from least to most restrictive and Paraprofessional 1 followed each of those steps during the incident. The fifth strategy is to remove the student from the classroom and the BIP does not specify which LEA staff may, or may not, be involved in that process.

The LEA reported that the summary of the SRO's job description approved by the USD #437 Board of Education states, "The Campus Police Officer/School Resource Officer supports and

facilitates the educational process within the Auburn-Washburn USD 437 School District by providing a safe and secure environment through building and establishing meaningful relationships with students and staff". The LEA noted the SRO's job description includes the following responsibilities:

- Serve as a wrap-around services team member to support student success
- Serve as a visible and active law enforcement officer on campus
- Conduct routine patrols of assigned facilities to include buildings
- Make yourself available to students and staff as needed in the role of an informal counselor.
- Perform other duties as assigned

The LEA reported, "The SRO routinely interacts with students, both students who receive special education services and students who do not. In addition, he is visible across the campus he supports for the duration of his workday. Part of his workday includes routine patrolling which is what led him to be near the Trek classroom [the student's special education classroom] when the incident occurred. Importantly, at no time did he ever touch the student or engage with the student in any way that constituted restraint, seclusion, or any other emergency safety intervention. The student was never secluded and never restrained. The student's BIP does not prohibit the use of specific adults nor does it specify which adults should engage with the student to support regulation".

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation. Note that the findings from Issues One are incorporated herein by reference.

1. The student's BIP includes the following "Reactive Strategies" when a problem behavior occurs. These are listed from the least to most restrictive.

1) Sensory: When student's behaviors are believed to be due to a sensory reaction, student will be offered noise-cancelling headphones

2) Passive Ignoring: When student is exhibiting behaviors that are attention-driven, staff will do the opposite, shifting attention away from her towards the other students activities, breaks, etc. There is no communication verbal at this point, unless there is a safety issue.

3) Count backwards 3,2,1

4) Do I need to call Mom, do I have to call BaBa

5) Removal from class: When student is continuing to exhibit these behaviors for a continued duration (10 minutes or longer; with the exception of those that involve safety concerns), she will be removed from the classroom into the hallway or another room in the building. She will take a break, and be reminded of positive choices that she can make and then no adult interaction will be done during this time. After 2 minutes, check with student to see if she is

ready to return and if she is calm and ready to learn and demonstrated that she is calm and ready by completing some simple tasks or work activities she may return, if no, then set the timer again for 2 minutes and repeat. Through all of this, reinforcement of positive behaviors should be followed. Rewards and attention for better behavior, while removing attention and desired activities should be followed while she is not following rules.

(6) Call Mom and have student talk to her

2. Paraprofessional 1 provided the following written response to questions about the incident involving the SRO on March 9, 2026:

On March 9, 2026, during 1st hour, the student was dysregulated in the classroom. Staff initially utilized passive ignoring in response to the behavior. When the behavior continued, [the student] was offered a walk as a de-escalation strategy to help her reset. Upon returning to the classroom, the walk was not successful in resolving the behavior. [The student] was then offered the opportunity to go to the sensory room and sit in the tent with a weighted blanket. While in the tent, she began thrashing her body, causing the tent to roll. I then used a verbal countdown strategy, counting backward from 3, 2, 1. When this strategy was not effective, I asked [the student] if I needed to call her mom, and she responded no. I then asked if I needed to call BaBa, and she again responded no. I informed her that if she was unable to maintain a quiet body, we would need to make a call. After [the student] had been in the sensory room for a while, I was standing in the doorway of the sensory room, when [the student] ran out of the room and past me toward the classroom door. She grabbed a trash can and threw it in the direction of other students. She then picked up the same trash can a second time and again threw it toward the students. At that time, I determined that the classroom was no longer safe for the other students, and the decision was made to evacuate them from the room. The substitute teacher and another paraprofessional escorted the other students into the hallway, while another paraprofessional and I remained in the classroom with [the student]. During this time, [the student] began kicking at both of us. I used the intercom to request immediate support from someone in the office. While awaiting support, [the student] continued attempting to kick both staff members before throwing herself to the floor and thrashing her body.When the SRO arrived, he located one of [the student's] preferred fidget items in her bucket and offered it to her. [The student] responded positively and willingly followed the SRO. Because the classroom still contained other students who required supervision and support, I did not accompany the SRO to the office. At that time, [the student] was compliant and followed him voluntarily.

3. The SRO provided the following summary of the incident with the student on

March 9, 2026:

I was walking in the forest walk (the forest walk is the primary hallway connecting all wings at Washburn Rural North Middle School) and noticed the Trek classroom (where the student

receives services) was being cleared of students. One staff member flagged me down and requested support. I entered the classroom and two staff members were in the room with the student. The student was sitting on the floor and staff were at least 4-5 feet away from her. I could see that items had been thrown around in the classroom. Because staff had chosen to clear the room, I knew that even though the student was seemingly regulated at the time, the student likely needed a break to entirely regulate away from the classroom as is consistent with her behavior plan. I have interacted with the student over the course of the year, so I noticed her crate that she brings with her to her classes. Inside her crate I noticed one of her fidgets that she prefers. I picked it up and asked her if she would like to walk with me and have her fidget.

She left the room with me within one minute of me entering the room. As we exited the room, the student pushed the "all call" button that is by the door - this has happened other times during the year. The office staff immediately called to offer assistance and we shared it was pushed on accident by a student. When I become involved with a student and I have reason to believe that the student needs to regulate or there could be potential disciplinary action needing to be taken, I walk with the student to the main office and have the student engage with either the principal, the assistant principal, or the dean of students. The student walked with me to the main office and the assistant principal, [Assistant Principal], is the administrator who was available at the time. The student and I walked into [the Assistant Principal's] office, I sat across from [the Assistant Principal], the student stood by the door, the door remained open.

[The Assistant Principal] asked the student about what was going on. The student did not respond. [The Assistant Principal] then asked the student about the fidget she was holding. The student gestured "mine" with the item, so [the Assistant Principal] did not ask more about it. I shared with [the Assistant Principal] that the student seemed to be having a hard time, so we decided to take a walk. [The Assistant Principal] engaged for a few more minutes with the student. The student remained calm the entire time and became entirely regulated.

At this point the dean of students, [Dean of Students], walked by [the Assistant Principal's] office, noticed the student standing in the doorway of [the Assistant Principal's] office. She asked if the student was ready to go to PE. The student shook her head "yes," so [the Dean of Students] walked with the student to PE where her staff was waiting for her.

4. The SRO provided the following written response to questions about the incident involving the student on March 9, 2026:

As far as I recall, I was in the main hallway approximately 30 feet from the classroom when I noticed staff escorting the other students out of the classroom. I do not recall being called to the classroom. It is possible that the classroom staff called the office telling them they needed help. But I specifically, as the SRO, was not called to the room.

I am aware that the student has a behavior intervention plan. I have been an SRO for the district for the last 7 years. Prior to that I was a Topeka Police Officer for 26 years with 5 of those being assigned to the SRO unit. I have dealt with numerous situations like this in the past and am aware that sometimes a different face and a distraction (like a toy or some other object) helps them to focus on that instead of what is upsetting or agitating them. With this student, I have seen staff use this approach when they are dysregulated.

5. The Director of Secondary Special Services provided the following summary about the incident involving the SRO on March 9, 2026:

In discussing the incident with principal [the WRNMS Principal] and [the Assistant Principal], standard building procedure is to follow students' individual IEPs and BIPs. In the case of this student, the student's BIP lists six steps should the student be displaying any of the problem behaviors. Step 5 is "removal from class" and step 6 is "call Mom and have student talk to her." The team worked through steps 1 through 5 but never attempted step 6 because the student became regulated upon completing step 5. The BIP does not require staff to progress to step 6 in every incident; rather, progression to the next step is only necessary when the student remains dysregulated after the prior intervention step has been implemented. The SRO's involvement occurred during implementation of step 5, "removal from class," and served as an additional adult support to facilitate the student's movement away from the classroom environment so she could fully regulate.

Conclusion

In this case, documentation and interviews show the student's IEP team developed a BIP to address her behavior that interfered with her learning and the learning of others. It is noted that the BIP does not contain any mention of staff who are prohibited or required to be involved in the implementation of the BIP. Based on the foregoing, the LEA is determined to be in compliance with federal regulations at 34 C.F.R. §300.324(a)(2)(i).

The student's BIP includes six "Reactive Strategies" that are to be used when problem behavior occurs. In this case, there is evidence from interviews to support a finding that the LEA implemented the student's BIP on March 9, 2026. Paraprofessional 1's description of the incident showed she started with the second strategy of active ignoring and when that didn't have an impact, she went back to strategy one and provided other sensory options to address the student's dysregulation. When those were unsuccessful, she used the third strategy and counted back from 3-2-1. That was also unsuccessful and Paraprofessional 1 asked if mom or BaBa needed to be called as required by strategy four. At that point, safety became an issue for the student, staff, and peers and strategy five was implemented to remove the student from the classroom. The SRO's involvement began at this point and his interaction with the student went back to strategy one with providing sensory options including the fidget and walking which helped the student regulate her behavior and return to her school day routine.

The student's BIP does not specify who is prohibited or required to implement the student's BIP and, in this case, Paraprofessional 1 and the SRO were the LEA staff who provided the "Reactive Strategies" as required by the BIP. Based on the foregoing, the ***LEA is found in compliance*** with C.F.R. 34 §300.323(c)(2) which required the IEP be implemented as written.

Issue Three

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide accurate parental notification as required under 34 C.F.R. §300.504 and K.A.R. 91-40-17, and provided inaccurate information that denied the parents meaningful participation in decisions regarding the student's behavior intervention plan (BIP) implementation following the incident on March 9, 2026.

Applicable Law

It is noted that the parent specifically identified these state and federal regulations when making this allegation.

Federal regulations at 34 C.F.R. §300.504 relate to the IDEA procedural safeguards notice which must be provided to the parents of a child with a disability at least annually. It is noted that state regulations at K.A.R. 91-40-26 describe the requirement that public agencies provide the Parent Rights Notice (Procedural Safeguards) to the parents.

Federal regulations at 34 C.F.R. §300.504 (c) require that the procedural safeguards notice must include a full explanation of all of the procedural safeguards available under §300.148, §300.151 through 300.153, §300.300, §§300.502 through 300.503, §§300.505 through 300.518, §§300.530 through 300.536 and §§300.610 through 300.625 relating to—

(1) Independent educational evaluations;
(2) Prior written notice;
(3) Parental consent;
(4) Access to education records;
(5) Opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including—
    (i) The time period in which to file a complaint;
    (ii) The opportunity for the agency to resolve the complaint; and
    (iii) The difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
(6) The availability of mediation;
(7) The child's placement during the pendency of any due process complaint;
(8) Procedures for students who are subject to placement in an interim alternative educational setting;

(9) Requirements for unilateral placement by parents of children in private schools at public expense;

(10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;

(11) State-level appeals (if applicable in the State);

(12) Civil actions, including the time period in which to file those actions; and

(13) Attorneys' fees.

Federal regulations at 34 C.F.R. §300.504 (d) require these procedural safeguards be provided in language the parents can understand.

State regulations at K.A.R. 91-40-17 relate to IEP Team meetings and the participants. It is noted that these state regulations mirror the federal regulations at 34 C.F.R. §300.322.

State regulations at K.A.R. 91-40-17(a) require that each public agency take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps must include scheduling each meeting at a mutually agreed-upon time and place, informing the parents of the purpose of the meeting, the positions of the persons invited to the meeting, and the right for the parent to invite any other person who they believe has knowledge or special expertise about the child to the meeting. In addition, the parent must be provided with notification of the meeting at least 10 days in advance of the meeting unless this requirement is waived so the IEP Team can meet sooner.

Parent Position

The parents reported that, following the March 9, 2026 incident with the SRO, the school administration failed to contact them, and they only learned of the incident from a note to the family from the student's paraprofessional. The parents indicated that they have subsequently received two other differing stories from LEA staff on what happened during the incident. The parents are concerned because they believe the LEA and the school building staff have a history of not telling the truth to the parents and to KSDE.

In an email to the investigator on March 22, 2026, the mother stated, ". . . Parental notification requirements — IDEA's procedural safeguards were primarily designed to help schools and parents work together, and Congress placed enormous emphasis on compliance with procedures giving parents a large measure of participation at every stage of the administrative process. When a school misrepresents what happened — especially involving an SRO incident with a nonverbal child — it directly undermines that participation right". The mother stated, "The district failed to provide accurate parental notification as required under 34 C.F.R. §300.504 and K.A.R. 91-40-17, and provided inaccurate information that denied us, the parents, meaningful participation in decisions regarding the student's BIP implementation. The discrepancies around the incident are in writing from the person we thought was [the

student's] para, from the principal and from the director of secondary special education, and we still do not to this day know the correct story. How can we meaningfully be involved in our daugher's IEP and BIP process if we cannot get appropriate and consistent communication about a behavioral incident?".

The mother also noted that KSDE Child Complaint investigations have found violations where the LEA did not fulfill its procedural obligations under the IDEA and has required corrective action and staff training as remedies.

LEA Position

The LEA indicated their position in the April 6, 2026 Response to the Allegations by stating, "The district respectfully disagrees that 34 C.F.R. §300.504 or K.A.R. 91-40-17 were implicated by the March 9, 2026 incident. 34 C.F.R. §300.504 pertains to procedural safeguards notice requirements and is not triggered by a routine behavioral incident that does not involve a proposed or refused change to evaluation, placement, services, or disciplinary change of placement. Similarly, K.A.R. 91-40-17 pertains to parent participation in IEP team meetings and decision-making processes. Following the March 9 incident, the district did not propose or refuse any change to the student's IEP, BIP, placement, or services. Rather, staff implemented the existing BIP as written.

Further, the parents were provided timely communication regarding the incident through the student's daily communication log sent home on March 9, 2026 and additional clarification through follow-up communication on March 12, 2026. Meaningful parent participation under IDEA does not require parental involvement in each day-to-day instance of implementation of an already adopted BIP. Meaningful participation was provided when the BIP was developed and agreed upon during the annual IEP meeting on October 13, 2025".

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation. Note that the findings from Issues One and Two are incorporated herein by reference.

1. The Daily Report dated March 9, 2026 handwritten by Paraprofessional 1reported that the student was throwing her body around, whining, yelling, and laughing at everything during the second hour math class. The report shows that the student spent 20 minutes completing guided math boxes and working on IXL math [an adaptive computerized math program] and spent 10 minutes in gross motor activities. The report also included an additional note for second hour describing the student's inappropriate behavior more specifically and stated, "School Resource Officer was called to help remove her".
2. On March 12, 2026 at 10:32 AM, the mother sent an email to the WRNMS Principal stating, "On March 9, 2026 it was noted on [the student's] communication sheet, with NO other contact or information from the teacher or administration or behavior team,

that [the student] had such severe behaviors that the school resource officer had to be involved. Is it typical for there to be NO communication with the family when this occurs outside of a paras note on the daily communication sheet?? Does this all seem okay to you guys?? . . .

1. We received no communication from the school regarding the involvement of the school resource officer to help remove [the student] from the classroom during second hour on Monday, March 9, 2026. The para, wrote in the parent daily communication that the SRO officer was called in to help remove [the student]. Per Kansas law, the school is required to attempt to contact the parents at least two times the day of an incident that involves a school resource officer engaging with a student with an IEP and a BIP".
2. On March 12, 2026 at 10:53 AM, the WRNMS Principal responded stating, "With regards to the incident that you described, it's my understanding that our SRO was called to assist and used [the student's] preferred manipulative to redirect her attention, and she walked with him to the office where she de-escalated with [the Assistant Principal] who stated that she was calm when she arrived. He stated that he spoke with her for 5-7 minutes and then [the Dean of Students] walked her back to class".
3. In this same email, the WRNMS Principal acknowledged that the parents should have been contacted regarding the March 9, 2026 incident involving the SRO and indicated his administrative team were now aware of their responsibilities for future situations. Please note that the allegation that the building administrative team did not follow policy and procedures related to parent contact when an SRO is involved with a student will not be addressed as these do not fall under the jurisdiction of the IDEA and I have no authority to investigate such issues.
4. The parent responded via an email on March 12, 2026 at 11:09 AM to WRNMS Principal and copies to the Director of Secondary Special Services stating, "This is the 4th time this week I have asked you about this incident! Why have we STILL received no update until I asked about it AGAIN??? This is neither the right thing nor the legally required communication required in these circumstances. I want, in writing, TODAY, what the antecedent was to this incident, and how you plan to ensure your school staff legally and correctly handle these situations going forward. You suggesting an IEP meeting does not change the fact that it is Thursday at 11 AM, and you are just finally giving us a little bit of an update on an legally handled scenario by your staff on Monday morning during second hour. So, let's not pretend that you suggesting an IEP meeting in someway makes this all OK. Do the right thing, but in the very least, you need to do the legally required and correct thing. So, tell me in writing, why something like this occurred when we see it nowhere else, ever, with [the student]. What was occurring before the incident? You should be asking everyone involved what would make a child who never acts like this, suddenly not only be out of control, but have to have your SRO involved. You should be involving the behaviorist, immediately, to understand what in the world is going on?? You should be having some grave concerns about what is happening in the classroom to cause a child to have this kind of reaction. You yourself

should be reading the bip [sic] and trying to understand what is going on. Pretending like you suggesting an IEP meeting is in some way the solution or is in someway our fault for what is happening in your school, is insulting and inappropriate. We have been asking for an FBA and a bip since November 13!!!! Could someone, ANYONE, take some proactive action on your end could??? SO, LET'S SEE WHAT YOU GET BACK TO ME WITH IN WRITING ABOUT THIS INCIDENT, TODAY, AND THE ANTECEDENT TO THE INCIDENT. IF YOUR STAFF WORKING WITH [the student] DOES NOT UNDERSTAND WHAT AN ANTECEDENT IS, THEN OBVIOUSLY [the BCBA] HAS NOT BEEN TRAINING THEM ON HOW TO APPROPRIATELY ADDRESS UNDERSTAND AND ADDRESS THE BEHAVIOR".

5. The Director of Secondary Special Education responded to the parents by email on March 12, 2026 at 3:00 PM stating, "In communicating with WRN staff, here are some more details regarding March 9. The support staff member who has been working with [the student] was unexpectedly absent on Monday after receiving military orders. As such,
6. Monday was the first day [the student] was with someone other than her preferred adult. (Coverage for [the student] has continued uninterrupted.) The staff member working with [the student] shared that [the student] started her day dysregulated. By 2nd hour, the staff member took [the student] for a walk to support regulation. Regulation did not occur and [the student] began screaming and thrashing. She went to the cooldown tent in [the Special Education Teacher's] room and continued thrashing, screaming, and throwing items at the staff member. The staff member said they would call mom (as is consistent with the [student's] behavior plan). [The student] yelled "no" and ran out of the room. Upon exiting the room, she started throwing trash cans at people. At this point, the SRO was involved as he was the closest additional adult to the space. At no point did the SRO touch [the student]. He used her preferred fidget and encouraged her, without touching her, to walk with him. They walked to [the Assistant Principal's] office. [The Assistant Principal]engaged in a conversation with [the student] who regulated quickly, and [the Dean of Students] walked her back to class. There were no further challenges".
7. The mother responded on March 12, 2026 at 3:17, 3:19 and 3:50 PM to the Director of Secondary Special Services again asking for an explanation of why the parents were not contacted on the date of the incident involving the SRO. The mother also wanted an explanation for "why your account differs from the written account we got from the parent educator on Monday. They said they called the SRO. You say the SRO just happened to be nearby. Very different account accounts". The mother also indicated she was filing a complaint of a procedural violation with KSDE in this email chain.
8. The Director of Special Services responded to the mother on March 13, 2026 at 4:58 PM restating the WRNMS Principal's explanation that it was an oversight that the parents had not been contacted on Monday of the incident involving the SRO and again noting that the WRNMS Principal had taken corrective action with his administrative team. This email included a new PWN proposing an expedited FBA.

9. In an email dated April 20, 2026, the Director of Secondary Special Education stated the student's preferred paraprofessional was Paraprofessional 2 who received military notification of deployment in March 2026. When asked about the discrepancy between the information in the March 12 email and the Paraprofessional Assignment Chart, she replied, "At the time of my writing the report [email], my understanding was that Monday was the first day [Paraprofessional 2] was out on military leave. That is not accurate. She was out Thursday and Friday the week before with potential military leave orders, and Monday was the first day the team had full clarity regarding her long-term military leave."
10. The LEA noted that the parents have refused to reconvene the IEP Team until the FBA is conducted; however, the parents have not provided written consent to conduct the proposed expedited FBA to date.

Conclusion

The parents specifically cited an IDEA regulation and a Kansas regulation to support an alleged procedural violation impacting the parents' participation in the decision-making process for their student's IEP and BIP based on differing reports of the March 9, 2026 incident involving the SRO.

The first IDEA regulation at 34 C.F.R. §300.504 requires that public agencies provide the parent with a copy of the Procedural Safeguards at least annually in understandable language to ensure parents are aware of their rights in regard to the IDEA. This document describes the rights of parents regarding (1) independent educational evaluations; (2) prior written notice; (3) parental consent; (4) access to education records; (5) opportunity to present and resolve complaints through the due process complaint and State complaint procedures; (6) the availability of mediation; (7) the child's placement during the pendency of any due process complaint; (8) procedures for students who are subject to placement in an interim alternative educational setting; (9) requirements for unilateral placement by parents of children in private schools at public expense; (10) hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations; (11) State-level appeals (if applicable in the State); (12) civil actions, including the time period in which to file those actions; and (13) attorneys' fees.

In this case, the parents speak, read, write, and understand English and are aware of their procedural safeguard rights as evidenced through emails and the filing of this child complaint (State complaint) to resolve their allegations that the LEA has violated the IDEA, specifically in Issue Three that the differing accounts of the March 9 incident involving the SRO will impact their ability to meaningfully participate in the IEP and BIP decision-making process for the student. This IDEA regulation does not impact the alleged violation that the parents raise and, therefore, the LEA is in compliance with 34 C.F.R. §300.504 in regards to the procedural safeguards notice.

Kansas state regulations at K.A.R. 91-40-17(a) and federal regulations at 34 C.F.R. §300.322 require that each public agency take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These regulations more closely align with parents' allegation of a violation of the IDEA when the LEA provided differing accounts of the March 9 incident, which the parents believe impacted their ability to meaningfully participate in the IEP and BIP decision-making process.

It is important to note that the IDEA does not specifically state that public agencies must provide accurate information, but provisions related to parent participation imply and effectively require accuracy and truthfulness in the information public agencies provide to parents. Courts have consistently held that misleading or incomplete information that prevents informed parental involvement constitutes a procedural violation of IDEA.

As noted previously, federal regulations at 34 C.F.R. §300.322 require that parents have the opportunity to participate in IEP Team meetings and to be involved in the decision-making process. The Amanda J. v. Clark County School District court case from the 9th Circuit in 2001 found that withholding information from the parents infringed upon their opportunity to participate in the IEP formulation process. In this case, the Clark County School District withheld critical evaluation data showing autism indicators. These were key factors about their child and the lack of disclosure impacted the development of an IEP reasonably calculated to provide FAPE.

This case highlights that the IDEA does not permit public agencies to withhold information from the parents that is necessary for them to make informed decisions. By failing to disclose the results of the evaluation, the Clark County School District prevented the parents from participating in the IEP process in any meaningful way and seriously infringed the parents' opportunity to participate in the IEP formulation process.

Although Kansas falls in the 10th Circuit Court of Appeals, we can look to the other Circuits for guidance. In this case, the findings of the investigation do reflect that the parents were provided with three differing versions of the incident involving the SRO officer on March 9, 2026. While there were differences with how the SRO became involved in the incident, all three reports show the student returned to the classroom and continued with her school day. The reports from the WRNMS Principal and the Director of Secondary Special Services both noted the interaction between the SRO and the student were positive resulting in the student becoming regulated and returning to her classroom. The LEA provided several possible antecedents which could have triggered the behavior on that day including being dysregulated when exiting the school bus that morning and a change in the paraprofessional working with the student.

It is noted that the parents are choosing to not participate in the IEP process at this time until an FBA is completed but, at the same time, not providing consent for the FBA to be conducted.

Regardless, the question is whether the differing reports of the incident involving the SRO provided to the parent will prevent the parents from participating in the IEP process in a meaningful way and seriously infringe the parents' opportunity to participate in the IEP and BIP formulation process in the future.

In this case, the SRO involvement actually helped the student to become regulated using strategies he had observed the special education staff using with the student as part of her IEP and BIP. All three reports included information about possible antecedents that could be discussed in the IEP and BIP formulation process. The discrepancy of whether the SRO was sent from the office or whether the SRO was in the vicinity and stepped in to assist school staff, is not a key factor that the IEP Team, including the parents, would need to consider during the IEP and BIP review and revision, if appropriate, process.

Based on the foregoing, the *LEA is found in compliance* with Kansas state regulations at K.A.R. 91-40-17(a) and federal regulations at 34 C.F.R. §300.322. However, it recommended that the LEA review their procedures and practices for communicating effectively with parents in the future.

Issue Four

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to inform the parents of a change in the paraprofessional assigned to work with the student beginning on March 9, 2026 and ensuring the new paraprofessional was appropriately trained to meet the unique needs of the student.

Applicable Law

Federal regulations at 34 C.F.R. §300.17 defines a free appropriate public education (FAPE) as special education and related services that are provided at public expense, under public supervision and direction, and without charge and are provided in conformity with an individualized education program (IEP).

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Federal regulations at 34 C.F.R. §300.320(a)(4) requires IEPs to include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum and to participate in

extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and nondisabled children.

Parent Position

The parents reported that the explanation of the incident on March 9, 2026 from the Director of Secondary Special Services indicated that a different paraprofessional was working with the student on that date instead of the one who typically worked with the student. The parents expressed concerns that they were not informed of this change in paraprofessional assignments. The parents believe the LEA must provide this information to them as the student is nonverbal and unable to communicate with the parents about her school day. The parents are concerned that the different paraprofessional who was working with the student on May 9, 2026 may not have been appropriately trained to meet the student's unique personal hygiene needs and may not be able to implement the student's IEP and BIP.

They also indicated that the LEA never provided them with the names of the paraprofessionals who were assigned to work with the student during the 2025-26 school year. Because they do not know the names of the various paraprofessionals assigned to work with the student, the parents have this same concern for all those paraprofessionals as well.

LEA Position

The LEA noted that personnel assignments, including paraprofessional assignments, are administrative staffing decisions. Such decisions do not require prior parental notice or parental participation under IDEA or state regulations.

The LEA also reported that, while the student's IEP does not require any specific training or support to be provided for school personnel, all paraprofessionals working within the school district receive ongoing professional development and training and the Paraprofessionals 1, 2, and 3 all participated in both district-wide training as well as training specific to students in the Special Education Teacher's classroom. The LEA indicated the student has been provided with ongoing paraprofessional support by trained staff as required by the IEP during the 2025-26 school year.

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation. Note that the findings from Issues One, Two, and Three are incorporated herein by reference.

1. During the 2025-26 school year, two IEPs were in effect. These were dated August 6 and October 13, 2025. Both IEPs require the student to receive special education support from a paraprofessional in the classroom setting and neither IEP required any specialized training and/or support for school staff as a related service. Both IEPs also included a BIP which required staff "to be aware of the behavior plan so that we are all coming at the behaviors with the same solution. Staff should have similar ways to

responding to [student] (tone when "serious" vs "playful", amount of time before she is removed from room, what is identified as a stim and what is identified as attention-seeking behavior)".

2. The following table summarizes the 2025-26 Paraprofessional Assignment Chart which showed the paraprofessionals assigned to support the student between August 12, 2025 and March 12, 2026:

Paraprofessional	Assignment dates
Paraprofessional 1	August 12 – December 19 except for a half-day on October 29, 2025
Paraprofessional 1	January 5 – January 16, 2026 except for January 15, 2025
Paraprofessional 1	March 5 – March 12, 2026
Paraprofessional 2	January 20 – March 4, 2026 except for a half-day on February 16, 2026
Paraprofessional 3	October 29, 2025 (half-day)
Paraprofessional 3	January 15, 2026
Paraprofessional 3	February 16, 2026 (half-day)

3. Within the past 12 months, Paraprofessional 1 participated in the following professional development: Opening Convocation, Classroom/Student training taught by the Special Education Teacher; and an Early Release PD opportunity taught by the Director of Secondary Education.
4. Since January 2026, Paraprofessional 2 participated in the following professional opportunities: Human Resources Orientation; behavior therapist and planning taught by the BCBA; Initial Para Training; and Group Supervision for behavior therapists and registered behavior therapists by the BCBA.
5. Paraprofessional 2 met with the BCBA on January 20, January 21, January 22, February 5, and February 23, 2026 for individual consultation and mentoring to work effectively with the student.
6. During the 2025-26 school year, Paraprofessional 3 participated in the following professional development: Initial para training; HR orientation; Convocation; Every Kid Needs a Champion training; Rethinking Challenging Kids; Stress and Childhood; and Classroom/Student training taught by the Special Education Teacher.
7. As noted previously in Issue Three, Paraprofessional 2 received notice of military deployment orders on March 4 and was placed on long-term leave as of March 9, 2026. The LEA assigned the paraprofessional who had previously worked with the student during the 2025-26 school year, Paraprofessional 1, to again provide the required special education support in the classroom for the student.

Conclusion

The IDEA regulations require the IEP to include a statement of the special education services to be provided to a student to receive FAPE. The IDEA regulations also require parents to be given prior written notice when the public agency proposes or refuses to change the identification, evaluation, placement, or provision of FAPE to the child and defines the term "FAPE" as special education services provided in conformity with the IEP. However, there is nothing in the IDEA

regulations that require a public agency to include the names of the specific staff assigned to provide those special education services to the child.

Documentation showed that the student's IEPs required special education support in the classroom setting. Documentation provided by the LEA indicated that the student received this special education support from primarily by two different paraprofessionals during the 2025-26 school year. Paraprofessional 1 worked with the student starting at the beginning of the school year until Paraprofessional 2 was hired by the LEA at the beginning of the second semester. Paraprofessional 2 worked with the student starting on January 20 until being deployed by the military at the beginning of March 2026. At that time, Paraprofessional 1 returned to working with the student during the long-term absence. The LEA assigned Paraprofessional 3 when either of the two primary paraprofessionals were absent for short periods. The documentation shows the LEA provided the student with the required special education support services at all times during the 2025-26 school year.

Documentation also showed that the student's BIP required staff working with the student to be aware of the BIP and to be consistent with implementation. The LEA's documentation showed that all three paraprofessionals assigned to work with the student during the 2025-26 school year have received training to support students with behavioral concerns and both Paraprofessionals 1 and 2 received targeted training from the Special Education Teacher for specific students receiving special education services in their classroom. In addition, Paraprofessional 2 received ongoing consultation and mentoring from the BCBA specifically focusing on the student.

In this case, the student's BIP required the staff working with the student to be aware of the BIP and implement with fidelity. Two paraprofessionals were assigned to work with the student during the school year with third paraprofessional serving as the substitute if the "regular" paraprofessional was absent. Documentation shows that all three paraprofessionals were familiar with the student's BIP and had received training to support student behavior. In addition, both "regular" paraprofessionals had received student specific training and support from the Special Education Teacher and the BCBA. Based on this information, the paraprofessionals working with the student were appropriately trained to meet the student's unique needs in the school setting.

The LEA did not make any changes to the type, amount, or location of the special education services to be provided for the student to receive FAPE but only changed the paraprofessional assigned to provide the services required by the IEPs. Because there were no proposed changes in identification, evaluation, placement, and provision of FAPE, the LEA was not required to provide the parent with PWN.

Based on the foregoing, the *LEA is found in compliance*.

Issue Five

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to respond to the parents' request for a functional behavior assessment (FBA) and an updated behavior intervention plan (BIP) on November 13, 2025.

Applicable Law

Federal regulations at 34 C.F.R. §300.303(a)(2) require public agencies to ensure that a reevaluation of each child with a disability is conducted if the child's parent or teacher requests a reevaluation.

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Parent Position

The mother stated their position when filing the Child Complaint with KSDE by writing, "On November 13th when [the Special Education Teacher], [the student's] teacher and case manager, was requesting I come pickup [the student] for the 8th time this year, we asked [the Special Education Teacher], in writing (text) and in person, for an FBA and BIP update, immediately. [The father] and I both reached out to [the BCBA] directly, in writing, as this was not the first time we had asked [the Special Education Teacher] to follow the BIP, and to involve the district behaviorist. [The father] was, ironically, with [the Director of Secondary Special Services] at the Tri-State Special Education Law Conference in Omaha, and in person requested her assistance. [The student] currently has a BIP, which in Kansas is a part of the IEP, and therefore part of IDEA. We heard NOTHING back, requested an update in writing on December 2, 2025. At that time we were told we would be receiving further information, and here we are March 15, 2026, still asking for more information. On March 9, 2026 [the student] had behaviors that prompted the staff to call the SRO for her removal. We received no communication, and AGAIN asked for update on her FBA and BIP. Nothing. After repeatedly asking [the WRNMS Principal] and informing him that this is a procedural violation and that we will be reporting this to the state, he involved [the Director of Secondary Services], sped director, and she sent a PWN. A PWN for an 11/13/2025 [evaluation] [sic] was sent on 03/12/2026, a full quarter and a half, 120 days, after the request was made".

LEA Position

The LEA acknowledged that both the father and the mother contacted staff on November 13, 2025 regarding the student's inappropriate behavior and requested the involvement of the BCBA. Multiple email exchanges occurred between LEA staff and the parents on November 13 and November 14, 2025 regarding an observation by the BCBA. Consistent with those communications, the district's BCBA conducted the observation of the student on November 14, 2025 and provided recommendations to staff. The LEA stated, "At no point in those

communications did the parent make a clear request for a formal evaluation, Functional Behavior Assessment (FBA), or revision of the student's Behavior Intervention Plan (BIP). Rather, the communications were interpreted as collaboration regarding behavioral observation and supports".

On December 2, 2025, the student's mother contacted the Special Education Teacher and requested an update. Multiple emails dated between December 2 and 4, 2025 were exchanged by the mother and the Special Education Teacher where the recommendations made by the BCBA were shared. The LEA stated, "Between December 4, 2025 and March 10, 2026, while multiple email communications occurred between the family and district staff, none included a clear request for a formal evaluation, an FBA, or revision of the BIP".

The mother first clearly expressed that she believed an FBA had been requested previously and requested that the district proceed with a reevaluation in an email on March 11, 2026. Upon receiving this clarified request, the LEA responded on March 13, 2026, by issuing a PWN seeking parental consent to conduct a targeted evaluation in the form of an FBA. However, the LEA has not yet received written consent to conduct the FBA. Accordingly, the district is legally unable to proceed with formal evaluative procedures at this time.

The LEA believes it responded promptly once a clear request for an evaluation was communicated by the parents and took appropriate steps to obtain consent. The district cannot conduct a formal FBA without parental consent.

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation. Note that the findings from Issues One, Two, Three, and Four are incorporated herein by reference.

1. The father sent an email on November 13, 2025 at 6:44 AM to the BCBA regarding a request from the Special Education Teacher. The father stated, ". . . [The student] is struggling with behaviors at school and we are hoping that you can go over and observe. I don't think that as much active ignoring is going on as it could be but hoping you can help then within the class . . . "
2. The mother sent an email to the father and the BCBA on November 13, 2026 at 7:53 AM stating, "They just let me know that she came off the bus and is having lots of problems so I'm going to pick her up again today. This is like the sixth time I've had to go pick her up. We need somebody to be doing some intervention and help here this is not OK".
3. The mother sent a text to the Special Education Teacher on November 13, 2025 in response to being asked to take the student home. In the text, the mother asks about the involvement of the behaviorist and the Special Education Teacher replies that a request has been made. The mother then responds by stating, " . . . I need the behaviorist to intervene, and we need some real interventions laid out and a plan".

4. The father sent an email to the "Team" on November 13, 2025 at 12:49 PM stating that he "understood that [the BCBA] is coming over to the middle school tomorrow to observe [the student]". The father indicated that the student had been picked up early by the parents seven times due to behavior even though the parents had shared strategies that have worked in the past, tried starting the student's morning in a positive way, and providing rewards for having a good day at school. The father stated, "Active ignoring works but only works with consistency and fidelity. We can't continue to try to correct [the student's] behavior from afar. The school team needs to develop a plan that can work based on ideas that we have presented and ideas that you are able to generate together. It is time for a different approach".
5. The BCBA contacted the parents via email on November 13, 2025 at 6:02 PM to gather information for the upcoming observation and the father responded on November 14, 2025 at 7:02 AM sharing information about strategies that had and had not worked in the past.
6. In an email to the Special Education Teacher dated December 2, 2025 at 2:21 PM, the mother requested "an update on [the student's] behavior, as well as the behavioral assessment and plan. We have heard NOTHING since we made this request, no communication at all".
7. The Special Education Teacher responded on that same date at 4:17 PM indicating that the BCBA completed the observation on November 14, 2025 and met with the Special Education Teacher on November 18, 2025 to share "some thoughts and recommendations". The recommendations from the BCBA included addressing sensory needs using a choice board, providing high rates of reinforcement with behavior specific praise for any desired behaviors through an expansion of the student's current token economy, and changing the focus to desired behaviors paired with visual and written supports. The Special Education Teacher told the parents that the BCBA met with staff working with the student on November 19, 2025 to review and discuss these recommendations. The Special Education Teacher also informed the parents that she was arranging for more in-depth training from the BCBA for all staff working in her classroom as well as requesting the BCBA provide staff support for consistent implementation of the recommendations.
8. The mother responded on that same date at 6:45 PM stating, "Great, thank you for this update on the plan". The mother also requested some type of daily communication between the school and home. The Special Education Teacher responded in an email to the mother on December 4, 2025 at 8:06 PM indicating the daily behavior sheet was being modified to address this request for daily information about the student's school day in a "more reader friendly family form".
9. On March 11, 2026, the mother sent an email at 8:36 AM to the WRNMS Principal stating, "Is it not standard practice when a family requests a behavior plan that an assessment is conducted and the team, including the parents, are a part of a meeting to go over the plan, its implementation, how data will be collected and used?? Was [the BCBA] only involved on the one occasion or is she still involved?? We called for a BIP,

which is a part of the IEP process, and requires an FBA and an update to the current BIP in her IEP, which requires an IEP meeting to ensure you have developed a plan and that the BIP is developed and implemented with fidelity. Has an FBA been completed??".

10. The WRNMS Principal responded to the parents via email on March 12, 2026 at 9:33 AM stating, "Since December 2, [the BCBA] has supported staff in-person 6 times evenly spaced across the weeks. As we have engaged as a staff, we were not under the impression that an FBA was requested but rather observations and recommendations, which is what we've sought from [the BCBA]. As this appears to be a communication error, I apologize. There has clearly been a communication breakdown on our end with regards to keeping you in the loop of when [the BCBA] has provided support and what support has been provided, and again, for that I apologize. Upon reflection of all of this information, I believe that it would be in our best interest to consider holding an IEP team meeting after break to discuss the FBA with our entire team present including our School Psych in order to determine our next steps and to ensure that we are moving forward in a positive direction. I have included [the Director of Secondary Special Services] on this response as well so that we can continue to respond to your concerns as a team. Please let me know your thoughts and potential dates/times that would work for you two with regards to an IEP team meeting".
11. The mother sent an email to the WRNMS Principal and the Director of Secondary Special Services on March 12, 2026 at 11:09 AM which stated, "The IEP meeting should happen after the FBA. Is [the BCBA] going to have the FBA done by the last week of this month?? Please, do tell. Again, in writing by the end of the day. We will set a date for an IEP and a BIP meeting when the FBA, which is a required aspect of the IDEA protected BIP process that we requested on November 13th is completed and we have had a chance to review it and come to the meeting with an understanding of what it is that [the BCBA] found in the FBA that we again requested on November 13. On March 9, [the student] had a behavior that required the physical involvement of an SRO, and you still do not have an SBA [sic] and an updated behavioral plan for us to view and to have a meeting with the staff about, that was requested on November 13. You legally had 60 days from November 13. It is now March 12. I want in writing by the end of the day what was happening on the ninth. I want in writing by the end of today when the FBA that was requested on November 13 will be completed and when we will have a copy to review before a BIP meeting THAT IS LEGALLY SOMEWHERE AROUND 60 DAYS OVERDUE!".
12. The Director of Secondary Special Services sent an email to the parents on March 12, 2026 at 3:00 PM which responded to questions regarding the incident on March 9, 2026. In addition, the email addressed the request for an FBA by stating, "Regarding the FBA request, attached is a PWN for consent to evaluate. You will notice that the PWN stipulates that this FBA "is not intended to be [the student's] triennial reevaluation, nor will it alter her 3-year reevaluation due date." Districts have varying practices when it comes to FBAs. In Auburn-Washburn, we get consent on a PWN prior to initiating the FBA process. You can print and sign the attached PWN or you can sign the copy that

was emailed to you to sign digitally. Either way, upon receipt of the signed FBA PWN, we will initiate the FBA. I have added [the School Psychologist] to this email thread as he is the psychologist at WRN and he will be facilitating the FBA as is consistent with district precedent".

13. The mother responded through an email to the Director of Secondary Special Services at 3:12 PM stating, "When will the FBA be completed? We made the original request on November 13. The calendar does not start when we sign the PWN is signed, as you guys did not follow the appropriate protocol. I want in writing when the SBA [sic] will be completed, and this needs to be escalated because it has been over 120 days since our request".
14. The Director of Secondary Special Education created and sent the parents a new PWN dated March 13, 2026 proposing an expedited reevaluation of the student based upon the mother's request for the FBA to be "escalated". This PWN stated, "The LEA is proposing to obtain consent to conduct a targeted evaluation of [the student] for the sole purpose of completing a Functional Behavior Assessment (FBA). This evaluation is not intended to serve as [the student's] triennial reevaluation and will not change her current reevaluation due date. The purpose of the FBA is to assist the IEP Team in understanding the function of [the student's] behaviors and to inform potential revisions to her Behavior Intervention Plan (BIP) and related IEP supports and accommodations. At the parent's request, the LEA is prepared to complete the FBA on an expedited timeline (approximately 13 school days rather than the standard 60 school days)". The LEA reported that the parents had not yet provided written consent to proceed with the FBA.
15. In the initial Child Complaint Form, the parent noted "The Director of Secondary Special Services had the audacity to call this an expedited FBA on March 13th. We made the request TO HER , to the BCBA, and to the Special Education Teacher all on 11/13/2025. 120 days. "expedited" ?? Until I said reported to state, didn't get a PWN".
16. During the interview on April 7, 2026, the mother acknowledged receiving the PWN proposing to conduct an expedited FBA but stated that the written consent to proceed with the FBA so the student's BIP could be reviewed and updated, if needed, had not been provided. When asked for the reason(s) why consent had not yet been provided, the mother indicated she "wanted the SEA [State Education Authority which is KSDE] to do their job".

Conclusion

The IDEA regulations allow the parents to request an evaluation of the student and require the public agency to respond to such a request by providing the parents with PWN either proposing or refusing to conduct the requested evaluation.

In this case, the original request for the BCBA to observe the student was made by the father on November 13, 2025 at 6:44 AM. This request was followed by the mother's text to the Special Education Teacher after being called about the student's behavior when getting off the

bus that morning stating that "I need the behaviorist to intervene, and we need some real interventions laid out and a plan". These two requests were followed by an email to the "Team" from the father at 12:49 PM acknowledging that the BCBA was planning to observe the student on November 14, 2025 and indicating that "The school team needs to develop a plan that can work based on ideas that we have presented and ideas that you are able to generate together. It is time for a different approach".

No written documentation was provided showing that the parents requested an FBA on November 13, 2025. Instead, the documentation reviewed showed the parents requested an observation and recommendations from the BCBA as an intervention.

This is supported by the interaction between the mother and the Special Education Teacher on December 2, 2025 when the mother requested "an update on [the student's] behavior, as well as the behavioral assessment and plan". At that time, the Special Education Teacher provided a summary of the observation, the BCBA recommendations, and the plan for the BCBA involvement moving forward, and the mother acknowledged this information in an email on December 2, 2025 at 6:45 PM by stating, "Great, thank you for this update on the plan". This interaction supports the LEA's position that an FBA was not requested on November13, 2025 because the mother did not mention or question the status of the alleged request for an FBA in her communication with the Special Education Teacher.

This is also supported by the findings that the LEA did not provide the parents with PWN following the parents' communications on November 13, 2026 because documentation showed that the LEA's practice is to provide a PWN to obtain written parent consent prior to initiating the FBA process. It is also noted that the LEA's practice is to have a school psychologist facilitate the FBA rather than the BCBA. Neither of these things occurred prior to the November 14, 2025 observation of the student by the BCBA.

It is clear that the mother requested that the BIP be reviewed and updated based upon a new FBA in her email to the WRNMS Principal on March 11, 2026. On March 12, 2026, in response to the mother's request, the LEA offered to reconvene the student's IEP Team to discuss the BIP and the FBA; however, the mother refused to meet until the FBA had been completed. On March 12, 2026, following LEA practices, the Director of Secondary Special Education sent the parent a PWN proposing to conduct an FBA of the student but the parent responded via an email stating "I want in writing when the SBA [sic] will be completed, and this needs to be escalated because it has been over 120 days since our request". Based upon that request from the mother, the Director of Secondary Special Education sent a new PWN on March 13, 2026 proposing to an expedited reevaluation of the student to conduct the FBA. To date, the parents have not yet provided written consent to proceed with the reevaluation.

Based on the foregoing, the initial request for an FBA was made by the mother in an email to the WRNMS Principal on March 11, 2026 and the LEA responded appropriately on March 13,

2026 by providing the parents with a PWN proposing an expedited reevaluation to conduct the FBA. As such, the *LEA is found in compliance*.

It is interesting to note that the parents have chosen not to provide written consent to allow the LEA to conduct the expedited FBA for the student so that the IEP Team can consider this new information when reviewing and, if appropriate, updating the student's BIP. This delay appears to be at odds with the parent's original goal of obtaining updated data to support the student's appropriate behavior in the school setting.

Summary of Conclusions/Corrective Action

ISSUE ONE: Violations of federal regulations were found at 34 C.F.R. 300.323(c)(2) and corrective action is required as described below:

1. Within 30 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. 300.323(c)(2) which require public agencies to ensure students' IEPs will be implemented as written.
2. Prior to the first day of the 2026-27 school year, the LEA will provide training for the Special Education Teacher through TASN on strategies for identifying the essential elements from the general education social studies grade level standards and how to choose visuals to appropriately modify tests/quizzes and assignments for students participating in the State's alternate assessment. No later than August 31, 2026, the LEA will provide SETS with documentation that the training was provided including who provided the training, when the training was provided, and copies of the training agenda and the presentation slides and/or handouts.

ISSUE TWO: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

ISSUE THREE: Based on interviews and a review of documentation, no violation of IDEA or Kansas regulations was found.

ISSUE FOUR: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

ISSUE FIVE: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 437
Auburn/Washburn Public Schools: 26FC437-013

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on March 16, 2026 by ------- on behalf of their child, -------. In the remainder of this decision, ------- will be referred to as "the parents," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on April 28, 2026. That Complaint Report concluded that there was a violation of special education statutes and regulations.

Thereafter, the parents filed an appeal of the Complaint Report regarding only Issue 5. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parents' notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The sole issue under appeal is Issue five:

> USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to respond to the parents' request for a functional

behavior assessment (FBA) and an updated behavior intervention plan (BIP) on November 13, 2025.

The pertinent regulation is 34 C.F.R. 300.503(a), which states (Emphasis added).

(a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency--

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

At issue in this appeal is: Was the district required to respond to requests from the parents with a PWN, and if so when?

The regulation says that the PWN must be given to parents only when the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. However, the Office of Special Education Programs (OSEP), which is the office within the United States Department of Education that writes and enforces the federal special education regulations has provided the following guidance:

> *The purpose of the written notice requirement is to inform parents of a public agency's final action on a proposal or refusal to initiate or change the identification, evaluation, or educational placement, or the provision of FAPE to a particular child. Regardless of how a change to the above factors is suggested, it is the responsibility of the public agency to make a final decision and actually implement any determined change. Therefore, in the circumstances where a public agency is not proposing a change, but rather agreeing with a change that has been proposed by a parent, the public agency would be required to provide prior written notice to the parent, consistent with 34 CFR § 300.503 (emphasis added).*
> See, Letter to Lieberman, 52 IDELR 18 (OSEP 2008).

Accordingly, it does not matter whether a proposal is made by a school district or by a parent. When a proposal is made by either party, and a final decision is made, a PWN is required. The PWN must be provided to the parent within a reasonable time. In Kansas, a reasonable time in which to provide a PWN is 15 school days, unless there is an unusual circumstance (See Kansas Special Education Process Handbook, Chapter 1, Section D, p. 6) for timeline. PH-Ch01 [https://www.ksde.gov/docs/default-source/sets/ph-ch01.pdf].

One of the problems with this regulation is that it uses undefined terms. In particular it does not define the term "proposes." That is particularly problematic because the very action that triggers

the PWN requirement (for the situation in this complaint) is when a parent "proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child."

What does it mean to "propose" something? The Appeal Committee looked at various definitions of the term "propose" in legal dictionaries, standard dictionaries and on-line dictionaries. All had similar definitions. The Black Law Dictionary defined "proposal" as "*An offer; something proffered. An offer, by one person to another, of terms and conditions with reference to some work or undertaking, or for the transfer of property, the acceptance whereof will make a contract between them.*" A similar, although less formal definition in Dictionary.com is that "proposal" means *"the act of offering or suggesting something for acceptance, adoption, or performance".*

Using either of these definitions, it is clear that the school district is required to respond with a PWN to any proposal from the parent regarding identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The only remaining question is whether the parents in this complaint made a proposal. To address that question, the Appeal Committee looks at the uncontested findings of fact in the complaint report on this issue

In finding of fact 1 (on p. 37), the report says:

> The father sent an email on November 13, 2025 at 6:44 AM to the BCBA regarding a request from the Special Education Teacher. The father stated, ". . . *[The student] is struggling with behaviors at school and we are hoping that you can go over and observe. I don't think that as much active ignoring is going on as it could be but hoping you can help then within the class . . . "*

This is a request for observation, not a proposal related to identification, evaluation, placement or the provision of a free appropriate public education (FAPE). As such, a PWN was not required.

In finding of fact 2 (on p. 37), the report says:

> The mother sent an email to the father and the BCBA on November 13, 2026 at 7:53 AM stating, "*They just let me know that she came off the bus and is having lots of problems so I'm going to pick her up again today. This is like the sixth time I've had to go pick her up. We need somebody to be doing some intervention and help here this is not OK (emphasis added)*".

Here, the parent is making a request for somebody to "*be doing some intervention and help here*." A request for help, however, does not meet the definition of a proposal, which may be accepted or rejected.

Finding of Fact 3 (on page 17) is similar. It says:

> The mother sent a text to the Special Education Teacher on November 13, 2025 in response to being asked to take the student home. In the text, the mother asks about the involvement of the behaviorist and the Special Education Teacher replies that a request

has been made. The mother then responds by stating, "***. . . I need the behaviorist to intervene, and we need some real interventions laid out and a plan*** (emphasis added)".

When a parent requests "real interventions" and a "plan," the parent is not submitting a proposal that may be accepted or denied. Rather, the parent is requesting that the school district develop a proposal.

Finding of Fact 4, on page 37-38) describes an email from the parents to the "Team" on November 13, 2025 at 12:49 PM stating,

> *We can't continue to try to correct [the student's] behavior from afar. The school team needs to develop a plan that can work based on ideas that we have presented and ideas that you are able to generate together. It is time for a different approach.*

This statement, like the previous statements, is not a proposal. It was not sufficiently specific enough *"for acceptance, adoption, or performance."* It is essentially a request for a proposal. School districts may consider such requests as a request for an IEP meeting to consider the parents' concerns, but until parents make an actual proposal for which the school district must either accept or deny in a final decision, the district response need not be in a PWN.

Note: A PWN was finally delivered on March 11, 2026, offering to conduct a functional behavioral assessment (FBA). This PWN was sent 4 months after the parents first requested help through interventions and a plan. The parents have not provided the necessary consent for the district to proceed with the proposed FBA. Accordingly, the proposed FBA has not been initiated.

Conclusion

For the reasons stated herein, the conclusion in the report on this issue is sustained.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 14th day of May, 2026.

Appeal Committee

Brian Dempsey

Mark Ward

Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #402, AUGUSTA PUBLIC SCHOOLS
ON MARCH 26, 2026

DATE OF REPORT: APRIL 30, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #204 Augusta Public Schools on behalf of ------- by her mother -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the parent" or "the complainant."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" will be used. This report includes the school district, and the interlocal which is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. In this case, the complaint is against USD #402 (Augusta Public Schools) which is supported by the USD #638 Butler County Special Education Interlocal. In the remainder of the report, USD #402 and #638 will be referred to as "the LEA."

For the 2025-2026 school year the student is attending the third grade at Lincoln Elementary which will be referred to as "the school" in the remainder of the report. School and LEA staff will be referred to In the remainder of this report as follows:

- April Hilyard, director
- Denise Walton, assistant director
- Ken Talley, principal
- Jayme Whitlow, third grade teacher
- Annie Lee, kindergarten teacher
- Kelly Nelson, speech/ language therapist

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. In this case, a one-week extension was requested and granted. A complaint is considered filed on the date on which it was received by KSDE. The KSDE initially received the complaint on March 26, 2026.

Evidence Reviewed

The LEA made the following staff available for phone interviews on April 14, 2026 as part of this investigation.

- Denise Walton, assistant director
- Ken Talley, principal
- Jayme Whitlow, third grade teacher

During the investigation, the complaint investigator reviewed all evidence and documentation provided by the LEA and the parent. Additionally, the complaint investigator contacted the parent and/or director on March 27, 31, April 7, 9, 13, 14, 19, 20, 22 and 23, 2026 by email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents -

1. The student's initial IEP dated February 28, 2020.
2. Exit and Extended Absence Information form for the student dated August 11, 2021.
3. Student's kindergarten registration form for the 2022-2023 school year.
4. Electronic message exchange between the third grade teacher and parent on September 6, 2025.
5. Email from the parent to the principal requesting the student's cumulative record sent September 25, 2025.
6. The principal replied confirming the records request on September 26, 2025.
7. Email from the parent to the principal noting the absence of the student's Pre-K IEP in the cumulative records, sent October 2, 2025.
8. The principal replied, "IEP paperwork is not housed in [LEAs] cumulative folders, those documents are kept at the interlocal. I can't tell you when the exit meeting occurred." sent on October 6, 2025.
9. Email from the parent to the principal requesting special education testing dated February 13, 2026.
10. Email reply from the principal stating that the parent request for testing had been forwarded to the school psychologist dated February 16, 2026.
11. Evaluation PWN dated February 27, 2026, signed by the parent on March 3, 2026.
12. IEP meeting minutes dated March 11, 2026.
13. Interim IEP dated March 11, 2026.
14. PWN consenting IEP, signed by parent on March 11, 2026.
15. Kindergarten teacher statement related to knowledge of student's IEP status, dated April 9, 2026.

16. LEA response to allegations dated April 9, 2026.
17. Annual IEP dated April 16, 2026.
18. Email exchange with the assistant director to clarify evidence from the speech/language therapist sent April 22, 2026.
19. Students Fastbridge scores for grades 1, 2 and the first two data points for grade 3.

Background Information

The student named in this complaint is attending the third grade at an LEA elementary school during the 2025–2026 school year. According to the parent, the student first qualified for special education services when the student was three with the identified exceptionality of developmental delay. The student attended the LEA's three year old early childhood special education program until four years of age at which time the parents moved the student to a local private preschool program. The student re-enrolled in the LEA for kindergarten for the 2022-2023 school year. The student received title one, tier 2 support in math and reading in first grade, testing out of support at the end of first grade.The student was diagnosed with ADHD in October 2025 by their pediatrician. At that time, the student began taking Vyvance 10 mg daily. In February 2026, the dosage was increased to 20 mg daily. In March of 2026, the medication was changed to 5mg per day of Focalin each morning.

The student's interim IEP, as of the complaint filing, was dated March 11, 2026 and includes the following two goals:

1. Reading comprehension.
2. Math computation.

The March 11, 2026 IEP provides student accommodations and modifications in reading for all assignments and assessments, in all core content academic areas (ELA/Reading, Math, Science & Social Studies), for the duration of the assignment/assessment. The student receives read aloud support when instructions/directions require more than one step, in all core content academic areas, for the duration of the instructions given, throughout each day. Also, the student is given frequent breaks, for up to 5 minutes for each 30 minutes of consecutive instructional and/or work time. The student's services include 120 minutes of Special Education direct services in a regular education classroom, 5 days per week, every week.

The IEP team met on April 16, 2026 to review the reevaluation and as a result the student continues to be eligible for special education services. The exceptionality was changed to Specific Learning Disability and a secondary exceptionality of Other Health Impairment of ADHD was added.

Issues Investigated

Based on the written complaints and interview with the complainant, one concern that falls under IDEA or Kansas regulations was identified and will be investigated.

Issue One

Did USD #402 implement the student's IEP during the 2025-2026 school year as required by 34 CFR §300.323(c)(2)?

Applicable Law

34 C.F.R. §300.323(c)(2) requires LEAs to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The parent complaint states that, "[The student] was on an IEP during [their] time in the 3 year old preschool program at [the elementary school]. When the district closed the 4 year old program at [the elementary school], we took [the student] to a private school still within [town]. The IEP was never closed or exited. The IEP was then 'lost'. The IEP was 'found' again this year when I asked for a special education evaluation for [the student]. The school agreed to do a 're-evaluation' since [the student] still had an active IEP but it needs to be updated since it was last updated 3 1/2 years ago." The parent also expressed concern that there should be action taken to ensure no other student's IEPs are lost.

LEA Position

The district response states the following:

1. The student was determined eligible for special education and related services at age three and received services through the district's early childhood special education program.
2. During the student's four-year-old preschool year, the student was enrolled in a local private school and was not receiving services through the district.
3. Upon enrollment in kindergarten at [the LEA elementary school], the parent/guardian completed district enrollment documentation and indicated "No" in response to the question regarding whether the student had a current Individualized Education Program (IEP).
4. At the time of enrollment, the district was not provided documentation of a current IEP, prior eligibility, or any request for continuation of services.
5. The parent/guardian, who was employed as a teacher within the building during the relevant time period, did not notify district personnel that the student had previously been identified as a child with a disability or request special education services.

6. From kindergarten through third grade, the district did not receive a referral for evaluation, a request for evaluation from the parent, or information from staff indicating a suspected disability requiring special education services.
7. During the time period in question, the district had no knowledge, nor reasonable basis to suspect, that the student was a child with a disability in need of special education and related services."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. The student had a Pre-K IEP dated February 28, 2020 which was implemented at the LEA's preschool until the preschool closed and the parents enrolled the student in a private local preschool in the fall of 2021. The February 28, 2020 IEP delivered 160 minutes of special education services 2 days per week and 180 minutes 2 days per week. Additionally, the student received 20 minutes of speech/language 2 days per week. The IEP goals included, Communication (age appropriate vocabulary, answer /wh/questions, produce the /s/ clusters), Pre-academic skills (match letters, count numbers, name colors and follow one-step directions) and Other (dress self and appropriate play).
2. The LEA's exit documentation reflects the student moved out of the district with the last day of services being May 27, 2021. The document did not indicate that the student had been withdrawn from special education.
3. In an email exchange the assistant director confirmed there was no evidence that, at the time of the student's move to the local private preschool, the parents had withdrawn consent for special education services or that the LEA had determined the student was no longer eligible, sent April 22, 2026.
4. The student's initial special education evaluation was reported on February 28, 2020. There were no annual IEP meetings until the parent requested a reevaluation on February 16, 2026 and the team met on March 11, 2026. Additionally, there was no triennial evaluation, which was due by February 27, 2023.
5. The student re-enrolled in the LEA for kindergarten for the 2022-2023 school year. The LEA's registration form asks: "Is your student currently on an I.E.P. (Individual Education Plan) or a 504 Plan?" The parent checked "No" in response to this question.
6. In an email exchange when asked why the parent indicated that the student did not have and IEP when completing the kindergarten enrollment form, the parent replied, "I checked the box that [the student] did not have an IEP because [the student] had left the district preschool when our superintendent closed the 4 year old program at [the elementary school]. We took [the student] to [a local private] preschool where they do not follow IEPs." sent on April 13, 2026.

7. Due to the parent's assertion that the kindergarten teacher knew of the Pre-K IEP, the LEA requested a written statement from the kindergarten teacher which states, "At no point during the school year did the parent communicate to me, either verbally or in writing, that the student had previously been identified for special education services or had an active IEP prior to entering kindergarten." dated April 9, 2026.
8. In an email exchange with the assistant director, the speech/language therapist stated, "No one ever brought any concerns at all to me. [The student] never had any articulation errors even in pre-k, 'speech' was fine. When [the student] originally qualified for DD I did work with [them] on vocabulary but not since then, nor did anyone ever bring any concerns to me. Not [the student's] teachers or [the student's parent]." on April 22, 2026.
9. In a google message exchange with the third grade teacher the parent stated, "[The student] had an IEP in preschool for a language delay. Then [they] went to [private local] preschool for a year of preschool and when [the student] came back to [the elementary school], no one else brought it up. In fact, I can submit a parent request for eval so that it gets done quicker." The parent also asked the teacher's opinion on whether the student may have ADHD, the message was sent September 6, 2025.
10. The parent emailed the principal requesting the student's cumulative folder on September 25, 2025.
11. The principal replied confirming the request on September 26, 2025.
12. In an email to the principal the parent stated, "I noticed that [the student's] IEP from Pre-K was not included or mentioned at all. I have a physical copy of it, but I'm worried about not having found it in [their] records. I don't recall having an exit meeting to discontinue it. Also, I think it may have been helpful for [the] kindergarten through third grade teachers to have been made aware of [the student's] language delay." sent October 2, 2025.
13. The principal replied, "IEP paperwork is not housed in [LEA's] cumulative folders, those documents are kept at the interlocal. I can't tell you when the exit meeting occurred." sent October 6, 2025.
14. In an email exchange with the assistant director they shared that the school psychologists, "keep all district special education evaluation files at [the elementary school] separated by school. Each school has Active and Inactive students. The psychologist did find a file for [the student] in Inactive that housed the original child find and initial evaluation." sent April 22, 2026.
15. In an email to the principal, the parent requested a special education evaluation on February 16, 2026.
16. The school sent an Evaluation PWN dated February 27, 2026, which was signed by the parent on March 3, 2026 consenting to the special education evaluation.
17. An IEP meeting was held March 11, 2026 to offer the student services pending the results of the special education reevaluation. The team agreed to provide interim

services of 120 minutes of special education services per day, five days a week to address a reading comprehension and math computation goal.

18. In the LEA interview on April 14, 2026 the third grade teacher:
    a. Reported that the student has struggled in several academic areas including reading comprehension and math this school year requiring, "a lot of extra support." The teacher also noted that the parent expressed academic concerns which the teacher discussed with the principal, including making the principal aware of strategies suggested for the family to use at home.
    b. The teacher also stated, "[The parent and I talked on and off over the year about a potential [special education] evaluation, the first conversation was in September or October [2025]. The parent also expressed concern that the student may have ADHD."
    c. When asked if the teacher suspected the student may have a disability, the teacher replied, "I had those concerns and discussed them with the parent. I was waiting for [the parent] to trigger the evaluation."
    d. When asked if the teacher felt the student needed an IEP, the teacher replied, "For sure."
    e. The teacher shared that they knew about the pre-school IEP for speech/language, but did not know the scope of the Pre-K IEP and did not realize the student had a developmental delay diagnosis but rather the conversations with the parent had been focused on what was currently appropriate for the student. The teacher stated, "The message I got from [the parent] was that their child needs a loving, kind teacher, not that the school isn't supporting the earlier diagnoses."
    f. The teacher also shared, "We've also been doing our best to honor the parent's wishes that have been communicated. I was never asked to find something from the previous IEP."
19. In the April 14, 2026 LEA interview the principal:
    a. Stated that they took no further action to confirm the student had been exited from special education services upon learning from the parent that the student had a Pre-K IEP when previously enrolled.
    b. The principal also shared that they agreed with the parent's request for a reevaluation based on the student's academic needs. They also shared that the parent had not communicated with them directly about academic concerns in the 2025-2026 school year.
    c. The principal reported that staff shared the students' overall performance and skill gaps concerns during the 2025-2026 school year.
    d. The principal stated that the student began taking medication for ADHD symptoms during the school year and they planned to consider initiating General Education Interventions (GEI) if there wasn't academic improvement with the medication. The principal felt there were dramatic improvements

when the student began taking the medication and the principal was waiting to see if there would be a positive impact on the student's Fastbridge scores.

20. The Fastbridge scores show the student scored below average in the second grade and the first two assessments of third grade in both aMath and aReading.
21. In an email exchange with the parent, they stated that "[The student] began taking ADHD medication around October 10th of 2025. [The student] doubled the dosage in February 2026 after hearing from the teacher that it wasn't sufficient, then in March we switched the medication to a non-stimulant to help with anxiety. [The student] is doing well so far with that one." sent April 20, 2026.
22. The IEP team met on April 16, 2026 to review the re-evaluation and as a result the student continued to be eligible for special education services. The exceptionality was changed to Specific Learning Disability and a secondary exceptionality of Other Health Impairment of ADHD was added.
23. This new IEP includes special education services in the general education classroom for 90 minutes per day and special education services in the special education classroom for 30 minutes per day to address three goals:
    a. Task Initiation & Completion
    b. Reading Comprehension
    c. Computation

Conclusion

In this case, 34 CFR 300.323(c)(2) requires LEAs to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Special Education Services:

The student left the LEA to attend a local private preschool in the fall of 2021. At that time, the parents did not withdraw their consent for services and the LEA did not determine that the student was no longer eligible for services, thus the LEA should have met the IEP team and determined how to best implement services in the child's new educational setting. There is no evidence of another IEP meeting until the IEP team meeting on March 11, 2026 prompted by the parent's reevaluation request on February 16, 2026. Additionally, the student's initial special education evaluation was reported on February 28, 2020.There was no triennial evaluation, which was due by February 27, 2023. It appears that the student was essentially dropped from the LEA's special education services in 2021until the parent requested a reevaluation in 2026.

Staff Knowledge of IEP:

Evidence confirms that the third grade teacher and the principal were aware of the existence of a Pre-K IEP, although reportedly were not clear that the student should have still been

receiving services. When the parent shared the existence of the student's Pre-K IEP in an email to the principal on October 2, 2025, the principal reportedly assumed the student was no longer eligible for services and did not request records from the LEA or the school psychologist to confirm. More importantly, however, the LEA's process for ensuring that students with previous IEPs who re-enter the LEA either continue to receive services when they have not been dismissed by the LEA or had parental consent withdrawn has either failed or does not exist.

Availability of Records:

The school psychologist reported to the assistant director that this student's original child find and initial evaluation were in an Inactive file. It appears that school staff do not have easy access to historical IEP records. The assistant director shared, "We've always kept cumulative folders and special education folders separate just to make sure we ensure confidentiality of those specific records."

In this case, the student's last IEP of record was dated February 28, 2020. It is found that IDEA and Kansas regulation were not followed to either convene the annual IEP or determine if the student should have exited special education. The child complaint process only allows an investigation up to twelve months prior so cannot investigate the previous errors related to this complaint, however since the LEA provided evidence that the student continued to be a student eligible for special education and related services it is found that the LEA failed to implement an IEP. Based on the foregoing, it is found that the LEA failed to implement the student's IEP from the point at which the parent notified the principal that the student had an IEP, on October 2, 2025 to March 11, 2026. The *LEA is out of compliance* and corrective actions are required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of A violation of 34 CFR 300.323(c)(2) was found based on the LEAs failure to provide special education services from October 2, 2025 up to March 11, 2026.
    a. The LEA shall immediately, within 21 days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at Federal regulations at 34 CFR 300.323(c)(2).
    b. Within 40 school days of the issuance of this report, the LEA shall offer compensatory services as follows:
        - From October 2, 2025 through March 11, 2026: 120 minutes of special education services per day, consistent with the March 11, 2026 IEP.
        - From March 12, 2026 through April 16, 2026: 120 minutes of special education services per day, with 30 of those daily minutes delivered

outside of the regular education classroom, consistent with the April 26, 2026 IEP.

c. The LEA shall schedule the required compensatory services and provide that schedule to the parent and to Special Education and Title Services (SETS) in writing. The parent may choose to accept all, some, or none of the offered compensatory services. The parent must respond to the school district and Special Education and Title Services (SETS), in writing, to identify which services (if any) are accepted. The written schedule of services may be sent to SETS at brian.dempsey@ksde.gov

d. Once the district receives the written response, it will schedule any accepted compensatory services. If a student is absent or a parent is unable to make the student available at the scheduled time, the services scheduled for that day will not be made up. If district staff are unavailable, the services will be rescheduled. Any compensatory service that is declined or not used as scheduled will be considered waived, as long as the district has made a good-faith effort to begin and to provide the services in a timely manner.

e. Within 40 school days of the issuance of this report, the LEA shall conduct an audit to ensure that any students who previously had IEPs are either currently receiving special education services or have been formally dismissed by the LEA or parental consent withdrawn and provide documentation to SETS within one week of the audit.

f. Within 60 school days of the issuance of this report, the LEA shall review their procedures for transitioning records of students in early childhood special education to school age services. These procedures should be developed or reviewed and provided to SETS for review and approval. Once approved by SETS a training should be scheduled to occur before the beginning of the 2026-27 school year with all LEA office staff responsible for overseeing or managing records and administrative staff at both the LEA and Interlocal offices. Documentation of the training, training materials and attendance sheets will be provided to SETS within one week of the training.

g. Prior to the beginning of the 2026-27 school year the LEA shall schedule and hold a training to all school staff, including principal, special education administration and school psychologists and Interlocal staff who support the LEA regarding who is able to refer a student for a special education evaluation, the procedures for referring a student for a special education evaluation. This joint LEA/Interlocal training is recommended for the two staffs to discuss how they should work together when a child is suspected of having a disability and discover any learning history. Documentation of the training, training materials and attendance sheets will be provided to SETS within one week of the training.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #475
ON MARCH 27, 2026

DATE OF REPORT: MAY 7, 2026

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ------- by his mother, -------, and his advocate, -------. In the remainder of the report ------ will be referred to as "the student" and ------- will be referred to as the "the parent". ------- will be referred to as "the complainant". The parent has provided written consent to share personally identifiable information with the complainant and, as such, the complainant will receive a copy of this investigation report in addition to the parent and the LEA. Note that the parent also provided written consent to interview -------, another advocate who attended the March 9, 2026 IEP Team meeting, and she will be referred to as the "advocate" in the remainder of the report.

In the remainder of the report, the following school staff will be referred to as follows:

- Brooke Marx, Assistant Principal
- Lindsey Jones, Special Education Teacher/Case Manager
- Brianna Barton, School Psychologist
- Courtney Eichhorn, Associate Superintendent/Executive Director of Special Education
- Takara Brownbridge: General Education Math Teacher
- Noemilyn Castillo, General Education Science Teacher
- Angela Kriepke, General Education World Geography Teacher

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the student is a resident of the Junction City Public School District (USD #475) who employs their own staff to provide special education and related services to students in the district. Therefore, in the remainder of this report, USD #475 is the responsible public agency and will be referred to as the "LEA".

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is

considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on March 27, 2026 and assigned the case for investigation on that same date.

Evidence Reviewed

Both parties were contacted via telephone during the investigation to gather and clarify information. The complainant was interviewed by telephone on April 14, 2026 and the parent was interviewed on that same date. In addition, the parent provided written consent to interview the advocate who attended the IEP Team meeting on March 13, 2026. She was also interviewed on April 14, 2026.

The LEA made the following school personnel available for a virtual interview on April 16, 2026 as noted below:

- Assistant Principal
- Special Education Teacher/Case Manager
- School Psychologist
- Associate Superintendent/Executive Director of Special Education

Written documentation was provided by the LEA and the complainant. All the documentation was reviewed and the following written documentation was used in consideration of the issue:

1. The Individual Education Program (IEP) dated March 26, 2025
2. Individual Health Plan for seventh grade
3. Emails between the parent and the General Education Science Teacher written between August 29, 2025 through April 10, 2026
4. Prior Written Notice (PWN) proposing a reevaluation signed by the parent on January 14,, 2026
5. Screenshots of text messages between the parent and various school staff dated between March 4 and March 27, 2026
6. Emails between the parent and the General Education World Geography Teacher written between March 11 and March 12, 2026
7. Eligibility and Multidisciplinary Team Report dated March 13, 2026
8. IEP dated March 13, 2026
9. PWN proposing the student's continued eligibility, change in services, and substantial change of placement signed by the parent on March 13, 2026
10. Staffing Summary dated March 13, 2026
11. Typed meeting notes from the March 13, 2026 IEP Team meeting written by the advocate
12. Handwritten meeting notes from the March 13, 2026 IEP Team meeting written by the complainant
13. Screenshots of text messages between the parent and the Special Education Teacher / Case Manager dated between March 22 and March 24, 2026

14. Statement dated March 25, 2026 written by the Assistant Principal
15. Email dated April 6, 2026 at 3:31 PM written by the parent to the General Education Social Studies Teacher
16. Email dated April 6, 2026 at 3:37 PM written by the General Education Social Studies Teacher to the Special Education Teacher/Case Manager and the Assistant Principal which was forwarded to the Associate Superintendent/Executive Director of Special Education
17. Response to the Allegations dated April 10, 2026 written by the Associate Superintendent/Executive Director of Special Education
18. Emails dated April 29, 2026 between the Associate Superintendent/Executive Director of Special Education and the Investigator
19. Emails dated April 30, 2026 between the parent and the Investigator

Background Information

The student is 13 years old and currently enrolled in the 7th grade at Junction City Middle School in USD #475 for the 2025-26 school year. The student lives at home with his parent and has aways attended school in USD #475. The parent reported the student has medical diagnoses of Autism and Attention Deficit Hyperactivity Disorder (ADHD), and that the students takes medication for anxiety and depression. The parent also stated that the student receives ABA services in the home through insurance.

The student was initially evaluated and found eligible for special education and related services at age three and received early childhood special education services in USD #475. The student has had an IEP since that time. During his most recent special education reevaluation on March 13, 2026, the multidisciplinary team determined the student continued to be eligible for special education under the exceptionality category of Autism.

The IEP for seventh grade requires the student to receive special education support in core classes and electives in the general education setting as well as receive special education support in personalized learning time and advisory periods in the special education setting. The student also receives transportation daily and direct social work services once per week as related services. His placement was in the general education setting at least 80% of the school day.

Issues Investigated

Based on the written complaint, two issues were identified and investigated.

Issue One

USD #475, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to consider the concerns of the parent when developing the IEP on March 13, 2026.

Applicable Law

Federal regulations at 34 C.F.R. §300.501(b)(1) require that the parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child.

Federal regulations at 34 C.F.R. §300.322(a) requires that each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place.

Federal regulations at 34 C.F.R. §300.321(a)(6) allow the parent to invite other individuals they believe have knowledge or special expertise regarding the child to the IEP team meeting.

Analysis: Findings of Fact

1. The LEA contacted the parent on January 13, 2026 to arrange an eligibility determination and IEP Team meeting. The LEA provided the parent with a meeting notification scheduling the meeting for March 13, 2026, the agreed upon date. The purpose of the meeting was to determine continued eligibility based on a reevaluation and to review the IEP and revise, if appropriate.
2. The parent attended the March 13, 2026 meeting in person. She invited the complainant and the advocate to attend and participate in the meeting with her because she believed these people had knowledge of not only the student but also reading instruction and special education. Both the complainant and the advocate also attended the meeting on March 13, 2026 in person.
3. At the meeting, the multidisciplinary team first conducted the reevaluation of the student by reviewing the results of the assessments. The Staffing Summary written by the LEA stated:

   The School Psychologist proposed to the team to discuss eligibility determination and to answer the question whether [the student] has an exceptionality. [The student] does have an exceptionality of: "Autism" means a developmental delay significantly affecting verbal and nonverbal communication and social communication, generally evident before the age of three but not necessarily so, that affects a child's educational performance. The team agreed that [the student] does have an exceptionality. The team began discussions about whether [the student] needs special education services.

   Discussions began with [the parent] sharing that she does feel he has an exceptionality and that he does need special education services. The advocate reported that students with Autism will score higher on intellectual assessments. The [General Education Math Teacher] shared that based on teacher observations and [the student's] performance in classes that there is no need for specially designed instruction.

The [Special Education Teacher] shared the current progress that she as the special education teacher and her paraeducators are really only working on the instructional accommodations but that academic goals are not appropriate based on academic progress. [The parent] shared that he has only had behavior goals since fourth grade. It was proposed to consider dismissing from special education based on the reevaluation results or moving to consult. The team discussed concerns of dismissing at this time due to some comprehension concerns and concerns with transitions with no support. Some team members do not agree. The team continued to discuss concerns and came to the consensus that we will continue with special education services and can address some of the concerns to include comprehension through accommodations.

4. Based on the reevaluation, the student was determined to continue to be eligible for special education and related services under the exceptionality category of Autism and the parent was provided with prior written notice of the continued eligibility at the conclusion of the meeting.
5. Meeting notes provided by the LEA, the advocate, and the complainant all reflect that the IEP was then reviewed.
6. The parent reported during her interview that she shared concerns during the IEP Team meeting related to the student's reading comprehension based on the novels being studied in the language arts class and that she requested that a goal and services be added to the IEP. However, she was told this could not be done "based on a hunch". The parent noted that an accommodation for an alternate setting for assignments and tests was added to address her concerns with reading comprehension.
7. The meeting notes kept by the complainant showed that the parent asked if the reading comprehension would addressed due to the student's difficulty understanding themes for the novels being studied but was told by the Assistant Principal that "most 7th graders don't get themes and we can't make a goal based on a hunch".
8. The meeting notes kept by the advocate stated, *"Mom was concerned about his comprehension especially with the books they were going to have him read this year. This question was dodged every single time. There was no input from the ELA teacher. The only teacher present was the math teacher who left the meeting several times*".
9. The LEA's staffing summary of the March 13, 2026 IEP meeting stated that the parent indicated that her concerns were addressed during the IEP Team meeting and noted that the parent wanted the copy of the procedural safeguards provided to her at the meeting. The staffing summary also noted that the prior written notice (PWN) was reviewed by the team at the conclusion of the IEP Team meeting.
10. During the interview, the LEA staff noted that the IEP Team also discussed deleting the current special education services provided in the special education setting and reducing the amount of special education services provided in the general education setting beginning immediately. However, the parent was not in agreement with the change happening during the current school year. The team discussed options and decided to reduce the amount of time in the special education setting for the remainer of this school year and then to delete all of the special education services provided in

the special education setting and reduce the amount of special education services provided in the general education setting at the beginning of the 2026-27 school year.

11. The PWN dated March 13, 2026 documents that the LEA proposed to continue the student's eligibility for special education, to make a material change in services and a substantial change in placement, as well as update the behavior goal and make changes to the accommodations in the IEP. The PWN stated, "Alternate Location for Assignments and Assessments was added to meet [the student's] needs for work completion and comprehension".
12. The parent reported that after filing this complaint with KSDE, the LEA reconvened the IEP Team on April 27, 2026 to discuss the parent's concerns with reading comprehension. The parent reported the team "did finally realize [the student] struggles with inferences" and a plan was made to address this concern. The parent stated, "It was just nice to go in an IEP meeting and actually be heard for once".

Conclusion

In this case, interviews and documentation found that the LEA scheduled and held an IEP Team meeting at a mutually agreed upon time and place in order to provide the parent with the opportunity to participate in the identification, evaluation, and educational placement of the student; and the provision of FAPE to the student. It is noted that the parent attended the IEP Team meeting and invited the complainant and the advocate to attend the IEP Team meeting with her.

Interviews and documentation show that the parent expressed concerns when the LEA discussed dismissing the student from special education during the eligibility determination process and that the team ultimately determined that the student continued to be eligible for special education services. In addition, during the development of the IEP, the parent shared concerns about the student's reading comprehension and requested a goal and services in this area be added to the IEP. However, based on the IEP Team discussions, the LEA proposed to add a targeted accommodation to address the parent's concern with reading comprehension. In addition, the parent's concerns were discussed in relation to proposals for a material change in services and a substantial change in placement at the March 13, 2026 IEP Team meeting.

Based on the foregoing, there is evidence to make a finding that the LEA did consider the parent's concerns during the IEP Team meeting held on May 13, 2026. The ***LEA is found to be in compliance*** with federal regulations implementing the IDEA in regard to this allegation.

It is noted that, even though the LEA did consider the parent's concerns during the March 13, 2026 IEP Team meeting, the filing of the complaint caused the LEA to proactively reconvene the IEP Team to further explore the parent's concerns and provide her with the opportunity for meaningful participation in a manner that enhanced the communication between the parent and LEA.

Issue Two

USD #475, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parent with appropriate prior written notice following the March 13, 2026 IEP Team meeting.

Applicable Law

Federal regulations at 34 C.F.R. 300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Federal regulations at 34 C.F.R. 300.503(b) require the prior written notice to include 1) A description of the action proposed or refused by the agency; 2) An explanation of why the agency proposes or refuses to take the action; 3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; 4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; 5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; 6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and 7) A description of other factors that are relevant to the agency's proposal or refusal.

Analysis: Findings of Fact

1. As noted in Finding 11 in Issue One, the PWN dated March 13, 2026 documents that the LEA proposed to continue the student's eligibility for special education, to make a material change in services and a substantial change in placement, as well as make changes to the accommodations in the IEP and update the behavior goal.
2. The PWN dated March 13, 2026 includes a description of the actions being proposed, an explanation of why the actions were being proposed, options considered and why those options were rejected, a description of the data used as a basis for the proposed action, and other factors relevant to the proposed actions. In addition, the PWN includes a statement that the parent has rights as described in the Procedural Safeguards and where an additional copy of the Procedural Safeguards can be obtained. The PWN also includes a listing of four agencies in Kansas where an explanation of the Procedural Safeguards and additional information/resources can be obtained by parents. The parent provided written consent for the proposed actions on March 13, 2026.
3. LEA staff reported that their practice is to update the draft IEP on the computer in real-time during the IEP Team meeting and this allows the LEA to provide parents with a typed PWN at the end of each IEP Team meeting for them to consider. Some parents choose to sign the PWN at the end of the meeting while others choose to take the PWN

home and return it after further considering the actions proposed or refused. The LEA staff reported this practice was followed for the student's IEP Team meeting held on March 13, 2026 and stated that the student's parent chose to sign the PWN at the end of the meeting.

4. The parent indicated during the interview that she does not remember ever being provided with a document called a PWN. However, since filing this child complaint, she discovered a signed PWN was provided to her as part of the March 13, 2026 IEP documentation. The parent indicated that she was asked to sign multiple documents at the end of the IEP Team meeting but did not realize that the PWN was one of the many documents that she had signed.
5. Interviews with the parent, the complainant, and the advocate all indicated that the discussions were held during the IEP Team meeting about continuing eligibility, making changes in services and changing the placement of the special education services as well as making changes to the accommodations and the behavior goal. The parent acknowledged she was in agreement with the changes the LEA was proposing although she reported that she sometimes "just gives up and gives in and just does what the LEA wants".
6. Interviews with the parent, the complainant, and the advocate all indicated that they were asked to sign the IEP Team meeting attendance record at the end of the meeting. In addition, the parent was asked to sign multiple additional documents without the LEA staff providing explanations of what she was signing.

Conclusion

In this case, documentation and interviews show the PWN dated March 13, 2026 contains all the content required by the IDEA regulations but there is a significant discrepancy between the LEA and parent's descriptions of how the PWN was presented to the parent and how the written consent was obtained.

In this case, the parent indicated that had never been provided with a copy of a PWN and was unaware of the purposes of the IEP documentation she was being asked to sign at the end of the March 13, 2026 IEP Team meeting. However, there is also evidence to support that the parent agreed with the changes which were discussed and proposed during the IEP Team meeting and for which she gave written consent on March 13, 2026. It is also noted that the LEA provided the parent with a written copy of the PWN along with the revised March 13, 2026 IEP. Based on the foregoing, the *LEA is determined to be in compliance* with federal regulations regarding providing the parent with appropriate PWN in this specific instance.

It is noted that the LEA has a practice which allows for a real-time typed version of the PWN to be provided to parents at the end of an IEP Team meeting and it is strongly suggested that the LEA reexamine their practice to incorporate a clear explanation of the PWN to parents in order to avoid any miscommunication in the future.

Summary of Conclusions/Corrective Action

ISSUE ONE: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

ISSUE TWO: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #251
ON APRIL 1, 2026

DATE OF REPORT: MAY 1, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #251 North Lyon County Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #251.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on April 1, 2026 and the 30-day timeline ended on April 30, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #251, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), ensured the specially designed instruction (SDI) and accommodations in the Student's Individualized Educational Program (IEP) were implemented when the Student engaged in computer games during their special education service time. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323(a)(d).

ISSUE TWO: Whether USD #251, in accordance with state and federal regulations implementing the IDEA, ensured the Student received instruction that was provided by personnel who were appropriately trained and supervised in meeting the requirements to assist in the provision of special education and related services to children with disabilities when the special education teacher changed positions in late January 2026. K.S.A. 72-3404(j); 34 CFR §§ 300.156, 300.207.

Investigation of Complaint

The Complaint Investigator interviewed the Parent and the Other Parent on April 16, 2026. The following LEA staff were interviewed on April 16, 2026: The Adapted Special Education Teacher 1, the Math Teacher, the Special Education Coordinator, Paraprofessional 1, and the Special Education Director.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Student Benchmarks, 2024-25 & 2025-26 School Years
2. Progress Monitoring, 2025-26 School Year
3. Individualized Education Plan, 04/23/25
4. Team Meeting Notes, 05/19/25
5. Individualized Education Plan Amendment Form for Changes not Requiring a Full Individualized Education Plan Team Meeting, 08/19/25
6. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 08/19/25
7. Progress Report, 04/09/26
8. Week View, 01/26/26-04/17/26
9. Daily Reports, 02/02/26-04/17/26
10. License and Code of Conduct (Multiple Educators)
11. Math Worksheets, 09/02/25-04/02/26
12. Grades, 2025-26 School Year
13. Report Card, 2024-25 School Year
14. Special Education Cooperative Long-Term Substitute Teacher Hiring and Compensation Process
15. Inclusion Support, Revised 01/25/26
16. Activity Reports, 12/31/25-01/30/26, 01/31/26-02/28/26, and 03/01/26-03/31/26
17. Assessor Copy of Reading Assessment, 01/05/26-04/08/26
18. Para Training for Staff, 04/25/25-04/01/26
19. Emails, 04/07/25-04/17/26

Background Information

This Investigation involved an eighth-grade student enrolled at an elementary school in USD #251. The Student is currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA) under the exceptionality of autism. The Student follows instructions well and is “always willing to put in [their] best effort.”

They enjoy reading. The Student wears a brace as a medical device. The Parent is a teacher in the LEA and currently has the Student in their class for three periods a day.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. "Benchmark scores" for the Student for the 2024-25 school year were:
    a. Reading Composite: High Risk.
        i. Fall: 16th percentile; Winter: 4th percentile; and Spring: 7th percentile.
    b. Math Composite: High Risk.
        i. Fall: 3rd percentile; Winter 1st percentile; Spring: 7th percentile.
2. "Benchmark scores" for the Student for the 2025-26 school year were:
    a. Reading Composite: Low Risk.
        i. Fall: 3rd percentile; Winter: 44th percentile; Spring: Not yet assessed.
        ii. There was a note attached that read "Due to the inconsistency of progress monitoring of [the Student's] reading goal, reading fluency logs were kept. [The Student's] benchmark scores show success."
    b. Math Composite: Medium Risk.
        i. Fall: 19th percentile; Winter: 26th percentile; Spring: Not yet assessed.
3. Student Activity Reports provided by the LEA, dated January 1, 2026 through March 31, 2026, detailed the Student's use of School computers and programs, including Blooket and IXL. The reports only recorded login times, not the length of use of the programs, and all instances were categorized as "Educational." The Parent stated in their Complaint that they reviewed the Student's computer history from February 2, 2026 through March 27, 2026. In the Complaint, the Parent highlighted the following dates, noting the Student's core math instruction was from 9:03 a.m. to 9:53 a.m. The information the Parent provided in the Complaint matched the activity reports provided by the LEA, except that the February 4, 2026 login information was in the Parent's Complaint, but not in the LEA activity report:
    a. Blooket access on January 28, 2026 at 9:27 a.m.
    b. Blooket access on February 2, 2026 at 9:36 a.m., February 3, 2026 at 9:38 a.m., February 4, 2026 at 9:15 a.m., and February 5, 2026 at 9:14 a.m.
    c. Blooket access on February 9, 2026 at 9:19 a.m. and on February 11, 2026 at 9:18 a.m.
    d. Blooket access on February 17, 2026 at 9:13 a.m. and on February 20, 2026 at 9:26 a.m.
    e. On February 24, 2026, Blooket access at 9:32 a.m. and IXL access at 9:33 a.m. There were three internet searches between these logins. IXL access on February 25 and 26, 2026, at 9:31 a.m. on both days.

f. On March 5, 2026, Blooket access at 9:27 a.m., 9:34 a.m., 9:38 a.m. (twice at that time), and 9:40 a.m., with IXL access at 9:33 a.m.

g. Blooket access on March 10, 2026 at 9:35 a.m.

h. Blooket access on March 24, 2026 at 9:40 a.m., March 25, 2026 at 9:29 a.m., March 26, 2026 at 9:36 a.m., and on March 27, 2026 at 9:29 a.m.

4. An email from Adapted Special Education Teacher 1, dated April 21, 2025, asked the Parent if a draft IEP could be submitted the following night. Adapted Special Education Teacher 1 wanted to update the Student's math goal and was waiting on the Student to finish a math assessment. They also stated they wanted to add a reading fluency goal. The Parent responded the same day, "Not a problem."

5. An IEP and related Meeting Notes, dated April 23, 2025, included the following relevant information:

   a. The purpose of the meeting was an annual IEP review.

   b. Parent concerns included lack of socialization, the impact of autism spectrum disorder (ASD) on the Student's math skills, and the timing of occupational therapy (OT) services.

   c. Present level of academic achievement and functional performance (PLAAFP) were described.

   d. Goals were documented in the following areas:

      i. Motor (OT), communication, reading, writing, and math. A social-emotional goal was not yet identified.

   e. Accommodations/Modifications/Supplementary Aids in place from April 23, 2025 to April 22, 2026:

      i. Extended time, when assignments could be completed within one class period, in the general education setting for one additional class period.

      ii. Separate setting for assessments, during assessments, in the general education setting, throughout the assessment period.

      iii. Directions repeated/restated, whenever the Student appeared confused after directions were given, in all settings, "until understanding is demonstrated."

      iv. Shortened assignments or scribe, when assignments were more than three sentences in length or when the Student was expected to take notes, in all settings, for the length of the assignment.

      v. Redirection/prompts to focus, whenever the Student was off task, in all settings, "until engaged/focused."

      vi. Frequent breaks, whenever the Student showed fatigue or discomfort due to their back brace, in all settings, for 10 minutes.

      vii. Fine motor skills: cursive writing, cutting, coloring assistance, when assignments were handwritten or would be presented in class, in all settings, for the length of the assignment.

viii. Communication log/adult support writing/planner, "at the end of each class period in which adult support is provided," in all settings, for a "1-2 sentence description."

ix. Additional space for writing, any time the Student was asked to fill out a form, in all settings, for the length of the assignment.

x. Scaffolded social interactions, "in naturally occurring situations, [the Student] will receive prompts to interact with peers," in all settings, for the duration of the activity.

f. Special Education and Related Services:

i. Speech, for 15 minutes per week, from February 4, 2025 to February 3, 2026.

ii. Adult Support, for 300 minutes per day, from February 4, 2025 to February 3, 2026.

iii. Specialized Instruction for math and writing, for 25 minutes a day, four days a week, from February 4, 2025 to May 22, 2026.

iv. Specialized Instruction for math and writing, for 25 minutes a day, five days a week, from August 20, 2025 to April 22, 2026.

v. OT, for 20 minutes per week, from April 23, 2025 to April 22, 2026.

g. An explanation of the least restrictive environment (LRE) stated the Student spent the majority of their day in general education settings with adult support. They received instruction in a special education setting for reading fluency, writing, and math for 25 minutes a day, four days a week during the 2024-25 school year, and for 25 minutes a day, five days a week for the 2025-26 school year.

h. PWN, attached to the IEP, dated April 23, 2025, documented the change in SDI from four days a week in the 2024-25 school year to five days a week in the 2025-26 school year.

6. Team Meeting Notes dated May 19, 2025 indicated the team met to discuss the Student's progress on their IEP goals. Adapted Special Education Teacher 1 noted the Student had "done very well on [their] math goal[.]"

7. The Student's Report Card for the 2024-25 school year indicated a final grade in math of an A.

8. An IEP Amendment Form dated August 25, 2025 documented an IEP amendment on August 19, 2025. The form included the following relevant information:

a. "Beginning on 8/20/2025, all special education and related services will be provided during the IEP school year based upon the district's academic calendar. The [S]tudent will receive the following services":

i. "SDI for 75 minutes a day, four days per week, for Math Core and Writing Skills."

ii. "SDI for 55 minutes a day, one day a week, for Math Core and Writing Skills."

iii. "Adult Support for 326 minutes a day, four days per week, for electives, ELA, Science, Social Studies, Physical Education/Health, Homeroom, and lunch support (10 minutes to assist [the Student] in heating [their] lunch and opening containers)."

iv. "Adult Support for 311 minutes a day, one day per week, for electives, ELA, Science, Social Studies, Physical Education/Health, Homeroom, and lunch support (10 minutes to assist [the Student] in heating [their] lunch and opening containers)."

b. Related services:

i. "OT for 20 minutes per week for direct occupational therapy services."

ii. "Speech Services for 15 minutes per week. Speech services will be delivered via teletherapy."

c. "[The Student's] goals, accommodations, and modifications remain the same, as they provide [the Student] with appropriate access to the general education curriculum."

d. PWN dated August 19, 2025, documenting the changes to the IEP, was attached.

9. Math work samples for the Student dated September 2, 2025 through March 31, 2026, reported scores between 63% and 100% per assignment, with 42 out of 49 assignments being scored 80% or above.

10. An email exchange from September 30, 2025 to October 1, 2025 between Adapted Special Education Teacher 1 and the Parent detailed staffing concerns for paraprofessionals working with the Student. Adapted Special Education Teacher 1 informed the group how a paraprofessional absence was being covered. The Parent shared they were not comfortable with the solution due to previous instances of the Student being left alone. They also expressed concern about IEP minutes not being met. The Parent stated, "Even though [Paraprofessional 1] is only going to miss 5 minutes every morning, until [Paraprofessional 2] returns (or there is a sub), those minutes will add up. … [M]y best guess is at least 95-ish minutes, which adds up to at least two class periods. Even though it is only 5 minutes a day, … I am uneasy with [the Student's] IEP minutes not being met (depending on the week, the minutes could be off by 25 minutes)." Adapted Special Education Teacher 1 replied they found a different solution, so no minutes would be missed.

11. The Parent emailed Adapted Special Education Teacher 1 on December 8, 2025 and stated they were concerned about the Student's interactions with their classmates. The Parent referenced the portion of the Student's IEP which discussed social interactions and asked what they could do to help the Student in this area. Adapted Special Education Teacher 1 replied that day and said they had added games with peers "as appropriate" in their classroom and brainstorming activities to help the Student talk more.

12. The following relevant reading assessment data was collected from the Student:

a. January 5 to February 6, 2026: Text 1 Correct Words Per Minute (CWPM) spanned from 118 to 139, with an average of zero errors.
b. February 9 to February 13, 2026: Text 2 CWPM spanned from 107 to 148, with an average of zero errors.
c. February 23 to February 27, 2026: Text 3 CWPM spanned from 122 to 151, with an average of zero errors. A handwritten note said "cold timing" on February 23, 2026.
d. March 23 to March 27, 2026: Text 4 CWPM spanned from 132 to 157, with an average of zero errors. Handwritten notes indicated "cold timing" on March 23, 2026 and "hot timing" for March 24 to March 27, 2026.
e. Week of March 30, 2026: Text 5 CWPM spanned from 148 to 162, with an average of zero errors. A handwritten note indicated "cold timing" for March 30, 2026.

13. A staffing change occurred in the LEA on January 12, 2026. Effective January 26, 2026, Adapted Special Education Teacher 1 became a special education coordinator for the LEA. Adapted Special Education Teacher 1's classroom, the "resource room," was covered by certified substitute teachers from January 27 to February 27, 2026. Instructional guidance was provided under the direction of Adapted Special Education Teacher 2, with lesson planning support from Adapted Special Education Teacher 1 in their new role. The Long-Term Substitute was hired and began managing the classroom on March 2, 2026.

14. An Inclusion Support schedule for Paraprofessional 1 dated January 25, 2026, included the following relevant information:
    a. Paraprofessional 1 was assigned to the Student throughout the day, with the exception of the time between 9:30 a.m. and 10:00 a.m., when they were assigned to other students, and between 12:35 p.m. and 1:25 p.m., when they took their lunch.
    b. Paraprofessional 1 assisted the Student in Life Skills Math from 9:03 a.m. to 9:30 a.m. in Adapted Special Education Teacher 1's classroom. They transitioned to a different classroom to assist other students at 9:35 a.m.
    c. A note on the document read "[The Student] has nearly a full day of support. [They do] go to lunch without para[professional] support. Included in [their] minutes are 10 minutes of support to assist [them] in opening containers and heating [their] lunch. [The Student] has [the Parent's] class before lunch. [The Parent] heats [the Student's] lunch and loosens containers. When [Adapted Special Education Teacher 2] suggested teaching [the Student] to open [their] containers and heat [their] own lunch, the suggestion was rejected due to concern that [the Student] would not have enough time to eat. However, the minutes have remained to cover any day [the Parent] is absent."

i. The Complaint Investigator noted that the Student's schedule for the 2024-25 school year included a class with the Parent prior to their lunch period, however; the Student's 2025-26 school year schedule did not.

d. SDI periods were documented as 9:03 a.m. to 9:53 a.m. and 1:00 p.m. to 1:25 p.m.

e. In an interview with the Complaint Investigator on April 16, 2026, the Parent clarified the Student was in the Parent's class before the lunch period in the 2024-25 school year. However, the Parent stated they continued to store the Student's lunch in their classroom and assist the Student with lunch preparations during the 2025-26 school year.

15. Weekly schedules for the Student for Adapted Special Education Teacher 1's classroom from January 26 to April 17, 2026, confirmed in interviews to have been prepared by Adapted Special Education Teacher 1, contained the following relevant information:

a. January 26 to January 31, 2026:

i. "Life Skills Math," described as "Fluency Practice & IEP Objectives for Math," from 9:03 a.m. to 9:30 a.m., five days a week. Paraprofessional 1 was assigned to assist the Student. Instructions for materials needed and where to find the lesson plan were left for the Paraprofessional.

ii. "Core Math," described as "Foundations for Algebra," from 9:30 a.m. to 9:53 a.m., five days a week. The schedule included instructions on where to find the lesson, an objective, and a list of materials needed for each lesson, which contained manipulatives and visual aids.

iii. "Writing & [Reading] Rd Fluency," described as "January Writing Prompts," from 1:00 p.m. to 1:30 p.m., five days a week, "with a para ([Paraprofessional 2]), if available." Schedule instructions noted "[The Student] chooses a prompt and writes a paragraph with a beginning, middle, and end. I will bring the rubric on Friday and we can look at what [the Student] has completed."

iv. The Schedule included relevant attendance notes, such as a snow day and an OT session.

b. February 1 to February 28, 2026:

i. "Life Skills Math," described as "Fluency Practice & IEP Objectives for Math," described as "Daily Work with [Paraprofessional 1]" and from 9:03 a.m. to 9:30 a.m., five days a week.

ii. "Core Math," described as "Foundations of Algebra," from 9:30 a.m. to 9:53 a.m. five days a week. The description included a link to find lesson plans. An objective was included, and the student materials description remained. The lessons for February 2, February 9, and February 17, 2026 were labeled "Taught."

iii. "Writing & [Reading] Rd Fluency," described as "Creative Writing," from 1:00 p.m. to 1:30 p.m., five days a week. Notes remained the same. The objective was listed as "February Writing Journal - Explanation."

c. March 1 to April 2, 2026:

i. "Life Skills Math," described as "Fluency Practice & IEP Objectives for Math," described as "Daily Work with [Paraprofessional 1]" and from 9:03 a.m. to 9:30 a.m. five days a week.

ii. "Core Math," described as "Foundations of Algebra," from 9:30 a.m. to 9:53 a.m., five days a week. An objective was included, and the materials description remained.

iii. "Writing & [Reading] Rd Fluency," described as "March Writing calendar and rubric," from 1:00 p.m. to 1:30 p.m., five days a week. Notes remained the same.

16. Daily notes from Paraprofessional 1 dated February 2, 2026 through April 2, 2026 described daily objectives for the Student's math and reading goals. The Student's math objectives were to divide a six-digit number by a one-digit number, and then divide a four-digit number by a three-digit number. The notes also contained instructions to let the Student and another student answer questions and encourage a conversational exchange between them. It did not contain information describing the Student using computer games.

17. In an email to Adapted Special Education Teacher 1 and the Principal dated February 25, 2026, the Parent expressed concerns about class staffing and reported there were no math grades recorded in the SIS for the Student. The Parent stated, "… we don't want any surprises and we don't know if we need to be working on certain concepts at home." Adapted Special Education Teacher 1 replied on February 26, 2026 and again on February 27, 2026 to acknowledge the Parent's concerns and share the LEA's progress on filling open positions. They informed the Parent a long-term substitute teacher had been secured for the vacancy caused when Adapted Special Education Teacher 1 changed positions within the LEA. They told the Parent, "the invitation to send students to the resource room if they are not receiving all of their in-class support minutes is a standing invitation." Adapted Special Education Teacher 1 assured the Parent they would update grades that weekend. On February 27, 2026, the Parent replied, thanking Adapted Special Education Teacher 1 for the update, and reiterating the importance of grades to know "how [the Student] is performing, and if we need to provide at[-]home support."

18. In an email exchange between the Parent and the Special Education Coordinator dated between March 25 and March 26, 2026:

a. The Parent expressed concerns about the Student using a computer to access online games during their SDI in math. The Parent expressed, I am not OK with a computer teaching [the Student]. If [they have] been on the computer, I feel like this is wasted learning time, and [the Student] is not getting [their] full minutes."

b. The Special Education Coordinator responded to explain the Student had used the computer after completing their assigned work for the day. They acknowledged the Parent's dislike of computer-aided learning, and reported, "I have asked the computer to no longer be utilized with [the Student] in the resource room, except for progress monitoring that requires the use of the computer."

c. The Parent clarified, "I oppose [the Student] playing [online]/computer games during [their] math instructional time and having a computer program … providing instruction instead of a human providing instruction. This is [the Student's] core math time, it isn't a supplemental math time, so [their] lessons are extremely important." The Parent requested "real[-]world math applications" for the Student, such as hand-counting real money with another person. They reminded the Special Education Coordinator the computer situation had already been discussed at their Parent-Teacher conference. The Parent shared, "I felt like we left conferences with a good game plan … but when I voice my concern about [the Student] being on the computer vs. getting specialized instruction/direct instruction, I feel like I'm being portrayed as overreacting. … Every parent has [their] own parental preference(s), and we prefer human lessons vs. the computer[.]"

d. The Special Education Coordinator thanked the Parent for expressing these concerns and stated they clarified the Parent's position with the Long-Term Substitute. The Special Education Coordinator encouraged the Parent to speak to the Long-Term Substitute directly.

e. The Parent shared while they had confidence in the Long-Term Substitute, they were also concerned about the support the Long-Term Substitute was receiving. They asked "… does [the Long-Term Substitute] have access to the needed resources (to assist in lesson adjustments planning)? Does [the Long-Term Substitute] have access to real[-] world math lessons and other supplemental resources?"

f. Finally, the Special Education Coordinator assured the Parent they were working closely with the Long-Term Substitute on curriculum, and the Long-Term Substitute had access to necessary resources.

19. A 2025-26 school year transcript dated April 8, 2026, listed the following relevant information:

a. The Student retained a 4.0 grade point average throughout the year.

b. They achieved the following math grades for the year so far:

i. Quarter 1: A (95.54%)

ii. Quarter 2: A- (90.75%)

iii. Semester 1: A- (93.14%)

iv. Quarter 3: A (97.69%)

20. A training log dated April 8, 2026, detailed the following LEA trainings for Paraprofessional 1 and Paraprofessional 2 from August 14, 2025 to February 26, 2026.
    a. Paraprofessional 1:
        i. CPI New Certification, Day 1 and 2, completed September 11, 2025.
        ii. KSDE Annual Required Training, completed November 13, 2025.
        iii. Classroom & LEA Orientation, completed November 13, 2025.
        iv. Student Technical Support Training, two modules, completed February 26, 2026.
        v. Behavior Intervention Training, four modules, completed February 26, 2026.
        vi. ASD specific training, two modules, completed February 26, 2026.
    b. Paraprofessional 2:
        i. CPI New Certification, Day 1 and 2, completed September 11, 2025.
        ii. KSDE Annual Required Training, completed November 13, 2025.
        iii. Classroom & LEA Orientation, completed November 13, 2025.
21. A Progress Report, dated April 9, 2026, included the following relevant information describing the Student's progress toward their IEP goals:
    a. Communication 1:
        i. May 19, 2025: "7- Moderate Improvement";
        ii. October 21, 2025: "7- Moderate Improvement"; and
        iii. March 10, 2026: "7- Moderate Improvement."
    b. Communication 2:
        i. May 19, 2025: "8- Mastered";
        ii. October 21, 2025: "7- Moderate Improvement";
        iii. December 19, 2025: "6- Slight Improvement"; and
        iv. March 10, 2026: "7- Moderate Improvement."
    c. Reading:
        i. May 19, 2025: "8- Mastered";
        ii. October 17, 2025: "7- Moderate Improvement";
        iii. December 16, 2025: "5- Maintained Performance"; and
        iv. March 9, 2026: "5- Maintained Performance."
    d. Writing: May 19, 2025: "7- Moderate Improvement";
        i. October 17, 2025: "6- Slight Improvement";
        ii. December 16, 2025: "6- Slight Improvement"; and
        iii. March 9, 2026: "5- Maintained Performance."
    e. Math:
        i. May 19, 2025: "8- Mastered";

1. Additional comments stated, "According to curriculum assessments, given problems involving multiplication by 10's, 100's, or the powers of 10, [the Student] can solve the problems with 90% accuracy or better."

ii. October 17, 2025: "6- Slight Improvement";

1. Additional comments stated, "Given problems involving division, [the Student] can divide a 4-digit number by a 3-digit number with 63% accuracy, as measured by curriculum assessment of the skill. [The Student] can also multiply multiple-digit numbers with an average of 77% accuracy; the October benchmark of the skill was 90%. [The Student] averaged 93% on multiplying a multi-digit number by 1 single-digit number. [The Student] still needs practice when multiplying by a 2 or 3-digit number to meet [their] benchmark, but [the Student] is remarkably independent with multiplication and is working very hard to meet this objective."

iii. December 16, 2025: "7- Moderate Improvement";

1. Additional comments stated, "Given problems involving division, [the Student] can divide a 4-digit number by a 3-digit number with 80% accuracy or better, as measured by curriculum assessment of the skill. [The Student] can also relate multiplication to division facts as opposite operations with 95% accuracy and divide 6-digit numbers by a 1-digit number with 67% accuracy, as measured by curriculum assessments."

iv. March 9, 2026: "7- Moderate Improvement."

1. Additional comments stated, "Given problems involving division, [the Student] can divide a 6-digit number by a 1-digit number with 80% accuracy or better, as measured by curriculum assessment of the skill. Week of 2/9/2026 = 50% (2/4)[.] Week of 2/17/2026 = 75% (3/4)[.] Week of 2/24/2026 = 75% (3/4)[.] Week of 3/2/2026 = 80% (4/5)[.]"

f. Motor (OT): May 14, 2025: "7- Moderate Improvement";

i. October 15, 2025: "8- Mastered";

ii. December 16, 2025: "8- Mastered"; and

iii. March 5, 2026: "8- Mastered."

22. The LEA provided current licenses for the following staff:

a. Adapted Special Education Teacher 1, expires October 12, 2027.

i. Licensed in Elementary K-9, Learning Disabilities K-9, Special Education ELA K-9, Special Education Math.

b. Adapted Special Education Teacher 2, expires January 20, 2028.

i. Licensed in Adaptive Special Education K-12, and Physical Education PreK-12.

c. Long-Term Substitute, expires June 30, 2026.

i. Licensed in Emergency Substitute Teacher PreK-12.

ii. A note indicated "Limited to no more than 45 days in the same assignment."

d. General Education Teacher, expires November 17, 2029.
   i. Licensed in Elementary K-9, ELA 5-8, and General Science 5-9.

e. Substitute 1, expires December 11, 2027.
   i. Licensed in Elementary K-9.

f. Substitute 2, expires June 30, 2026.
   i. Licensed as Emergency Substitute Teacher PreK-12.
   ii. A note indicated "Limited to no more than 45 days in the same assignment."

g. Substitute 3, expires February 4, 2027.
   i. Licensed as Substitute Teacher PreK-12.

h. Substitute 4, expires January 21, 2032.
   i. Licensed as Substitute Teacher PreK-12.

i. Substitute 5, expires June 30, 2027.
   i. Licensed as Emergency Substitute Teacher K-12.

23. The LEA "Long-Term Substitute Teacher Hiring and Compensation Process" document explained:
    a. "This process applies to all Long-Term Substitute Teachers serving the [LEA] and working in an outlying district."
    b. "[The LEA] will identify the need for a Long-term Substitute Teacher and coordinate with the [Other District's] Substitute Coordinator to initiate the hiring process. [Other District] serves as the employing district for onboarding, payroll, and board approval. All substitute teachers must submit an application through [Application Software]. The [Other District's] Substitute Coordinator will manage the onboarding process, which includes verifying that all required licensure and credentials are current and appropriate for the assignment. Substitute teachers will follow the same onboarding standards currently in place for [Other District] district staff. [The Other District] Board approval is required. Long-term substitutes must complete all required paperwork and orientation prior to the start of their assignment."

Parent Interview

24. During an interview with the Complaint Investigator, the Parent and the Other Parent shared concerns regarding the LEA using substitutes rather than hiring a full time teacher when Adapted Special Education Teacher 1 changed positions. The Other Parent specified "[The LEA doesn't] have a licensed teacher in charge and [they're] relying on just substitutes or para[professional]s who don't have that training." The Parent added, "I honestly don't think anybody was trained." The Other Parent expressed, "[W]e know that [the Student] has not been receiving [their] actual math instruction minutes … . And so that's our big concern."

25. The Parent and the Other Parent repeatedly questioned the background, qualifications, training, and certifications of the Long-Term Substitute. The Other Parent asserted the Long-Term Substitute "doesn't have any teacher background." The Parent added, "they did not hire a certified person, somebody who is familiar with IEPs and somebody who knows how to make the adjustments." Further, the Parent expressed, "we don't know exactly everything that's being left for [the Long-Term Substitute], but it's obvious that it's not enough. [The Student is] not being given the true 50 minutes of specialized instruction. … [Adapted Special Education Teacher 1] is leaving lessons, but are they quality lessons? Is it worth [the Student's] time?"
26. Regarding the change of roles for Adapted Special Education Teacher 1, the Parent asserted, "there was no transparency with the parents. We were told that [Adapted Special Education Teacher 1] is going to be making the transition, and that was pretty much it." They stated, "we had heard that … two para[professional]s were running the show in the background, telling the subs what to do."
27. Regarding the Student's math grades being late, the Parent indicated Adapted Special Education Teacher 1 explained they were "prioritizing the best I can." The Parent shared, "I understand juggling multiple roles. What I am upset with is the lack of communication. … We don't know what we need to be working on at home."
28. When asked about computer programs, the Parent said, "[W]e worry that [the Student's] math instruction is … impacted by all of this." They shared they believed half the Student's math instruction was being done through IXL, which they described as "pretty much the computer teaching the student." They expressed "dislike of a computer being [the Student's] teacher when [the Student] is there for specialized math instruction." The Parent questioned, "If [the Student] doesn't quite understand the topic, how can a computer teach it versus a human teaching [them]?" The Other Parent observed the Student used computer programs more often when Paraprofessional 1 left the classroom. The Parent mentioned some use of the computer for Blooket and IXL on the activity log when Paraprofessional 1 was assigned to the Student, and more use when Paraprofessional 1 was out of the room. According to the Parent, Adapted Special Education Teacher 1 told them no lesson plans included instruction through computer programs and Adapted Special Education Teacher 1 was unaware the Student was using computer programs.
29. The Parent stated they relayed their concerns with Adapted Special Education Teacher 1 at a parent conference on March 12, 2026. They expressed, "We were able to have a very good conversation." On March 25, 2026, the Student told the Parent they played Blooket during math class again. The Parent checked the Student's school computer activity and confirmed the Student had used Blooket during their math SDI period that day. The Parent shared, "that was after the fact that we had communicated our concerns with [Adapted Special Education Teacher 1] about that is [the Student's] specialized math instruction, why is [the Student] on Blooket?" The Parent reported they emailed Adapted Special Education Teacher 1,

who explained there may have been miscommunication between themself, the Long-Term Substitute, and Paraprofessional 2. They reported in the week following the email exchange, instead of being on their computer, the Student "drew a lot of pictures" during their math period. According to the Parent, Adapted Special Education Teacher 1 implied the Parent "told them not to allow [the Student] to use the computer." The Parent clarified they asked the computer only be used for progress monitoring, and not instruction. The Parent asserted, "[What] [w]as supposed to be taking place … wasn't taking place. … [The Student] was drawing, not doing math, just drawing."

30. The Other Parent explained they moved the Student from general education math to SDI math for the 2025-26 school year because they wanted the Student to have "more real-world math experience," specifically with money, instead of algebra. The Parent added, "Money is something that [the Student] needs help on. … [They need] the hands-on." They stated Paraprofessional 1 had provided the Student lessons with money. The Parent reported when Adapted Special Education Teacher 1 was teaching in the classroom, Paraprofessional 1 began the period working with the Student, and Adapted Special Education Teacher 1 implemented SDI for the latter part. The Other Parent stated they believed the substitutes and other paraprofessionals were letting the Student play games on their computer rather than delivering instruction.

31. The Other Parent explained Blooket as "a program that can be educational if a teacher creates questions and has the questions go on it, but it also could be used as a game where kids could seek out what type of questions they want." They stated, "IXL is fine if a teacher can build lessons and build it all out and you can assign them." The Other Parent shared they were familiar with IXL as the technology director for the LEA. They reported when they asked Adapted Special Education Teacher 1 if lessons had been assigned to the Student, Adapted Special Education Teacher 1 confirmed no lessons had been assigned by themself or Paraprofessional 1. The Other Parent acknowledged the Student did not use IXL often. The Parent shared, "No one brought up [the Student] being on the computer as misuse of class time."

32. Regarding adult support, the Parent acknowledged both Paraprofessional 1 and Paraprofessional 2 assisted the Student throughout the day. They expressed appreciation for both paraprofessionals. The Other Parent shared concerns the Student was not interacting with peers often. The Parent stated the Student was with their peers most of the day and their IEP included adult support for peer interactions. They noted, "[The Student] is a quiet one."

Adapted Special Education Teacher 1 Interview

33. During an interview with the Complaint Investigator, Adapted Special Education Teacher 1 stated they became the Student's case manager in April 2025. They confirmed they were the Student's teacher from August 2025 until January 26, 2026,

when they transitioned away from full-time classroom teaching. They shared, "Generally, I'm the elementary teacher, but because I picked [the Student] up last year, I kept [the Student] on my caseload this year."

34. Adapted Special Education Teacher 1 confirmed they provided SDI for the Student, specifically in math and writing, from August 2025 through January 26, 2026. They shared they were assisted by Paraprofessional 1 and Paraprofessional 2. Adapted Special Education Teacher 1 asserted there was "never a lesson plan to be on the computer playing games. … They might get to get on something that they wanted to for maybe five minutes or the end of class." They shared playing computer games in their class was "very rare" and did not recall any specific instances.
35. Adapted Special Education Teacher 1 stated, "I don't know what Blooket is. I've never done that with the kids." Regarding IXL, Adapted Special Education Teacher 1 reported "[I]t's not really a game, it gives extra practice for a skill you're doing. … when I use IXL with a student or any program with a student, they sit next to me and I'm watching what they're doing. And just the same as if it was a paper pencil lesson."
36. Adapted Special Education Teacher 1 reported between January 26, 2026 and February 27, 2026, their open classroom position was filled by rotating daily substitutes, and the Long-Term Substitute began classroom duties on March 2, 2026. During that time, Adapted Special Education Teacher 1 stated substitutes and paraprofessionals were responsible for SDI. Adapted Special Education Teacher 1 confirmed they created the lesson plans for the substitute teachers.
37. Regarding filling the vacancy, Adapted Special Education Teacher 1 shared "We did our best to get a long-term sub in there as quickly as we could. … I feel like I did as much as I possibly could do, to plan for things for the para[professional]s, for the subs and for the students." They reported they showed the Long-Term Substitute how to use the lesson plan scheduling program to access and update the daily lessons. Adapted Special Education Teacher 1 asserted they maintained creating the lesson plans and gave the Long-Term Substitute directions in implementing the plans.
38. Regarding late grades, Adapted Special Education Teacher 1 explained, "I was completely overwhelmed. I'll be completely honest. I was doing two jobs at one time. … That was one thing I could not get done. … I did tell the [P]rincipal." They shared they also alerted the Special Education Director of their workload. Adapted Special Education Teacher 1 reported they were still handling teaching duties on top of their coordinator duties.
39. Adapted Special Education Teacher 1 indicated the Student received paraeducator support throughout the day, and if Paraprofessional 1 was absent, "We would rotate [in] another para[professional]." They stated "adult support" meant a paraprofessional assisted the Student in general education classes, but did not mean a one-to-one assignment. Adapted Special Education Teacher 1 explained

paraprofessionals implemented the Student's "scaffolded social interactions" accommodation by encouraging the Student to interact with peers.

40. Adapted Special Education Teacher 1 gave detailed descriptions regarding the implementation of the Student's accommodations. They confirmed extra time, repeated directions, a scribe, redirection, and fine motor skill assistance were received. They stated the Student did not take State assessments, therefore this accommodation was only occasionally used for in class testing. Adapted Special Education Teacher 1 acknowledged they did not effectively shorten assignments since the Student had math in the adapted classroom for the 2025-26 school year. They indicated that accommodation would be reinstated in general education in the following year. Adapted Special Education Teacher 1 shared the Student was allowed breaks, but did not often use this accommodation. They reported the cursive accommodation was an artifact from a specific past teacher, and the communication log was the Parent's request.

Paraprofessional 1 Interview

41. During an interview with the Complaint Investigator, Paraprofessional 1 indicated they were the Student's paraprofessional throughout the school day. They stated they worked with the Student for the entirety of the 2025-26 school year and "a little bit" during the 2024-25 school year. Paraprofessional 1 explained that in addition to supporting the Student, they were also working with another student up until recently, and sometimes another student, if they had to be pulled out for services.

42. When asked how they served the Student in April and May of 2025, Paraprofessional 1 stated they only had to support the Student if the other paraprofessional was absent. They said, "… when we have paras that are absent, we kind of fill in when we need to … ." Paraprofessional 1 stated for the 2025-26 school year, they were with the Student during all of their classes throughout the school day.

43. Paraprofessional 1 stated how they helped the Student depended on the subject. They said, "I will guide [the Student] in the right direction on what lessons we're doing and help [them] figure out the answers that need to be. … [P]retty much everything [the Student] does is on [their] own, but if [the Student] doesn't understand, I'll just pull [them] to the side or we'll go to another room because we can read out loud … ." They stated for times when they were gone, someone else filled in for them. Paraprofessional 1 stated the only time they were not with the Student during the day was from 9:30 a.m. to 9:45 a.m. when the Student was at recess.

44. Paraprofessional 1 indicated for the 2025-26 school year, they would accompany the Student to Adapted Special Education Teacher 1's classroom for math.

45. Paraprofessional 1 stated the Student did not play games on the computer during Adapted Special Education Teacher 1's class when Paraprofessional 1 was with them, unless the Student was using IXL. When asked how frequently IXL was part of

the Student's work during math class, Paraprofessional 1 stated, "It just depends." They also said, "I say a handful of times, the whole year, I've been with [the Student] with IXL."

46. Paraprofessional 1 explained when they arrived at 9:00 a.m., they took the Student and another student to the gym, because the latter was "hyperactive" and needed to get some energy out. They stated while this was happening, Adapted Special Education Teacher 1 was working with the other students. Paraprofessional 1 stated they were in the gym with the Student and the other student for about 5-10 minutes, and they did not go to the gym every day. Paraprofessional 1 perceived they took care of the Student and the other student before math class to help the Adapted Special Education Teacher until they could get to them for instruction.
    a. Paraprofessional 1 indicated when they returned to the classroom after being in the gym with the Student and the other student, they prepared the Student and the other student for the math lesson by completing worksheets. They were with the Student from 9:00 a.m. to 9:30 a.m. and then Adapted Special Education Teacher 1 would take over. Paraprofessional 1 explained they left the classroom at 9:30 a.m. to go to another class. They indicated this was the routine until Adapted Special Education Teacher 1 got a new job.
    b. Paraprofessional 1 stated the Long-Term Substitute was working with the students after Adapted Special Education Teacher 1 had left for another job. They indicated from 9:30 a.m. forward, the students were supposed to complete their workbooks, but it was not getting done. Paraprofessional 1 asked the Long-Term Substitute if it was easier if they worked on math from 9:00 a.m. to 9:30 a.m. with the Student and the other student, and then the Long-Term Substitute completed their topic of the day from 9:30 a.m. to 9:45 a.m. They indicated the Long-Term Substitute agreed to this and Paraprofessional 1 worked with the Student and the other student on math assignments listed on the board from 9:00 a.m. to 9:30 a.m. They did not know what happened between 9:30 a.m. to 9:45 a.m. because they were not in the classroom. When they returned at 9:45 a.m., Paraprofessional 1 continued working on math with the Student.
    c. In the interview, the Special Education Director indicated Adapted Special Education Teacher 1 left on January 26, 2026. They explained once the Adapted Special Education Teacher obtained a new job, the LEA sought to find certified people to fill the position. While that was happening, the LEA used daily substitutes and around early to mid-February, they secured a long-term substitute. They indicated Adapted Special Education Teacher 1 had created the lesson plans, so Paraprofessional 1 was working under the direction of Adapted Special Education Teacher 1.
47. During the interview, Paraprofessional 1 was asked about the implementation of the Student's accommodations. They indicated:

a. The Student received extra time to complete their assignments, and the Student was able to go to another room for assessments and take tests privately.
b. Paraprofessional 1 could re-read instructions, or if something was written on the board, Paraprofessional 1 wrote it in the Student's daily journal. They would review information slowly and read it together.
c. They did not scribe much for the Student and stated the Student did "pretty much" everything. They stated they worked on every assignment with the Student.
d. For redirection and focus, they stated the Student did well at staying on topic.
e. They asked the Student to state if they wanted a break, but indicated the Student did not take many breaks.
f. Paraprofessional 1 helped with cutting, but had never seen the Student write in cursive.
g. For the communication log, adult support writing, and a planner, they indicated they completed a plan with the Student every day.
h. The Student had additional space for writing.
i. For scaffolded social interactions, they stated they tried to get the Student to be "more open" with their classmates.

48. During the interview, Paraprofessional 1 was asked about the implementation of the Student's special education and related services. They indicated:
    a. For receiving adult support/special education services for 300 minutes a day, five days a week, every week, they said, "That's just every classroom" and added they were with the Student in all of their classes.
    b. When asked if they provided SDI, Paraprofessional 1 stated they did what the "IEP says to help [the Student] with."
    c. The Student did not play computer games when they were with them, but Paraprofessional 1 did not know what happened when they were not in the classroom. The only time Paraprofessional 1 allowed the Student to play a game was if they were done with their assignment and it was part of their free time.
49. Paraprofessional 1 stated they had not had much training regarding the implementation of the Student's IEP. They explained they were given IEPs, told what the accommodations were and to follow them, but other than that, it was online training and not one-to-one training. Paraprofessional 1 indicated they had conversations with the Student's teachers on how to help the Student. They stated the Student's teachers provided strategies and guidance on how Paraprofessional 1 should work with the Student.
50. Paraprofessional 1 stated they used online modules to learn about different topics, including CPI training. The Special Education Director indicated for 0-5 years of service, a staff member needed 20 hours of in-service training, and for more than 10 years of service, it was only 10 hours of in-service training. They indicated one of

the ways staff could meet those hours was by utilizing the online modules. A training log showed Paraprofessional 1 completed training for the following topics: KSDE annual required training, classroom and LEA orientation, CPI new certification training (two sessions), helping students succeed with the web browser (parts one and two), applied behavior analysis (ABA), understanding the power of reinforcement in ABA, defining the four functions of behavior, what are the parts of behavioral interventions, Autism 101-10 (managing behaviors and implementing strategies for ASD), and Autism 101-11 (optimizing autism support through data collection). They completed 18.75 between August 14, 2025 and February 26, 2026.

Math Teacher Interview

51. During an interview with the Complaint Investigator, the Math Teacher indicated they were the Student's teacher during the 2024-25 school year. They stated the Student had "pretty much" one-to-one support in the classroom, and a paraprofessional was "always" with them. They shared their classroom during the 2024-25 school year was part of the general education setting.
52. The Math Teacher described the Student as reserved and quiet, but stated the Student asked for help when needed. They indicated the Student's needs were "pretty high," which was why the Student had a "one-on-one" paraprofessional. They indicated Paraprofessional 1 was the paraprofessional who supported the Student, but that it might have been a few different people throughout the school year.
53. The Math Teacher stated they did not allow much computer usage in their classroom and indicated the Student engaging in computer games would not have occurred within math general education time.
54. The Math Teacher described Blooket as an educational quiz game. They explained the game could be for any subject, and while usually the entire class competed against each other, it could also be an individual activity. They shared the game was used during the time when they served the Student. The Math Teacher stated they also used IXL in their class for about 5-10 minutes at a time, usually as a check-in after a lesson for comprehension. They stated the Parent had never shared a concern about the Student's use of either program.
55. The Math Teacher believed Blooket could be considered just a game, but it was used in their classroom as an educational game. They indicated they did not use any games on IXL. The Math Teacher perceived they used Blooket about once a week for ten minutes during the time they served the Student, and always in a group setting. For the same period of time, the Math Teacher believed they used IXL with the Student about twice a week for ten minutes each, in an individual setting.
56. During the interview, the Math Teacher was asked about the implementation of the Student's accommodations when the Student was using Blooket and IXL in their class. They indicated:

a. Both of the learning platforms allowed students to answer questions at their own speed, so the Student would have had as much processing time as they needed.
b. The Student did not generally require a separate setting, and a separate setting would not have been used with those learning platforms.
c. The Math Teacher re-read questions as necessary.
d. The paraprofessional sometimes scribed for the Student.
e. The paraprofessional would have provided the Student with reminders regarding redirection and prompts to focus. The Math Teacher occasionally prompted the Student if they were "really off task."
f. The Student took a break as often as they needed, which sometimes meant leaving the room and sometimes was just stepping away from their task.
g. Accommodations for fine motor skills, cursive writing, cutting, and coloring assistance were "not relevant."
h. In regards to Blooket and IXL, they stated the accommodations for communication log, adult support, and writing/planner were not relevant because it was related to an in-class activity, not homework.
i. The Student had access to scratch paper to accommodate for additional space for writing.
j. For scaffolded social interactions, the Student sat at table groups and the paraprofessional encouraged the Student to talk with classmates if they needed to. With the games, the Student would work by themself to answer the questions.

57. During the interview, the Math Teacher was asked about the implementation of the Student's special education and related services when the Student was using the aforementioned online platforms in their class. They indicated:
    a. The Student was not pulled from their class for speech services.
    b. They observed the Student receiving additional support for 300 minutes a day, five days a week, each week.
    c. They did not know if specialized instruction for 25 minutes every week in the special education or regular education building was occurring, because it did not include the Math Teacher.
    d. They did not recall the Student being pulled out of their classroom to receive services.

Special Education Coordinator Interview

58. During an interview with the Complaint Investigator, the Special Education Coordinator explained they stopped working with the Student in May 2025. They did not know what students' computer usage at the School looked like.

59. The Special Education Coordinator described their role during the investigation period as helping the special education teachers by answering questions, providing guidance, helping write IEPs, scheduling meetings, and talking with parents.

60. The Special Education Coordinator explained that every school year they obtained all of the "IEPs at glance," which listed the accommodations, modifications, minutes, goals, and services a student would be receiving. They indicated this document instructed general education teachers on what a student with an IEP was working on, as well as their accommodations and modifications. The Special Education Coordinator indicated they held a two-hour orientation with all of the paraprofessionals and discussed each student with an IEP and the information within the document. They wanted the paraprofessionals to ensure students were receiving the support and services they needed while in the classroom, and the paraprofessionals could come to them if they had a question. They stated the meeting with the paraprofessionals was held at the beginning of the year, and a meeting for teachers was held during the first in-service when they returned to school.

61. When asked how the LEA supported students when paraprofessionals were absent or unavailable, they said, "… we usually service the ones that have the most needs." The Special Education Coordinator stated they would also help if they were available.

62. The Special Education Coordinator stated that paraprofessionals delivered instruction. They explained when they were a teacher, they would explain the main concept or topic and a paraprofessional would help with practice skills or facilitating the lesson.

Special Education Director Interview

63. During an interview with the Complaint Investigator, the Special Education Director reported the LEA attempted to fill the vacancy created by Adapted Special Education Teacher 1 changing positions prior to January 26, 2026. They stated all substitutes hired for the position, including the Long-Term Substitute, retained State licensure, therefore, "in the eyes of [the State], we had certified people providing services and supports." The Special Education Director shared the Long-Term Substitute was invited to LEA-wide training, however the training had not yet occurred.

64. The Special Education Director confirmed Adapted Special Education Teacher 1 continued to create SDI lesson plans "to ensure the continuity of service." They stated "[W]e hope that our substitutes are doing what we have left them." They acknowledged relying on paraprofessionals for support with routines. The Special Education Director asserted Adapted Special Education Teacher 1 was "in communication with the Parent throughout this whole time of the change in position."

65. Regarding using computer programs for instruction, the Special Education Director confirmed no lesson plans included computer time. They described the Student's computer use as "very miniscule." They acknowledged a substitute may allow it in error, or the Student may have "got off task." They stated there was no log info for how long the Student was on each program.
66. On April 1, 2026, the Parent filed this complaint.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #251, in accordance with state and federal regulations implementing IDEA, ensured the SDI and accommodations in the Student's IEP were implemented when the Student engaged in computer games during their special education service time. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323(a)(d).

According to K.A.R. 91-40-16(a)(b) and 34 CFR § 300.323(a)(d), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency shall ensure the following conditions are met: an IEP is in effect before special education and related services are provided to an exceptional child; those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown; an IEP is in effect for each exceptional child at the beginning of each school year; and the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Additionally, each teacher and provider must be informed of their specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged the LEA did not provide the Student with the services as listed in their IEP when the Student was allowed to play games on their computer during math instruction.

The LEA maintained the Student was provided with SDI and accommodations in accordance with the IEP dated April 23, 2025 and amended on August 19, 2025.

In March 2026, the Parent expressed concerns about the Student accessing online games during their math SDI, and believed the Student spent more time on IXL and Blooket when Paraprofessional 1 was not in the classroom. The Parent shared these concerns with Adapted Special Education Teacher 1 on March 12, 2026 but saw the Student was still accessing programs during their service time, which the data supported. The Other Parent believed the substitutes and other paraprofessionals were letting the Student play computer games rather than delivering instruction. Adapted Special Education Teacher 1 asserted there was "never a lesson plan to be on the computer playing games. … They might get to get on something that

they wanted to for maybe five minutes or the end of class." Paraprofessional 1 stated the Student did not play computer games during Adapted Special Education Teacher 1's class when Paraprofessional 1 was with them, unless the Student was using IXL. They did not know what happened between 9:30 a.m. and 9:45 a.m. because they were not in the classroom.

Paraprofessional 1 indicated they used IXL "a handful of times" with the Student as part of math class, and provided SDI by following the Student's IEP. The Math Teacher stated they did not allow much computer usage in their classroom, but used Blooket about once a week for ten minutes during the time they served the Student, and used IXL with the Student about twice a week for ten minutes each time. The Special Education Director and Adapted Special Education Teacher 1 confirmed no lesson plans included computer time. The Special Education Director described the Student's computer use as "very miniscule" and acknowledged a substitute may allow it in error, or the Student may have "got off task."

Adapted Special Education Teacher 1 indicated the Student received paraprofessional support throughout the day, and described how the Student's accommodations were implemented. Paraprofessional 1 and the Math Teacher also described how they supported the Student, implemented the Student's accommodations, and how related services were provided.

The Student's core math instruction was from 9:03 a.m. to 9:53 a.m. Activity reports of the Student's computer usage showed login times for IXL and Blooket, but not the length of time spent on the programs. According to the activity reports, from January 28, 2026 through March 27, 2026, the Student accessed Blooket 20 times and IXL four times. The Parent acknowledged IXL and Blooket could be useful educational tools if a teacher used them correctly.

While the activity logs demonstrated the Student accessed Blooket and IXL multiple times, it was not possible to determine how long the Student spent on IXL or Blooket or in what capacity. According to Beer ex rel. A.B. v. USD 512 Shawnee Mission (2023), "School districts incur liability when 'a material failure to implement an IEP violates the IDEA.'" (citing Van Duyn v. Baker Sch. Dist. 5J, (9th Cir. 2007)). Additionally, E.C. by W.C. and K.C. v. U.S.D. 385 Andover (2020) states, "'[T]o prevail on a claim under the IDEA, a party challenging the implementation of an IEP must show more than a de minimis failure to implement all elements of that IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP.' … Without further guidance from the Tenth Circuit on this standard, the Court proceeds with its analysis under the prevailing "materiality" standard from its sister circuits … ." (citing Houston Indep. Sch. Dist. v. Bobby R ., (5th Cir. 2000)). Overall, the evidence indicated the Student continued to achieve and make progress. While it is clear the Student accessed Blooket and IXL, the evidence did not demonstrate that access to these programs resulted in a failure to implement the Student's accommodations and SDI during their service time.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure the SDI and accommodations in the Student's IEP

were implemented when the Student engaged in computer games during their special education service time.

Issue Two

Whether USD #251, in accordance with state and federal regulations implementing the IDEA, ensured the Student received instruction that was provided by personnel who were appropriately trained and supervised in meeting the requirements to assist in the provision of special education and related services to children with disabilities when the special education teacher changed positions. K.S.A. 72-3404(j); 34 CFR §§ 300.156, 300.207.

According to K.S.A. 72-3404(j), a special teacher means a person, employed by or under contract with a school district or a state institution to provide special education or related services, who is qualified to provide special education or related services to exceptional children as determined pursuant to standards established by the state board, or to assist in the provision of special education or related services to exceptional children as determined pursuant to standards established by the State board.

According to 34 CFR § 300.156, the State Educational Agency (SEA) must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. These qualifications must include requirements for related services personnel and paraprofessionals that are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and ensure that related services personnel who deliver services in their discipline or profession meet the aforementioned requirements and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements to be used to assist in the provision of special education and related services to children with disabilities.

The qualifications described above must ensure each person employed as a public school special education teacher in the State who teaches in an elementary school, middle school, or secondary school has obtained full State certification as a special education teacher, or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the teacher must meet the certification or licensing requirements, if any, set forth in the State's public charter school law; has not had special

education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and holds at least a bachelor's degree.

A teacher will be considered to meet the aforementioned standard if the teacher is participating in an alternate route to special education certification program under which the teacher receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching; participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; assumes functions as a teacher only for a specified period of time not to exceed three years; and demonstrates satisfactory progress toward full certification as prescribed by the State. The State ensures, through its certification and licensure process, that the aforementioned provisions of the law are met.

According to 34 CFR § 300.207, the LEA must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of 34 CFR § 300.156 (related to personnel qualifications) and section 2102(b) of the Elementary and Secondary Education Act.

The Parent alleged the LEA failed to provide adequately trained staff following the special education teacher's transition to the role of coordinator. The Parent claimed the LEA did not fill the resulting vacancy, instead relied on educational assistants and substitute teachers to provide the Student's instruction.

The LEA contended the Student continued to receive a FAPE, provided by appropriately trained and supervised personnel, following the mid-year staffing transition that occurred on January 12, 2026.

When Adapted Special Education Teacher 1 started a new role on January 26, 2026, their classroom was covered by certified substitute teachers until the Long-Term Substitute started on March 2, 2026. The evidence showed that all personnel, including the substitutes and the Long-Term Substitute, held valid State licensure, which the Special Education Director confirmed.

Adapted Special Education Teacher 1 stated that after accepting their new position, substitutes and paraprofessionals were responsible for SDI, which the Special Education Director confirmed. In their interview, Adapted Special Education Teacher 1 explained they created SDI lesson plans for the substitute teachers, provided instructional guidance, and supported the Long-Term Substitute, which the Special Education Director confirmed. Instructional guidance was also provided under the direction of Adapted Special Education Teacher 2, with additional lesson planning support from Adapted Special Education Teacher 1. The evidence showed Adapted Special Education Teacher 1 prepared weekly schedules for the Student's math, reading, and writing instruction from January 26 to April 17, 2026, which included information

for the paraprofessional on where to find materials, the lesson plan, instructions, objectives, manipulatives, and visual aids.

The evidence included training logs for Paraprofessionals 1 and 2, which showed completion of various modules. Paraprofessional 1 also indicated they had conversations with the Student's teachers on how to help the Student, including strategies and guidance on how to work with the Student. The Special Education Coordinator indicated they held a two-hour orientation with all of the paraprofessionals and discussed each student with an IEP and the information contained within the IEP.

According to the KSDE 2024-25 Special Education Reimbursement Guide State Categorical Aid, to be employed as a special education paraeducator, the minimum requirements were to be a high school graduate (or GED certificate), and complete an orientation session addressing confidentiality, the services to be provided, and the policies and procedures of the LEA concerning special education. It also stated paraeducators could provide instructional or related services under the supervision of licensed or certified special education professionals in an accredited or approved special education program. It stated paraeducators could not be responsible for selecting, programming, or prescribing educational activities or materials for the students without the supervision and guidance of the special teacher; be solely responsible for preparing lesson plans or initiating original concept instruction; assigned to implement the IEP for students with exceptionalities without direct supervision and involvement from the professional; and be employed in lieu of certified or licensed special education personnel or used as substitute teachers.

Although the Parent expressed concerns about a lack of trained personnel, the evidence demonstrated staff held the proper licensure, and were trained, supervised, and guided by Adapted Special Education Teachers 1 and 2. There was no evidence to indicate the provision of the Student's special education and related services were provided by improperly supervised or un-trained personnel.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure the Student received instruction that was provided by personnel who were appropriately trained and supervised in meeting the requirements to assist in the provision of special education and related services to children with disabilities when the special education teacher changed positions.

Corrective Action

Information gathered in the course of this investigation did not substantiate noncompliance with special education statutes and regulations. Therefore, no corrective action is ordered.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 251
North Lyon County Public Schools: 26FC251-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on April 1, 2026, by ------- on behalf of her daughter, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on May 1, 2026. That Complaint Report concluded that there were no violations of special education statutes and regulations

Thereafter, the patent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the LEA's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified two issues. The conclusions for both issues have been appealed.

Issue One

Whether USD #251, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), ensured the specially designed instruction (SDI) and accommodations in the Student's Individualized Educational Program (IEP) were implemented when the Student engaged in computer games during their special education service time. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323(a)(d).

The parent's appeal states that the student is supposed to get 50 minutes of specialized math instruction daily from 9:03 am to 9:53 am, but the student spends some of that time playing non-educational games on a computer instead of getting specialized math instruction from a human. The computer time is used primarily to access two programs: Blooket and IXL. The parent stated that Blooket was used by the student nine times in February and six times in March and IXL was used two times in February.

Part of the difficulty for this Appeal Committee is that it does not know what Blooket and IXL are other than the brief descriptions provided in the complaint report by school staff members, as follows:

> The Adapted Special Education Teacher 1 stated, I don't know what Blooket is. I've never done that with the kids." Regarding IXL, Adapted Special Education Teacher 1 reported "[I]t's not really a game, it gives extra practice for a skill you're doing. … when I use IXL with a student or any program with a student, they sit next to me and I'm watching what they're doing. And just the same as if it was a paper pencil lesson." Finding of fact 35, p. 21
>
> The Math Teacher described Blooket as an educational quiz game. They explained the game could be for any subject, and while usually the entire class competed against each other, it could also be an individual activity. They shared the game was used during the time when they served the Student. The Math Teacher stated they also used IXL in their class for about 5-10 minutes at a time, usually as a check-in after a lesson for comprehension. They stated the Parent had never shared a concern about the Student's use of either program. Finding of fact 54 on page 27.
>
> The Math Teacher believed Blooket could be considered just a game, but it was used in their classroom as an educational game. They indicated they did not use any games on IXL. The Math Teacher perceived they used Blooket about once a week for ten minutes during the time they served the Student, and always in a group setting. For the same period of time, the Math Teacher believed they used IXL with the Student about twice a week for ten minutes each, in an individual setting. (Report, finding of fact 55, p. 27)
>
> Paraprofessional 1 stated the Student did not play games on the computer during Adapted Special Education Teacher 1's class when Paraprofessional 1 was with them, unless the Student was using IXL. When asked how frequently IXL was part of the Student's work during math class, Paraprofessional 1 stated, "It just depends." They also said, "I say a

> handful of times, the whole year, I've been with [the Student] with IXL." (Report, finding of fact 45, p. 23-24)

The Appeal Committee also notes the investigator's finding that the "Student Activity Reports" record log-in times but do not record the length of use. In all instances, the use of these programs were categorized as "educational." Report, finding of fact 3, p. 4)

From this evidence, it appears that the student accessed these programs with a fair amount of frequency but an unknown amount of time. Thus, the percentage of frequency does not provide the percentage of time the student was accessing these programs. It also appears that these programs can be used as an individualized educational aid.

The investigator's conclusion included this explanation:

> *While the activity logs demonstrated the Student accessed Blooket and IXL multiple times, it was not possible to determine how long the Student spent on IXL or Blooket or in what capacity. According to Beer ex rel. A.B. v. USD 512 Shawnee Mission (2023), "School districts incur liability when 'a material failure to implement an IEP violates the IDEA.'" (citing Van Duyn v. Baker Sch. Dist. 5J, (9th Cir. 2007)). Additionally, E.C. by W.C. and K.C. v. U.S.D. 385 Andover (2020) states, "'[T]o prevail on a claim under the IDEA, a party challenging the implementation of an IEP must show more than a de minimis failure to implement all elements of that IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP.' … Without further guidance from the Tenth Circuit on this standard, the Court proceeds with its analysis under the prevailing "materiality" standard from its sister circuits … ." (citing Houston Indep. Sch. Dist. v. Bobby R ., (5th Cir. 2000)). Overall, the evidence indicated the Student continued to achieve and make progress. While it is clear the Student accessed Blooket and IXL, the evidence did not demonstrate that access to these programs resulted in a failure to implement the Student's accommodations and SDI during their service time. (Report, p. 32-33). Report, p. 32-33)*

The Appeal Committee agrees with this analysis. In a case cited by the investigator, Houston Indep. Schl Dist. v. Bobby R, 200 F.3d 341, 31 IDELR 185 (5th Cir. 2000), the court explained that "to prevail on a claim under the IDEA, a party challenging the implementation of an IEP must show more than a de minimis failure to implement all elements of that IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP. This approach affords local agencies some flexibility in implementing IEP's, but it still holds those agencies accountable for material failures and for providing the disabled child a meaningful educational benefit." The Appeal Committee also notes that the 10th Circuit has ruled similarly (Kansas is in the 10th Circuit so its interpretation is law in Kansas). In L.C. and K.C. v. Utah St. Bd. Of Ed., 105 LRP 12668 (10th Cir. 2005), the court said that, although a school cannot ignore the fact that an IEP is clearly failing, occasional deviations from the IEP are not necessarily a violation of IDEA.

This same analysis has been adopted more recently in other circuits that have considered it. In, Abigail P. v. Old Forge School District, 124 LRP 21769 (3d. Cir. 2024), the 3rd Circuit joined the 4th, 5th, 8th, 9th, and 11th Circuits saying implementation failure must be material to be actionable. It explained, "Indeed, a requirement of perfect adherence would ignore the realities and the challenges that the IDEA was built to accommodate…A materiality standard affords local agencies some flexibility while still holding those agencies accountable for material failures and for providing the disabled a meaningful education benefit (emphasis added)."

In addition, the Appeal Committee notes that the federal regulations define the term "specially designed instruction" as follows:

> *"Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction--*
>
> *(i) To address the unique needs of the child that result from the child's disability; and*
>
> *(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.*

There is no requirement that the specially designed instruction be delivered directly to the student "from a human," as proposed by the parent in this complaint appeal. Specially designed instruction may be designed in advance of class time and provided to a student to work on individually, with appropriate support from school staff members.

In her appeal, the parent also questions the investigator's finding that the student continued to make progress during February and March, primarily because that was such a short time ago. While there may not be a lot of evidence of progress during the past few months, the evidence that does exist supports the conclusion in the report. For example, Team Meeting Notes dated May 19, 2025 indicated the team met to discuss the Student's progress on IEP goals and the Adapted Special Education Teacher noted the Student had "done very well on [their] math goal[.]" (Finding of fact 6, Report, p. 7). In addition. The report cited a Progress Report dated April 9, 2026, indicating that the student had "mastered" the math goal Report, finding of fact 21, p. 15.

Finally, in her appeal the parent questions the investigator's interview technique of permitting the Special Education Director to sit in on the interviews. The parent's questions included: Why was that allowed? Is it a form of intimidation when the boss sits in on interviews? Can the interviewees talk freely and honestly when the boss is present? While these could be legitimate concerns in some situations, we cannot address them on appeal because the appeal process, by state law, may only be used to challenge the findings and conclusions in a complaint report, not the investigative techniques used by an investigator.

For the reasons stated above, it is concluded that there is sufficient evidence to support the conclusion in Issue one.

Issue Two

> Whether USD #251, in accordance with state and federal regulations implementing the IDEA, ensured the Student received instruction that was provided by personnel who were appropriately trained and supervised in meeting the requirements to assist in the provision of special education and related services to children with disabilities when the special education teacher changed positions in late January 2026. K.S.A. 72-3404(j); 34 CFR §§ 300.156, 300.207.

In this portion of the Appeal, the parent says:

> I am asking that Issue Two (p. 34-37 of the report) is also overturned, because even though all of the substitutes are licensed, my child has gone almost an entire semester with no certified teacher (not a certified substitute, but a certified teacher) instructing her specialized math instruction, and her spring assessment scores back up my concerns.

The Appeal Committee understands and sympathizes with the parent on this issue. Finding and keeping qualified staff is important for students, parents and school officials. The unfortunate reality is that maintaining staff levels has been a persistent difficulty, especially in rural areas like this one. That is the reason the state of Kansas has adopted procedures in its state regulations for the use of substitute teachers (see K.A.R. 91-31-34).

The report concluded that:

> Although the Parent expressed concerns about a lack of trained personnel, the evidence demonstrated staff held the proper licensure, and were trained, supervised, and guided by Adapted Special Education Teachers 1 and 2. There was no evidence to indicate the provision of the Student's special education and related services were provided by improperly supervised or un-trained personnel.

This appeal does not assert that there is error in this conclusion and the Appeal Committee finds none.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 20th day of May, 2026.

Appeal Committee

Brian Dempsey, Mark Ward, Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #259
ON APRIL 1, 2026

DATE OF REPORT: MAY 1, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #259 Wichita Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #259.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on April 1, 2026 and the 30-day timeline ended on April 30, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #259, in accordance with state and federal regulations

implementing the Individuals with Disabilities Education Act (IDEA), allowed the Parent an opportunity to inspect and review all educational records when the Parent's access to the online parent portal was terminated. K.A.R. 91-40-50, 91-40-25(a); 34 CFR §§ 300.613, 300.501(a)(1).

ISSUE TWO: Whether USD #259, in accordance with state and federal regulations implementing the IDEA, took steps to ensure both parents were present and had the opportunity to participate at the IEP meeting held on February 25, 2026. Further, whether the LEA ensured the IEP and placement decisions were made by a group of persons, including the Student's Parent or Parents, when the team met on February 25, 2026, and included the Parent's input in the Student's IEP, and removed the Parent's name from the Student's

emergency contact. K.A.R. 91-40-21(c)(1)(A), 91-40-17(a)(b)(1), 91-40-25; 34 CFR §§ 300.322(a)(b)(1)(c)(d), 300.501(b)(c).

ISSUE THREE: Whether USD #259, in accordance with state and federal regulations implementing the IDEA, obtained the Parent's informed consent on the Medicaid consent document as part of the IEP dated March 10, 2026. K.A.R. 91-40-27(a)(2-3); 34 CFR § 300.154(d)(1)(2)(iv)(v).

ISSUE FOUR: Whether USD #259, in accordance with state and federal regulations implementing the IDEA, ensured the Student's IEP was in effect, and accommodations such as the Student's bathroom accommodation and the communication binder were implemented. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323(a)(d).

ISSUE FIVE: Whether USD #259, in accordance with state and federal regulations implementing the IDEA, provided the Parent with notice regarding proposed actions to change the Student's IEP when the Student's services changed, and when the Parent requested amendments to the IEP. K.A.R. 91-40-26, K.S.A. 72-3430(b)(2); 34CFR § 300.503(a)(b).

ISSUE SIX: Whether USD #259, in accordance with state and federal regulations implementing the IDEA, revised the IEP when the Parent requested inaccuracies to be changed, and whether the LEA considered the concerns of the Parent, and the academic, developmental, and functional needs of the Student when it changed the Student's bathroom accommodations. K.S.A. 72-3429(f)(2), K.A.R. 91-40-18(a)(c); 34 CFR §§ 300.324(b), 300.324(a)(4)(6).

ISSUE SEVEN: Whether USD #259, in accordance with state and federal regulations implementing the IDEA, ensured the Student was placed in the Least Restrictive Environment (LRE) when the Student's inclusion time was removed from their IEP at the February 25, 2026, IEP meeting. K.A.R. 91-40-21; 34 CFR § 300.114.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on April 27, 2026. The following LEA staff were interviewed on April 22, 2026: the Primary Interrelated Teacher, the Principal, the Supervisor of Student Records and Enrollment Services, the Speech Language Pathologist, the Special Education Campus Support, the Special Education Director, and the Supervisor of Student Support Services.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Emails between the parties,11/17/25 through 04/14/26
2. Petition for Protection from Abuse Order, 12/18/25
3. Individualized Education Program, 02/24/25

4. Handwritten Paraprofessional Note, no date
5. [the Student] Profile Notes, 09/15/25
6. IEP Progress Report - Annual Goal, 02/25/26
7. Prior Written Notice, 02/10/26-03/13/26
8. Accommodation Monitoring Form, 03/02/26-03/09/26
9. Notice of Meeting, 03/05/26
10. Text Chain - the Custodial Parent [the Student] and Speech Language Pathologist, 03/07/26-03/10/26
11. Individualized Education Program, 03/10/2026
12. Prior Written Notice, 04/13/26
13. Meeting Notes, 03/10/26
14. Prior Written Notice, 04/01/26
15. Parent Access Dates, 01/05/26-02/10/26
16. [The Student's] Emergency Contact List, no date
17. Parent Consent for Release of Information and Medicaid Reimbursement, 02/25/26

Background Information

This Investigation involved a first-grade student enrolled at a magnet elementary school in USD #259. The Student is currently receiving special education or related services as a child with a disability under the IDEA, in the category of Developmental Delay. An active Protection from Abuse (PFA) order exists between the parents, and they maintain joint legal custody of the Student.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. A September 15, 2025 Student profile note completed by the School Nurse indicated the primary concern as other health-related, the health services as clinical care, and the outcome as disposition/plan for assistance with incontinence/urinary hygiene issues. Comments indicated the Student had used the restroom and that their pants became wet with urine "while in the bathroom." The School Nurse assisted the Student in changing clothes and notified the Custodial Parent. The LEA response indicated the September 15, 2025 incident as the only bathroom accident reported, which resulted in the "[the Student] getting urine on [their] pants" during the time they were in the bathroom.
2. In a November 17, 2025 email to the Parent, the Primary Interrelated Teacher informed them the Student's communication logs were in their backpack. The email indicated an attachment of the Student's first quarter progress report.

3. A PFA Order dated December 17, 2025 indicated protection for the Custodial Parent from the Parent, and joint legal custody of the Student until the order expired between the Parent and the Custodial Parent. There was no expiration date indicated.
4. A Parent Access Dates document dated January 5 through February 10, 2026, regarding the Parent's access to the online parent portal stated, "This shows rights were removed on [January 5, 2026] [and] [January 20, 2026], then added back on [February 9, 2026] and [February 10, 2026]."
5. In an email dated February 8, 2026 to the Principal, the Parent "formally" requested "immediate" access to:
   a. Online parent portal – "Restore my login credentials."
   b. Duplicate reporting – "Add my email … to all distribution lists for school newsletters, class announcements, and emergency notifications."
   c. Records Release – "Please forward electronic copies of [the Student's] most recent: Report Cards (Q2/Q3); Attendance Record (Dec[ember] 2025 - Present); IEP Progress Reports."

   Additionally, they stated, "I assert my federal right under [the] IDEA to be notified of and included in all IEP team meetings. Please ensure I am contacted directly for scheduling."
6. In an email dated February 9, 2026 to the Principal and the Supervisor of Student Records and Enrollment Services, the Administrative Assistant explained the Parent's educational rights "were not deleted." They shared the Principal received an email from the Custodial Parent on January 19, 2026 which initiated the change in the Student's account, and that the changes made were "completed in accordance with the [Custodial Parent's] request."
7. Email exchanges from February 9 through February 12, 2026, between the Custodial Parent and the Primary Interrelated Teacher detailed the coordination of the Student's annual IEP meeting. The Primary Interrelated Teacher inquired whether the Parent would be attending, to which the Custodial Parent explicitly requested that they not be included, citing the PFA order. The Custodial Parent noted that, while they did not want the Parent present at their meeting, the Parent was "more than welcome to have [their] own meeting." They ultimately scheduled the Custodial Parent's meeting for February 24, 2026, at 3:30 p.m. The Custodial Parent confirmed their attendance and electronically signed the Notice of Meeting on February 11, 2026.
8. In a February 10, 2026 email to the Parent, the Primary Interrelated Teacher inquired about scheduling the Student's IEP and offered two dates for a phone meeting.
9. PWN dated February 10, 2026, documented the LEA's proposals regarding the Student's educational program, which the team reviewed on February 25, 2026. The

LEA proposed a change in placement that moved the Student to a more restrictive environment for more than 25% of the school day. This proposal scheduled the Student to receive 170 minutes of special education services weekly without general education peers during decoding, English language arts (ELA), and math. Additionally, the LEA proposed a 50% reduction in speech and language services, decreasing them from 30 minutes to 15 minutes per week. These actions were proposed because the team determined that pullout services were the best option, given the Student's academic performance and the pacing of the general education classroom. The input and data used as a basis for this decision included District assessment results, formal testing, teacher and paraprofessional input, observations, and work samples. The LEA rejected the option of maintaining the Student's current minutes in the general education classroom, citing the Student's developmental delays and academic data. Consent for these changes was provided by the Custodial Parent on March 13, 2026, as indicated by the Custodial Parent's signature.

10. In a February 13, 2026 email to the District General Counsel and the Principal, the Parent indicated:
    a. "No termination of Rights" and stated there is no existing court order terminating their "Joint Legal Custody." They asserted their "federal rights to educational access remain fully intact."
    b. They explained their prior request to access the Student's records made on February 8, 2026 was "ignored."
    c. Additionally, they again requested the same items listed in their February 8, 2026 request.
11. Email exchanges from February 24 through March 10, 2026 between the Principal, the Primary Interrelated Teacher, and the Parent detailed:
    a. The Parent postponed a scheduled meeting because they had not yet received the Student's current IEP or progress data. They asserted their legal right to review these educational records before participating in an IEP meeting.
    b. The Primary Interrelated Teacher confirmed a new meeting for the Parent on February 27, 2026. They informed the Parent that the Custodial Parent was meeting with the team on February 25, 2026 to draft the document, but emphasized that the IEP would not be finalized until the Parent reviewed it and attended their own meeting.
    c. The Parent responded, stating they had checked their email and the online parent portal and had not yet received a draft IEP. Additionally, they expressed concern that the Custodial Parent would sign an IEP before the Parent's input was considered and decisions were finalized. They requested the signed IEP by the Custodial Parent and all progress data be sent to them.

d. Additionally, the Principal responded to the Parent, stating that a copy of the new draft would be shared once completed and that the IEP would not be finalized until all parties were in agreement.

e. On February 25, 2026, the Primary Interrelated Teacher emailed the Parent a draft copy of the IEP and IEP Progress Report. Additionally, the Parent reported an error message encountered in the online parent portal system while attempting to sign documents.

f. On February 27, 2026, during their scheduled IEP meeting time, the School team attempted to reach the Parent via phone. They stated they would wait a few minutes for the Parent to call back.

g. The following day, the Parent contacted School staff to apologize for their absence, explaining that their phone had broken before the meeting, leaving them unable to call. They requested that the IEP meeting be rescheduled.

h. On March 3, 2026, the Primary Interrelated Teacher emailed with dates and times for the rescheduled meeting. Later that day, the Parent responded with their preferred meeting time.

i. On March 5, 2026, the Primary Interrelated Teacher emailed the Parent a notice of the meeting.

j. On March 10, 2026, the Primary Interrelated Teacher emailed the Parent to inquire about confirmation of the meeting and received no response.

12. A Receipt of Parent Rights in Special Education-Procedural Safeguards dated February 24, 2026, indicated the Parent's receipt with an electronic signature dated February 26, 2026.

13. In a February 25, 2026 email to the Custodial Parent, the Primary Interrelated Teacher confirmed their attendance for the IEP meeting that day. The Custodial Parent responded, confirmed their attendance at the meeting, and inquired about confirmation that the Parent would not be in attendance.

14. A Parent Consent for Release of Information and Medicaid Reimbursement dated February 25, 2026 indicated the Custodial Parent as the parent with their electronic signature on the parent/guardian line.

15. An IEP Progress Report dated February 25, 2026 stated relevant goal information reported on May 22, October 15, and December 15, 2025, and February 25, 2026:

a. Speech – mastery level indicators of 1 ("Not Measured - Please contact your IEP manager for additional information") and three 4's ("Improvement - Improvement from baseline and/or previous reporting period.") Notes stated, "Due to absences, [the Student's] progress has not exceeded that of the baseline data"; "[The Student] is making improvements in [their] speech sound productions"; "[The Student] is making great progress on [their] R blends and L blends"; and "[The Student] has made great progress with L blends sounds. [They] can produce them in phrases with 80-90% accuracy. [The Student] can produce R blends when segmented in 50% of phrases."

b. Reading – mastery level indicators of 1, 4, and two 5's ("Mastered - Met goal"). Relevant notes stated, "[The Student] is almost at 75%! [The Student] very closely met [their] goal! [The Student] was missing short and long vowels. [The Student] is now learning to sound out short words like (cat, dog, pig). I am able to up [their] goal to reading [Consonant-Vowel-Consonant] (CVC) words."

c. Math – mastery level indicators of 1, 4, 3 ("Maintained Performance - No change from previous progress report/baseline OR No change from previous reporting period"), and 5. Relevant notes stated, "[The Student met [their] math goal and is ready for a higher one. Once [they] get to 20. I will teacher [sic] [them] to count by 10s to 100. Then [their] goal will be to count to 100 or pass [sic]."

d. Occupational Therapy (OT) – mastery level indicators of 1 and three 4's. Relevant notes stated, "[The Student] is making progress towards this goal. [The Student] is not making triangles independently at this time but can make them with visual cues and supports."

16. An Accommodation Monitoring Form documented the frequency and effectiveness of required IEP accommodations between March 2 and March 8, 2026 and stated the following:

a. Regarding a weekly communication log between the School and the family, the Primary Interrelated Teacher noted on March 7, 2026, that it had "been done 80% of the time this school year."

b. The "Noncontingent Restroom Breaks" accommodation, stated on March 2, 2026, that the Student was "always able to use the restroom when [they] ask" and was "always seated near a staff member."

c. Other accommodations used included flexible breaks, preferential seating, two-step directions, a pulse oximeter, oral responses when not writing, visual supports, and adult supervision during transitions.

17. A Notice of Meeting dated March 5, 2026, indicated a meeting for March 10, 2026 at 9:30 a.m. via phone conference to discuss possible changes in the Student's IEP. Other participants were indicated as the SLP and the OT. A copy of the procedural safeguards was provided as indicated by an "X" in a box. The Parent waived their right to 10 days prior written notice of the IEP meeting, signed and accepted on March 9, 2026.

18. An Individualized Education Program (IEP) dated March 10, 2026, indicated the following relevant information:

a. The IEP team members indicated the Custodial Parent attended as "consulted" and the Parent "participated by phone."

b. The Student was documented as having an exceptionality of Developmental Delay that impacted cognitive and communication skills, as well as academic progress in ELA and math.

c. The Student's Present Levels of Academic Achievement and Functional Performance (PLAAFP) stated the Student exhibited a range of strengths,

including verbal abilities that scored in the average range. Educationally, the Student made significant gains, achieving 75% accuracy in letter names and sounds and 80% accuracy in recognizing numbers up to 20. The Student was described as being ready to read words soon, having demonstrated 70% accuracy in blending words with three sounds.

d. Socially and emotionally, the Student maintained a positive attitude, made friends easily, and followed basic directions while enjoying classroom activities like books and playdough. The Student's physical and motor skills were functional for the school setting, characterized by a functional tripod grasp for writing and the ability to copy their name with 100% accuracy within one-inch boxes. The Student was noted to be a strong verbal communicator who could ask and answer questions, engage in imaginary play, and produce L-blends in phrases with 80% accuracy or higher.

e. Under the "Needs as They Affect Learning" section the Parent's input was included:

   i. "Under my concerns regarding the bathroom. My main concern about [the Student] wetting [themself] and it not being documented was not listed."

   ii. "Also, the concern of my access being removed from [the online parent portal], the IEP, and the mass email system, was not added. I understand I was given the [number] for [Accessible Media and Materials Center] (AMAC), but my concerns are not noted."

   iii. "Finally, the Social/Emotional section on page 4 omits critical documentation provided by [the Student's] para[educator], [the Paraeducator]. To ensure [the Student's] distress is officially recorded (even [the First Grade Teacher] noted that [the Student] has a hard time with the para[educator]), I require the following direct quotes from [the Paraeducator] be added to page 4:"

      1. "[The Student's] behavior recently is new[,] [the Student] guesses on [their] math then gets upset."
      2. "We rest our brains by putting our head down for 2 mins."
      3. "[The Student] hides [their] work when guessing then lies about finishing worksheets."
      4. "Then rolls [their] eyes when I ask to see the worksheet - [Paraeducator] 3/10/2026."

f. The Parent/Guardian concern section included the Custodial Parent's concern of the Student getting their work done and listed the Parent's concerns:

   i. "Per student's [Parent]: The para[educator] having a hard time with [the Student] and concerns about a letter from the para[educator], [the Parent] wants it documented."

   ii. "Bathroom being addressed, was addressed in the IEP accommodations. Incident September 15th [2025], [the Student] has been refused to go to

the bathroom, when the nurse has called. [The Student] wetted [themself] that day on September 15th [2025]. My main concern about [the Student] wetting [themself] and it not being documented was not listed."

iii. "Also, the concern of my access being removed from [the online parent portal], the IEP, and the mass email system, was not added. [The Parent] wants documentation from December-February, parent was supplied number for [an] AMAC request. Principle [sic] supplied name [Supervisor of Student Records and Enrollment Services] and phone number. Said [they] did not get communication logs between October 24 & 31, November 7 & 19, December 5 & 12 [2025]."

g. Goals were listed in the areas of speech, OT, reading, and math.

h. Services listed to start March 10, 2026, through March 9, 2027, in the following:

i. OT with special education services in a general education building, participating without general education peers for 15 minutes, one time every week.

2. ii. Speech and Language Services for 15 minutes, one time weekly, with special education services in a general education building, and participating with general education peers.

i. Special Education Services for 170 minutes, five times weekly, with special education services in a general education building, and participating without general education peers.

ii. Description of the SDI stated, "[The Student] will receive special education services in a general education building participating without general education peers during decoding, ELA, and math. [The Student] will receive educational [OT] services for 15 minutes weekly in the classroom or pullout. [The Student] will receive speech and language services for a total of 15 minutes per week. Typically this will be served in [one 15-minute session]."

i. Relevant accommodations starting on March 10, 2026:

j. "Weekly Home/School Communication tool (to include summary of classroom skills worked on for the school week to include reading, writing, math, related services [the Student] had for the day, and socialization skills.)" Rationale stated, "Via-email, help with classwork, homework. Scan handwork and send home weekly," within the general and special education setting, completed weekly.

ii. "[The Student] will have be [sic] able to ask for a restroom break after [G-tube] flushes" due to medical necessity, each school day, within the general

and special education settings, "for the duration of the time it takes [the Student] to use the restroom."

iii. "[The Student] will be provided a peer model and supervision during individual transitions, i.e. restroom, office" to assist with safety, each school day, within the general and special education settings.

k. Rationale for the LRE stated, "The IEP team agrees that the current IEP time in services and placement of services will meet [the Student's] needs."

l. Parent/Guardian statement included the Custodial Parent was provided a copy of their rights on February 27, 2026 and the Parent was provided their copy of rights on March 10, 2026.

m. The Parent Consent for Release of Information and Medicaid Reimbursement page indicated the Custodial Parent's name on the parent line.

19. Meeting notes dated March 10, 2026 for the annual IEP meeting stated the team reviewed the Present Levels of Performance, the Parent wanted additional quotes added into the document, and the Parent's concerns "were updated from [the Parent]." Additionally, the document indicated the accommodations and service minutes were "agreed upon."

20. In a text chain dated March 10, 2026 between the SLP and the Custodial Parent, the SLP stated, "Just wanted to let you know that we are in the meeting with [the Parent] and [they] verbally consented to a reduction in speech minutes." The SLP indicated the Parent wanted to continue the communication log as an accommodation, and they had agreed "about the bathroom change." Additionally, the SLP shared the team was unable to "put the new IEP forward. … [The Parent] wants us to use [the Student's] current IEP."

21. An email exchange from March 10 to March 11, 2026 between the Parent and the Primary Interrelated Teacher detailed:

a. Following the March 10, 2026 IEP meeting, the Parent requested that the "concerns" section include documentation that the mandatory communication binder had not been sent home on October 24 and 31, November 7 and 14, and December 5 and 12, 2025.

b. The Primary Interrelated Teacher responded and confirmed the concerns were listed in the IEP. Additionally, they sent a draft IEP along with signature pages for the PWN and Medicaid forms.

c. The Parent subsequently identified further "discrepancies and omissions" that required correction before they would consider signing the document. The Parent expressed concern that they had been "completely removed" from the Procedural Safeguards page and that the draft incorrectly listed an IEP start date of February 27, 2026, despite the Parent not officially participating until the March 10, 2026 meeting. Additionally, they stated concerns regarding the Student's wetting not being documented, access to

the online parent portal, and the Social/Emotional section omitting documentation by the paraeducator. They requested the following be listed in the PLAAFP section:

i. "[The Student's] behavior recently is new [the Student] guesses on [their] math [sic] then gets upset."

3. ii. "We rest our brains by putting our head down for 2 mins [.]"

4. iii. "[The Student] hides [their] work when guessing [,] then lies about finishing worksheets."

5. iv. "Then rolls [their] eyes when I ask to see the worksheet."

d. The Primary Interrelated Teacher clarified the timeline of the meeting planning process, reminding the Parent that the Custodial Parent had participated in their own separate meeting in February 2026. Consequently, the Primary Interrelated Teacher explained that the February date would remain next to the Custodial Parent's name on the Parental Rights page to accurately reflect that earlier, individual session. Additionally, the Primary Interrelated Teacher offered to allow the Parent to type out exactly how they wished their concerns to be worded for direct inclusion in the IEP.

22. An email exchange from March 10, 2026 through March 24, 2026, between the Parent, the Supervisor of Student Records and Enrollment Services, and the Associate General Counsel indicated the following:

a. On March 10, 2026, the Parent emailed and stated they were directed to reach out regarding their request of "system audit logs detailing exact times, dates, and staff user IDs associated with the removal and restoration of my contact information." Additionally, they requested logs for the student information system, the online parent portal, IEP emergency contact information, and the School's mass email system from December 1, 2025 through March 10, 2026.

b. On March 24, 2026, the Associate General Counsel responded and confirmed receipt of the request. They explained, "The information you seek appears to consist primarily of system audit logs, login history, staff user identifications (IDs), and other similar administrative records. That type of information is internal operational and [Information Technology] IT records maintained for the purpose of system administration and security. Under FERPA, they are not considered educational records and therefore will not be produced. … we will let you know if there are any responsive records before April 24, 2026."

c. The Parent responded and requested the Student's educational records, along with the time and date the records were modified.

23. In a March 24, 2026 email to the Primary Interrelated Teacher, the Parent confirmed receipt of the draft IEP and indicated they were "formally refusing to sign

this document due to the following retroactive alterations, falsified records, and outstanding information." Relevant items included:

a. "Medicaid Consent … : The [Custodial Parent's] name was inexplicably deleted and replaced with my name without my authorization or consent."

b. They indicated their lack of access to records with specific dates and logs, which detailed their contact information and access removal and addition to the communication systems and educational portals.

c. The Parent indicated, "[The LEA] is directed to continue implementing [the Student's] current, finalized IEP."

24. PWN issued on April 1, 2026, following an annual IEP meeting held on March 10, 2026 outlined the following changes:

a. A material change in services described the Student would receive special education services in a general education building participating without general education peers during decoding, language arts, and math.

b. Other IEP changes indicated parental consent was not required with a checked box.

c. Description of the action proposed that the Student would receive special education services in a general education building, participating without their general education peers during decoding, ELA, and math.

d. An explanation stated, "Due to [the Student's] academic performance and the pacing in the classroom, the team decided that it is best for [the Student] to be pullout [sic] is the best option at the moment."

e. Other options considered were keeping the special education minutes the same, but was rejected due to the Student's delays and academic data.

f. Data used to make the decision included "formal" testing, District assessment, teacher and para[educator] input, observation, and Student work samples.

g. Other factors stated, "[The Student] will miss some classroom instruction to receive academic pullout, OT, and speech services."

h. The form was signed by the Custodial Parent on April 1, 2026.

25. An undated Emergency Contact List for the Student indicated the order of emergency contact as:

a. Custodial Parent - listed cell phone number; and

b. The Parent - listed cell phone number.

26. On April 1, 2026, the Parent filed the Complaint.

27. On April 2, 2026, the Primary Interrelated Teacher emailed the Parent a copy of the finalized IEP.

28. In an April 13, 2026 email to the Parent, the Special Education Campus Support stated the email was sent "separately" to each parent and indicated "Due to clerical errors, corrections were made to the Student's IEP paperwork." Corrections to the

IEP included the Medicaid form being reverted back to the Custodial Parent, a pronoun change, and additional parental concerns attributed to the Parent under the parent concerns section.

29. PWN issued April 13, 2026, to the Parent and Custodial Parent following an IEP meeting held on March 10, 2026, indicated the following relevant information:

a. A proposed change of decreasing speech services for a total of 15 minutes a week, being served in one 15-minute session. Additional changes to update accommodations and modifications included:

i. "Weekly home/school communication tool had adjustments to the rationale section to reflect email communication and [the] duration box was adjusted from duration of the IEP to weekly."

ii. "During individual transitions, adult supervision was changed to a peer model."

iii. "[The Student] will be able to ask for a restroom break after [G-tube] flushes, due to medical necessity."

b. The Change in Placement (Parental Consent Not Required) section stated, "[The Student] will receive special education services in a general education building participating without general education peers during decoding, ELA, and math core. (80 minutes of special education services with general education peers during reading (listening comprehension, word recognition, and phonemic awareness was discontinued and moved to special education services without general education peers, increasing [their] total time without general education peers to 170 minutes)."

c. Other changes and notices stated updates were made to goals and the PLAAFP section to "reflect [the Student's] current needs and abilities." Additionally, clerical corrections included:

i. "The Medicaid form was reverted to [Custodial Parent] and [the Parent] was removed from the form (page 15)."

6. ii. A typographical error, which included pronouns, was changed on page 3 under the Social Emotional Strengths section.

7. iii. "[The Parent's] items [they] had [the Primary Interrelated Teacher] add under parental concerns and comments on pages 4 and 5 were attributed to [them], "Per [the Parent]."

8. iv. Parental consent not required box checked.

d. These actions were proposed because the Student's IEP was due for annual review, and after a review of the Student's progress over the past 12 months.

e. Other options considered and rejected indicated the IEP team rejected not updating the IEP because the proposed IEP was designed to provide the Student with "educational benefit."

f. Data used to inform these decisions included progress reports, classroom performance and participation, observations, progress monitoring, LEA screeners, staff and parent input, and work samples.

g. The Student's proposed IEP was crafted to provide educational benefit in the Student's LRE. The Team felt the educational benefits outweigh any negative effects.

Parent Interview:

30. In an interview with the Complaint Investigator, the Parent shared that they attended most IEP meetings, except for one. They described interactions during these meetings as "tense", as the Parent expressed concerns regarding the School's compliance with the IEP. The Parent explained they were sent multiple drafts of the most recent IEP.

31. The Parent explained they identified several omissions in draft IEP documents, including the removal of their contact information, signature lines, and parental concerns. They shared they refused to sign the document. They confirmed a version of the IEP sent on April 2, 2026 restored the requested contact information and parental input.

32. The Parent explained their access to the online parent portal was removed in early January 2026 after the School received a protection order. The Parent discovered they were locked out of these systems on February 13, 2026, and subsequently contacted the LEA to assert that their parental rights remained intact. Following multiple inquiries, the Principal confirmed during an IEP meeting on March 10, 2026, that access to the online portal had been restored.

9. When asked about the September 15, 2025 bathroom incident, the Parent shared they had requested documentation regarding the incident. They explained they initially heard from the Student they were not permitted to use the restroom due to a time constraint, then wet themself. The Parent explained the School Nurse provided notification of the event to the Custodial Parent when it occurred. They reported the Student returned home with their wet clothes in a bag. Additionally, they reported they had not received a physical or electronic copy of the binder accommodation.

33. The Parent explained their concerns regarding the change of speech service and the reduction of inclusion time would impact the Student's access to their peers. They shared these changes were reviewed during the IEP meeting, and stated, "For the most part, I was okay with some of it," and after reflecting, had more concerns but did not voice them during that meeting.

10. Primary Interrelated Teacher Interview:

34. In an interview with the Complaint Investigator, the Primary Interrelated Teacher described the meeting planning process with both Parents. Due to the PFA, they set up separate meetings for each Parent. They shared both Parents were sent separate meeting notices, they held a meeting with the Custodial Parent, then held

an additional meeting with the Parent, after one no-show attempt from the Parent. They shared that after the successful second meeting with the Parent, they had agreed to the changes, yet they had to wait over 10 days for the Parent to sign.

35. The Primary Interrelated Teacher indicated the Parent requested copies of the IEP, and they shared multiple drafts of the IEP with the Parent.
36. When asked about the Medicaid consent form from March 10, 2026, the Primary Interrelated Teacher explained, "It was an IEP error," and that normally, they place the primary caregiver on the form, but did not in this case. They explained that on the Custodial Parent's copy, they placed the Custodial Parent's name and thought they would do the same for the Parent due to the meeting being with the Parent. They stated they rectified this error "weeks ago" on the finalized copy of the IEP.
37. The Primary Interrelated Teacher reported having difficulty placing both Parents' names on the Procedural Safeguards page. They stated the Parent had been sent their rights, and signed the document, and the Custodial Parent was sent their rights as well.
38. The Primary Interrelated Teacher described the discussion around inclusion time and the reduction of speech services. At the IEP meeting with the Parent, the Speech-Language Pathologist indicated they wanted to reduce the Student's therapy to one day per week and that the Parent was "fine with that." Additionally, they shared pullout services were discussed due to the Student working in class on decoding "wasn't helping," and they had "thought [the Student] [would] be better served in the [special education] classroom." They indicated the Parent had agreed to this.
39. When asked about data to support the IEP team's reasoning for reducing speech services and placing the Student in pullout, the Primary Interrelated Teacher stated they used District assessment data and early progress monitoring data, which included the Student's short-vowel consonant-vowel-consonant (CVC) words, sounds, math skills, and early addition.
11. The Primary Interrelated Teacher detailed the implementation of the Student's accommodations, which included sending weekly summary communication logs home and occasionally emailing them. They were not made aware the Parent had left their previous residence, and the logs were only going to the Custodial Parent until approximately January 2026. Additionally, they ensured the Student was escorted by an adult to the bathroom whenever needed, stating the Student always had access to the bathroom. Furthermore, when shown the LEA materials for "[The Student's] Weekly Summary", the Primary Interrelated Teacher confirmed that this was a Parent-requested document that was sent home weekly in the Student's backpack.
40. The Primary Interrelated Teacher confirmed the Parent was sent PWN after the March 10, 2026 IEP meeting through the online parent portal. They admitted it contained errors, including the omission of service provider minutes and a summary of all accommodation changes. They later rectified the PWN and issued a

new one, which the Custodial Parent signed. The Primary Interrelated Teacher was unsure why the Parent did not sign, and noted that all the Parent's requests were rectified.

Principal Interview:

41. In an interview with the Complaint Investigator, the Principal recalled the Parent's access to the online parent portal was withdrawn by the Administrative Assistant, who believed a no-contact order required the removal of the account to prevent the Parent from gaining access to the Custodial Parent's address. The Principal estimated the restriction lasted for a period of about a month, during which they were unaware the access had been turned off. After the Parent emailed about access on a Sunday, the Principal responded on Monday and added that the Supervisor of Student Records and Enrollment Services had contacted the School first. The Supervisor of Student Records and Enrollment Services advised that the online parent portal had been updated and no longer allowed parents to view each other's personal information, leading the Administrative Assistant to restore the Parent's access on the same day the School received the LEA's clarifying email.
    a. Additionally, the Principal recalled in a conversation on March 10, 2026, they believed the access had been fixed, though the Parent was still seeking logs of who made the changes and on what exact dates. The Principal additionally shared that they were aware during this time the Parent had been emailed records from the Primary Interrelated Teacher, and stated, "We still were providing [the Parent] with the materials necessary for [them] to be aware of what was going on with [their] student."

Speech Language Pathologist Interview:

42. In an interview with the Complaint Investigator, the Speech Language Pathologist explained the Student's speech services were reduced to once a week because the Student had made significant gains, was down to a single sound error, and the reduction supported serving them in their LRE. The Speech Language Pathologist indicated they used progress note data to support this change, noting that the Student had reached approximately 80% accuracy with R-blends at the single-word level and was transitioning to working on them at the phrase and sentence levels. Additionally, they shared the Student was seen both individually and in group sessions, and made more gains in the group environment.

Supervisor of Student Records and Enrollment Services Interview:

43. In an interview with the Complaint Investigator, the Supervisor of Student Records and Enrollment Services explained being notified by the Parent regarding their access to the online parent portal. They recalled the Parent emailed them on the evening of Sunday, February 8, 2026 informing them that their access had been removed. The access had been removed by the Administrative Assistant on January 5, 2026 after reviewing the PFA document, which the Supervisor of Student Records

and Enrollment Services had determined did not state that the Parent's rights should be taken away. They shared they advised the School to reinstate the rights and access to the online parent portal, which allows a parent to see attendance, grades, and communication. They stated the following Monday morning, February 9, 2026 the record showed that the various access permissions were fully restored for the Parent.

44. The Supervisor of Student Records and Enrollment Services defined educational records as a birth certificate or proof of an address and explained the online parent portal as access to "enrollment." They shared records are not posted in the online parent portal. Instead, they are requested, and copies are "given."

Supervisor of Student Support Services Interview:

45. In an interview with the Complaint Investigator, the Supervisor of Student Support Services stated no new documents in the online parent portal were added or changed during the time period the Parent did not have "temporary access." They shared once the IEP paperwork was finalized, it would be available in the system; no draft forms were available. They shared all IEP documentation was finalized after the reinstatement of the Parent's access.

Special Education Director

46. In an interview with the Complaint Investigator, the Special Education Director explained the Medicaid form was reverted to display the Custodial Parent's name, and the Parent's name was removed from the form at the Parent's request. They indicated the change was a clerical error that occurred when the IEP staff generated the form separately for each parent.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, allowed the Parent an opportunity to inspect and review all educational records when the Parent's access to the online parent portal was terminated. K.A.R. 91-40-50, 91-40-25(a); 34 CFR §§ 300.613, 300.501(a)(1).

According to K.A.R. 91-40-25(a) and CFR 34. §§ 300.613, 300.501(a)(1), an LEA is required to allow parents to inspect and review all educational records related to the identification, evaluation, educational placement, and the provision of a free appropriate public education (FAPE) to their child that are collected, maintained, or used by the agency. The agency must comply with the request without unnecessary delay and before any meeting regarding an IEP, and in no case more than 45 days after the request has been made. Additionally, parents have the right to a response from the participating agency to reasonable requests for explanations and interpretations of the records, and to copies of the records containing the information, if failure to provide these copies would effectively prevent the parent from exercising the right to

inspect and review the records. Also, a representative of the parent may inspect and review the files if authorized. An agency may presume that the parent has authority to inspect and review records relating to their child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

K.A.R. 91-40-50 defines educational records as records directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

The Parent alleged the LEA denied them access to the online parent portal, which prevented the Parent from reviewing documents or providing concerns prior to the meeting.

The LEA acknowledged that certain access rights were "mistakenly turned off" for a period of time, but maintained that the Parent had access to inspect and review physical records prior to their full online access being restored.

The Parent's access to the online parent portal was suspended from January 5 through February 9, 2026, due to an administrative misinterpretation of an PFA order. On February 8, 2026, the Parent formally requested immediate access to the online parent portal and electronic copies of report cards, attendance records, and IEP progress reports. Access was restored to the online parent portal on February 9, 2026. On February 25, 2026, the Primary Interrelated Teacher emailed the Parent the requested draft IEP and Student IEP progress reports. This delivery occurred 13 days before the March 10, 2026 IEP meeting. Furthermore, the LEA's refusal to provide system audit logs and login histories was appropriate under FERPA and the IDEA guidelines; as the Associate General Counsel clarified on March 24, 2026, such IT records are internal administrative data and do not constitute "educational records" directly related to the Student.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA hindered the Parent's access to educational records.

Issue Two

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, took steps to ensure both parents were present and had the opportunity to participate at the IEP meeting held on February 25, 2026. Further, whether the LEA ensured the IEP and placement decisions were made by a group of persons, including the Student's Parent or Parents, when the team met on February 25, 2026, and included the Parent's input in the Student's IEP, and removed the Parent's name from the Student's emergency contact. K.A.R. 91-40-21(c)(1)(A), 91-40-17(a)(b)(1), 91-40-25; 34 CFR §§ 300.322(a)(b)(1)(c)(d), 300.501(b)(c).

According to K.A.R. 91-40-17, K.A.R. 91-40-25, and 34 CFR §§ 300.322(a)(b)(1)(c)(d), 300.501(b)(c), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. This includes any meeting concerning their child with respect to the identification, evaluation, or education placement, or provision of a FAPE. Required steps to ensure parent participation include scheduling meetings at a mutually agreed-upon time and place and providing written notice of any IEP team meeting at least 10 days in advance. The notice shall indicate the purpose, time, and location of the IEP meeting and the titles and positions of the persons who will attend on behalf of the agency.

If neither parent of an exceptional child can be physically present for a meeting concerning the child, the agency shall attempt other measures to ensure parental participation, including individual or conference telephone calls. As used in this regulation, a meeting shall not include informal or unscheduled conversations involving agency personnel and conversations on issues including teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP.

Finally, K.A.R. 91-40-21(c)(1)(A) states that in determining the educational placement of a child with a disability, each agency shall ensure that the placement decision is made by a group of persons, including the child's parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options.

The Parent alleged that the LEA held an IEP meeting without notifying the Parent, and they did not discuss removing the Student's inclusion time from their IEP. The Parent alleged documents were altered without their knowledge or consent, and their objections and correction requests were ignored. The Parent also alleged they were removed from the Student's emergency contact form.

The LEA maintained that steps were taken to ensure that both parents were present and had the opportunity to meaningfully participate and collaborate in the development of the Student's annual IEP. Furthermore, the LEA maintained the IEP placement decisions were made by a group of persons, including both parents, when the team met on different days, and both parents' input was included in the development of the IEP. Additionally, the LEA maintains both Parents' names are on the emergency contact list.

The LEA facilitated separate meetings to accommodate the PFA while ensuring both parents' participation rights. Although the team met with the Custodial Parent on February 25, 2026, the LEA explicitly deferred all final decisions until the Parent could participate. Following a rescheduling, the Parent provided input via phone on March 10, 2026. This input, including specific concerns about bathroom incidents and paraeducator observations, was documented within the draft IEP. Furthermore, School records confirmed the Parent remained on the Student's emergency contact list. By providing drafts for review and incorporating the Parent's

feedback before attempting to finalize the document, the District ensured that IEP and placement decisions were made by a representative group.

Based on the foregoing, according to the IDEA and Kansas special education regulations ***it is not substantiated*** that the LEA failed to ensure both parents were present and provided the opportunity to participate in the IEP process, that placement decisions were made by a group of persons, including both Parents, or the emergency contact was removed.

Issue Three

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, obtained the Parent's informed consent on the Medicaid consent document as part of the IEP dated March 10, 2026. K.A.R. 91-40-27(a)(2-3); 34 CFR § 300.154(d)(1)(2)(iv)(v).

According to K.A.R. 91-40-27(a)(2-3); 34 CFR § 300.154(d)(1)(2)(iv)(v), each agency shall obtain parent consent before initially providing special education and related services to an exceptional child or making a material change in services to, or a substantial change in the placement of, an exceptional child, unless the change is made under the provisions of K.A.R. 91-40-33 through 91-40-38 or is based upon the child's graduation from high school or exceeding the age of eligibility for special education services. A public agency may use the Medicaid or other public benefits or insurance in which a child participates to provide or pay for the services required under this part, as permitted under the public benefits or insurance program. Prior to accessing a child's or parent's public benefits or insurance for the first time, and after providing notification to the child's parents, the agency must obtain parental consent. The consent must specify the personally identifiable information that may be disclosed, the purpose of the disclosure, and the agency to which the disclosure may be made, and specifies the parent understands and agrees that the public agency may access the parent's or child's public benefits or insurance to pay for services. Additionally, the agency must provide written notification annually to the child's parents, that includes a statement of the parental consent provisions, a statement of the "no cost" provisions, a statement that the parents have the right to withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time, and a statement that the withdrawal of consent or refusal to provide consent to disclose personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program, (e.g., Medicaid) does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

The Parent alleged the LEA listed the Parent's name on the Medicaid consent document without their consent.

The LEA contends that it formally requested consent from the Parent for the March 10, 2026 drafted IEP, and that the Parent provided their informed consent. The School corrected the document to show the Custodial Parent's name instead of the Parent's name, since only one parent's name was required.

The record confirmed that while the March 10, 2026 IEP draft mistakenly listed the Parent's name on the Medicaid consent line, this was an administrative clerical error resulting from the LEA's efforts to generate separate documentation for each parent. The Parent did not provide informed consent and formally refused to sign the document, citing the unauthorized name replacement as a "falsified record." However, the LEA already possessed valid informed consent from the Custodial Parent, who signed the reimbursement form on February 25, 2026. Upon identifying the error, the LEA notified the Parent on April 13, 2026, that the form had been reverted to the Custodial Parent's name. Because the LEA had secured valid consent from one parent with legal custody and corrected the clerical mistake before finalizing the document without attempting to proceed under the Parent's name, the procedural requirements for obtaining informed consent were maintained.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** the LEA failed to obtain appropriate informed consent for Medicaid reimbursement.

Issue Four

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, ensured the Student's IEP was in effect, and accommodations such as the Student's bathroom accommodation and the communication binder were implemented. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323(a)(d).

According to K.A.R. 91-40-16(a)(b) and 34 CFR § 300.323(a)(d), at the beginning of each school year, the LEA must have an IEP in effect for every child with a disability. The LEA is responsible for making sure that the Student's IEP is accessible to every person involved in their education, including regular education teachers, special education teachers, and related service providers. Furthermore, the LEA must ensure that each of these individuals is specifically informed about their own responsibilities for implementing the IEP, as well as the specific accommodations, modifications, and supports that must be provided for the Student.

The Parent alleged that the LEA failed to provide a communication binder, which was an accommodation listed on the Student's IEP. The Student was denied access to the bathroom, which was a listed accommodation, resulting in the Student having an accident.

The LEA maintained the Student's IEP was in full effect, and accommodations such as the Student's bathroom accommodation and the communication binder were implemented as written per the IEP.

Under the standard established in Van Duyn v. Baker School District 5J, 502 F.3d 811 (9th Cir. 2007), a failure to implement an IEP is only a violation if the deviation from the IEP is "material," meaning there is more than a minor discrepancy between the services provided and those required. The record indicated the bathroom incident on September 15, 2025, involved the Student wetting their clothing while already in the restroom, which does not support the Parent's allegation of a refusal to provide access. Further, staff statements and the March 2026 Accommodation Monitoring Form confirmed the Student was consistently allowed restroom breaks upon request. In terms of the communication log, the record showed that weekly summaries were sent home in the Student's backpack, achieving an 80% implementation rate for the school year. While the Parent did not receive these logs directly until approximately January 2026, the Primary Interrelated Teacher attributed this to a lack of notice regarding the Parent's change in residence rather than a failure to maintain the log itself. The Parent asserted these documents had yet to be sent to them. The documented progress across speech, reading, math, and OT goals in the February 2026 progress report further supports that the IEP was in effect and being actively implemented by the School team.

Based on the foregoing, according to IDEA and Kansas special education regulations *it is not substantiated* the LEA failed to ensure the Student's IEP was in effect or that required accommodations were not implemented.

Issue Five

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, provided the Parent with notice regarding proposed actions to change the Student's IEP when the Student's services changed, and when the Parent requested amendments to the IEP. K.A.R. 91-40-26, K.S.A. 72-3430(b)(2); 34CFR § 300.503(a)(b).

According to K.A.R. 91-40-26, K.S.A. 72-3430(b)(2), and 34CFR § 300.503(a)(b), written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a FAPE. The notice must include a description of the action proposed or refused by the agency, an explanation of why the agency proposed or refused the action, and a description of each evaluation procedure, assessment, record, or report used as a basis for the decision. Additionally, it must include a statement that parents have protection under the procedural safeguards and how those can be obtained, a description of other options that the agency considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal. The notice shall be written in language understandable to the general public and provided in the native language of the parent unless it is not feasible to do so.

The Parent alleged the LEA did not provide PWN when they changed the Student's IEP, or when they refused to change the IEP per the Parent's request.

The LEA maintained that PWN of proposed actions for the IEP drafted on February 25, 2026 was sent to the Custodial Parent, in addition to the PWN sent to the Parent for the March 10, 2026 completed IEP. The LEA acknowledged that the March 10, 2026 PWN was insufficient and did not include all of the proposed changes.

The record showed the LEA provided the Parent with detailed PWN regarding changes to the Student's services and the LEA's response to requested amendments. Following the Custodial Parent's meeting on February 25, 2026, the LEA issued PWN detailing proposed changes. Additionally, following the March 10, 2026 meeting, the LEA issued a comprehensive PWN on April 13, 2026, which outlined material changes, including a reduction in speech services and an increase in specialized pullout instruction from 80 to 170 minutes. This notice also documented the LEA's actions regarding the Parent's specific requests for amendments, such as attributing verbatim concerns to the Parent, correcting pronoun errors, and reverting the Medicaid consent form to the Custodial Parent's name. By including the rationale for these actions, the data relied upon (e.g., District assessment data and teacher input), and the options rejected, the LEA fulfilled its obligation to provide a formal written explanation of the changes to the Student's educational program.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** the LEA failed to provide the Parent with the required notice regarding proposed actions to change the Student's IEP or the team's decisions on requested amendments.

Issue Six

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, revised the IEP when the Parent requested inaccuracies to be changed, and whether the LEA considered the concerns of the Parent, and the academic, developmental, and functional needs of the Student when it changed the Student's bathroom accommodations. K.S.A. 72-3429(f)(2), K.A.R. 91-40-18(a)(c); 34 CFR §§ 300.324(b), 300.324(a)(4)(6).

According to K.S.A. 72-3429(f)(2), and CFR §§ 300.324(b), each agency shall ensure that the IEP team reviews the child's IEP periodically, but not less than annually to determine whether the annual goals for the child are being achieved; and revises the IEP, as appropriate, to address: any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate, the results of any reevaluation conducted, information about the child provided by the parents, the child's anticipated needs, or other matters. In developing or reviewing the IEP of any exceptional child, each agency shall consider the results of the child's performance on any general state or districtwide assessment programs.

According to 34 CFR § 300.324(a)(4)(6), in making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes,

and instead may develop a written document to amend or modify the child's current IEP. If changes are made to the child's IEP in accordance with this process, the public agency must ensure that the child's IEP team is informed of those changes. To the extent possible, the public agency must encourage the consolidation of reevaluation meetings and other IEP team meetings for the child.

The Parent alleged the LEA refused to amend "inaccuracies" in the IEP after the Parent requested changes be made. The Parent alleged the LEA changed wording for bathroom accommodations without data to support the change.

The LEA maintained the IEP was revised when the Parent requested inaccuracies be corrected, considered their concerns, and the academic, developmental, and functional needs of the Student when it changed the bathroom accommodation.

The record showed the IEP team revised the Student's IEP to address the Parent's identified inaccuracies and incorporated the Parent's concerns into the revised, finalized IEP document. Evidence confirmed that after the March 10, 2026, meeting, the LEA acknowledged the Parent's feedback regarding clerical errors and omissions. On April 13, 2026, the LEA issued a corrected IEP and PWN that explicitly included the Parent's verbatim concerns, corrected pronoun errors, and reverted the Medicaid consent name as requested. Furthermore, the LEA demonstrated that changes to the bathroom accommodation and service minutes were based on a comprehensive review of the Student's academic, developmental, and functional needs. The LEA utilized data from District assessment, teacher/paraprofessional observations, and medical necessity to refine the restroom protocol and shift the Student to a more intensive pullout model, thereby ensuring the IEP was responsive to both parental input and the Student's evolving educational requirements.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to revise the IEP when the Parent requested changes or neglected to consider the Parent's concerns and the Student's needs when adjusting accommodations. The record demonstrates that the District was responsive to the Parent's requests for correction and used multi-source data to justify modifications to the Student's services and bathroom protocols.

Issue Seven

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, ensured the Student was placed in the LRE when the Student's inclusion time was removed from their IEP at the February 25, 2026, IEP meeting. K.A.R. 91-40-21; 34 CFR § 300.114.

According to K.A.R. 91-40-21 and 34 CFR § 300.114, each public agency must ensure to the maximum extent appropriate, children with disabilities, including children in public or private institutions, are educated with children who are nondisabled. Special classes, separate

schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Each agency shall provide a continuum of alternative placements that includes instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. The educational placement of each child with a disability shall be determined at least annually, shall be based on the child's IEP, and shall be as close as possible to the child's home. Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that they would attend if nondisabled. In selecting the LRE, consideration shall be given to any potential harmful effect on the child or on the quality of services that he or she needs. A child with a disability shall not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

The Parent alleged the LEA removed all inclusion time from the Student's most recent IEP and reduced the Student's speech therapy without the data to support the change.

The LEA maintained that the Student remains in their LRE following a non-substantial change in placement that relocated 80 minutes of special education services from the general education classroom to a special education setting.

The record indicated the IEP team made data-driven placement decisions tailored to the Student's specific academic needs. The increase in pullout services from 80 minutes of inclusive support to 170 minutes of specialized instruction for decoding, ELA, and math was based on District assessment data and teacher observations showing that the pacing of the general education classroom was ineffective for the Student's progress. Conversely, the reduction of speech services from 30 to 15 minutes was supported by the Student's functional gains, which maximized the Student's time in the general education setting for that domain. The record indicated that the IEP team, including the Parent during the March 10, 2026 meeting, considered these modifications and concluded that the benefits of intensive, separate instruction for core academics outweighed the impact of removal from the general education environment.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is not substantiated*** the LEA failed to ensure the Student was placed in the LRE. The District followed proper procedures by evaluating the Student's academic performance against the general education curriculum and providing a clear rationale for why a more restrictive setting for core instruction was necessary to provide the Student a FAPE.

Corrective Action

The Complaint Investigation did not substantiate any findings of violation, and there is no corrective action ordered.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512, SHAWNEE MISSION PUBLIC SCHOOLS
ON APRIL 1, 2026

DATE OF REPORT: APRIL 30, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #512 (Shawnee Mission Public Schools) on behalf of ------- by her mother, -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the mother" or "the complainant."

The complaint is against USD #512 (Shawnee Mission Public Schools). In the remainder of the report, USD #512 will be referred to as "the Local Education Agency". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." Local Education Agency staff will be referred to In the remainder of this report as follows:

- Sherry Dumolien, Associate Superintendent of Special Education and Strategic Initiatives
- Emily Roach, Special Education Case manager
- Jessica Risinger, Principal
- Emily Demo, Special Education Coordinator for Gifted/Seek program
- Sarah Ingraham, Special Education Secretary

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on April 1, 2026.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent. The investigator interviewed the mother by phone on April 16 and April 20, 2026 and exchanged emails throughout the investigation. An individual interview was conducted with the Associate Superintendent of Special Education and Strategic Initiatives and Special Education Coordinator on April 16, 2026.

The following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. Local education agency April 13, 2026 response
2. Confidential Education Evaluation dated August 11, 2025
3. IEP dated August 13, 2025
4. Parent/Legal Education Decision Maker Option for Receiving Electronic Communications, signed by parent August 13, 2025
5. Prior Written Notice for Evaluation or Reevaluation and Request for Consent dated March 25, 2026
6. iReady diagnostic results Math accessed April 2, 2026
7. MAP growth Spring 2026 Family Report Language Arts accessed April 2, 2026
8. Prior Written Notice for Evaluation or Reevaluation and Request for Consent dated April 10, 2026
9. Work samples to include Lesson 12 Enrichment activity (2 pages); Lesson 19, Session 1 Explore Adding Several Two-Digit Numbers (2 pages); Word Work; Sentences and Spring handouts

Emails:

1. Email from parent to Special Education Secretary, Center for Academic Achievement dated March 30, 2026 at 6:08 p.m. requesting data the team intends to review in determining whether to proceed with a gifted evaluation
2. Email response from Special Education Secretary, Center for Academic Achievement to parent dated March 31, 2026 at 1:01 p.m. responding with the evaluation report and progress reports. The case manager and principal were additionally copied to address the parent's additional requests. for the other information.
3. Email exchange between the special education coordinator and parent dated March 31, 2026 between 1:21 and 1:41 p.m. verifying the NOM of the planned meeting and stating the purpose of the meeting will be to review the general education data and observations, response to differentiated opportunities, standardized academic scores, including iReady and MAP. The email further described the LEA's general criteria to indicate a need for a gifted evaluation. The parent replied that she had a right to the documents and again requested the documents.
4. Email from parent to Special Education Coordinator dated April 1, 2026 at 1:04 and 1:08 p.m. making a formal written request for a gifted evaluation and again requesting access to educational records.
5. Email from Special Education Coordinator to parent dated April 2, 2026 at 8:00 a.m. acknowledging parent request for a gifted evaluation.

6. Email from the school psychologist to the parent dated April 2, 2026 at 9:18 a.m. providing the parent the iReady and MAP scores and data.
7. Image of email from principal to parent with date not visible but timed at 4:16 p.m. attached Acadience math scores
8. Email from mother to school psychologist, special education coordinator, special education case manager, principal and special education secretary at the Center for Academic Achievement dated April 2, 2026 at 7:27 p.m. stating that educational request has not been fulfilled, formally requesting a written response (Prior Written Notice) regarding the request for a gifted evaluation and stating she would not be available for April 10, 2026 meeting.
9. Email exchange from the Associate Superintendent of Special Education and Strategic Initiatives to the parent dated April 3, 2026 at 3:46 p.m. requesting an IEP meeting and parent response stating that she would not meet.
10. Image of email from parent to special education coordinator, special education case manager, principal and two others (names not visible) dated April 4, 2026 (time not visible)
11. Image of email from special education case manager to parent dated April 8, 2026 at 3:13 sending home draft IEP

Background Information

The subject of this complaint is a second-grade student at an elementary school in the LEA during the 2025-2026 school year who is eligible for special education under the category of Autism. The student's IEP dated August 13, 2025 includes a communication goal and includes direct and consultative speech therapy services and services for specially designed instruction. Additionally, the IEP lists six accommodations. The student was medically diagnosed with selective mutism, however the parent and school report that the student has started to talk more during the current school year leading the parent to request a reevaluation based on this change. On March 15, 2026, the parent requested a reevaluation because during previous standardized testing procedures the student typed responses on a communication device. Because the student's communication abilities have changed, updated cognitive testing under standard administration conditions would provide a more accurate measure of abilities. On March 25, 2026, the LEA provided a parent a prior written notice (PWN) to conduct a reevaluation. The parent then wrote in an email that the reevaluation did not mention gifted evaluation and that was what she wanted done. She then wrote that she did not want to sign the consent for reevaluation until she knew if the student would be tested for giftedness.

Issues Investigated

Issue One

Did USD #512 follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) when responding to a parent request for educational records being used in consideration of a gifted evaluation during the 2025-2026 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.613(a) states that each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 or §§300.530 through 300.532, or resolution session pursuant to §300.510, and in no case more than 45 days after the request has been made.

Under 34 CFR § 300.611(b); K.A.R. 91-40-50; and 34 C.F.R. 300.32, educational record is defined as records that are: (1) Directly related to a student; and (2) Maintained by an educational agency or institution or by a party acting for the agency or institution. (b) The term does not include: (1) Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

Parent Position

The parent wrote in her child complaint that she requested copies of all educational records the district intends to review in determining whether to proceed with a gifted evaluation for the student, including academic data, classroom work samples, progress monitoring data, and general education records, but only received records contained within the special education file. The district stated that records such as iReady, MAP, teacher observations and data regarding response to differentiated instruction will be reviewed and discussed at a scheduled meeting to determine whether to proceed with a gifted evaluation. The parent asserts that without access to these records in advance the parent cannot participate meaningfully in the evaluation decision process.

Local Education Agency Position

The Local Education Agency responded that the parent requested educational records in regard to an upcoming gifted evaluation on March 30, 2026 to prepare for an April 10, 2026 meeting. The LEA stated they complied, providing records before the April 10, 2026 meeting, within the 45-day timeframe.

Analysis: Findings of Fact

1. In response to a PWN dated March 25, 2026 from the LEA requesting consent for a reevaluation the parent sent in two emails on March 25 and March 26, 2026. She

clarified in the emails and with the investigator that when initially requesting the evaluation on March 15, 2026 she has meant to request a gifted evaluation.

2. The Associate Superintendent of Special Education and Strategic Initiatives stated to the investigator that a meeting was scheduled with the parent on the April 10 was to consider the parent's request for a gifted evaluation along with determination of additional areas for the existing evaluation for which the LEA has requested consent in the March 25, 2026 PWN and review any parent concerns.
3. The parent made requests for "educational records" on March 30, 2026 to the LEA in response to the LEA's proposed April 10, 2026 meeting. The parent made follow-up requests each time documents were received listing those materials not yet received. The parent stated to the investigator that she was not told that the requested materials would be used in the LEA's consideration of a gifted evaluation but believed they would help her be prepared for her gifted evaluation request. The parent stated she was not ever told that some of the requested materials were not available to be shared.
4. The table below lists the parent's requested documents.

Requested	LEA's date of delivery to parent and investigator's finding of fact if not provided
Academic data including reading and math levels, benchmark assessments, and any progress monitoring data with dates. Requested 3/30	An undated email from the principal to the parent at 4:16 p.m. shows that the student's Acadience Math scores were emailed 4/2 iReady and MAPS emailed 3/31 Progress reports emailed; LEA stated that data supporting progress reports is not maintained following preparation of reports
Classroom work samples, including independent work and any assignments used to assess performance. Requested 3/30	LEA responded that classroom work samples are graded and returned to students. Students may take home or leave in classroom shred bins (not provided)
Any prior evaluation reports, including cognitive or psychological assessments. Requested 3/30	3/31 emailed evaluation report, inclusive of most current cognitive or psychological assessments
Any written teacher observations or documentation regarding academic abilities, including enrichment or differentiation. Requested 3/30	LEA reported LEA practice is that teacher observations are shared verbally, not written. (not provided) remaining documents would be comprised of other requested materials (not provided)
Any progress monitoring data collected across instructional areas, including how it is measured and frequency of collection. Requested 3/30	3/31 emailed progress reports. LEA reported that other information requested is addressed in student's IEP (not provided)
The criteria and data the district uses to determine whether a gifted evaluation will be initiated. Requested 3/30	3/31 criteria used for gifted evaluation emailed

Conclusion

In this case the parent requested education records, specifically access to data, work samples, prior evaluation reports, teacher observations, progress monitoring and criteria and data for her student. Several regulations were considered in making a conclusion about whether the

LEA followed IDEA and Kansas regulations when responding to the parent's request for educational records.

While the LEA responded that the educational documents were provided to the parent within the 45 day timeframe after the request it is important to note that federal regulations state that an LEA has a responsibility to provide parent access to education records before any meeting regarding an IEP, or any hearing pursuant to due process (§300.507) or manifestation determination or change of placement (§§300.530 through 300.532), or resolution session pursuant to §300.510. It is found that the parent's request for records was not in preparation of any of these meeting purposes.

IDEA, FERPA and Kansas define an educational record as documents "directly related to a student and maintained by the LEA." While the definition is fairly broad, an additional characteristic of an educational record is that it is typically part of an official record system. Under IDEA (via FERPA), educational records include things such as evaluation and assessment results, Individualized Education Programs (IEPs), progress reports and report cards, disciplinary records, attendance records, and special education service documentation.

In the case the investigator determined that the parent's request for reading and math levels, benchmark assessments and supplied as Acadience Math scores, iReady and MAPS reports, IEP progress reports and evaluation reports, including cognitive or psychological assessments met the criteria of an educational record. These documents were turned over to the parent via email by April 2, 2026.

The Kansas State Department of Education Kansas Special Education Process Handbook provides further clarification about an educational record on page 163 as

> *FERPA and IDEA have included definitions of "education records." These definitions, while expansive, in most cases do not include the staff's working files and anecdotal records. However, there are some important requirements. FERPA regulation 34 C.F.R. 99.3 states that the term "education records" does not include "records that are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.*

The parent's requests for academic data, progress monitoring data with dates, classroom work samples, including independent work and any assignments used to assess performance, written teacher observations or documentation regarding academic abilities, including enrichment or differentiation and progress monitoring data collected across instructional areas, including how it is measured and frequency of collection does not meet the definition of educational record as it more closely describes "records that are kept in the sole possession of the maker, are used only as a personal memory aid, or are not accessible or revealed to any other person except as a temporary substitute for the maker of the record." The LEA stated to the investigator that these requested data are not routinely maintained by the school or included as part of an

official record system; instead, these data and/or observations contribute to progress reports and grades. In the case of student work, the LEA stated its practice is to release it to the student after grading to take home or place in the classroom shred bin.

Therefore, it is found that the LEA did turn over educational records to the parent within timeline, thereby meeting the IDEA, FERPA, and Kansas regulations. Based on the foregoing, the *LEA is found IN compliance*.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 C.F.R. §300.613(a); 34 CFR § 300.611(b); K.A.R. 91-40-50; and 34 C.F.R. 300.32 was not found. Corrective action is not required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 512
Shawnee Mission Public Schools: 26FCFC512-014A

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on April 1, 2026, by ------- on behalf of her child, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on April 30, 2026. That Complaint Report concluded that there was not a violation of special education statutes and regulations

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified one issue:

Issue

Did USD #512 follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) when responding to a parent request for educational records being used in consideration of a gifted evaluation during the 2025-2026 school year?

Much of the information requested by the parent was provided by the district. However, the investigator found that:

> The parent's requests for academic data, progress monitoring data with dates, classroom work samples, including independent work and any assignments used to assess performance, written teacher observations or documentation regarding academic abilities, including enrichment or differentiation and progress monitoring data collected across instructional areas, including how it is measured and frequency of collection does not meet the definition of educational record as it more closely describes "records that are kept in the sole possession of the maker, are used only as a personal memory aid, or are not accessible or revealed to any other person except as a temporary substitute for the maker of the record." The LEA stated to the investigator that these requested data are not routinely maintained by the school or included as part of an official record system; instead, these data and/or observations contribute to progress reports and grades. In the case of student work, the LEA stated its practice is to release it to the student after grading to take home or place in the classroom shred bin. Report, p. 8.

The investigator determined that this data did not meet the definition of the term “education record” and so the failure to provide this data was not a violation of law.

In her appeal, the parent argues that the investigator used “an overly narrow interpretation of what constitutes an education record.” According to the parent,

> The distinction between "maintained records" and "unmaintained data" should not allow a district to rely on information for educational decisions while simultaneously preventing parent access to that same information.
>
> In this case, progress reports were provided, but the district indicated that the data supporting those reports is not maintained. This raises concerns about how progress is measured, how decisions are supported, and whether those processed can be meaningfully reviewed.”

Ultimately, the parent argues on appeal that “the use of information that is not accessible to parents, interfere with meaningful participation in the educational decision-making process.

The Appeal Committee agrees with the parent that the definition of the term “education record” used by the school district does have a limiting effect on a parent’s “meaningful participation in the

educational decision-making process." The Appeal Committee, however, does not agree that the district used "an overly narrow interpretation of what constitutes an education record."

The formal complaint process is not for determining whether a school district uses ideal procedures. It is for determining whether a district has used an unlawful procedure (34 C.F.R. 300.153(b)(1).

The report correctly cited the relevant law applicable to this complaint. First, federal regulations at 34 CFR. 300.613(a) state that each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency for special education purposes.

Under 34 CFR 300.611(b) the term "education records" is defined to have the same meaning as term "education records" in the Family Education Rights and Privacy Act (FERPA) where the term "education records" is defined as records that are: (1) Directly related to a student; and (2) Maintained by an educational agency or institution or by a party acting for the agency or institution. (b) The term does not include: (1) Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

Thus, an essential element of the very definition of the term "education records" is that the record is maintained by a school district. This is not "an overly narrow interpretation of what constitutes an education record." It is the literal definition of what constitutes an education record. The parent may believe this definition should be more expansive to enhance her ability to participate equally in making educational decisions for her child, but the complaint process is not a proper vehicle for achieving that outcome.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 20th day of May, 2026.

Appeal Committee

Brian Dempsey

Mark Ward

Melissa Valenza

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 512
Shawnee Mission Public Schools: 26FCFC512-014B

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on April 6, 2026, by ------- on behalf of her child, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on April 30, 2026. That Complaint Report concluded that there was not a violation of special education statutes and regulations

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified three issues and concluded that there were no violations of law. The parent appealed the conclusion in all three issues. The Appeal Committee will address each issue separately.

Issue One

Did USD #512 follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) when responding to a parent request for educational records during the 2025-2026 school year?

The complaint report concluded that the district complied with law because it provided all of the requested records that it had kept. The conclusion portion of the complaint report stated:

> The parent's requests for writing samples, drafts, progress monitoring data, scoring data, and documentation of supports provided during writing assignments does not meet the definition of educational record as it more closely describes "records that are kept in the sole possession of the maker, are used only as a personal memory aid, or are not accessible or revealed to any other person except as a temporary substitute for the maker of the record." These requested data are not maintained by the school or included as part of an official record system; instead, these data and/or observations contribute to progress reports and grades. These documents are not routinely stored and the LEA stated that it does not keep student data once summarized into the quarterly progress report and student work is released after grading to take home or place in the classroom shred bin (emphasis added). Report, p. 6.

In the appeal the parent states:

> The decision concludes that writing samples, drafts, progress monitoring data, scoring data, and documentation of supports are not "education records" because they are not maintained as part of an official system of records. This conclusion is flawed. Under IDEA and FERPA, education records include records that are: Directly related to the student, and Maintained by the agency or by a party acting for the agency (emphasis added).

The parent's statement is a correct statement of law, but is misinterpreted. This law is saying that to be an education record the information must be both directly related to the student, and maintained by the agency or by a party acting for the agency. If information lacks either one of these essential requirements, it is not an education record and so not subject to access by parents.

The parent makes an interesting argument that when information is used in developing progress reports, IEP development, and communications with parents the information is not merely a personal memory aid. The parent is referring to a FERPA exception cited by the investigator. This specific exception appears in 34 C.F.R. 99.3 of the Family Educational Rights and Privacy Act (FERPA) federal regulations. That exception states that the term "education records" does not include "records that are kept in the sole possession of the maker, are used only as a personal memory aid and or not accessible or revealed to any other person except a temporary substitute for the maker of the record." When information is used to develop progress reports or IEP

development, that information has been revealed to other persons. Thus, it does not qualify for the FERPA exception.

However, further analysis is needed. It is not enough that personal notes, or any other kind of information, contain personally identifiable student information, to be an education record. They must also be maintained by the district. What does it mean to be "maintained" by the district. In Owasso Independent Sch. Dist. v. Falvo, 36 IDELR 62 (S. Ct. 2002), no less authority than the United States Supreme Court ruled that the requirement for an education record to be a record that is "maintained" by a school district requires more than possession and use by a teacher or team. The court said, "The word 'maintain' suggests FERPA records will be kept in a filing cabinet in a records room at the school or on a permanent secure database... (emphasis added)."

There is no evidence that the information at issue in this appeal was information that was maintained "in a filing cabinet in a records room at the school or on a permanent secure database." Accordingly, while the information may have been in the temporary possession of a teacher or other provider, the information subject to this appeal was not maintained by the school district, itself. Thus, it was not information in an education record, at least according to the cited analysis of the United States Supreme Court, a source as strong as the legislature itself.

Sufficient evidence exists to support the findings and conclusions on this issue in the Complaint Report.

Issue Two

> Did USD #512 follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) when implementing the student's IEP goals and accommodations specific to writing and spelling?

The Appeal Committee is mystified by this issue because it does not say what state and federal regulation is not being followed. The investigator cites the following as the applicable law:

> Federal regulations at 34 C.F.R. require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. 591 40-1 6(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

This indicates that the issue is an alleged failure to implement the student's IEP.

The report states that the parent's position is as follows:

> The parent wrote in her child complaint that based on her conversations with her child the IEP accommodations are not being implemented for writing. Specifically, the staff report

> that the student declined help, and IEP accommodations, while the student reported that a request was made to receive assistance during the assignment. Additionally, the parent reported that the student does not independently spell certain common words, however a writing assignment was scored 1 6/1 6/ despite discrepancies in "sentence structure" and accuracy in the writing sample. Finally, the parent reported that in the writing sample the word, 'they/' is spelled correctly throughout, but when the parent asked the student to spell it, the student spelled, 'Ithay." This shows that the IEP is not being implemented as written.

There are apparently some typos in this explanation. However, the issue appears to be that (1) the student reports that IEP accommodations are not being implemented for writing; and (2) the student does not independently spell certain common words.

With regard to IEP implementation, the investigator concluded that IEP accommodations are being provided based on progress reports dated March 25, 2025, May 28, 2025, October 16, 2025, January 6, 2026 and February 17, 2026 (findings of fact 3), LEA service logs (finding of facts 4) and a training session and sign-in sheet dated August 7, 2025 about the purpose and importance of IEP accommodations and about how to use the student's specific accommodations (findings of fact 5). The weight of the evidence presented supports the conclusion of the investigator that the IEP services were provided.

The second part of this issue was described by the parent to be that "the student does not independently spell certain common words." This allegation seems to be tied to the student's writing goal and whether the goal is to measure the student's unassisted performance. In her appeal, the parent says, "If scoring allows supported or assisted work to be counted as independent mastery, then the data used to determine goal attainment is not valid."

The investigation report found that:

> The LEA reported that it is the school staffs practice to offer assistance but also to promote student's trying to work independently. They provide supervision during writing to be available and step in as they notice a student struggling or being off task. They state that the rubric ultimately defines independence for the goal (Finding of fact 7).

We note that the report also stated that the writing goal changed during the school year to:

"The IEP dated February 14, 2025 and amended on September 3, 2025 includes one writing goal, 'In 36 instructional weeks, when given a topic sentence, [student] will write a 3-5 sentence paragraph, with correct capitalization, punctuation, and spelling with 90% accuracy." (finding of fact 1)

The investigator further noted that" "The IEP dated February 17, 2026 revised the student's writing goal to state: 'In 36 instructional weeks and when presented with a writing prompt, [student] will compose a five sentence paragraph that scores at least '16 (16/16) points on a writing rubric (emphasis added)."' (Finding of fact 2). The Appeal Committee does not know what "on a writing

rubric" means and neither party explained it. It appears that the parties do not agree on what rubric is to be used to measure progress on this goal

In finding of fact 6, the investigator wrote, "The rubric for spelling shows that a score of "4" is earned when 61 0/0-80 0/0 or more of total words are spelled correctly. The Appeal Committee has no idea what this means and assumes there are typos in it. Neither party to this appeal addressed this finding and so the Appeal Committee will also not address it.

The Appeal Committee agrees with the parent's statement that ""*If scoring allows supported or assisted work to be counted as independent mastery, then the data used to determine goal attainment is not valid*." On the other hand, providing specially designed instruction (special education) necessarily involves providing "supported or assisted work." This kind of disagreement may arise at any time, but it does not indicate a violation of law. When such disagreements arise, the IEP team should meet to determine precisely how progress toward goals will be measured and, if a specific rubric will be used, specify that rubric in the IEP in a manner that is clear to all members of the team.

The Appeal Committee finds that sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue, and will sustain the conclusion in the complaint report.

Issue Three

> Did USD #512 follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) when developing challenging writing and spelling goals and appropriate writing and spelling accommodations for the student during the 2025-26 school year?

This is essentially the same concern as presented in Issue two. In her appeal, the parent cites the United States Supreme Court case of Endrew F. saying that an IEP must be reasonably calculated to enable progress that is: Meaningful and Appropriate in light of the child's circumstances, and then adds: "If progress data is based on supported performance rather than independent ability, then the conclusion that the student met her goal does not demonstrate meaningful progress."

The investigator described her conclusion on this issue as follows:

> In this case the parent expressed concern that the student was not performing independently in the writing goal, yet the LEA contacted the parent stating that the IEP goal had been met. The investigator concluded through interview that the distinction between meeting the student's IEP goal and student independence were not clear to the parent. Although confusing it is found that the LEA followed state and federal requirements when developing challenging writing and spelling goals for the student during the 20250026 school year and the LEA is found IN compliance (emphasis added).

From this description, the investigator clearly understood the parent's objection but did not agree with it. The Appeal Committee agrees with the investigator's conclusion for the same reason it agreed with the conclusion in Issue two.

However, this situation should not continue. Somehow the parent and other IEP team members left two IEP meetings with a different opinion on what rubric or measure should be used to assess the student's progress on a single IEP goal. The Appeal Committee reminds the district that its IEP teams have a duty to write measurable IEP goals and, although misunderstandings may from time to time arise, they should attempt to do so in a way that is clear to both parents and service providers. The situation described in this complaint is manageable. The parent wants a goal that is measured without any assistance from staff and staff want to be able to assist the student in making progress toward her goal. The team could do both by setting a goal that requires the student to perform completely independently at specified times throughout the school year and have that performance measured and recorded as independent progress. The team could also set a collaborative goal for the student to meet with assistance from staff. The goal for both could even be the same goal, except progress toward these goals would be measured differently, with and without assistance.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Conclusion

For the reasons stated herein, the conclusions in the Complaint Report are sustained.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 20th day of May, 2026.

Appeal Committee

Brian Dempsey

Mark Ward

Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #266
ON APRIL 7, 2026

DATE OF REPORT: MAY 28, 2026

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ------- and ------- by their mother, -------. In the remainder of the report, ------- will be referred to as "student A", ------- will be referred to as "student B", and both will be referred to "the students". In addition, ------- will be referred to as "the mother", "the parent", or "the complainant".

The parent's first language is not English but she has communicated in writing during this investigation in both Spanish and English. USD #266 reports that a translator is provided for all meetings with the parent and written documents are provided in both English and Spanish.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the students were residents of the Maize Public Schools (USD #266) which employs its own staff to meet the requirements of the IDEA. In the remainder of this report, this responsible public agency will be referred to as "the LEA" or "the district".

The following LEA staff involved in this investigation will be referred to as follows:

- Christy Skelton, Assistant Superintendent for Special Services
- Michael Dome, Assistant Superintendent for Pre-K through Sixth Grade
- Bryan Wilson, Director of Special Services for Grades 7-12
- Lisa Ellis, Director of Special Services for ECSE – Grade 6
- Megan Lavelle, Maize Intermediate School Assistant Principal
- Chad Cramer, Maize Middle School Principal
- Lisa Burgess, Maize Middle School Assistant Principal
- Jennifer Fisher, School Psychologist
- Dawn Ingram, IEP Data Clerk in USD #266
- April Neal, Administrative Assistant in USD #230

- Tatiana Ticas-Guevara, Maize Intermediate School Communications Secretary
- Katie Jennings, Data Clerk in USD #266
- Makayle Overton, Data Manager in USD #266

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on April 7, 2026.

Evidence Reviewed

Both parties were contacted during the investigation to gather and clarify information.

The complainant requested that all communication be in writing via email. It is noted that the complainants first language is not English and, as such, communication was provided in both Spanish and English. The Investigator first contacted the complainant on April 13, 2026 and interview questions were sent to the complainant on April 15, 2026. The complainant responded to these emails and "objected to the limited scope of the investigation" and insisted that the IDEA investigation combine her other concerns related to Section 504 of the Rehabilitation Act and the Mckinney-Vento Act against USD #259 and USD #230. The Investigator provided the complainant with resources to address her other concerns; however, the complainant continued to "formally REJECT your attempt to fragment my investigation" and never responded to the interview questions.

The LEA made the following school personnel from Maize Intermediate School and Maize Middle School available for a phone interview on April 24, 2026:

- Assistant Superintendent for Special Services
- Assistant Superintendent for Pre-K through Sixth Grade
- Director of Special Services for Grades 7-12
- Director of Special Services for ECSE – Grade 6
- Maize Intermediate School Assistant Principal
- Maize Middle School Assistant Principal
- School Psychologist

Written documentation was provided by both the LEA and the complainant. All the documentation was reviewed, and the following written documentation was used in consideration of the issue:

- Child Complaint Form completed by the parent
- Response to the Allegations written by the Assistant Superintendent for Special Services on April 17 and April 21, 2026
- Therapy Center Evaluation Report for student B written on September 9, 2025

- Email dated October 15, 2025 written by the parent to the Maize Middle School Principal requesting a special education evaluation
- Prior Written Notice (PWN) for Evaluation and Request for Consent for student B sent to the parent on October 23, October 29, and November 6, 2025 and signed by the parent on November 19, 2025
- Special Education Referral Form for student A dated October 24, 2025
- PWN for Evaluation and Request for Consent for student A sent to the parent on October 29 and November 19, 2025 and signed by the parent on November 19, 2025
- Discussion Notes from parent and staff team meeting for student B held on November 3, 2025
- Email dated November 5, 2025 written by the Maize Middle School Principal to the parent providing records requested
- Email dated November 21, 2025 written by the Maize Middle School Principal to the parent at 3:18 PM and parent response at 6:15 PM regarding the PWN
- Emails dated December 2, 2025 between the Administrative Assistant in USD #230 and the IEP Data Clerk in USD #266 regarding special education records
- Emails dated December 2, 2025 between the Administrative Assistant in USD #230 and the Data Manager in USD #266 regarding a request for educational records
- Email dated December 9, 2025 written by the School Psychologist to the parent regarding need for students to be in attendance for the evaluations to occur
- Records Request from Insight Virtual School in USD #230 dated December 10, 2025 showing a start date of January 6, 2026 for student B
- Records Request from Kansas Virtual Academy in USD #230 dated December 12, 2025 showing a start date of January 6, 2026 for student A
- Records Request Log from Maize Intermediate School showing records were sent on December 19, 2025 and the second semester grade card was sent on January 7, 2026
- Records Request Log from Maize Middle School showing available records sent to USD #230 on December 11, 2025 and the second semester grade card sent January 7, 2026
- Email dated February 13, 2026 written by the parent to the Assistant Superintendent for Pre-K through Sixth Grade requesting school records for the students
- Email dated February 17, 2026 written by the Assistant Superintendent for Pre-K through Grade Six to the parent clarifying the records request
- Email dated February 20, 2026 written by the Assistant Superintendent for Pre-K through Grade Six to the parent asking how the parent would like to proceed with the record request
- Email dated March 6, 2026 written by the parent the Assistant Superintendent for Pre-K through Sixth Grade requesting copies of the students IEPs
- Email dated March 11, 2026 written by the Assistant Superintendent for Pre-K through Sixth Grade to the parent indicating none of the students had an IEP

- Email dated April 14, 2026 written by the Assistant Superintendent for Pre-K through Sixth Grade to the Assistant Superintendent for Special Services summarizing parent's record request
- Email dated April 14, 2026 written by the Assistant Superintendent for Pre-K through Sixth Grade to the Assistant Superintendent for Special Services summarizing records sent to USD #230 for student A
- 2025 Attendance Record for student A
- 2025-26 Attendance Record for student B
- Entry/Withdrawal Record for student A
- Entry/Withdrawal Record for student B
- USD #266 Calendar for the 2025-26 School Year
- 2022-23 KELPA for student B

Background Information

The students were enrolled in USD #266 between October 20 through December 19, 2025. The students were previously enrolled in USD #259 and transferred to USD #230 after December 19, 2025.

Student A is in the 6th grade and attended Maize Intermediate School while enrolled in USD #266. Student A transferred into the district with a 504 Plan and English Speakers of Other Languages (ESOL) services. The parent reports the student has the following medical and mental health diagnoses: Attention Deficit Hyperactivity Disorder (ADHD), Autism, Asthma, Prediabetes, Farsightedness and Astigmatism, Depression, Anxiety, and the MAPK8IP3 gene mutation.

Student B is in the 7th grade and attended Maize Middle School while enrolled in USD #266. Student B transferred into the district with no special services and the 2022-23 Kansas English Language Proficiency Assessment (KELPA) records show she was rated as proficient in English. The parent reported and the Psychological Evaluation from the Therapy Center dated September 9, 2025 noted that Student B has the following medical and mental health diagnoses: ADHD and Autism (level 2) without intellectual or language impairments.

Issues Investigated

Based on the written complaint, four issues were identified and investigated for Student A and four issues were identified and investigated for Student B.

Student A

Issue One

USD #266, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide preferential seating for Student A during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.8(a)(1) states that a "child with a disability" must have one of the qualifying disabilities described in the IDEA and need special education and related services because of that disability.

Federal regulations, at 34 C.F.R. 300.320(a)(4), require school districts to develop an IEP describing the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum; 3) participate in extracurricular and other nonacademic activities; and, 4) be educated and participate with other children with disabilities and nondisabled children.

Complainant Position

The complainant believes that USD #266 should be providing preferential seating in the classroom for Student A based on his multiple medical and mental health diagnoses.

LEA Position

USD #266 acknowledged that the student is a student with a disability under Section 504 of the Rehabilitation Act. The LEA reported student A is suspected of having a disability under the IDEA and was being evaluated to determine eligibility for an IEP; however, student A transferred to USD #230 prior to the initial special education evaluation being completed and an eligibility determination being made. The LEA believes that the parent's concerns should have been addressed under Section 504 during student A's enrollment in USD #266.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

1. The IDEA only provides the jurisdiction to address concerns that are related to students who have been found eligible for services under the IDEA.
2. Student A had not been found eligible under the IDEA and did not have an IEP during the time he was enrolled in USD #266.

Conclusion

In this case, Student A was not identified as a student with a disability under the IDEA and did not have an IEP while enrolled in USD #266. As such, this allegation does not fall under the jurisdiction of the IDEA. Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated*.

Issue Two

USD #266, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide transportation as a related service for Student A during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.8(a)(1) states that a "child with a disability" must have one of the qualifying disabilities described in the IDEA and need special education and related services because of that disability.

Federal regulations, at 34 C.F.R. 300.320(a)(4), require school districts to develop an IEP describing the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum; 3) participate in extracurricular and other nonacademic activities; and, 4) be educated and participate with other children with disabilities and nondisabled children.

Federal regulations at 34 C.F.R. 300.34(a) and (c)(16) state that transportation can be considered a related service under the IDEA and that transportation includes 1) travel to and from school and between schools; 2) travel in and around school buildings; and 3) specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

Complainant Position

Based on Student A's multiple medical and mental health diagnoses, the complainant believes that USD #266 should be providing transportation as a related service for Student A.

LEA Position

USD #266 acknowledged that the student is a student with a disability under Section 504 of the Rehabilitation Act. The LEA reported student A is suspected of having a disability under the IDEA and was being evaluated to determine eligibility for an IEP; however, student A transferred to USD #230 prior to the initial special education evaluation being completed and

an eligibility determination being made. The LEA believes that the parent's concerns should have been addressed under Section 504 during student A's enrollment in USD #266.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

1. Transportation can be considered as a related service in an IEP under the IDEA.
2. The IDEA only provides the jurisdiction to address concerns that are related to students who have been found eligible for services under the IDEA.
3. Student A had not been found eligible under the IDEA and did not have an IEP during the time he was enrolled in USD #266.

Conclusion

In this case, Student A was not identified as a student with a disability under the IDEA and did not have an IEP while enrolled in USD #266. As such, this allegation does not fall under the jurisdiction of the IDEA. Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated*.

Issue Three

USD #266, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to conduct a comprehensive evaluation of Student A during the past 12 months, specifically by not considering medical reports and information provided by the parent.

Applicable Law

Federal regulations at 34 C.F.R. §300.301(a) require public agencies to conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability and federal regulations at 34 C.F.R. §300.301(b) allows either a parent of a child or a public agency to initiate a request for an initial evaluation to determine if the child is a child with a disability.

Federal regulations at 34 C.F.R. §300.304(b) requires the evaluation to use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum.

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student and

federal regulations at 34 C.F.R. §300.304(a) requires the prior written notice to describe any evaluation procedures the agency proposes to conduct.

Federal regulations at 34 C.F.R. §300.301(c)(1) require the initial evaluation to be conducted within 60 days of receiving parent consent for the evaluation and federal regulations at 34 C.F.R. §300.301(c)(2) require the evaluation procedures to determine the educational needs of the child and if the child is a child with a disability under one of the eligibility categories in the IDEA and, because of that disability, is in need of special education and related services.

Federal regulations at 34 C.F.R. §300.301(d) allows exceptions to the 60 day timeline to complete the evaluation if the parent repeatedly fails or refuses to make the child available for the evaluation or if the child enrolls in a school of another public agency prior to the determination by the child's previous public agency as to whether the child is a child with a disability and in need of special education and related services.

Complainant Position

The complainant reported that she requested that student A be evaluated for special education when he enrolled him in USD #266. She believes the student should be eligible for an IEP because of his multiple medical and mental health diagnoses. The parent indicated USD #266 failed to consider student A's medical and mental health concerns when conducting the initial special education evaluation.

LEA Position

The LEA reported meeting with the parent to discuss her concerns and considered the medical and mental health information provided by the parent. This consideration resulted in the LEA proposing a comprehensive evaluation which included gathering new and existing data in the area of health/motor ability. USD #266 acknowledged that the initial special education evaluation for student A was not completed prior to his transfer to USD #230.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

1. The parent emailed the Director of Special Services for ECSE – Grade 6 and the Maize Intermediate School Assistant Principal on October 15, 2025 requesting an initial special education evaluation for student A.
2. Student A enrolled in USD #266 on October 20, 2025.
3. The Maize Intermediate School Assistant Principal emailed the parent on October 20, 2025 acknowledging the request and scheduling a meeting to discuss the referral.
4. This referral meeting was held on October 24, 2025 with the parent in attendance. The referral noted academic deficits and concerns in the areas of speech/language and health/medical.

5. The parent was provided with prior written notice on October 29, 2025 proposing to conduct an initial special education evaluation in the areas of vision, hearing, health/motor ability, academic performance, general intelligence, communication skills, and social/emotional status/behavioral status.
6. A second copy of the prior written notice proposing the initial evaluation be conducted was provided to the parent on November 19, 2025 and the parent provided written consent for the special education evaluation on that same date.
7. Student A's attendance record shows that between November 19, 2025 when consent was granted and December 19, 2025 when the student transferred to USD #230 there were only 15 school days and the student was in attendance for four of those school days.
8. Emails dated December 2, 2025 between the IEP Data Clerk in USD #266 and the Administrative Assistant in USD #230 show that a request for special education records was made and the records were sent on that date. The email written by the IEP Data Manager stated, "Attached is our referral form and a signed consent for evaluation for [student A]. Looks like we were in the early stages of evaluation for special services".

Conclusion

In this case, the parent made a request for an initial special education evaluation prior to the student's enrollment in the LEA. Following student A's enrollment on October 20, 2025, the LEA met with the parent on October 24, 2025 to discuss her concerns and gather parent input. Based upon that meeting, the LEA provided the parent with prior written notice proposing an evaluation in the areas of vision, hearing, health/motor ability, academic performance, general intelligence, communication skills, and social/emotional status/behavioral status on October 29, 2025. The parent provided written consent for the proposed evaluation on November 19, 2025; however, student A only attended four school days between that date and December 19, 2025 when he transferred to USD #230.

Based on the foregoing, USD #266 proposed a comprehensive evaluation for student A but was unable to complete the initial special education evaluation due to the student only attending school on 4 school days after the parent provided written consent. In addition, student A transferred to another public agency prior to the end of the 60 day timeline. USD #266 then notified and provided the special education records to USD #230 indicating an evaluation was in progress but not yet completed. As such, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated*

Issue Four

USD #266, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to appropriately respond to a request for Student A's records from the Kansas Virtual Academy and the parent during the 2025-26 school year.

Applicable Law

In order to facilitate the transition for a child with a disability or suspected of having a disability to a new public agency during the school year, federal regulations at 34 C.F.R. §300.323(g)(2) require the previous public agency in which the child was enrolled to take reasonable steps to promptly respond to the request from the new public agency.

Federal regulations at 34 C.F.R. §300.613(a) require each public agency to permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the public agency without unnecessary delay and before any meeting regarding an IEP, or any hearing related to disciplinary action, or resolution session related to due process, and in no case more than 45 days after the request has been made.

Federal regulations at 34 C.F.R. § 300.611(b) states that "education records" means the type of records covered under the definition of 'education records' in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA))." Federal regulations at 34 C.F.R. § 99.3 defines "education records as those records that are directly related to a student; and maintained by an educational agency or institution.

Federal regulations at 34 C.F.R. §300.613(b)(2) gives parents the right to request that the public agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records. Federal regulations at 34 C.F.R. §300.617(a) allows public agencies to charge a fee for copies of records if that fee does not effectively prevent the parents from exercising their right to inspect an review those records.

Complainant Position

The complainant reported USD #266 failed to respond to the records request made by USD #230 in a timely manner when student A transferred on December 19, 2025. This caused a disruption to provision of special services to student A. In addition, the parent stated that USD failed to respond to her request for copies of all of student A's educational records by charging her for copies of these records.

LEA Position

The LEA reported they responded to the records request for student A from USD #230 on the same day it was received. The records request from the parent was made after the family had moved out of the district boundaries. The LEA noted this request was for "all records" and

specifically included emails from specific staff members. The LEA sent the parent the same educational records that were sent to USD #230 but indicated that emails were not kept and maintained by the district as educational records; however, these emails could be located and sent to the parent for a fee. The parent did not agree to pay the fee and the emails were not retrieved.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

1. The Kansas Virtual School is an educational program administered by USD #230.
2. As noted in student A's findings in Issue Three, # 8, records show that USD #230 requested student A's special education records on December 2, 2025 and those records were sent on the same date notifying the new LEA that the student was suspected of having a disability and was in the process of being evaluated to determine eligibility for an IEP and related services but that eligibility had not yet been determined.
3. The parent emailed the Assistant Superintendent for Grades Pre-K to Grade Six on February 13, 2026 stating, "THEREFORE, I DEMAND THE FOLLOWING BY TUESDAY AT 4 PM: 00 PM: Complete unedited records for all three of my children (including [sibling's] results and [student B's] nursing notes. All internal and external communications (emails and call logs) from [the Maize Intermediate School Communications Secretary], [the Maize Intermediate School Assistant Principal], [the School Psychologist], and the school nurse, including the unfulfilled written promise of an interpreter. [Assistant Superintendent for Pre-K through Grade Six], I expect you to deliver this evidence within the established timeframe so that my legal representatives at DRC [Disability Rights Center] may proceed with the full record".
4. The Assistant Superintendent for Pre-K through Grade Six responded to the parent on February 17, 2026 in an email stating, "We maintain some of the documents you request within our student information system. These records can be retrieved and provided or made available to you relatively quickly. We can send these documents via certified mail or make them available at our Education Support Center for you to retrieve then at no charge. Including in this packet would be the documents that another school would have received as part of a records request. Your request for email correspondence and other documentation requires more extensive searching and review, which will take additional time to complete. These more complex searches will be subject to applicable record fees, which are permitted by Kansas law. Typically, the district will try to estimate any related charges and notify you in advance to see if you still wish to proceed with those items subject to fees. Let me know if you would like me to proceed with finding out what the charge would be; we would then request the fees be paid in advance in the form of a deposit. Let me know how you would like to move forward".

5. On February 20, 2026, the Assistant Superintendent for Pre-K through Grade Six emailed the parent again to ask how she would like to proceed with the records request.
6. On February 27, 2026, the Assistant Superintendent for Pre-K through Grade Six emailed the parent stating, "We maintain some of the documents you requested within our student information system. I have attached these documents to this reply. Your request for email correspondence and other records require more extensive searching and review, which will take additional time to complete. These more extensive searches are subject to applicable records fees permitted under Kansas law. We estimate that the cost for his request will be $120, which will need to be paid in advance as a deposit".
7. On March 6, 2026, the parent emailed the Assistant Superintendent for Pre-K to Grade Six requesting copies of student A's IEP. The Assistant Superintendent for Pre-K to Grade Six responded on March 11, 2026 stating, "There was no IEP in place for any of your children at the time you withdrew them from the Maize School District".
8. On March 26, 2026, the Assistant Superintendent for Pre-K through Grade Six emailed the parent and stated, "To date, 179 pages of records have been sent to you. These include academic records, attendance records, screening reports, documents received from USD #259 as part of the records request on 10/16/25, health records, the 504 plan for [student A] and the 504 evaluation information for [student B].

Conclusion

In this case, there were two separate requests for student A's school records. The first request was the email from USD #230 on December 2, 2025 requesting copies of special education records from USD #266. The IEP Data Clerk in USD #266 responded to this request without delay on December 2, 2025 by emailing the special education records and notifying USD #230 that student A was suspected of having a disability and was currently being evaluated to determine eligibility for an IEP.

The second request was made by the parent on February 13, 2026 in an email to the Assistant Superintendent for Pre-K through Grade Six. This request was for "complete unedited records" for both student A and student B for the purpose of providing the records to the DRC for legal purposes. It should be noted that the IDEA regulations only refers to the disclosure of "any education records relating to their children that are collected, maintained, or used by the public agency without unnecessary delay and before any meeting regarding an IEP, or any hearing related to disciplinary action, or any due process resolution session, and in no case more than 45 days after the request has been made".

In this case, USD #266 did not consider the emails and call logs of specific staff members as meeting the definition of an "education record". The request was not made prior to an IEP

meeting, a hearing related to disciplinary action, or a due process resolution session; therefore, the "without unnecessary delay" and the "45 day requirement" would be applicable. The Assistant Superintendent for Pre-K through Grade Six sent emails clarifying the request and asking how the parent would like to proceed. Records show that the that the same educational records that were sent to USD #230 were emailed to the parent in an email written by the Assistant Superintendent for Pre-K through Grade Six on February 27, 2026. In that same email, the parent was informed that a fee would be charged for the cost to provide the copies of other requested material, including all the emails and call logs from specific staff. On March 20, 2026, less than 45 days from the original request on February 13, 2026, the LEA emailed the parent indicating that 179 pages of educational records had been provided for the students.

Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue is not substantiated

Student B

Issue One

USD #266, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to appropriately respond to the parent's request for a special education evaluation for Student B in October 2025.

Applicable Law

Federal regulations at 34 C.F.R. §300.301(a) require public agencies to conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability and federal regulations at 34 C.F.R. §300.301(b) allows either a parent of a child or a public agency to initiate a request for an initial evaluation to determine if the child is a child with a disability.

The Kansas Special Education Process Handbook in Chapter 2, Section E: Referral for Initial Evaluation states, "The school must respond to the request within a reasonable period of time, which has been interpreted by the Kansas State Department of Education (KSDE) as being no more than 15 school days, unless there are unusual circumstances."

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Complainant Position

The complainant believes that USD #266 did not respond to her request for an initial special education evaluation for student B in a timely manner.

LEA Position

USD #266 reported they responded to the parent's request for a special education evaluation for student B within the required timelines set forth by the KSDE. The LEA noted that the parent request was made prior to the student being enrolled in the district and that the request was acted upon as soon as student B enrolled at Maize Middle School.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

1. The parent made the request for an initial special education evaluation in an email written to the Maize Middle School Principal on October 15, 2025.
2. Enrollment records show student B was enrolled at Maize Middle School on October 20, 2025.
3. A Special Education Referral Form was completed for student B on October 23, 2025 by the Maize Middle School Assistant Principal and a prior written notice proposing an initial special education evaluation in all areas was emailed to the parent.
4. Following a phone call with the parent on October 27, 2025, the Maize Middle School Principal emailed the parent indicating the LEA was proposing to conduct a comprehensive special education evaluation and that a prior written notice proposing this evaluation had been emailed to the parent on October 23, 2025. The email also noted a meeting was scheduled on October 29, 2025 to further discuss student B's Psychological Evaluation which the parent had provided to the school nurse.
5. The parent was unable to attend the meeting and another meeting was rescheduled for November 3, 2025. The LEA sent another copy of the prior written notice proposing the initial special education evaluation to the parent on October 29, 2025.
6. Another prior written notice proposing the initial special education evaluation to the parent on November 6, 2025.
7. Documentation shows the parent provided written consent for the initial special education evaluation for student B on November 19, 2025.

Conclusion

USD #266 responded to the parent's request for an initial special education evaluation by providing the parent with prior written notice proposing the initial special education evaluation to the parent on October 23, October 29, and again on November 6, 2025. Based on the student B's date of enrollment, the 15th school day was November 7, 2025. In this case, the parent was provided with three separate prior written notices proposing an initial special education evaluation for student B within the 15 school day timeline required by KSDE.

Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated*

Issue Two

USD #266, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide accommodations for Student B during the 2025-26 school year, specifically the use of noise cancelling headphones and early release from class to avoid crowded hallways.

Applicable Law

Federal regulations at 34 C.F.R. 300.8(a)(1) states that a "child with a disability" must have one of the qualifying disabilities described in the IDEA and need special education and related services because of that disability.

Federal regulations at 34 C.F.R. §300.320(a)(4) requires IEPs to include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and nondisabled children.

Complainant Position

The complainant believes that USD #266 should be providing student B with noise cancelling headphones in the classroom and early release from class to avoid crowded hallways based on her multiple medical diagnoses.

LEA Position

USD #266 reported student B was not identified as a student with a disability under the IDEA while enrolled in the district. As such, the LEA had not obligation to provide the requested accommodations requested by the parent.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

1. The IDEA only provides the jurisdiction to address concerns that are related to students who have been found eligible for services under the IDEA.
2. Student B had not been found eligible under the IDEA and did not have an IEP during the time he was enrolled in USD #266.

Conclusion

In this case, student B was not identified as a student with a disability under the IDEA and did not have an IEP while enrolled in USD #266. As such, this allegation does not fall under the jurisdiction of the IDEA. Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated*.

Issue Three

USD #266, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to conduct a comprehensive evaluation of Student B during the past 12 months, specifically by not considering medical reports and information provided by the parent.

Applicable Law

Federal regulations at 34 C.F.R. §300.301(a) require public agencies to conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability and federal regulations at 34 C.F.R. §300.301(b) allows either a parent of a child or a public agency to initiate a request for an initial evaluation to determine if the child is a child with a disability.

Federal regulations at 34 C.F.R. §300.304(b) requires the evaluation to use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum.

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student and federal regulations at 34 C.F.R. §300.304(a) requires the prior written notice to describe any evaluation procedures the agency proposes to conduct.

Federal regulations at 34 C.F.R. §300.301(c)(1) require the initial evaluation to be conducted within 60 days of receiving parent consent for the evaluation and federal regulations at 34 C.F.R. §300.301(c)(2) require the evaluation procedures to determine the educational needs of the child and if the child is a child with a disability under one of the eligibility categories in the IDEA and, because of that disability, is in need of special education and related services.

Federal regulations at 34 C.F.R. §300.301(d) allows exceptions to the 60 day timeline to complete the evaluation if the parent repeatedly fails or refuses to make the child available for the evaluation or if the child enrolls in a school of another public agency prior to the

determination by the child's previous public agency as to whether the child is a child with a disability and in need of special education and related services.

Complainant Position

The complainant reported that she requested that student B be evaluated for special education and believes the student should be eligible for an IEP because of her multiple medical and mental health diagnoses. The parent indicated USD #266 failed to consider student B's medical and mental health concerns when conducting the initial special education evaluation.

LEA Position

The LEA reported meeting with the parent to discuss her concerns and considered the medical and mental health information provided by the parent. USD #266 acknowledged that the initial special education evaluation for student B was not completed prior to her transfer to USD #230.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

1. The findings from Issue One are incorporated herein by reference.
2. The prior written notice dated October 23, 2025 proposes to gather both new and existing data in the following areas: vision, hearing, health/motor ability, general intelligence, social/emotional status /behavioral status, academic performance, communication skills, and transition skills.
3. Enrollment documentation shows student B transferred to USD #230 on December 19, 2025.
4. Between November 19, 2025 when consent was granted for student B's initial special education evaluation and December 19, 2025 when student B transferred to USD #230, there were only 15 school days.
5. On December 2, 2025, the USD #230 Administrative Assistant in USD #230 emailed and requested student B's educational records. The Data Manager in USD #266 sent the educational records, including the special education records, on that same date.
6. The Data Clerk in USD #266 again sent student B's special educational records, including the signed prior written notice for the initial special education evaluation, to the Administrative Assistant in USD #230.

Conclusion

In this case, the parent made a request for an initial special education evaluation prior to student B's enrollment in the LEA. Following student B's enrollment on October 20, 2025, the LEA made a referral for an initial special education evaluation on October 23, 2025 and provided the parent with a prior written notice proposing a comprehensive special education

evaluation in the following areas: vision, hearing, health/motor ability, academics performance, general intelligence, communication skills, social/emotional status/behavioral status, and transition skills on that same date. On October 27, 2025, the LEA proposed to meet on October 29, 2025 with the parent to review her concerns and student B's Psychological Evaluation from the Therapy Center. While the parent was unable to meet that day, another copy of the prior written notice proposing the initial special education evaluation was sent to the parent on October 29, 2025. The parent met with the LEA staff on October 3, 2025 and a third copy of the prior written notice was provided to the parent via email. The parent provided written consent for the proposed evaluation on November 19, 2025; however, there were only 15 school days between that date and December 19, 2025 when she transferred to USD #230. On December 2 and again on December 10, 2025, USD #266 provided USD #230 with the student's educational records, which included a copy of the signed prior written notice for the initial special education evaluation.

Based on the foregoing, USD #266 proposed a comprehensive evaluation for student B but was unable to complete the initial special education evaluation due to the student transferring to another public agency prior to the end of the 60 day timeline. USD #266 provided the special education records to USD #230 on December 10, 2025 so that the new LEA could proceed with the initial special education evaluation to determine eligibility. As such, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated.*

Issue Four

USD #266, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to appropriately respond to a request for Student B's records from the Kansas Virtual Academy and the parent during the 2025-26 school year.

Applicable Law

In order to facilitate the transition for a child with a disability or suspected of having a disability to a new public agency during the school year, federal regulations at 34 C.F.R. §300.323(g)(2) require the previous public agency in which the child was enrolled to take reasonable steps to promptly respond to the request from the new public agency.

Federal regulations at 34 C.F.R. §300.613(a) require each public agency to permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the public agency without unnecessary delay and before any meeting regarding an IEP, or any hearing related to disciplinary action, or resolution session related to due process, and in no case more than 45 days after the request has been made.

Federal regulations at 34 C.F.R. § 300.611(b) states that "education records" means the type of records covered under the definition of 'education records' in 34 CFR part 99 (the regulations

implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA))." Federal regulations at 34 C.F.R. § 99.3 defines "education records as those records that are directly related to a student; and maintained by an educational agency or institution.

Federal regulations at 34 C.F.R. §300.613(b)(2) gives parents the right to request that the public agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records. Federal regulations at 34 C.F.R. §300.617(a) allows public agencies to charge a fee for copies of records if that fee does not effectively prevent the parents from exercising their right to inspect an review those records.

Complainant Position

The complainant reported USD #266 failed to respond to the records request made by USD #230 in a timely manner when student B transferred on December 19, 2025. In addition, the parent stated that USD failed to respond to her request for copies of all of student B's educational records by charging her for copies of these records.

LEA Position

The LEA reported they responded to the initial records request for student B from USD #230 on December 2, 2025, the same day it was received, and provided a second set of the educational records to USD #230 on December 10, 2025. The records request from the parent was made after the family had moved out of the district boundaries. The LEA noted this request was for "all records" and specifically included emails from specific staff members. The LEA sent the parent the same educational records that were sent to USD #230 but indicated that emails were not kept and maintained by the district as educational records; however, these emails could be located and sent to the parent for a fee. The parent did not agree to pay the fee and the emails were not retrieved.

Analysis: Findings of Fact

The following finding of facts is based upon interviews and record review.

1. The Kansas Virtual School is an educational program administered by USD #230.
2. As noted in student Bs findings in Issue Three, #5 and #6, student B's educational records including the signed prior written notice proposing an initial special education evaluation for student B, were provided to USD #230 on December 2, 2025 and again on December 10, 2025.
3. Records Request Log from Maize Middle School showing available records sent to USD #230 on December 11, 2025 and the second semester grade card sent January 7, 2026
4. As noted in student A's findings in Issue Four, #3, #4, #5, #6, and #8, USD #266 received the initial request for records from the parent on February 13, 2026 and provided the parent with copies the educational records for student B on February

27, 2026. The Assistant Superintendent for Pre-K through Grade 6 sent an email to the parent on March 20, 2026 which indicated that parent had received 179 pages of educational records for her students.

Conclusion

In this case, there were two separate requests for student B's school records. The first request was the email from USD #230 on December 2, 2025 requesting copies of special education records from USD #266. The Data Manager in USD #266 responded to this request without delay on December 2, 2025 by emailing the special education records, including the signed prior written notice for the initial special education evaluation. The Data Clerk in USD #266 emailed the same records to USD #230 again on December 10, 2025.

The second request was made by the parent on February 13, 2026 in an email to the Assistant Superintendent for Pre-K through Grade Six. This request was for "complete unedited records" for both student A and student B for the purpose of providing the records to the DRC for legal purposes. It should be noted that the IDEA regulations only refers to the disclosure of "any education records relating to their children that are collected, maintained, or used by the public agency without unnecessary delay and before any meeting regarding an IEP, or any hearing related to disciplinary action, or any due process resolution session, and in no case more than 45 days after the request has been made".

In this case, USD #266 did not consider the emails and call logs of specific staff members as meeting the definition of an "education record". The request was not made prior to an IEP meeting, a hearing related to disciplinary action, or a due process resolution session; therefore, the "without unnecessary delay" and the "45 day requirement" would be applicable. The Assistant Superintendent for Pre-K through Grade Six sent emails clarifying the request and asking how the parent would like to proceed. Records show that the that the same educational records that were sent to USD #230 were emailed to the parent in an email written by the Assistant Superintendent for Pre-K through Grade Six on February 27, 2026. In that same email, the parent was informed that a fee would be charged for the cost to provide the copies of other requested material, including all the emails and call logs from specific staff. On March 20, 2026, less than 45 days from the original request on February 13, 2026, the LEA emailed the parent indicating that 179 pages of educational records had been provided for the students.

Based on the foregoing, the allegation of a violation of special education laws and regulations related to this issue *is not substantiated*

Summary of Conclusions/Corrective Action

Student A

ISSUE ONE: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

ISSUE TWO: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

ISSUE THREE: Based on interviews and a review of documentation, no violation of IDEA or Kansas regulations was found.

ISSUE FOUR: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

Student B

ISSUE ONE: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

ISSUE TWO: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

ISSUE THREE: Based on interviews and a review of documentation, no violation of IDEA or Kansas regulations was found.

ISSUE FOUR: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such request is made, the information will be destroyed.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

DEPARTAMENTO DE EDUCACIÓN DEL ESTADO DE KANSAS
EDUCACIÓN ESPECIAL Y SERVICIOS DE TÍTULO

INFORME DE QUEJA
PRESENTADA CONTRA
EL DISTRITO ESCOLAR NÚM. 266

EL 7 DE ABRIL DE 2026

FECHA DEL INFORME: 28 DE MAYO DE 2026

Este informe es en respuesta a una queja presentada ante el Departamento de Educación del Estado de Kansas en nombre de ------- y ------- por su madre, -------. En el resto del informe, se hará referencia a ------- como el "estudiante A" y a ------- como la "estudiante B", y se hará referencia a ambos como "los estudiantes". Además, se hará referencia a ------- como "la madre", "la progenitora" o "la reclamante".

El primer idioma del la progenitora no es el inglés, pero ella ha comunicado por escrito durante esta investigación tanto en español como en inglés. El Distrito escolar núm. 266 informa que se proporciona un traductor para todas las reuniones con la madre y se proporcionan documentos escritos tanto en inglés como en español.

Cuando se presenta una queja de educación especial contra un distrito escolar que es miembro de una cooperativa de educación especial o interlocal, o que utiliza cualquier otra agencia pública reconocida por el estado para atender a menores con discapacidades, el término "agencia educativa local (LEA)" en este informe incluirá el distrito escolar, la cooperativa de educación especial o interlocal, y cualquier otra agencia administrativa que sea reconocida por el estado como una agencia administrativa para escuelas públicas de educación primaria o secundaria y que esté atendiendo las necesidades educativas de este estudiante.

En este caso, los estudiantes eran residentes de Maize Public Schools (Distrito escolar núm. 266) que emplea su propio personal para cumplir con los requisitos de la Ley de Educación para Personas con Discapacidades (IDEA). En el resto de este informe, se hará referencia a esta agencia pública responsable como "la LEA" o "el distrito".

Se hará reference al siguiente personal de la LEA involucrado en esta investigación de la siguiente manera:

- Christy Skelton, superintendente adjunta de Servicios Especiales
- Michael Dome, superintendente adjunto de Preescolar a Sexto grado
- Bryan Wilson, director de Servicios Especiales para Grados 7-12
- Lisa Ellis, directora de Servicios Especiales para Educación Infantil y Primaria (ECSE) hasta 6.o grado
- Megan Lavelle, superintendente de Maize Intermediate School

- Chad Cramer, director de Maize Middle School
- Lisa Burgess, subdirectora de Maize Middle School
- Jennifer Fisher, psicóloga escolar
- Dawn Ingram, encargada de datos del Programa de Educación Individualizado (IEP) en el Distrito escolar núm. 266
- April Neal, asistente administrativa en el Distrito escolar núm. 230
- Tatiana Ticas-Guevara, secretaria de Comunicaciones de Maize Intermediate School
- Katie Jennings, encargada de datos en el Distrito escolar núm. 266
- Makayle Overton, administrador de datos en el Distrito escolar núm. 266

El Departamento de Educación del Estado de Kansas (KSDE) permite un plazo de 60 días para investigar una queja y permitir un proceso de apelación desde la fecha en que fue presentada. Una queja se considera presentada en la fecha en que fue recibida por el KSDE. En este caso, el KSDE recibió inicialmente la queja el 7 de abril de 2026.

PRUEBAS REVISADAS

Ambas partes fueron contactadas durante la investigación para recopilar y aclararinformación.

La reclamante solicitó que toda la comunicación se realizara por escrito a través de correo electrónico. Se señala que el primer idioma de la reclamante no es el inglés y, por lo tanto, la comunicación se proporcionó tanto en español como en inglés. El investigador contactó a la reclamante por primera vez el 13 de abril de 2026 y se enviaron preguntas de entrevista a la reclamante el 15 de abril de 2026. La reclamante respondió a estos correos electrónicos y "se opuso al alcance limitado de la investigación" e insistió en que la investigación de la IDEA combinara sus otras preocupaciones relacionadas con la Sección 504 de la Ley de Rehabilitación y la Ley McKinney-Vento contra el Distrito escolar núm. 259 y el Distrito escolar núm. 230. El investigador proporcionó a la reclamante recursos para abordar sus otras preocupaciones; sin embargo, la reclamante continuó "RECHAZANDO formalmente su intento de fragmentar mi investigación" y nunca respondió a las preguntas de laentrevista.

La LEA puso a disposición al siguiente personal escolar de Maize Intermediate School y de Maize Middle School para una entrevista telefónica el 24 de abril de 2026:

- Subdirectora de Servicios Especiales
- Subdirector de Preescolar a Sexto grado
- Directora de Servicios Especiales para ECSE – Grado 7-12
- Directora de Servicios Especiales para ECSE hasta 6.o grado
- Subdirectora de Maize Intermediate School
- Subdirectora de Maize Middle School
- Psicóloga escolar

La documentación escrita fue proporcionada tanto por la LEA como por la reclamante. Se revisó toda la documentación, y la siguiente documentación escrita fue utilizada para considerar el asunto:

- Formulario de Queja del Menor cumplimentado por la madre
- Respuesta a las Alegaciones escrita por la superintendente adjunta de Servicios Especiales el 17 y 21 de abril de 2026
- Informe de Evaluación del Centro de Terapia para la estudiante B escrito el 9 de septiembre de 2025
- Correo electrónico fechado el 15 de octubre de 2025 escrito por la madre al director de Maize Middle School solicitando una evaluación de educación especial
- Notificación previa por escrito (PWN) para la evaluación y solicitud de consentimiento para la estudiante B enviada a la madre el 23 de octubre, el 29 de octubre y el 6 de noviembre de 2025 y firmada por la madre el 19 de noviembre de 2025
- Formulario de Referencia de Educación Especial para el estudiante A fechado el 24 de octubre de 2025
- Solicitud de evaluación y solicitud de consentimiento para el estudiante A enviada a la madre el 29 de octubre y el 19 de noviembre de 2025 y firmada por esta el 19 de noviembre de 2025
- Notas de discusión de la reunión de la madre y el equipo de personal para la estudiante B celebrada el 3 de noviembre de 2025
- Correo electrónico fechado el 5 de noviembre de 2025 escrito por el director de Maize Middle School a la madre que proporciona los expedientes solicitados
- Correo electrónico fechado el 21 de noviembre de 2025 escrito por el directorde Maize Middle School a la padre a las 3:18 p. m. y la respuesta de la madre a las 6:15 p. m. con respecto la PWN
- Correos electrónicos fechados el 2 de diciembre de 2025 entre la asistente administrativa del Distrito escolar núm. 230 y la encargado de datos del IEP del Distrito escolar núm. 266 relativos a los expedientes de educación especial
- Correos electrónicos fechados el 2 de diciembre de 2025 entre la asistente administrativa del Distrito escolar núm. 230 y el administrador de datos del Distrito escolar núm. 266 relativos a una solicitud de expedientes educativos
- Correo electrónico fechado el 9 de diciembre de 2025 escrito por la psicóloga escolar a la madre sobre la necesidad de que los estudiantes asistan para que se realicen las evaluaciones
- Solicitud de expedientes de Insight Virtual School en el Distrito escolar núm. 230 fechada el 10 de diciembre de 2025 que muestra una fecha de inicio del 6 de enero de 2026 para la estudiante B
- Solicitud de expedientes de Kansas Virtual Academy en el Distrito escolar núm. 230 fechada el 12 de diciembre de 2025 que muestra una fecha de inicio del 6de enero de 2026 para el estudiante A

- Registro de solicitud de expedientes de Maize Intermediate School que muestra que los expedientes se enviaron el 19 de diciembre de 2025 y la tarjeta de calificaciones del segundo semestre se envió el 7 de enero de 2026
- Registro de solicitud de expedientes de Maize Middle School que muestra los expedientes disponibles enviados al Distrito escolar núm. 230 el 11 de diciembre de 2025 y la tarjeta de calificaciones del segundo semestre enviada el 7 de enero de 2026
- Correo electrónico fechado el 13 de febrero de 2026 escrito por la madre al superintendente adjunto de Preescolar a Sexto Grado que solicita los expedientes escolares de los estudiantes
- Correo electrónico fechado el 17 de febrero de 2026 escrito por el superintendente adjunto de Preescolar a Sexto Grado a la madre que aclara la solicitud de expedientes
- Correo electrónico fechado el 20 de febrero de 2026 escrito por el superintendente adjunto de Preescolar a Sexto Grado a la madre que pregunta cómo le gustaría proceder con la solicitud de expediente
- Correo electrónico fechado el 6 de marzo de 2026 escrito por la madre al superintendente adjunto de Preescolar a Sexto Grado que solicita copias de los IEP de los estudiantes
- Correo electrónico fechado el 11 de marzo de 2026 escrito por el superintendente adjunto de Preescolar a Sexto Grado a la madre que indica que ninguno de los estudiantes tenía un IEP
- Correo electrónico fechado el 14 de abril de 2026 escrito por el superintendente adjunto de Preescolar a Sexto Grado a la superintendente adjunto de Servicios Especiales que resume la solicitud de expediente de la madre
- Correo electrónico fechado el 14 de abril de 2026 escrito por el superintendente adjunto de Preescolar a Sexto Grado a la superintendente adjunto de Servicios Especiales que resume los expedientes enviados al Distrito escolar núm. 230 para el estudiante A
- Registro de asistencia del estudiante A de 2025
- Registro de asistencia del estudiante A de 2025-2026
- Registro de entrada/salida del estudiante A
- Registro de entrada/salida de la estudiante B
- Calendario del Distrito escolar núm. 266 para el curso escolar 2025-2026
- KELPA para la estudiante B de 2022-2023

INFORMACIÓN GENERAL

Los estudiantes se matricularon en el Distrito escolar núm. 266 entre el 20 de octubre y el 19 de diciembre de 2025. Los estudiantes estaban matriculados anteriormente en el Distrito escolar núm. 259 y fueron transferidos al Distrito escolar núm. 230 después del 19 de diciembre de 2025.

El estudiante A está en el 6o grado y asiste a Maize Intermediate School mientras está matriculado en el Distrito escolar núm. 266. El estudiante A se trasladó al distrito con un Plan 504 y servicios para hablantes de inglés de otras lenguas (ESOL). La madre informa que el estudiante tiene los siguientes diagnósticos médicos y de salud mental: Trastorno por déficit de atención con hiperactividad (TDAH), autismo, asma, prediabetes, hipermetropía y astigmatismo, depresión, ansiedad y la mutación del gen MAPK8IP3.

La estudiante B cursa el 7o grado y asistió a Maize Middle School mientras está matriculada en el Distrito escolar núm. 266. La estudiante B se trasladó al distrito sin servicios especiales y los registros de la Evaluación de Competencia en Lengua Inglesa de Kansas (KELPA) de 2022-23 muestran que fue calificada como competente en inglés. Según el informe de la madre y según señaló la Evaluación Psicológica del Centro Terapéutico fechada el 9 de septiembre de 2025, la estudiante B tiene los siguientes diagnósticos médicos y de salud mental: TDAH y autismo (nivel 2) sin deficiencias intelectuales o del lenguaje.

ASUNTOS INVESTIGADOS

Sobre la base de la queja por escrito, se identificaron e investigaron cuatro asuntos para el estudiante A y cuatro asuntos para la estudiante B.

ESTUDIANTE A

ASUNTO UNO

el Distrito escolar núm. 266, incumpliendo la normativa estatal y federal que aplica la Ley de Educación para Personas con Discapacidades (IDEA), no proporcionó un asiento preferente al estudiante A durante el curso escolar 2025-26.

LEGISLACIÓN APLICABLE

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) 300.8(a)(1) establecen que un "menor con discapacidad" debe tener una de las discapacidades contempladas en la IDEA y necesitar educación especial y servicios relacionados a causa de dicha discapacidad".

Las normas federales, recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) 300.320(a)(4), establecen los requisitos para que los distritos escolares elaboren un IEP en el que se describan la educación especial y los servicios relacionados, así como las ayudas y servicios complementarios que se prestarán al menor o en su nombre, y una declaración de las modificaciones del programa o los apoyos para el personal escolar que se proporcionarán a fin de que el menor pueda: 1) avanzar adecuadamente hacia la consecución de los objetivos anuales; 2) participar en el plan de estudios de educación general y progresar en él; 3) participar en actividades extracurriculares y otras actividades no académicas; y 4) recibir

educación y participar junto con otros menores con discapacidades y menores sin discapacidades.

POSICIÓN DE LA RECLAMANTE

La reclamante cree que el centro Distrito escolar núm. 266 debería proporcionar asientos preferentes en el aula al estudiante A en función de sus múltiples diagnósticos médicos y de salud mental.

POSICIÓN DE LA LEA

El Distrito escolar núm. 266 reconoció que el estudiante es un estudiante discapacitado según la Sección 504 de la Ley de Rehabilitación. La LEA informó que se sospechaba que el estudiante A tenía una discapacidad según la ley IDEA y que estaba siendo evaluado para determinar su elegibilidad para un IEP; sin embargo, el estudiante A se transfirió al Distrito escolar núm. 230 antes de que se completara la evaluación inicial de educación especial y se tomara una determinación de elegibilidad. La LEA considera que las inquietudes de la progenitora deberían haberse abordado en el marco de la Sección 504 durante la matriculación del estudiante A en el Distrito escolar núm. 266.

ANÁLISIS: DETERMINACIONES DE HECHOS

La siguiente determinación de hechos se basa en las entrevistas y en la revisión del expediente.

1 La ley IDEA solo establece la jurisdicción para abordar las inquietudes que estén relacionadas con los estudiantes que hayan sido considerados elegibles para recibir servicios en virtud de la ley IDEA.

2 El estudiante A no había sido considerado elegible según la ley IDEA y no tenía un IEP durante el tiempo que estuvo matriculado en el Distrito escolar núm. 266.

CONCLUSIÓN

En este caso, el estudiante A no fue identificado como estudiante con discapacidad según la ley IDEA y no tuvo un IEP mientras estuvo matriculado en el centro Distrito escolar núm. 266. Como tal, esta alegación no entra dentro de la jurisdicción de la ley IDEA. Basándose en lo anterior, la alegación de una violación de las leyes yreglamentos de educación especial relacionados con este asunto *no está fundamentada*.

ASUNTO DOS

el Distrito escolar núm. 266, incumpliendo la normativa estatal y federal que aplica la Ley de Educación para Personas con Discapacidades (IDEA), no proporcionó el servicio de transporte como servicio complementario al estudiante A durante el curso escolar 2025-26.

LEGISLACIÓN APLICABLE

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) 300.8(a)(1) establecen que un "menor con discapacidad" debe tener una de las discapacidades contempladas en la IDEA y necesitar educación especial y servicios relacionados a causa de dicha discapacidad".

Las normas federales, recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) 300.320(a)(4), establecen los requisitos para que los distritos escolares elaboren un IEP en el que se describan la educación especial y los servicios relacionados, así como las ayudas y servicios complementarios que se prestarán al menor o en su nombre, y una declaración de las modificaciones del programa o los apoyos para el personal escolar que se proporcionarán a fin de que el menor pueda: 1) avanzar adecuadamente hacia la consecución de los objetivos anuales; 2) participar en el plan de estudios de educación general y progresar en él; 3) participar en actividades extracurriculares y otras actividades no académicas; y 4) recibir educación y participar junto con otros menores con discapacidades y menores sin discapacidades.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) 300.34(a) y (c)(16) establecen que el transporte puede considerarse un servicio relacionado en virtud de la IDEA y que dicho transporte incluye: 1) los traslados hacia y desde el colegio y entre centros educativos; 2) los traslados dentro y en los alrededores de los edificios escolares; y 3) el equipamiento especializado (como autobuses especiales o adaptados, elevadores y rampas), si es necesario para proporcionar transporte especial a un menor con discapacidad.

POSICIÓN DE LA RECLAMANTE

Basándose en los múltiples diagnósticos médicos y de salud mental del estudiante A, la reclamante considera que el Distrito escolar núm. 266 debería proporcionar transporte como servicio relacionado para el estudiante A.

POSICIÓN DE LA LEA

El Distrito escolar núm. 266 reconoció que el estudiante es un estudiante discapacitado según la Sección 504 de la Ley de Rehabilitación. La LEA informó que se sospechaba que el estudiante A tenía una discapacidad según la ley IDEA y que estaba siendo evaluado para determinar su elegibilidad para un IEP; sin embargo, el estudiante A se transfirió al Distrito escolar núm. 230 antes de que se completara la evaluación inicial de educación especial y se tomara una determinación de elegibilidad. La LEA considera que las inquietudes de la progenitora deberían haberse abordado en el marco de la Sección 504 durante la matriculación del estudiante A en el Distrito escolar núm. 266.

ANÁLISIS: DETERMINACIONES DE HECHOS

La siguiente determinación de hechos se basa en las entrevistas y en la revisión del expediente.

1. El transporte puede ser considerado como un servicio relacionado en un IEP bajo la IDEA.
2. La ley IDEA solo establece la jurisdicción para abordar las inquietudes que estén relacionadas con los estudiantes que hayan sido considerados elegibles para recibir servicios en virtud de la ley IDEA.
3. El estudiante A no había sido considerado elegible según la ley IDEA y no tenía un IEP durante el tiempo que estuvo matriculado en el Distrito escolar núm. 266.

CONCLUSIÓN

En este caso, el estudiante A no fue identificado como estudiante con discapacidad según la ley IDEA y no tuvo un IEP mientras estuvo matriculado en el centro Distrito escolar núm. 266. Como tal, esta alegación no entra dentro de la jurisdicción de la ley IDEA. Basándose en lo anterior, la alegación de una violación de las leyes y reglamentos de educación especial relacionados con este asunto *no está fundamentada.*

ASUNTO TRES

el Distrito escolar núm. 266, incumpliendo la normativa estatal y federal que aplica la Ley de Educación para Personas con Discapacidades (IDEA), no llevó a cabo una evaluación exhaustiva del estudiante A durante los últimos 12 meses, concretamente al no tener en cuenta los informes médicos y la información facilitada por la progenitora.

LEGISLACIÓN APLICABLE

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 300.301(a) exigen que las agencias públicas realicen una evaluación inicial completa e individualizada antes de la prestación inicial de educación especial y servicios relacionados a un menor con discapacidad, y las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) §300.301(b) permiten que tanto los progenitores del menor como una agencia pública puedan solicitar el inicio de una evaluación inicial para determinar si el menor tiene una discapacidad.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 300.304(b) exige que la evaluación utilice diversas herramientas y estrategias de evaluación para recopilar información relevante sobre el funcionamiento, el desarrollo y el rendimiento académico del menor, incluida la información facilitada por los progenitores, que pueda ayudar a determinar si el menor tiene una discapacidad y el contenido de su IEP, incluida la

información relacionada con la posibilidad de que el menor participe y progrese en el plan de estudios de educación general.

Las normas federales recopiladas en el artículo título 34 del Código de Regulaciones Federales (C.F.R.) § 300.503(a) exigen que los distritos escolares proporcionen a los progenitores un aviso por escrito con una antelación razonable antes de proponer o denegar el inicio o la modificación de la identificación, la evaluación, la asignación educativa o la prestación de una educación pública gratuita y adecuada (FAPE) al estudiante, y las normas federales recopiladas en el artículo título 34 del Código de Regulaciones Federales (C.F.R.) § 300.304(a) exigen que la notificación previa por escrito describa cualquier procedimiento de evaluación que el organismo se proponga llevar a cabo.

Las normas federales recopiladas en el artículo título 34 del Código de Regulaciones Federales (C.F.R.) §300.301(c)(1) exigen que la evaluación inicial se lleve a cabo en un plazo de 60 días a partir de la recepción del consentimiento de los progenitores para la evaluación, y las normas federales recopiladas en el artículo título 34 del Código de Regulaciones Federales (C.F.R.) §300.301(c)(2) exigen que los procedimientos de evaluación determinen las necesidades educativas del menor y si este es un menor con una discapacidad que se ajusta a alguna de las categorías de elegibilidad de la IDEA y, debido a dicha discapacidad, necesita educación especial y servicios relacionados.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) §300.301(d), permiten excepciones al plazo de 60 días para completar la evaluación si los progenitores, de forma reiterada, no garantizan la disponibilidad del menor para la evaluación o se niegan a que el menor se someta a la evaluación, o si el menor realiza la inscripción en un centro educativo de otra agencia pública antes de que la agencia pública anterior del menor haya determinado si este es un menor con discapacidad y necesita educación especial y servicios relacionados.

POSICIÓN DE LA RECLAMANTE

La reclamante informó que solicitó que se evaluara al estudiante A para educación especial cuando lo matriculó en el Distrito escolar núm. 266. Cree que el estudiante debería ser elegible para un IEP debido a sus múltiples diagnósticos médicos y de salud mental. La madre indicó que el Distrito escolar núm. 266 no tuvo en cuenta las preocupaciones médicas y de salud mental del estudiante A al realizar la evaluación inicial de educación especial.

POSICIÓN DE LA LEA

La LEA informó que se había reunido con la progenitora para hablar de sus preocupaciones y tuvo en cuenta la información médica y de salud mental facilitada por la progenitora. Esta consideración dio lugar a que la LEA propusiera una evaluación exhaustiva que incluía la recopilación de datos nuevos y existentes en el ámbito de la salud y la capacidad motriz. El

Distrito escolar núm. 266 reconoció que la evaluación inicial de educación especial para el estudiante A no se completó antes de su traslado al Distrito escolar núm. 230.

ANÁLISIS: DETERMINACIONES DE HECHOS

La siguiente determinación de hechos se basa en las entrevistas y en la revisión del expediente.

1. El 15 de octubre de 2025, la progenitora envió un correo electrónico a la directora de Servicios Especiales para ECSE hasta 6.o grado y a la subdirectora de Maize Intermediate School en el que solicitaba una evaluación inicial de educación especial para el estudiante A.

2. El estudiante A se matriculó en el Distrito escolar núm. 266 el 20 de octubre de 2025.

3. La subdirectora de Maize Intermediate School envió un correo electrónico a la madre el 20 de octubre de 2025 donde acusaba recibo de la solicitud y programaba una reunión para discutir la remisión.

4. Esta reunión de remisión se celebró el 24 de octubre de 2025 con la asistencia de la madre. La remisión señalaba déficits académicos y preocupaciones en las áreas de habla/lenguaje y de salud/médica.

5. El 29 de octubre de 2025 se proporcionó a la madre una notificación previa por escrito en la que se proponía llevar a cabo una evaluación inicial de educación especial en las áreas de visión, audición, salud/capacidad motriz, rendimiento académico, inteligencia general, habilidades de comunicación y estado social/emocional/conductual.

6. El 19 de noviembre de 2025 se entregó a la madre una segunda copia de la notificación previa por escrito en la que se proponía la realización de la evaluación inicial, y la madre dio su consentimiento por escrito para la evaluación de educación especial en esa misma fecha.

7. El registro de asistencia del estudiante A muestra que entre el 19 de noviembre de 2025, cuando se concedió el consentimiento, y el 19 de diciembre de 2025, cuando el estudiante se trasladó al Distrito escolar núm. 230, solo hubo 15 días lectivos y el estudiante asistió cuatro de esos días lectivos.

8. Los correos electrónicos fechados el 2 de diciembre de 2025 entre el encargado de datos del IEP del Distrito escolar núm. 266 y la asistente administrativa del Distrito escolar núm. 230 muestran que se hizo una solicitud de expedientes de educación especial y que los expedientes se enviaron en esa fecha. El correo electrónico escrito por el administrador de datos del IEP decía: "Adjuntamos nuestro formulario de remisión y un consentimiento firmado para la evaluación del [estudiante A]. Parece que estábamos en las primeras fases de evaluación para servicios especiales".

CONCLUSIÓN

En este caso, la madre realizó una solicitud de evaluación inicial de educación especial antes de la inscripción del estudiante en la LEA. Después de la inscripción del estudiante A el 20 de octubre de 2025, la LEA se reunió con la madre el 24 de octubre de 2025 para hablar de sus preocupaciones y recabar su opinión. Basándose en esa reunión, la LEA proporcionó a la madre una notificación previa por escrito en la que proponía una evaluación en las áreas de visión, audición, salud/capacidad motriz, rendimiento académico, inteligencia general, habilidades de comunicación y estado social/emocional/conductual el 29 de octubre de 2025. La madre dio su consentimiento por escrito para la evaluación propuesta el 19 de noviembre de 2025; sin embargo, el estudiante A solo asistió cuatro días a la escuela entre esa fecha y el 19 de diciembre de 2025, cuando se trasladó al Distrito escolar núm. 230.

Basándose en lo anterior, el Distrito escolar núm. 266 propuso una evaluación exhaustiva para el estudiante A, pero no pudo completar la evaluación inicial de educación especial debido a que el estudiante solo asistió a la escuela 4 días lectivos después de que los padres dieran su consentimiento por escrito. Además, el estudiante A se trasladó a otra agencia pública antes de que finalizara el plazo de 60 días. A continuación, el Distrito escolar núm. 266 notificó y proporcionó los expedientes de educación especial al Distrito escolar núm. 230 indicando que se estaba realizando una evaluación pero que aún no se había completado. Como tal, la alegación de una violación de las leyes y reglamentos de educación especial relacionados con este asunto *no está fundamentada.*

ASUNTO CUATRO

el Distrito escolar núm. 266, incumpliendo la normativa estatal y federal que aplica la Ley de Educación para Personas con Discapacidades (IDEA), no respondió adecuadamente a una solicitud de expedientes del estudiante A presentada por la Kansas Virtual Academy y la madre durante el curso escolar 2025-26.

LEGISLACIÓN APLICABLE

Con el fin de facilitar la transición de un menor con discapacidad o del que se sospeche que tiene una discapacidad a un nueva agencia pública durante el curso escolar, las normas federales recopiladas el título 34 del Código de Regulaciones Federales (C.F.R.) §300.323(g)(2) exigen que la agencia pública anterior en la que estaba inscrito el menor adopte las medidas razonables para responder sin demora a la solicitud de la nueva agencia pública.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) §300.613(a) exigen que cada agencia pública permita a los progenitores inspeccionar y revisar cualquier expediente educativo relativo a sus menores que dicho organismo recopile, conserve o utilice, sin demoras innecesarias y antes de cualquier reunión relativa a un IEP, o de cualquier audiencia relacionada con medidas disciplinarias, o de una sesión de resolución

relacionada con el debido proceso, y en ningún caso más de 45 días después de que se haya presentado la solicitud.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 300.611(b) establecen que por "expedientes académicos" se entiende el tipo de expedientes incluidos en la definición de "expedientes académicos" del título 34 del Código de Regulaciones Federales (CFR), parte 99 (la normativa de aplicación de la Ley de Derechos Educativos y Privacidad de la Familia de 1974, 20 U.S.C. 1232g [FERPA])". Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 99.3 definen los "expedientes académicos" como aquellos documentos que guardan relación directa con un estudiante y que son conservados por una agencia o una institución educativa.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 300.613(b)(2) otorgan a los progenitores el derecho a solicitar que la agencia pública proporcione copias de los expedientes que contengan dicha información, si el hecho de no proporcionar dichas copias impidiera de manera eficaz que el padre o la madre ejerciera el derecho a examinar y revisar los expedientes. Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 300.617(a) permiten a las agencias públicas cobrar una tarifa por las copias de los expedientes, siempre que dicha tarifa no impida de hecho a los progenitores ejercer su derecho a realizar inspecciones y revisar dichos expedientes.

POSICIÓN DE LA RECLAMANTE

La reclamante denunció que el centro Distrito escolar núm. 266 no respondió oportunamente a la solicitud de expedientes realizada por el centro Distrito escolar núm. 230 cuando el estudiante A se trasladó el 19 de diciembre de 2025. Esto causó una interrupción en la prestación de servicios especiales al estudiante A. Además, la madre declaró que el Distrito escolar no respondió a su solicitud de copias de todos los expedientes académicos del estudiante A y le cobró por las copias de dichos expedientes.

POSICIÓN DE LA LEA

La LEA informó que respondió a la solicitud de expedientes del estudiante A del Distrito escolar núm. 230 el mismo día en que la recibió. La solicitud de expedientes a cargo de la madre se hizo después de que la familia se hubiera mudado fuera de los límites del distrito. La LEA señaló que esta solicitud era para "todos los expedientes" e incluía específicamente correos electrónicos de miembros concretos del personal. La LEA envió a la madre los mismos expedientes educativos que se enviaron al Distrito escolar núm. 230 pero indicó que los correos electrónicos no eran guardados ni mantenidos por el distrito como registros educativos; sin embargo, estos correos podrían ser localizados y enviados a la madre si pagaba una tarifa. La madre no accedió a pagar la tarifa y los correos electrónicos no se recuperaron.

ANÁLISIS: DETERMINACIONES DE HECHOS

La siguiente determinación de hechos se basa en las entrevistas y en la revisión del expediente.

1. La Kansas Virtual School es un programa educativo administrado por el Distrito escolar núm. 230.
2. Como se señala en las determinaciones del estudiante A en el Asunto Tres, n.o 8, los expedientes muestran que el Distrito escolar núm. 230 solicitó los expedientes de educación especial del estudiante A el 2 de diciembre de 2025 y esos expedientes se enviaron en la misma fecha notificando a la nueva LEA que se sospechaba que el estudiante tenía una discapacidad y que estaba en proceso de ser evaluado para determinar su elegibilidad para un IEP y servicios relacionados, pero que la elegibilidad aún no había sido determinada.
3. La madre envió un correo electrónico al superintendente adjunto de Preescolar a Sexto grado el 13 de febrero de 2026 en el que indicaba: "POR LO TANTO, EXIJO LO SIGUIENTE PARA EL MARTES A LAS 4 P. M. : Expedientes completos sin editar de mis tres hijos (incluidos los resultados de [hermano] y las notas de enfermería de [estudiante B]. Todas las comunicaciones internas y externas (correos electrónicos y expedientes de llamadas) de [la Secretaria de Comunicaciones de Maize Intermediate School], [la subdirectora de Maize Intermediate School], [la psicóloga escolar] y la enfermera escolar, incluida la promesa por escrito incumplida de un intérprete. [Subdirector de Preescolar a Sexto grado], espero que entregue estas pruebas dentro del plazo establecido para que mis representantes legales en el DRC [Centro de Derechos de Personas con Discapacidades] puedan proceder con el expediente completo".
4. El superintendente adjunto de Preescolar a Sexto grado respondió a la madre el 17 de febrero de 2026 en un correo electrónico en el que afirmaba: "Mantenemos algunos de los documentos que solicita dentro de nuestro sistema de información estudiantil. Estos expedientes pueden recuperarse y facilitarse o ponerse a su disposición con relativa rapidez. Podemos enviarle estos documentos por correo certificado o ponerlos a su disposición en nuestro Centro de Apoyo a la Educación para que los recupere a continuación sin costo alguno. En este paquete se incluirían los documentos que otra escuela habría recibido como parte de una solicitud de expedientes. Su solicitud de correspondencia electrónica y otra documentación requiere una búsqueda y revisión más exhaustivas, lo que llevará un tiempo adicional. Estas búsquedas más complejas estarán sujetas a las tarifas de expediente aplicables, permitidas en virtud de la legislación de Kansas. Normalmente, el distrito intentará estimar los gastos relacionados y se lo notificará con antelación para ver si aún desea seguir adelante con los elementos sujetos a tarifas. Hágame saber si desea que proceda a averiguar cuál sería el costo; entonces solicitaríamos que las tarifas se abonaran por adelantado en forma de depósito. Hágame saber cómo le gustaría proceder".

5. El 20 de febrero de 2026, el superintendente adjunto de Preescolar a Sexto Grado volvió a enviar un correo electrónico a la madre para preguntarle cómo le gustaría proceder con la solicitud de expedientes.
6. El 27 de febrero de 2026, el superintendente adjunto de Preescolar a Sexto Grado envió un correo electrónico a la madre en el que le decía: "Mantenemos algunos de los documentos que usted solicitó dentro de nuestro sistema de información estudiantil. He adjuntado estos documentos a esta respuesta. Su solicitud de correspondencia electrónica y otros expedientes requiere una búsqueda y revisión más exhaustivas, lo que llevará un tiempo adicional. Estas búsquedas más amplias están sujetas a las tarifas aplicables a los expedientes permitidas en virtud de la legislación de Kansas. Estimamos que el costo de su solicitud será de $120, que deberán abonarse por adelantado en concepto de depósito".
7. El 6 de marzo de 2026, la madre envió un correo electrónico al superintendente adjunto de Preescolar a Sexto Grado en el que solicitaba copias del IEP del estudiante A. El superintendente adjunto de Preescolar a Sexto Grado respondió el 11 de marzo de 2026 y declaró: "No había ningún IEP en vigor para ninguno de sus hijos en el momento en que usted los retiró del Maize School District".
8. El 26 de marzo de 2026, el superintendente adjunto de Preescolar a Sexto Grado envió un correo electrónico a la madre y le dijo: "Hasta la fecha se le han enviado 179 páginas de expedientes. Estos incluyen expedientes académicos, expedientes de asistencia, informes de exámenes, documentos recibidos del Distrito escolar núm. 259 como parte de la solicitud de expedientes el 16 de octubre de 2025, expedientes de salud, el plan 504 para [estudiante A] y la información de la evaluación 504 para [estudiante B].

CONCLUSIÓN

En este caso, hubo dos solicitudes distintas de los expedientes escolares del estudiante A. La primera solicitud fue el correo electrónico del Distrito escolar núm. 230 del 2 de diciembre de 2025 que soilicitaba copias de los expedientes de educación especial del Distrito escolar núm. 266. La encargada de los datos del IEP en el Distrito escolar núm. 266 respondió a esta solicitud sin demora el 2 de diciembre de 2025, envió por correo electrónico los expedientes de educación especial y notificó al Distrito escolar núm. 230 que se sospechaba que el estudiante A tenía una discapacidad y que estaba siendo evaluado para determinar su elegibilidad para un IEP.

La segunda solicitud fue hecha por la madre el 13 de febrero de 2026 en un correo electrónico al superintendente adjunto de Preescolar a Sexto Grado. Esta solicitud era para "expedientes completos sin editar" tanto para el estudiante A como para la estudiante B con el fin de proporcionar los expedientes al DRC para fines legales. Debe tenerse en cuenta que la normativa en virtud de la IDEA solo hace referencia a la divulgación de "cualquier expediente educativo relativo a sus hijos que sea recopilado, conservado o utilizado por la agencia pública sin demora innecesaria y antes de cualquier reunión relativa a un IEP, o cualquier audiencia

relacionada con una medida disciplinaria, o cualquier sesión de resolución de garantías procesales, y en ningún caso más de 45 días después de que se haya realizado la solicitud".

En este caso, el Distrito escolar núm. 266 no consideró que los correos electrónicos y los expedientes de llamadas de determinados miembros del personal cumplieran la definición de "expediente educativo". La solicitud no se hizo antes de una reunión del IEP, una audiencia relacionada con una medida disciplinaria o una sesión de resolución del debido proceso; por lo tanto, serían aplicables el "sin demora innecesaria" y el "requisito de los 45 días". El superintendente adjunto de Preescolar a Sexto Grado envió correos electrónicos donde aclaraba la solicitud y preguntaba cómo quería proceder la progenitora. Los expedientes muestran que los mismos expedientes educativos que fueron enviados al Distrito escolar núm. 230 fueron enviados a la madre en un correo electrónico escrito por el superintendente adjunto de Preescolar a Sexto Grado el 27 de febrero de 2026. En ese mismo correo electrónico, se informó a la madre de que se les cobraría una tarifa por el costo de proporcionar las copias de otro material solicitado, incluidos todos los correos electrónicos y expedientes de llamadas de personal específico. El 20 de marzo de 2026, menos de 45 días desde la solicitud original del 13 de febrero de 2026, la LEA envió un correo electrónico a la madre en el que indicaba que se habían proporcionado 179 páginas de expedientes académicos de los estudiantes.

Sobre la base de lo anterior, la alegación de una violación de las leyes y reglamentos de educación especial relacionados con este asunto *no está fundamentada*.

ESTUDIANTE B

ASUNTO UNO

el Distrito escolar núm. 266, incumpliendo la normativa estatal y federal que aplica la Ley de Educación para Personas con Discapacidades (IDEA), no respondió adecuadamente a la solicitud de la madre de que se realizara una evaluación de educación especial a la estudiante B en octubre de 2025.

LEGISLACIÓN APLICABLE

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 300.301(a) exigen que las agencias públicas realicen una evaluación inicial completa e individualizada antes de la prestación inicial de educación especial y servicios relacionados a un menor con discapacidad, y las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) §300.301(b) permiten que tanto los progenitores del menor como una agencia pública puedan solicitar el inicio de una evaluación inicial para determinar si el menor tiene una discapacidad.

El Manual del Proceso de Educación Especial de Kansas en el capítulo 2, sección E: Remisión para una evaluación inicial establece lo siguiente: "La escuela debe responder a la solicitud en

un plazo razonable, que ha sido interpretado por el Departamento de Educación del Estado de Kansas (KSDE) como no superior a 15 días lectivos, a menos que existan circunstancias inusuales".

Los reglamentos federales de título 34 del Código de Regulaciones Federales (C.F.R.) §300. 503(a) exigen que los distritos escolares notifiquen previamente a la madre por escrito y con una antelación razonable antes de proponer o rechazar el inicio o el cambio de la identificación, la evaluación, la colocación educativa o la provisión de FAPE al estudiante.

POSICIÓN DE LA RECLAMANTE

La reclamante cree que el Distrito escolar núm. 266 no respondió a su solicitud de una evaluación inicial de educación especial para la estudiante B de manera oportuna.

POSICIÓN DE LA LEA

El Distrito escolar núm. 266 informó que respondió a la solicitud de la madre de una evaluación de educación especial para la estudiante B dentro de los plazos requeridos establecidos por el KSDE. La LEA señaló que la solicitud de la madre se hizo antes de que la estudiante se matriculara en el distrito y que se actuó en consecuencia en cuanto la estudiante B se matriculó en la Maize Middle School.

ANÁLISIS: DETERMINACIONES DE HECHOS

La siguiente determinación de hechos se basa en las entrevistas y en la revisión del expediente.

1. La madre hizo la solicitud de una evaluación inicial de educación especial en un correo electrónico escrito al director de Maize Middle School el 15 de octubre de 2025.
2. Los expedientes de matriculación muestran que la estudiante B se matriculó en Maize Middle School el 20 de octubre de 2025.
3. El 23 de octubre de 2025, la subdirectora de Maize Middle School rellenó un formulario de remisión a educación especial para la estudiante B y se envió por correo electrónico a la madre un aviso previo por escrito en el que se proponía una evaluación inicial de educación especial en todas las áreas.
4. Después de una llamada telefónica con la madre el 27 de octubre de 2025, el director de Maize Middle School envió un correo electrónico a la madre donde indicaba que la LEA proponía realizar una evaluación integral de educación especial y que el 23 de octubre de 2025 se había enviado por correo electrónico a la madre un aviso previo por escrito que proponía esta evaluación. El correo electrónico también señalaba que se había programado una reunión el 29 de octubre de 2025 para seguir discutiendo la Evaluación Psicológica de la estudiante B que la madre habían proporcionado a la enfermera escolar.

5. La madre no pudo asistir a la reunión y se reprogramó otra para el 3 de noviembre de 2025. La LEA envió otra copia de la notificación previa por escrito en la que se proponía la evaluación inicial de educación especial a la madre el 29 de octubre de 2025.
6. Otra notificación previa por escrito en la que se proponía la evaluación inicial de educación especial a la madre se envió el 6 de noviembre de 2025.
7. La documentación muestra que la madre dio su consentimiento por escrito para la evaluación inicial de educación especial de la estudiante B el 19 de noviembre de 2025.

CONCLUSIÓN

El Distrito escolar núm. 266 respondió a la solicitud de la madre de una evaluación inicial de educación especial proporcionándoles una notificación previa por escrito en la que se les proponía la evaluación inicial de educación especial el 23 de octubre, el 29 de octubre y de nuevo el 6 de noviembre de 2025. Basándose en la fecha de inscripción de la estudiante B, el 15o día lectivo fue el 7 de noviembre de 2025. En este caso, se proporcionaron a la madre tres notificaciones previas por escrito separadas en las que se proponía una evaluación inicial de educación especial para la estudiante B dentro del plazo de 15 días escolares exigido por el KSDE.

Sobre la base de lo anterior, la alegación de una violación de las leyes y reglamentos de educación especial relacionados con este asunto *no está fundamentada*.

ASUNTO DOS

el Distrito escolar núm. 266, incumpliendo la normativa estatal y federal que aplica la Ley de Educación para Personas con Discapacidades (IDEA), no proporcionó las adaptaciones necesarias a la estudiante B durante el curso 2025-26, concretamente el uso de auriculares con cancelación de ruido y la salida anticipada de clase para evitar los pasillos abarrotados.

LEGISLACIÓN APLICABLE

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) 300.8(a)(1) establecen que un "menor con discapacidad" debe tener una de las discapacidades contempladas en la IDEA y necesitar educación especial y servicios relacionados a causa de dicha discapacidad".

Las normas federales en título 34 del Código de Regulaciones Federales (C.F.R.) §300.320(a)(4) exige que los IEP incluyan una declaración de la educación especial y los servicios relacionados, así como de las ayudas y servicios complementarios, basados, en la medida de lo posible, en investigaciones revisadas por pares, que se proporcionarán al menor o en su nombre, y una declaración de las modificaciones del programa o los apoyos para el personal escolar que se proporcionarán a fin de que el menor pueda avanzar adecuadamente hacia el logro de las metas anuales; para que se integre y progrese en el plan de estudios de educación general y participe en actividades extracurriculares y otras actividades no

académicas; y para que reciba educación y participe junto con otros menores con discapacidades y menores sin discapacidades.

POSICIÓN DE LA RECLAMANTE

La reclamante cree que el centro Distrito escolar núm. 266 debería proporcionar a la estudiante B auriculares con cancelación de ruido en el aula y salir antes de clase para evitar los pasillos abarrotados, teniendo en cuenta sus múltiples diagnósticos médicos.

POSICIÓN DE LA LEA

El Distrito escolar núm. 266 informó que la estudiante B no fue identificada como estudiante con discapacidad según la ley IDEA mientras estuvo matriculada en el distrito. Como tal, la LEA no tenía obligación de proporcionar las adaptaciones solicitadas por la madre.

ANÁLISIS: DETERMINACIONES DE HECHOS

La siguiente determinación de hechos se basa en las entrevistas y en la revisión del expediente.

1. La ley IDEA solo establece la jurisdicción para abordar las inquietudes que estén relacionadas con los estudiantes que hayan sido considerados elegibles para recibir servicios en virtud de la ley IDEA.
2. La estudiante B no había sido considerada elegible en virtud de la ley IDEA y no tenía un IEP durante el tiempo que estuvo matriculada en el centro Distrito escolar núm. 266.

CONCLUSIÓN

En este caso, la estudiante B no fue identificada como estudiante con discapacidad según la ley IDEA y no tuvo un IEP mientras estuvo matriculada en el centro Distrito escolar núm. 266. Como tal, esta alegación no entra dentro de la jurisdicción de la ley IDEA. Basándose en lo anterior, la alegación de una violación de las leyes y reglamentos de educación especial relacionados con este asunto *no está fundamentada.*

ASUNTO TRES

el Distrito escolar núm. 266, incumpliendo la normativa estatal y federal que aplica la Ley de Educación para Personas con Discapacidades (IDEA), no llevó a cabo una evaluación exhaustiva de la estudiante B durante los últimos 12 meses, concretamente al no tener en cuenta los informes médicos y la información facilitada por la progenitora.

LEGISLACIÓN APLICABLE

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 300.301(a) exigen que las agencias públicas realicen una evaluación inicial completa e individualizada antes de la prestación inicial de educación especial y servicios relacionados a

un menor con discapacidad, y las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) §300.301(b) permiten que tanto los progenitores del menor como una agencia pública puedan solicitar el inicio de una evaluación inicial para determinar si el menor tiene una discapacidad.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 300.304(b) exige que la evaluación utilice diversas herramientas y estrategias de evaluación para recopilar información relevante sobre el funcionamiento, el desarrollo y el rendimiento académico del menor, incluida la información facilitada por los progenitores, que pueda ayudar a determinar si el menor tiene una discapacidad y el contenido de su IEP, incluida la información relacionada con la posibilidad de que el menor participe y progrese en el plan de estudios de educación general.

Las normas federales recopiladas en el artículo título 34 del Código de Regulaciones Federales (C.F.R.) § 300.503(a) exigen que los distritos escolares proporcionen a los progenitores un aviso por escrito con una antelación razonable antes de proponer o denegar el inicio o la modificación de la identificación, la evaluación, la asignación educativa o la prestación de una educación pública gratuita y adecuada (FAPE) al estudiante, y las normas federales recopiladas en el artículo título 34 del Código de Regulaciones Federales (C.F.R.) § 300.304(a) exigen que la notificación previa por escrito describa cualquier procedimiento de evaluación que el organismo se proponga llevar a cabo.

Las normas federales recopiladas en el artículo título 34 del Código de Regulaciones Federales (C.F.R.) §300.301(c)(1) exigen que la evaluación inicial se lleve a cabo en un plazo de 60 días a partir de la recepción del consentimiento de los progenitores para la evaluación, y las normas federales recopiladas en el artículo título 34 del Código de Regulaciones Federales (C.F.R.) §300.301(c)(2) exigen que los procedimientos de evaluación determinen las necesidades educativas del menor y si este es un menor con una discapacidad que se ajusta a alguna de las categorías de elegibilidad de la IDEA y, debido a dicha discapacidad, necesita educación especial y servicios relacionados.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) §300.301(d), permiten excepciones al plazo de 60 días para completar la evaluación si los progenitores, de forma reiterada, no garantizan la disponibilidad del menor para la evaluación o se niegan a que el menor se someta a la evaluación, o si el menor realiza la inscripción en un centro educativo de otra agencia pública antes de que la agencia pública anterior del menor haya determinado si este es un menor con discapacidad y necesita educación especial y servicios relacionados.

POSICIÓN DE LA RECLAMANTE

La reclamante informó que había solicitado que se evaluara a la estudiante B para educación especial y cree que la estudiante debería tener derecho a un IEP debido a sus múltiples

diagnósticos médicos y de salud mental. La madre indicó que el Distrito escolar núm. 266 no tuvo en cuenta las preocupaciones médicas y de salud mental de la estudiante B al realizar la evaluación inicial de educación especial.

POSICIÓN DE LA LEA

La LEA informó que se había reunido con la progenitora para hablar de sus preocupaciones y tuvo en cuenta la información médica y de salud mental facilitada por la progenitora. El Distrito escolar núm. 266 reconoció que la evaluación inicial de educación especial de la estudiante B no se completó antes de su traslado al Distrito escolar núm. 230.

ANÁLISIS: DETERMINACIONES DE HECHOS

La siguiente determinación de hechos se basa en las entrevistas y en la revisión del expediente.

1. Las determinaciones del Asunto Uno se incorporan aquí como referencia.
2. La notificación previa por escrito con fecha del 23 de octubre de 2025 propone recopilar datos nuevos y existentes en las siguientes áreas: visión, audición, salud/capacidad motriz, inteligencia general, estado social/emocional/estado conductual, rendimiento académico, habilidades de comunicación y habilidades de transición.
3. La documentación de inscripción muestra que la estudiante B fue transferida al Distrito escolar núm. 230 el 19 de diciembre de 2025.
4. Entre el 19 de noviembre de 2025, cuando se concedió el consentimiento para la evaluación inicial de educación especial de la estudiante B, y el 19 de diciembre de 2025, cuando la estudiante B se trasladó al Distrito escolar núm. 230, solo hubo 15 días lectivos.
5. El 2 de diciembre de 2025, la asistente administrativa del Distrito escolar núm. 230 envió un correo electrónico y solicitó los expedientes académicos de la estudiante B. El administrador de datos del Distrito escolar núm. 266 envió los expedientes educativos, incluidos los de educación especial, en esa misma fecha.
6. La encargada de datos del centro Distrito escolar núm. 266 volvió a enviar los expedientes educativos especiales de la estudiante B, incluida la notificación previa por escrito firmada para la evaluación inicial de educación especial, a la asistente administrativa del Distrito escolar núm. 230.

CONCLUSIÓN

En este caso, la madre realizó una solicitud de evaluación inicial de educación especial antes de la inscripción de la estudiante B en la LEA. Después de la inscripción de la estudiante B el 20 de octubre de 2025, la LEA realizó una remisión para una evaluación inicial de educación especial el 23 de octubre de 2025 y proporcionó a la madre un aviso previo por escrito en el que proponía una evaluación integral de educación especial en las siguientes áreas: visión, audición, salud/capacidad motriz, rendimiento académico, inteligencia general, habilidades de

comunicación, estado social/emocional/conductual y habilidades de transición en esa misma fecha. El 27 de octubre de 2025, la LEA propuso reunirse el 29 de octubre de 2025 con la madre para revisar sus inquietudes y la evaluación psicológica de la estudiante B realizada por el Centro de Terapia. Aunque la madre no pudo reunirse ese día, se le envió otra copia de la notificación previa por escrito en la que se le proponía la evaluación inicial de educación especial el 29 de octubre de 2025. La madre se reunió con el personal de la LEA el 3 de octubre de 2025 y se le proporcionó una tercera copia de la notificación previa por escrito por correo electrónico. La madre dio su consentimiento por escrito para la evaluación propuesta el 19 de noviembre de 2025; sin embargo, solo transcurrieron 15 días escolares entre esa fecha y el 19 de diciembre de 2025, cuando se trasladó al Distrito escolar núm. 230. El 2 de diciembre y de nuevo el 10 de diciembre de 2025, el Distrito escolar núm. 266 proporcionó al Distrito escolar núm. 230 los expedientes educativos de la estudiante, que incluían una copia de la notificación previa por escrito firmada para la evaluación inicial de educación especial. Basándose en lo anterior, el Distrito escolar núm. 266 propuso una evaluación exhaustiva para la estudiante B, pero no pudo completar la evaluación inicial de educación especial debido a que el estudiante se trasladó a otra agencia pública antes de que finalizara el plazo de 60 días. El Distrito escolar núm. 266 proporcionó los expedientes de educación especial al Distrito escolar núm. 230 el 10 de diciembre de 2025 para que la nueva LEA pudiera proceder a la evaluación inicial de educación especial para determinar la elegibilidad. Por lo tanto, la acusación de violación de las leyes y reglamentos de educación especial relacionada con este asunto *no está fundamentada*.

ASUNTO CUATRO

el Distrito escolar núm. 266, incumpliendo la normativa estatal y federal que aplica la Ley de Educación para Personas con Discapacidades (IDEA), no respondió adecuadamente a una solicitud de expedientes de la estudiante B presentada por la Kansas Virtual Academy y la madre durante el curso escolar 2025-26.

LEGISLACIÓN APLICABLE

Con el fin de facilitar la transición de un menor con discapacidad o del que se sospeche que tiene una discapacidad a un nueva agencia pública durante el curso escolar, las normas federales recopiladas el título 34 del Código de Regulaciones Federales (C.F.R.) §300.323(g)(2) exigen que la agencia pública anterior en la que estaba inscrito el menor adopte las medidas razonables para responder sin demora a la solicitud de la nueva agencia pública.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) §300.613(a) exigen que cada agencia pública permita a los progenitores inspeccionar y revisar cualquier expediente educativo relativo a sus menores que dicho organismo recopile, conserve o utilice, sin demoras innecesarias y antes de cualquier reunión relativa a un IEP, o de cualquier audiencia relacionada con medidas disciplinarias, o de una sesión de resolución

relacionada con el debido proceso, y en ningún caso más de 45 días después de que se haya presentado la solicitud.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 300.611(b) establecen que por "expedientes académicos" se entiende el tipo de expedientes incluidos en la definición de "expedientes académicos" del título 34 del Código de Regulaciones Federales (CFR), parte 99 (la normativa de aplicación de la Ley de Derechos Educativos y Privacidad de la Familia de 1974, 20 U.S.C. 1232g [FERPA])".

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 99.3 definen los "expedientes académicos" como aquellos documentos que guardan relación directa con un estudiante y que son conservados por una agencia o una institución educativa.

Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales(C.F.R.) § 300.613(b)(2) otorgan a los progenitores el derecho a solicitar que la agencia pública proporcione copias de los expedientes que contengan dicha información, si el hecho de no proporcionar dichas copias impidiera de manera eficaz que el padre o la madre ejerciera el derecho a examinar y revisar los expedientes. Las normas federales recopiladas en el título 34 del Código de Regulaciones Federales (C.F.R.) § 300.617(a) permiten a las agencias públicas cobrar una tarifa por las copias de los expedientes, siempre que dicha tarifa no impida de hecho a los progenitores ejercer su derecho a realizar inspecciones y revisar dichos expedientes.

POSICIÓN DE LA RECLAMANTE

La reclamante denunció que el centro Distrito escolar núm. 266 no respondió oportunamente a la solicitud de expedientes realizada por el centro Distrito escolar núm. 230 cuando la estudiante A se trasladó el 19 de diciembre de 2025. Además, la madre declaró que el Distrito escolar no respondió a su solicitud de copias de todos los expedientes académicos de la estudiante A y le cobró por las copias de dichos expedientes.

POSICIÓN DE LA LEA

La LEA informó que respondió a la solicitud inicial de expedientes para la estudiante B del Distrito escolar núm. 230 el 2 de diciembre de 2025, el mismo día en que se recibió, y proporcionó un segundo conjunto de los expedientes educativos al Distrito escolar núm. 230 el 10 de diciembre de 2025. La solicitud de expedientes a cargo de la madre se hizo después de que la familia se hubiera mudado fuera de los límites del distrito. La LEA señaló que esta solicitud era para "todos los expedientes" e incluía específicamente correos electrónicos de miembros concretos del personal. La LEA envió a la madre los mismos expedientes educativos que se enviaron al Distrito escolar núm. 230 pero indicó que los correos electrónicos no eran guardados ni mantenidos por el distrito como registros educativos; sin embargo, estos correos podrían ser localizados y enviados a la madre si pagaba una tarifa. La madre no accedió a pagar la tarifa y los correos electrónicos no se recuperaron.

ANÁLISIS: DETERMINACIONES DE HECHOS

La siguiente determinación de hechos se basa en las entrevistas y en la revisión del expediente.

1. La Kansas Virtual School es un programa educativo administrado por el Distrito escolar núm. 230.
2. Como se señaló en las determinaciones de la estudiante B en el Asunto Tres, n.o5 y n.o6, los expedientes educativos de la estudiante B, incluida la notificación previa por escrito firmada proponiendo una evaluación inicial de educación especial para la estudiante B, fueron proporcionados al Distrito escolar núm. 230 el 2 de diciembre de 2025 y nuevamente el 10 de diciembre de 2025.
3. Registro de solicitud de expedientes de Maize Middle School que muestra los expedientes disponibles enviados al Distrito escolar núm. 230 el 11 de diciembre de 2025 y la tarjeta de calificaciones del segundo semestre enviada el 7 de enero de 2026
4. Como se señaló en las determinaciones del estudiante A en el Asunto Cuatro, n.o3, n.o4, n.o5, n.o6 y n.o8, el Distrito escolar núm. 266 recibió la solicitud inicial de expedientes de la madre el 13 de febrero de 2026 y proporcionó a la madre copias de los expedientes educativos de la estudiante B el 27 de febrero de 2026. El 20 de marzo de 2026, el superintendente adjunto de Preescolar a Sexto Grado envió un correo electrónico a la madre en el que le indicaba que había recibido 179 páginas de expedientes académicos de sus estudiantes.

CONCLUSIÓN

En este caso, hubo dos solicitudes distintas de los expedientes escolares de la estudiante B. La primera solicitud fue el correo electrónico del Distrito escolar núm. 230 del 2 de diciembre de 2025 que soilicitaba copias de los expedientes de educación especial del Distrito escolar núm. 266. El administrador de datos del Distrito escolar núm. 266 respondió a esta solicitud sin demora el 2 de diciembre de 2025 y envió por correo electrónico los expedientes de educación especial, incluida la notificación previa por escrito firmada para la evaluación inicial de educación especial. La encargada de datos del Distrito escolar núm. 266 volvió a enviar por correo electrónico los mismos expedientes al Distrito escolar núm. 230 el 10 de diciembre de 2025.

La segunda solicitud fue hecha por la madre el 13 de febrero de 2026 en un correo electrónico al superintendente adjunto de Preescolar a Sexto Grado. Esta solicitud era para "expedientes completos sin editar" tanto para el estudiante A como para la estudiante B con el fin de proporcionar los expedientes al DRC para fines legales. Debe tenerse en cuenta que la normativa en virtud de la IDEA solo hace referencia a la divulgación de "cualquier expediente educativo relativo a sus hijos que sea recopilado, conservado o utilizado por la agencia pública sin demora innecesaria y antes de cualquier reunión relativa a un IEP, o cualquier audiencia relacionada con una medida disciplinaria, o cualquier sesión de resolución de garantías procesales, y en ningún caso más de 45 días después de que se haya realizado la solicitud".

En este caso, el Distrito escolar núm. 266 no consideró que los correos electrónicos y los expedientes de llamadas de determinados miembros del personal cumplieran la definición de "expediente educativo". La solicitud no se hizo antes de una reunión del IEP, una audiencia relacionada con una medida disciplinaria o una sesión de resolución del debido proceso; por lo tanto, serían aplicables el "sin demora innecesaria" y el "requisito de los 45 días". El superintendente adjunto de Preescolar a Sexto Grado envió correos electrónicos donde aclaraba la solicitud y preguntaba cómo quería proceder la progenitora. Los expedientes muestran que los mismos expedientes educativos que fueron enviados al Distrito escolar núm. 230 fueron enviados a la madre en un correo electrónico escrito por el superintendente adjunto de Preescolar a Sexto Grado el 27 de febrero de 2026. En ese mismo correo electrónico, se informó a la madre de que se les cobraría una tarifa por el costo de proporcionar las copias de otro material solicitado, incluidos todos los correos electrónicos y expedientes de llamadas de personal específico. El 20 de marzo de 2026, menos de 45 días desde la solicitud original del 13 de febrero de 2026, la LEA envió un correo electrónico a la madre en el que indicaba que se habían proporcionado 179 páginas de expedientes académicos de los estudiantes.

Sobre la base de lo anterior, la alegación de una violación de las leyes y reglamentos de educación especial relacionados con este asunto *no está fundamentada*.

RESUMEN DE CONCLUSIONES/MEDIDAS CORRECTIVAS

ESTUDIANTE A

ASUNTO UNO: Basándonos en las entrevistas y en la revisión de la documentación, no se encontró ninguna infracción de la normativa IDEA.

ASUNTO DOS: Basándonos en las entrevistas y en la revisión de la documentación, no se encontró ninguna infracción de la normativa IDEA.

ASUNTO TRES: Basándonos en las entrevistas y en la revisión de la documentación, no se encontró ninguna violación de la IDEA ni de la normativa de Kansas.

ASUNTO CUATRO: Basándonos en las entrevistas y en la revisión de la documentación, no se encontró ninguna infracción de la normativa IDEA.

ESTUDIANTE B

ASUNTO UNO: Basándonos en las entrevistas y en la revisión de la documentación, no se encontró ninguna infracción de la normativa IDEA.

ASUNTO DOS: Basándonos en las entrevistas y en la revisión de la documentación, no se encontró ninguna infracción de la normativa IDEA.

ASUNTO TRES: Basándonos en las entrevistas y en la revisión de la documentación, no se encontró ninguna violación de la IDEA ni de la normativa de Kansas.

ASUNTO CUATRO: Basándonos en las entrevistas y en la revisión de la documentación, no se encontró ninguna infracción de la normativa IDEA.

DESTRUCCIÓN DE REGISTROS

En cumplimiento de las normas federales, concretamente el título 34 del Código de Regulaciones Federales (C.F.R.) 300.624, notifico a ambas partes que, en el plazo de 60 días a partir de la fecha de la resolución definitiva, cualquier información identificativa de cualquier estudiante obtenida por el investigador en el marco de esta investigación se considerará que ya no es necesaria para la prestación de servicios educativos a dicho estudiante y podrá ser destruida por el investigador. Cualquier información de identificación personal relativa a esta queja que obre en poder del Departamento de Educación del Estado de Kansas se considerará que ya no es necesaria para proporcionar servicios educativos al estudiante arriba mencionado seis años después de la fecha de la decisión final y podrá ser destruida por el departamento en ese momento. Una vez transcurridos estos plazos, la madre podrá solicitar la destrucción de la información obtenida en esta queja. Si se realiza dicha solicitud, la información será destruida.

Nancy Thomas

Nancy Thomas, máster en Educación, investigadora de quejas

DERECHO DE APELACIÓN

Cualquiera de las partes puede apelar los resultados o conclusiones de este informe presentando una notificación de apelación por escrito al Comisionado Estatal de Educación a la siguiente dirección: State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. La notificación de apelación también puede presentarse por correo electrónico a formalcomplaints@ksde.gov. La notificación de apelación debe entregarse en un plazo de 10 días naturales a partir de la fecha de este informe. Para una descripción más detallada del proceso de apelación, consulte el Reglamento Administrativo de Kansas 91-40-51(f), que puede encontrar al final de este informe.

K.A.R. 91-40-51(f) Apelaciones.

(1) Cualquier agencia o reclamante puede apelar cualquiera de las determinaciones o conclusiones de un informe de cumplimiento preparado por la sección de educación especial del departamento presentando un aviso de apelación por escrito ante el comisionado estatal de educación. Cada aviso deberá presentarse en un plazo de 10 días a partir de la fecha del informe. Cada aviso proporcionará una declaración detallada de la base para alegar que el informe es incorrecto.

Al recibir una apelación, el comisionado nombrará un comité de apelación de al menos tres miembros del departamento de educación para revisar el informe y considerar la información proporcionada por la agencia de educación local, el reclamante u otros. El proceso de apelación, incluida cualquier audiencia llevada a cabo por el comité de apelación, se completará en un plazo de 15 días a partir de la fecha de recepción de la notificación de apelación, y se emitirá una decisión en un plazo de cinco días tras la finalización del proceso de apelación, a menos que el comité de apelación determine que existen circunstancias excepcionales con respecto a la queja en particular. En este caso, el comité de apelación deberá tomar la decisión lo antes posible.

(2) Si un comité de apelación afirma un informe de cumplimiento que requiere una medida correctiva por parte de una agencia, dicha agencia deberá iniciar la medida correctiva requerida inmediatamente. Si, después de cinco días, no se ha iniciado la medida correctiva requerida, se notificará a la agencia la medida que se tomará para asegurar el cumplimiento según lo determinado por el departamento. Esta acción puede incluir cualquiera de las siguientes:

(A) la emisión de un aviso de deficiencia de acreditación;

(B) la retención de fondos estatales o federales de otro modo disponibles para la agencia;

(C) la concesión de un reembolso monetario al reclamante; o

(D) cualquier combinación de las medidas especificadas en el párrafo (f)(2).

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #390
ON APRIL 16, 2026

DATE OF REPORT: JUNE 2, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #390 Hamilton Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #390.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on April 16, 2026 and the 30-day timeline ended on May 16, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #390, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's Individualized Education Program (IEP), specifically their behavior log accommodation. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323(a)(d).

ISSUE TWO: Whether USD #390, in accordance with state and federal regulations implementing the IDEA, ensured the Parent was offered the opportunity to meaningfully participate in the Student's education when they were asked to speak only with the Principal. Further, whether the LEA provided the Parent with behavior data when requested. K.A.R. 91-40-25(b); 34 CFR §§ 300.322(a)(c), 300.501(b)(c).

ISSUE THREE: Whether USD #390, in accordance with state and federal regulations implementing the IDEA, made reasonable attempts to obtain informed consent from the

Parent when they made changes to the Student's IEP. K.A.R. 91-40-27(a)(3)(g), K.A.R. 91-40-17(e), K.A.R. 91-40-1(l)(mm)(sss), K.S.A. 72-3430(b)(6); 34 CFR §§ 300.9, 300.300(d)(2).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on May 6, 2026. The following LEA staff were interviewed on May 6, 2026: The Principal, the Special Education Coordinator, the Special Education Teacher, and the Director of Student Services.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Plan Amendment Form for Changes not Requiring a Full Individual Education Plan Team Meeting, 12/09/25
2. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 12/05/25
3. Notice of Special Education Meeting, 01/12/26
4. Team Meeting Record, 03/04/26
5. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 03/04/26
6. Team Meeting Record for Annual Individual Education Plan, 09/23/25
7. Notice of Special Education Meeting, 09/10/25
8. Progress Report, 2025-26 School Year
9. Individualized Education Plan, 03/25/25
10. Individualized Education Plan Contact Log, 08/26/25–09/03/25
11. Meeting Notes, 08/26/25-09/09/25
12. District Policy Book, no date
13. Behavior Tracker, 08/18/[25]-03/31/[26]
14. Interval Data Collection Sheet, no date
15. Timeline of Events, no date
16. Teacher Survey Responses, May 2026
17. Emails between parties, 08/11/25-05/11/26

Background Information

This Investigation involved a student who is currently a seventh-grader enrolled at a high school for seventh through twelfth grades in USD #390. The Student is currently receiving special education or related services as a child with a disability per the Individuals with

Disabilities Education Act (IDEA). The Student lives with the Parent. The Other Parent lives in a different state but is actively engaged in the Student's education.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. An IEP, dated March 25, 2025, outlined the following relevant information for the Student:
    a. This IEP was written while the Student attended an elementary school for first through sixth grades in the LEA.
    b. The Parent participated virtually in the meeting.
    c. In the Team Meeting Record (notes) regarding social-emotional, it was written, "It was decided that there will be a weekly behavior log sent home each week."
    d. Also in the Team Meeting Record (notes) regarding the Parent's concerns, it was noted, "[The Parent] had no further questions or concerns. The IEP draft was accepted as presented by all team members."
    e. Under the Legal Education Decision Maker (LEDM) Input/Concerns section, it was documented that the LEDM participated in the development of the IEP and was involved in placement decisions. Under Parent/LEDM concerns, it was noted, "[The Parent] stated [they] would like to be contacted anytime there is are [sic] any behaviors." It was also noted, "The team decided to start keeping track of a [virtual drive] for anyone to put any positive or negative behaviors noted throughout the week. This form will be sent home every Thursday."
    f. Under the Social Emotional section of the IEP, it was noted "yes" the Student had needs in this area and required special education or related services. It was also noted "yes" the Student's behavior impeded the learning of others or oneself.
        i. Strengths: The Student maintained a consistent interest in art and drawing, occasionally becoming "animated" when discussing their work, though at other times they claimed a lack of involvement without explanation. The Student's demeanor shifted between being "pleasant" and appearing "sullen" or "dismissive." Additionally, the Student frequently used the phrase "I forgot" when questioned about their follow-through on assignments from the Previous Social Worker.
        ii. ii. Social-emotional performance and needs were documented as follows: "[The Student's] empathy with others appears low, [their] attitude toward teachers can be dismissive, and [the Student] focuses primarily on what interests [them] rather than work assigned."
        iii. iii. Social-emotional goal: "By the end of the IEP year, [the Student] will identify one attainable and realistic personal social goal, create an action plan for the goal, and demonstrate progress toward achieving the goal during

twice-weekly sessions with the social worker. [The] [g]oal is to keep a notebook or journal that tracks [the Student's] progress of asking questions about a topic, doing research, and then discussing the results with the social worker. The purpose of the goal is to help [the Student] focus on something that interests [them], follow through on a commitment, and then discuss [their] progress with the social worker, all toward the ultimate purpose of recognizing and discussing [their] thoughts, feelings and perspectives, and identify ways to express empathy."

1. Progress data from May 1, 2025 indicated the Student had shown "slight improvement." It was noted the Student's "agreed-upon goal" with the Previous Social Worker was to perform an internet search on a subject chosen by the Student, "as a means of identifying and completing a goal, with the purposes being follow[-]through and stimulating [the Student's] curiosity and thought processes." The Student completed their search, kept notes and drawings in a notebook, and discussed the activities and thoughts with the Previous Social Worker.
2. Progress data from September 30, 2025 indicated the Student had shown "slight improvement." It was noted the Student had developed a personal goal regarding making school less stressful. The Student had identified "triggers" as loud noises, always being around the same classmates, and talkative people. Data collection sheet information showed "some recurring good days," though the Student still struggled with work completion and class participation.
3. Progress data from December 1, 2025 indicated the Student had "maintained performance." It was noted the Student had been "actively journaling" about how to make their school day "less stressful," and had shown interests in gaming and creating personal videos. It was also noted the Student had reportedly made "unkind" remarks in the classroom. However, "[The Student] has reported good days in class at times, which is why [they are] getting a maintained performance rating."
4. Progress data from February 18, 2026 indicated the Student had shown "slight improvement." It was noted, "[The Student] has reduced the amount teachers enter negative behavior points on [their] student data sheet. This indicates a reduction in negative reported behavior. Therefore, a success in [the Student's] reported personal goal."

g. All of the Student's listed accommodations were related to academic work in the general or special education classroom, such as frequent checks for understanding, preferential seating close to the teacher, repeated or restated directions, extended time, separate setting for tests, and having math tests read aloud. There were no behavior logs, school-to-home communication, or other behavior-specific accommodations listed.

h. Special education and related services: Social work services for 20 minutes, two days every week, from February 20, 2025 through February 19, 2026. No other behavior-related services were listed.

i. The Parent provided their signature on March 25, 2025 indicating they had received a copy of the IEP.

2. A screenshot of an August 11, 2025 email from the Previous General Education Teacher to an unidentified recipient included thumbnail images of attached screenshots of text messages and two emails. The email stated, "Here is what I have for conversations between [the Parent] and I [sic] regarding [the Student's] behavior." The Previous General Education Teacher said they believed the first text was sent on September 9, 2024, and they included a few other texts from "throughout the year." Additionally, the Previous General Education Teacher said it looked like the previous school "attempted" behavior logs after an incident on October 28, 2024. However, the Previous General Education Teacher noted, "This specific type of documentation did not end up being the best option because [the Student] was not wanting to take the clipboard with the behavior sheet with [them] to other classes and I became the only one filling out the log every class period and which [sic] became slightly redundant and did not fulfill the purpose of the behavior log like we had hoped it would. We continued to try to find ways to document behaviors that worked best for [the Student], [the Parent], and [the Student's] teachers." They mentioned the Parent had been "very responsive" to texts and messages, so the previous school ended up using that as a communication and incident documentation method.

3. On August 21, 2025, the Parent emailed the Principal and the Superintendent and thanked them "for the behavior log today."

4. On August 21, 2025, the Music Teacher emailed the Parent to provide an explanation in regard to a comment they made on the Student's behavior log that day.

5. The Principal emailed the Parent on August 26, 2025 and stated they were going to share the "ongoing digital documentation that is being logged by the teachers." They indicated this was so the Parent could "keep up daily" if they wished to do so.

6. According to therapy notes from the Social Worker, between August 25, 2025, and April 20, 2026, the Student participated in regular therapy sessions focused on journaling, self-advocacy, and social-emotional growth. During the initial months, the Social Worker established rapport through discussions about the Student's interest in gaming and soccer while identifying key environmental stressors, such as loud classroom noises, the competitive nature of P.E., and feeling singled out by the paraeducator in math class. The Student worked on communicating their needs, which led to the successful implementation of a math pull-out program that reduced the Student's academic stress. By late 2025, the Student showed notable behavioral progress, earning praise from the Principal and reporting fewer "bad days" on teacher data sheets. However, as the school year continued into early

2026, the focus of the sessions shifted toward more interpersonal issues. The Social Worker addressed recurring concerns regarding the Student's "honesty," "integrity," and "body language," specifically noting instances in which the Student misled staff or struggled to take responsibility for their actions. In the final months of the period, although the Student's general classroom behavior remained improved, the Student continued to work on developing empathy and understanding how their humor and behavior impacted their peers and family members.

7. A document, dated August 26, 2025, appeared to be notes from a meeting between the Parent, the Special Education Coordinator, and the Principal. The following relevant information was noted:
   a. "[The Principal] shared with [the Parent] the daily log that the school team is data tracking with." The Parent shared the Student was concerned about turning things in, and the Principal assured the Parent they had discussed that with the Student.
   b. The Parent shared their concerns regarding the Student's focus and the Student's relationship with their teachers.
   c. The Student seemed to "do better with subtle praise."
   d. The Parent shared that if anxious, the Student might say, "I am not listening, I am not doing that, [or] I don't care." The Parent shared the Student had been accessing outside support, which was discontinued, and was not taking any medications.
   e. The Parent's "biggest concern" was "bridging" the Student's understanding of their choices and behaviors and how those could affect their ability to succeed at the School.
   f. Moving forward, the Principal would share data collection with the Parent weekly.
8. A September 3, 2025 entry in the IEP Contact Log indicated the Special Education Coordinator had emailed the Behavior Specialist to "discuss and review" the Student's "[b]uilding plan to collect data and steps surrounding support."
9. Notes from an unidentified source, dated September 3, 2025, documented the following:
   a. On the morning of September 3, 2025, a meeting between the Parent, the Science Teacher, and the Principal "escalated" over allegations that a behavioral portion of the Student's IEP had not been implemented since the previous year. Following a report from the Superintendent that the Parent recorded the conversation, the Science Teacher was advised by an attorney to maintain separate documentation rather than contributing to shared digital records. In response, the School team engaged the Behavioral Specialist and the Social Worker to review the Student's IEP, support their goals, and communicate any needs to the School team. It was noted the Principal would ensure teachers continued to follow the IEP. To prevent further miscommunication, the team

decided to transition from a live data-tracking document to a weekly summary, resulting in the Parents being removed from the live document. The team felt there was "confusion being created and miscommunication occurring due to the current method." Later that day, the administration met with the paraprofessional staff to reinforce confidentiality protocols and instruct them to redirect all parental inquiries to the Principal or the Special Education Teacher.

10. On September 3, 2025, the Special Education Coordinator emailed the Parent and stated, "Based on this morning's meeting, the team has determined that we will alter the behavior data collection that we have been taking to better meet needs." They added, "You will still receive a weekly summary, as discussed, but the format will look differently [sic]. This weekly email will come from [the Principal]. The focus of the data collection will still be to support [the Student's] current IEP. This weekly summary will start next week. Please understand and allow the team this [sic] next couple of days to re-align the needs."

    a. On the same date, the Parent replied to the Special Education Coordinator's email and stated, "Please see the previously agreed upon IEP and other information regarding the behavior log. I do expect to have the data available from each of [the Student's] teachers as previously agreed upon, in order to track disaggregated trends of behavior throughout the day/week and various classes. A summary is not a behavior log and a summary does not contain the information needed to look at trends of behavior. As offered and agreed upon before, the log provides information that I do not believe we will get from the principal who will not be present in each of [the Student's] classes and who clearly does not want [the Student] in the school. If the goal is to look objectively at [the Student's] behavior - both positives and negatives - and when [the Student] is struggling the most, and when [the Student] is doing well also, a summary from the principal will not provide that information."

    b. On the same date, the Other Parent also replied to the Special Education Coordinator, saying, "Please continue using the current format for [the Student's] weekly logs, with each teacher submitting their individual, detailed reports separately. This format is preferred to preserve the integrity of the information without any summarization. Moving forward, I'd like to receive these logs weekly, and I'll review them to address any challenges [the Student] is facing and provide feedback or corrections as needed."

    c. Also on September 3, 2025, the Principal replied to the Other Parent only, saying, "I wanted to respond to you individually and sincerely apologize. This document started out as information for our staff alone. After a very successful meeting with [the Parent] last week we felt we were all on the same page regarding [the Student's] education and desire for success. We thought it would be helpful to share this information with [the Parent] daily so [the Parent] could better address situations quicker with [the Student]. [The Parent] then asked me to add you to the document. However, following a meeting today with [the

Parent] the document was quickly used against us with yelling towards myself and another staff member … this will not be tolerated. … You will be provided a weekly behavior document … it will just be in a different format. … Our team has moved forward and communicates on the daily on how to best serve [the Student] … and that will be the case throughout the year."

d. On the same date, the Other Parent replied to the Principal's email, saying, "As [the Other Parent] living out of state, I am finding it challenging to distinguish truth from misinformation due to the varied and conflicting details I've received about [the Student] from everyone. … If there are any issues affecting [the Student's] performance or behavior, I kindly request that you notify me promptly so I can address them. … Please feel free to share any relevant information or concerns about [the Student's] progress."

e. On September 4, 2025, the Principal replied to the Other Parent's email, saying, "I respect and agree completely. We will keep you informed."

11. On September 4, 2025, the Parent emailed unspecified individuals with the Special Education Coordinator listed as blind carbon-copied. The Parent formally requested an IEP meeting. They also stated, "I'm requesting a copy of all data and information used to determine [the Student's] goals. I am requesting a copy of the behavioral log from this year since [the Principal] removed access to that data." They also noted, "The attached version of [the Student's] IEP is what I am working from. Note, the behavior log is mentioned specifically in the document at least twice."

a. On the same date, the Special Education Teacher forwarded the Parent's email to the Principal and the Special Education Coordinator and said they were not sure how to proceed and asked for advice.

b. Also on the same date, the Special Education Coordinator replied to the Special Education Teacher's email, saying, "I will take care of it. We have 10 days to schedule a meeting with [the Parent]." They also mentioned they had called some attorneys to ask some questions and were meeting with the Director of Student Services. They concluded, "You do not have to respond back to this."

c. On September 4, 2025, the Special Education Coordinator replied to the Parent's email requesting records and an IEP meeting. They included copies of the Student's IEP, re-evaluation paperwork, including prior written notices (PWN)s, and a copy of the Parent Rights document. They also said they would work with the team to determine an IEP meeting date.

d. Later that same day, the Parent replied to the Special Education Coordinator, saying, "That is great, thank you." The Parent also mentioned including the Educational Advocate in their communication.

12. Notes from an unidentified source, dated September 5, 2025, documented the following:

a. The Special Education Coordinator and the Behavior Specialist met to refine the support strategies for the Student, emphasizing a shift from subjective narrative

documentation to quantitative, objective data collection. They planned to conduct classroom observations focusing on staff interactions and an interview with the Student to better understand their personal goals and mindset. A priority was established to move away from "enabling" behaviors and instead foster the Student's self-advocacy and responsibility, including teaching the Student socially appropriate coping strategies to manage frustration or the urge to avoid difficult tasks. Additionally, they discussed how staff questioning the Student about not turning in assignments was "counter-productive to establishing relationships," and suggested a need to find ways to offer flexibility in how staff approached the Student about assignments. The Special Education Coordinator and the Behavior Specialist also discussed offering the Student choices, movement breaks, and restated instructions. The goal was to identify specific, teachable skills that aligned with the Parent's expectations and the Student's social-emotional needs while using clear data to track progress over time.

13. On September 9, 2025, the Parent emailed the Superintendent, the Special Education Coordinator, the Special Education Teacher, and the Principal and said they and the Other Parent requested to continue "the logs" as they had already been started, but noted their "view-only" access to the virtual sheets "that were working so well" had been removed. The Parent also mentioned, "During a meeting with [the Principal] and [the Special Education Coordinator], [the Principal] previously asked that we contact [them] directly instead of [the Student's] teachers about [the Student's] education … ." The Parent ended their email with, "I am once again requesting that the behavior logs with disaggregated behavior data for each class be shared with [the Other Parent] and I [sic]."

14. A Notice of Special Education Meeting, dated September 10, 2025, indicated a meeting to discuss possible IEP changes was scheduled for September 23, 2025. It was noted this was a parent-requested meeting. The boxes were checked next to planning to attend the IEP meeting and consenting to waive the right to a 10-day PWN of the meeting. The notice was signed and dated by the Parent on September 11, 2025.

    a. A Team Meeting Record for Annual IEP dated September 23, 2025, included notes from a meeting involving the General Education Teacher, the Special Education Teacher, the Principal, the Special Education Coordinator (note-taker), the Other Parent, the Parent, and the Education Advocate. The following relevant information was noted:

        i. Data log: The team discussed transitioning from narrative data to quantitative data. The Parent and the Other Parent expressed a desire for timely involvement from the School to enable proactive conversations with the Student at home. Both Parents remained active in monitoring the Student's homework, grades, and interpersonal relationships, though the Parent specifically noted their primary concern was the Student's

disrespectful or disruptive behavior rather than the Student's academic performance. In response, the team discussed the Student's capabilities and existing supports to determine why they might be refusing tasks or failing to communicate their needs. The team discussed considering not following directions, disruptions, and not turning in assignments as "possible tracking needs." Additionally, the team wanted to consider positive interactions with staff and peers that were happening.

ii. Social-emotional discussion: The team discussed the Student's social work goal. The Student reportedly shared with the Social Worker that their stressors were "noise, math, same groups of people all the time, and needing to talk."

iii. IEP review: "IEP is in compliance, no changes were made." The team reviewed ideas of individual pull-out or separate setting when needed to help with focus, and discussed approaches to providing adult support, noting "less is more."

iv. Moving forward: It was noted, "Teachers will notify on issues that are related to: [D]isrespect, when [the Student] is completely shut down or if concerned with defiance." It was also noted, "[The Parent] has access to grade checks and the team is aware and value[s] grades, but determined that not turning in assignments and grades are a byproduct of the refusal, disrespect or shut down [sic] so that will be the focus of team efforts."

15. On September 18, 2025, the Parent emailed the Special Education Coordinator, the Special Education Teacher, the Superintendent, and the Principal. In their email, the Parent requested the Student's behavior logs. They said per their previous conversation, they wanted the "actual logs and not a summary." They also noted they had not received any updates in over two weeks. The Parent also wrote, "As it is written into [the Student's] IEP that we will receive them, we expect to have them so that we can discuss any concerns or successes with [the Student]."

a. On September 19, 2025, the Special Education Coordinator replied to the Parent's email, saying, "The previous email I had sent notified you that there would be a change to the data collection process. We are working on the implementation of a new approach to provide more accurate and efficient results for the Special Education team. The actual log you are referring to is no longer our focus. We are shifting from using narrative data to focusing on quantitative data. We have been collecting information this last week and a half from observations and interviews." They concluded by saying they could discuss the topic at the meeting the following week.

b. Also on September 19, 2025, the Parent replied to the Special Education Coordinator's email and stated, "I simply don't want to be in the same situation again at the beginning of the next school year where [the Student] is denied enrollment in the only school [they've] known since 3rd grade, when we moved here, for behavioral issues that we could have addressed and corrected had we

known at the actual time they occurred." They also emphasized the decision had been made without their "input, agreement, consideration, or consent" and confirmed their in-person attendance for the following week's meeting.

16. On September 22, 2025, the Behavior Specialist emailed the Math Teacher notes from an observation of the Student conducted on September 16, 2025. During the observation, the Student demonstrated a socially reserved but engaged presence, interacting appropriately with a peer, the paraprofessional, and the Math Teacher throughout the class period. The Student remained consistently on-task, following all directives with two or fewer prompts for the duration of the session. While the Student occasionally slouched or fidgeted for brief intervals to refocus using classroom math tools, their behavior remained productive and did not impede their work. Although the Student did not finish the full assignment, their progress was consistent with that of their peers, and they took the remaining work with them to complete. The Student showed positive affect and engagement during a flashcard activity, responding effectively to a calm, encouraging tone and a support model that provided them with personal space while keeping a paraprofessional in close but not direct proximity.
17. On October 6, 2025, the Parent emailed the Special Education Coordinator to check in regarding the Student's behavior and attitude. They wrote, "We haven't received any communication from teachers whatsoever, but [the Other Parent] and I do not want any surprises so we would still like the occasional update from you or [the Student's] teachers on this matter (in addition to the communication from [the Student's] teachers if [the Student] has any major issues or concerns). … We don't want to get to August of [2026] and have [the Student] denied enrollment there again for things we could be correcting and handling now … using as teacher [sic] moments and discussion points."
    a. On October 7, 2025, the Special Education Coordinator replied to the Parent's email and stated the Student had a "pretty good week." They noted math was the "biggest struggle" with "refusal." They also noted, "[The Student] continues to show us [their] capabilities and is beginning to allow for re-direction. We are really working with [them] on redirection or correction of work."
18. On November 3, 2025, the Parent emailed the Special Education Coordinator and stated, "Behaviorally, we have not had any updates in a while … we do not want to be caught off guard with anything and we wish to be as supportive as possible."
    a. On November 6, 2025, the Special Education Coordinator replied to the Parent's email, thanking them for their patience as they were out ill earlier in the week. They said they were continuing to work with the Student on "refusal," which looked like "stalling, distracting with conversation or just sitting." They said the behavior was not consistent in any single subject area so the School staff wanted to continue building a supportive relationship with the Student. They noted, "There have not been any major concerns that teachers would need to report on based on disrespect, full shut down, etc."

b. On November 10, 2025, the Parent replied to the Special Education Coordinator's email, saying, "Thank you for the information. We are so glad to hear that there haven't been any major disruptions or concerns from teachers regarding disrespect, etc. We would really like a copy of the current quantitative data you've been collecting on [the Student] in order to make future education decisions for [them]."

19. On November 19, 2025, the Principal emailed the Parent and the Other Parent with an update on the Student's behavior for that week. They said, "We are noticing more of the negative comments being expressed and shut down or just turning in unfinished work." The Principal then described the following comments made by the Student:

    a. Math class: The Student exhibited "complete shut down mode" from academic tasks, refusing to show their work or accept assistance. When staff attempted to help, the Student told them to "get away." The Student expressed to the Math Teacher that they were "going to fail anyway so why do the work or try." Upon hearing about a potential move to a different math class, the Student remarked, "Good, then I can't fail."

    b. Agriculture class: During a project on barn quilts, when asked about their plans for the finished project, the Student stated, "develop a flame thrower and burn it," concluding the interaction with, "ANYWAYS [emphasis in original] thank you for reading this."

    c. Family and Consumer Sciences class: The Student initially refused to participate in a cooking activity because of the required apron, claiming, "They are useless anyways." While the Student eventually joined the lesson, they refused to assist their group with cleaning, telling a peer, "So sad, cry about it," when confronted.

    d. Social Studies and English: The Student repeatedly ignored directives to avoid violent themes in their writing and refused to remove their hat or backpack in class. When asked to comply with classroom rules, the Student responded, "Oh my God, it's the end of the world! End of the world!"

    e. Response to Feedback: When addressed by the Social Worker regarding these behaviors, the Student dismissed the concerns as misunderstandings and claimed, "I was just joking and I don't see why people would see me as disrespectful." The Student also asserted, "Others don't know the real me."

    f. On the same date, the Parent replied to the Principal, thanking them for the update and noting it was "quite a shift" from the Special Education Coordinator's update on November 6, 2025. They also said, "I appreciate the detailed accounts so that we can address these specific issues and behaviors as well as try to understand the shift in [the Student's] attitude."

20. On December 3, 2025, the Special Education Teacher emailed the Parent to propose moving the Student from their general education math class to a resource classroom for an adapted curriculum during the third hour. Data and recent observations indicated that despite current accommodations, the Student

continued to struggle with key math concepts and skills. The Student expressed openness to this change, having already had positive working interactions with the Special Education Teacher. To move forward with this placement, the Special Education Teacher requested the Parent's approval and signature on an IEP amendment and a PWN.

a. On the same date, the Parent replied to the Special Education Teacher's email, stating they were "fine" with moving the Student to the resource classroom for an adapted math curriculum. They confirmed seeing the Student's math difficulties at home also. The Parent concluded their email stating they would like to review all written changes to the IEP before "signing off on those changes."

21. An IEP Amendment Form dated December 4, 2025, regarding the March 25, 2025 IEP, stated the LEA proposed to move the Student from the general education classroom with adult support to the special education classroom for direct instruction. The Student's "Study Skills math pull-out service" of 25 minutes, four days per week, would be discontinued. Instead, the Student would receive 50 minutes, four days per week, of "Agriculture Exploration" and 50 minutes of "pull-out instruction" for math in the special education classroom, four days per week. This change would occur on January 5, 2026.

a. It was marked "We agree to amend this Student's IEP as described above, and we do not wish to convene an IEP meeting." This statement was followed by the Parent's signature and dated December 9, 2025.

b. PWN documented this proposed change in placement based on a December 5, 2025 meeting. The box checked for this change in placement indicated that consent was not required, meaning it was not a substantial change. It was explained that the proposed change met the Student's needs in the least restrictive environment, the IEP goals had been updated to reflect current levels of performance, and accommodations would remain the same. Finally, it was written that the IEP team considered having the Student in their regular education environment all day. However, due to the Student's learning disability, they required [specially designed instruction] SDI outside of the general education classroom for math. It stated, "[The] Parent was in agreement to the proposed change." The PWN form was signed by the Parent on December 9, 2025, granting consent for the special education placement and services outlined in the notice.

22. A Notice of Special Education Meeting, dated January 12, 2026, indicated an annual IEP review meeting was scheduled for March 4, 2026. The notice was check-marked, "I plan to attend the IEP meeting for [the Student], at the mutually agreed upon date, time, and location provided to me via the Notice of Meeting." The notice was signed and dated by the Parent on January 14, 2026.

23. On January 22, 2026, the Parent emailed the Principal, the Superintendent, the Special Education Coordinator, and the Special Education Teacher and requested

an update on "any behavior concerns." They said they had not heard anything recently, so they wanted to check in.

a. On the same date, the Principal replied to the Parent's email, saying, "We haven't noticed any major behavior concerns with [the Student]." They said the Student came back from break with a "great attitude" and had been doing "pretty well."

b. On the same date, the Parent replied to the Principal's email, thanking them for the update. They also noted the Student had said things were "better," but the Parent wanted to "stay on top of things."

24. On February 10, 2026, the Parent emailed the Principal, the Special Education Teacher, and the Special Education Coordinator to request an update on the Student's "behavior and attitude." They said the Student told them "things have been going well," but the Parent wanted to make sure the Student was doing what they should be.

a. On February 11, 2026, the Principal replied to the Parent's email and said, "[The Student] is sharing with you correctly about [their] behavior and attitude and that things [are] going well."

25. An IEP, dated March 4, 2026, outlined the following relevant information for the Student:

a. The Parent provided their signature documenting their participation.

b. The discussion summary of the meeting did not mention behavior logs.

c. It was documented that the LEDM participated in the development of the IEP and was involved in placement decisions. Under the Parent Input section, it stated, "Parent agreed with the IEP as written."

d. Under the Social Emotional section, it was noted "yes" that the Student had needs in this area and required special education or related services. It was also noted "yes" that the Student's behavior impeded the learning of others or oneself.

i. Strengths in this section were noted as, "[The] Student has not had as many negative behaviors recorded on [their] data sheet assembled by [the School] staff. This indicates an improvement by [the Student]. According to [the Principal], [the Student] does not cheat or steal. Also, [the Student] is reported to have some honest tendencies."

ii. Social-emotional performance and needs were documented as follows: Throughout the 2025–26 school year, data collected by the School staff and reports from the Principal indicated the Student experienced a general decrease in behavioral incidents compared to previous years. While the Student showed overall improvement, they continued to exhibit "stubbornness" regarding school rules, such as footwear policies, which at times led to incomplete assignments and difficulties with peers. Observations noted the Student struggled specifically in their Family and Consumer Science Class. Frustration with sewing tasks often prompted the

Student to "act out," which presented a "distraction to any perceived weaknesses so as not to lose being accepted by other students." This pattern of behavior contributed to Strengths and Difficult Questionnaire (SDQ) data showing only three pro-social behaviors. Despite these interpersonal challenges, the Student demonstrated growth in self-advocacy and self-determination by requesting to reduce their therapy sessions to once a week to prioritize social time with their peers.

iii. Impact of exceptionality under the social-emotional section: Throughout the 2025–26 school year, the Student struggled to consistently complete work, and their distracting behaviors frequently created difficulties for teachers and peers. According to SDQ data and the Principal's reports, these behaviors caused a "medium" level of social friction and a "great deal" of academic concern. Specific classroom observations, such as an instance in their Agriculture class, noted the Student was easily distracted by their laptop and used avoidance tactics, such as claiming they could not find a pencil, before eventually returning to their tasks with peer prompting. While the Principal reported the Student's behavior had improved "lots" since the beginning of the year, SDQ data indicated fundamental character issues regarding honesty and follow-through persisted. Because these underlying challenges continued to impact the Student's academic and social success, the recommendation remained for the Student to continue meeting with the Social Worker twice weekly.

iv. Social-emotional goal: "Over the course of the IEP year, [the Student] will raise [their] pro-social behavior score from a 3 to a 10, by [March 4, 2027], on a social work assessment."

e. All of the Student's listed accommodations were related to academic work in the general or special education classroom, such as frequent checks for understanding, preferential seating close to the teacher, repeated or restated directions, extended time, separate setting for tests, and having math tests read aloud. There were no behavior logs or other behavior-specific accommodations listed.

f. Special education and related services: Social work services for 20 minutes, one day every week, from March 4, 2026 through March 3, 2027, to work on "pro-social behaviors that are hampering peer interactions." No other behavior-related services were listed.

26. PWN, based on the March 4, 2026 IEP meeting, indicated a change in services (consent not required) and other IEP changes not involving services or placement (consent not required). The notice documented what was listed in the IEP and was signed and dated by the Parent on March 4, 2026.

27. On April 6, 2026, the Parent emailed the Principal, the Special Education Teacher, the Special Education Coordinator, the Superintendent, and the Other Parent, to check on the Student's grades. They stated it had been "a month or more" since there were "updates to several of them … ." The Special Education Teacher emailed

the Parent on April 6, 2026 about a music paper the Student needed to turn in for class.

28. A screenshot of an email, which did not show the date or the original sender, appeared to be from the Parent, and included the following relevant information: "Thank you for the behavior log today." The sender asked if there was a way to "stretch" the cells in the table so they could accurately read all of the information without it being cut off. The sender also stated, "If we haven't already done a Functional Behavioral Assessment, I would like to do so. I didn't see results from one in my information, but I may have missed it because I have a lot of papers in the [the Student's] files right now. … Once we have that, I'd like a Behavioral [I]ntervention [P]lan put into place."

29. On April 28, 2026, the Director of Student Services emailed the Principal for clarification regarding behavior tracking sheets. They noted from what they could tell, the behavior tracking "was not a need in the IEP." They asked, "Is this a general education intervention?" They also asked for the documents to be shared with them.

    a. On the same date, the Principal replied to the Director of Student Services' email, saying, "We used them in the beginning to keep the communication open between the teachers as to what was happening in each class. Some classes we would see defiance, others we would see incomplete work, others refusal to bring supplies to class. We have communicated these behaviors we were seeing with [the Parent] for years and we received no support from home. … We used this documentation for a couple of months and then things leveled out and they were not needed so we stopped."

    b. The Director of Student Services asked the Principal to confirm the logs were from general education and not special education and the Principal stated that was correct.

    c. Also, on April 28, 2026, the Director of Student Services asked whether and how the behavior-tracking logs were shared with the Parent. The Principal replied that it was not shared with the Parent. They stated, "In the beginning when we had more issues it was [and] then it was used against us … sometimes up to 15 emails a day and coming in and yelling at teachers and myself and we had to ask [the Parent] to leave etc. [The Parent] had access about 2 [to] 3 weeks I would say. We then removed [the Parent] and used it just between teachers and saw behaviors decrease."

30. In an email to the Complaint Investigator, dated May 7, 2026, the Director of Student Services wrote, "This is the proposed data tracking sheet that was not completed after the behavioral observation." A blank "Interval Data Collection" sheet was included and had the Student's name. Three target behaviors were written (assignment turned in, disruption, and not following instructions) and two environmental items (positive peer interaction and positive staff interaction).

31. In an email to the Director of Student Services, dated May 8, 2026, the Social Worker wrote, "[The Student] behavior sheet was put together by [the School] staff, and I utilized it for progress monitoring. Communication occurred between [the Principal] and [the Parent] … . The data sheet is a [virtual] sheet collected by [the School] teachers. This is something I utilized for progress monitoring. Behavior points were how many times teachers put something negative in about [the Student]. I was given access to [it] at the beginning of the school year."
32. An email, dated May 11, 2026, from the Special Education Coordinator contained the following relevant information:
    a. Regarding the March 25, 2025 IEP, they said, "The Team Meeting Record is an area to record conversation that happens within the meeting. It is not always that the follow up occurs within the IEP or creates changes within the IEP, it is documentation of the group discussion." The Special Education Coordinator stated a behavior log could be considered for either data collection or a communication tool to determine interventions, but it was not identified as an accommodation because it did not change how the Student accessed instruction, participated in class, or accessed testing or assessments.
    b. The Special Education Coordinator indicated the behavior log from the beginning of the 2025-26 school year was used to support the Parent's concerns about the Student's behavior and if there was a need to track it throughout the day as the Student transitioned to having multiple teachers. They explained the behavior log started using narrative data, and the School team moved to quantitative data and anything "to connect if we needed to continue or move forward finding information that would have warranted further involvement on the special education side." They stated the Behavior Specialist completed an observation of the Student on September 16, 2025 which confirmed the behaviors being discussed did not warrant further involvement on the special education side or from the IEP team, as it was within the realm of general education interventions and general classroom expectations.
    c. The Special Education Coordinator was not aware of how often the Parent was sent a summary of the Student's behavior data because "it was a general education intervention and not related to IEP needs."
    d. When asked why the behavior data collection was not included in the IEP, the Special Education Coordinator said, "The data collection was not documented because we were within the IEP as dated 3/25 and any changes necessary would have been either amended … or a new IEP developed … ." They added, "… if there was not changes being made to criteria within the IEP then the concerns are addressed and/or resolved outside of the IEP. Additionally, General Education Interventions, General Education Data Collection and Discipline are not documented within the IEP until behavior reaches a point in which the team

feels additional service minutes are needed … . [The Student] did not meet any of that criteria."

e. The Special Education Coordinator stated they only responded if the Parent had a question regarding the IEP, and they were unable to answer parental requests on daily communication or behaviors within the general education classroom or with the general education teachers. They said, "I did not have any requests from [the Special Education Teacher] for any further information, documentation or intervention support. … Special Education did not create the behavior logs that the General Education teachers and [the Parent] had been discussing and sharing for some time."

f. The Special Education Coordinator did not believe the Parent communicating with the Principal impacted the Parent's ability to participate in the IEP. They indicated the special education staff still had access to communicate with the Parents as needed. They stated the Parents requested IEP meetings, which were held, and the Parents attended meetings and signed all documentation. They said, "I believe this is referring to the General Education side of [the Parent] sending numerous emails daily to multiple teachers and having [the Parent] contact [the Principal] for a more timely response in regards to daily behavior, grades, etc. … ."

g. The Special Education Coordinator indicated the Student's pull-out math instruction began on January 5, 2026. They explained their understanding was the Special Education Teacher and a general education teacher were discussing difficulties the Student was facing, and then there was another discussion to complete some interventions and a "trial" of the Student receiving "pull out" services to progress monitor and determine the Student's success, willingness, and cooperation in a different setting. They indicated with the success of the trial, the Parents were approached for approval to amend the IEP and change the Student's services.

h. The Special Education Coordinator said, "The student data sheet referred to, I believe, was the General Education tool and conversations. [The Social Worker] would have asked for any teacher input to help determine further needs."

33. Seven of the Student's teachers responded to a survey regarding the behavior log and communication with the Parent. The responses indicated:

a. 7 out of 7 of the teachers were aware of a behavior log for the Student during the time period of April 17, 2025 through April 16, 2026. 6 out of 7 indicated they entered data regularly during that time period and 1 out of 7 indicated they were aware of the behavior log but did not use it.

b. One respondent stated they entered information when the Student had a "great" or an "off" day, but had not used the behavior log during the 2025-26 school year. 6 out of 7 respondents stated they entered narrative descriptions into the behavior log, including social/peer interaction notes and academic updates. 2 out of 7 respondents indicated they entered information only after

behavior incidents, 2 out of 7 entered information daily, 2 out of 7 entered information weekly, and 1 out of 7 input information 2-3 times per week.

c. 5 out of 7 respondents indicated they perceived the behavior log was a general education intervention available to all students, 1 out of 7 was unsure, and 1 out of 7 thought it was a special education intervention required by the IEP.

d. 7 out of 7 respondents indicated they were not aware of a directive for the Parent to only communicate with the Principal about the Student's education. None of the respondents felt their communication with the Parent was negatively impacted. Additional comments from the respondents included: "I was not given a directive and was encouraged to communicate with [the Parent] as I wished," "Communication with [the Parent] never ceased," and "I have always communicated with [the Parent] with any concerns."

e. Relevant additional comments included:

   i. The English Teacher wrote, "I entered data regularly from August-November 202[5]. I was not aware of documentation prior to August 202[5], as this is my first year employed here. Many of my documented comments are positive, rather than 'incidents.' I have communicated with [the Parent] multiple times this year, beginning in August - via email, parent-teacher conferences (in person), and [the Student's] annual IEP meeting (in person). [The Parent] and I have had a positive relationship."

   ii. The Science Teacher said, "I contributed to the documentation from August to September 3, 2025."

   iii. The Previous General Education Teacher said, "I had [the Student] in my class for the 24-25 school year, so I have not had to fill out any sort of behavior log this current 25-26 school year. We tried a couple of variations of behavior logs during my time as [their] teacher. April of 2025-May 2025 was the time period I had [the Student] in my class that fits the time frame of this investigation. At this point, we were updating [the Parent] by email if we had any behavior issues or concerns and documented if there were the instances [sic] and conversations."

   iv. The Agriculture Teacher wrote, "I responded in the document from Aug[ust] 2025 to September 2025."

34. Relevant information from a Behavior Tracker dated August 18, 2025 through March 31, 2026 included:

a. Each week contained data for Monday through Thursday; no Fridays were included.

b. On each day of the week, the Student had 10 classes. There would be a total of 40 cells available to comment in for each school week.

c. The tracker included positive and negative narrative data about the Student and their behavior.

d. Week of August 18, 2025: 29 of 40 cells contained narrative data.

e. Week of August 25, 2025: 25 of 40 cells contained narrative data.
f. Week of September 1, 2025: 21 of 40 cells contained narrative data. There was no school on September 1, 2025.
g. Week of September 8, 2025: 15 of 40 cells contained narrative data.
h. Week of September 15, 2025: 18 of 40 cells contained narrative data.
i. Week of September 22, 2025: 22 of 40 cells contained narrative data.
j. Week of September 29, 2025: 19 of 40 cells contained narrative data.
k. Week of October 6, 2025: 19 of 40 cells contained narrative data.
l. Week of October 13, 2025: 13 of 40 cells contained narrative data.
m. Week of October 20, 2025: 12 of 40 cells contained narrative data.
n. Week of October 27, 2025: 13 of 40 cells contained narrative data.
    i. Week of November 3, 2025: 4 of 40 cells contained narrative data.
o. Week of November 10, 2025: 9 of 40 cells contained narrative data.
p. Week of November 17, 2025: 14 of 40 cells contained narrative data.
q. Week of November 24, 2025: 1 of 40 cells contained narrative data. There was no school on November 26 and 27, 2025.
r. Week of December 1, 2025: 3 of 40 cells contained narrative data.
s. Weeks of December 8 and 15, 2025: 0 of 40 cells contained narrative data. There was no school December 22, 2025 through January 2, 2026.
t. Week of January 5, 2026: 2 of 40 cells contained narrative data.
u. Weeks of January 12 and 19, 2026: 0 of 40 cells contained narrative data.
v. Week of February 2, 2026: 3 of 40 cells contained narrative data.
w. Weeks of February 9, 16, and 23, 2026: 0 of 40 cells contained narrative data.
x. Week of March 2, 2026: 3 of 40 cells contained narrative data.
y. Week of March 9, 2026: 0 of 40 cells contained narrative data. There was no school March 16-19, 2026.
z. Weeks of March 23 and 30, 2026: 0 of 40 cells contained narrative data.
aa. In their interview, the Parent recognized this document as the behavior log which was started in the 2025-26 school year.

35. Relevant information from a timeline of events written by the Parent included:
    a. The Parent stated the behavior log was utilized by them and the Other Parent for about 2 to 3 weeks.
    b. In regard to a meeting on August 26, 2025 with the Principal and the Science Teacher, the Parent wrote, "I mentioned that they had not been implementing the behavior log in [the Student's] IEP, and [the Principal] stated several times that it is NOT [emphasis added in original] in [the Student's] IEP. Within days of this heated meeting, the behavior log … was taken away, despite both [the Other Parent] and I insisting that it stay in place. We were told we would get weekly

reports from [the Principal] instead of [the Student's] classroom teachers, and they [sic] would be a summary of how the week had gone. This did not occur except for when we repeatedly asked for updates."

Parent Interview

36. During an interview with the Complaint Investigator, the Parent stated when they signed the March 25, 2025 IEP, it was their understanding the Student's teachers would use a behavior log in the form of a virtual document they could access, and the Parent would receive regular updates from that document. The Parent perceived the Student's behaviors were to be documented in the behavior log so the Parent could review and address them with the Student.
37. During the interview, the Parent referenced two pages from the March 25, 2025 IEP. They explained the Student's Previous Special Education Teacher and Previous General Education Teacher expressed concerns and the team decided a weekly behavior log would be sent home to keep track of the Student's behavior within a virtual drive so the Parent could access it. The Parent stated they were told by the IEP team the virtual form would be sent home every Thursday. The Parent said, "This is what I believed to be a part of [the Student's] IEP and what we agreed on and what I signed … . They were going to set it up in [a virtual drive] so that we could all see it. We all had the same information. And as I followed up on that, it never happened. … It was my understanding though, as of March 25th of 2025 … because that was listed twice in the documentation and agreed upon in the documentation that that's what they would be doing and that [the Other Parent] and I would be receiving that … ."
38. The Parent stated they did not receive weekly emails from the Principal regarding the Student's behaviors, and that the Principal might have sent "one, maybe two" emails. The Parent indicated they had to send emails multiple times between September 2025 and the present time to ask for grade updates and behavior concerns and perceived they were "lucky to even get a response from anyone." The Parent explained the Student's teachers completed the behavior log for the first two weeks of the 2025-26 school year.
39. According to the Parent, during a meeting on August 26, 2025, the Parent shared the School had not been implementing the Student's behavior log they believed was part of the IEP. They indicated the Principal "argued back" that the behavior log was not in the IEP and the School "don't [sic] have to do that." The Parent shared that about a week later was when the behavior log went away. They referenced an email from the Special Education Coordinator in which they were told the Principal would send the Parent a weekly report instead. The Parent indicated they requested the behavior log remain in place.
40. When asked how the weekly summaries were different from the behavior log, the Parent indicated it was suggested the Student's teachers send any concerns, problems, or issues to the Principal, who would summarize it and send the Parent a

brief summary. The Parent shared they received "maybe one or two" summaries at "the very beginning." They indicated since then, they requested information several times and "maybe got them, but most of the time didn't get any response whatsoever." The Parent did not recall how detailed the summaries were, and said, "I was satisfied with what was in them. I'm not satisfied with the fact that we only got maybe two of them all year and that I have requested them along with any other data and haven't even gotten any response, let alone the logs or summaries."

41. The Parent stated they were asked to communicate with the Principal about the Student's education after the August 26, 2025 meeting and an email on September 3, 2025 regarding the new weekly summaries. The Parent perceived this was because they had contacted the Student's teachers previously to gather information when there had been "major" behavior issues. They indicated the Principal would take the Parent's concerns to the teachers and then respond to the Parent. When asked how that changed their access to the Student's educational information, the Parent said, "I just feel like I am completely removed. … I noticed I wasn't getting responses. So I started slowly occasionally reaching out directly to [the Special Education Teacher]. … I can look up [the Student's] grades in a portal and see if [the Student] is missing something, but that's about it."
42. In regard to the behavior log, the Parent perceived the School removed a support they initially suggested and did not implement. The Parent said, "The removal of the behavior log without [the Other Parent's] consent or my consent impacted our ability to communicate with [the Student] about [their] education, what was going on in the classroom, grades, assignments, behaviors, all of the above. And we specifically requested to leave it in and were denied that."
43. The Parent expressed confusion about the "disconnect" of what was in the Student's March 25, 2025 IEP and what should have been implemented. The Parent perceived the behavior log was the support for the behavior issues the IEP team suggested and everyone agreed to.

Principal Interview

44. During an interview with the Complaint Investigator, the Principal recalled the Student was given a "trial" of pull-out math services around December 1, 2025. The Principal stated this "trial" was communicated to the Parent through an email and a phone call from the Special Education Teacher. The Principal explained they discussed the Student's struggles in math and the Parent agreed to the trial period and then for the "full-time pullout."
45. Regarding the behavior log, the Principal said, "That behavior log in March of 2025, so that was being kept by [the Student's] regular ed[ucation] teacher who was communicating those type [sic] of things when [the Student] would have issues. And so when we started this school year, because we would see some of those defiance issues, then we kept it between all of us teachers as a thing just so that we could see if [the Student] was having a bad day, where [they] [were] struggling … .

And so we used them and then as time went on and [the Student] got settled in school … it became less and less … . The Principal did not know why the Parent perceived the behavior log as a special education intervention.

46. The Principal said of the behavior log, "We were receiving upwards of 15 emails a day from [the Parent] for various people and we weren't able to keep up with it. And so later … it was asked to communicate through me … because those teachers are like, we can't even respond fast enough before [the Parent] has sent another email. And so I asked [the Parent] to go through me and then I could relay it to the teachers, then they could respond in a timely manner … ."

47. The Principal stated the intent of the behavior log was to keep the Parent informed and reduce the number of emails the teachers would have to send to the Parent, who they perceived as "ask[ing] about all the different classes." The Principal perceived the Parent started "nitpicking" things from the behavior log and it was no longer beneficial. The Principal said, "As our discussion was, if we remove [the Parent], we were going to see if that helped to improve [the Student's] behavior where [the Parent] wouldn't know every single thing about every part of [the Student's] day. And so that's why we did that." The Principal explained the behavior log sheet from the 2025-26 school year was to be shared between the teachers and the Parent was added to it because they were concerned about the Student's behaviors. They reiterated the Parent was removed from it once the Parent was questioning what the teachers were doing and it was not focused on the Student's behaviors anymore.

48. The Principal stated the Parent had access to the behavior log sheet for a brief time in September 2025 and could access it every day during that time because it was a live document. The Principal indicated the behavior log was not discontinued and sometimes the teachers would occasionally add information to it. They stated the School "track[ed] all kinds of students, not just [the Student]."

49. The Principal indicated whenever a behavior happened, they would send a notification to the Parent. The Principal stated that after September 10, 2025, the Student had minor issues such as "not wanting to work," not having a pencil, or not completing their planner, but not major issues related to being disrespectful.

50. The Principal explained the behavior log from the start of 2025-26 school year was a virtual sheet that the teachers would input any "major incidents" from a particular day. The Principal stated the Parent wanted the School staff to look for when the Student had a refusal or denial. The Principal indicated the staff kept tally marks on those incidents and the Parent would receive those at the end of the week. The Principal recalled the Parent did not like the change and wanted to return to the original behavior log. The Principal stated they were the person who started sending the weekly summaries to the Parent.

51. When asked about the weekly summaries, the Principal explained they would send how many times a behavior happened related to the three behaviors the Parent wanted the School staff to log. They indicated the Parent did not agree with the

process. The Principal did not recall how many times they sent the Parent a weekly summary after September 3, 2025. The Principal said, "… for a while we did it weekly or we would just say there were no issues this week or whatever it might be. … usually we would try to send them every Thursday if not the Monday following."

52. The Principal recalled the change from the behavior log to weekly summaries happened around September 15, 2025 and there was a meeting about it on September 23, 2025. The Principal explained they asked the Parent what they wanted School staff to focus on with the Student, and the Parent indicated they were more concerned about the Student's behaviors. The Principal stated they told the Parent time was needed to put the new form together and provide it to the Student's teachers.

53. The Principal said, "[The Student's] IEP only focuses on math and [their] social work time … . And so that's why I say when they're wanting this log of all these behaviors and it doesn't relate to [the Student's] IEP. … There's no behavior that goes to [their] IEP."

54. During the interview, the Director of Student Services added that part of the Special Education Coordinator's duties were communicating with parents.

55. The Principal indicated the Student's teachers could not keep up with the Parent's emails, so the Principal would refer something to the teachers if necessary, then the teachers would speak with the Principal, and the Principal would communicate that information to the Parent. The Principal said, "I don't think it changed any access. We can't notify parents of every little thing that goes on. … we let [the Parent] know a couple of times if [the Student] was missing assignments or whatever, [the Parent] was not interested in that. [The Parent] was more interested in the behavior … . And so if it was behavior that we would notify any other parent about, then we notified [the Parent] about that. If it's little things that we feel like that we can take care of in the classroom, that's what we did. If it was a repetitive thing that became an issue, then we would let [the Parent] know about that." They added, "If [the Parent] had stuff pertaining to the math or whatever, which was with [the Student's] IEP, [the Special Education Teacher] is also in constant contact with [the Parent] about [the Student's] math thing individually. And so it was more about the things that [the Parent] was asking about behavior-wise in the classroom, not pertaining to the math part."

Special Education Teacher Interview

56. During an interview with the Complaint Investigator, the Special Education Teacher stated the 2025-26 school year was their first time working with the Student. They were responsible for writing the Student's IEP and for overseeing the services and accommodations within it.

57. The Special Education Teacher explained they and the Student's general education teachers observed the Student having some behaviors in the general education classrooms, so they created an informal tracking chart to document their

observations. They indicated as the year progressed, the behaviors and documentation decreased. They said of the Student's behaviors, "… maybe refusal to … turn in an assignment or something like that, but nothing that escalated to a higher degree … ." They added, "… as the year progressed, really maybe after three months or so, behaviors decreased, teachers were forming really pretty solid relationships with [the Student] and really there were no concerns … ." The Special Education Teacher stated the information in the behavior log was not shared with the Parents, and it was mostly for the teachers and staff. They indicated since the Student's behaviors had decreased, and that they were minor behaviors such as seeking attention, there was nothing to do with the information.

58. The Special Education Teacher stated the behavior log was used as a general education tool.

59. The Special Education Teacher stated they were responsible for completing the Student's progress reports. They indicated the Social Worker provided the progress data and notes for the Student's social-emotional goal. They stated there was no data sheet the staff followed for that goal. When asked if the 2025-26 behavior tracking sheet was used to inform the Student's progress on their social-emotional goal as described in the progress report, the Special Education Teacher said, "Yeah. I mean, that's just what we were using to document how [the Student] was acting in class." They believed the term "behavior points" meant "… just recording our documentation on that points [sic] of behavior."

60. The Special Education Teacher stated they did not use data from the behavior log to inform the Student's special education support.

61. The Special Education Teacher shared the Parent never asked them for the behavior log or data, and was not aware of the Parent asking anyone else for that information.

62. The Special Education Teacher said, "In the beginning [the Parent] was communicating with the teachers fully, but I believe at one point the communication between [the Parent] and teachers had been overwhelming, I think for some of the teachers … . I think there was a point where [the Principal] may have said, 'Hey, we're going to stop that kind of communication … just go through me.' It was far too much for the teachers to withstand." They believed it was early in the 2025-26 school year when teachers were getting overwhelmed with "constant emails." The Special Education Teacher indicated their communication with the Parent was reasonable and they had no communication issues with them.

63. The Special Education Teacher stated they "fully and freely" communicated with the Parent and saw no impact on that from the Principal's directive for the Parent to communicate through them.

64. The Special Education Teacher observed no indication of changes being made to the Student's IEP without the Parent's consent.

65. The Special Education Teacher explained they spoke with the Student's general education math teacher and learned the Student was struggling, so around

December 2025 they thought they would pull the Student out into the resource room for one-on-one work. They stated when they decided to try the pull-out, they completed an amendment for the change, which the Parent signed. They indicated they did not completely pull the Student out until they had the IEP amendment.

Director of Student Services Interview

66. During an interview with the Complaint Investigator, the Director of Student Services stated the Special Education Coordinator had access to the Parent, and any IEP decisions were communicated to the Parent. They indicated the IEP team had some "wiggle room" in implementing or trying something, and they perceived there was communication with the Parent. They indicated the change in the Student's math services was not a substantial change and did not require parental consent, but the IEP team still received consent from the Parent. They believed that in regard to the Student's special education services, the IEP team did what they said they would do and communicated it to the Parent. They said, "I think the social emotional concern that is in the IEP is being addressed within that specialty design [sic] instruction with [the Social Worker], but that is not the same thing that the communication from classroom teachers was about because that communication was more of grades."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #390, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP, specifically their behavior log accommodation. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323(a)(d).

According to K.A.R. 91-40-16(a)(b) and 34 CFR § 300.323(a)(d), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency shall ensure that the following conditions are met: An IEP is in effect before special education and related services are provided to an exceptional child; those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown; an IEP is in effect for each exceptional child at the beginning of each school year; and the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider must be informed of their specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged the LEA failed to follow the Student's IEP by not completing a weekly behavior log.

The LEA stated they consistently provided the Student's mandated accommodations. They indicated a behavior log was not a specified special education accommodation, but the LEA used it as a general education data collection tool to monitor performance, satisfy present-level reporting, and maintain communication with the Parents.

According to Beer ex rel. A.B. v. USD 512 Shawnee Mission (2023), "School districts incur liability when 'a material failure to implement an IEP violates the IDEA.'" (citing Van Duyn v. Baker Sch. Dist. 5J, (9th Cir. 2007)). Additionally, E.C. by W.C. and K.C. v. U.S.D. 385 Andover (2020) states, "'[T]o prevail on a claim under the IDEA, a party challenging the implementation of an IEP must show more than a de minimis failure to implement all elements of that IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP.' ... Without further guidance from the Tenth Circuit on this standard, the Court proceeds with its analysis under the prevailing "materiality" standard from its sister circuits ... ." (citing Houston Indep. Sch. Dist. v. Bobby R ., (5th Cir. 2000)).

In this case, the evidence showed the Parent believed the behavior log was part of the Student's IEP because it was recorded in the March 25, 2025 IEP Team Meeting Notes. According to interviews from the Principal, the Special Education Coordinator, and the Special Education Teacher, in addition to survey data from the Student's teachers, the behavior log was not part of the IEP, but rather was a general education intervention and internal document. Additionally, the use of a behavior log was not included as a service, support, or an accommodation in the March 25, 2025 or March 4, 2026 IEPs. The Special Education Coordinator explained a behavior log could be considered for either data collection or a communication tool to determine interventions, but was not identified as an accommodation because it did not change how the Student accessed instruction, participated in class, or accessed testing or assessments.

There was clear evidence a behavior log was discussed and intended by the team, and its inclusion as part of the Team Meeting Notes in the IEP led to the Parent's confusion about the role it played in the Student's education. However, it was never part of the IEP as a service or an accommodation. The evidence did not indicate there was a failure, material or otherwise, to implement the Student's IEP.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to implement the Student's IEP, specifically their behavior log accommodation.

Issue Two

Whether USD #390, in accordance with state and federal regulations implementing the IDEA, ensured the Parent was offered the opportunity to meaningfully participate in the Student's education when they were asked to speak only with the

Principal. Further, whether the LEA provided the Parent with behavior data when requested. K.A.R. 91-40-25(b), K.A.R. 91-40-509(a); 34 CFR §§ 300.322(a)(c), 300.501(a)(b)(c), 300.613.

According to K.A.R. 91-40-25(b) and 34 CFR § 300.322(a)(c), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each meeting concerning their child or are afforded the opportunity to participate. These steps shall include the following: scheduling the meeting at a mutually agreed-upon time and place and informing the parents of the information specified in subsection (c) of this regulation; and providing prior written notice of any meeting, in accordance with subsection (c) of this regulation, to the parents of the child. If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls.

According to K.A.R. 91-40-50(a), as used in this regulation, the following terms shall have the meanings specified in this subsection: "Destruction" means physically destroying the medium on which information is recorded or removing all personal identifiers from the information so that no one can be identified; "education records" means any document or medium on which information directly related to one or more students is maintained by a participating agency in accordance with K.S.A. 72-6214 and amendments thereto; and "participating agency" means any educational agency or institution that collects, maintains, or uses personally identifiable student information to provide special education and related services to children with disabilities.

According to 34 CFR § 300.501(a)(b)(c), the parents of a child with a disability must be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child and the provision of a FAPE to the child. The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a FAPE to the child. Each public agency must provide notice to ensure that parents of children with disabilities have the opportunity to participate in meetings. A meeting does not include informal or unscheduled conversations involving public agency personnel, nor does it include conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting does not include preparatory activities that public agency personnel engage in to develop a proposal, or a response to a parent proposal, that will be discussed at a later meeting. Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child. If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls or video conferencing. A placement decision may be made by a group without the involvement of a

parent if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement.

According to 34 CFR § 300.613, each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing or resolution session, and in no case more than 45 days after the request has been made. The right to inspect and review education records under this section includes the right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; the right to request the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and the right to have a representative of the parent inspect and review the records. An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

The Parent alleged the LEA limited the Parent's ability to communicate with the Student's teachers directly, allowing them to speak only with the Principal. The Parent also requested behavior logs and did not receive this information.

The LEA stated the Parents were provided meaningful opportunities to participate in the Student's education. The LEA indicated while the Parents were requested to funnel communications through the Principal, this did not preclude their involvement in the decision-making process or access to the Student's records. The LEA stated they provided general education intervention data as requested.

Parent Participation

In Forest Grove School District v. Student, (D. Or. 2018), the Court concluded a communication protocol to route communication through a single person at the school did not "seriously infringe" on the parents' opportunity to participate in their child's education.

In this case, the evidence showed School staff believed the Parent was directed to communicate with the Principal due to the Parent sending an "overwhelming" amount of emails to the Student's teachers. However, School staff also perceived this change did not negatively impact the Parent's ability to participate in the Student's education. The evidence demonstrated the Parent had access to the Student's grades, attended and participated in IEP meetings, and received copies of the Student's IEP paperwork and accompanying documents from the Special Education Coordinator in September 2025.

Documentation showed the Parent reached out to request behavior updates more often than this information was provided by the School. However, it was also shown that School staff

responded when contacted. While the Parent stated they felt removed from the Student's education, there was not sufficient evidence to demonstrate this. The facts indicated the Principal would send weekly behavior summaries to the Parent, but the evidence did not support that this occurred weekly or regularly, including the Parent's and the Principal's testimony. The evidence demonstrated the Principal sent a detailed weekly summary one time during the 2025-26 school year, but the lack of summaries could have been because there were no other occasions to email the Parent about the behaviors the School team agreed to report on. The Principal also stated they reported behaviors they would share with any parent, but not situations they felt were taken care of in the classroom. However, this could not be determined conclusively from the facts. There was insufficient evidence to support that a lack of weekly summaries or a directive to speak only with the Principal negatively impacted the Parent's ability to participate in the Student's education.

Access to Behavior Data

The behavior log met the criteria for an "education record" as described in state and federal law. The information in the behavior log was collected and maintained by School staff, and was later referenced in the Student's progress data related to their social-emotional IEP goal. In this case, on September 3, 2025, the LEA removed the Parents' access to the live behavior log document. The evidence showed the Parent requested to view the behavior log on September 9 and 18, 2025, and on November 10, 2025, requested to view a copy of the quantitative data School staff were gathering. The evidence showed the School responded to the Parent with email updates on five occasions, but the facts did not show the Parent received the behavior logs after their access was removed.

The behavior log was used to inform the Student's social-emotional goal, as evidenced by the February 18, 2026 progress report data, the March 4, 2026 IEP, and written statements from the Social Worker and the Special Education Coordinator; therefore, it was an educational record to which the Parent should have had access. While less data was added to the behavior log as the 2025-26 school year progressed, there continued to be some usage by the Student's teachers, as shown in the evidence and in the Principal's interview. While the behavior log showed a decrease in entries, there were still entries as late into the school year as March 2, 2026, which the Parent should have had been provided as part of the Student's educational records.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure the Parents were offered the opportunity to meaningfully participate in the Student's education when they were asked to speak only with the Principal. ***It is substantiated*** that the LEA failed to provide the Parent with behavior data when requested.

Issue Three

Whether USD #390, in accordance with state and federal regulations implementing the IDEA, made reasonable attempts to obtain informed consent from the Parents when they made changes to the Student's IEP. K.A.R. 91-40-27(a)(3)(g), K.A.R. 91-40-17(e), K.A.R. 91-40-1(l)(mm)(sss), K.S.A. 72-3430(b)(6); 34 CFR §§ 300.9, 300.300(d)(2).

According to K.A.R. 91-40-27(a)(3)(g), except as otherwise provided in this regulation, each agency shall obtain parental consent before making a material change in services to, or a substantial change in the placement of, an exceptional child, unless the change is made under the provisions of K.A.R. 91-40-33 through 91-40-38 or is based upon the child's graduation from high school or exceeding the age of eligibility for special education services.

According to K.A.R. 91-40-17(e), an agency may conduct an IEP team meeting without parental participation if the agency, despite repeated attempts, has been unable to contact the parent or parents or to convince them that they should participate. If an agency conducts an IEP team meeting without parental participation, the agency shall have a record of the attempts that the agency made to contact the parents to provide them notice of the meeting and to secure their participation. The record shall include at least two of the following: detailed records of telephone calls made or attempted, including the date, time, and person making the calls and the results of the calls; detailed records of visits made to the parent's home, including the date, time, and person making the visit and the results of the visit; copies of correspondence sent to each parent and any responses received; and detailed records of any other method attempted to contact the parents and the results of that attempt.

According to K.A.R. 91-40-1(l) and 34 CFR § 300.9, consent means that all of the following conditions are met: a parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication; and a parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records, if any, that will be released and to whom. A parent understands the following: the granting of consent is voluntary on the part of the parent and may be revoked at any time; if the parent revokes consent, the revocation is not retroactive and does not negate an action that has occurred after the consent was given and before the consent was revoked; and the parent may revoke consent in writing for the continued provision of a particular service or placement only if the child's IEP team certifies in writing that the child does not need the particular service or placement for which consent is being revoked in order to receive a free appropriate public education.

According to K.A.R. 91-40-1(mm), material change in service means an increase or decrease of 25 percent or more of the duration or frequency of a special education service, related service, or supplementary aid or service specified on the IEP of an exceptional child.

According to K.A.R. 91-40-1(sss), a substantial change in placement means the movement of an exceptional child, for more than 25 percent of the child's school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

According to K.S.A. 72-3430(b)(6), the parents of exceptional children shall have the right to consent, or refuse to consent, to the evaluation, reevaluation or the initial placement of their child and to any substantial change in placement of, or a material change in services for, their child, unless a change in placement of their child is ordered pursuant to the provisions of K.S.A. 72-3433, and amendments thereto, or the agency can demonstrate that it has taken reasonable measures to obtain parental consent to a change in placement or services, and the child's parent has failed to respond. If the parent fails to respond to the request for parental consent to a substantial change in placement or a material change in services, the agency must maintain detailed records of written and verbal contacts with the parent and the response, if any, received from the parent.

According to 34 CFR § 300.300(d)(2), a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with a FAPE.

The Parent alleged the LEA made "changes to processes" in the Student's IEP without parental consent.

The LEA stated they made reasonable and documented efforts to obtain informed consent from the Parents regarding changes to the Student's IEP. They explained frequent school-home communication ensured the Parents remained informed of the Student's progress. The LEA stated the Parents were active participants in the decision-making process prior to any changes to the Student's special education or general education program.

The evidence showed the LEA obtained the Parent's consent when they made changes to the Student's IEP, such as on December 3, 2025, when the Parent consented to moving the Student to a resource classroom for an adapted math curriculum. This change was documented in a December 4, 2025 IEP amendment form and PWN, both signed by the Parent on December 9, 2025.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to make reasonable attempts to obtain informed consent from the Parents when they made changes to the Student's IEP.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulation K.A.R. 91-40-50(a) defines what an education record is, 34 CFR § 300.501(a)(b)(c) states the parents of a child with a disability must be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child and the provision of a FAPE to the child, and 34 CFR § 300.613 states each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency.

In this case, the evidence supports the finding that USD #390 did not provide the Parent with behavior data when requested.

Based on the foregoing, USD #390 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #390 shall provide the Parent with a complete, unredacted (except where legally required) copy of all requested education records. The LEA must submit a signed statement from the school administrator or a tracking receipt confirming the Parent has received the records. All administrative and special education staff at USD #390 must complete a training session on K.A.R. 91-40-50(a), and 34 CFR §§ 300.501(a)(b)(c), 300.613.
2. Submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the IDEA at K.A.R. 91-40-50(a), and 34 CFR §§ 300.501(a)(b)(c), 300.613 by completing the aforementioned tasks and training.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #458, BASEHOR-LINWOOD PUBLIC SCHOOLS
ON APRIL 16, 2026

DATE OF REPORT: MAY 22, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #458 (Basehor-Linwood Public Schools) on behalf of ------ by his mother, -------. In the remainder of the report, ------- will be referred to as " the student" and ------- as "the parent" or "the complainant." Subsequent to the complaint the parent secured an educational advocate, -------. In the remainder of the complaint ------- shall be referred to as "the educational advocate."

The complaint is against USD #458 (Basehor-Linwood Public Schools). In the remainder of the report, USD #458 will be referred to as "the Local Education Agency" or "LEA". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." In this case the Tonganoxie/Basehor-Linwood Special Education Cooperative serves the Basehor-Linwood Public School District. Local Education Agency staff will be referred to In the remainder of this report as follows:

- Chris Cullinan, Director of Special Education
- Melanie French, Special Education Assistant Director
- Kim Srubas, School Nurse
- Sara Henninger, Teacher
- Rebecca Romain, Principal
- Tiffany Lynch, Substitute Principal
- Cassie Cochran, IEP Case Manager
- Pierce Allen, Library Aide and Family Nanny

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on April 16, 2026.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent and the educational advocate. The investigator talked with the mother by phone on April 20 and April 22, 2026. The investigator interviewed the mother and educational advocate on May 11, 2026. Emails were exchanged among the mother, educational advocate and investigator on April 22, 23, 24, 28, May 4, 5, 13, 14, and 15, 2026. An interview was conducted with the Director of Special Education, Principal, and Special Education Assistant Director on May 21, 2026. Emails were exchanged between the Director of Special Education and investigator on May 2, 7, 14, and 19.

While additional documentation was provided in consideration of this investigation and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. August 12, 2025 letter from Gastroenterology Department
2. October 24, 2025 Communication by mother with District Nurse via Superintendent
3. Initial Individualized Education Program (IEP) dated November 3, 2025
4. Individualized Nursing Care Plan dated November 3, 2025
5. Medication Administration Record: Physician's Order/Ostomy Bag Change Record dated between January 18, 2026 and April 20, 2026
6. Meeting Notes dated November 6, 2026
7. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent (PWN) dated November 12, 2026
8. Draft IEP dated April 8, 2026
9. Draft Health Care Plan dated April 8, 2025
10. PWN dated April 8, 2026, parent consent not provided
11. May 1, 2026 letter from Director of Comprehensive Colorectal Center
12. The Delegation of Specific Nursing Tasks in the School Setting for Kansas (see K.A.R. 60-15-101 through 104) table (see https://ksbn.kansas.gov/wp-content/uploads/2020/07/Delegation.pdf) Developed by the Kansas State Board of Nursing (KSBN) and the Kansas School Nurse Organization (KSNO). Approved by the KSBN Practice Committee on September 15, 2009. REVISED March 21, 2023.

Emails:

1. Email from mother to school nurse dated August 12, 2025 at 9:48 a.m.
2. Email from mother to school nurse dated August 12, 2025 at 9:50 a.m.
3. Email from mother to school nurse dated August 12, 2025 at 11:45 a.m.

4. Email exchange between LEA staff and mother dated January 23, 2026 between 9:20 a.m. and 4:28 p.m.
5. Email from principal to mother dated April 21, 2026 at 4:38 p.m.
6. Email exchange between the mother and kindergarten teacher dated December 9, 2025 at 6:45 p.m. and 7:54 p.m.
7. Email from school nurse to parent dated January 16, 2026 at 12:43 p.m.
8. Email exchange among the principal, parent, dated between April 3, 2026 at 4:30 p.m. and April 7, 2026 at 4:18 p.m.
9. Handwritten note by LEA staff and family nanny dated April 27, 2025 (but actually 2026

Background Information

The student is a kindergarten aged six year old who was initially identified as eligible for special education and related services under the category of developmental disability. The student additionally has health issues that necessitate an individualized nursing care plan. The student was new to the district during the 2025-26 school year. In anticipation of enrollment the parent contacted the LEA on June 24, 2025 of the student having medical needs and that special education services were needed. When enrollment documents were dropped off they included a statement of the student needing nursing supports and requested a meeting to share information and answer questions. Supplies were then dropped off at the beginning of school and each item was explained and opportunities to learn about the care and supplies were provided. The LEA received a copy of the GI orders outlining dietary restrictions and needs which were provided to food services and the student's teacher. It was agreed that the LEA's library aid that serves as the family's nanny during summers would assist with the student's medical needs to assist with the transition while the student was being evaluated for special education and related services. During this time, no incidents were reports while the LEA followed the parent's recommendations for ostomy care. Additionally, the student's teacher interacted with the mother frequently about the student ostomy monitoring, heat tolerance, and dietary requirements. On October 1, 2025, the superintendent met with the parent documenting ostomy care and expectations, discussing the role of the school nurse. On November 6, 2026, the student's IEP developed and IEP and Individualized Nursing Care Plan that were implemented following the parent's consent for the student to receive services. The IEP contained five goals and six accommodations. The student received 20 minutes of speech and language service outside of the general classroom two days every week and 30 minutes of special education outside of the general classroom five days every week. The Individualized Nursing Care Plan addressed food size and allowance for family-provided snacks and access to additional supplemental formula. It also addressed four situations to maintain a functioning stoma/ACE site at school.

Issues Investigated

Issue One

Did the LEA follow state and federal regulations of the Individuals with Disabilities Education Act (IDEA) when implementing the student's IEP, specifically the Individualized Nursing Care Plan during the 2025-2026 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

K.A.R.91-40-1. Definitions. (fff) "School health services" means health services that are specified in the IEP of a child with a disability and that are provided by a school nurse or other qualified person. (ggg) "School nurse services" means nursing services that are provided by a qualified nurse in accordance with the child's IEP.

From page 110 of the Kansas Special Education Process Handbook, "school health services are to be specified on the IEP of a child with a disability and are provided by a school nurse or other qualified person (K.A.R. 91-40-1(fff). School nurse services are services provided by a qualified school nurse (K.A.R. 91-40-1(ggg). School health services and school nurse services are related services, which must be provided whenever needed to assist a child with a disability to benefit from special education (K.A.R. 91-40-1(ccc); 34 C.F.R. 300.34(a))."

"Health services that may be performed by persons who are not physicians (nurses or other qualified persons) are related services which must be provided by the school when needed to assist a child with a disability to benefit from special education." "The Kansas Nurse Practice Act addresses the need for appropriate supervision and training for personnel providing services such as medication administration. Some procedures may not be delegated to personnel other than a nurse under any circumstances. For additional information, please consult the Kansas Nurse Practice Act Statutes & Administrative Regulations, https://www.ksbn.org/npa/npa.pdf."

Parent Position

The parent alleged the LEA was notified prior to the start of the school year that the student was moving into the district and provided documents showing the nursing supports the student would need. Throughout the year the LEA has not implemented them, putting the student at an elevated health risk and making the student's transition to this new school

uncomfortable. Despite offering training to the school nurse, another LEA employee who is also employed by the family as a nanny has had to step in and provide direct medical care and provide training to the nurse. Despite all of these incidents the LEA continues to fail to implement the nursing plan.

Local Education Agency Position

The Local Education Agency responded that school staff met with the parent at the beginning of the school year to make sure school staff were prepared to safely meet the student's medical needs prior to the student being eligible for special education services. At that time they received the doctor order from the GI clinic regarding dietary needs and restrictions which was shared with food services and the student's classroom teacher. The student was evaluated for special education and found eligible on November 3, 2025 and an initial IEP including an Individualized Nursing Care Plan written and discussed during a meeting on November 6, 2025. The parent signed consent for the student's initial IEP on November 12, 2025. The LEA asserts that they have implemented the IEP as written during the school year using appropriately licensed and trained staff as needed. Following an incident on April 3, 2026 the IEP team met and revised the IEP to add more extensive oversight and checking by a nurse, however the parent did not sign consent for a material change in services so the initial IEP remains the IEP of record.

Analysis: Findings of Fact

1. The Initial IEP dated November 3, 2025 following the IEP team's determination that the student would qualify for special education and related services under the eligibility category of developmental disabilities was discussed at a meeting on November 6, 2025 according to the meeting notes. The Health section of the Present Levels of Academic Achievement and Functional Performance refers to the Clinic notes dated June 30, 2025 documenting: 1) Colostomy (Constipation - partial sigmoid resection MACE and colostomy) - see health plan; 2) Cerebral palsy; 3) Genetic susceptibility to malignant hyperthermia due to RYR1 (ryanodine receptor gene mutation positive; 4) Obstructive Sleep Apnea; 5) Fatigue; 6) Short Stature; 7) Hypotonia; 8) Pes Planus; 9) Trivial aortic root dilation with clockwise rotated aortic root (no cardiac specific restrictions); 10) Family reported that he showing signs of Autism to doctor on 6/30/25. Family indicated they are following up with neurologist for evaluation. Medications are listed but reported as given at home or as needed. Finally, it is listed that "Mom reported the following food restrictions: broccoli, apple skins, limited grape skins. Mom and the team report that [student] is aware of these restrictions." The question, "Does the student require Individual Nursing Care Plan?" Is checked "Yes". The IEP includes five academic/language goals. The services are for special education and speech. No Support for School Personnel are listed. Six accommodations are listed to assist in the Student's classroom academic participation.

2. The Nursing Plan dated November 3, 2025 records it was prepared by the school nurse. It lists the Medical Diagnosis/Symptoms as "Constipation s/p partial sigmoid resection MACE and colostomy" The Prescribed Treatment and Medication is from the local hospital's clinical documentation report dated May 19, 2025. It states that the family is currently flushing colostomy with 200mL water and 20mL glycerin at home each day. The June 30, 2025 hospital Pulmonology Clinic Notes report that the student chokes/coughs when eating and is at risk for aspiration. The August 12, 2025 hospital's Gastrointestinal Clinic orders include: 1. Bits of food should be dime-nickel in size 2. Allow snacks during the day per parents discretion 3. Allow the student to drink supplemental formula at school per parents schedule request. The Nursing Goal and Plan contained in the plan states that the student will maintain a functioning stoma/ACE site at school. The following plan is described.
    - If Mini-Ace (Antegrade Continence Enema) becomes dislodged or is accidentally removed the opening may bleed
        1. Immediately take student to nurse
        2. Cover area with gauze or bandage
        3. Call mother, (mother has requested that we do not call 911)
        4. Call father if mom is unable to answer
    - If Colostomy bag were to leak or rupture:
        1. Escort student to the nurse bathroom to clean up
        2. Replace external bag
    - If the mesh tape on body is rolled down: *check the mesh tape if student is holding abdomen or flicking pants at the waist and add the extended barrier bandage over the mesh
    - If the mesh tape on his body is disturbed to the point that the wax ring is visible
        1. Call mother
        2. Call father if mom is unable to answer

    Comments include Colostomy care supply bag kept at school; the mother will notify the school when changes to care are updated; the mother will ask for doctor's order for on or around November 17, 2025 during doctor appointment for 1. specific doctors order for changing bag, placing of extended barrier bandage, stoma prolapse care, and coloring/blistering of stoma; 2. size of food to be provided, food restrictions; and 3. restrictions due to fatigue or overheating. No concerns were identified regarding fatigue or overheating in the complaint.

3. The meeting notes from the November 6, 2025 IEP meeting show discussions about the draft health plan prepared by the school nurse. It is recorded that the students mother stated there will be more health updates. The draft Individualized Nursing Care Plan was reviewed for the processes that are followed due to the colostomy. Edits were made to the nursing/health plan based on the mother's clarification for the student's

health needs. It is recorded that the health/nursing plan was updated to include the following: 1) if the external parts of the bag comes off or leaks/ruptures, the nurse will replace the external pieces, but if more internal parts or mesh sticker applicator portion completely comes off and the wax ring underneath is compromised the mother or father should be called. 2) Should the mesh start to roll up (not fully removed), there is an extended barrier in the nurse's office that can be put on to prevent it from coming off completely. 3) The student has an ostomy backpack in the nurses office and if the student is "playing with" the pants (flicking) or grabbing at the abdomen, it should be checked. 4) Follow doctor's order for nickel size food due to previous issues with swallowing, checking the color of the stoma, skin condition, blisters around area of stoma, condition of ostomy bag and parts. 5.) The student's mother is getting doctor's order should the student experience a prolapse, as has occurred previously. It is recorded that there will be a doctor's order to put sugar on it to make the prolapse go back in. 6) The student is not allowed to have broccoli, apple skin, minimal grapes cut in a specific size (long ways two times). The student knows that broccoli and apples are not permissible when getting hot lunch. Everything in the student's home lunch will be acceptable food. Though the student is doing well with larger pieces of food (sandwiches cut into 4 pieces), the student's mother would like to keep the nickel size pieces until she gets new orders from doctors.7) Finally, the student carries spare clothes in the backpack.

4. The PWN dated November 12, 2025 records the decisions made during the November 6, 2025 evaluation and initial IEP meeting to include the service minutes for special education, speech and accommodations. Consent was signed by the mother on November 17, 2025.
5. The LEA stated that the doctor's order for the ostomy care was provided to the LEA on December 18, 2025 and updated orders were received on May 1, 2026.
6. The Ostomy bag change record (recorded on the Medication Administration Record/MAR form) documents that the school nurse recorded that the colostomy bag was sent to the nurse by the teacher on January 12, 16, 27, 30, February 10, 18, March 22, April 1, 6, 8, and 20 to check on the bag. It indicates that the bag needed to be changed on February 18, 2026. The LEA reported that during the 2025-2026 school year the ostomy bag needed to be changed December 17, 2025 and January 16, 2026. The LEA stated that the MAR document did not lend itself to providing the information that was sought by the parent so the LEA created a document titled, Bag Checker, to provide more detail about the ostomy bag. It was implemented on April 20, 2026.
7. The mother notified the kindergarten teacher in an email on December 9, 2025 that "...[student's] ostomy bag was only attached at the bottom. I told [student] needs to tell you when it starts to come off." The teacher responded, "Thank you for reminding [student] to let me know right away. I didn't notice [student] holding it or rubbing it today, so I'm sorry I missed that it was coming loose. [Student] had a sub in PE this afternoon, and I let [sub] know to make sure [student] didn't overdo it. It's possible that

might have been when it loosened. I'll keep that in mind for future days when there's a sub in PE."

8. An email from the school nurse to the parent on January 16, 2026 documents that the student's ostomy bag was starting to come off and the school nurse requested the LEA staff that was the family nanny to "show me exactly how to remove the adhesive as the last time the bag was completely off and I did not remove any adhesive."
9. The LEA staff who also serves as the family nanny provided a written statement detailing that the school nurse asked for assistance in how to best clean out the ostomy bag in mid fall of the 2025-2026 school year and then right before the winter break sought out this staff person to ask how to apply the adhesive to the ostomy bag as it was becoming dislodged. As the staff was starting to demonstrate re-adhering the bag the staff noticed that the bag was almost completely detached and needed a full bag change. The staff person noted that the nurse had to step out during the change to attend to another student's needs.
10. The email on January 23, 2026 records that the parent emailed school staff requesting a meeting after concerns with implementation emerged with the student getting access to an apple on January 13, 2026 and eating part of it before it was noticed and the student's sister stepping in to guide the student to the classroom and assist with food choices. The substitute principal responded and a meeting was scheduled and confirmed.
11. The principal emailed the parent on April 3, 2026 that a designated staff person will check the adhesiveness and security of the student's ostomy bag prior to and immediately following recess, physical education, and any activity involving increased physical movement following The April 3, 2026 incident. The parent responded on April 5, 2026 as follows:

    Due to recent events of coming home twice in a row of [student's] bag detached mesh and bag, the second day covered is dried fecal matter on [student's] body, clothes, and zero protection against [student's] stoma. There needs to be immediate action for training against this type of medical neglect as there has been ample discussions, opportunities, teachings, acknowledgment of abilities within their care and resources set up to ensure proper care and support for [student] is available and there is zero excuses for the condition our [student] came home in on Friday, the 3rd. This also is in complete violation of [student's] medical care supports in [student's] IEP. [Student] will receive individualized nursing support for ostomy care throughout the school day to maintain health, safety, and dignity. [Student] is unable to independently recognize or communicate ostomy care needs at this time, requiring staff-initiated and proactive monitoring. A trained staff member or school nurse will complete ostomy checks upon arrival to school, before and after recess, before and after physical education, and prior to dismissal. Additional checks will be completed as needed based on activity level or observable signs such as discomfort, odor, leakage, or changes in behavior. Staff will

assess the adhesiveness, seal integrity, and fullness of the ostomy pouch during each check. Assistance with emptying or changing the appliance will be provided in a private, sanitary setting as needed. Ostomy care supplies will be maintained in a designated, accessible location at school. Staff will monitor for signs of skin irritation, breakdown, or complications and will promptly report concerns to the school nurse and communication with be given to us as the parents.

12. An IEP team meeting was held on April 8, 2026 to revise the IEP and Individualized Nursing Care Plan following the April 3, 2026 incident to avoid a recurrence. The PWN dated April 8, 2026 documented that the parent did not sign consent to update the student's IEP and Individualized Nursing Care Plan.
13. The principal notified the mother in an email on April 21, 2026 that another school employee who also served as the family's nanny will serve as a back up to the LEA's CNA when that person was not present. The email acknowledges that this staff person is not serving in a CNA role but working under the direction and oversight of a "licensed RN, in alignment with district guidelines and applicable regulations."
14. The Delegation of Specific Nursing Tasks in the School Setting for Kansas provides guidance as follows: "The following table is to be used to determine to whom Specialized Caretaking tasks or procedures may be delegated. Only the Registered Professional Nurse (RN) responsible for the student's nursing care may determine which nursing tasks may be delegated to an Unlicensed Assistive Person (UAP). The RN or the Licensed Practical Nurse (LPN) shall supervise all nursing tasks delegated in accordance with the criteria listed in KAR 60-15-101 through104. ...Basic Caretaking tasks (including bathing, dressing, grooming, routine dental, hair and skin care, preparation of food for an oral feeding, exercise – [excluding OT and PT], toileting and diapering, hand washing, transferring, and ambulation) may be performed by a UAP without delegation."
15. The Delegation of Specific Nursing Tasks in the School Setting for Kansas documents Ostomy care and care of skin with damaged integrity as requiring a provider order. In regard to following the provider order is an allowed scope of practice task for a Registered Nurse (RN); a supervised scope of practice task for a Licensed Practical Nurse (LPN) and a delegated task with RN or LPN supervision. Care of skin with potential for damage does not require a provider order and is an allowed scope of practice task for a Registered Nurse (RN); a supervised scope of practice task for a Licensed Practical Nurse (LPN) and a delegated task with RN or LPN supervision.

Conclusion

The implementation of the IEP including the Individualized Nursing Care Plan is based on the date that special education services were initiated, November 12, 2025. The IEP dated November 3, 2025 is the only IEP in effect during the 2025-26 school year. While an update was proposed at an April 28, 2026 IEP the change was a material change in service and the parent did not sign consent so the initial IEP and Individualized Nursing Care Plan remained in

effect for the school year. In this case the IEP indicated that the student had an Individualized Nursing Care Plan that would be a part of the student's special education services. The IEP did not include nursing services, accommodations or specialized training in the Support for School Personnel section.

Dietary. The Individualized Nursing Care Plan addresses size of food, allowing snacks and supplemental formula as guided by parent request and the complaint does not address these as issues. It does not address dietary restrictions. The November 3, 2025 IEP meeting notes however document that the dietary restrictions as indicated in a food list were to be added to the Health Plan, but that change was not made. The Individualized Nursing Care Plan specifies that the LEA ensure the school is following doctor's feeding orders. The classroom teacher and parent indicated that they talked in the morning and the classroom teacher electronically communicated regarding the size of food, snacks and supplemental formula.

Ostomy/Stoma Care. In regard to the Ostomy/Stoma care the goal on the Individualized Nursing Care Plan was listed as maintaining a functioning stoma/ACE site at school. The plan does indicate the role of the nurse when dislodged, accidentally removed, bag leakage or ruptured or if the mesh tape is rolled down to the point the wax ring is visible. On December 18, 2025, the LEA received the doctor's order for the ostomy/stoma care allowing the LEA to begin to implement the nurse responsibilities since according to the Kansas Nurse Practice Act Statutes & Administrative Regulations.

When dislodged or accidentally removed the nurse is to cover area with gauze or bandage and contact the parents. The Individualized Nursing Care Plan specifies that the LEA note dislodgment or accidental removal of MiniACE button and contact the family.

When the bag leaks or ruptures the nurse is to replace the bag. The Individualized Nursing Care Plan specifies that the LEA note the leakage or rupture of bag and contact the family.

If the mesh tape is rolled down an extended barrier bandage is to be added over the mesh. If the mesh tape is rolled down to the point the wax ring is visible the parents are to be contacted. The Individualized Nursing Care Plan specifies that the LEA note the condition of mesh tape and wax ring and contact the family.

The Individualized Nursing Care Plan specifies that the LEA note condition of visual discomfort (holding his abdomen or flicking his pants at the waist), changes in color/texture of stoma and changes in amount of stool in bag/bowel characteristics and contact the family.

The LEA collected information on the Medication Administration Record (MAR) for the majority of the school year. The LEA stated that the classroom teacher set a timer to monitor the ostomy bag throughout the day and sent the student to the nurse's office when it was suspected that the nurse needed to examine the ostomy bag or stoma to determine if the procedures outlined on the Individualized Nursing Care Plan needed to be followed. The MAR recorded the number of times the student was sent to the Nurse and an anecdotal note

indicated when the bag was changed. The LEA stated to the investigator that that the bag was changed three times during the school year at school. The lack of documentation in recording the procedures and notification demonstrates that the Individualized Nursing Care Plan was not implemented as written.

Finally, nursing service minutes or specified training were not written into the student's IEP so the LEA is not obligated to provide those per IDEA or Kansas special education regulations. The Individualized Nursing Care Plan did not specify training, regular checks on the adherence of the ostomy bag, nursing services to check on the bag, or menu items for the student.

Based on the foregoing, the LEA is found OUT of compliance for implementing the IEP, specifically the Individualized Nursing Care Plan and corrective action is ordered.

Summary of Conclusions/Corrective Action

ISSUE ONE: A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) was found. Corrective action is required as follows.

1. The LEA shall provide to SETS assurances that it shall follow 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) in regard to Individualized Nursing Care Plans within two weeks of the completion of this investigation.
2. The LEA shall revise the IEP/Individualized Nursing Care Plan to add the dietary restrictions as determined by the food list. The revised IEP/Individualized Nursing Care Plan will be provided to SETS no later than August 1, 2026 for approval to be ready to use at the start of the 2026-27 school year.
3. The LEA shall prepare a tracking sheet and call log for the school nurse to collect the necessary information contained in the Individualized Nursing Care Plan related to 1) if mini-ACE becomes dislodged or accidently removed; 2) if colostomy bag leaks or ruptures; 3) if mesh tape rolls down; and 4) if mesh tape is disturbed to the point that the wax ring is visible. This tracking sheet and call log will be provided to SETS no later than August 1, 2026 for approval to be ready to use at the start of the 2026-27 school year.
4. The LEA shall meet with all staff persons who will provide educational, nursing, dietary, or health services to the student during the 2026-27 school year to list 1) which tasks from the IEP/Individualized Nursing Care Plan can only be performed the school nurse; 2) the medical/health tasks that can be delegated to school staff following training; and 3) which health/medical tasks need to be monitored and what are the indicators of when the student should be sent to the school nurse. This meeting will occur prior to the student returning to school for the 2026-27 school year. The lists will be compiled and provided to all staff persons attending the meeting and in the student's file. A copy of the document created along with the staff and roles of who attended the training shall be provided to SETS within one week of the meeting. The document will be reviewed by the school nurse at the semester and revised as needed. A copy of the revised document shall be provided to SETS by the end of January 2027

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #314
ON APRIL 17, 2026

DATE OF REPORT: JUNE 3, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #314 Brewster Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #314.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on April 17, 2026, and the 30-day timeline ended on May 17, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #314, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), obtained prior parental consent before personally identifiable information was shared with the other parent. K.A.R. 91-40-50(a), K.S.A. 72-6311(b); 34 CFR §§ 300.622, 99.3.

ISSUE TWO: Whether USD #314, in accordance with state and federal regulations implementing the IDEA, ensured special education and related services were provided to the Student when the Student experienced seizures. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323(a)(d).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on May 13, 2026. The Administrator, the Interrelated Teacher, and the Nurse were interviewed on May 13, 2026. The Occupational Therapist provided written responses to interview questions.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Message Exchange, 01/29/[26]-04/02/[26]
2. Supplemental Evidence, no date
3. Evidence Cover Sheet and Master Timeline, 04/23/16
4. Table of Contents, no date
5. DRAFT Individualized Education Plan, 09/03/25
6. Notice of Special Education Meeting, 04/28/26
7. Progress Report, 2025-26 School Year
8. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 09/03/25
9. Attendance Overview, 2025-26 School Year
10. Hospital Evaluation, 04/02/26
11. Timeline Documentation, 03/02/[26]-03/31/[26]
12. Medication Log, 01/21/26-04/29/26
13. Hallway Conversation Documentation, 04/14/26
14. Occupational Therapy Service Logs, 08/20/25-05/06/26
15. Speech Language Pathology Service Logs, 09/07/25-05/11/26
16. Evaluation/Eligibility Team Report, 05/13/26
17. Emails from March 5, 2026 through May 5, 2026

Background Information

This Investigation involved an eighth-grade student enrolled at a K-12 school in USD #314. The Student is currently receiving special education or related services as a child with an Other Health Impairment per the IDEA.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

Issue 1 Findings

1. In a screenshot of an April 14, 2026 text message to the Parent, the Student stated, "After you dropped me off at the [S]chool [Parent 2] came and in the hallway I heard [them] and the [Administrator] talking about what you did calling state and what state is doing about it and [the Administrator] said their [sic] just pushing it to the side and not going to do anything." In a timeline of events created by the Parent, the April 14, 2026 entry described what the Student "overheard" as the Administrator "dismissively discussing my formal state complaint, claiming the state is 'pushing it to the side' and 'not going to do anything.'"
2. The Administrator's notes regarding the April 14, 2026 hallway conversation with Parent 2 included:
    a. Location: The Administrator and Parent 2 "paused by the stairwell downstairs near the cafeteria" at approximately 1:00 p.m.
    b. Context: "I had been in contact with [Parent 2], being the primary caregiver, on days when [the Parent] would pull the kids from sports practice because it was [the Parent's] scheduled day with them, but the kids were missing out on school activities. I told [Parent 2] that a grievance was filed by [the Parent] with the school. I didn't go into detail about anything more as I had just received, the day prior, a certified letter from [the Parent] to the school with [the Parent's] claims of violating parental and student rights. I did state that I wasn't sure how the state would rule on the matter, but that the claims were exaggerated or false so they likely won't do anything."
    c. Additional context: The Administrator believed they spoke with Parent 2 about the Student using their phone to communicate with the Parent during school, which was a violation of school policy.
    d. The Administrator noted they spoke with Parent 2 for approximately four minutes and described interactions with other students around that time.
    e. the Student: The Administrator wrote, "[the Student] was observed in the upstairs hallway at that time and paused for about 5 seconds by the stairs. [the Student] knew I was talking with [Parent 2], but was not present long enough to hear the conversation. [the Student] was not a direct witness to the conversation. [the Student] spent time in the restroom and returned directly to class after [Parent 2] and I had already left."

Issue 2 Findings

1. A signed draft Individualized Education Plan (IEP), dated September 3, 2025, included:
    a. Parent/Legal Educational Decision Maker (LEDM) Concerns: Physical therapy (PT), occupational therapy (OT), and programming.
    b. Transition services.
    c. Goals in the areas of communication, OT, reading, and math.

d. Accommodations, modifications, supportive aids, and supports for school personnel.

e. Special Education and Related Services starting on September 3, 2025 and ending on September 2, 2026:

i. OT, as a direct service in the resource room, bi-weekly (handwritten) for 20 minutes.

ii. Pull-out instruction for math skills interventions in the resource room, daily for 15 minutes (handwritten).

iii. Inclusion support for core subjects in the general education classroom, daily for 240 minutes.

iv. Pull-out speech/language therapy in the speech/language room, once per week for 20 minutes.

v. Assistive technology services at school, once per semester for 20 minutes.

vi. Adapted Physical Education (APE)- Bowling at the bowling alley, once per month for 60 minutes.

vii. Transportation to/from bowling in a school vehicle, once per month, from the time it takes to get to and from the bowling activity.

viii. Signatures from the Parent and Parent 2 were included.

ix. Prior Written Notice (PWN) documented the information noted in the aforementioned IEP. The Parent and Parent 2 provided consent for the special education placement and services actions listed, via a checked box and signatures, on September 3, 2025.

3. The Student's attendance data from the Attendance Overview revealed:

a. From August 18 through October 10, 2025:

i. 33 school days = 264 instructional periods (8 periods per day).

1. 16 period absences = 94% attendance.

b. From October 13 through December 5, 2025:

i. 32 school days = 256 instructional periods.

1. 16 period absences = 94% attendance.

c. From December 8, 2025 through January 30, 2026:

i. 24 school days = 192 instructional periods.

1. 27 period absences = 86% attendance.

d. From February 2 through March 27, 2026:

i. 29 school days = 232 instructional periods.

1. 82 period absences = 65% attendance.

e. From March 30 through April 17, 2026:

i. 11 school days = 88 instructional periods.

1. 38 period absences = 57% attendance.

4. A Progress Report documented the Student's progress toward meeting their IEP goals:
   a. Communication: October 2025, "Slight Improvement"; December 2025, "Slight Improvement"; March 2026, "Maintained Performance."
   b. OT: October 2025, "Maintained Performance"; December 2025, "Moderate Improvement"; March 2026, "Maintained Performance."
   c. Reading: October 2025, "Slight Improvement"; December 2025, "Maintained Performance"; March 2026, "Slight Regression." Note: "Lately the computer is causing [the Student] to have episodes, so [the Student] isn't using [assistive technology] AT as much as normal. Much of [the Student's] work is being read aloud to [the Student] by a human reader to reduce the light stimulation … ."
   d. Math: October 2025, "Maintained Performance"; December 2025, "Slight Improvement"; March 2026, "Slight Regression"; Note: "[The Student] has been struggling more lately with [their] math problems. [The Student] struggles to recall basic facts and process information due to [their] episodes. When [the Student] is on, [the Student] is on, but more often than not lately, [the Student] has struggled to be in class and to participate. AT technology has been limited as to not bring about more episodes … ."
5. In a screenshot of a January 29, 2026 text message to the Superintendent, the Parent requested to be added as the Student's "primary parent to call … not just [Parent 2,] for all notifications and copies of all disciplinary reports." The Parent provided their email address and phone number. The Superintendent replied, confirming the Parent was added to receive "coach notifications," the phone number was correct in the Student Information System, and the email address was updated. On May 4, 2026, the Parent emailed the Complaint Investigator explaining these screenshots were proof that the School's "failure to call me during [the Student's] medical crisis wasn't a 'clerical error'- it was willful exclusion of a primary legal guardian."
6. From March 2, 2026 to March 25, 2026, notes taken by the Interrelated Teacher and the Paraeducator documented the Student's symptoms: headaches, motor impairment (dragging the right leg, stumbling), slurred speech, facial swelling, and episodes of non-responsiveness/staring spells. Additionally, the Student spent more time resting in the resource room due to pain and exhaustion.
7. A medication distribution log documented that from March 4, 2026 to April 16, 2026, the Student was provided Tylenol or Ibuprofen on six occasions for headaches.
8. On March 5, 2026, the Interrelated Teacher emailed LEA staff regarding the Student's health and said, "I've been working closely with [Parent 2] to try to make connections and figure out what is going on. We think [the Student] may be having

blank stare seizures at this time. I think a trigger may be our new LED lights. [The Student] comes to school okay, but shortly after being here and sitting under the lights, [the Student] starts getting a headache. Even with pain meds, it doesn't improve." The Interrelated Teacher described the Student's symptoms, including staring, a slow response time, a tense body, sore hands, stiffness, a changed gait, and slurred speech, and wrote, "Please be on the lookout for these symptoms and document if you are seeing this. Call my room immediately, and we will come get [the Student] and assist [the Student] … . We do not want [the Student] alone at these times. [Parent 2] is needing this documentation to pass onto the neurologist. As of right now, they are not seeing these concerns at home, just at school. When we have given [the Student] time to rest in the dark for about 30 minutes to an hour, [the Student] comes back and seems [them]self, joking and laughing with us, in typical [the Student] fashion. Then we try to go to class, and within 20-30 minutes notice the same concerns again. Computers also seem to also be triggering at this time. I have been in contact with [Parent 2] each time we see these signs, which has been daily this week. [Parent 2] comes and checks [the Student] out, often taking [the Student] home due to concerns. [Parent 2] took [the Student] to the [emergency room] ER yesterday. [The Student] struggled to walk out of here. [Parent 2] thinks [the Student] had a seizure in the vehicle on the way there, but with typical seizure symptoms, not just the blank stare ones we have noticed. By the time [they] got to the ER, [Parent 2] had to nearly carry [the Student] inside." Additionally, the Interrelated Teacher wrote, "Be aware of any atypical behavior from [the Student]. [The Paraeducator] has been helping to monitor [the Student] more, especially days that we see more concerns. We will continue to do this if we are having concerns as we have this week." The Interrelated Teacher described a seizure protocol, asked staff to document symptoms they observed, requested the Student not sit directly under a light, and asked that staff exempt the Student's missing assignments for the past two weeks and into the future, "We need to reduce [the Student's] cognitive load … ." On March 6, 2026, the Nurse followed up with an email providing their cell number for communication, and attached forms and educational videos to help staff document symptoms and learn about seizure first aid.

9. Discharge information from a children's hospital indicated the Student was hospitalized for "Abnormal movements" from March 29, 2026 through March 31, 2026. Discharge instructions indicated the Student was diagnosed with psychogenic nonepileptic seizures (PNES), which "may look like seizures," but are "usually caused by psychological distress." Treatment included the continuation of the Student's medications, and indicated, "For [the Student's] PNES it is helpful to make sure [the Student] is in a safe place where [the Student] will not fall or hurt [them]self from the movements. It can also be helpful to talk to [the Student] and reassure [the Student] that [the Student] is safe during the episodes. Patients with PNES will have retained awareness and typically have different movements compared to true seizures."

10. On April 1, 2026, the Interrelated Teacher emailed staff to describe the Student's PNES, "… the neurologist says we must push through these episodes. Help [the

Student] to feel safe, but build [the Student's] stress tolerance so that [the Student] can overcome this. [Parent 2] said that they explained it like the fight, flight or freeze instinct. In this case [the Student] is freezing when stressed. [The Student] still has awareness and just needs help to work through the stress. [Parent 2] said they talked about using sour candies, ice chips, cold packs, etc. to shock [the Student's] body and get [the Student] out of the episode. We talked about using small breaks for [the Student] to collect [them]self, but then return to the activity. [The Student] will try to let us know when [the Student] is beginning to feel overwhelmed so that we can time the break prior to [the Student] having an episode. I also did talk to [Parent 2], and have a signed consent for evaluation for [the Student]. I told him that although we want to try to get new information, we will take it day by day and if we start to see [the Student] get stressed, we will discontinue testing. [Parent 2] knows that while we are requesting new information, we may not get new testing in all areas we requested (Health/motor, communication, cognitive, academic, transition). We tentatively have [the Student's] eval[uation] meeting scheduled for May 13th[,] [2026] at 9:00 [a.m.]. The School Psychologist responded on the same day, "As for [the Student's] reevaluation[,] let's definitely proceed day by day with prioritizing [the Student's] comfort." The Speech-language Pathologist (SLP) agreed with the Interrelated Teacher and the School Psychologist, "I am with you. … Day by day and no stress for [the Student]."

11. In the Student's Patient Information Sheet, dated April 2, 2026, the Nurse described the Student's "spell"/seizure as impacting the whole body, and the eyes were staring, and staring and blinking. Notes indicated the Student "went to school with feeling funny" and "[the] Student approached [the] Nurse without feeling red. Temperature was 99.9 degrees and says [the Student] feels fine, just that [the Student] feels off & blank stare[s]." In an interview with the Complaint Investigator, the Nurse clarified their shorthand (as written above) and explained the Student "approached me without feeling red. [They] had told me [they] felt hot, and [they] thought [they were] turning red, but [they] then ended up saying that [they] didn't end up feeling red," which is why the Nurse took the Student's temperature.
12. A Notice of Special Education Meeting proposed a meeting date of May 13, 2026 to review the Student's evaluation, determine eligibility, and develop an IEP, and was signed by the Parent on April 28, 2026.
13. In an April 29, 2026 email to the Complaint Investigator and the Department, the Parent indicated the Student relayed they "suffered a seizure during 4th hour today and [the Student's] legs gave out. According to [the Student] there were four staff members present. … [The Student] explicitly stated that [the Administrator] told [the Student] [they] would call me. As of 4:00 [p.m.] I have received zero notification from the [S]chool."
14. In a May 5, 2026 email to the Complaint Investigator, the Parent shared screenshots of November 11, 2025 group text messages from a teacher regarding Student 2. The Parent indicated these messages "highlight the selective exclusion/reported

regarding the March 4th and 5th[,] [2026] medical emergencies. The [LEA] possesses my contact info and the ability to use it."

15. Medicaid Service Log Records documented the Student's occupational therapy sessions with the Occupational Therapist during the 2025-26 school year:
    a. August 20, 2025: 20 minutes; August 27, 2025: 20 minutes.
    b. September 3, 2025: 20 minutes; September 22, 2025: 20 minutes, and September 30, 2025: 20 minutes.
    c. October 7, 2025: Provider absent. October 20, 2025: 20 minutes.
    d. November 3, 2025: 20 minutes; November 18, 2025: 20 minutes.
    e. December 2, 2025: 20 minutes; December 15, 2025: 20 minutes.
    f. January 12, 2026: 20 minutes.
    g. February 3 and 12, 2026: Student absent.
    h. February 17, 2026: 30 minutes, "This was a longer session this date due to missing last week due to medical concerns."
    i. March 10, 2026: 20 minutes, "It did appear that [the Student] had a focal seizure at the end of the session with [Parent 2] … present."
    j. April 9, 2026: 20 minutes, "This was the first session … [the Student] had since going back to the hospital for more testing."
    k. April 16, 2026: Student absent.
16. Medicaid Service Log Records documented the Student's speech sessions with the Speech-Language Pathologist during the 2025-26 school year:
    a. September 2025, 20 minutes each session.
        i. September 7, September 15, and September 22, 2025.
    b. October 2025, 20 minutes each session.
        i. October 6, October 20, and October 27, 2025.
    c. November 2025: 20 minutes each session.
        i. November 3, November 10, and November 17, 2025.
    d. December 2025, 20 minutes each session.
        i. December 1, December 8, and December 15, 2025.
    e. January 2026: 19 or 20 minutes per session.
        i. January 12 (20), January 19 (19), and January 26, 2026 (19).
    f. February 2026: Varied minutes per session.
        i. February 2 (20), February 9 (21), February 18 (20), and February 23, 2026 (23).
    g. March 2026: 22 or 23 minutes per session.
    h. March 2 (23), March 9 (23), and March 23, 2026 (22).
    i. April 2026: 20 minutes per session.
    j. April 13, 2026.

17. A draft Evaluation/Eligibility Team Report, dated May 13, 2026, described the following:
    a. "[The Student] has recently been experiencing PNES. These look like seizures, but are not caused by abnormal brain electrical activity and are usually caused by psychological stress. On days that [the Student] is experiencing these symptoms, [the Student's] balance and endurance do appear to also be impacted. [The Student] is not as steady when walking, and becomes more tired on the stairs. [The Student] has had frequent breaks from class due to these symptoms, and PE class attendance has been impacted."
    b. Social/Emotional: "Throughout this year, [the Student] has struggled more with coping skills and managing stress levels. Beginning in February of this year, [the Student] started having episodes that appeared to be blank stare seizures and had a few episodes at home that looked like real seizures, where [the Student's] body started to shake. [The Student] has been diagnosed with PNES, where [their] body reacts to stress and it appears like seizures, but they are not epileptic seizures."
    c. "An interview was conducted with [the Student]. [The Student] verbalized that [the Student] struggles with feeling overwhelmed and nervous. [The Student] reported that [the Student] gets seizures and it was clarified that although they have not all been seizures [the Student] is concerned they will [sic]. [The Student] reported liking school but is also engaging in avoidance behaviors of school and people because [the Student] feels that is what will keep the seizures away. [The Student] agreed [the Student] does not have a lot of skills on how to reduce [their] stress except for avoiding. [The Student] was very honest during the interview and agreed the pull[-]out counseling would be good and discussions around other strategies on how to reduce stress without avoiding would be explored."
    d. Math: "At this time, due to the PNES episodes that [the Student] is experiencing and [the Student's] shut down behavior in math, [the Student] has been working in the resource room for math in order to take it at a slower pace and receive more support."
    e. Transition: Due to the PNES, the Student "has struggled with remaining in class and completing [their] work. [The Student] requires frequent breaks and rest. Staff are working with [the Student] to increase [the Student's] time in class and working towards managing the stress [the Student] experiences better. [The Student] is receiving outside counseling as well to help with stress management."

Parent Interview

18. In an interview with the Complaint Investigator, the Parent clarified the court order they provided to the LEA detailed, "Neither parent is superior [to] the other. We are both equal. We both have equal rights and access to all medical, all educational."

The Parent indicated the document noted, when it came to educational and medical decisions, "We are both to discuss before any arrangements are made." The Parent confirmed there was no "specific wording" that consent was required prior to Parent 2 receiving information about the Student.

19. When asked how the Parent communicated their concerns about the Student's symptoms related to PNES, the Parent stated, "I don't remember or recall communicating my concerns with the [LEA] just because, like I said earlier, [the Administrator] dismisses things. Anything that I say, [the Administrator] dismisses."
20. The Parent claimed the IEP logs demonstrated they were not called on March 4 or 5, 2026, when the Student had "emergencies. … It was always [Parent 2] that [the LEA] called." They asserted the LEA had the Parent's contact information, "But when it comes to [an] emergency, they do not call me and that is my concern."
21. When asked what part of the Student's special education and related services the Parent believed the LEA was not following, the Parent stated, "The emergency protocols. When there is an emergency, they're to contact the parents, [and] they do not do that."

Administrator Interview

22. In an interview with the Complaint Investigator, the Administrator explained they communicate with the Parent and Parent 2, but have had "more in person with [Parent 2] than with [the Parent], [which] has been via text message or over the phone." They clarified the communication was the same as any other parent that is part of the LEA.
23. The Administrator described their interaction with Parent 2 on April 14, 2026 as an in-person "casual conversation in passing" where Parent 2 asked "how things were going and I just responded. … I took that question as [Parent 2] was wanting to know what contact [the Parent] had had further because of an incident that happened two weeks prior." The Administrator clarified they told Parent 2 they received a state complaint the Parent had filed, but "I was not worried of the outcome because I believe that we were following all procedures, and that the sheriff's office that was involved had noted that I was following the custody agreement correctly." The Administrator confirmed they did not use the Parent's name during this conversation, "there was no personal information," and "nothing was noted about the kids." The Administrator also confirmed they do not have any documentation that restricts Parent 2 from accessing information regarding the Student's education.
24. The Administrator explained an incident where the Student fell, was able to get up, and said they were fine. They clarified they did not call either parent on this occasion, and "If I told [the Student] I was going to call [the Parent], I do not recall that. … At the time, there was nothing noted of a seizure."

Nurse Interview

25. In an interview with the Complaint Investigator, the Nurse described how they supported the Student after their diagnosis of PNES by talking with them and telling them to try sour candy if they "started to feel anxious and had that funny feeling, the blank stare feeling. … I had also suggested cold water. … So I just tried to listen to [the Student] and ensure that [they] had the candy [and water] when needed."
26. The Nurse clarified the LEA "write[s] all the health plans under the IEP and I am not on the IEP team. I had requested after I got those documents that I wanted to be a part of the team for the following school year."

Interrelated Teacher Interview

27. In an interview with the Complaint Investigator, the Interrelated Teacher confirmed they had "invited [the Parent] to meetings," they had "reached out," and the Parent had the Interrelated Teacher's phone number since the beginning of the school year. They recalled they "hadn't really heard too much from [the Parent] throughout the year." The Interrelated Teacher indicated Parent 2 also had their contact information since the beginning of the school year and noted they reached out to Parent 2 when the Student had an ambulance called for them because "[Parent 2] was the primary custodian." They clarified there was a "parenting plan and we were told that during school [Parent 2] was the primary contact and so that is why I reached out to [them], and it was my understanding that [Parent 2] was sharing information with [the Parent]." The Interrelated teacher noted the multiple conversations they had with Parent 2 were initiated by Parent 2.
28. The Interrelated Teacher described the Student's seizure-like symptoms as "star[ing] off into space," the Student seeming to "shut off," and "almost go[ing] non-responsive." They indicated they would touch the Student on the shoulder and say their name to get the Student's attention. "We were just kind of informally documenting [the symptoms] in our room, didn't have a ton of concerns with them and everything until that day in February, [2026]." The Interrelated Teacher recalled the Physical Therapist noticing a change in the Student's gait, which prompted them to call Parent 2, and they ended up calling an ambulance when "it was clear it was a medical thing happening right then."
29. The Interrelated Teacher confirmed implementation of each of the Student's special education and related services and reported the following:
    a. In regard to modifying the typing curriculum in computers so that it is left-hand only, the teacher for the Student's computer class was trained on the left-hand program and "anytime they had typing work, … [the Student] did that program instead."
    b. The Student carried the larger, left-handed wireless mouse with them, knew how to sync it with Bluetooth, and would ask for help with it when needed.

c. The Student "had pretty much as long as it took [them] to get assignments done." The Interrelated Teacher worked with other teachers to create alternative assignments and shared specific examples: a "simpler book," reading the book with the Student, eliminating answer choices, decreasing the number of problems to complete, and eliminating "extension activities" in math.

d. The Student had access to their calculator and the Interrelated Teacher used note cards as visuals and references for math formulas with the Student.

e. The Occupational Therapist worked with the Student on Tuesday mornings and worked "directly with [the Student] normally about 8:05 [a.m.] to 8:35 [a.m.]."

f. The Student worked with the Interrelated Teacher "daily" to "work through whatever homework [the Student] had," and to do any pre-teaching or re-teaching, as needed.

g. The Student had a paraeducator with them in their core classes. The Paraeducator took notes, read information and text, and would work with the Student one-on-one in a quiet room when needed.

h. Speech-language therapy was provided to the Student on Mondays at 11:15 a.m.

i. AT services consult was "at least once a month," and at the beginning of the year, consulting staff set up text-to-speech on the Student's computer and showed them how to use it. The Interrelated Teacher explained when AT was limited to avoid triggering episodes, the Paraeducator would "read all of the passages or any reading materials instead of using text-to-speech. … in [the Student's] classes, materials were read to [them]. … [We] had somebody writing for [the Student], [and] had somebody reading for [the Student]."

j. APE was "once a month" and the Interrelated Teacher would transport the Student in a school vehicle. "We did miss the February and March[,] [2026] dates because of the health issues at that time. We didn't feel like taking [the Student] off of campus was in [their] best interest. We talked to [Parent 2] about that and [Parent 2] was in agreement."

k. When the Student would rest in the dark or the resource room due to headaches and seizure-like symptoms, the Paraeducator would accompany the Student and monitor them. "We always had somebody with [the Student] during those times to make sure [they were] safe and nothing was happening."

30. When asked about documentation of rest time and missed services during the time the Student was experiencing seizure-like symptoms and had inconsistent attendance, the Interrelated Teacher stated, "We kind of put a pause on academics." They explained the Student "did have services," though "it may not have been in the classroom because we were meeting the needs of [the Student's] health." They added, "I don't know that we tracked actual minutes," and they described the focus being on observing symptoms and logging the times when the Student "would go upstairs" to rest.

31. The Interrelated Teacher explained the Student's slight regression in reading and math on the March, 2026 progress report as, "We weren't doing a lot of educational activities at that time. We were really concerned. These appeared what I'd seen very much like seizures. And after [the Student] would have an episode, [they were] just extremely worn out." They described the Student having slurred speech and "other things like that." They reiterated they were focused on the Student's safety and, "at that point, we determined that academics was the least of our concerns." They added this was communicated with Parent 2 because "[Parent 2] had custody during school. … I know that [Parent 2] was relaying information to [the Parent] - that is what I was told."
32. The Interrelated Teacher shared the Student "has a gen[eral] ed[ucation] healthcare plan. We've never had one as part of the IEP."

Occupational Therapist Written Question Submission

33. In written questions submitted to the Complaint Investigator, the Occupational Therapist indicated they "plan" to see the Student weekly for OT services. During their time with the Student, they "provide upper extremity strengthening and range of motion," and "functional fine motor skill training" for 20 minutes every other week.
34. The Occupational Therapist clarified the decrease in OT services starting January, 2026 was due to the Student's absences for medical needs, the Student starting track season, and the Occupational Therapist experiencing illness they "did not want to expose" the Student to. They indicated they made "several attempts" to provide services on other days, but "[The Student] was either still absent or had scheduling conflicts at school that prevented these sessions. The only change in service during this time was to change from doing [the Student's] upper extremity exercises using weights, to completing them with no additional weight added in case these activities could be affecting [the Student's] seizures." The Occupational Therapist added they did not directly communicate this to either the Parent or Parent 2 because, "I was still actively working towards [the Student's] goal, just with added safety precautions."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #314, in accordance with state and federal regulations implementing the IDEA, obtained prior parental consent before personally identifiable information was shared with the other parent. K.A.R. 91-40-50(a), K.S.A. 72-6311(b); 34 CFR §§ 300.622; 99.3.

According to K.A.R. 91-40-50(a), the following terms shall have the meanings specified in this subsection: "Education records" means any document or medium on which information directly related to one or more students is maintained by a participating agency in accordance with K.S.A. 72-6214 and amendments thereto. "Participating agency" means any educational

agency or institution that collects, maintains, or uses personally identifiable student information to provide special education and related services to children with disabilities.

According to K.S.A. 72-6311(b), every board shall adopt a policy, in accordance with the Student Data Privacy Act and applicable federal laws and regulations, to protect the right of privacy of any student, or pupil, and such pupil's family regarding personally identifiable records, files, and data directly related to such student or pupil. Such procedures shall provide for the means by which any student or parent of a pupil, as the case may be, may inspect and review any records or files directly related to the student or pupil; and restrict the accessibility and availability of any personally identifiable records or files of any student or pupil and prevent the disclosure thereof unless made upon written consent of such student or parent of such pupil, as the case may be.

According to 34 CFR § 300.622, parental consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies in accordance with the law, unless the information is contained in education records and the disclosure is authorized without parental consent under 34 CFR part 99. Except as provided in the law, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of the law.

According to 34 C.F.R. § 99.3, directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status; dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

Education records are records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record, records of the law enforcement unit of an educational agency or institution, subject to the provisions of § 99.8.

Personally identifiable information includes, but is not limited to, the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or

biometric record. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty, or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

Record means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. Student means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

The Parent alleged an administrator was observed in a school hallway "discussing" the Parent's confidential complaint with Parent 2. According to the Parent, the Student witnessed the "mockery" and "unauthorized disclosure."

The LEA denied the allegation, stating they complied with state or federal regulations regarding the disclosure of personally identifiable information. The LEA stated both parents of the student are provided access to educational information, including IEP-related documentation, consistent with the IDEA requirements, unless the district is provided with legal documentation limiting those rights. At no time has the LEA been provided with documentation restricting either parent's access to educational records.

According to the Parent, the court order provided to the LEA indicated neither parent is superior to the other, and both possess equal rights and access to all medical and educational records regarding the Student. While the Parent alleged that the Administrator dismissively discussed a formal state complaint with Parent 2 in a school hallway on April 14, 2026, the Administrator maintained that the interaction was a brief, casual conversation in passing. The Administrator acknowledged informing Parent 2 that a grievance had been filed, but asserted that no personal information or details regarding students were shared during this brief encounter. Additionally, the Parent confirmed there was no specific legal wording requiring consent before Parent 2 could receive information about the Student, and the Administrator verified that no documentation existed that restricted Parent 2's access to the Student's educational information. Furthermore, the LEA communicated with Parent 2 as the primary contact based on their understanding of the parenting plan and Parent 2's role as the primary caregiver during school hours. Because both parents retain equal legal rights to access information under the IDEA and FERPA, and no evidence was presented of a restrictive order, the LEA was not required to obtain prior written consent from one parent before discussing matters related to the Student's education or the Parent's formal complaints with the other legal parent.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to obtain prior parental consent before personally identifiable information was shared with the other parent.

Issue Two

Whether USD #314, in accordance with state and federal regulations implementing the IDEA, ensured special education and related services were provided to the Student when the Student experienced seizures. K.A.R. 91-40-16(a)(b); 34 CFR § 300.323(a)(d).

According to K.A.R. 91-40-16(a)(b) and 34 CFR § 300.323(a)(d), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Except as otherwise provided in the law, each agency shall ensure that the following conditions are met: an IEP is in effect before special education and related services are provided to an exceptional child; those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted, unless reasonable justification for a delay can be shown; an IEP is in effect for each exceptional child at the beginning of each school year; and the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Additionally, each teacher and provider described in the law is informed of the following: that individual's specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent claimed that the Student suffered seizures as a result of "administrative hostility" and contended the LEA violated the IEP by failing to follow "emergency" parent contact protocols.

The LEA denied the allegation, and asserted they have complied with providing appropriate special education and related services to the student.

The Student's September 3, 2025 IEP mandated several services. As the Student's medical condition progressed from early 2026, including a diagnosis of PNES, their attendance significantly declined by April 2026. During the periods the Student was present, the LEA adapted services to address medical needs. The Interrelated Teacher and the Paraeducator provided continuous monitoring and safety support during these episodes, prioritizing the Student's immediate health and safety over academic progress.

Documentation regarding the delivery of mandated IEP minutes was inconsistent. While speech sessions appeared to remain relatively consistent through March, 2026, the Occupational Therapist noted a decrease in services starting in January, 2026 due to the Student's absences, scheduling conflicts, and provider illness. Furthermore, APE sessions were canceled in February

and March, 2026 because staff believed taking the Student off-campus was not in their best interest, a decision made in consultation with Parent 2, but without a formal IEP amendment. The Interrelated Teacher admitted the LEA "put a pause on academics" during the height of the medical crisis and did not track the actual minutes of services provided while the Student was resting or out of the classroom. This lack of tracking and the intentional stopping of certain educational activities led to reported "slight regression" in reading and math goals by March, 2026. While the LEA took significant steps to ensure the Student's physical safety and emotional well-being with their new diagnosis, the evidence suggests that the full scope of the Student's special education and related services, as defined in the IEP, was not consistently maintained or documented during the period of medical instability.

Under the standard articulated in Van Duyn v. Baker School District 5J, 502 F.3d 811 (9th Cir. 2007), which district courts have widely applied within the Tenth Circuit, a statutory violation of the IDEA occurs only when there is a "material" failure to implement an IEP, meaning the services provided fall substantially short of what was mandated, rather than minor or temporary deviations. This threshold is contextualized in the Tenth Circuit with Garcia v. Bd. of Educ. of Albuquerque Pub. Sch., 520 F.3d 1116 (10th Cir. 2008), which establishes that a LEA cannot be held liable for a drop in academic progress or missed service minutes when a student is physically or legally unavailable to receive them due to external circumstances.

The reduction in the Student's instructional and related service minutes was a direct consequence of the Student's severe medical crisis and resulting absenteeism, rather than a failure of implementation by the LEA. The Student's attendance decreased from 94% in late 2025, to 65% in February/March, 2026, and ultimately to 57% by April, 2026. The Occupational Therapist documented that the reduction in OT services starting in January, 2026 was driven by the extensive medical absences and scheduling conflicts. Under the reasoning in Garcia, because the Student was physically unavailable for large portions of the school week, the LEA was legally and structurally precluded from delivering those exact minutes. Furthermore, the decision to temporarily suspend APE sessions off-campus in February and March, 2026 was made out of immediate concern for the Student's physical safety during active seizure episodes and in direct consultation with Parent 2. This responsive safety measure does not constitute a systemic or material abandonment of the IEP.

Additionally, the LEA continued to provide continuous "inclusion support" and accommodations, modifying its delivery methods to safely fit the Student's changing medical circumstances. While the Interrelated Teacher informally stated the LEA "put a pause on academics" during peak seizure episodes, the factual record confirms that education and special education support never actually ceased. Instead, staff actively modified the environment to eliminate seizure triggers. When the Student was resting outside the classroom, a paraeducator remained with them to provide continuous monitoring and medical safety support. Because these adjustments were temporary, fluid, and tailored to the Student's

acute health needs, they represent a good-faith, appropriate implementation of the IEP "in light of the child's circumstances" as mandated by Tenth Circuit jurisprudence. The temporary regression noted in reading and math was a manifestation of the Student's severe medical condition and absenteeism, not a material failure of the LEA's educational programming.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure special education and related services were provided to the Student when the Student experienced seizures.

Corrective Action

Information gathered in the course of this investigation did not substantiate noncompliance with special education statutes and regulations. Therefore, corrective action is not ordered.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #267
ON APRIL 27, 2026

DATE OF REPORT: MAY 27, 2026

This report is in response to a complaint filed with our office by ------- on behalf of her son, ------. For the remainder of this report, ------- will be referred to as "the parent" or "the student's mother." ------- will be referred to as "the student."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" as used in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. The Maize Special Education Cooperative provides special education services for USD #267. Therefore, for the remainder of this report, USD #267 and the Cooperative will be referred to collectively as "the LEA."

Investigation of Complaint

The investigator spoke by telephone with the Assistant Superintendent for Special Services for the LEA on May 1, 2026. The investigator spoke by telephone with the student's mother on May 8, 2026.

In completing this investigation, the complaint investigator reviewed the following materials:

- IEP for the student dated January 23, 2025
- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and Request for Consent dated January 23, 2025
- IEP Amendment for the student dated April 23, 2025
- IEP Amendment Form for Changes Not Requiring A Full IEP Team Meeting dated April 23, 2025
- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and Request for Consent dated April 23, 2025
- IEP Amendment for the student dated August 28, 2025
- IEP Amendment Form for Changes Not Requiring A Full IEP Team Meeting dated August 28, 2025

- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and Request for Consent dated August 28, 2025
- IEP Amendment for the student dated November 4, 2025
- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and Request for Consent dated November 4, 2025
- IEP Amendment for the student dated December 15, 2025
- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and Request for Consent dated December 15, 2025
- Prior Written Notice for Evaluation or Reevaluation and Request for Consent dated December 15, 2025
- IEP for the student dated January 21, 2026
- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and Request for Consent dated January 21, 2026
- Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and Request for Consent dated April 21, 2026
- District Board of Education Board Policy regarding visitors/observers in the school setting and/or field trips
- Grade report for the student for school years 2024-25 and 2025-26
- Class schedule for the student for school years 2024-25 and 2025-26

Background

This complaint involves a 14-year-old boy who is enrolled in the 8th grade in his neighborhood elementary school. According to his IEP, the student has been diagnosed with Autism. Additionally, he has a heart condition that requires restriction on physical activity to avoid heavy lifting and any activities which could result in a blow to the chest.

The student is currently receiving support on a weekly basis from a school social worker for 20 minutes. He is served in a special education setting for math, literature, and ELA (grammar). The student is supported in the general education classroom for science and social studies and electives. The following accommodations are provided for the student:

- access to Text to Speech or a human reader;
- access to math and reading manipulatives (which can include but not limited to visuals, counters, and graphic organizers);
- access to a separate, quiet, or individual setting;

- permission to have directions read aloud or repeated for him;
- access to a calculator/multiplication chart;
- a copy of notes will be provided;
- writing tasks will be broken down into smaller manageable steps;
- he will be provided with frequent checks for understanding when given directions with more than one step; and
- when assignments are given, he will be allowed extended time to complete the assignment up to twice as much as peers.

Issues

In her complaint, the parent identified the following two issues:

Issue One

The paraeducator assigned to support the student has fallen asleep on the job and has therefore been unable to provide the student with the support his IEP specifies.

Position of the Parent

It is the position of the parent that because the paraprofessional assigned to support the student in the general education setting (including field trips) has fallen asleep during these activities, the student has not been provided with the services required by his IEP. Additionally, the parent contends that because the paraeducator fell asleep on the bus on the way to and from an out-of-town field trip, the paraeducator would not have been able to provide relevant information had an "incident" occurred.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

Position of the LEA Regarding Allegations Related to the Class Field Trip

It is the contention of the LEA that the IEP in place for the student at the time of the alleged incident did not require special transportation, that transportation is not identified as a related service, and the IEP did not require the provision of specialized supports, paraprofessional services, or other supplementary aids and services during transportation. The LEA asserts that the student independently makes use of general education transportation services provided by the district without special education support. According to the LEA, the paraeducator

presence on the bus was incidental as she was riding the bus as a means of getting to the location where she was assigned to perform her actual responsibilities - providing services and support to the student once the class had arrived at the designated field trip site.

Investigative Findings Regarding Allegations Related to the Class Field Trip

The Supplementary Aids and Services section of the January 23, 2025 IEP for the student states

> *"When part of [the student's] day requires transportation to and from a school sponsored activity/class, he will have a familiar adult with him...when being transported on a district provided vehicle...to and from the designated location..."*

With the written consent of the parent, the student's IEP was amended on April 23, 2025 to include - in addition to the previous statement above - a statement regarding special education services. The revised IEP stated

> *"(The student] will access [sic] to special education staff member for programs, assemblies, and field trips...in a general or special education setting..."*

Additionally, the transportation section of the student's IEP was amended to show that

> *"[The student] requires special transportation for elective classes that are held outside of the attendance building...[and] due to overall safety needs, [the student] requires adult support when in transport to and from the enrolled building."*

The parent was given prior written notice of this addition to the student's IEP and provided her written consent for that change.

Reference to the need for a familiar adult to accompany the student when being transported to and from school sponsored activities was removed when the IEP was again amended on August 28, 2025. The requirement for special transportation was also removed from the student's IEP. According to the IEP Amendment form

> *"[The student] no longer demonstrates the need for specialized transportation with adult support to and from electives..."*

The parent was given prior written notice of these changes and on August 29, 2025 provided her written consent for the removal of special education transportation and adult support.

A November 4, 2025 amendment to the student's IEP again modified the statement regarding services to the student when on field trips. The amended IEP stated

> *"[The student] will have access to support for programs, assemblies, and field trips..."*

No change to this section was made when the student's IEP was again amended on December 15, 2025.

An annual review of the student's IEP was conducted on January 21, 2026. The Supplementary Aids and Services section of the new IEP stated

> *"[The student] will have access to support for programs, assemblies, and field trips when programs, assemblies, and field trips are conducted in a general or special education setting."*

The parent provided written consent for the student's new IEP on January 21, 2026.

Eighth grade students in the district are allowed to enroll in an elective class at the high school in order to become more familiar with the building and to ease into the transition into full time enrollment in the high school for 9th grade. The student chose to enroll in Exploring Agriculture as his high school elective. The student is driven to the high school for this first hour class and then rides a general education bus back to the elementary school when the class is over. No adult support is provided to the student for that bus ride.

The student was scheduled to participate in a field trip on April 22, 2026. On that date, the student and other members of his high school elective agriculture class were to travel by bus to a regional college campus in a city an hour and a half from the student's elementary school.

Both parties report that the parent requested that a paraeducator not accompany the student on the trip. In a telephone conversation with the investigator on May 8, 2026, the parent stated that she wanted to observe the student on the trip and felt that she would be able to provide necessary support for the student thereby making the services of a paraeducator unnecessary.

According to a prior written notice form dated April 21, 2026, the parent told the building principal that she wanted to schedule a "non-amendment" meeting for that day to change the student's IEP to show that the parent would act as the student's paraeducator on field trips unless she was unavailable to attend. The parent wanted the student's IEP to show that a paraeducator would accompany the student on a field trip only if the parent was unavailable.

Noting that an IEP meeting was already scheduled for May 7, 2026, the LEA gave the parent prior written notice refusing the parent's request for a change to the student's IEP. According to the prior written notice form, the LEA was "obligated to provide everything the student needs in the school day as outlined in the IEP." The LEA noted that the parent was "still able to attend field trips in her capacity as a parent."

On the day of the field trip, both the student's mother and his paraeducator were allowed to ride to the out-of-town location on the same bus as the student. The bus was driven by the teacher of the student's Exploring Agriculture class.

During the bus ride, the parent observed that the paraeducator had fallen asleep. The parent took pictures of the paraeducator while asleep and subsequently shared those pictures with the district superintendent. Once at the off-site location, all students, the teacher, the parent, and the paraeducator disembarked the bus. The parent's written complaint and her statements to the investigator on May 8, 2026 confirm that once at the destination, the paraeducator provided supervision and support for the student.

Summary and Conclusions Regarding Allegations Related to the Class Field Trip

The student's January 23, 2025 IEP required that a familiar adult accompany the student when he was being transported to and from a school-sponsored class or activity on a district provided vehicle. However, the student's IEP was subsequently amended on April 23, 2025 with the written consent of the parent. At that time, the student's IEP was changed to show that the student would have "access to a special education staff member" for various activities including field trips. The IEP was also changed to show that the student required special transportation for elective classes held outside of the student's building of attendance.

The student's IEP was again amended with the written consent of the parent in August 2025. The IEP team determined that the student no longer demonstrated the need for special education transportation or for adult support while being transported, and both requirements were removed from the IEP.

The student's January 2025 IEP was amended yet again in November 2025. The amended document noted that the student would have access to support for field trips and other activities, but did not require support for transportation to off-site activities.

A final amendment to the student's January 2025 IEP (completed in December 2025) also did not include support for the student when he was being transported.

An annual review of the student's IEP was conducted on January 21, 2026. The new IEP - for which the parent gave her written consent - was in effect at the time of the April 22, 2026 field trip. That IEP required that the student have access to support for field trips but did not require special education support for transportation.

Both parties agree that the paraeducator was present and available to support the student at the off-site field trip destination as required by the student's January 2026 IEP. Because the IEP did not require the paraeducator to provide special education services to the student during the bus ride to the off-site location, the fact that the paraeducator fell asleep during that ride did not deny the student a FAPE. A violation of special education statutes and regulations is not substantiated on this aspect of this issue.

Position of the LEA Regarding Classroom Support

While the LEA asserts that it takes all staff performance concerns seriously and addresses those concerns through appropriate supervisory channels, it is the position of the LEA that the available educational data does not support a finding that

any isolated lapse in attentiveness on the part of the paraeducator materially interfered with the student’s ability to access instruction, participate in the educational environment, or make appropriate educational progress. The LEA contends that evidence does not support the parent's contention that the student was denied access to a Free Appropriate Public Education

(FAPE) or that the student failed to receive educational benefit as a result of the incident(s) described.

Investigative Findings Regarding Classroom Support

The student's January 2025 IEP and four subsequent amendments to that IEP stated that the student was to receive daily special education services in the general education classroom for science, social studies, and an elective class. When the annual review of the student's IEP was conducted in January 2026, the student's IEP team again determined that the student should have special education support in the general education setting for science and social studies and for the elective in which the student was enrolled at the local high school.

During the 2025-26 school year, a paraeducator has been available to provide support to the student in his elective Exploratory Agriculture class at the high school as well as his 8th grade Science class and his 8th grade History class (the social studies class referenced in the student's January 2025 and January 2026 IEPs).

In her complaint, the parent stated that she had been told by the student that the paraeducator has fallen asleep in class. According to the parent, the student's special education teacher has confirmed that this had occurred.

In a telephone conversation with the investigator on May 8, 2026, the parent stated that she had asked the student what he did when he needed help at a time the paraeducator was asleep. According to the parent, the student told his mother that he called the paraeducator by name to wake her and told the paraeducator that he needed help which the paraeducator subsequently provided.

The parent did not provide evidence of specific harm to the student that resulted from the paraeducator having fallen asleep. Grade reports for the student covering both the 2024-25 and 2025-26 school years show that the student has earned passing grades in all the general education classes for which special education support has been provided.

Summary and Conclusions Regarding Classroom Support

No evidence was uncovered during the course of this investigation to show that the student experienced a measurable loss of educational benefit or regression attributable to the alleged conduct of the paraeducator. The student reported to the parent that he was able to request support from an assigned paraeducator when needed. Under these circumstances, a violation of special education statutes and regulations *is not substantiated* on this aspect of this issue.

Issue Two

The paraeducator inappropriately intervened with the student while the parent was present during an off-site field trip.

Position of the Parent

It is the position of the parent that a paraeducator assigned to support the student during an off-site field trip acted inappropriately by intervening with the student regarding the student's interaction with the parent during that event. The parent contends that by telling the student he had been disrespectful to his mother, the paraeducator had "intervened on [the parent's] parenting [when the parent] didn't need her help in doing so."

Position of the LEA

It is the position of the LEA that the paraeducator was not only permitted to

intervene when the student disengaged from the instructional field trip activity in favor of contacting and complaining to the parent but rather was arguably obligated to do so in order to preserve the educational purpose of the activity and prevent disruption to the instructional environment. The LEA contends that school-sponsored instructional activities remain under the authority and supervision of school personnel, and that staff are responsible for maintaining the integrity of the educational process.

When the student stopped participating in the instructional event and instead diverted attention toward contacting the parent to complain during the activity itself, the paraeducator would have been expected to manage and address such interference in real time rather than ignore it.

Applicable Statutes and Regulations

As noted above under Issue One, federal regulations, at 34 C.F.R. 300.101, require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations, at 34 C.F.R. 300.17, define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

Investigative Findings

As noted above under Issue One, the student was to be provided with support during field trips to address his specially identified needs. It was the paraeducator's job to provide this service during the field trip even though the parent was present.

The student's January 21, 2026 IEP contains the following annual goal:

> *"By the next annual IEP, given interventions, [the student] will demonstrate age appropriate interpersonal skills and self-advocacy skills in 85% of opportunities."*

The "Needs" section of the "Social Emotional" portion of the student's January 2026 IEP notes

> *"[The student] needs frequent reminders and adult support to maintain focus and complete tasks in both general education and special education environments. The amount of prompts is dependent upon the requested task. If it is something he is motivated by (example: Cat Cafe) he is able to complete the assignment/task to his independent level ability with minimal prompts. Other tasks that are outside of his preference, but still at his independent learning level, he requires maximum prompting. Maximum prompting looks like the adult sitting next to him reading and guiding him…He benefits from structured social interactions, explicit instruction…When working in groups, he has difficulty engaging in the activity at the same level as his peers and benefits from additional guidance and structured support and struggles with recognizing social cues and practicing age-appropriate interpersonal skills."*

In the May 8, 2026 telephone conversation with the investigator, the parent explained that the student had come to her during the field trip of April 21, 2026 to complain that he was bored with the activity. According to the parent, the paraeducator subsequently took the student aside and told the student he had been disrespectful to the parent. The parent noted in her written complaint that the paraeducator "had good intentions" and told the investigator that she was "not totally upset" by the paraeducators actions but stated that she did not ask the paraeducator to intervene.

Summary and Conclusions

It was the responsibility of the paraeducator while on the field trip to provide special education services to address the student's IEP-identified needs (including those related to his need for direction and feedback regarding his interpersonal skills). While the parent may have preferred that the paraeducator not intervene regarding a situation that involved the parent, the actions of the paraeducator were in line with her responsibilities. Under these circumstances, a violation of special education statutes and regulations is not substantiated on this issue.

Corrective Action

Information gathered in the course of this investigation *has not substantiated noncompliance* with special education statutes and regulations on issues presented in this complaint. Therefore, no corrective action is warranted.

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the

Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such request is made, the information will be destroyed.

Diana Durkin
Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #497
ON APRIL 27, 2026

DATE OF REPORT: MAY 27, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #497 Lawrence Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #497.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on April 27, 2026, and the 30-day timeline ended on May 27, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #497, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), ensured the Parent had an opportunity to participate in an Individualized Education Program (IEP) meeting after the Parent requested one. Further, the Parent alleged the LEA's denial of the Parent's observation of the Student in their classroom was a denial of their parent participation rights under the IDEA. K.A.R. 91-40-17(a)(e); 34 CFR § 300.322(a)(c).

ISSUE TWO: Whether USD #497, in accordance with state and federal regulations implementing the IDEA, provided the Parent with prior written notice (PWN) when refusing services or the requests of the Parent. K.A.R. 91-40-26(a), K.S.A. 72-3430(b)(2); 34 CFR § 300.503(a).

ISSUE THREE: Whether USD #497, in accordance with state and federal regulations implementing the IDEA, ensured the Student was served in the Least Restrictive Environment (LRE) and gave consideration to any potential harmful effects on the Student or on the quality of services the Student needed. K.A.R. 91-40-21(a)(g)(h)(i); 34 CFR § 300.114(a).

ISSUE FOUR: Whether USD #497, in accordance with state and federal regulations implementing the IDEA, allowed the Parent to examine data, logs, staff notes, and incident reports related to the use of noise-canceling headphones. K.A.R. 91-40-50(a)(2); K.S.A. 72-3430(b)(1), 34 CFR § 300.613(a)(b).

ISSUE FIVE: Whether USD #497, in accordance with state and federal regulations implementing the IDEA, ensured the Student's teachers were informed of the specific accommodations, modifications, and supports that must be provided to the Student. K.A.R. 91-40-16(b); 34 CFR § 300.323(a)(d).

ISSUE SIX: Whether USD #497, in accordance with state and federal regulations implementing the IDEA, provided the Student with a Free Appropriate Public Education (FAPE). K.A.R. 91-40-1(z); K.A.R. 91-40-2; 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on May 15, 2026. The following LEA staff were interviewed on May 14, 2026: the Principal, the Special Education Provider, and the Director of Special Education. The following LEA staff responded to survey questions: the Science Teacher, the Art Teacher, and the Music Teacher. The General Education Teacher provided a written response.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Programs, 02/14/25, 02/11/26, 04/23/26
2. District Policy, Visitors to the School, Section K, revised 01/27/26
3. Grade Report, 2025-26 School Year
4. Meeting Attendance Summary, 08/15/25-04/16/26
5. Behavior Entry Report, 09/11/25-04/15/26
6. Behavior Entry Detail, 2025-26 School Year
7. Board Policy KM - Visitors to Schools, approved 07/01/01
8. Special Education Beginning of the Year Checklist, 2025-26 School Year
9. eSignature Completion Certificate, 02/25/26-03/06/26
10. Digital Signature Details, 01/28/26
11. Progress Report, 12/19/25

12. Notices of Meeting, 02/11/26, 02/25/26, 04/10/26
13. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent, 05/06/26
14. Individualized Education Program Meeting Notes, 04/23/26
15. Meeting/Scheduling Contact Log, 12/12/25-04/11/26
16. Schedule of Services, no date
17. Student Daily Schedule, no date
18. Emails between parties, 02/11/26-04/27/26

Background Information

This Investigation involved a kindergarten-aged student enrolled at an elementary school in USD #497. The Student is currently receiving special education or related services as a child with a disability under the category of Developmental Delay (DD) per the IDEA. The Student is a bright student with strong academic skills. They are friendly to all students and helpful.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. According to a February 14, 2025 IEP, the following relevant information was documented:
    a. The Student had no academic needs at the time.
    b. The following functional needs, in the form of targeted classroom tasks, were identified:
        i. "Follows predictable classroom routines and transitions."
        ii. "Carries out Activities/Projects/Tasks from beginning to end."
            1. The baseline indicated the Student was performing at 0 out of 8.
    c. Goal #1 stated, "When in [their] educational environment, [the Student] will be able to demonstrates [sic] the skills to score 8 out of 8 outcomes in the Engagement Rubric at least 3 data collection days by the end of the IEP as measured by Rubrics."
    d. Parent input was collected during the evaluation through a caregiver questionnaire and an in-person interview with the Other Parent, who stated they believed the Student needed consistent routines and exposure to same-age peers.
    e. The considerations section indicated that the Student's behavior impacted their learning or the learning of others and would be addressed through goals and accommodations.
    f. Program Modifications and Supports included:

i. Proximity control in all subjects, to support transitions between activities and routines, until a transition was complete.

ii. Use of a visual schedule in all subjects presented at the beginning of the school day and throughout the day, prior to a change in routine/activity or transition, until the Student moves to the next activity or completes the transition.

g. The Student' IEP noted no support for school personnel was required, but did require round-trip special education transportation.

h. The Student would participate with children without disabilities in general education, extracurricular, and nonacademic activities.

i. The Student would receive early childhood education services for the duration of the early childhood integrated special education classroom sessions, four days per week.

ii. Beginning in August 2025 in kindergarten, the Student would receive:

1. Direct special education services in a special education setting to begin the school day, and during the day to learn small group social skills.

2. Direct special education services in a general education setting to support the Student with navigating their individual schedule, engaging appropriately with their educational environment, transitioning, engaging in social interactions, and following teacher-chosen directives and tasks. (P33-P44)

i. The Student's IEP Progress Report dated December 19, 2025, noted the following progress toward the Student's goal:

i. May 20, 2025, October 14, 2025, and December 19, 2025: Progress adequate to meet annual goal. (D78-D79)

2. A 2025-26 Special Education Beginning-of-Year Checklist outlined the steps case managers were required to complete by September 5, 2025. The relevant steps included:

a. Reviewing IEPs for all students on their caseload and emailing any related service providers.

b. "Ensure other responsible staff (e.g.[,] general education teachers, para[professional]s, etc.) have the information they need to provide [a] FAPE. All general education teachers can access IEPs at a [G]lance through PowerTeacher." A link to print bulk IEPs at a Glance was noted. (D30)

3. On August 22, 2025, electronic documentation indicated the Special Education Provider accessed and/or printed the Student's IEP, their goals and objectives, and the IEP at a Glance. (D151)

4. An "eSignature Completion Certificate" indicated:

a. A Notice of Meeting was sent electronically on January 28, 2026, to both Parents. A note on the document indicated this notice was for a February 11, 2026, meeting.
    i. A Notice of Meeting dated February 11, 2026, proposed a February 11, 2026, IEP meeting.
b. A Notice of Meeting dated February 25, 2026, listed the proposed meeting date of March 12, 2026. The notice indicated the meeting was scheduled to develop and discuss possible changes to the IEP and conduct an annual review. The Notice of Meeting was sent electronically on February 25, 2026 and was "processed" or signed on March 6, 2026 by both Parents. (D73-D74, D95-D97, D129-D130)

5. According to a draft February 11, 2026 IEP, the following relevant information was documented:
    a. The Student had no academic needs at the time.
    b. The Student had functional needs related to following directions, meeting class expectations, transitioning, and impulsive behaviors. Their disability impacted their ability to follow classroom and building expectations, and their ability to learn, interact, and form positive relationships with adults.
    c. Goal #1 stated, "When presented with a non-preferred activity, [the Student] will be able to transition to a non-preferred task (math, handwriting, cleaning up, or lining up) within 1 minute of a verbal prompt at 80% of opportunities on 4 out of 5 data collection days by [the] end of the IEP as measured by observation."
    d. Goal #2 stated, "When given an assignment/task during independent work time, [the Student] will be able to remain on task for at least 10 consecutive minutes across the school/building at 80% on 4 out of 5 data collection days. [sic] by [the] end of IEP as measured by [o]bservation.
    e. The considerations section indicated the Student's behavior impacted their learning or the learning of others and would be addressed with a behavior intervention plan (BIP).
    f. The BIP noted the following relevant information:
        i. The Student exhibited problem behaviors, including noncompliance, verbal disruption, elopement, and aggression.
        ii. Precursor behaviors included morning work, academic tasks, stating something was too hard, moving from a preferred activity to a non-preferred activity, making negative statements, blurting out, requiring redirection, and being corrected on work or actions.
        iii. The setting events and antecedents section described events that made the behavior more likely to occur, such as ending a preferred activity, being asked to have a quiet voice, being redirected, when work was presented, at "random occurrences," unexpected changes, verbal or physical redirection, a request being denied, and off-task behavior.

iv. The function of the behavior was listed as:
    1. Noncompliance was maintained by escape or avoidance of leaving a preferred activity, or by gaining access to a preferred item or activity.
    2. Verbal disruption and elopement were maintained by escape or avoidance of a non-preferred demand, activity, or setting, and to gain access to a preferred setting.
    3. Aggression toward others was likely maintained by escape from a non-preferred demand, activity, or setting and by gaining access to a preferred activity.
v. Replacement behaviors included teaching the Student how to:
    1. "… gain access to preferred activities by properly communication [sic] to an adult what [they are] wanting to do."
    2. Gain attention from adults by asking for help or clarification of directions by using appropriate verbal communication.
    3. Address their sensory needs by communicating their needs to an adult.
    4. Gain access to preferred activities by properly communicating to an adult what they want to do.
    5. Request a break or activity with a specific person.
    6. Use appropriate language to express their feelings or frustrations.
vi. Proactive strategies to prevent the problem behaviors included:
    1. School-wide tickets paired with behavior-specific praise.
    2. Use of a token board to earn access to a preferred item or activity.
    3. Use of a visual timer for breaks.
    4. Clarify what "finished" means if the task did not have a clear ending.
    5. Use a transition cue to communicate where the Student was transitioning next.
    6. Teach and reinforce replacement behavior.
    7. Target the use of complying with the presented choices when precursor behaviors were observed.
    8. Earned breaks, reinforced breaks, and sensory breaks.
    9. Priming and preteaching around transitions, task completion, verbal feedback, and using calming strategies.
    10. Staff language should lessen the use of verbal direction and reprimands, allow time for processing, and use phrases such as, "You seem upset. Can you tell me why, so maybe I can help?"
    11. Reactive strategies listed prompting the Student to follow through with the original direction using first/then statements; prompting the Student to use replacement behavior by modeling requests; modify original demands or allow for student choice, decrease verbal communication,

increase visual support, reduce audience effect by moving peers or directing peers to ignore or attend elsewhere; staff should position themselves between the Student and exits; redirect the Student to safe options of a predetermined space or activity.

g. Modifications and accommodations included:
    i. Alert the Student to transitions throughout the day.
    ii. Allow extra time for transitions throughout the day.
    iii. Allow frequent breaks lasting no more than 10 minutes, with the option of one to two additional minutes.
    iv. Allow the Student to use alternative chairs, sitters, or standers throughout the school day.
    v. Allow extended time for tasks.
    vi. Provide frequent reminders of the rules during the school day.
    vii. Positive behavior support system.
    viii. Preferential seating when the Student needs space or to reset.
    ix. Proximity control to support transitions between activities and routines.
    x. Use a reinforcement system during teacher-led activities.
    xi. Use visuals when transitioning to a less preferred activity.
    xii. Use a visual schedule at the beginning of the school day and throughout the day, prior to changes in routine or activity, or before transitions.

h. Supports for school personnel stated the "special education teacher" would inform and train staff of the Student's BIP. (P1-P12)

6. The February 11, 2026 IEP Meeting Notes included:
    a. "IEP meeting was scheduled, parents attended, but [the] meeting did not take place as parents did not want to talk about [the] draft IEP."
    b. "[The Parent] stated [they] wanted to be written into the IEP and made a part of the team. It was explained … that parents are a part of the team and we weigh their input when writing the IEP."
    c. The team tried to discuss the IEP draft, educate the Parent about the IEP process, and reschedule the meeting without success. It was explained the Student's previous IEP would be implemented.
    d. "IEP meeting on hold until we hear back from parents." (D119)
7. On February 11, 2026, the content of a phone message from the Parent was sent to the Director of Special Education. According to the notes, the Parent requested a meeting with "all parties involved" regarding the Principal's denial of the Parent's request to drop off candy for the Student's class. (D70) The same day, the Parent emailed the LEA to "formally request recurring classroom observations for [the Student]" and indicated, "These observations are necessary for my meaningful participation in [the Student's] IEP process." The Parent cited the Student's behavior

issues and concerns and requested "recurring classroom visits" to understand the Student's needs, monitor IEP implementation, review behavior concerns, prepare for an IEP meeting, and determine whether accommodations and supports were implemented. The Parent requested classroom observations "three to four times per week, for the entire day, on a recurring schedule that we can mutually agree upon. If the school believes any part of this request cannot be granted, please provide [PWN] explaining the refusal, including the reasons and data used to make that determination." The Parent asked, "Can you explain to me why the police were called as I waited in my car for a scheduled meeting to discuss my child['s] IEP today (2/11/2026). I was told by a [City] Police officer, the school principal,[1.1] that [the Police Officer] was to see if the School District was going to trespass me from the property or that I need to give the school 24 hours only because I wanted to be involved in the IEP process. Of my child.[2.1] I am being denied access to the IEP program process, m[3.1]y child." (D63)

8. The following email exchange occurred on February 12, 2026, between the LEA and the Parent:
    a. 2:42 p.m.: The Director of Elementary Services emailed the Parent to acknowledge their voicemail and email communications and clarified that a "no trespass" order had not been issued. They also clarified the meeting locations for conferences and ensured the Parent they would have a "point of contact" for the Student's teaching team, "so you can communicate, ask questions, and discuss [the Student's] progress and needs across content areas." Regarding the Parent observing the Student in the classroom, the Director of Elementary Services wrote, "The district has procedures in place to balance parent observation requests with student privacy, instructional continuity, and building operations. I have attached those procedures for your review." The Director of Elementary Services indicated the IDEA "does not establish classroom observation as a procedural right," and noted the IEP team "is working to schedule an additional IEP meeting to discuss [the Student's] educational needs, including your request on opportunities for collaboration." (D62)
    b. 4:45 p.m.: The Parent wrote, "I am writing to formally request immediate clarification and corrective action regarding the restrictions placed on my ability to enter [the School], walk my child to [their] classroom, and observe [the Student's] educational environment. These restrictions directly affect my ability to meaningfully participate in [the Student's] IEP process … ." The Parent cited Board Policy KM and identified specific restrictions imposed on them that were not addressed in the policy. (D32) Additionally, regarding observing the Student, the Parent wrote, "Observation may be required when necessary for a parent to understand the child's needs or the appropriateness of the placement." The Parent requested PWN to address the "specific action the district is refusing (observation, access, walking [the Student] to class)" and reasons for the refusal, the data the LEA used to make their decision, the specific federal and state

statutes supporting the refusal, the options the LEA considered and rejected, and the factors relevant to the decision. (D34-D35)

c. 5:05 p.m.: The Special Education Provider emailed the Parent to state they were unable to review the Student's draft IEP the previous day. They indicated they were reaching out to reschedule[4.1] for the following week, and asked the Parent when they would be available, and provided 10 meeting date options. (P58)

d. 11:01 p.m.: The Parent emailed the LEA to state they had requested an IEP meeting, which was scheduled and then canceled. They shared "the district convened a meeting without providing required notice to either parent." The Parent added they were "led to believe" they were attending a parent-teacher conference, but indicated there was an IEP meeting afterward, which they were not prepared for and which was not properly noticed. They stated they felt the LEA had predetermined the Parent's access and observation rights, which affected compliance with special education law. The Parent requested the School provide them with the assessment tools used in the IEP. They asked whether any other assessments, including an FBA, were used. The Parent asked for the names, educational background, training, qualifications, and supervisors of the paraprofessionals who worked with the Student. The Parent asked the LEA to clarify its intent regarding the Parent's requested changes to the IEP, the Parent's participation rights, and whether the LEA plans to issue PWN for any refusal. (P55-P57)

9. On February 13, 2026, the Parent sent the following emails to the LEA:

   a. 10:44 a.m.: The Parent emailed the Principal to ask for clarification regarding why they were being followed "closely throughout the school." They asked if the Principal felt they posed a risk to children, staff, or other visitors. (P59-P60)

   b. 12:13 p.m.: The Parent emailed the Special Education Provider, the Principal, and the Director of Elementary Services to request recurring classroom observation to understand how the Student's IEP was being implemented and how the classroom environment affected the Student's behavior and learning. (P48)

10. On February 17, 2026, the Parent sent the following emails to the LEA:

    a. 12:14 a.m.: The Parent emailed the LEA to request a classroom observation of the Student. The Parent requested to observe how the Student interacted with peers and adults in the classroom, how staff were providing "consistent adult support," whether the behavior supports were being implemented as written, and whether the classroom environment was appropriate and safe for the Student. The Parent described a contradiction in the evaluation report, which indicated the Student had difficulty maintaining relationships, needed adult support, and had challenges with regulation, and the School "isolating [the Student] in a room." The Parent indicated a direct observation was "not only appropriate but necessary to ensure [the Student's] safety and the proper

implementation of the IEP." The Parent requested PWN if the LEA refused their request to observe the Student. (P21-P22; D40-D41)

b. 4:58 p.m.: The Director of Special Education emailed the Parent to acknowledge receipt of the Parent's emails and to inform the Parent the IEP Team would need to convene for a meeting to discuss their requests and any related supports in the context of the IEP. The Director of Special Education asked the Parent to provide dates that would work for them. (P20; D41-D42)

11. On February 24, 2026, the Parent sent the following emails to the LEA:

a. 1:38 a.m.: The Parent requested a virtual meeting link for a March 2, 2026 meeting. (D42)

b. 6:30 p.m.: The Parent described their understanding of the Student being kissed and indicated they received a call from the School that day. (D48)

c. 9:07 p.m.: "I call an IEP meeting no one has responded[.] Please provide a zoom link 24 hours before the meeting[,] if you have no plan to provided [sic] zoom link prior to the meeting[,] please let me know by email [sic]." (D44)

d. 10:33 p.m.: The Parent indicated they were aware "that concerns were reported to [Child Protective Services] CPS regarding my child's emotional support and behavior." The Parent requested "the specific dates, observations, and data that led to the conclusion that I am not providing adequate emotional support or that counseling was required. Additionally, please provide the interventions and supports the school has implemented during my child's outbursts, as well as any behavior data collected." (D47)

e. 10:37 p.m.: The Parent wrote, "'Under IDEA, please provide [PWN] explaining the basis for your claim that I am not providing emotional support or that my child requires counseling." (D60)

f. 10:40 p.m.: "Please provide the specific observations, dates, and staff reports that support this claim. Also provide the interventions the school has implemented to support my child during these moments. Please save any video so it can be reviewed." (D61)

g. 10:47 p.m.: The Parent requested the "written basis" for recommending counseling, the School Psychologist's evaluation, the Multi-Tiered System of Supports (MTSS)/behavior data, the FBA, and the BIP to be provided within 24 hours. (D49)

h. 10:56 p.m.: "This email is to confirm what was stated today: the school reported that my child is having emotional outbursts and suggested I am not providing emotional support. I disagree with this characterization. Please provide the specific data, dates, and observations that led to this conclusion." (D53)

i. 11:15 p.m.: The Parent requested all "written reports, staff notes, emails, and internal communications referencing concerns about my child's emotional state or behavior. All dates, times, and descriptions of incidents the district relied upon. Any statements made by staff regarding my alleged lack of emotional

support. Any data, assessments, or observations used to justify the claim that counseling was required. Any documentation showing the school attempted interventions prior to making these allegations. A list of staff members involved in reporting or discussing these concerns." (D50)

j. 11:22 p.m.: "I am formally requesting [PWN] regarding the district's statements and actions related to: Allegations that I am not providing adequate emotional support to my child; Statements that my child requires counseling; Any refusal to provide behavioral supports, evaluations, or interventions; Any conclusions the district has made about parent-child interaction." The Parent requested the LEA include the required components of PWN and asked for it to be provided in writing and sent via email. (D51)

k. 11:31 p.m.: The Parent wrote, "Given the school's recent concerns regarding my child's emotional outbursts, I am formally requesting immediate behavioral supports and data-driven interventions as required under the IDEA and Kansas regulations. Please provide: All behavior data collected to date, including frequency, duration, and context of outbursts. A Functional Behavioral Assessment (FBA) conducted by qualified personnel. A [BIP] based on the FBA results. Documentation of all interventions the school has attempted, including dates, staff involved, and outcomes. Information on the school's MTSS/behavioral tier supports currently being used. Any safety plans or crisis intervention procedures applied to my child." (D45)

12. On February 25, 2026, the following email exchanges occurred between the LEA and the Parent:

a. 11:41 a.m.: The Director of Special Education emailed the Parent to acknowledge they received "the eleven emails sent yesterday." They clarified the IEP team needed to meet to consider the requests and concerns in the context of an IEP meeting. The Director of Special Education wrote, "I understand you've requested to meet Monday morning. Unfortunately, this time does not work for the school team due to prior commitments." The Director of Special Education asked the Parent to provide them with "a few additional dates" that would work for them. (P52; D55)

b. 2:20 p.m.: The Special Education Provider emailed the Parent regarding scheduling the Student's annual IEP meeting. They stated all IEP team members were available on March 12, 2026, from 1:00 p.m. to 2:00 p.m. The Special Education Provider reminded the Parent of the draft IEP sent on January 21, 2026 and listed the changes the team proposed. The Special Education Provider indicated the meeting notice would be sent via email and could be signed electronically. The 2025-26 IEP and the draft 2026-27 IEP were attached. (P26; D56)

c. 3:28 p.m.: The Parent wrote that they had "made a request" at the last IEP meeting and "it didn't happen." The Parent added they followed up with a formal request and noted the LEA had not responded as of the date of the email. (P25)

13. The following email exchanges occurred on February 27, 2026 between the LEA and the Parent:
    a. 9:46 a.m.: The Director of Special Education emailed the Parent to confirm the IEP Team responded to the Parent's requests by offering to meet and consider the Parent's requests. They added the IEP Team had not yet had the opportunity to meet together to review the IEP, discuss the proposed services, or consider the requests shared. The Director of Special Education noted a meeting had been scheduled for March 12, 2026 at 1:00 p.m. (P24; D57)
    b. 12:51 p.m.: The Parent emailed the Director of Special Education to state they felt "harassed and intimidated," were "afraid to attend," and requested a virtual meeting because they believed the LEA "makes all the decisions" and the Parent had "no input." (P24; D58)
14. On March 4, 2026, the Special Education Provider emailed the Parent the link for the virtual IEP meeting for March 12, 2026, at 1:00 p.m. (D59)
15. On March 11, 2026, the Parent emailed the LEA, indicating they did not understand a document and "needed to get a better understanding of it before signing it." Additionally, the Parent requested the Student's "school records be email[ed] to me." (D39) The Director of Special Education emailed the meeting link to the Parent for the IEP meeting schedule for the following day and indicated the Notice of Meeting was sent more than 10 days in advance and did not require a signature. The Director of Special Education also shared the link to submit a records request. An IEP meeting agenda was attached. (D65)
16. March 12, 2026 IEP Meeting Notes included:
    a. The Parent shared concerns about homeschooling being discussed with the Other Parent.
    b. "[The Special Education Provider] attempted to discuss present levels and was met with interruptions from [the Parent]. [The Parent] expressed that [the Student] would do better if the school would let [the Parent] come in and support."
    c. "[The] [t]eam attempted to explain why this is a proposed goal and how the school team will work on it. [The Parent] said the team wasn't listening to [the Parent] when there was a response to a question from [the Parent]."
    d. "We were not able to get past the first goal of the IEP. [The Parent] said [they] saw earphones in the draft and doesn't want earphones used. [The] [t]eam said they would take that out as earphones were not used. They were listed as an option for sensory."
    e. "The team reached a time boundary and attempted to reschedule."
    f. "[The Parent] said [the Parent] has items [they] would like to request in writing and we will need to schedule another date/time to finish the meeting. [The [t]eam will email with new dates." (D119-D120)

17. On April 7, 2026, the Principal emailed the Parent after missing the Parent's phone call, "It was relayed to me that you had requested the date of our previous IEP meeting. We met on Thursday[,] March 12th, [2026] at 1:00 [p.m.]. [The Special Education Provider] proposed on March 30th[,] [2026] the dates and times below for a follow[-]up meeting: April 16th[,] [2026][from] 1:30 [p.m.] to 3:00 [p.m.]; April 21st[,] [2026] from 12:30 [p.m.] to 2:00 [p.m.]; April 23rd[,] [2026] from 1:30 [p.m.] to 3:00 [p.m.]." (D37) On April 9, 2026, the Parent indicated they may have a work conflict and wrote, "[The Other Parent] has my permission to make whatever decision concerning [the Student's] IEP. (D37-D38)
18. On April 10, 2026, the Special Education Provider emailed the Parents to propose an IEP meeting on April 23, 2026, from 1:30 p.m. to 3:30 p.m. and added they could provide a virtual link if necessary. The Special Education Provider informed the Parents that a meeting notice would be sent to their email and noted they could sign online. (P16-P17) An April 10, 2026 Notice of Meeting proposed a meeting on April 23, 2026, to develop and discuss the IEP and conduct an annual review. (D98-D99)
19. On April 14, 2026, the Parent emailed the LEA to request the Student's "proposal IEP program that we are meeting about." (D36)
20. April 23, 2026 IEP Meeting Notes included:
    a. "The meeting started w[h]ere the previous meeting had left off, after the goals. [The Other Parent] was present at [the] previous meeting and agreed with the goals presented."
    b. "[The] [t]eam went through [the] proposed [BIP]. [The Parent] stated [the Student] did not need headphones, [the] team agreed to remove [headphones] from the BIP."
    c. "[The Parent] also stated [the Student] does not need fidgets, which is listed under Proactive strategies under sensory breaks. [The Parent] does not agree with the use of fidgets or the purpose."
    d. "[The Parent] said [the Student] just needs [to] be told to stop and sit down. That is why [the Parent] wants to come in and support [the Student]. The team noted this request."
    e. "The team then went through program modifications and supports. It was explained to [the Parent] that a lot of these supports happen naturally in the classroom, i.e.[,] alerting [the Student] to transitions, alternate chair, extended time, frequent reminders of rules, etc. [The Parent] was insistent that [the Student] does not [need] extended time or anything different than other students. The team presented that all students learn differently and we are supporting [the Student] with [what] works for [the Student]. [The Parent] stated [they] did not feel [the Student] needed additional time or support."
    f. "[The] [t]eam explained that the purpose of the IEP goals, BIP, and specially designed instruction would target explicit instruction to support [the Student's]

progress. [The Parent] said [the Parent] needs to be the one to do this because [the Parent] doesn't trust anyone else. [The Parent] shared a situation that occurred in private school when [the Parent] saw [the Student] did not have a voice. [The Parent] said it is [the Parent's] job to be [the Student's] voice at school."

g. "The team agreed to continue transportation when [the Student] is with [the Other Parent] until the end of the school year."

h. "Service minutes were proposed to [the Parent]."

i. "In the end, [the Parent] was upset about not being able to be in the classroom [Monday, Wednesday, Friday] MWF and [the Other Parent] [Tuesday, Thursday] TU/Thurs. [The Parent] said [the Parent] wants to do this for 6 months but would agree to only 3 months if allowed. [The Parent] also said [they would] agree to only 3 days a week instead of 5 days. [The] [team] restated that the services proposed[,] including the BIP[,] could support [the Student] and would include the types of supports [the Parent] felt [the Student] needed to be successful."

j. "[The Principal] reminded [the Parent] of the opportunities [the Parent] has to be a part of [the Student's] classroom."

k. "[The Parent] stated [they] did not trust us anymore and we wasted [the Parent's] time. [The Parent] said [the Parent] was blocking emails and would not respond. Meeting ended." (D120-D121)

21. On March 27, 2026, the Special Education Provider emailed the Parent to indicate it was decided at the last IEP meeting that another meeting would be needed to cover the remaining content of the Student's IEP. The Special Education Provider provided the next available date and time, April 13, 2026, and attached a copy of the Student's current and draft IEPs. (D67) The Parent responded that the April date would not work as they had clients and a hearing and wrote, "I don't understand why you guys haven't given … the information that I requested." (D66)

22. On April 10, 2026, the Special Education Provider proposed April 23, 2026, for an IEP meeting. (D69) On April 14, 2026, the Parent requested the documents that would be discussed at the IEP meeting. (D68) On April 15, 2026, the Special Education Provider attached the current and draft IEPs. (D68)

23. A draft April 23, 2026 IEP included:

a. Functional needs: The Student's ability to focus and follow classroom expectations occurred during non-preferred activities and transitions.

b. Impact of Exceptionality: "[The Student's] inability to follow classroom/building[-] wide expectations impacts [their] ability to learn, interact, and form positive relationships with peers and adults. [The Student] struggles with impulsive behaviors in and out of the classroom." (D133)

c. Service Delivery Statement: "[The Student] will receive the following services as the district's offer of a [FAPE]. [The Student] will receive the following special education services in [their] general education setting/classroom. During this

time, [the Student] will be participating with non-disabled peers. [The Student] will receive 210 minutes a day, 4 days per week and 170 minutes a day, 1 day per week of in-class support and during specials for support with transitions, classroom expectations, review individual schedule, offer break choices and/or reinforcement/token system, hallway and building expectations, and social interactions with peers. [The Student] will receive the following services outside the general education classroom/setting. During this time, [the Student] will not participate with non-disabled peers. [The Student] will receive 90 minutes a day, 5 days per week, of direct special education instruction in the areas of compliance, task completion and executive functioning skills." (D131-D147)

24. PWN, dated May 6, 2026, indicated that on April 23, 2026, the team proposed a material change in services, a substantial change in placement, and other changes not involving services or placement, and included:
    a. Action proposed/refused: The IEP team met on February 11, 2026, March 12, 2026, and April 23, 2026, and proposed to "Decrease special education pull-out services to 90 minutes daily from 210 minutes daily," add a BIP, and add the following accommodations in all subjects:
        i. Alert the Student to transitions five minutes before each transition throughout the day.
        ii. Allow extra time for transitions to give the Student time to process expectations throughout the day.
        iii. Allow frequent breaks when the Student has finished a task/assignment, has requested a break, or is feeling overwhelmed. Breaks should not last more than 10 minutes. When the timer goes off, ask whether more time is needed and offer one or two more minutes.
        iv. Alternative chairs, a sitter, or a stander when the Student is feeling fidgety throughout the school day.
        v. Extended time during oral and written responses, assignments, and tasks for the length of the assignment or task.
        vi. Frequent reminders of the rules before leaving the classroom and entering another space. Review classroom/hallway expectations for the length of the school day.
        vii. Positive Behavior Supports System used throughout the school day for the length of the day.
        viii. Use of visuals (first/then) and frequent reminders of the rules when transitioning to a less preferred activity. Present an object or picture representing what the Student needs to do first/then until the Student transitions between activities independently.
    b. A reinforcement system used during teacher-led activities to reinforce positive behavior during teacher-led activities until the Student sustains attention independently.

c. Rationale: The Student has made progress toward their IEP goals but continues to need instruction in behavior and executive functioning.

d. Options considered: The team considered not changing the pull-out services time, but it was determined the Student's needs could be met in the general education setting with additional supplementary aids and services and a BIP. The team considered the Parent's input that the Parent did not think the Student needed fidgets, extra time, or supports. The team determined the proposed accommodations were necessary.

e. Data: IEP progress monitoring data, observations, parent feedback, and consultations from staff.

f. Relevant factors: "There may be some social stigma associated with receiving special education services. In addition, the [S]tudent will not be with non-disabled peers or participating in the general education curriculum when [the Student] is receiving specially designed instruction in a special education setting. The team believes identified services are necessary for a FAPE and outweigh any potential harmful effects. The team will continue to monitor [the Student's] progress to inform future IEP team decisions." (D101-D104)

g. A Request for Consent for Special Education Action was not signed. (D105)

25. An additional PWN, dated April 23, 2026, indicated the LEA refused to initiate or change the identification, placement, or provision of special education and related services.

a. Action refused: The IEP team met on February 11, 2026, March 12, 2026, and April 23, 2026. "The Parent requested the IEP team to indicate that [the Parent] can observe and support [the Student] a minimum of 3 full school days per week for 3 to 6 months as part of [the Student's] IEP services, which [the Parent] indicated was [their] right for meaningful participation. This request is declined."

b. Explanation: "Progress monitoring data indicates that [the Student] is making progress toward [their] IEP goals with the services outlined in the IEP. The team also proposed changes to services given this progress and to increase [the Student's] access and participation in the general education classroom. Parent support at school is not needed to provide the student with a FAPE. The team listened to the reasons [the Parent] provided for [their] request to directly support the student at school and/or observe the student as noted above. These included that as [the Parent], [the Parent] is the one to provide services/support as [the Parent] does not trust anyone else. [They] also stated as the parent, [the Parent] needs to be the student's voice at school. [The Parent] shared that if [the Parent] were at school, supports wouldn't be necessary as [the Parent] would only need to look at [the Student] to behave, the student doesn't have to guess at what [the Parent] might think, and that [the Parent] could speak directly to [the Student] about expectations and routines and check in to see if [the Student] is alright [sic].

Other reasons provided were to ensure [the Student] is connected to friends and teachers and that [the Student] needs to know [the Parent] is there. In considering [the Parent's] request, the team is refusing to initiate the parent[-] requested change as the school is responsible for implementing the IEP, the school is able to implement the IEP, and data indicates that [the Student] is making appropriate progress. Also, the parents are able to meaningfully participate in the IEP process without providing support or observing for extensive time periods. This could also be disruptive to the school's instruction, learning environment, and IEP implementation, for which the school is responsible. School staff have explained how the IEP is implemented and the content of specially designed instruction including services delivered by district staff. The parents do have the right to request to visit the school, following board policy and administrative procedures, which includes the decision of whether or not the observations are allowed by the school principal."

c. Options considered: "The team considered the parent [sic] request to observe and directly support [the Student]. The team ultimately determined that the IEP services, supplementary aids, and supports are appropriate to meet [the Student's] needs and to provide [the Student] with a FAPE."

d. Data: Parent requests, parent input, and IEP progress.

e. Relevant factors: "In addition to the district's visitor policy, the principal shared opportunities for the parent to be included in [the Student's] classroom, such as attending Friday morning openers, volunteering, reading to the class, joining [the Student] for lunch, marathon club, Friends and Family Day and Field Day." Additionally, "The team anticipates no harmful effects as a result of this refusal. The school is able to implement the IEP and provide a FAPE." (D113-D115)

26. The Student's 2025-26 Report Card noted the Student incurred 22 excused absences during the school year. Report Card marks indicated the Student met the majority of the English Language Arts (ELA) and math standards addressed. The Student received "targeted for growth" marks in two of the three standards addressed in science and "making progress" marks in the one standard addressed in social studies. Regarding the Student's "successful learner behaviors," the Student's marks declined from either "successful" or "making progress" in semester one to "targeted for growth" in semester two in the following areas: self-control, listening and following directions, accepting responsibility for behavior, responding appropriately to feedback from adults and peers, and managing transitions and changes in routines. (D4-D8, D10)

27. The Student's behavior was documented in the student information system (SIS) for the 2025-26 school year and included:

a. 13 behavior incidents between September 11, 2025 and April 15, 2026.

i. Six of the incidents involved the Student hitting, slapping, kicking, shoving, or holding down peers.

ii. Seven of the incidents involved the Student screaming, yelling, kicking, running, throwing, eloping, or disrupting. (D12-D13, D14-D25)

28. According to the LEA's "Visitors to the School Policy," last revised on January 27, 2026, the board encouraged parents to visit LEA facilities. It stated visitors were required to check in at the office to obtain a visitor's pass before contacting anyone else in the building or on the grounds. The policy stated any visitor to the building would be under the jurisdiction of the building principal, and the principal had the authority to request assistance from law enforcement if any visitor refused to leave or created a disturbance. Violators of the board policy and its rules could be subject to the state trespass law. (P18; D27)

a. A document titled "Visitors to Schools" referenced Board Policy KM and included:

i. "Visits to district schools must be scheduled in advance and require approval from the building principal. … Visitors are required to check in at the office to obtain a visitor's pass immediately upon entering the building. Visitors must be accompanied by a district staff member at all times."

ii. According to the document, the following "Class Observation Procedures" are required:

1. "When a request is received from a patron (defined as a parent, noncustodial parent, grandparent, cousin, retired person, etc.) to observe a classroom, the following procedures apply":

a. "A written request should be submitted to the principal." The Principal will contact the "teacher for [their] permission. If the teacher agrees to the observation, the teacher will suggest a date and time when a planned classroom activity would lend itself to an observation (test[-]taking and other inappropriate days should be avoided). Only a one[-]time observation on a space available basis will be allowed." The principal "will notify [the] patron as to the date/time of the observation." The patron must sign in and secure a visitor's badge and is requested to "not participate in class discussions or activities." (D26)

2. A separate document titled "Guideline for Ob[s]ervations of Individual Students or Programs by Parents or Representative from Other Agencies" described the observation requirements and restrictions. (D29)

Parent Interview

29. In an interview with the Complaint Investigator, the Parent explained the Student was struggling with behavior "because [the Student had] been through a lot. So I know that [the Student] needed some extra help." (P1, 03:03) The Parent stated they had sole educational decision-making rights for the Student. (P11, 46:22)

30. The Parent believed a February 11, 2026, meeting was only supposed to be a parent-teacher conference. They stated they had not received notice of a meeting for an IEP meeting on that date. (P1, 01:16; P2, 06:34; P4, 15:47) The Parent shared, "Previous to that meeting, I have been a part of the IEP allowing me to come to observe [the Student], but I always stood in the hallway. In that meeting, I asked to … write that into a plan." (P1, 03:03) The Parent said the Special Education Provider and the Principal objected, while the General Education Teacher reportedly said, "I think that's a great idea to have [the Parent] … coming to the classroom." The Parent described their previous observations as "I've been standing out[side the classroom] looking in, not interrupting." They believed their presence was beneficial to the Student, stating the General Education Teacher told them, "You being there has greatly affected and moving [sic] [the Student] forward." (P1-2, 04:17; P2, 05:39, 06:34)
31. The Parent shared they observed the Student from outside the classroom for approximately two to three weeks sometime between August and October 2025. They stated they would come once a day, for 10-15 minutes. They said they coordinated with the General Education Teacher to visit at the time of day the Student needed the most help redirecting. (P7, 28:44, 30:07, 30:32, 30:51) The Parent explained they had to be "buzzed" into the building, and signed in as a visitor. Then the Parent "went down to [the] classroom and I looked … through the window and then I see [the Student] [is] not doing right and I point to wherever [the Student] needs to be going from there and then I step away so that [the Student] doesn't keep looking back and then … I see … [the Student] [is] doing what [they] [are] supposed to do. I just walk away, walk out the side door and leave." (P7, 29:09)
32. The Parent explained the reason for requesting to have parental observations written into the IEP was "to give [the Student] more support and to understand what the goal is for [the Student] so that [they] can get on the right track and … become an independent student." The Parent stated their goal was "to see what's going on in the classroom that does not allow [the Student] to be successful. What is it [the Student] [is] doing that's not allowing [them] to move forward with the rest of the kids?" They reiterated the General Education Teacher had previously appreciated their presence and believed it resulted in social-emotional and academic progress for the Student. (P6, 25:16; P15, 01:01:34) The Parent stated it was only after they requested the observations be written into the IEP that the LEA informed them of the visitor policy. (P20, 01:21:29)
33. The Parent recalled an unspecified date when they were observing the Student and the Principal had interacted with them. According to the Parent, the Principal said the Student was "okay" and indicated the Parent should leave the school. After the Principal walked away, the Parent stayed for a few more minutes before leaving. The Parent reported they called the LEA and requested an IEP meeting. According to the Parent, they were told the meeting could happen in "about two hours." The Parent sat in their parked vehicle across the street to wait. The Parent stated the Principal

called the police to have the Parent trespassed; however, the police were not able to do so because the Parent was not on LEA property. The Parent shared they waited for two hours, settled the situation with the police, and no IEP meeting was held that day. (P8, 32:36; P9, 37:29, 38:57; P19, 01:17:27, 01:18:23)

34. The Parent said because of the interaction involving the police, they felt uncomfortable physically attending the subsequent IEP meetings. They shared, "You're using [the] IEP as a way to restrict [the Student], as a way to try to punish [them], a way to punish [their] parents. This is why I said I was scared to go to the [S]chool." Additionally, the Parent reported LEA "only" offered meeting times when the Parent had unmovable work obligations. Therefore, the Parent attended at least one meeting via video conference. (P11, 46:22; P16, 01:06:03; P17, 01:08:41; P19, 01:20:21)

35. The Parent reported they had made multiple records requests and had not received any of the Student's educational records. They stated their first request was in January 2026, and they made subsequent requests after the February 11, 2026, IEP meeting. They stated they were not given a copy of the draft IEP before the February 11, 2026, meeting. (P9-10, 40:13; P10, 43:48; P17, 01:09:06) The Parent stated the LEA never released any records. They believed there should be documentation to support the feedback about the Student they were receiving from the LEA. (P17, 01:09:32, 01:09:33) The Parent said, "Give me the data. You have to have some type of data that says, 'This child needs this. … .' I haven't been presented with any data." (P3, 10:04) They also said, "Every time we ask for data, every time we ask for reports, every time we ask for things that will support what they're doing, not to discredit the support, … [w]e can't get it." (P3, 11:50)

36. Regarding the use of "noise-canceling headphones" with the Student, the Parent believed the headphones were a type of restraint. They stated, "There's nothing in [the] IEP that says so or anything. … I asked, 'Why are we trying things on … [the Student] … that's not in [their] IEP?" The Parent stated the Principal recalled the Student asking to use the headphones. The Parent reported the Student denied requesting the headphones. (P2, 06:34, 07:53) The Parent shared, "We have an IEP so you can … find out what [the Student's] needs are and accommodate [their] needs so you can get the right response and so [the Student] can go through [their] education process. This was not done." (P2, 09:05)

37. The Parent perceived the LEA was isolating the Student. They stated they had observed an interaction between the Student and a classmate where "The paraprofessional walked in and gave my kid something to play with and allowed the other kid to do whatever." The Parent interpreted the paraprofessional's intent as to "single out" the Student. They shared, "They're telling other kids when [the Student escalated], 'get away from [the Student], stand away from [them],' isolating [the Student] farther and causing more problems with [the Student] because now [they] [feel] different. [The Student] feeling [sic] like nobody wants to talk to [them]." (P4, 18:34; P5, 19:44) The Parent claimed, because of behavior issues, the LEA "won't let

[the Student] go out to recess. … [They] do an alternative recess, put [the Student] in [a room] playing with blocks." The Parent perceived the "alternative recess" as a way to "restrict [the Student] from other children." (P5, 20:44; P11, 48:50)

38. The Parent recalled visiting the School and being shown a room in the School office that the Student had been taken to during recess. The Parent stated, "It is just a room where [the Student] can play with blocks … . It's just a room, just a regular room with nobody else in there." The Parent believed the room was "isolating," and stated they were told "Well, your kid doesn't know how to be [sic] behaved." (P12, 51:08, 52:07, 52:50; P13, 53:50)

39. The Parent believed the IEP "sort of regressed [the Student]." They said the Student spent "[the] majority of the [school] time playing with blocks." (P4, 17:39) The Parent stated the IEP was not implemented correctly, adding "They're just doing whatever." (P5, 21:35; P18, 01:13:44, 01:16:07) The Parent also believed the LEA "began to communicate with [the Other Parent] to circumvent" them. The Parent believed the LEA was using the IEP "incorrectly to circumvent people[,] to restrain [the Student], to … alienate [the Student] from other students." (P11, 46:22, 47:43)

40. The Parent shared that because the Student was put into a "restricted area," the Student was not able "to understand how to relate to other children, … and how to conduct [themself] because [they] [are] in an isolated building or situation." The Parent believed this "caused [the Student] emotionally [sic] harm … [the Student] doesn't have any resolution, any conflict resolution because [they] [have] been playing by [themself]." (P12, 49:57) The Parent said, "You shouldn't restrict a child from public education. You shouldn't restrict a parent to understand what is going on with [their student]. You shouldn't restrict a parent from getting public information from the school … . You shouldn't not [sic] document things that was [sic] alleged to happen to [the Student]. You shouldn't … tell the other students, 'Don't play with [the Student].' … You shouldn't put [the Student] in a room because that's best for you. … [They] [are] still a student. … [They] still have the same rights as the student who's able to stay in the classroom." (P18, 01:15:04)

Special Education Provider Interview

41. In an interview with the Complaint Investigator, the Special Education Provider verified a document detailing "push-in and pull-out services" contained the scheduled services specific to the Student. (P1, 01:53) They explained it was "[the Student's] daily schedule that [they] [have] at [their] seat. [The Student was] to check off as [they] [go] through each section of it." (P2, 02:11, 02:50)

42. The Special Education Provider stated the Student's teachers were given a copy of the Student's "IEP at a glance" within the first week of school, which began on August 14, 2025. (P2-3, 03:27, 03:47, 03:53)

43. Regarding the February 11, 2026, meeting with the Parent, the Special Education Provider reported the IEP team combined the Student's parent-teacher conference with an IEP meeting. The Special Education Provider indicated the Parent

interrupted the conference portion of the meeting to give input on the IEP. They shared, "But we never truly got through the IEP during that first meeting. It was just [the Parent] talking a lot about a lot of different things." (P3, 04:13)

44. The Special Education Provider indicated they sent adequate communication to the Parent regarding the Student's special education services. They stated they sent copies of the current and draft IEP along with a notice of meeting in January 2026. (P4, 05:55) The Special Education Provider reported, "In September, [the Parent] was provided a copy of the IEP that was current, then a copy of the evaluation and copies of signature pages. … And then [the Parent] was provided a copy again of the IEP [in] January [2026] and the draft IEP as well." (P4, 06:59)
45. Regarding a series of emails sent on February 24, 2026, the Special Education Provider said, "I did not respond to those. … I didn't feel comfortable with what [the Parent] was asking, honestly." They stated an FBA was not in place at the time, and a behavior plan had been drafted, but they were waiting on parental consent. The Special Education Provider was unclear as to whether the Parent believed an FBA had already taken place, or if the Parent was requesting an FBA, and indicated they deferred to the LEA to address the records request. (P4, 07:57, 09:07; P5, 09:55, 10:51)
46. The Special Education Provider indicated they were not responsible for PWN to the Parent regarding an FBA or classroom observation. (P5, 12:04)
47. The Special Education Provider stated, "At the beginning of the year, we had a meeting with [the Parent] just to go over what the IEP was. … That was in September [2025]. So I can't speak to why [the Parent] didn't feel informed because there was plenty of communication … ." (P4, 05:55) They observed, "In September [the Parent] did not know what an IEP was and there was no questioning or asking of anything of the current IEP. There was some kind of fallout that happened in February [2026] that all of a sudden the emails started coming." (P6, 12:56)

Principal Interview

48. In an interview with the Complaint Investigator, the Principal stated they followed policy when they denied the Parent's classroom observation request. They reported the Parent requested to observe "… all day for three days a week, … with clauses that they could change at any moment if they wanted to or cancel at any moment if they wanted to." (P1, 01:38) The Principal explained, per policy, "We want to be able to schedule the set date and time of [the observation]. I need to be able to ensure that the staff member feels comfortable … . I need to ensure that a building personnel was with the visitor at all times during [the observation] and that we needed to have prior notice that these things would be taking place, making sure that there wasn't a special event going on, a substitute, those kind[s] of things." (P1-2, 02:25) They stated they received policy guidance from the LEA, and the documents they used were a mix of internal documents and public-facing

documents. The Principal stated they sent the Parent copies of the policies they used to make their determination. (P5, 08:20, 08:40, 09:15)

49. The Principal described the Parent's request for classroom observation of the Student as "persistent." They shared, "It also came in a flurry of different emails and other requests that we were trying to acknowledge and address and make sure that we heard all of the requests of [the Parent] and that the request that [they] did make, we then followed administrative procedures." (P6, 11:42) The Principal noted a conflict between the Parent's requested observation schedule and the Parent's reported work schedule. The Principal stated the Other Parent was "not interested in this investigation." (P6, 12:51)

50. The Principal reported multiple IEP meetings were held before a decision about the Parent's request to observe the Student in their classroom was made. The Principal indicated meetings were held in February, March, and April 2026. They stated three meetings were necessary because "We weren't able to move through initial steps in those first IEP [meetings]." (P4, 05:38) The Principal reported the IEP team "… waited until we had an IEP meeting … to review all of the components of the IEP and to better understand what the function and purpose of the observations were … and if clarity in the IEP meeting would provide … answers [for the Parent], and … were observations going to be necessary to support the student's individual goals and specially design instruction." (P3, 04:56) The Principal stated at the end of the April [2026] meeting "It was decided[,] … that understanding the functionality of [the] observations[′] that … as a team that would not be supportive of the student's goals and functions through the accommodations and modifications we had discussed." (P4, 06:22) Therefore, at the end of the April 2026 IEP meeting, the request for full day classroom observations was denied.

51. The Principal stated they did not send PWN. They indicated the "case manager or [Director of Special Education]" would have sent it. (P4, 07:28)

52. The Principal shared, "[The Parent] feels strongly that [they] [know] what's best for [their] child … We had differing beliefs on how to help students be successful at school, which is okay." (P6, 13:50)

Director of Special Education Interview

53. In an interview with the Complaint Investigator, the Director of Special Education verified three separate IEP meetings were held to review the Student's IEP. (P2, 03:48) They stated the IEP written on April 23, 2026, was the Student's current IEP. They were unsure if parental consent had been received in order to begin implementing changes. (P1, 01:54)

54. Regarding the Parent's requests for an FBA and classroom observation, the Director of Special Education stated, "There were several emails that came in in a very tight timeframe … and we were trying to meet to figure out all of [the Parent's] requests so that we could talk through those requests and consider the request." (P5, 15:36)

They confirmed the emails were received on February 24th, 2026, and the second IEP meeting was held March 12, 2026. (P6, 16:27, 16:41)

55. The Director of Special Education verified the IEP was not completed at either the February or March meetings. (P6, 17:11, 18:46) They reported, "Through that April 23rd meeting, we talked about the [BIP] and there was not [sic] discussion about the further need for additional information to do a formal FBA at that time." (P6-7, 19:43) The Director of Special Education clarified the purpose for the multiple IEP meetings was to respond to and discuss the Parent's requests. (P7, 20:42)
56. The Director of Special Education stated at the February [2026] [IEP] meeting, the team discussed the IEP process with the Parent. They explained, "There were conversations with [the Parent] … helping [them] to just understand the need to meet … so that the team could have a discussion and could make recommendations and consider … requests." The Director of Special Education shared, "It's my opinion that there was frustration on [the Parent's] part for the team to have to meet, that [the Parent] was wanting IEP decisions to be made because [they] [were] requesting them." (P6, 17:11)
57. The Director of Special Education explained the gap between the March 12 and April 23, 2026 meeting was due to the Parent's availability. (P7, 21:03, 22:13)
58. The Director of Special Education shared, "It did come to my attention that [the Parent] was interested in … supervision of … IEP services … and even provid[ing] those services to [the Student]. … the team was going to be looking at that request to come in specific to the IEP services." (P2, 02:20) They explained, during the April meeting, "[The Parent] was, at the time, requesting to be [at the School] from three to five days a week … for the entire length of the school day" for three to six months, and the IEP team was "trying to get at the purpose and the [sic] why [the Parent] wanted to do that." (P2, 03:48) The Director of Special Education stated the Parent was able to share their concerns with the team, and the team agreed to create a [BIP] and modify the Student's specially designed instruction. They said, "This is our role and it's the team's role, the school's role to provide that. And we absolutely can provide [behavior support] through the IEP." (P2, 04:51)
59. The Director of Special Education stated no PWN was sent after the February and March [2026] IEP meetings because "at that point in time the team had not gotten through the IEP process. There were no formal decisions that had been made … . So the team did not have anything to formally respond to … ." (P2-3, 06:10) They could not recall if the PWN included a denial of the FBA. (P7, 20:05)
60. The Director of Special Education shared, "There were opportunities for [the Parent] to be in the school and to participate as all parents do within the school, thinking about lunch bunches, Friday morning meetings, things like that." (P2, 02:20) They indicated the Parent was allowed to volunteer in the Student's classroom, and other participation opportunities "continued to be available to [the Parent] throughout the entire year." (P9, 26:15, 27:29)

61. The Director of Special Education verified the LEA visitor policy was on the LEA website, and indicated additional internal documents were used for guidance as well. (P4, 08:39, 09:46; P5, 14:45)
62. The Director of Special Education did not recall the Parent sending a records request. They confirmed the LEA used a form linked on their website for records requests. (P8, 23:00, 23:10)
63. The Director of Special Education reported, "[The Other Parent] had shared with the team on a couple of different occasions that [they] thought things were going well and [they] [were] not unhappy with the meeting or with the services through the IEP." The Director of Special Education perceived the Other Parent "was not comfortable meeting without [the Parent] because [the Other Parent] didn't feel comfortable making decisions because that would upset [the Parent] and then make things hard for [the Other Parent]." The Director of Special Education said, "The team was really trying to … get services implemented for [the Student] because the team was … proposing to reduce some of [the Student's] services because [they] [were] making good progress." (P8, 23:41)

General Education Teacher Written Response

64. On May 19, 2026, the General Education Teacher provided a written response regarding the Student which stated:
    a. The Student did not "struggle" academically, but had an issue with "successful learner behaviors" in the classroom, including staying quiet and calm at the carpet during lessons; interrupting and rolling around; anger responses to being told to follow rules; and work refusals.
    b. The General Education Teacher was made aware of the Student's accommodations and BIP through their IEP meetings. (General Education Teacher Written Response)

Science Teacher Survey Response

65. According to a survey response, the Science Teacher indicated the following:
    a. They were made aware of the Student's accommodations, modifications, and supports by viewing them on a paraeducator's clipboard. They noted, "Nothing formal was ever presented to me."
    b. The Student's accommodations, modifications, and supports were implemented by the paraeducators, "if needed."
    c. They were "not formally" made aware of the Student's BIP, and never received formal training regarding its implementation. (Science Teacher Survey)

Art Teacher Survey Response

66. According to a survey response, the Art Teacher indicated the following:
    a. They were made aware of the Student's accommodation, modifications, BIP, and support via their online access to the student information system and were also "provided with a binder."
    b. They were made aware of the Student's BIP at the start of the school year.
    c. The Student's accommodations, modifications, and supports were implemented by "a special education teacher and/or para educator in art classes." They described the accommodations provided to the Student which included:
        i. Repeated directions and "chunking" of information.
        ii. Offer breaks in and out of the classroom.
        iii. Offer choice during projects.
        iv. Proximity by a paraeducator or Teacher.
        v. Additional and/or modified "working space and materials to facilitate positive social interactions and focus."
        vi. Positive reinforcement for participating and meeting class expectations.
    d. The Art teacher could not recall receiving specific training regarding the implementation of the Student's BIP. (Art Teacher Survey)

Music Teacher Survey Response

67. According to a survey response, the Music Teacher indicated the following:
    a. They were made aware of the Student's accommodation, modifications, BIP, and support via the IEP at a Glance at the beginning of the year.
    b. The Student's accommodations, modifications, and supports were implemented in their classroom by their paraeducator. They added breaks were provided as needed.
    c. The Music Teacher referred to the Student's special education teacher and paraeducator regarding behavior. They did not indicate how they were made aware of the Student's BIP.
    d. The Music Teacher stated their "teacher certification" was the training they received regarding the Student's BIP. (Music Teacher Survey)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #497, in accordance with state and federal regulations implementing the IDEA, ensured the Parent had an opportunity to participate in an IEP meeting after the Parent requested one. Further, the Parent alleges the LEA's denial of the Parent's observation of the Student in their classroom was a denial of their parent participation rights under the IDEA. K.A.R. 91-40-17(a)(e); 34 CFR § 300.322(a)(c).

According to K.A.R. 91-40-17(a)(e) and 34 CFR § 300.322(a)(c), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include the following: scheduling each meeting at a mutually agreed-upon time and place and informing the parents of the information specified in subsection (b) of this regulation; and, except as otherwise provided in the law, providing written notice, in conformance with subsection (b) of this regulation, to the parents of any IEP team meeting at least 10 days in advance of the meeting.

Additionally, an agency may conduct an IEP team meeting without parental participation if the agency, despite repeated attempts, has been unable to contact the parent or parents or to convince them that they should participate. However, if an agency conducts an IEP team meeting without parental participation, the agency shall have a record of the attempts that the agency made to contact the parents to provide them notice of the meeting and to secure their participation. The record shall include at least two of the following: detailed records of telephone calls made or attempted, including the date, time, and person making the calls and the results of the calls; detailed records of visits made to the parent's home, including the date, time, and person making the visit and the results of the visit; copies of correspondence sent to each parent and any responses received; and detailed records of any other method attempted to contact the parents and the results of that attempt.

The Parent alleged the LEA refused to allow them to observe their child's classroom, which impacted the Parent's ability to participate. The Parent alleged they requested an IEP meeting and the LEA refused.

The LEA maintained there were no instances of either of the Student's Parents requesting an IEP in which the team did "not attempt" to schedule with the Parent's. Additionally, the LEA maintained they considered the Parent's request to observe, and the team determined the observations and parental support in the classroom were not necessary for meaningful parent participation or to provide a FAPE.

The LEA took steps to ensure the Parent was afforded the opportunity to participate in the IEP process. The LEA held three meetings, offered ten alternative dates when conflicts arose, and provided virtual access to accommodate the Parent. Regarding classroom observation, while 34 CFR § 300.322 requires participation in meetings, it does not mandate unrestricted

classroom access. The LEA allowed meaningful participation by considering parent input on the BIP and IEP goals during the scheduled meetings, and by offering alternative parent involvement activities, fulfilling the requirement to "afford the opportunity to participate."

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure the Parent had an opportunity to participate in an IEP meeting after the Parent requested one. Additionally, based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA denied the Parent their participation rights under the IDEA.

Issue Two

Whether USD #497, in accordance with state and federal regulations implementing the IDEA, provided the Parent with PWN when refusing services or the requests of the Parent. K.A.R. 91-40-26(a), K.S.A. 72-3430(b)(2); 34 CFR § 300.503(a).

According to K.A.R. 91-40-26(a), in providing any notice to the parent or parents of an exceptional child in accordance with the law and amendments thereto regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes the following information: a description of other options that the agency considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal.

According to K.S.A. 72-3430(b)(2) and 34 CFR § 300.503(a), the parents of exceptional children have a right to written prior notice in accordance with the law, and amendments thereto, whenever an agency proposes to initiate or change or refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child.

The Parent alleged the LEA failed to provide PWN for each refusal.

The LEA maintained it complied with the IDEA regulations by providing two PWNs on May 6, 2026, following the conclusion of the IEP review process on April 23, 2026. These notices formally documented the LEA's refusal of the Parent's request for classroom observation and support.

On February 24, 2026, the Parent formally requested that the LEA conduct an FBA to address the Student's behavioral incidents; however, the LEA did not complete the assessment, opting instead to draft a BIP based on existing observation and progress data. Despite the Parent's explicit request for PWN regarding any refusal to provide evaluations, the Special Education Provider deferred the email to the LEA without a direct response, and no formal PWN addressing the FBA was issued following the February or March meetings. The Director of Special Education stated that no formal decisions had been finalized at that time, and the

subsequent PWN dated May 6, 2026, focused on the proposed BIP and changes to service minutes without providing a formal refusal or rationale concerning the requested FBA.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA failed to provide the Parent with PWN to address the Parent's request for an FBA and behavior support.

Issue Three

Whether USD #497, in accordance with state and federal regulations implementing the IDEA, ensured the Student was served in the LRE and gave consideration to any potential harmful effects on the Student or on the quality of services the Student needed. K.A.R. 91-40-21(a)(g)(h)(i); 34 CFR § 300.114(a).

According to K.A.R. 91-40-21(a)(g)(h)(i) and 34 CFR § 300.114(a), each agency shall ensure that the children with disabilities served by the agency are educated in the LRE. In selecting the LRE for a child with a disability, the persons making the educational placement decision shall give consideration to any potential harmful effect on the child or on the quality of services that the child needs. Additionally, an agency shall not remove a child with a disability from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum. In providing, or arranging for the provision of, nonacademic and extracurricular services and activities, including meals, recess periods, and other nonacademic services and activities, each agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child.

Furthermore, each agency shall ensure that each child with a disability receives the supplementary aids and services specified in the child's IEP as being appropriate and necessary for the child to participate in nonacademic settings.

The Parent alleged that the LEA denied the Student access to peer interaction, social-emotional learning, and a supportive educational environment by instructing other students to "move away" or not speak to the Student when the Student was frustrated, thereby isolating the Student.

The LEA maintained it ensured the Student was served in the LRE and the IEP team appropriately analyzed potential harmful effects during both the initial and current IEP development, which were noted in the PWN. The District concluded that the Parent's request for 1-5 days of direct support and observation was "unnecessarily restrictive" and would have interfered with the Student's "autonomous participation" and IEP implementation.

In the April 23, 2026 IEP draft, the team proposed reducing the Student's pull-out service from 210 minutes to 90 minutes, specifically to increase time in the general education setting. The May 6, 2026 PWN explicitly documented that the team "gave consideration to any potential

harmful effect," noting the social stigma of segregation. The refusal to allow the Parent to provide the services personally was justified by the LEA's responsibility to implement the IEP in the school setting, ensuring the Student was not "removed … from regular classrooms solely because of needed modifications."

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure the Student was served in the LRE or to consider any potential harmful effects on the Student or on the quality of services the Student needed.

Issue Four

Whether USD #497, in accordance with state and federal regulations implementing the IDEA, allowed the Parent to examine data, logs, staff notes, and incident reports related to the use of noise-canceling headphones. K.A.R. 91-40-50(a)(2); K.S.A. 72-3430(b)(1), 34 CFR § 300.613(a)(b).

According to K.A.R. 91-40-50(a)(2), the following term shall have the meanings specified in this subsection: "Education records" means any document or medium on which information directly related to one or more students is maintained by a participating agency in accordance with the law and amendments thereto. According to K.S.A. 72-3430(b)(1), the parents of exceptional children shall have the right to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a FAPE to such child.

According to 34 CFR § 300.613(a)(b), each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. In doing so, the agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing or resolution session pursuant to the law; and, in no case, more than 45 days after the request has been made. The right to inspect and review education records under this section includes the following: the right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; the right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and the right to have a representative of the parent inspect and review the records.

The Parent alleged the LEA denied them access to the Student's educational records, including data, logs, staff notes, and incident reports related to the use of noise-canceling headphones.

The LEA maintained that no documentation existed regarding the use of noise-canceling headphones because they were never implemented as a formal strategy. The LEA noted that while headphones were included as an example in a draft BIP, they were removed immediately upon the Parent's request.

The LEA provided the Parent a formal avenue to inspect and review the Student's education records. Following the Parent's February 24, 2026, request for data, logs, and internal communications, the Director of Special Education responded on March 11, 2026, by providing a direct link to the LEA's records request portal. However, the Director confirmed in subsequent interviews that the Parent never submitted a formal request through this system. The Special Education Provider clarified that although headphones were listed as a sensory option in the draft IEP, they were not actually being utilized by the Student. Therefore, the specific data, logs, or records regarding the use of headphones requested by the Parent did not exist.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to allow the Parent to examine data, logs, staff notes, and incident reports related to the use of noise-canceling headphones.

Issue Five

Whether USD #497, in accordance with state and federal regulations implementing the IDEA, ensured the Student's teachers were informed of the specific accommodations, modifications, and supports that must be provided to the Student. K.A.R. 91-40-16(b); 34 CFR § 300.323(a)(d).

According to K.A.R. 91-40-16 (b) and 34 CFR § 300.323(a)(d), each agency shall ensure that the following conditions are met: an IEP is in effect before special education and related services are provided to an exceptional child, those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted, unless reasonable justification for a delay can be shown, and, an IEP is in effect for each exceptional child at the beginning of each school year, and the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider described in paragraph (4) of this subsection is informed of the following: that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged the LEA did not follow the Student's IEP when they used noise cancelling headphones which were not an IEP accommodation, and which the Parent had explicitly refused as a behavior support and safety protection that was not authorized in the IEP.

The LEA asserted that it followed standard LEA procedures by ensuring the Student's teachers and paraprofessionals were informed of all required accommodations at the start of the school year. The LEA verified that a case manager printed the "IEP at a glance" in August 2025, and the Classroom Teacher confirmed they had full access to the IEP from the beginning of the term.

Documentation shows the Special Education Provider accessed and printed the "IEP at a Glance" on August 22, 2025. The provider verified that general education teachers were informed of their "specific responsibilities" and "specific accommodations" within the first week of school. Furthermore, the 2025-26 checklist ensured that other responsible staff had "the information they need to provide a FAPE" via PowerTeacher, satisfying the requirement that the IEP be "accessible to each regular education teacher." While all teachers surveyed noted they received no training on the Student's BIP, records indicate the BIP was first proposed and documented in draft form as part of a draft IEP on February 11, 2026, and that IEP was not finalized until April 23, 2026. Because the Parent had not signed the Request for Consent for Special Education Services prior to the complaint, the BIP had not been implemented.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure the Student's teachers were informed of the specific accommodations, modifications, and supports that must be provided to the Student.

Issue Six

Whether USD #497, in accordance with state and federal regulations implementing the IDEA, provided the Student with a FAPE. K.A.R. 91-40-1(z); K.A.R. 91-40-2; 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-1(z), and 34 CFR § 300.17, a FAPE means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the state board; include an appropriate preschool, elementary school, or secondary school education; and are provided in conformity with an IEP. According to K.A.R. 91-40-2 and 34 CFR § 300.101, each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday. Additionally, each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

The Parent alleged the aforementioned allegations denied the Student a FAPE.

The LEA asserted it provided the Student with a FAPE, as the Student demonstrated consistent progress on IEP goals through the services and supports implemented by the LEA. The LEA asserted its sole responsibility and capability to implement the IEP.

While the Student made progress early in the year, the 2025-26 report card and behavior logs showed a significant decline in "successful learner behaviors" and 13 behavior incidents, including physical aggression. Although the LEA eventually proposed a BIP and modified services in April 2026 to meet the Student's "unique needs," these interventions were not in place during the period of decline. Because the Student's behavior was "impacting their learning or the learning of others" as early as the February 2025 IEP, the delay in formalizing an effective BIP until April 2026 resulted in a failure to provide services "appropriate to the needs of that child" during the 2025-26 school year.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA failed to provide the Student with a FAPE.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at 34 C.F.R. § 300.503(a) and K.A.R. 91-40-26(a) specify that written prior notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE.

In this case, the evidence supports the finding that USD #497 did not provide timely PWN when refusing the Parent's February 24, 2026, request for an FBA and specific behavioral supports.

B. Federal regulations at 34 C.F.R. § 300.17 and K.A.R. 91-40-1(z) specify that a FAPE means special education and related services that are provided in conformity with an IEP and are designed to meet the child's unique needs.

In this case, the evidence supports the finding that USD #497 did not provide the Student with a FAPE during the 2025-26 school year.

Based on the foregoing, USD #497 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #497 shall hold an IEP meeting to develop a plan to provide compensatory education services, in addition to the services listed in the Student's IEP and BIP, as follows:
    a. Direct BIP instruction for 50 hours.
    b. Social Skills training for 20 hours.
    c. Behavioral consultation to LEA staff on the Student's BIP for 5 hours.
2. Within 15 calendar days of the date of this report, USD #497 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations at 34 C.F.R. § 300.17 and K.A.R. 91-40-2 by ensuring that a FAPE is made available to the Student and that the Student's IEP and behavior supports are reviewed and revised in response to data showing a lack of progress or behavioral regression.
3. By August 1, 2026, USD #497 will complete the following: (1) submit a written statement of assurance to SETS that the LEA's practices and procedures for providing PWN have been reviewed and revised to ensure they are responsive to parental requests for evaluations, including FBAs, independent of annual review timelines; (2) provide a written description of the District's tracking system used to ensure that parental requests for evaluations or services are addressed with a PWN or consent form within the required legal timelines.

4. By August 1, 2026, USD #497 will complete the following: (1) submit a written statement of assurance to SETS that the LEA's procedures for monitoring behavioral progress have been reviewed and revised to include specific "data triggers" that require an IEP team to convene when a student shows a significant decline in behavioral or learner standards; (2) provide documentation of staff training for special education personnel regarding the timely development of FBAs and BIPs when a student's behavior impacts their learning or the learning of others.

The LEA shall schedule the required compensatory services and provide that schedule to the parent/decision maker and to Special Education and Title Services (SETS) in writing. The parent or education decision maker may choose to accept all, some, or none of the offered compensatory services. The parent or the education decision maker must respond to the school district and Special Education and Title Services (SETS), in writing, to identify which services (if any) are accepted. The written schedule of services may be sent to SETS at brian.dempsey@ksde.gov.

Once the LEA receives the written response, it will schedule any accepted compensatory services. If a student is absent or a parent is unable to make the student available at the scheduled time, the services scheduled for that day will not be made up. If LEA staff are unavailable, the services will be rescheduled. Any compensatory service that is declined or not used as scheduled will be considered waived, as long as the district has made a good-faith effort to begin and to provide the services in a timely manner."

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 497
Lawrence Public Schools: 26FC497-004

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on April 27, 2026, by ------- on behalf of his child, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on May 27, 2026. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, and the district's notice of appeal. The parent did not file a response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

Two issues are under Appeal, Issue two and Issue six. The committee will first address Issue 6 and then Issue 2:

Issue Six

ISSUE SIX: Whether USD #497, in accordance with state and federal regulations implementing the IDEA, provided the Student with a Free Appropriate Public Education (FAPE).

The investigator concluded that the district failed to provide the student with a FAPE for the following reasons:

> *While the Student made progress early in the year, the 2025-26 report card and behavior logs showed a significant decline in "successful learner behaviors" and 13 behavior incidents, including physical aggression. Although the LEA eventually proposed a BIP and modified services in April 2026 to meet the Student's "unique needs," these interventions were not in place during the period of decline. Because the Student's behavior was "impacting their learning or the learning of others" as early as the February 2025 IEP, the delay in formalizing an effective BIP until April 2026 resulted in a failure to provide services "appropriate to the needs of that child" during the 2025-26 school year. (Report, p 44)*

The Appeal Committee finds this conclusion rather harsh, given the following circumstances, all of which were cited in the report:

- The Student's IEP Progress Report dated December 19, 2025, noted the following progress toward the Student's goal: May 20, 2025, October 14, 2025, and December 19, 2025: Progress adequate to meet annual goal. (Finding 1(i)), Page 5)
- The February 11, 2026 IEP Meeting Notes included:
    - "IEP meeting was scheduled, parents attended, but [the] meeting did not take place as parents did not want to talk about [the] draft IEP."
    - "[The Parent] stated [they] wanted to be written into the IEP and made a part of the team. It was explained … that parents are a part of the team and we weigh their input when writing the IEP."
    - The team tried to discuss the IEP draft, educate the Parent about the IEP process, and reschedule the meeting without success. It was explained the Student's previous IEP would be implemented.
    - "IEP meeting on hold until we hear back from parents." (Finding 6, p. 9-10)
- Regarding the February 11, 2026, meeting with the Parent, the Special Education Provider reported the IEP team combined the Student's parent-teacher conference with an IEP meeting. The Special Education Provider indicated the Parent interrupted the conference portion of the meeting to give input on the IEP. They shared, "But we never truly got through the IEP during that first meeting. It was just [the Parent] talking a lot about a lot of different things." (Finding 43, p. 30).
- On February 24, 2026, the Parent sent the following emails to the LEA:

  - 1:38 a.m.: The Parent requested a virtual meeting link for a March 2, 2026 meeting. (Finding 11, p. 13)

- On March 4, 2026, the Special Education Provider emailed the Parent the link for the virtual IEP meeting for March 12, 2026, at 1:00 p.m. (Finding 14, p. 16)
- March 12, 2026 IEP Meeting Notes included:
  1. "We were not able to get past the first goal of the IEP. [The Parent] said [they] saw earphones in the draft and doesn't want earphones used. [The] [t]eam said they would take that out as earphones were not used. They were listed as an option for sensory."
  2. "The team reached a time boundary and attempted to reschedule."
  3. "[The Parent] said [the Parent] has items [they] would like to request in writing and we will need to schedule another date/time to finish the meeting. [The [t]eam will email with new dates." (Finding 16, p. 17)
  4. On April 10, 2026, the Special Education Provider emailed the Parents to propose an IEP meeting on April 23, 2026, from 1:30 p.m. to 3:30 p.m. and added they could provide a virtual link if necessary. The Special Education Provider informed the Parents that a meeting notice would be sent to their email and noted they could sign online. (P16-P17) An April 10, 2026 Notice of Meeting proposed a meeting on April 23, 2026, to develop and discuss the IEP and conduct an annual review. (Finding 18, p. 17)
- April 23, 2026 IEP Meeting Notes included:
  1. "The meeting started w[h]ere the previous meeting had left off, after the goals. (Finding 20, p. 18)
  2. The Parent] stated [they] did not trust us anymore and we wasted [the Parent's] time. [The Parent] said [the Parent] was blocking emails and would not respond. Meeting ended." (Finding 20(k), p. 19)
  3. The Principal reported multiple IEP meetings were held before a decision about the Parent's request to observe the Student in their classroom was made. The Principal indicated meetings were held in February, March, and April 2026. They stated three meetings were necessary because "We weren't able to move through initial steps in those first IEP [meetings]." (P4, 05:38) The Principal reported the IEP team "… waited until we had an IEP meeting … to review all of the components of the IEP and to better understand what the function and purpose of the observations were … and if clarity in the IEP meeting would provide … answers [for the Parent], and … were observations going to be necessary to support the student's individual goals and specially design instruction." (P3, 04:56) The Principal stated at the end of the April [2026] meeting "It was decided[,] … that understanding the functionality of [the] observations['] that … as a team that would not be supportive of the student's goals and functions through the accommodations and modifications we had discussed." (P4, 06:22) Therefore, at the

end of the April 2026 IEP meeting, the request for full day classroom observations was denied. (Finding 50, p. 32)

- The Director of Special Education verified the IEP was not completed at either the February or March meetings. (P6, 17:11, 18:46) They reported, "Through that April 23rd meeting, we talked about the [BIP] and there was not [sic] discussion about the further need for additional information to do a formal FBA at that time." (P6-7, 19:43) The Director of Special Education clarified the purpose for the multiple IEP meetings was to respond to and discuss the Parent's requests. (Finding 55, p. 33)
- The Director of Special Education stated no PWN was sent after the February and March [2026] IEP meetings because "at that point in time the team had not gotten through the IEP process. There were no formal decisions that had been made … . So the team did not have anything to formally respond to … ." (P2-3, 06:10) They could not recall if the PWN included a denial of the FBA. (Finding 59, p. 34).

In addition, the parent did not believe the student needed many of the behavioral supports proposed by the IEP team, such as headphones and fidgets, saying at the April 23, 2026 IEP meeting that "he just needs [to] be told to stop and sit down." (Finding 20d. on p. 18).

Another consideration is that unlike much of academic progress, behavioral improvements are frequently not achieved in a straight line. Rather, students often go through periods of progression and regression while learning new behavior skills. Those periods of regression do not mean progress is not meaningful.

Finally, the Appeal Committee notes that courts have cautioned school districts against attempting to meet timelines by limiting a parent's right to participate in the decision making process. Those courts have emphasized that the right of a parent to participate in the decision making process is typically stronger than a school district's obligation to meet required timelines. For example, in Doug C. v. State of Hawaii Dept. of Ed., 61 IDELR 91 (9th Cir. 2013), the school district decided to conduct an IEP meeting without the parent because the parent was not available on suggested dates for the meeting and so the legally required annual IEP meeting date would not otherwise be met. Even though the law required the IEP meeting to be held within one-year of the previous meeting, the court held that the school district's decision to proceed with the meeting was "clearly unreasonable."

In that case, the United States Circuit Court of Appeals in the 9th Circuit recognized that how a school district chooses to proceed in such circumstances involves judgement, and said:

When confronted with the situation of complying with one procedural requirement of the IDEA or another, we hold that the agency must make a reasonable determination of which course of action promotes the purposes of the IDEA and is least likely to result in the denial of a FAPE. In reviewing an agency's action in such a scenario, we will allow the agency reasonable latitude in making that determination.

The situation in this case is not identical to the situation in Doug C. v. State of Hawaii Dept. of Ed., but it is similar in that it presents the question of whether a school district should press ahead with an IEP meeting to make educational decisions or allow time to go by in order to enable parents to exercise their right to participate in the decision making process. In this case, the district chose the latter option.

Given the above findings in the complaint report and using the court's guidance to "allow the agency reasonable latitude in making that determination," the Appeal Committee finds that the delay in formulating a behavior intervention plan was not so much due to a lack of diligence on the part of the district as much as it was that the parent wanted to discuss other issues first and used entire meetings in doing so. The parents desire to talk about other issues first was the primary reason for the delay, and the district acted reasonably by patiently allowing the parents to do so.

For the reasons stated herein, the conclusion in this issue is reversed. There is no violation of the obligation to make a free appropriate public education available to this student.

Issue Two

Whether USD #497, in accordance with state and federal regulations implementing the IDEA, provided the Parent with prior written notice (PWN) when refusing services or the requests of the Parent.

In the conclusion portion of the complaint report, the investigator provided the following summary:

The LEA maintained it complied with the IDEA regulations by providing two PWNs on May 6, 2026, following the conclusion of the IEP review process on April 23, 2026. These notices formally documented the LEA's refusal of the Parent's request for classroom observation and support.

On February 24, 2026, the Parent formally requested that the LEA conduct an FBA to address the Student's behavioral incidents; however, the LEA did not complete the assessment, opting instead to draft a BIP based on existing observation and progress data. Despite the Parent's explicit request for PWN regarding any refusal to provide evaluations, the Special Education Provider deferred the email to the LEA without a direct response, and no formal PWN addressing the FBA was issued following the February or March meetings. The Director of Special Education stated that no formal decisions had been finalized at that time, and the subsequent PWN dated May 6, 2026, focused on the proposed BIP and changes to service minutes without providing a formal refusal or rationale concerning the requested FBA.

Based on the foregoing, according to the IDEA and Kansas special education regulations, it is substantiated that the LEA failed to provide the Parent with PWN to address the Parent's request for an FBA and behavior support. (Report, p. 39)

This description is correct. The district eventually issued a well-written PWN refusing to conduct a FBA on May 21, 2026.

This PWN, however, is not sufficient because it is not timely. The relevant law does not prescribe a specific timeline, but Kansas has adopted a policy that requires a district to respond to a parent's request with a PWN within a reasonable time (usually within 15 school days, unless there are unusual circumstances) either agreeing with the request or refusing the request. The district's PWN indicates that the decision to refuse the request was made at the April 23 IEP meeting but the PWN is dated May 21, 2026, almost a full month after the IEP team decision was made and 24 calendar days after this complaint was filed. The Appeal Committee also notes that because this complaint was filed on April 27, 2026 the district still had ample time to provide a timely PWN and it failed to do so.

The conclusion of the investigator is sustained on this issue.

Conclusion

The decision of the complaint investigator is reversed with respect to Issue 6 and sustained with respect to Issue 2. Accordingly, corrective actions 1, 2, and 4 are rescinded. Corrective Action 3 remains a required action.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 18th day of June, 2026.

Appeal Committee

Brian Dempsey

Mark Ward

Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233
ON APRIL 28, 2026

DATE OF REPORT: MAY 27, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD # 233, Olathe Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #233.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on April 28, 2026, and the 30-day timeline ended on May 28, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #233, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), obtained informed, written parental consent prior to initiating, planning, or conducting a speech and language evaluation of the Student. K.A.R. 91-40-27 (a)(1)(b)(c), K.S.A. 72-3430 (b)(6); 34 CFR § 300.300 (a)(1)(3).

ISSUE TWO: Whether USD #233, in accordance with state and federal regulations implementing the IDEA, provided prior written notice (PWN) to the Parent before initiating or conducting an evaluation of the Student. K.A.R. 91-40-26 (a), K.S.A. 72-3430 (b)(2-3); 34 CFR § 300.503.

ISSUE THREE: Whether USD #233, in accordance with state and federal regulations implementing the IDEA, obtained informed, written parental consent prior to disclosing the

Student's personally identifiable education records to the Guardian Ad Litem (GAL) or any other third party. K.A.R. 91-40-50 (b); 34 CFR § 300.622.

Investigation of Complaint

The Complaint Investigator interviewed the Parent and the Other Parent on May 18, 2026. The following LEA staff were interviewed on May 19, 2026: Teacher 1, Teacher 2, the Special Services Coordinator, the Speech Language Pathologist, and the Secretary.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Emails between all parties, 03/04/26-05/13/26
2. Notice of Meeting, 04/17/26
3. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 04/17/26
4. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 04/29/26
5. Letter, re: [the Student] – Response to April 30, 2026 Email; Second Corrected PWN Received; Outstanding Items, 04/30/26
6. Letter, re: [the Student] – Response to April 24, 2026 Email; Outstanding Requests; Records Access; Consent, 04/24/26
7. Ages and Stages Questionnaire (ASQ) Scoring Chart, 03/04/26
8. Family Court Orders, 08/29/25
9. Order Appointing Guardian Ad Litem, 09/25/25
10. Letter, re: Joint Legal Custodian Notice, 05/07/26
11. HIPAA Compliant Authorization for Exchange of Health and Education Information, 04/20/26
12. Screening/Eval Checklist, no date
13. Screening Observation Sheet, 04/03/26
14. Vision Screening, no date
15. Screenshot of Student Information, no date

Background Information

This Investigation involved a three-year-old student seeking services through USD #233, Olathe Public Schools. The Student is not currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA). For purposes of the Investigation, the Parent serves as the only complainant, whereas the Other Parent is involved as a witness.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. In an August 29, 2025 Civil Department Family Court document, the court:
   a. Granted the Other Parent's motion for a Guardian Ad Litem (GAL).
   b. Ordered "joint legal custody" of the Student for both parents, with "equal rights to involvement in[,] and responsibility for[,] decisions affecting their children's health, education and welfare."
2. In a September 25, 2025 County District Court Order to appoint a GAL, the GAL was "authorized to meet with, interview and obtain information from school officials, teachers, staff and other educational personnel."
3. An undated screenshot of the Student's profile in the LEA's Student Information System (SIS) listed both Parents with "Contact Allowed," "Ed[ucational] Rights," "Has Custody," and "Mailings Allowed." The record indicated the Student "Lives With" the Other Parent, and not with the Parent.
4. A March 4, 2026 form submission to the LEA documented the Other Parent referring the Student for "Speech and/or language concerns." The document also indicated the Student had been screened or evaluated by an outside agency or school district.
5. Forms titled Ages and Stages Questionnaire Social Emotional Edition Two (ASQ: SE2) and ASQ 36 Month Edition 3 indicated they were both completed by the Other Parent on March 4, 2026. In a May 7, 2026 response to the Complaint, the Parent noted the March 4, 2026 screening forms included an error in the Student's gender because "the forms were completed by [the Other Parent] alone, without my participation or knowledge."
6. A calendar appointment sent on March 13, 2026, from the Secretary to the Other Parent, indicated the Student had a "developmental screening appointment" on April 3, 2026, and explained general information and instructions regarding the screening.
7. An undated Screening Evaluation Checklist indicated the Student was recommended for further evaluation on April 7, 2026. An April 3, 2026 Screening Observation Sheet for the Student indicated the "Screener" was Teacher 2 and the Other Parent was an "Observer." The form documented in-person observations of the Student, a vision screening, a hearing screening, and tympanometry.
8. On April 8, 2026, Teacher 1 sent an "Early Childhood Developmental Screening Summary" to the Other Parent, which outlined the April 3, 2026 screening and indicated the LEA would contact the Other Parent to schedule an evaluation.
9. In an April 10, 2026 email to the Other Parent, the Speech Language Pathologist (SLP) indicated they received a referral for the Student, and they would be "conducting the speech evaluation to determine eligibility, and if eligible, develop an

IEP." The SLP requested a convenient time for the Other Parent to bring the Student "for the evaluation."

10. April 17, 2026 Prior Written Notice (PWN) for Evaluation or Reevaluation and Request for Consent included:
    a. The Parent's name and emergency phone number.
    b. the Other Parent's name, address, home phone, work phone, and emergency phone numbers.
    c. The notice was "hand delivered" to the Parent/Legal Education Decision Maker (LEDM) on April 17, 2026.
    d. The action proposed was to "conduct an initial evaluation" with "Parental Consent Required."
    e. "Communication Status" was selected as the type of evaluation, and boxes were checked indicating "new data" and "existing data" would be used.
    f. The explanation of why the action was proposed, the options considered, and other factors considered were documented.
    g. The data used as a basis for the proposed action were listed as "formal and informal assessments," "early childhood screening," and "parent input."
    h. Under the "acknowledgement" and the "consent" sections, the Other Parent signed and dated the document on April 17, 2026. Under the "do not give consent" section, there were no signatures or dates included.
11. An April 17, 2026 Notice of Meeting (NOM) indicated a proposed meeting date of April 27, 2026 to review the evaluation and determine eligibility. Both Parents were listed on the Notice, and the notice specified the NOM was "emailed to the Parent/Legal Education Decision Maker(s) listed" on April 17, 2026. The document explained "the results of the evaluation or reevaluation of your child are now available," and the LEA "must" meet with the Parent to "review the evaluation results for your child." The "Acknowledgement" section indicated a parent received a copy of their rights and planned to attend the meeting as scheduled, though the section was unsigned and undated.
12. In an April 17, 2026, 11:04 a.m. email to the Parent, the SLP stated, "I evaluated [the Student] today and wanted to let you know about [their] initial evaluation meeting date/time. I have also attached your parental rights." Documents titled "NOM" and "Parental Rights" were attached to the email.
13. In an April 17, 2026, 3:19 p.m. email to the Parent, the SLP replied to the Parent's request for a different meeting date, evaluation records, and assessment results from earlier in the day. The SLP indicated they would look for another day and time for the evaluation meeting to ensure "all members [were] able to participate." The SLP also explained there were no current evaluation records or assessment results. "When we meet, we will discuss [the] results of [the Student's] speech evaluation[,] and if the team decides together to move forward, you will be given all related documents."

14. In an April 20, 2026, 9:03 a.m. email to the GAL, the SLP, the Parent, and the Principal, the Other Parent attached the Health Insurance Portability and Accountability Act (HIPAA) Authorization for Exchange of Health and Education Information "for all parties." The Other Parent stated, "It is my understanding the meeting for next Monday [April 27, 2026] was cancelled[,] and I would like to get this scheduled ASAP to determine [the Student's] eligibility and need for Speech/Language services."
15. A HIPAA Authorization for Exchange of Health and Education Information included a release of information (ROI) for the Student, to exchange information between the SLP, the LEA, and the GAL. The form was signed by the Other Parent on April 20, 2026, and authorized the exchange for the 2025-26 school year.
16. In an April 20, 2026, 10:19 a.m. email to the SLP and the Principal, the Parent indicated they received the Other Parent's email regarding the Student's speech-language evaluation and scheduling an eligibility determination meeting. The Parent noted they did not receive PWN of "the speech/language evaluation that has already been conducted," and they "did not provide written consent to that evaluation." The Parent expressed their belief the HIPAA/Family Educational Rights and Privacy Act (FERPA) ROI "authorizes [the GAL] as the sole recipient of [the Student's] health and education information," and they did "not consent" to their "exclusion from [the Student's] educational and health records." The Parent clarified, "No eligibility determination meeting regarding [the Student] should be scheduled or conducted without my written notice and participation."
17. In an April 22, 2026, 1:28 p.m. email to the Parent with the SLP copied, the Principal shared the LEA "received written consent from [the Other Parent] on Friday, April 17, 2026," and "once consent is signed, the evaluation process can take up to 60 school days." They explained the team would meet to discuss the report once the evaluation process was complete, but they did not have data to share at that time. They indicated the Parent would receive a NOM when it was time to set that meeting, and would also receive PWN and Parent rights from the SLP "via email today."
18. In an April 22, 2026, 1:50 p.m. email to the Parent, with the Principal copied, the SLP attached documents titled "PWN" and "Parental Rights," and indicated the Parent should let the SLP know if they had questions.
19. In an April 22, 2026, 5:20 p.m. email to the SLP and the Principal, the Parent indicated they received an April 17, 2026 PWN for Evaluation and Request for Consent on April 22, 2026. The Parent outlined their belief that "the evaluation was conducted on April 17, 2026" by the SLP; the NOM "stating results are available" was issued on the same date; the Other Parent signed a consent form on the same date; and PWN "was transmitted to me on April 22, 2026 – five days after the evaluation." The Parent asserted that when the SLP "conducted an assessment on April 17, 2026," it was "new data collection, not a review of existing data," and the April 17, 2026 NOM, "stating that evaluation results are now available," meant this

was confirmation that the evaluation "was completed" that day. The Parent reiterated, "Written permission was not received from me at any point before the evaluation was conducted." The Parent also revisited their claim that the ROI signed by the Other Parent on April 20, 2026, made the GAL "the sole recipient" of the Student's health and education records, and they "did not authorize this release."

a. On April 23, 2026, at 4:36 p.m., the Principal replied, copied the Special Services Coordinator, and stated, "The evaluation has not been completed at this time. With consent from one parent, the [LEA] is obligated to conduct an evaluation."

b. On April 23, 2026, at 5:56 p.m., the Parent replied to all recipients and reiterated multiple items from previous emails. The Parent asserted their right as a parent and LEDM, and stated the LEA "cannot simultaneously take the position that one parent's consent was sufficient to proceed. The [LEA's] own document created the obligation to obtain [the Parent's] consent" because the Parent was listed as one of the parents/LEDMs on the April 17, 2026 PWN.

20. On April 24, 2026, at 4:27 p.m., the Special Services Coordinator replied to the Parent, apologizing for the PWN not being dated correctly, and for the manner in which it was delivered also being incorrect. They assured the Parent they would send a corrected PWN. They inquired if the Parent had any "areas of concern" they would like the team to address for the Student and stated, "After I hear back from you, I will send a Prior Written Notice." They substantiated the Parent's right to consent or to decline consent on the PWN document. The Special Services Coordinator also clarified, "Since we have consent from one educational decision-maker, we are required to move forward with the evaluation. As [the Principal] stated, the evaluation has not been completed[,] so there is no evaluation report at this time. The Notice of Meeting was intended to reserve a time for a meeting. The meeting has been cancelled[,] and a new meeting will be scheduled at a mutually agreeable time for all parties once the evaluation is complete."

21. On April 27, 2026, the Parent replied to the email chain, indicating they attached a letter with their complete response to the Special Services Coordinator's April 24, 2026 email. In a letter, dated April 24, 2026, and addressed to the Special Services Coordinator with the Principal and the SLP copied, the Parent responded to the Special Services Coordinator's April 24, 2026 email with:

a. Acknowledgement regarding the LEA's clerical errors on the PWN.

b. Confirmation they did not have additional areas of concern regarding the Student.

c. A second inquiry regarding who referred the Student for speech and language services and when the referral happened.

d. A reiterated objection to "any interpretation or application of the April 20[,] [2026] release that would treat me as excluded from receiving [the Student's] educational and health records independently."

e. A reiteration of multiple requests and objections previously noted.

22. In an April 29, 2026, 4:17 p.m. email to the Parent, the Special Services Coordinator stated they attached a PWN, Medicaid consent, and parent rights, along with the "document sent to me with responses in blue." In response to the Parent's April 24, 2026 letter, the LEA wrote:
    a. They acknowledged the Parent had not consented to evaluation and noted: "consent is voluntary. … Because one educational decision-maker has consented to the evaluation, the [LEA] has permission to move forward with an evaluation."
    b. "Since you have no additional concerns, the PWN enclosed has not been amended from what was originally sent to you (except for the date and method of delivery)."
    c. The LEA indicated the Early Childhood Screener referral was received by the LEA on March 4, 2026, and it was "a parent request."
    d. "A HIPPA [sic] release does not limit an educational decision-maker's individual rights." The LEA would continue to provide each parent with their individual rights as an LEDM.
23. April 29, 2026 PWN for Evaluation or Reevaluation and Request for Consent included:
    a. The Parent's name and emergency phone number.
    b. The Other Parent's name, address, home phone, work phone, and emergency phone numbers.
    c. The notice was "emailed" to the Parent/LEDM on April 29, 2026.
    d. The action proposed was to "conduct an initial evaluation" with "Parental Consent Required."
    e. "Communication Status" was selected as the type of evaluation, and both "new data" and "existing data" boxes were checked.
    f. The explanation of why the action was proposed, the options considered, and other factors considered were documented.
    g. The data used as a basis for the proposed action were listed as "formal and informal assessments," "early childhood screening," and "parent input."
    h. Under the "acknowledgement," "consent," and "do not give consent" sections, there were no signatures or dates included.
24. In an April 29, 2026, 8:26 p.m. email to the Special Services Coordinator, with the Principal, the SLP, and an LEA employee copied, the Parent attached a letter dated April 30, 2026. In the April 30, 2026 letter addressed to the Special Services Coordinator, with the Principal, the SLP, an LEA employee, and the Complaint Investigator copied, the Parent reiterated multiple items from previous emails. The Parent documented that the LEA's April 24, 2026 email acknowledged mistakes with the PWN, and that the Parent received the corrected April 29, 2026 PWN. They

indicated this version was emailed on April 29, 2026, which was "12 days" after "the evaluation was conducted [on] April 17, 2026."

25. In an April 30, 2026, 2:19 p.m. email to the Parent, the Special Services Coordinator "reattached the Prior Written Notice for evaluation[,] as I realized I had not included all pertinent information on the one sent below." A document titled "[The Student] PWN for Eval" was attached to the email.

26. In an April 30, 2026, 3:30 p.m. email to the Special Services Coordinator, with the Principal, the SLP, an LEA employee, the Assistant Director, and the Complaint Investigator copied, the Parent apologized for their letter not being attached on April 29, 2026, and noted it was attached to this email and requested confirmation of receipt.

    a. In an April 30, 2026 letter addressed to the Special Services Coordinator, with the Principal, the SLP, an LEA employee, the Assistant Director, and the Complaint Investigator copied, the Parent reiterated multiple items from previous emails and letters. The Parent clarified they had not provided input "at any stage of this evaluation," despite the April 30, 2026 PWN indicating "parent input" as a form of data. Additionally, the Parent stated they would not sign "either corrected PWN" until they "have received the complete evaluation report."

    b. The LEA responded to multiple items in this letter on May 1, 2026. Notably, the LEA responded to the Parent's position regarding the HIPAA ROI, "As stated previously, each parent holds an individual right to authorize the release of their child's records to a third party."

27. In the May 1, 2026 LEA Response to the Complaint, the LEA expressed "to date, the [LEA] has provided no information to the GAL, nor communicated with the GAL."

28. In a May 7, 2026 email response to the Parent, the Special Services Coordinator reiterated that there were no "evaluation instruments, speech-language protocols, or assessments" administered to the Student on April 17, 2026. The Special Services Coordinator clarified that on April 17, 2026, the SLP "met [the Student] and listened to [their] speech that day." Further, the Special Services Coordinator indicated the April 17, 2026 NOM was for staff to "reserve dates and schedule meetings on their school calendars to ensure they have a time and day secured."

29. In a May 13, 2026 email to the Parent, the Assistant Director clarified, "Parent input is based on parent-provided input, regardless of format, or which parent provides it." The Assistant Director recounted the Special Services Coordinator requesting the Parent's input on April 24, 2026, and the Parent declining to provide additional input on April 27, 2026. The Assistant Director indicated the team would consider any input the Parent "would like to share regarding [the Student] at the eligibility determination meeting."

Parent Interview

30. In an interview with the Complaint Investigator, the Parent shared that their previous daycare provider noticed the Student was having "some issues" with "hearing and communicating," which was brought to their attention, and the Other Parent took the Student for a hearing screening. That screening revealed the need for the Student to have tubes in their ears, but the Parent stated, "I didn't notice anything (then), and I don't notice anything now either, that's different" with the Student's hearing.
31. The Parent pointed out clerical discrepancies in the PWN sent to them on April 22, 2026, namely, it stated PWN was hand-delivered, "and that didn't happen," and "my phone number's blank." The Parent correlated this experience with their divorce case and "a pattern of how things are happening without me, and I don't know until after the fact. … I'm not against the evaluation, but it's the wrong way of doing it."
32. When asked about the Parent's concerns with the ROI that the other Parent signed for the GAL to access educational information, the Parent stated, "[The GAL] already has the ability to do things, but to add [the ROI], it didn't make sense." They explained the GAL's role as "making sure that both parents are seeing the kids, and seeing [to] their best interests. I just look at the court order, where it shows that [the GAL] can get access to documents. … No written document needs to be made, just [the court] order would have to be shown."

Other Parent Interview

33. In an interview with the Complaint Investigator, the Other Parent described the Student's infant-toddler services for speech. "Being a school psychologist, I understand that early intervention is crucial. So at around the two-year mark, Infant-Toddler Services and I discussed having [the Student] tested audiologically because [they] had had quite a few ear infections, and we just weren't sure why [the Student] wasn't picking up on language." They explained the Student had tubes put in May of 2024, and "the language boom was incredible." They decided to exit the Student from services "because [their] language was great," but noticed the Student having "slushy speech" or "lateralization." This is what spurred the Other Parent to request a screening through the LEA, bring the Student in, and then sign the consent for evaluation. The Other Parent indicated the Parent "was a participant" in the process of the Student having the tubes placed, along with infant-toddler services, and "knew all about it" because the Parent was "still in the home and we were still married" at that time.
34. The Other Parent noted they notified the LEA "to make sure that [the LEA] invite[s] both parties to the evaluation meeting." Additionally, the Other Parent indicated there was a restraining order, which prohibited them from contacting the Parent to make them aware of the screening and evaluation. "The only way I could contact [the Parent] is through [the GAL] or through my attorney. This is what [the Student] needs. It's a continuation of care from the infant-toddler services."

35. The Other Parent clarified that when they requested the screening and evaluation, they shared all the requested information, but did not go into detail with the LEA that there was "a messy divorce." The Other Parent did share the Parent's email address with the LEA.

Special Services Coordinator Interview

36. In an interview with the Complaint Investigator, the Special Services Coordinator clarified the Student was not enrolled as part of the LEA prior to the screening. They explained that the screening process was first, parents/guardians visiting the website, then they would request a developmental screening, and then, based on the information provided, the LEA reaches out to the person who submitted the request to complete more information and a paper screening. With that information, the LEA decides whether or not to move forward with an evaluation.
37. The Special Services Coordinator indicated there was a clerical error on the April 17, 2026 PWN, noting the PWN listed it was "hand-delivered," when it was not. The Special Services Coordinator sent the Parent corrected PWN after asking if they had "any other concerns [they] would like the team to consider." The Parent responded they did not have concerns to add, and the Special Services Coordinator sent the updated April 29, 2026 PWN. The Special Services Coordinator clarified April 17, 2026 PWN sent to the Other Parent had the exact same content (other than the aforementioned clerical error) as the one sent to the Parent on April 22, 2026. They added that it is typical with two parents/guardians that one would sign the PWN and have it hand delivered, and the other parent/guardian would get it emailed as an attachment or through DocuSign. They confirmed they followed the typical procedure in this case.
38. The Special Services Coordinator explained in regard to the ROI, "typically, it's one parent [that] may make that request because they each have the right to do that." They added, "The guardian ad litem paperwork could be enough to indicate whether or not we can communicate with that person. At that point in time, we did not have that paperwork from the guardian ad litem. So we went ahead and asked [the Other Parent] to sign a release." They indicated they had not communicated with or shared information with the GAL due to the Complaint being filed.
39. The Special Services Coordinator explained informal and formal evaluation/observation for early childhood. "There are times that informally you may do observations, meet and greet, get to know a kiddo before you do any type of evaluation, so you can develop that rapport. … Then when they come in again, you can do more formalized standardized assessments where you get a standard score and a percentile ranking and that type of thing." They indicated there was an early childhood screening that took place at the early childhood center, and because there were "areas of concern," they spoke with the Other Parent about doing an evaluation.

Speech Language Pathologist Interview

40. In an interview with the Complaint Investigator, the SLP explained the Student's screening got "flagged" because of speech, and the concerns the Other Parent described were legitimate concerns the SLP found throughout the evaluation process. When they receive a screening file, they have 10 days to contact the person who requested the screening, and since the Other Parent completed the request, the SLP reached out to them.
41. The SLP clarified that an informal evaluation is "ongoing" and "is not standardized," but can be used to qualify a child for services. They explained in the Student's case, they did not necessarily need a formal standardized speech language assessment because "a lateralization disorder is atypical."
42. The SLP explained they did not initially send information to the Parent because the primary parent/guardian listed in their file was the Other Parent. The SLP clarified the NOM was "something that we send out to hold a spot" because meeting availability for the LEA is difficult toward the end of the school year. They added the NOM was a standard form, and they did not choose the verbiage regarding a student's evaluation results being ready. "There's just some semantics. Evaluated doesn't … It can mean past tense, but it also can mean ongoing."

Teacher 1 Interview

43. In an interview with the Complaint Investigator, Teacher 1 recounted that the document they sent to the Other Parent on April 8, 2026 was "what we use to communicate screening results to families. And so once the screening results have been compiled and reviewed and decisions about the next steps for children that might need to be moved on for evaluation, I send that document, and I send it usually, three or four days after screening." They indicated they did not send it to the Parent because at that point, they only had the Other Parent's email address. Teacher 1 clarified that the Student was not in the LEA's SIS at the time of the screening or when the results were emailed.

Teacher 2 Interview

44. In an interview with the Complaint Investigator, Teacher 2 indicated they completed the screener with the Student and the Other Parent on April 3, 2026. They explained that a parent will oftentimes stay with a child during a screening "so they're comfortable," and it is typically only one parent.

Secretary Interview

45. In an interview with the Complaint Investigator, the Secretary indicated they have had minimal contact with the Parent and the Other Parent, and their primary role was to email appointment reminders and set appointments, along with greeting them when they come in. They clarified they would not have known there was

another parent who wanted to be involved because the Other Parent is the one who put in the request for a screening.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #233, in accordance with state and federal regulations implementing the IDEA, obtained informed, written parental consent prior to initiating, planning, or conducting a speech and language evaluation of the Student. K.A.R. 91-40-27 (a)(1)(b)(c), K.S.A. 72-3430 (b)(6); 34 CFR § 300.300 (a)(1)(3).

According to K.A.R. 91-40-27 (a)(1)(b)(c) and 34 CFR § 300.300 (a)(1)(3), each agency shall obtain parental consent before conducting an initial evaluation or any reevaluation of an exceptional child. When screening or other methods used by an agency indicate that a child may have a disability and need special education services, the agency shall make reasonable and prompt efforts to obtain informed consent from the child's parent to conduct an initial evaluation of the child and, if appropriate, to make the initial provision of services to the child. Unless a judicial order specifies to the contrary, each agency shall recognize the biological or adoptive parent of an exceptional child who is a minor as the educational decision maker for the child if the parent exerts the parent's rights on behalf of the child, even if one or more other persons meet the definition of parent for the particular child.

According to K.S.A. 72-3430 (b)(6) the parents of exceptional children shall have the right to consent, or refuse to consent, to the evaluation, reevaluation or the initial placement of their child and to any substantial change in placement of, or a material change in services for, their child, unless the agency can demonstrate that it has taken reasonable measures to obtain parental consent to a change in placement or services, and the child's parent has failed to respond. If the parent fails to respond to the request for parental consent to a substantial change in placement or a material change in services, the agency must maintain detailed records of written and verbal contacts with the parent and the response, if any, received from the parent.

The Parent alleged they did not receive notice from the LEA that a speech/language evaluation of the Student was being initiated, planned, or conducted. The Parent alleged they were not asked for consent and did not provide written consent to the evaluation.

The LEA received written parental consent from the Other Parent for the initial evaluation, the SLP met with the Student for an introduction, and “no standardized evaluation assessments have been completed at this time [May 1, 2026], and the initial evaluation is not yet complete.”

The August 29, 2025 Civil Department Family Court document granted both parents “joint legal custody” with equal rights and responsibilities for educational decisions. The LEA's SIS appropriately documented both parents with educational rights. Special education regulations

typically require the consent of at least one educational decision-maker to proceed with an evaluation, a standard the LEA relied upon when the Other Parent signed and dated the PWN for Evaluation and Request for Consent on April 17, 2026. Although the Parent objected to the evaluation proceeding without their own written consent, and argued that the LEA's documentation obligated them to secure signatures from both listed LEDMs, the LEA maintained consent from one parent satisfies their regulatory obligation to initiate the evaluation process.

The Parent contended the evaluation had already been improperly conducted on April 17, 2026, pointing to a NOM issued that day stating results were available and an email from the SLP stating they "evaluated" the Student. However, the Special Services Coordinator and the SLP clarified that no standardized evaluation instruments or speech-language protocols had actually been administered at that time. Instead, the SLP had met with the Student and informally listened to their speech to build rapport, which is part of an ongoing, informal process. The NOM language that indicated results were ready, was an uneditable, standard form template used solely to reserve a future meeting date on busy school calendars. The LEA explicitly stated that once consent is signed, the evaluation process can take up to 60 school days, and both the Principal and the Special Services Coordinator confirmed that the evaluation report had not been completed, and no data yet existed to share.

While the LEA demonstrated compliance regarding the legal authority to evaluate based on the Other Parent's consent, the administration of the process involved several clerical errors and communication gaps. The initial PWN given to the Parent contained inaccuracies. The Special Services Coordinator acknowledged these mistakes, apologized, and issued a corrected PWN on April 29, 2026. Additionally, school personnel initially failed to contact the Parent regarding the screening referral and the subsequent developmental screening. The SLP, Teacher 1, and the Secretary explained that they initially communicated exclusively with the Other Parent because they were the primary contact who submitted the online screening request, and the Student was not yet enrolled in the LEA's SIS. Although these notification delays and clerical errors caused understandable frustration for the Parent, they do not negate the fact that the LEA secured the requisite informed, written parental consent from the Other Parent on April 17, 2026, before embarking on the actual evaluation timeline.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to obtain informed, written parental consent prior to initiating, planning, or conducting a speech and language evaluation of the Student.

Issue Two

Whether USD #233, in accordance with state and federal regulations implementing the IDEA, provided PWN to the Parent before initiating or conducting an evaluation of the Student. K.A.R. 91-40-26 (a), K.S.A. 72-3430 (b)(2-3); 34 CFR § 300.503.

According to K.A.R. 91-40-26 (a) and 34 CFR § 300.503, in providing any notice to the parent or parents of an exceptional child regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes a description of other options that the agency considered and the reasons why those options were rejected and a description of other factors that are relevant to the agency's proposal or refusal. According to K.S.A. 72-3430 (b)(2-3), the parents of exceptional children shall have the right to written prior notice whenever an agency proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

The Parent alleged they did not receive PWN from the LEA at any time before the evaluation of the Student was initiated or conducted.

The LEA responded that, based on the Early Childhood Screener, a PWN Consent to Evaluation was provided to the Other Parent, who made the request and whose information was provided to the LEA at the time. PWN was provided to the Other Parent following signed consent by the Other Parent on April 17, 2026. The Parent was provided PWN on April 22, 2026, and then again on April 30, 2026 with corrected clerical errors.

The LEA received consent to evaluate from the Other Parent, who maintains equal educational decision-making rights, on April 17, 2026. The consent of one educational decision-maker is legally sufficient to obligate the LEA to move forward with an evaluation. Furthermore, the LEA clarified that no actual formal evaluation instruments, standardized speech-language protocols, or assessments were administered on April 17, 2026; rather, the SLP conducted an ongoing, informal meet-and-greet to observe speech and establish rapport, which does not constitute the formal initiation of a standardized evaluation. Although the LEA acted within its authority to initiate the process based on the Other Parent's consent, procedural errors occurred in how the PWN was subsequently delivered to the Parent. The Parent did not receive the initial April 17, 2026 PWN until it was transmitted via email on April 22, 2026, which was five days after the Other Parent had already signed it. Additionally, this initial notice contained clerical errors. The LEA proactively acknowledged these mistakes, with the Special Services Coordinator apologizing for the incorrect date and delivery method. The LEA then sought to remedy the oversight by asking the Parent for additional areas of concern and issuing a corrected, re-dated PWN via email on April 29, 2026, followed by an updated version on April 30, 2026, to include all pertinent information. Because the formal evaluation timeline spans up to 60 school days from the date of signed consent and remained ongoing and uncompleted throughout this period, the LEA's corrections ensured the Parent was ultimately

provided with accurate PWN while the evaluation was still active and incomplete. Consequently, while the initial delivery to the Parent was marked by clerical and timing discrepancies, the LEA fulfilled its regulatory obligation to provide PWN under the IDEA by issuing corrected notices to the Parent during the active evaluation process initiated by a legally authorized co-parent.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide PWN to the Parent before initiating or conducting an evaluation of the Student.

Issue Three

Whether USD #233, in accordance with state and federal regulations implementing the IDEA, obtained informed, written parental consent prior to disclosing the Student's personally identifiable education records to the GAL or any other third party. K.A.R. 91-40-50 (b); 34 CFR § 300.622.

According to K.A.R. 91-40-50 (b) and 34 CFR § 300.622, parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with information below, unless the information is contained in education records, and the disclosure is authorized without parental consent. Parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part.

The Parent alleged they did not consent to disclosure of the Student's education records to the GAL or any other third party. Further, the Parent's position is that one joint legal custodian may not unilaterally authorize disclosure of a child's education records to a non-parent third party where the other joint legal custodian retains equal educational decision-making authority and has not consented.

The LEA responded that on April 20, 2026, they received a HIPAA ROI signed by the Other Parent authorizing the release of information to the GAL.

The Other Parent signed an ROI on April 20, 2026, to authorize the exchange of health and education information between the SLP, the LEA, and the GAL for the 2025-26 school year. The Parent subsequently objected to this release, asserting that they did not authorize the disclosure and believing it improperly positioned the GAL as the sole recipient of records. However, the LEA correctly noted that under joint legal custody arrangements, each parent holds an individual right as an LEDM to authorize the release of their child's records to a third party, and such an ROI does not limit or diminish the other educational decision-maker's individual rights.

Furthermore, the involvement of the GAL is governed by an independent judicial authority that intersects with educational privacy laws. A September 25, 2025 County District Court Order

explicitly appointed the GAL and authorized them to meet with, interview, and obtain information from school officials, teachers, staff, and other educational personnel. Under 34 CFR § 99.31(a)(9), an educational agency or institution may disclose personally identifiable information (PII) without consent if the disclosure is to comply with a judicial order or a lawfully issued subpoena. Because the IDEA's confidentiality provisions, including 34 CFR § 300.622, are designed to be consistent with the FERPA, the LEA can honor a valid court order without violating the IDEA. The Parent acknowledged the GAL already possessed the legal authority to access documents directly through the existing court order without requiring an additional written release from either of the Parents. Ultimately, the evidence indicates that no unauthorized disclosure of the Student's PII actually occurred. Both the Special Services Coordinator and the LEA's formal response to the complaint confirmed that, as of May 1, 2026, the LEA had not provided any information to the GAL, nor communicated with the GAL due to the filing of the Complaint.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to obtain informed, written parental consent prior to disclosing the Student's personally identifiable education records to the GAL or any other third party.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #229
ON MAY 1, 2026

DATE OF REPORT: MAY 27, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #229 Blue Valley Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #229.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 1, 2026 and the 30-day timeline ended on May 31, 2026.

Allegation

The following issue will be investigated:

ISSUE ONE: Whether USD #229, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the due process hearing decision of conducting the Behavior Assessment for Children (BASC) assessment, provided these documents to the Parent, and convened a meeting to review the results. K.A.R. 91-40-51(a); 34 CFR §§ 300.152(c)(2)(3), 300.514(a).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on May 18, 2026, and the Principal on May 20, 2026. In completing this Investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and

reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Parenting Plan, 07/22/25
2. Evaluation Report, 09/25/25
3. Psychoeducational Assessment for Reevaluation, 09/25/25
4. Journal Entry and Decree of Divorce, 06/12/25
5. Report of Complaint, 04/19/24
6. Screenshots of ParentVue Login, 05/20/26
7. Individualized Education Program (IEP) Progress Report - Annual Goal, 12/19/25
8. Emails between parties, 06/17/25-05/20/26

Background Information

This Investigation involved a fifth-grade student enrolled at an elementary school in USD #229. The Student was receiving special education or related services as a child with a disability per the IDEA.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and the Principal.

1. A Journal Entry and Decree of Divorce, dated June 12, 2025, indicated the court found it was in the best interest of the Student for the Other Parent to have sole custody for major medical and educational decisions for the Student. It stated the Parent would have access to any portal or records for the Student.
2. On June 17, 2025, the Special Education Director emailed an unidentified recipient. Relevant information included:
    a. The Special Education Director stated that on May 19, 2025, the LEA sent the Parent and the Other Parent the following information in prior written notice (PWN):
        i. In a phone call with the Special Education Director on May 15, 2025, the Parent requested an IEP meeting to review the results of the BASC-3. The LEA declined to have an IEP meeting to review the results because the evaluation was not yet complete. The Other Parent signed consent for the evaluation on April 16, 2025. The LEA would schedule and hold an IEP meeting with the Parents within 60 days of April 16, 2025 to share results of the evaluation.
3. A June 18, 2025 Due Process Hearing Final Order indicated a dismissal of the Parent's complaint against the LEA, ruling the request was "without merit." The hearing officer found no issues were in dispute because the LEA had already obtained consent from the Other Parent on April 16, 2025 to conduct the

requested assessment evaluation and the assessment was in progress at the time of the filing. Additionally, the LEA had established a timeline to share the evaluation results during an IEP meeting to be held within 60 school days of the consent date, specifically by October 1, 2025.

4. A Parenting Plan, dated July 22, 2025, indicated:
    a. The court awarded sole custody of the Student to the Other Parent.
    b. This designation granted the Other Parent the primary right to make all decisions regarding the Student's education in their best interests.
    c. The Other Parent also maintained specific decision-making authority over the Student's extracurricular, social, and educational programs.
    d. Both the Parent and the Other Parent were granted "complete and free access" to all school records and digital portals.
    e. The Parent and the Other Parent were "obligated" to first obtain all of the Student's educational information directly from the Student's school before relying on the other parent to provide the same.
5. An Evaluation Report, dated September 25, 2025, indicated the LEA completed the requested evaluation as part of a psychoeducational report dated September 25, 2025. The assessment included rating scales from the Student's teachers, the Parent, and the Other Parent, though the Parent's responses were noted for "extreme caution" which affected the validity of their rating. The Other Parent's electronic signature was indicated on the report.
6. A September 25, 2025 Psychoeducational Assessment for Reevaluation completed for the Student indicated the assessment utilized the BASC-3, which gathered information from the Student, teachers, and both the Parent and Other Parent. In the LEA response, they indicated PWN was not needed at the time of the September 2025 IEP due to no changes being made to the IEP at the time.
7. An Evaluation Report, dated February 4, 2026, included:
    a. A summary of previous assessments which detailed that at the Student's April 10, 2025 IEP meeting, the Parent addressed concerns about the Student's behavior and the LEA consented to conducting an evaluation by gathering information using the BASC scales. The notes indicated a meeting was held on September 25, 2025 to review the results of the evaluation and no changes were made to the IEP.
    b. The Other Parent signed the document on February 12, 2026.
8. The Principal emailed the Parent on February 10, 2026 and referenced a prior email regarding the findings of the due process complaint. The previous email stated, "The IEP meeting was held on September 25, 2025 … with the parent who has educational rights. If you would like documents from this meeting, we would be happy to email those to you. You continue to have access to [the online portal] where you can also access these documents. … If there have been any changes to your educational rights, please send us the executed court orders."

9. The Special Education Director emailed the Principal on March 9, 2026 and asked them to send the Parent copies of the last IEP and accompanying PWN. They indicated the Principal had previously offered to send the Parent those documents, but the Special Education Director believed the Parent had rejected the offer. Later that day, the Principal emailed the Parent the Student's evaluation report, IEP, and directions for accessing the School's online portal.
10. The Special Education Director emailed the Parent on April 30, 2026 and provided instructions on how to reset their password to the School's online portal.
11. The Special Education Director emailed the Parent on May 1, 2026 and stated they had verified the Parent had access to educational records, including the School's online portal. They provided a summary of the number of times the Parent had successfully accessed the online portal.
    a. The Parent received an email from a general helpdesk email address on May 19, 2026 regarding a ticket that was opened to help the Parent reset their password to the online portal. It provided the Parent's username, a temporary password, and instructions on next steps.
    b. The Special Education Director emailed the Parent the same day and explained they reviewed all settings to see if there was an issue preventing the Parent from accessing the online portal and found none. They indicated it was likely the Parent had forgotten their password and discussed the email the Parent had received from the helpdesk to reset their password.
    c. The Special Education Director emailed the Complaint Investigator on May 20, 2026 with screenshots of what the Parent could see in the School's online portal for the Student. The screenshots showed the Parent had access to buttons which included: mail, calendar, attendance and absence reporting, class schedule, report cards and grades, course history, course request, conference, fees, student information, student special education, test history, online registration, school information, and documents. They indicated that by clicking on the special education link, the Parent could view additional details which included the Student's next annual review and re-evaluation dates, the May 13, 2026 IEP and PWN, progress reports from February 4, 2026 and March 13, 2026, and Extended School Year (ESY) progress reports from prior years.
12. In an email dated May 7, 2026 to the Principal, the Parent inquired regarding the whereabouts of the "document" about the Student. The Principal responded and attached a copy of the evaluation report from the September 2025 meeting.
13. In an email exchange on May 12, 2026, the Special Education Director informed the Parent that the Student's Quarter 3 progress report was available through the LEA's online portal and confirmed they were given access. Additionally, they confirmed the Parent was provided login credentials and instructions for technical assistance. The Special Education Director stated that, consistent with the parenting plan and applicable law, the LEA was obligated to provide access to records but not to

provide them in a specific format or individual preferred method. Furthermore, the Special Education Director declined the Parent's request for a BASC-3 reevaluation, asserting the Parent did not currently possess the "educational decision-making authority" required to initiate such a request. In response, the Parent alleged the LEA had not complied with previous orders, had failed to send a meeting invitation for a prior evaluation, and indicated an intent to file for due process.

14. On May 20, 2026, the Special Education Director emailed the Complaint Investigator a screenshot of the Parent's successful and failed attempts to access the School's online portal containing information about the Student. The access history ranged from October 6, 2017 through May 19, 2026.

Parent Interview

15. During an interview with the Complaint Investigator, the Parent explained the parenting plan indicated each parent would have access to the Student's educational records.

16. The Parent stated they did not have access to the Student's educational records. They indicated they "always request" access to the online portal since they did not have a username or password. They stated they requested access from the Special Education Director. The Parent shared they did not know when the School submitted documents, whether a meeting was held, and did not receive PWNs.

17. The Parent indicated they asked for access to the School's online portal, and stated they did not have the password and did not know who was using the username. The Parent stated the LEA emailed them the evaluation report when they requested it, but perceived it was "not fair" because they had not been invited to the meeting. The Parent stated they did not receive PWN regarding the September 25, 2025 evaluation meeting. The Parent also stated the School did not proactively send them the evaluation report.

18. The Parent shared they only saw the documents from the September 25, 2025 meeting "a few days" prior to the date of this interview. They indicated the documents contained the assessment the School conducted, which included clinical skills, adapted skills, content skills, and index scores. The Parent stated the assessment conducted by the School was the BASC-3.

19. The Parent stated multiple times the hearing officer instructed the School to hold a meeting after conducting the assessment and to share the documents, and the Parent perceived the School did not follow these instructions. The Parent stated, "They didn't have the meeting. They didn't invite me to the meeting."

Principal Interview

20. During an interview with the Complaint Investigator, the Principal stated the Parent had lost their educational rights and had not been a part of meetings or conferences during the 2025-26 school year. They stated the parenting plan

currently indicated the Other Parent had sole custody of the Student and the Parent had access to educational records.

21. The Principal explained that during the spring of the 2024-25 school year, the Parent asked for an evaluation to be conducted because they were concerned the Student was showing behavioral and social-emotional issues. They indicated the School conducted the BASC assessment in April and May of 2025, and met in September 2025 to review the results. The Principal stated that at that time, the Parent had lost their educational rights, so the School reviewed the results with the Other Parent. The Principal believed the Parent asked for the results of the assessment in March 2026, and the School sent them to the Parent.
22. The Principal explained the Parent had an account with the School's online portal, to which all parents had access. They indicated the portal contained general education records, report cards, assessments the students took, and special education records. They stated the Parent had logged into the portal for many years, and when the Parent had requested copies of documents, they were emailed to the Parent. The Principal stated the Parents each had their own account to the online portal. They indicated the Parent had had access to the online portal since the Student was in kindergarten.
23. The Principal explained when a user clicked the "special education" tab in the online portal, they would see the dates for an annual review, the re-evaluation date, the IEP and accompanying PWN, progress reports, and summer school progress reports.
24. The Principal did not recall the Parent requesting a copy of the evaluation after the September 25, 2025 meeting. They were unsure if the Parent was provided a copy of the evaluation. They said, "… we don't typically send out copies of those things to parents unless asked for it [sic] because they have access to [the online portal]." They clarified the parenting plan did not state the School was required to provide copies of documents, but that "… both parents have access … and it lists a portal being appropriate access for them … ."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #229, in accordance with state and federal regulations implementing the IDEA, implemented the due process hearing decision of conducting the BASC assessment, provided these documents to the Parent, and convened a meeting to review the results. K.A.R. 91-40-51(a); 34 CFR §§ 300.152(c)(2)(3), 300.514(a).

According to K.A.R. 91-40-51(a), any person or organization may file a written, signed complaint alleging that an agency has violated a state or federal special education law or regulation. Also, a prevailing party in a due process hearing may file a complaint alleging that the other party has failed to implement the hearing decision. The complaint shall include the following

information: a statement that the agency has violated a requirement of state or federal special education laws or regulations; the facts on which the statement is based; the signature of and contact information for the complainant; and, if the complaint involves a specific child, the following information: the child's name and address of residence (or other contact information if the child is a homeless child or youth); the name of the school the child is attending; a description of the problem involving the child; and a proposed resolution to the problem, if a possible resolution is known and available to the complainant.

According to 34 CFR § 300.152(c)(2)(3), if an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue. The SEA must inform the complainant to that effect. A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the SEA.

According to 34 CFR § 300.514(a), a decision made in a hearing conducted pursuant to §§ 300.507 through 300.513 or §§ 300.530 through 300.534 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and § 300.516.

The Parent alleged a BASC assessment was not conducted, documents were not shared, and a meeting was not held.

The LEA stated that since the hearing officer dismissed the Due Process Complaint as “without merit” on June 18, 2025, the LEA could not be in violation of implementing a dismissed complaint. Additionally, the LEA asserted they completed the evaluation and held an IEP meeting with the Other Parent, who had sole educational decision-making rights. The LEA did not issue PWN at that time as no changes were made to the IEP as a result of the meeting.

A June 18, 2025 Due Process Hearing Final Order indicated a dismissal of the Parent’s complaint against the LEA. Therefore, the LEA could not be in violation of a dismissed complaint. Even though the complaint was dismissed, the evidence showed the School conducted the BASC and held a meeting to review the results. The Parent expressed concern they were not at the September 2025 meeting regarding the assessment results; however, the evidence showed that by the time the meeting was held, the Parent had lost their educational rights. The School met with the Other Parent, who had sole custody of the Student regarding their educational decisions.

The evidence also indicated the Parent had access to the School’s online portal where they could obtain the Student’s educational records, and had accessed it multiple times since 2017. Additionally, the School contacted the Parent on several occasions to help them access the portal. While the Parent stated the School did not proactively send them the September 2025 evaluation report, the evidence showed the Principal sent the report to the Parent in March 2026. In their interview, the Principal believed the Parent had access to the report through the

online portal. This could not be conclusively determined through the evidence, but there was insufficient information to support that the Parent did not have any access to the evaluation documents or that their access was hindered by the School.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is not substantiated* that the LEA failed to implement the due process hearing decision of conducting the BASC assessment, providing the documents to the Parent, and convening a meeting to review the results.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #259
ON MAY 1, 2026

DATE OF REPORT: JUNE 3, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #259 Wichita Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #259.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 1, 2026 and the 30-day timeline ended on May 31, 2026.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #259, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the Parent access to education records without unnecessary delay and in response to a formal written records request submitted by the Parent on March 2, 2026. K.A.R. 91-40-25(a), K.A.R. 91-40-50(2); 34 C.F.R. §§ 300.501(a), 300.613(a)(b), 99.3.

Investigation of Complaint

The Complaint Investigator interviewed the following LEA staff on May 20, 2026: The Special Education Director, the Assistant Principal, the School Psychologist, and the Social Worker. The Parent submitted written responses on May 22, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. LEA Calendar, 2025-26 School Year
2. General Education Contact Log, 10/03/19-05/11/26
3. Special Education Contact Log, 01/28/26-04/27/26
4. Meeting Notes, 04/24/26
5. Emails between parties, 01/07/26-04/13/26

Background Information

This Investigation involved an eighth-grade student enrolled at a middle school in USD #259. The Student is not currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA).

1. An LEA Calendar for the 2025-26 school year included a document titled Student Records and Your Rights, dated February 2025, which stated: "Parents or eligible students should submit to the school principal a written request that identifies the record(s) they wish to inspect. The principal will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected; Education records are defined as those records that are (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. These records would include such things as (1) evaluation and placement forms for special programs or special training; (2) personal and health information (name, address, birth date, school clubs and activities, special health conditions, etc.); (3) your child's grades and attendance records; (4) information about the family (such as the parents' names and occupations); and (5) a list of those who see the child's records; Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks."
2. In an email on January 7, 2026, the Parent emailed the Social Worker to request a special education evaluation for the Student.
3. An Initial Evaluation Request Response Letter dated February 3, 2026 acknowledged the Parent's January 7, 2026 request for a special education evaluation of the Student. The document stated, "You have expressed concerns regarding your child's performance at school and we want to address those concerns through General Education Interventions (GEI). The GEI process allows us to target academic and/or behavioral needs by implementing a variety of instructional and/or behavior strategies while documenting your child's progress." The Parent checked a box indicating, "I withdraw my request for a special education evaluation. I understand the team will

utilize General Education Interventions to address the concerns. School Staff will keep parents informed throughout the GEI Process and update parents regarding proposed next steps given the child's GEI data by 04/17/2026. I understand that I may request a Special Education evaluation at any time throughout their process or in the future." The Parent signed the document on February 3, 2026.

Findings of the Investigation

The following findings are based on a review of documentation, written responses from the Parent, and interviews with staff in the LEA.

1. According to a General Education Contact Log, on February 26, 2026, the Assistant Principal spoke to the Parent via phone and explained to the Parent that teachers were expected to complete a GEI tracker, implement the interventions, and contact the Parent "at least on Fridays." According to the LEA's response, the Assistant Principal emailed a copy of the GEI tracker for the Parent's reference on February 27, 2026. This was confirmed in the General Education Contact Log.
2. In an email on February 27, 2026, the School Psychologist sent their initial GEI observations of the Student to the Parent.
3. On March 2, 2026, the Parent emailed the Assistant Superintendent, the Special Education Director, and the Mixed Abilities Director "to formally request that [the LEA] immediately initiate a special education evaluation for [the Student] without further delay."
4. Also on March 2, 2026, the Parent emailed the Assistant Superintendent, the Special Education Director, and the Mixed Abilities Director to submit a formal records request and "notice of documentation failure" related to the Student. They explained the letter had two purposes.
    a. The first was to place "on record" the absence of documents legally required to be provided to them. The Parent listed the following documents:
        i. Prior written notice (PWN) for the evaluation request made on January 7, 2026.
        ii. Section 504 written documentation from the LEA regarding a "written offer, denial, eligibility determination, or explanation of the [LEA's] Section 504 position."
        iii. A concussion management plan after the LEA was notified of the Student's concussion in October 2025.
    b. The second was to formally request production of documents "that should exist as a matter of law, regulation, and [LEA] policy," and included:
        i. All written documentation by the School Psychologist including, "[a]ll contemporaneous" observation notes from any and all classroom observations conducted in connection with the Student's GEI; all consultation records, clinical recommendations, and written summaries; all internal communications between the School Psychologist and any

[LEA] or building-level staff regarding the Student's evaluation request, GEI, or intervention plan; and any documentation of "supervisory oversight of the School Psychologist's" clinical role.

ii. All GEI documentation, including all GEI trackers in any form; documentation showing when each tracker was created, by whom, and when it was first shared with the GEI team and with the Parent; all intervention logs maintained by any staff member in connection with the Student's GEI; and any binder or compiled record of GEI implementation referenced in staff communications.

iii. Meeting records, including notes or minutes from any CST [Child Study Team] meeting at which the Student was discussed; notes or minutes from the February 23, 2026, team meeting; any written agenda, summary, or follow-up communication from any meeting at which the Student's evaluation request, GEI, or intervention plan was discussed.

iv. All staff communications, including internal emails, notes, or communications between any LEA staff members regarding the Student's evaluation request; any communications regarding the decision to propose GEI in response to the evaluation request; and any communications regarding the 17-day "implementation gap" between February 3, 2026 and February 20, 2026.

v. School nurse records that contain all nurse visit logs for the Student from October 2025 through March 2, 2026, and any medical documentation "received by the school and relied upon in educational decision-making."

c. The Parent requested, for all items in "Section I" of the email, the LEA to "confirm in writing whether the document exists" or not, and for all items in "Section II," the LEA to produce all responsive documents within five school days.

5. The Section 504 Coordinator replied to the Parent's records request email, dated March 2, 2026, related to Section 504, and noted they required the Parent's written consent to begin the 504 evaluation and the data collection process.

6. On March 2, 2026, the Special Education Director replied to the Parent's record request email, stating they would review the Student's file in the student information system and the information the Parent provided, to "determine the appropriate next steps."

a. The Parent responded to the Special Education Director, "For clarity of the record, your review should be understood as responsive to the following three written communications sent earlier today, which are tethered and must be addressed together":

i. "Request for Expedited Special Education Evaluation."

ii. "Written Inquiry — Observation Documentation Request."

iii. "Educational Records Request and Notice of Documentation Failure."

b. The Special Education Director replied to the Parent on March 4, 2026, stating::

i. "Regarding your request for an expedited special education evaluation, … I understand the urgency of your request. A representative of the [School] Child Study Team will be reaching out to you to address this request and to obtain your consent to initiate a special education evaluation without delay."

ii. "Regarding your request for Observation Documentation [sic] … Educational Records [sic], … it is important to clarify that not every document created or possessed by [the LEA] or its staff constitutes an 'education record.' Education records are defined as documents containing information directly related to your student and that are systematically maintained by [the LEA], typically in a central repository such as a registrar. This includes items such as grade cards and other key documents, but generally does not include emails, personal notes, or general correspondence. … [The LEA] will provide all requested education records that fall within the FERPA definition on or before April 16, 2026."

iii. "Regarding your request for a Notice of Documentation Failure, we received your communication on Monday afternoon indicating that this issue has been included in the Formal Complaint filed with the Kansas State Department of Education. Because this matter is now part of a formal complaint investigation, [the LEA's] response will be provided through that process. [The LEA] is willing to work collaboratively with you to resolve your filed concerns if you are willing to have discussions. In the meantime, [the LEA] would like to obtain your consent to initiate a special education evaluation."

7. On March 4, 2026, the Parent emailed to confirm receipt of the Special Education Director's response, which addressed the following:

a. The Parent verified the LEA would produce all education records under the FERPA definition on or before April 16, 2026 and reiterated their March 2, 2026 records request. The Parent requested the records be "produced on a rolling basis" prior to April 16, 2026, when possible, "particularly items readily available in [the LEA] systems such as student information system records, health or nurse documentation, evaluation-related documentation, observation summaries, meeting notes, and eligibility documentation."

8. On March 6, 2026, the Parent consented to a special education evaluation.

9. A General Education Contact Log contained entries between March 5, and May 1, 2026 indicated teachers sent the Parent GEI trackers through the parent communication portal.

10. On April 1, 2026, the Parent emailed the Social Worker to state their agreement to a proposed April 15, 2026 eligibility meeting was "conditioned on receiving the evaluation records and documentation" they had previously requested. The Parent

wrote, "As of today I have not received any of the [requested records], despite formal written requests and the passage of significant time."

a. The Parent noted they did not feel that receiving documents "two days before a meeting" satisfied the standard of "without unnecessary delay." The Parent requested that all listed documents be provided in writing "no later than five school days before any agreed eligibility meeting date." The Parent stated they would confirm a meeting date once they received the documents and had time to review them.

b. The Parent indicated their email referenced record requests submitted on March 2, 2026, which had not been received.

11. On April 2, 2026, the Special Education Director emailed the Parent to state the LEA "makes educational records available for inspection by parents … as required by federal law," and their email would address the Parent's request, and would explain "some of the guidelines" the LEA staff applied when responding.

a. The definition of an education record was shared, noting it included items like "grade cards and other key documents, but doesn't typically include emails, notes, or general correspondence."

b. The Special Education Director clarified, in order for the LEA to fully comply with a FERPA request, it requires parents to provide "enough detail" for staff to identify what records should be copied or made available. They noted that fulfilling a "blanket" request for all educational records related to a particular subject, "may be impossible until further clarification can be provided."

c. Administrative documentation was not considered an educational record because the information did not directly relate to the Student. "Creation timestamps, authorship information, and internal sharing logs are process-tracking details about staff workflow, not records used to make decisions about the student's education." The Special Education Director noted those materials fell outside the definition of an educational record.

d. The Special Education Director described the documents provided in the email related to the Parent's request, which were also considered education records. They included:

i. GEI trackers.

ii. School Nurse records.

iii. Speech evaluation from an outside provider.

12. On April 2, 2026, the Parent emailed the School Nurse stating they were told on March 6, 2026 the School Nurse would contact them regarding the health history form. The Parent indicated they "mentioned this again" to the Social Worker on March 30, 2026, and asked the Social Worker to remind the School Nurse to contact them. They noted the date of this email exchange and added, "This is the first direct contact I have received from your office."

a. The Parent noted they would complete the form and that it was eight days before the proposed eligibility meeting on April 15, 2026.

b. In an April 13, 2026 follow up email to the Special Education Director, the Parent documented they had not received the records they "formally requested" on March 2, 2026.

Parent Written Response

13. In a May 22, 2026 email response to written questions from the Complaint Investigator, the Parent stated "All [LEA] responses were by email only. … [LEA-initiated] contact was primarily to scheduling [sic] meetings. No [LEA] staff contacted me to arrange records access, clarify outstanding requests, or make any effort to resolve any issues outside of my own written emails and follow-up. Following my March 2, 2026 records request, I attended three in-person meetings at [the LEA] offices — March 6, March 30, and April 24, 2026 — and participated in a formal eligibility determination that resulted in an ineligibility finding on April 24, 2026. … None of these meetings … was preceded by complete production of the records I had formally requested. The ineligibility determination was made without production of the records [the LEA] was legally required to provide before that meeting." Regarding the meetings at the LEA offices, the Parent said, "At no point during or following any of these in-person meetings was I offered the opportunity to inspect records, notified of a time and place for inspection, or told that any records were available for review."

14. Following an April 2, 2026 email from the Special Education Director, the Parent received "a tracker covering January through March 2026 only" from the Math Teacher, and CST notes from the Social Worker. They reported a visit log from the School Nurse was attached to the April 2, 2026 email from the Special Education Director. The Parent asserted the lack of produced records prevented them from determining if GEI was being implemented or not. They also stated the lack of communication and production of records was a violation of the "GEI agreement"* they signed on February 3, 2026. [*Complaint Investigator's Note: the document referenced here is the February 3, 2026 Initial Evaluation Request Response Letter]

15. The following are documents from the March 2, 2026 records request the Parent stated they had yet to receive:

    a. "[D]ated observation notes with times, durations, classroom locations, or student-specific behavioral data" from the School Psychologist.

    b. "[I]nternal communications regarding the January 7, 2026 evaluation request."

    c. Copies of any and all Prior Written Notices, Section 504 determinations, or Concussion Management Plans. The Parent reported, "Existence of each was never confirmed or denied in writing across four separate written requests."

    d. A "complete nurse visit log" including an incident report for the Student's "health event" in September 2025.

e. The Parent maintained the LEA was required to provide them with and notify them of a time and place to inspect these records.

16. The Parent stated the LEA was "legally required to create," and had not produced in response to the March 2, 2026 request, the following records:

    a. "A written GEI implementation plan identifying which interventions would be provided, by whom, in which classes, at what frequency, and how effectiveness would be assessed."

    b. "Any directive issued to teachers between February 3[,] [2026] and February 17 [,] [2026] instructing them on what to implement and when."

    c. "Any documentation explaining why the February 17[,] [2026] directed start did not occur."

    d. "Any CST meeting record between February 10[,] [2026] and February 24[,] [2026]."

i. The Parent also noted "The notes skip directly from February 10 [2026] to February 24 [2026] — a 14-calendar-day, 10-school-day gap with no documentation and no communication to me."

    a. "Parent notification of GEI start, implementation plan, and progress — required by the written GEI agreement signed February 3, 2026."

    b. "Communication to staff directing GEI implementation."

17. The Parent stated they were never asked by any member of LEA staff to submit their requests directly to the Principal. However, they reported they included the Principal on all their communications involving records requests, and the Principal was present at the March 6, March 30, and April 24, 2026 team meetings.

Special Education Director Interview

18. In an interview with the Complaint Investigator, the Special Education Director defined official educational records as "[d]ocuments containing information directly related to the student that are maintained by [the LEA] in a central repository." They explained emails were not entered into a student's educational records because emails may contain information about more than one student and were not "kept in a repository."

19. The Special Education Director stated they did not provide any emails regarding the evaluation process to the Parent. They reported the Social Worker sent evaluation documents to the Parent on April 10, 2026.

20. The Special Education Director was unaware if "metadata or workflow logs that were used to track the GEI implementation" were housed in the student information system. They were generally unaware of how metadata and workflow logs were stored.

21. Regarding the Parent's records request on March 2, 2026 and the follow-up email on April 2, 2026, the Special Education Director stated, "[The Parent] requests all GEI documentation, including all teacher intervention logs … as well as all of [the School Psychologist's] documentation related to the student, all internal

communications regarding the student between January 7th [2026] and when [the Parent] requested it on March 2nd [2026]." The Special Education Director considered the request a "blanket statement" and wanted the Parent to "clarify further which documents more specifically that [the Parent] was requesting."

Assistant Principal Interview

22. In an interview with the Complaint Investigator, the Assistant Principal stated the Parent "wanted a lot of extra paperwork." They explained that some pieces of the records request were not documents the LEA was required to keep, or teachers were obligated to provide. The Assistant Principal defined those items as "Anything that isn't in a central location for student records" and gave the examples of daily classroom notes and GEI trackers. They stated they followed the teacher's contract and LEA policy as to which records were required to be provided in a records request.
23. The Assistant Principal stated a concussion plan would come from an outside medical professional and would be housed in the nurse's office with the school nurse. The Assistant Principal reported a doctor's note was provided confirming the Student had been seen for a concussion, but no formal recovery support plan was provided to the LEA by the Student's doctor.
24. The Assistant Principal explained that they were the note-taker for CST meetings, and the School Psychologist facilitated the meetings. The Assistant Principal stated, "I then type the notes up in an email and I distribute the notes to our team leads and our special education campus support as well as the other two administrators. And I email those out after the meeting." They confirmed the notes are stored electronically.

School Psychologist Interview

25. In an interview with the Complaint Investigator, the School Psychologist believed "contemporaneous notes" as requested by the Parent meant "my classroom observation and communication with teachers." They reported those notes were emailed to the Parent on February 27, 2026.
26. Regarding how their notes were used in the evaluation process, the School Psychologist said, "The observations were done at the beginning [of the evaluation process] … to see how interventions were being utilized in the classroom and look at the [S]tudent response to those and just to ensure that things were in place. I saw that everything was in place after talking with teachers and watching for a bit in the classroom." The School Psychologist clarified, "The first set of observation notes are different from what's in the MTR just because more observations were completed and then summarized in the MTR." They stated the evaluation report contained information from "[t]eacher reports, observations, parent concerns, health history, social history, psychological testing, speech testing, information from [SLP 2] … ." The School Psychologist asserted "information from all sources was considered when writing that document."

27. The School Psychologist confirmed the MTR draft was sent via email to the Parent on April 10, 2026.

Social Worker Interview

28. In an interview with the Complaint Investigator, the Social Worker confirmed they emailed the MTR and SLP reports to the Parent on April 10, 2026.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #259, in accordance with state and federal regulations implementing the IDEA, failed to provide the Parent access to education records without unnecessary delay and in response to a formal written records request submitted by the Parent on March 2, 2026. K.A.R. 91-40-25(a), K.A.R. 91-40-50(2); 34 C.F.R. §§ 300.501(a), 300.613(a)(b), 99.3.

According to K.A.R. 91-40-25(a) and 34 C.F.R. § 300.501(a), each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the following: the identification, evaluation, or education placement of the child; and the provision of FAPE to the child.

According to K.A.R. 91-40-50(2), "education records" means any document or medium on which information directly related to one or more students is maintained by a participating agency in accordance with K.S.A. 72-6214 and amendments thereto.

According to 34 C.F.R. § 300.613(a)(b), each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing or resolution session pursuant to the law, and in no case more than 45 days after the request has been made. The right to inspect and review education records under this section includes the right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; the right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and the right to have a representative of the parent inspect and review the records.

According to 34 C.F.R. § 99.3, education records means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

The Parent alleged the LEA failed to produce education records as required in response to a formal written request submitted on March 2, 2026.

The LEA responded, stating they did not fail to provide the Parent access to education records without unnecessary delay in response to the Parent's March 2, 2026, written request. The LEA responded to the request on April 2, 2026, 31 days after the request was submitted, and within the 45-day limit set by the FERPA and the IDEA. The LEA also provided records to the Parent by hand delivery, email, U.S. Mail, or access through ParentVue/Synergy. To the extent the Parent requested documents that did not exist, documents that had already been provided or made available, or internal working materials not maintained as education records, the IDEA and the FERPA did not require the LEA to create, reproduce, or produce those materials as education records.

On February 3, 2026, the Parent withdrew their request for a special education evaluation, stopping the IDEA timeline. Later, on March 2, 2026, they reinstated their request for an evaluation and requested specific records. The LEA reengaged the referral process on March 4, 2026. Therefore, the March 2, 2026 records request falls under the FERPA, and not the IDEA.

The LEA responded to the March 2, 2026 records request on April 2, 2026, within the 45 calendar-day timeline mandated under the FERPA. The following outline represents the Parent's March 2, 2026 records request and the action and response by the LEA:

1. PWN for the evaluation request made on January 7, 2026.
    a. LEA Action: Not provided; did not exist.
        i. The LEA phoned the Parent to discuss GEI on January 28, 2026. The Parent agreed to withdraw the evaluation request and pursue GEI by signing the Initial Evaluation Request Response Letter on February 3, 2026.
2. Section 504 documents.
    a. LEA Action: Not provided; did not exist.
        i. At the time of the records request, the Parent had not consented to the 504 process.
3. Concussion management plan.
    a. LEA Action: Not provided; did not exist.
        i. The LEA maintained a concussion management plan is a medical document to be generated by a medical provider. The LEA's response and the evidence reports no document was provided to the LEA.
4. School Psychologist observation notes, consultation and clinical records, internal communications, and documentation of clinical oversight.
    a. LEA Action: Provided, in part.
        i. The School Psychologist emailed the Parent their initial observation notes and findings on February 27, 2026. Documentation of

consultation and clinical records, internal communications, and clinical oversight were not considered educational records.

5. All GEI documentation, including GEI trackers filled out by teachers, metadata for the trackers, intervention logs, staff communication regarding implementation.
    a. LEA Action: Provided, in part.
        i. GEI tracker documents were continually provided to the Parent, as evidenced in the General Education Contact Log. Aggregated GEI tracker documents were provided by the Special Education Director on April 2, 2026. In their complaint response, the Parent acknowledged they had previously received all trackers aggregated on April 2, 2026.
        ii. Metadata and intervention logs were not considered educational records. No comprehensive GEI binders existed.
6. Meeting notes from CST in which the Student was discussed, and any internal follow up communications.
    a. LEA Action: Provided, in part.
        i. The LEA explained the CST meets regularly to discuss any and all students under GEI observation. The FERPA states only information relevant to an individual student may be shared with that individual student or their legal educational decision maker.
        ii. The LEA maintained notes from CST meetings were internal staff communications, therefore not educational records under FERPA.
        iii. The Social Worker emailed the notes specific to the Student for the CST meetings between January 13, and March 3, 2026 to the Parent on April 8, 2026. The email was recorded in the Special Education Contact Log.
7. All staff communications regarding the special education evaluation request and GEI implementation.
    a. LEA Action: Not provided; did not exist.
        i. The LEA maintained internal communications between staff were not educational records.
8. School nurse records.
    a. LEA Action: Provided.
        i. A nurse visit log was provided to the Parent on April 2, 2026.

The LEA had no obligation under FERPA to confirm whether or not a document existed, or to follow the timeline chosen by the Parent. The LEA provided all obligatory information within the 45-day timeframe as required by the FERPA.

Based on the foregoing, according to FERPA, ***it is not substantiated*** that the LEA failed to provide the Parent access to education records without unnecessary delay and in response to a formal written records request submitted by the Parent on March 2, 2026.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #352
ON MAY 4, 2026

DATE OF REPORT: JUNE 4, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #352, Goodland Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #352.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 4, 2026, and the 30-day timeline ended on June 3, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #352, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to initiate a timely initial special education evaluation following a parent request, and instead used the Student Improvement Team (SIT) process as a substitute for or a delay to said evaluation. K.A.R. 91-40-7(a)(b)(2-3)(c); 34 C.F.R. §§ 300.111(a)(c)(1), 300.301(b).

ISSUE TWO: Whether USD #352, in accordance with state and federal regulations implementing the IDEA, failed to conduct a comprehensive initial evaluation of the Student by failing to use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information and failing to assess the child in all areas of suspected disability. K.A.R. 91-40-8; 34 C.F.R. §§ 300.304(b)(c)(4)(6-7), 300.305(a).

ISSUE THREE: Whether USD #352, in accordance with state and federal regulations implementing the IDEA, followed proper procedures when determining the Student was not eligible for special education and related services, and specifically whether the LEA improperly relied on the Student's academic advancement (passing grades) as the basis to deny eligibility. K.A.R. 91-40-10(a)(1)(A-E)(d)(f); 34 C.F.R. §§ 300.306(a)(c), 300.101(c).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on May 27, 2026 The following LEA staff were interviewed on May 26, 2026: The Director of Special Education, the Teacher, the School Counselor, and the Interrelated Special Education Teacher. The Assistant Special Education Director provided a written response.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Notes from Phone Conversation, 02/02/26
2. Screenshot of Email, re: [the Student], 10/29/25
3. Phone Call Log, 10/31/25
4. Individual Benchmark Report: Math, 2025-26 School Year
5. Individual Benchmark Report: Reading, 2025-26 School Year
6. Individual Benchmark Report: CBM Math, Reading , Math 2025-26 School Year
7. Report Card, 2024-25 School Year
8. Discipline Log Entries, 11/03/23-04/02/26
9. Attendance Overview, 2024-25 School Year, 2025-26 School Year
10. Report Card, 2025-26 School Year
11. Truancy Letter, 02/03/26
12. SIT Meeting Notes, 04/07/[26], 04/28/26
13. Parent Meeting Notes, 05/08/26
14. Meeting Notes, 02/09/26, 05/08/26
15. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 04/07/26, 05/08/26
16. Teacher Behavior Observation Log, 02/18/26-04/24/26
17. Check-in Data Collection, 04/30/26
18. Structured Break Data Collection, 04/30/26-05/01/26
19. Counseling Data, 04/30/26
20. Student Intervention Team (SIT) Documentation, 02/17/26
21. Check-in Data Collection, 05/04/26-05/07/26
22. Structured Break Data Collection, 05/04/26-05/07/26

23. 5 Point Scale, no date
24. Individual Benchmark Report, 2025-26 School Year
25. SIT Contact Log, 02/09/26-04/20/26
26. Screenshot of Email Subject and Recipients, 04/12/26
27. Picture of Student Intervention Team (SIT) Follow-Up Meeting Form, 04/07/26
28. Picture of Email, re: Another Formal Request, 04/27/26-04/28/26

Background Information

This Investigation involved a fourth-grade student enrolled at an elementary school in USD #352. The Student is not currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA). The Student is receiving accommodations through a SIT plan.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. In an October 29, 2025 message to the School Counselor, the Parent indicated they had a conversation with the Teacher regarding the IEP evaluation process and the Teacher recommended speaking with the School Counselor. The Parent expressed concern about suspected autism and inquired about the steps to get an IEP evaluation completed. The School Counselor replied to the Parent and stated, "Also, we can look at putting [the Student] on a SIT plan to begin collecting data! I can talk to you about the process tomorrow as well!"
2. A school counselor application, dated October 31, 2025, noted the School Counselor spoke with the Parent regarding behavioral concerns, a private autism evaluation, and the initial October 29, 2025 evaluation request. Notes indicated they discussed the SIT process and "[the Parent] reported [they] would think about it and get back to [the School Counselor]."
3. In notes from a phone conversation, dated February 2, 2026, the Interrelated Special Education Teacher indicated they called the Parent regarding the Parent's concerns and the request for an IEP. They stated they would continue to "gather some information," call the Parent back, and schedule a meeting. They stated the Parent was "ok" with it.
4. In a February 3, 2026 letter to the Parent, the Principal informed the Parent the Student was not attending school in compliance with Kansas State Statute (K.S.A.) 72-1113. The correspondence asserted, "[The Student's] poor attendance has negatively impacted [their] academic success at [the School]." The letter advised the LEA had reported the Student's truant status to the County Attorney per the K.S.A.
5. Meeting notes, dated February 9, 2026, and taken by the Assistant Director of Special Education, indicated:

a. The Parent indicated they had reached out to a local hospital for an autism diagnosis and were on the waiting list. They also expressed concern regarding the Student's social-emotional skills.
b. The Teacher reported the Student had shown improvement since winter but had gone back to "old behaviors" in recent weeks.
c. The Interrelated Special Education Teacher stated the SIT process "was probably the best place to start so a schedule of breaks, and other interventions can be put in place and documentation can be taken to see what strategies are working and which ones don't work for [the Student] at this time. [The Parent] agreed."
d. Notes indicated, "[The Parent] is happy to start with the SIT Plan. [The Parent] likes the idea of getting some interventions started for [the Student]." The team checked in with the Parent and stated, "[The Parent] said this is what [they] [are] really wanting and if [they] can get it without an IEP, [the Parent] is happy."
e. A SIT Contact Log submitted by the Parent noted, "IEP Eval. Request. Team decision to move forward with SIT request. Parent agreed. [School Counselor] to reach out to schedule meeting."

6. A February 18 through April 24, 2026 Teacher Behavior Observation Log of the Student indicated the following behaviors were observed, as indicated with a "Yes" or "No" for the following behaviors:
   a. Awake/Alertness: 15 yes and six no.
   b. On Task/Followed Directions: 14 yes and seven no.
   c. Participated/Engaged in class: 13 yes and eight no.
   d. Completed Work/Tasks: 15 yes, five no, and one blank answer.
   e. Used positive self-talk: 12 yes, seven no, and two blank answers.
   f. Flexible Thinking/Handled viewpoints calmly: 13 yes, six no, and two blank answers.
7. SIT documentation, dated February 17, 2026, detailed the following:
   a. Student absences at the time of the meeting stated, "26AM/30PM absences" and "27 tardies" for the current School semester/year.
   b. The Student's strengths were described as being eager, creative, and proud of their artwork. The Student understood grade-level content and could independently complete assignments.
   c. Concerns noted the Student had a dislike for school, challenges with peer interaction, a tendency to think in "black-and-white" and stated, " … [The Student] does not see the purpose of attending school."
   d. Student data indicated the use and scores of an LEA assessment.
   e. Content and skills to learn to progress in general education included motivation and engagement strategies, alertness supports throughout the day, skills in flexible thinking, and support in communicating respectfully when frustrated or when expressing a different opinion.

f. Additional comments stated the Assistant Director of Special Education, the Parent, the Interrelated Special Education Teacher, the School Counselor, and the Teacher met on February 9, 2026, and "It was determined that at this time concerns would be best addressed through general education interventions, documented on a SIT plan."

g. A goal for classroom engagement was identified, along with interventions such as daily check-in/check-out, structured breaks, and tier three counseling.

8. In a March 23, 2026 email to the Parent, the School Counselor reported that although the first week under the plan was challenging due to the Student's painful earache, the week leading up to spring break demonstrated significant improvements in classroom alertness, task completion, and positive peer interactions. Due to the limited data obtained, the School Counselor stated, " … I would recommend continuing with the current plan that we have in place for now." The Parent acknowledged receiving the detailed update.

9. In an email, dated April 7, 2026, to the Director of Special Education, the Assistant Special Education Director noted the Parent had requested an IEP, without an evaluation, but staff had shared the Parent had previously agreed to a general education SIT plan instead of a special education referral. They emphasized the Student's LEA assessment scores in reading and math were age-appropriate or better and their inner-ear condition had not caused hearing loss at that time.

10. In an email dated April 7, 2026 from an unknown staff member to the Teacher, the staff member confirmed the Student's September 17, 2025 screening results were a fail for hearing and a pass for vision.

11. A SIT Follow-Up Meeting Form, dated April 7, 2026, indicated:

a. The Parent shared concerns regarding the Student's medical diagnosis and asked about expediting the evaluation process.

b. The team reviewed the IDEA requirements for eligibility.

c. The Teacher provided input on the Student making improvements in "behavior, including increased alertness, participation, reduced negative thinking, and fewer instances of task refusal."

d. Data provided indicated the Student had "consistent positive days."

e. The School Counselor shared the Student "often declines" breaks.

f. The SIT team "recommended continued accommodations to allow for further data collection."

g. "[The Parent] agreed to continued SIT plan and current accommodations."

h. The Parent submitted a copy of the form with handwritten notes indicating:

i. The Parent did not receive a copy of the data referenced.

ii. They did not receive a copy of prior written notice (PWN) referenced.

iii. An autism evaluation was not addressed.

iv. "I denied signing due to false statement stating I was agreeing to their consideration of medical issues."

i. An SIT Contact Log submitted by the Parent noted the Parent "inquired medical [sic] accommodations."

12. Meeting notes from the SIT review on April 7, 2026 indicated the following:

a. The Parent shared their concerns regarding the Student's fatigue and the accommodations in place. The Parent inquired about using existing medical diagnoses to bypass the evaluation process to put in place an IEP or 504 plan, explicitly inquiring how the special education process applies when a child's conditions do not negatively impact their academic performance.

b. The Special Education Director clarified the IDEA guidelines, shared that a medical diagnosis does not dictate an IEP, and stated "there needs to be an exceptionality and show a need for individualized supports."

c. It was written that the LEA elected to continue the general education SIT rather than transition to a special education evaluation, citing recent data indicating academic stability, decreased task refusal, and 15 consecutive days of back-to-back school attendance.

d. The School Counselor and the Teacher acknowledged a deficit in progress-monitoring data, and noted that because the Student routinely refused to participate in the daily check-in/check-out system, little-to-no documentation had been collected to evaluate the plan's overall efficacy. The team agreed consistency was needed and recommended keeping the plan in place.

e. The Parent agreed to continue the general education SIT plan and its current accommodations.

13. PWN for Evaluation or Reevaluation and Request for Consent, dated April 7, 2026, indicated:

a. The LEA refused to conduct an initial evaluation at the time, and Parental consent was not required.

b. An explanation of why the action was refused stated the request was discussed, and that current supports, LEA testing, daily performance, attendance, and documentation were reviewed. The team decided not to perform a special education evaluation. The team would continue to track the Student's progress through the SIT plan and indicated, "The school is not initiating a special education evaluation at this time based on [the Parent's] decision to wait and monitor progress in the current SIT Plan."

c. Other options considered stated the consideration of pursuing a special education evaluation or 504 plan. Due to the review and conversation regarding the current SIT plan, "… the team and [the Parent] chose not to move forward with the evaluation at this time. … the school is respecting [the Parent's] decision and not initiating the evaluation process."

d. Data used as a basis for the decision included parental input, record review, teacher input and observations, current SIT documentation, LEA evaluations and data, and writing a 504 plan.

e. Other factors considered detailed the Student had a SIT Plan in place and was making progress with accommodations that supported their educational access. Medical information provided by the Parent was "considered in the decision not to pursue an evaluation … ." Additionally, the Parent was notified they could request an evaluation at any time.

f. The Parent submitted a copy of PWN with handwritten notes indicating:

   i. An IEP was requested in an email to the School Counselor on October 29, 2025.

   ii. An initial SIT meeting was held on February 17, 2026.

   iii. The Parent had not received data supporting the evaluation refusal.

   iv. The Parent did not agree to the evaluation refusal and did not sign the refusal form. They stated they wanted to review the form before signing.

   v. The Parent agreed to the SIT plan with the understanding that a 504 plan would be written.

   vi. The Parent wanted medical and mental health supports implemented.

14. In an April 27, 2026 email to the School team, the Parent formally requested a "comprehensive educational evaluation" for the Student for suspected autism disorder. They indicated a 504 plan had been discussed due to a medical diagnosis. They then described law around child find, and insisted schools "must evaluate a student in all areas of suspected disability." The Parent requested consent forms be sent "immediately so we can begin this process." They raised concerns about "equal access to … education" and medical accommodations for the Student.

15. Meeting notes from the SIT review, dated April 28, 2026, detailed the following relevant information:

a. The Parent provided medical documentation to the administration and formally reiterated written requests for an IEP evaluation, a comprehensive autism evaluation, and a 504 plan.

b. The School Counselor validated the Parent's concerns, acknowledging the Student information and activity logs had been shared with the Parent all at once at the end of a 30-day block rather than incrementally.

c. The team formally concluded the SIT plan could not be determined effective because the current general education implementation, progress monitoring, and document collection methods were insufficient.

d. To resolve these progress-monitoring issues, the team restructured the SIT plan to incorporate a collaborative five-point emotional regulation scale with another staff member, staff logging of break frequencies and specific Student behavioral

responses, and an individualized tally framework to quantify independent Student requests for counseling.

16. In an email exchange on April 27 and 28, 2026 between the Parent and the Director of Special Education, the following was discussed:
    a. The Parent stated a general education intervention framework, such as a SIT plan, could not legally be used to delay or deny an evaluation when a disability was suspected.
    b. The Parent noted that although the Student's SIT plan was established in February 2026, no consistent data tracking or documented progress updates had been provided to them.
    c. The Special Education Director responded that during a prior review on April 7, 2026, the team, including the Parent, had mutually agreed the active SIT plan was effectively supporting the Student. They maintained the data reviewed at that time demonstrated the Student was making adequate educational progress within the general education curriculum. Furthermore, the Special Education Director stated the LEA previously lacked both formal documentation from a medical provider and objective evidence of a significant disability-related impact on classroom performance, which were mandatory considerations when determining special education eligibility. Additionally, they confirmed the LEA would adhere to required regulatory timelines and provide a formal response to the initial evaluation request within 15 school days.
17. In an email, dated April 28, 2026, to the School Counselor and the Principal, the Outside Speech Pathologist outlined the following:
    a. They stated the Student's current SIT plan was “definitely not effective and is lacking data collection.”
    b. They noted the plan had been running for approximately 30 days with two check-ins, asserting that it was working. They questioned what metrics were previously used to determine the success of the plan, “considering that today there was NO data to be shared.”
    c. They observed most of the Student's supports were occurring outside of the general education environment and were being managed by personnel with special education backgrounds, noting, “feels like a red flag to maybe support needing IEP supports. [sic]”
    d. They suggested School staff to remain “mindful” moving forward, as the current general education intervention framework appeared to be “flirting with specialized instructions and supports” rather than remaining within general education parameters.
18. In an email, dated May 3, 2026, to the County Attorney, the Parent requested a full review of the February 2026 truancy referral, stating the Student's documented medical conditions, anxiety, and autism-related needs impacted School attendance and should have been considered prior to the escalation. They highlighted a direct

contradiction in LEA records, pointing out that while one file alleged attendance issues harmed the Student's grades, a SIT document stated the Student was academically excelling with an A/B average. The Parent stated, "These inconsistencies are relevant to whether attendance concerns reflected academic impairment or disability-related barriers that were not fully addressed." The Parent asserted their request for the truancy referral be reviewed with consideration of the Student's medical condition, the LEA's evaluation and accommodation process, documented academic performance and SIT findings, and formal complaints with the Office of Civil Rights and the State, in addition to the timeline of events.

19. A Check-in Data Collection document, dated April 30 through May 1, 2026, detailed the following:
    a. The number rating system:
        i. 1 - "Calm and Ready to Learn."
        ii. 2 - "A Little Off."
        iii. 3 - "Struggling Some."
        iv. 4 - "Overwhelmed."
        v. 5 - "Not in Control."
    b. April 30, 2026: a pre-check-in with the Student with a rating of three. It stated the Student said, "Struggling [s]ome, I feel tired, distracted, and something has made me feel annoyed. It's hard to focus in the classroom. I may also feel a little pain or discomfort."
    c. April 30, 2026: a post check-in with the Student with rating of a four. It stated, "I feel very tired and frustrated. I cannot focus and most things are bothering me or irritating me. Pain level is moderate and cannot be ignored."
    d. May 1, 2026: no rating was indicated.
    e. May 1, 2026: post-check-in with the Student indicated a rating of four. Notes stated, "[The Student] reported that [they] chose not to check-in with [unknown person] this morning."
20. A Structured Break Data Collection document, dated April 30 through May 1, 2026, indicated four Student-initiated breaks.
21. A Counseling Data log, dated April 30, 2026, indicated the Student "initiated counseling request" one time during the week of April 30 through May 1, 2026.
22. A Structured Break Data Collection document, dated May 4 through May 7, 2026, indicated three Student-initiated breaks and one teacher-prompted break.
23. A Check-in Data Collection sheet, dated May 4 through May 7, 2026, detailed the following:
    a. A May 4, 2026 pre-check-in indicated the Student had a rating of four. Notes stated, "[The Student] chose to go back to the classroom to get started with class … ."
    b. A May 4, 2026 post-check indicated a Student rating of four.

c. May 5, 2026 indicated no Student pre-check-in.

d. A May 5, 2026 post-check indicated the Student rating of five and stated, "Not In Control - I feel very angry, very upset, or very anxious. I can't focus, and may argue or fall asleep easily. My pain level is very fairly high and does not allow me to participate in class effectively."

e. On May 6, 2026, no pre-check-in was recorded.

f. A May 6, 2025 post-check-in noted the Student had requested to take a break in the front office, took a break, and was walked back to the classroom shortly after 8:22 a.m.

g. On May 7, 2026, it was indicated there was no Student check-in due to an assembly.

h. A May 7, 2026 post-check-in indicated the Student had a rating of three and noted "[The Student] wanted to take [their] sleep break."

24. The Student's 2024-25 Report Card detailed the following Quarter Four grades. A "+" indicated "above expectation" and a "-" indicated below expectation.

a. Reading, D+.

b. Math, A-.

c. Social Studies, A+.

d. Science, A.

e. Writing 3, A-.

f. Music, Satisfactory +.

g. PE, +.

h. Technology, +.

25. The Student's attendance record for the 2024-25 school year from May 5, 2025 through May 23, 2025 indicated one absence.

26. The Student's 2025-26 Report Card indicated the following:

a. Language Arts: Quarter One, B-; Quarter Two, B+; Quarter Three, B; Quarter Four, F.

b. Math: Quarter One, C+; Quarter Two, C+; Quarter Three, A-; Quarter Four, B-.

c. Social Studies: Quarter One, A-; Quarter Two, A-; Quarter Three, A; Quarter Four, B+.

d. Science: Quarter One, A+; Quarter Two, A-; Quarter Three, A; Quarter Four, A+.

e. Music: Quarter One, +; Quarter Two, S+; Quarter Three, S+; Quarter Four, -.

f. Physical Education: Quarter One, +; Quarter Two, +; Quarter Three, +; Quarter Four, +.

g. Technology: Quarter One, +; Quarter Two, S+; Quarter Three, +; Quarter Four, -.

27. The Student's attendance record for the 2025-26 school year indicated:

a. 35 full-day absences.

b. 36 tardies.

28. A Discipline Log Entry for the 2025-26 school year indicated one entry for the Student, dated April 2, 2026, entered by the Teacher and stated:
    a. "Refused to do work - In the morning [the Student] fell asleep in [unknown person's] Win group doing [reading]. This was the third time it happened. After [the Student] got in from recess [they] refused to do the math scoot that [they] needed to do. [The Student] also got really combative with all the students and was keeping the math problems to [themself]. [The Student] then made the comment, "I don't have to listen to [the Teacher], [the Principal], or anyone else in this school." I took [them] down to [the Special Education Teacher] as [the Principal] was not here. [The Student] is doing [reading] for this afternoon and may do some more Math work."
29. The Student's LEA benchmark assessment percentile scores for the 2025-26 school year were listed as:
    a. Reading: Fall 67th percentile, Winter 90th percentile, Spring 66th percentile.
    b. Math: Fall 53rd percentile, Winter 44th percentile, Spring 46th percentile.
    c. Math Fluency: Fall 48th percentile, Winter 15th percentile, Spring 36th percentile.
    d. English: Fall 68th percentile, Winter 83rd percentile, Spring 90th percentile.
30. On May 3, 2026 the Parent filed this complaint.
31. In meeting notes to address the Parent's concerns, dated May 6, 2026, the following was detailed:
    a. The Parent questioned the validity of the general education framework, expressing concern the LEA's previous refusal to evaluate was based on the SIT plan, which lacked sufficient data to track or show actual student progress.
    b. The Teacher detailed the Student frequently declined or refused to participate in classroom interventions, such as structured breaks, walking laps, or using a fidget corner, making it difficult for staff to collect consistent data or evaluate the intervention's effectiveness.
    c. The Special Education Director clarified the SIT and 504 processes were general education processes, and an IEP was a special education process. The Parent confirmed understanding this.
    d. The Special Education Director noted the LEA's initial April 2026 decision to deny a special education evaluation was due to a lack of medical documentation at that time showing how the Student's conditions significantly impacted their general education setting.
    e. The Parent disputed the basis of the LEA's truancy referral, pointing out an inconsistency where the School alleged that attendance issues were negatively impacting the Student's education, while the School's own SIT documentation simultaneously stated the Student's academic performance was acceptable.

f. The team acknowledged that while the Student's academic grades were passing, they continued to struggle with non-academic indicators, including chronic pain from an inner ear condition, extreme daytime fatigue, severe anxiety, and social-emotional regulation.

g. Based on the newly provided medical documentation regarding the Student's medical condition and upcoming inner-ear surgeries, the LEA and multidisciplinary team determined an initial special education evaluation was officially warranted.

32. PWN issued on May 8, 2026 indicated:

a. The LEA formally proposed to conduct an initial special education evaluation.

b. The proposed evaluation was structured to collect new and existing data across multiple areas including general intelligence, academic performance, communicative status, health/motor ability, and social-emotional functioning.

c. While general education records and classroom performance did not initially lead the LEA to suspect a disability, updated medical documentation regarding the Student's chronic ear disease, impending inner ear surgeries, and severe anxiety provided a sufficient basis to suspect a need for specialized instruction.

d. The team considered and rejected the options of continuing the SIT process alone or implementing a standalone 504 plan, concluding that formal evaluation data were required to appropriately define the Student's educational needs.

e. The Parent signed the notice granting the LEA formal consent to initiate the evaluation.

Parent Interview

33. In an interview with the Complaint Investigator, the Parent indicated they made their initial request for an IEP to the Teacher on October 29, 2025. They received a response the next day from the School Counselor, who set up a meeting. At the meeting, the Parent shared their concerns regarding the Student's social and emotional needs, that they suspected the Student experienced autism, issues with school engagement and participation, and fatigue, and stated, "I communicated the need that [the Student] needed this IEP evaluation … ." The Parent recalled being told that, because the Student's academics were "advanced," the Student would not meet the criteria for an IEP. "So I was redirected to a SIT plan … ."

34. When asked about the data used in the IEP decision-making process, the Parent shared they had only recently received behavior observation logs in April 2026 and could not recall specifically the LEA assessment data being discussed and stated, "I'm sure that it was mentioned because there's been constant mention of how intelligent [the Student] is." The Parent explained at the April 28, 2026 meeting, due to "lack of documentation and/or supportive measurements and tools," there were changes to the SIT plan. Additionally, they shared during the May 8, 2026 meeting, further changes were made … because I raised all the concerns … . I was asking for

the documentation that they didn't have." The Parent shared, "They knew what was going on with [the Student] anxiety medically IEP-wise."

Special Education Director Interview

35. In an interview with the Complaint Investigator, the Special Education Director explained they were not part of the IEP discussion in February 2026, and stated, "[The Parent] did not make any requests for an IEP. [The Assistant Special Education Director] even asked [the Parent] during that meeting if [the Parent] was wanting an evaluation for an IEP. And at that time, [the Parent] told [the Assistant Special Education Director] no."
36. The Special Education Director shared that on April 7, 2026, the Student was still experiencing truancy issues, and the Parent requested a formal evaluation for an IEP. The Special Education Director was part of the conversation with the Parent and stated the Parent continued to ask for medical accommodations, but could not provide an example of what they were requesting. The Special Education Director clarified the administrative processes separating a 504 plan from an IEP to the Parent, and the Parent confirmed their understanding. At the end of the April 7, 2026 meeting, the Special Education Director explained due to the "attendance and other things" the team agreed to not move forward with an evaluation and the Parent agreed. They shared they issued PWN of the refusal, which did not require parental consent.
37. The Special Education Director explained the LEA reversed its prior refusal and initiated an initial evaluation because the Parent submitted new medical documentation alongside behavioral and social-emotional concerns. They noted the combination of the Student's upcoming surgery, anxiety, and social-emotional concerns provided a sufficient baseline to suspect a disability. They shared the team determined that a comprehensive special education evaluation was necessary to determine educational impact.

School Counselor Interview

38. In an interview with the Complaint Investigator, the School Counselor detailed their involvement in the SIT process with the Parent and the Student. Following a Parent email regarding an IEP assessment in October 2025, the School Counselor consulted with the Teacher and replied to explain the general education SIT process and offered to connect the Parent with the special education staff. They shared the Parent agreed to explore a SIT plan and declined the special education referral at that time.
39. The School Counselor explained they and the School team collaborated with the Parent on a support plan addressing their concerns. As part of this plan, the School monitored the Student's behavior in 30-minute increments, documenting positive academic and social progress over the following weeks. When the Parent raised questions regarding 504 plans and IEPs, the School Counselor arranged for special education staff to attend the rescheduled meeting. During the April 7, 2026

meeting, the School Counselor reviewed the tracked data with the Parent, who expressed appreciation for the Student's growth and agreed to continue with the SIT process without requesting an IEP evaluation.

40. The School Counselor indicated they received no communication from the Parent between October 2025 and February 2026, but they continued to check in with the Student when the Student was in attendance and reported the Student "appeared to be doing really well."

Interrelated Special Education Teacher Interview

41. In an interview with the Complaint Investigator, the Interrelated Special Education Teacher recalled the decision to implement an SIT plan in lieu of an IEP. They were contacted by the School Counselor on February 2, 2026 after they had spoken to the Parent regarding getting the Student accommodations. They explained they contacted the Parent and scheduled the meeting via phone for February 9, 2026. They stated the Parent shared their concerns about the Student falling asleep and not wanting to come to school. The team discussed all options, including the IEP evaluation process and SIT accommodations in the general education setting. They shared the Parent agreed to a SIT plan, and the School Counselor started the process of putting general education accommodations into place.

42. The Interrelated Special Education Teacher described the April 7, 2026 meeting as a "SIT follow-up meeting" in which the Parent requested the special education department have a staff member in attendance. They explained LEA assessment data, progress monitoring data, and attendance were all discussed. They stated, "So as a team, we decided that we'd be better off continuing the SIT until we get more data to look [sic] because up until that point, I believe [the Student] was only in school for 15 to 17 days … . … Made sure and double checked with [the Parent] multiple times that [the Parent] was okay continuing that SIT so we could gather more data … . " The Interrelated Special Education Teacher shared that they, the Assistant Special Education Director, and School Counselor all confirmed the continuance of the SIT with the Parent and stated, "So [the Parent] did say that [they] [were] totally fine continuing that SIT multiple times."

Teacher Interview

43. In an interview with the Complaint Investigator, the Teacher explained at the start of the 2025-26 school year, there were concerns about the Student falling asleep and this was discussed during School conferences. They stated, "I said that I have no concerns with [the Student's] ability to do things. [They] just needed to be at school more. … at parent-teacher conferences, [the Student] was scoring where [they] needed to be, so I did not suggest SIT. I did not think [the Student] needed an IEP or any of those things."

44. The Teacher described their SIT data collection of the Student as observing them for 15 to 30 minutes daily at varying intervals to monitor behavioral changes at different times of the day. They compiled these daily observations within a folder to

fulfill a standard six-to-eight-week protocol. However, the data collection process had inconsistencies and gaps because the Student frequently missed class or had to be sent home early due to earaches. The Teacher maintained the records and the School Counselor assisted by logging the data into the School's computer system.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #352, in accordance with state and federal regulations implementing the IDEA, failed to initiate a timely initial special education evaluation following a parent request, and instead used the SIT process as a substitute for or a delay to said evaluation. K.A.R. 91-40-7(a)(b)(2-3)(c); 34 CFR §§ 300.111(a)(c)(1), 300.301(b).

According to K.A.R. 91-40-7(a)(b)(2-3)(c) and 34 CFR §§ 300.111(a)(c)(1), each board shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction. Including children with exceptionalities who meet the following criteria: attend private schools; are highly mobile, including migrant and homeless children; and are suspected of being children with disabilities even though they are advancing from grade to grade. Each board's policies and procedures under this regulation shall include age-appropriate screening procedures that meet the following requirements: for children ages 5 through 21, observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening as required by state law, and the implementation of procedures to ensure the early identification and assessment of disabilities in children.

Any board may refer a child who is enrolled in a public school for an evaluation if one of the following conditions is met: school personnel have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child. If school personnel have data-based documentation indicating that, before the referral or as part of the referral, all of the following conditions were met: the child was provided with appropriate instruction in regular education settings by qualified personnel; the child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction; the assessment results were provided to the child's parent or parents; and the assessment results indicate that an evaluation is appropriate.

According to 34 CFR § 300.301(b), consistent with the consent requirements in § 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

The Parent alleged that at the beginning of the school [year], they formally raised concerns and requested an evaluation for autism as well as consideration for an IEP. Despite these concerns,

the LEA did not initiate a timely evaluation. Additionally, the LEA used the SIT process in place of initiating an evaluation.

The LEA stated they complied with the IDEA requirements by appropriately responding to Parent concerns, engaging in collaborative problem solving through the SIT process, and not delaying or denying an evaluation request.

The Office of Special Education Programs (OSEP) mandates school districts must allow parents to request an initial evaluation to determine eligibility for special education services whenever they choose. Furthermore, implementing Response to Intervention (RTI) strategies must never serve as a barrier or a delay to a full individual evaluation if a child is suspected of having a disability.

In this case, the record indicated on October 29, 2025, the Parent contacted the School Counselor to request an initial special education evaluation for suspected autism, and the School Counselor responded by proposing a SIT plan to collect data. The LEA did not issue a PWN proposing or declining an evaluation in response to this parent request. The initial SIT meeting was held on February 17, 2026. On April 7, 2026, the LEA issued PWN, refusing to conduct the evaluation, stating the team and the Parent had chosen to wait and monitor progress under the SIT plan, which the Parent disputed via handwritten notes on the form. Following a renewed evaluation request by the Parent on April 27, 2026, the SIT team convened for a review on April 28, 2026 and documented that insufficient progress-monitoring data had been collected regarding the plan's implementation. While the Student's standardized benchmark scores remained stable, a discipline log from April 2, 2026 detailed instances of work refusal and combativeness, the Student's fourth-quarter Language Arts grade dropped to an “F,” and daily monitoring sheets from May 2026 recorded self-reported ratings of high distress and physical pain. The evidence showed the LEA was aware of inconsistencies in the data and a suspected disability, and did not conduct an initial evaluation. Additionally, over six months passed between the Parent's initial evaluation request and when the LEA later agreed to conduct it on May 8, 2026. These actions contradict what is stated in federal and state regulations.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** the LEA failed to initiate a timely initial special education evaluation following the Parent request, and utilized the SIT process as a substitute for and a delay to said evaluation.

Issue Two

Whether USD #352, in accordance with state and federal regulations implementing the IDEA, failed to conduct a comprehensive initial evaluation of the Student by failing to use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information and failing to assess the child

in all areas of suspected disability. K.A.R. 91-40-8; 34 C.F.R. §§ 300.304(b)(c)(4)(6-7), 300.305(a).

According to K.A.R. 91-40-8, and C.F.R. §§ 300.305(a), each agency shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services. Each evaluation shall include procedures to determine whether the child is exceptional and what the child's educational needs are. In implementing the requirements, the agency shall ensure that the following conditions are met: the evaluation is conducted in accordance with the procedures described in K.A.R. 91-40-9 and, if applicable, K.A.R. 91-40-11; the results of the evaluation are used by the child's IEP team to develop the child's IEP; and the evaluation is conducted before the initial provision of special education and related services to the child.

As a part of an initial evaluation, if appropriate, and as part of any reevaluation, each agency shall ensure that members of an appropriate IEP team for the child and other qualified professionals, as appropriate, comply with the following requirements: the evaluation team shall review existing evaluation data on the child, including evaluations and information provided by the parent or parents of the child; current classroom-based, local, and state assessments; and classroom based observations. The team will review observations by teachers and related service providers. Based on that review and input from the child's parent or parents, the evaluation team shall identify what additional data, if any, is needed to determine whether the child has a particular category of exceptionality, what the present levels of academic achievement and educational and related developmental needs of the child are; and whether the child needs special education and related services.

The team may conduct its review without a meeting if it determines that additional data is required to make any of the determinations, or the agency, after giving proper written notice to the parent and obtaining parental consent, shall administer the tests and evaluations appropriate to produce the needed data. If the team determines that no additional data is needed to make any of the determinations, the agency shall give written notice to the child's parent of the determination that no additional data is needed, the reasons for this determination, and the parent's right to request an assessment. The agency shall not be required to conduct any additional assessments unless requested to do so by a parent.

Unless an agency has obtained written parental consent to an extension of time, the agency shall complete the following activities within 60 school days of the date the agency receives written parental consent for an evaluation of a child: conduct the evaluation of the child; and conduct a meeting to determine whether the child is an exceptional child and, if so, to develop an IEP for the child. The agency shall give notice of this meeting to the child's parent or parents and implement the child's IEP. An agency shall not be subject to the time frame if either of the following conditions is met: the parent or parents of the child who is to be evaluated repeatedly fail or refuse to produce the child for the evaluation, or if the child enrolls in a

different school before the evaluation is completed, and the parent and the new school agree on a specific date by which the evaluation will be completed.

Each agency shall ensure that an IEP is developed for each exceptional child within 30 days from the date on which the child is determined to need special education and related services.

According to 34 C.F.R. § 300.304(b)(c)(4)(6-7), in conducting the evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child. Including information provided by the parent that may assist in determining whether the child is a child with a disability, and the content of the child's IEP, including information related to enabling the child to be involved in and to progress in the general education curriculum. The agency will not use a single measure of assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate education program for the child. Each agency will use technically sound instruments to assess the relative contributions of cognitive and behavioral factors, as well as physical or developmental factors.

Each public agency must ensure that assessments and other evaluation materials used to evaluate a child are selected and administered so as not to be discriminatory on a racial or cultural basis. Each agency will provide and administer assessments in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer. Assessments are used for the purposes for which the assessments or measures are valid and reliable, and are administered by trained and knowledgeable personnel. Additionally, they are administered in accordance with any instructions provided by the producer of the assessments.

Each public agency must ensure the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. In evaluating each child with a disability, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. The assessment tools and strategies that provide relevant information and directly assist persons in determining the child's educational needs are provided.

The Parent alleged the LEA failed to conduct a comprehensive initial evaluation using multiple data sources and formal data collection. Specifically, the Parent claimed that decisions were made without sufficient documented evidence or consistent progress monitoring regarding the Student's suspected disabilities.

The LEA stated they complied with IDEA requirements regarding evaluation

procedures. At the time the complaint was filed, no comprehensive evaluation had yet been completed because the LEA had previously issued a refusal to evaluate through the initial PWN-E process. Following the Parent's subsequent request on April 27, 2026, the LEA agreed to initiate a formal evaluation on May 8, 2026. Accordingly, there had been no completed evaluation for the LEA to review or rely upon at the time the complaint was submitted.

Following the Parent's October 29, 2025 request for an initial special education evaluation for suspected autism, the School Counselor, the Interrelated Special Education Teacher, and the Assistant Director of Special Education suggested a general education SIT plan. Despite documented evidence of the Student's functional struggles, the LEA issued PWN on April 7, 2026 formally refusing to conduct an evaluation based on academic stability. This refusal was finalized despite concurrent acknowledgments from the Classroom Teacher and the School Counselor that insufficient progress-monitoring or tracking data had actually been collected under the general education plan due to the Student's refusal of the accommodations and attendance issues. On April 28, 2026 and May 6, 2026, the school team and an Outside Speech Pathologist formally concluded the SIT plan's effectiveness could not be determined due to this absence of data.

Following the subsequent submission of updated medical records, in addition to the documented Parental concerns, the Special Education Director and the multidisciplinary team determined an initial assessment was warranted, culminating in a May 8, 2026 PWN proposing an evaluation. The evidence showed an initial evaluation was not conducted within the designated investigative window; therefore, there was no violation.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to conduct a comprehensive initial special education evaluation during the investigative window.

Issue Three

> Whether USD #352, in accordance with state and federal regulations implementing the IDEA, followed proper procedures when determining the Student was not eligible for special education and related services, and specifically whether the LEA improperly relied on the Student's academic advancement (passing grades) as the basis to deny eligibility. K.A.R. 91-40-10(a)(1)(A-E)(d)(f); 34 C.F.R. §§ 300.306(a)(c), 300.101(c).

According to K.A.R. 91-40-10(a)(1)(A-E)(d)(f) and 34 C.F.R. §§ 300.306(a)(c), after completion of appropriate evaluation procedures, a team of qualified professionals and the parent of the child who has been evaluated shall prepare a written evaluation report, and provide a copy to the parent at no cost. The report will include statements regarding the determination of whether the child has an exceptionality, the basis for making the determination, the relevant behavior noted during the observation of the child, the relationship of that behavior to the

child's academic functioning, educationally relevant medical findings, if any, and, if the child was evaluated for a specific learning disability. Each evaluation team, in determining whether a child is an exceptional child and what the educational needs of the child are, shall meet the following requirements: the evaluation team shall draw upon information from a variety of sources, including aptitude and achievement tests; parent input; teacher recommendations; physical condition; social or cultural background; and adaptive behavior.

If the child has participated in a process that assessed the child's response to scientific, research-based intervention, the evaluation report shall also address instructional strategies used and the student-centered data collected, and the documentation indicating that the child's parent or parents were notified. Parent or parents will be notified regarding the state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; strategies for increasing the child's rate of learning and the rights of a parent to request an evaluation. When interpreting the evaluation data, each agency must ensure that information from all sources is documented and carefully considered.

According to 34 C.F.R. § 300.101(c), each State must ensure that a FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination that a child is eligible must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

The Parent alleged the LEA improperly denied the Student's eligibility for an IEP without providing clear or measurable data to support the determination. Furthermore, the Parent alleged the LEA relied primarily on the Student's academic "passing grades" to deny services.

The LEA stated they complied with the IDEA requirements and their determination not to initiate an evaluation at the earlier meeting was based upon multiple sources of educational data. The Student was demonstrating educational progress and access to the general education curriculum with existing interventions and supports. The team appropriately considered the Student's overall functioning and response to interventions rather than relying solely on grades when determining an evaluation was not warranted at that time.

On April 7, 2026, the Special Education Director, the Assistant Special Education Director, and the Interrelated Special Education Teacher issued PWN refusing an initial special education evaluation. The LEA based this refusal on perceived progress under a general education SIT plan, despite concurrent admissions by the Classroom Teacher and the School Counselor that insufficient progress-monitoring data had been collected due to the Student's non-participation. The record indicated the LEA relied on age-appropriate test scores and the Student accessing their education through the SIT plan to deny the evaluation, even though the Student's 2025–26 records documented academic and functional deterioration. The

evidence showed the LEA was aware of inconsistencies in the data and a suspected disability, yet did not conduct an initial evaluation in a timely manner.

The LEA later determined an evaluation was warranted and obtained Parent consent to conduct a special education evaluation. The LEA is still in the process of conducting the evaluation, and Student's eligibility for special education has not yet been determined. Therefore, a finding on this issue can not be determined.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to follow proper procedures and improperly relied on the Student's academic advancement as a barrier to a special education evaluation.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at 34 CFR §§ 300.111(a)(c)(1), 300.301(b) and OSEP mandates specifically that a parent of a child may initiate a request for an initial evaluation at any time to determine if the child has a disability. Furthermore, state and federal guidelines specify the implementation of RTI or SIT strategies cannot be used to delay or deny a full and individual evaluation when a child is suspected of having a disability.

In this case, the evidence supports the finding that USD #352 did not fulfill its obligations under Child Find.

Based on the foregoing, USD #352 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #352 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 CFR §§ 300.111(a)(c)(1) and 300.301(b).
2. USD #352 shall develop and execute a mandatory professional development plan for all relevant staff regarding Child Find mandates. This training must explicitly clarify that a parental request for an initial evaluation initiates strict statutory timelines that cannot be delayed, paused, or bypassed by general education interventions, including SIT or RTI processes. Furthermore, the training must instruct staff that passing grades or stable standardized test scores cannot be utilized to deny or block an evaluation. Staff must be trained to recognize that high absenteeism, failing grades, and emotional distress constitute valid indicators of a suspected disability under the IDEA, independent of a student's standardized academic performance. USD #352 shall submit no later than 30 days after the start of the 2026-27 school year an agenda, and staff sign in sheet of the completed professional development.
3. Further, upon five days of the completion of the Student's comprehensive evaluation, USD #352 will provide a copy to the department.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #436
ON MAY 4, 2026

DATE OF REPORT:MAY 28, 2026

This report is in response to a complaint filed with our office by ------- on behalf of her son, ------. For the remainder of this report, ------- will be referred to as "the parent" or "the student's mother." ------- will be referred to as "the student."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" as used in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student. The Tri-County Special Education Cooperative provides special education services for USD 436. Therefore, for the remainder of this report, USD #436 and the Cooperative will be referred to collectively as "the LEA."

Investigation of Complaint

The investigator spoke by telephone with the Director of Special Education for the Cooperative on May 12, 2026. The investigator spoke by telephone with the parent on May 18, 2026.

In completing this investigation, the complaint investigator reviewed the following materials:

- Documents (72 pages) provided by the parent when submitting this formal complaint including the following:
  - Email dated February 18, 2026 from the parent to the student's case manager;
  - Email dated February 19, 2026 from the director of the interlocal to the parent;
  - Email dated February 19, 2026 from the parent to the director of the interlocal;
  - Email dated February 26, 2026 from the parent to the director of the interlocal;
  - Email dated February 27, 2026 from the director of the interlocal to the parent;
  - Email dated February 27, 2026 from the parent to the director of the interlocal;
  - Email dated February 27, 2026 from the parent to the building principal;
  - Email dated February 27, 2026 from the building principal to the parent;
  - Email dated February 27, 2026 from the parent to the building principal;
  - Email dated February 27, 2026 from the building principal to the parent;

- Email dated February 27, 2026 from the parent to the building principal;
- Email dated February 27, 2026 from the building principal to the parent;
- Email dated February 27, 2026 from the parent to the director of the interlocal and the building principal;
- Email exchange dated March 2, 2026 between the director of the interlocal and the parent;
- Email dated March 3, 2026 from the director of the interlocal to the parent;
- Excerpts from the student's May 12, 2025 IEP including sections related to Communication and Accommodations and Modifications;
- Excerpts from a report from an unidentified source regarding the student's communication skills;
- Excerpts from a report dated August 8, 2025 regarding an outside evaluation at Children's Mercy hospital;
- Email dated March 24, 2026 from the parent to the student's case manager, the building principal, the director of the interlocal, and the student's math teacher;
- Email dated March 24, 2026 from the director of the interlocal to the parent;
- Email exchange dated March 24, 2026 between the parent and the student's case manager;
- Email exchange dated March 25, 2026 between the building principal and the parent;
- Email dated March 25, 2026 from the parent to the director of the interlocal, the building principal, the student's math teacher, and another unidentified individual;
- Email dated March 26, 2026 from the building principal to the parent, et. al.;
- Email dated March 26, 2026 from the parent to the building principal, et. al.;
- Email dated March 26, 2026 from the director of the interlocal to the parent;
- Email dated March 27, 2026 from the parent to the student's IEP Team;
- Screen shots of text messages from the student to the parent;
- Email exchange dated April 30, 2026 between the parent and the building principal;
- Email dated March 30, 2026 from the director of the interlocal to the parent;
- Email dated April 23, 2026 from the parent to the student's IEP Team;
- Email dated April 24, 2026 from the parent to the student's IEP Team;
- Email dated April 24, 2026 from the director of the interlocal to the parent;
- Email dated April 24, 2026 from the parent to the director of the interlocal;
- Email dated April 24, 2026 from the building principal to the parent;
- Email exchange dated April 30, 2026 between the parent and the building principal;
- Email exchange dated May 1, 2026 between the parent and the building principal;
- Email dated May 1, 2026 from the parent to the building principal and district superintendent;

  - Email dated May 1, 2026 from the district superintendent to the parent;
  - Email dated May 1, 2026 from the parent to the district superintendent; and
  - Email dated May 4, 2026 from the building principal to the parent
- Additional documents submitted by the parent to the investigator via email on May 12, 2026 including the following:
  - Email dated February 18, 2026 from the parent to the student's case manager;
  - Email dated February 19, 2026 from the director of the interlocal to the parent;
  - Email dated February 19, 2026 from the parent to the director of the interlocal;
  - Email dated February 26, 2026 from the parent to the director of the interlocal; and
  - Email dated February 27, 2026 from the director of the interlocal to the parent
- Additional documents submitted to the investigator by the parent via email on May 18, 2026 including the following:
  - Email dated April 12, 2026 from the parent to the student's IEP team; and
  - Email dated April 24, 2026 from the parent to the director of the interlocal
- Additional documents submitted to the investigator by the parent via email on May 22, 2026 related to the Student Progress Report regarding the student's Social-Emotional Goal covering the period of October 9, 2025 through May 15, 2026
- Documents provided by the LEA including the following:
  - Notice of Meeting dated April 22, 2025
  - IEP for the student dated May 12, 2025
  - Prior Written Notice for Identification, Initial Services, Change in Services, Change in Placement, and Request for Consent dated May 12, 2025
  - Notice of Meeting dated August 28, 2025
  - IEP Amendment Between Annual IEP Meetings dated September 4, 2025
  - IEP Amendment dated September 4, 2025
  - Prior Written Notice for Identification, Initial Services, Change in Services, Change in Placement, and Request for Consent dated September 4, 2025
  - IEP Amendment Between Annual IEP Meetings dated September 16, 2025
  - Prior Written Notice for Identification, Initial Services, Change in Services, Change in Placement, and Request for Consent dated September 24, 2025
  - Prior Written Notice for Identification, Initial Services, Change in Services, Change in Placement, and Request for Consent dated September 26, 2025
  - IEP Amendment Between Annual IEP Meetings dated September 30, 2025
  - Notice of Meeting dated October 2, 2025
  - Prior Written Notice for Identification, Initial Services, Change in Services, Change in Placement, and Request for Consent dated October 9, 2025
  - Notice of Meeting dated October 29, 2025
  - IEP Amendment Between Annual IEP Meetings dated November 5, 2025

- IEP Amendment dated November 5, 2025
- IEP Amendment Between Annual IEP Meetings dated November 5, 2025
- IEP Amendment Between Annual IEP Meetings dated December 10, 2025
- Communication timeline covering the period of August 8, 2025 through January 15, 2026
- Email dated February 4, 2026 from the parent to the IEP team
- Email dated February 5, 2026 from the director of the interlocal to the student's IEP team
- Email dated February 5, 2026 from the parent to the director of the interlocal
- Email dated February 6, 2026 from the director of the interlocal to the parent
- Email dated February 9, 2026 from the director of the interlocal to the parent
- Notice of Meeting dated February 9, 2026
- Email dated February 19, 2026 from the superintendent of the district to the parent
- Email dated February 25, 2026 from the director of the interlocal to the parent
- Email dated March 2, 2026 from the director of the interlocal to the parent
- Document developed by the director of the interlocal dated March 9, 2026 outlining parental requests to be addressed at the upcoming IEP Team meeting
- IEP Amendment dated March 12, 2026
- Agenda for the March 12, 2026 IEP Team meeting
- Meeting Notes for the March 12, 2026 IEP Team meeting written by the coordinator
- Meeting Notes for the March 12, 2026 IEP Team meeting written by the school psychologist
- Email dated March 13, 2026 from the director of the interlocal to the parent
- Summative document dated March 9, 2026 (with additional information added between March 9 and 11, 2026) showing how each of the parent's 10 concerns had been addressed
- IEP Amendment Between Annual Meetings dated March 23, 2026
- Prior Written Notice for Identification, Initial Services, Change in Services, Change in Placement, and Request for Consent dated March 13, 2026
- Notice of Meeting dated April 23, 2026
- Draft of annual IEP dated May 8, 2026
- Draft of annual IEP dated May 8, 2026 in Spanish
- Revised draft annual IEP dated May 8, 2026
- Revised draft annual IEP dated May 8, 2026 in Spanish
- Draft IEP dated May 8, 2026 with handwritten annotations
- Agendas for May 8, 2026 annual IEP meeting in English and Spanish
- Two sets of Meeting Notes for May 8, 2026 IEP meeting

- Final IEP dated May 8, 2026 in English and in Spanish
- Prior Written Notice for Identification, Initial Services, Change in Services, Change in Placement, and Request for Consent dated May 11, 2026 in English and in Spanish
- Interlocal Paraeducator Manual

Background Information

This complaint involves a 14 year-old boy who is enrolled in the 9th grade in his local high school. The student returned to the district on March 24, 2025 after attending a virtual school through an out-of-state program. The student did not have an IEP at the time of enrollment, but the parent requested a special education evaluation at that time. The student was determined eligible for special education on May 12, 2025.

The student has a diagnosis of Autism Spectrum Disorder (Level 2). In August 2025 he was also diagnosed with Anxiety Disorder and Tic Disorder. He receives daily special education services in both the general education setting and the special education setting to address social skills. He is supported by a paraeducator in the classroom setting, during lunch, and when leaving the school for the day.

As of November 5, 2025, the student began attending school on a shortened day (5 class periods) with a dismissal time of 1:40 PM. Since May of 2025 the student had been afforded alternative passing periods allowing him to transition from one classroom to the next 5 minutes before the end of each class period, and to leave the last class of the school day 5 minutes early. According to a March 12, 2026 amendment to his IEP, he is now allowed to leave the last class of the day 2 minutes early in order to be picked up from school.

Issues

In her written complaint, the parent identified three issues:

Issue One

The LEA restricted access to communication (the student's cell phone) after dismissal in a manner that was inconsistent with school policy.

Position of the Parent

It is the position of the parent that by restricting the student's use of his cell phone, the LEA failed to follow the student's IEP, denied him a free appropriate public education (FAPE), and violated the student's right to equal access to effective communication.

The parent alleges that the administrative decision to remove the student's access to his primary method of communication (his cell phone) during his end-of-day transition without IEP team involvement and without providing an equivalent alternative method of communication was:

- a violation of 34 C.F.R. 300 323 because the LEA failed to implement and follow the student's IEP as written;
- a denial of FAPE under 34 C.F.R. 300.101; and
- a violation of equal access.

Position of the LEA

It is the position of the LEA that the district policy regarding the use of cell phones by all students has been followed and this student has consistently had access to his cell phone at the end of his school day. The LEA contends that while the student does have communication needs that are addressed through his IEP, both the student's May 2025 IEP (including subsequent amendments) and his May 2026 IEP are silent on the use of his cell phone.

Applicable Statutes and Regulations

At 34 C.F.R. 300.323, federal regulations require LEAs to have an IEP in effect at the beginning of each school year for each child with a disability within its jurisdiction, address the management of IEPs or IFSPs for children aged three through five, provide direction regarding the initial provision of IEP services, require accessibility of a child's IEP to teachers and others responsible for implementing that IEP, and provide directives as to how IEPs will be managed for children who transfer into the LEA from another district or state. The regulations also emphasize the need for prompt transmittal of records when a student transfers into the LEA.

Federal regulations at 34 C.F.R. 300.101 require states to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing within the state. Accordingly, Kansas regulations at K.A.R. 91-40-2(b)(1) require that each school district makes FAPE available to each child with a disability residing in its jurisdiction. Federal regulations at 34 C.F.R. 300.17 define FAPE, in part, as special education and related services provided in conformity with an Individualized Education Program (IEP).

District school board policies apply to all students including those with IEPs. However, because students with disabilities are protected by state and federal special education statutes and regulations, an IEP supersedes local board policy if the two conflict. Disputes regarding the application of school board policy are generally resolved informally by discussing the issue with relevant staff at the building level, but if the issue remains unresolved, the complainant must file a written complaint with the district Board of Education.

Responsibility for investigation of allegations regarding violations of equal access laws in education are the responsibility of the Office of Civil Rights (OCR). Claims regarding such violations fall outside the purview of a special education complaint investigator and cannot be investigated through the formal complaint process.

Investigative Findings

The initial IEP for the student was developed for the student on May 12, 2025 following an initial eligibility evaluation conducted at the request of the parent after the student returned to the district in March 2025. That IEP was in effect on the first day of the 2025-26 school year.

According to Section J of the district's Board of Education Policy Manual,

> *"Each principal shall develop rules and regulations to govern student conduct consistent with board policies. The rules shall be reviewed by the board and adopted as policy by reference. The rules of conduct shall be published in student handbooks."*

On page 41, the handbook for the student's high school includes a section entitled "Cell Phones, Digital Cameras, and Electronic/Smart Devices." That section contains the following statement:

> *"Student cell phones, digital cameras, and electronic/smart devices at CVHS are discouraged, but if brought to school, must remain "unused," switched to "off," and put in a locker. The school is not responsible for lost, stolen, or misplaced cell phones, digital cameras, and electronic/smart devices. Lunch will be the exception; all others are to be specifically approved by the principal. Phones are available in the office.*
>
> *Consequences for Cell Phones, Digital Cameras, and Electronic/Smart Devices: At least 5 points will be assigned for each offense. May include but are not limited to any of the following allowing for administrator discretion:*
>
> *1st Offense: detention, confiscation of device, and returned at the end of the day. (5)*
> *2nd Offense: two 1-hour detentions, confiscation of device, and returned at the end of the day. (15)*
> *3rd Offense: three 1-hour detentions or 1-day ISS and returned at the end of the day. (25)*
> *4th Offense: 2 Days of ISS and returned at the end of the day. (30) (student reaches the 75 point total for a discipline hearing that could result in longtime suspension or expulsion)*
> *5th Offense: OSS for 1 Day and returned at the end of the day.*
> *6th Offense and above will result in consequences to be determined appropriate by administration.***
> *** Students are allowed to use them before and after school and at lunch*
> ***Failure to allow confiscation of a phone or electronic device will result in "out of school suspension".*
> *Exemptions may be reviewed at the discretion of the administration."*

While the student's May 12, 2025 IEP and subsequent amendments identify needs in the area of communication for the student, these documents do not contain any requirement for a modification of the established policy on cell phone use by the student.

According to the student's case manager, the student had a locker during the first semester of the 2025-2026 school year and sometimes used it. Because he had difficulty opening his locker, he stopped using it and carried his cell phone with him during the school day. According to the LEA, it is common for students who do not use lockers to leave their cell phones in the main office.

As of November 5, 2025 the student attended school on a shortened day and, as required by his May 2025 IEP, had an early passing period of 5 minutes to exit his last class and be picked up from school by 1:40 PM. A paraeducator walked the student from his last class to meet his ride home. The student was to sign himself out from school. The paraeducator would confirm the checkout time entered by the student before exiting the building.

After it had was determined that the student was - in violation of building policy - using his cell phone during the day to contact his grandmother or the parent, the student was as of February 19, 2026, required to turn his cell phone in to the office upon arrival at school. As the student signed out of school at the end of his shortened school day, the cell phone was sometimes given directly to the student or the cell phone was handed to the paraeducator who would then hand the phone to the student.

As the director of the interlocal explained to the parent in an email dated February 26, 2026, decisions regarding the implementation of the building's cell phone policy relate

> *"...to school procedures and board policy—and not to [the student's] IEP services or goals—[and so] was handled as an administrative decision rather than an IEP team decision."*

The parent wrote an email to the building principal on February 27, 2026 asking for clarification regarding the student's cell phone access at dismissal. She wrote that she had been informed "that this was not an IEP team decision, but rather an administrative decision" and asked to see "specific board policy or school policy governing student phone access at dismissal." The parent asked for other information related to the policy and stated that the student "had not engaged in misconduct." The building principal wrote back saying he "would be glad to visit with [the parent] over the phone about this..." and subsequently sent the parent the building's cell phone policy. The parent sent another email to the principal writing

> *"Additionally, if his phone is being withheld beyond dismissal time, please clarify the justification for that."*

The principal responded that he would be "glad to answer all of your questions over the phone at your convenience."

On April 30, 2026, the parent sent an email to the building principal stating that on April 27, 2026 the student had been denied access to his cell phone after dismissal. The principal responded writing

> *"I watched on the camera from Monday and he was given his phone at 1:37 and then he and the para exited the building he was not denied his phone [sic]. Per his IEP his dismissal time is 3 minutes before the end of class period which is 1:40. [the student] was picked up right at 1:40 by your mother. Feel free to call me if you have any questions regarding this issue."*

In an email to the investigator on May 12, 2026, the parent wrote

> *"My original concern involved confusion surrounding [the student's] dismissal timing and how his alternate passing period was being used at the end of the school day. The district acknowledged that his alternate passing period was part of his IEP and related to dysregulation support. I then specifically requested that the dismissal timing simply be clarified or adjusted through the IEP process so [the student] could transition appropriately at the end of the day without confusion or loss of instructional time.*
>
> *From my perspective, this situation could have been resolved through a simple IEP adjustment or clarification regarding [the student's] dismissal timing and transition supports. Instead, the response shifted to a policy-based restriction on communication during dismissal.*
>
> *[The building principal], who participated in this decision, is also a member of [the student's] IEP team and aware of [the student's] documented communication and transition needs. It was also concerning to me that the special education director overseeing [the student's] IEP services supported this approach rather than addressing the concern through the IEP process.*
>
> *The district suggested [the student] could use the office phone if needed, but this was not a functionally equivalent replacement for [his] personal phone access. [The student's] IEP identifies communication and self-advocacy difficulties, including difficulty independently initiating communication when dysregulated or stressed. Requiring [the student] to independently seek out staff and initiate communication through an unfamiliar process during dismissal relied on skills directly impacted by his disability and related IEP needs."*

The district conducted an IEP Team meeting with the parent in attendance on March 12, 2026. Among the topics discussed by the team was a change to the end-of-day early release from class. The team determined that rather than allowing the student to leave class 5 minutes early, that time would be reduced to 2 minutes. No modifications related to the student's use of his cell phone were included in the student's amended May 12, 2026 IEP nor was any reference to the student's cell phone usage included in the student's IEP when the annual IEP review was conducted on May 8, 2026.

Summary and Conclusions

The student's May 12, 2025 IEP was in place at the start of the 2025-26 school year. For this reason, *a violation of 34 C.F.R. 300.323 is not substantiated*.

It is the job of the IEP Team to determine how to best address the needs of a student with a disability. Neither the student's May 2025 IEP (including subsequent amendments) nor his May 2026 IEP contain any reference to cell phone use by the student. While these IEPs do establish that the student has needs regarding communication and self-advocacy, those needs do not automatically convey any special rights to the student that would allow him to violate established district/building policies in place for all students in the same district/building. Therefore, when the LEA acted to enforce with this student the same cell phone policy which all students in the high school are required to follow, this action did not constitute a denial of FAPE. When the parent raised concerns regarding the application of that district policy, the director of the interlocal appropriately informed the parent that it would be up to the administrator (in this case the building principal) to respond to the parent's concerns.

If the parent wants to pursue her complaint regarding the application of the district's cell phone policy, those issues would properly be directed to the district's Board of Education through district-established procedures.

The IEP Team did address the parent's related concern - the student's early dismissal from his last class of the day - during an IEP amendment meeting on March 12, 2026 - 9 school days after the parent's February 27, 2026 email raising questions about restrictions to the student's use of his cell phone. Early dismissal from that last class was reduced by two minutes.

The LEA has implemented the student's IEP as written and has provided the student with the FAPE specified in his IEPs. *A violation of 34 C.F.R. 300.101 is not substantiated*.

Issue Two

Citing 34 C.F.R. 300.324, the parent contends that the LEA unilaterally made changes to special education services for the student without the involvement of the student's IEP team. The parent asserts that by asking the paraeducator to deny the student access to his cell phone, the LEA failed to implement and follow the student's IEP and improperly utilized the special education paraeducator support the student's IEP required him to receive.

Position of the LEA

It is the position of the LEA that paraeducator support has not been misused. The paraeducator has been expected to ensure that school policies are followed and has met those expectations.

Applicable Statutes and Regulations

Federal regulation 34 C.F.R. 300.324(a)(6) states

> *"...changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or...by amending the IEP rather than by redrafting the entire IEP..."*

Investigative Findings

All of the IEPs developed for the student since May 12, 2025 require that the student receive paraeducator support or direct support from a special education teacher throughout his school day to help monitor his needs regarding social interaction and anxiety. Since September 11, 2025 when the student eloped from the school grounds, it was determined that in order to ensure his safety a paraeducator would wait with him until he is picked up at the end of his shortened school day.

As explained above under Issue One, the high school has an established policy regarding student use of their personal cell phones. Neither the student's May 12, 2025 IEP (including all subsequent amendments to that document) nor his May 8, 2026 IEP reference any modification to district policy regarding the student's use of his cell phone.

The interlocal has developed a "Paraeducator Manual" to help those employed as paraprofessionals better understand LEA policies and procedures. The "Code of Ethics" portion of that manual instructs paraeducators to

> *"practice the standards of professional and ethical conduct approved by the school district...follow guidelines established by the district to protect health, safety, and well-being of all learners and staff...[and] know school policies and procedures."*

The "Code of Conduct" section of the manual warns paraeducators against violations that could result in the loss of their job including

> *" Willful violation of any [interlocal], or school district rule; any deliberate action that is extreme in nature and is obviously detrimental to this agency's efforts to operate efficiently and effectively."*

The student's cell phone was kept in the office during the school day after it was established that he had used his phone during the school day in violation of district/building policy to contact his grandmother and the parent. The cell phone is returned to the student at the end of his school day at 1:40 PM or slightly earlier when he and the paraeducator go to the office to retrieve it. The parent specifically asserts that the paraeducator restricted the student's use of his cell phone after the end of the school day on April 27, 2026, but, as noted under Issue One, the review of the videotape of the end of the school day for the student showed that the phone was returned to the student.

Summary and Conclusions

Neither the student's May 2025 IEP (including all subsequent amendments) nor his May 8, 2026 IEP require any modification of the district/building cell phone policy. The application of that district/building policy and the resultant restriction of the student's use of his personal cell phone did not result in any change to or conflict with the student's IEP that would have required the involvement of the student's IEP team. The enforcement of the cell phone policy

did not in any way reduce the level of support from a special education teacher or paraeducator that the student received throughout his school day including the time spent waiting for someone to pick the student up from school. Additionally, the actions of the paraeducator in ensuring that the policies of the district/building were followed did not constitute a change to the student's IEP. *A violation of 34 C.F.R. 300.324(a)(6) is not substantiated on this issue.*

Issue Three

The LEA has improperly acted to limit parental communication and participation.

Position of the Parent

Citing 34 C.F.R. 300.322, the parent asserts that by directing communication through the director of the interlocal who is not a member of the student's IEP Team, the LEA has denied the parent meaningful participation. The parent contends that direct communication with staff working with the student has been limited. She further states that staff have insisted on using phone calls to respond to her requests for written clarification rather than providing the written responses she has asked for. It is the position of the parent that the LEA's approach has resulted in a delayed response to her questions and has resulted in her being unable to participate meaningfully in decision-making.

Position of the LEA

It is the position of the LEA that the parent has been an active participant in the development of all of the IEPs that have been developed for the student.

Applicable Statutes and Regulations

Federal regulations at 34 C.F.R. 300.322 require public agencies to take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded an opportunity to participate. Parents must be given notice of the meeting early enough to ensure they will have the opportunity to attend, and IEP meetings should be scheduled at a mutually agreed upon time and place.

In *L.F. v. Lake Washington School District* (9th Cir. 2020) the 9th Circuit Court of Appeals ruled that schools can restrict a parent's communications by implementing a formal "communication plan" so long as that plan does not block the parent completely from participating in vital educational decisions such as the development of their child's IEP.

Investigative Findings

The parent participated in the development of the student's initial IEP in May 2025 and consented to the development of subsequent amendments to that IEP in September (3 amendments), November, and December 2025. In addition, the LEA provided prior written notice of refusal of a parental request for another change to the student's IEP in September

2025. On September 30, 2025, the parent formally requested another IEP Team meeting. That meeting was scheduled for October 9, 2025. On October 8, 2025, that meeting was cancelled with the consent of the parent after the student had experienced what the parent described as several "okay" days at school.

Throughout the first semester of the 2025-26 school year, the LEA communicated frequently with the parent who communicated via email with the student's case manager and other service providers in addition to the director of the interlocal, the building principal, and the superintendent.

During the third quarter of the 2025-26 school year, the director of the interlocal, the superintendent, and/or the building principal continued to receive and timely respond to various topics raised by the parent including

- requests for amendment of student records;
- the removal of the building principal as the LEA designee;
- clarification of district cell phone use policy;
- questions about classroom activities; and
- questions about student interactions.

On January 15, 2026, the parent filed a formal complaint against the LEA. The LEA made the decision to establish the director of the interlocal as the point of contact for the parent in order to ensure that the parent was being provided with clear, consistent information.

In an email to the student's IEP Team dated February 4, 2026, the parent requested that an IEP Team meeting be conducted before spring break.

On February 5, 2026 the director of the interlocal sent an email to the student's IEP team stating

> *"...I am now stepping in on [the student's] case...It was clear...that mom emails different people...I want to make sure that we stay on the same page. Therefore, if any of you are tagged in an email around this student, especially from mom or aunt, please forward to me. I will call mom back tomorrow. I also anticipate that she will send you another email today or tomorrow. Continue to pause because she is not being ignored; I am attempting to make contact."*

The director wrote that she had called the parent to let her know that she had seen the parent's February 4, 2026 email and would call the parent back on February 6, 2026. The parent sent an email to the director on February 5, 2026 stating that she had received the director's voicemail and

> *"...[preferred] to continue this discussion in writing or during a scheduled IEP meeting with the full team present. Please respond in writing regarding next steps related to my request, including scheduling [the student's] IEP meeting and implementation of the completed assessments."*

The director responded to the parent via email on February 6, 2026 writing

"I wanted to follow up on my phone call yesterday since you indicated you only want to communicate via email. My intent was to begin direct communication with you, as I have not previously been part of [the student's] team. I have informed the IEP team ...that I will now serve as your primary point of contact for all special education communication moving forward. I understand and value the importance of clear written communication so that all parties remain aligned. Below are the main purposes of my outreach:

1. *To confirm that I will be your main contact for matters related to special education.*
2. *To ensure I fully understand your requests.*
3. *To schedule the IEP meeting you requested.*
4. *To inquire about your interest to go through Mediation.*

I also received your email sent today at 2:25 p.m. In an effort to consolidate communication into one response, I will address questions #1 and #3 below. [The building principal] will respond separately regarding question#2."

The director then responded to the parent's questions and added

"It appears you have additional questions regarding the IEP to which you previously provided consent. Rather than addressing these details through extended written exchanges, we will review all concerns comprehensively at the IEP meeting you requested. This will allow the entire team to discuss the information collaboratively and ensure clarity moving forward. We will have a meeting date to you by Monday, but with the number of staff, it is taking time to get a date that aligns with all calendars."

The parent continued to email various staff members, and in an email to the parent dated February 19, 2026, the director of the interlocal reminded the parent that the director was to be the contact person for any special education related matters writing

"Please send your questions to me and I will respond after investigating."

On March 9, 2026, the director of the interlocal sent an email to the parent writing

"I want to clarify that I am not a member of [the student's] IEP team. My role in this situation is twofold:

1. *To serve as the primary point of contact for special education–related questions, ensuring clear and consistent communication between you and the school team.*
2. *To ensure that special education processes are followed in accordance with legal requirements.*

In this capacity, it is appropriate that I remain separate from the case at an emotional level. This allows me to review questions objectively, using [the student's] IEP, evaluation data, and applicable legal requirements as the basis for my guidance. If the school or any IEP team member is not following the IEP, I will address that directly."

An IEP Team meeting for the student was held on March 12, 2026 - before Spring Break. In preparation for that meeting, the director of the interlocal sent to the members of the IEP team a summative statement regarding requests made by the parent to be addressed at the meeting, noting that the team "by law, must consider each request by a parent." The statement noted that the parent had, in a February 15, 2026 email, requested that proposed IEP revisions be sent to her prior to the meeting, but stated

> *"Since the parent is the one making the requests, and not the school team, it is difficult to have a collaborative process without first having the meeting."*

The director's statement outlined a total of 9 requests which had been made by the parent, noting the date each request was made between February 5 and March 3, 2026. These requests included

1. holding the annual review of the student's IEP before Spring Break instead of waiting until the due date of May 12, 2026;
2. having specific individuals attend the meeting;
3. adding "specific safeguards...to [the student's] IEP to protect his voice, prevent biased or unsupported investigations, and ensure disability-informed practices are followed;
4. "prioritizing 1) protection of [the student's] nervous system and emotional regulation; 2) protection of his communication and ability to be heard accurately; 3) development of self-advocacy skills in a supported, disability informed manner, [and] 4) an IEP at a glance that teachers use to help [the student]...;'
5. instead of getting outside before 1:40 (leaving class 5 min earlier than passing period), 1-2 minutes should be sufficient...[as the parent requested, "Let's change that in the IEP;"
6. IEP to be updated to reflect the diagnosis of Anxiety Disorder and Tic Disorder;
7. review and incorporate Neuromuscular Efficiency (NME) results from a recent Functional Behavior Assessment (FBA) into the student's IEP;
8. review and incorporate Dynamic Assessment of Social Emotional Learning (DASEL) results from that FBA into the student's IEP; and
9. develop additional measurable goals that support growth and gradual expansion into additional general education time.

Under each request, the director provided additional relevant information for the team to consider.

A 10th request was added to the list on March 9, 2026 following another request from the parent on March 7, 2026. That request was for consideration of the development of a Behavior Intervention Plan (BIP) based on the findings of the FBA.

An IEP Team meeting was conducted as scheduled on March 12, 2026. An agenda from that meeting shows that both of the student's parents were present as was his aunt. Representatives from the district included a school psychologist, a speech/language

pathologist, an autism specialist, the student's case manager, the building principal, a general education teacher, a coordinator, and the director of the interlocal as well as a translator who participated by telephone. The agenda shows that the team planned to discuss each of the 10 parental requests.

Meeting notes were taken by two of the meeting participants - the school psychologist and the coordinator. Both sets of notes reflect the active participation of both of the student's parents and his aunt.

Meeting Notes taken by the coordinator show that the team decided to take the following actions:

- amending the student's IEP to add general education for 50 minutes, 5 days a week for Drivers' Ed with para educator support starting March 23, 2026 for the fourth quarter;
- adding 50 minutes, 5 days a week of paraeducator support in Driver's Ed;
- adding support to personnel for staff training prior to working with [the student] (4th quarter);
- allowing the student to leave class 2 minutes before the end of the class period to go to his dismissal point;
- Adding Anxiety and Tic Disorders to the health section of the student's IEP;
- amending the accommodation for the student to answer only half the questions to exclude Driver's Ed;
- amending the accommodation of extended time Drivers Ed will have allow an extension until the end of quarter;
- allowing the student to take a general education science class beginning in August of 2026 with further discussion of this during the May annual review meeting; and
- scheduling the Annual IEP meeting for Friday, May 8th 1:00-3:30.

The director followed up with the parent via email on March 13, 2026 providing the parent with an amendment summary page, an amended IEP, a "Considerations Letter," prior written notice of proposed changes to the IEP, and a packet of paperwork for the student's father in Spanish.

In the Considerations Letter, the director documented how each of the parent's 10 requests had been addressed at the March 12, 2026 IEP meeting and/or outside that meeting.

On April 23, 2026, the parent was given prior notice of the student's annual IEP meeting on May 8, 2026. Multiple draft versions of the IEP were presented to the parent. The parent was present at the annual review meeting, and two sets of meeting notes taken by participants show that the parent and the student's aunt actively participated. Prior written notice of proposed changes to the student's IEP has been provided to the parent.

Summary and Conclusions

Ample evidence has been provided to show that since the student was first identified as a child with a disability in May 2025 the parent has actively participated in all decision-making meetings regarding his special education services. While, beginning February 2026, the LEA did establish restrictions on parent communication with staff, the LEA has the authority to do so. There is no evidence to show that the assignment of the director of the interlocal as the point person for all the parent's special education related communication has in any way inhibited the parent's meaningful participation in decision-making regarding the provision of special education services to the student during the two IEP Team meetings that have been held since the communication plan was initiated. The director of the interlocal has consistently acted in a timely manner to respond to the parent's expressed concerns regarding special education issues. While the director has suggested that a telephone call might provide an opportunity to clarify the parent's issues and answer her questions, the director has provided written responses as requested by the parent. *A violation of 34 C.F.R. 300.322 is not substantiated on this issue.*

Corrective Action

Information gathered in the course of this investigation has not substantiated noncompliance with special education statutes and regulations on issues presented in this complaint. Therefore, no corrective actions are required.

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such request is made, the information will be destroyed.

Diana Durkin

Diana Durkin
Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 436,
Caney Valley Public Schools: 26FC436-002

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on May 4,, 2026, by ------- on behalf of her son, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on May 28, 2026. That Complaint Report concluded that there were no violations of special education statutes and regulations

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The parent appeals the conclusions in issues one and two. The Appeal Committee will address each of these issues.

Issue One

The LEA restricted access to communication (the student's cell phone) after dismissal in a manner that was inconsistent with school policy.

The report describes Issue One as follows:

This issue relates to a district policy in the district's "Policy Manual" that says, in part, "S*tudent cell phones, digital cameras, and electronic/smart devices at CVHS are discouraged, but if brought to school, must remain "unused," switched to "off," and put in a locker."* (Report, p. 9). After it had was determined that the student was in violation of building policy - using his cell phone during the day to contact his grandmother or the parent, the student was as of February 19, 2026, required to turn his cell phone in to the office upon arrival at school. As the student signed out of school at the end of his shortened school day, the cell phone was sometimes given directly to the student or the cell phone was handed to the paraeducator who would then hand the phone to the student. (Report, p. 10).

The district conducted an IEP Team meeting with the parent in attendance on March 12, 2026. Among the topics discussed by the team was a change to the end-of-day early release from class. The team determined that rather than allowing the student to leave class 5 minutes early, that time would be reduced to 2 minutes. No modifications related to the student's use of his cell phone were included in the student's amended May 12, 2026 IEP nor was any reference to the student's cell phone usage included in the student's IEP when the annual IEP review was conducted on May 8, 2026. (Report, p. 12).

Finding no violation, the investigator concluded as follows:

> It is the job of the IEP Team to determine how to best address the needs of a student with a disability. Neither the student's May 2025 IEP (including subsequent amendments) nor his May 2026 IEP contain any reference to cell phone use by the student. While these IEPs do establish that the student has needs regarding communication and self-advocacy, those needs do not automatically convey any special rights to the student that would allow him to violate established district/building policies in place for all students in the same district/building. Therefore, when the LEA acted to enforce with this student the same cell phone policy which all students in the high school are required to follow, this action did not constitute a denial of FAPE. When the parent raised concerns regarding the application of that district policy, the director of the interlocal appropriately informed the parent that it would be up to the administrator (in this case the building principal) to respond to the parent's concerns. If the parent wants to pursue her complaint regarding the application of the district's cell phone policy, those issues would properly be directed to the district's Board of Education through district-established procedures.

> The IEP Team did address the parent's related concern - the student's early dismissal from his last class of the day - during an IEP amendment meeting on March 12, 2026 - 9 school days after the parent's February 27, 2026 email raising questions about restrictions to the student's use of his cell phone. Early dismissal from that last class was reduced by two minutes.

In her appeal the parent says: "My concern was not whether the IEP contained the word "cell phone." My concern was whether disability-related communication and self-advocacy needs were appropriately considered through the IEP process before a restriction affecting communication during dismissal was implemented."

The parent's original complaint says otherwise. The original complaint, in Issue One, in pertinent part says:

> Violation:
> Failure to implement and follow the IEP as written (34 CFR 300.323)
> Denial of FAPE (34 CFR 300.101)
> Disability based unequal access because the students disability directly impacts his ability to initiate communication, access to an effective communication method is required for implementation of his IEP.

The Appeal Committee agrees with the investigator's analysis. There could not have been a failure to implement the IEP in this instance because the IEP contained no reference to a cell phone. The Appeal Committee also agrees with the investigator that, "While these IEPs do establish that the student has needs regarding communication and self-advocacy, those needs do not automatically convey any special rights to the student that would allow him to violate established district/building policies in place for all students in the same district/building." If the parent believes there should be an exception to district or building policies due to her child's disability, she could ask her child's IEP team to place that exception in her child's IEP. As for the allegation that this policy resulted in "disability-based unequal access" the Appeal Committee is unpersuaded, as the policy applies equally to all students.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Issue

> The paraeducator acted to enforce an administrative restriction rather than supporting the student's communication needs as required by his IEP.

In her appeal, the parent says:

> The students para professional enforced the restriction on phone access and told him he could not use his phone after school when his ride was late. From February until now, she

> continues to monitor and deny access to make calls after dismissal. The paraprofessional acted to enforce an administrative restriction rather than support the students communication needs as required by his IEP.

The parent's appeal also states:

> My complaint did not allege that the student lost paraprofessional service minutes or ceased receiving paraprofessional support. Rather, my concern was that the paraprofessional was being utilized to enforce an administrative communication restriction rather than support the student's documented communication and self-advocacy needs.

Yet, the parents original complaint described this issue as follows:

> "Violation
> Failure to implement and follow the IEP appropriately
> Improper use of paraprofessional services
> Unilateral change to services without IEP involvement"

The investigator's conclusion that there was no violation related to this issue was succinct and as follows:

> The student's cell phone was kept in the office during the school day after it was established that he had used his phone during the school day in violation of district/building policy to contact his grandmother and the parent. The cell phone is returned to the student at the end of his school day at 1:40 PM or slightly earlier when he and the paraeducator go to the office to retrieve it. The parent specifically asserts that the paraeducator restricted the student's use of his cell phone after the end of the school day on April 27, 2026, but, as noted under Issue One, the review of the videotape of the end of the school day for the student showed that the phone was returned to the student.
>
> Neither the student's May 2025 IEP (including all subsequent amendments) nor his May 8, 2026 IEP require any modification of the district/building cell phone policy. The application of that district/building policy and the resultant restriction of the student's use of his personal cell phone did not result in any change to or conflict with the student's IEP that would have required the involvement of the student's IEP team. The enforcement of the cell phone policy did not in any way reduce the level of support from a special education teacher or paraeducator that the student received throughout his school day including the time spent waiting for someone to pick the student up from school. Additionally, the actions of the paraeducator in ensuring that the policies of the district/building were followed did not constitute a change to the student's IEP. (Report, p 15).

The Appeal Committee agrees with the investigator's conclusion. There was no failure to implement and follow the IEP, nor Improper use of paraprofessional services, nor any unilateral change to services without IEP team involvement. The fact that the paraprofessional enforced

district policy with regard to cell phone usage does not demonstrate deficiency in performing educational duties any more than any teacher or other faculty member who enforces district policy in the work place means they have neglected their individual duties. Enforcing district policy is a part of the job for individuals working for the district, unless an IEP expressly says otherwise. This student's IEP was silent on phone usage.

Sufficient evidence exists to support the findings and conclusions on this issue.

Conclusion

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on both issues.

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 17th day of June, 2026.

Appeal Committee

Brian Dempsey

Mark Ward

Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #458 BASEHOR-LINWOOD PUBLIC SCHOOLS
ON MAY 5, 2026

DATE OF REPORT: JUNE 5, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #458 (Basehor-Linwood Public Schools) on behalf of ------- by his mother, -------. In the remainder of the report, ------- will be referred to as " the student" and ------- as "the mother" or "the complainant."

The complaint is against USD #458 (Basehor-Linwood Public Schools). In the remainder of the report, USD #458 will be referred to as "the Local Education Agency" or "LEA". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." In this case the Tonganoxie/Basehor-Linwood Special Education Cooperative serves the Basehor-Linwood Public School District.

Local Education Agency staff will be referred to In the remainder of this report as follows:

- Chris Cullinan, Director of Special Education
- Rebecca Romaine, Elementary School Principal
- Melanie French, Assistant Director of Special Education
- Jill Koertner, Board Certified Behavior Analyst
- Caitlan Johnston, Third Grade Teacher
- Damris Ford, Structured Learning/Special Education Teacher
- Rachel Cole, Occupational Therapist
- Bailey Edgar, School Psychologist
- Darcie Osgood, Speech and Language Pathologist

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on May 5, 2026.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the Parent. The investigator interviewed the mother by phone on May 7, 2026 and May 25, 2026. Emails were exchanged between the mother and investigator on May 19, 20, 25, 26, and 27, 2026. An interview was conducted with the Director of Special Education, Assistant Director of Special Education, and Elementary School Principal on May 20, 2026. Emails were exchanged between the investigator and Director of Special Education throughout the investigation to clarify evidence and ask follow-up questions.

Additional documentation was provided in consideration of this investigation and reviewed for context and relevancy to the issues under investigation. The following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. Individualized Education Program (IEP) dated April 4, 2025
2. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent (PWN) dated February 27, 2026, Parent consent signed March 6, 2026
3. IEP amendment without a meeting, Parent consent signed March 9, 2026
4. PWN dated February 27, 2026 for March 6, 2026 meeting, Parent signed consent March 9, 2026
5. IEP and meeting notes dated March 25, 2026
6. PWN dated March 25, 2026, Parent signed consent on April 6, 2026

Emails:

Email exchange between Parent and Board Certified Behavior Analyst dated between May 5, 2026 at 2:12 p.m. and May 6, 2026 at 1:59 p.m.

Email exchange among Parent, Superintendent, Director of Special Education, School Nurse, Occupational Therapist, Speech and Language Pathologist, School Psychologist, Third Grade Teacher, and Structured Learning/Special Education Teacher dated May 5, 2026 at 1:51p.m. and May 8, 2026 at 12:52 p.m.

Background Information

The student is a nine-year-old, third grader who is qualified for special education and related services under the primary eligibility category of autism and speech and language impairment as a secondary eligibility category. Additionally, the student has an estimated profound, sensorineural hearing loss the right ear.

The student's most current IEP dated March 25, 2026 includes eight IEP goals related to reading, general knowledge, mathematics, language, and conversations and twenty accommodations. The student receives Special Education, Adaptive PE, Occupational Therapy, Speech and Language Therapy, Transportation, and Attendant Care. The student is eligible for extended school year. The student has previously had a behavior intervention plan but due to improvements the plan was discontinued and replaced with communication goals and accommodations.

Issues Investigated

Issue One

Did USD #458 implement the IDEA-required, health-related services, including medication administration in accordance with physician orders for the student during the 2025-2026 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Parent Position

The Parent stated in the child complaint that the student requires medication administration during the school day pursuant to physician orders and the district is responsible for ensuring that this medication is administered safely, consistently, and in accordance with the orders. The Parent alleged that in spite of repeated requests the District has not provided documentation sufficient to demonstrate that medication administration occurred consistently and in accordance with physician orders.

Local Education Agency Position

The Local Education Agency acknowledged that the student does have physician orders for medication administration during the school day, but the student does not have a health care plan or nursing services as part of the student's IEP. Medication is not mentioned in the IEP or IEP meeting notes. The student took medication at school, but this was separate and independent of special education services and the IEP process.

Analysis: Findings of Fact

1. The IEP dated April 4, 2025 does not discuss medication in the section, Explain how the student's exceptionality affects his/her classroom and functional performance. The IEP does not mention medication administration nor health concerns in the Parent Concerns section. The IEP indicates that the student does not require an Individual Nursing Care Plan. Seven goals are included related to language, academics, general knowledge and gross motor skills. No services or accommodations are written to address medication administration. The IEP does not indicate any Support for School Personnel in the Supplementary Aids and Supports section.
2. The IEP Amendment without a meeting proposed a change in special education service minutes and the Parent signed consent on March 9, 2026. The PWN dated February 27, 2026 documents those changes in special education minutes and location changes to those minutes and Parent consent was obtained on March 6, 2026. No changes were documented for medication administration or health services.
3. The IEP and Meeting Notes dated March 25, 2026 indicates that the student does not require an Individual Nursing Care Plan. Medication administration is not included in the section, Explain how the student's exceptionality affects his/her classroom and functional performance. The IEP does not mention medication administration nor health concerns in the Parent Concerns section. Eight goals are included related to reading, general knowledge, mathematics, language, conversations. No nursing or health services are provided and none of the accommodations are directed to medication administration. The IEP does not indicate any Support for School Personnel in the Supplementary Aids and Supports section. The PWN dated March 25, 2026 documented IEP decisions and did not document any medication or health discussions or decisions. Consent was signed by the Parent on April 6, 2026.
4. The Parent stated during the interview with the Investigator that there was not a need for a nursing plan but during the IEP team meetings there were discussions related to the medication's impact on improving attention, regulation, behavioral stability and resulted in increased participation in classroom activities.

Conclusion

Schools may provide medication administration as an IDEA related service when documented on the student's IEP. The decision is often predicated on whether the service is necessary for the child to benefit from special education and make progress in the educational setting. The purpose of this investigation is not to determine if the student's needs medication administration as a special education related service; the role of the investigator does not supersede the role of the IEP team members. Instead, the investigator's role is to determine if the IEP team had documented medication administration as a related service included in the student's 2025-2026 IEPs.

In this case, there was evidence provided by both the Complainant and LEA that the student took medications while at school and that the student had an IEP for the duration of the 2025-26 school year. There is no evidence found through document review, nor interview with the

LEA staff or Complainant that medication administration was a related service contained in either of the 2025-26 IEPs for the student. It is found that the medication administration for this student was not an IDEA issue and any concerns related to administration or documentation should be made to the LEA. Based on the foregoing, the *LEA is found IN compliance*.

The Complainant provided information suggesting that the medication was necessary for the student's educational progress. The Investigator did not consider this question as it would be premature since no documentation was found that the IEP team had considered this during the 2025-26 school year. Instead the Parent's belief that medication is necessary for the student's ongoing participation and educational progress should be referred to the student's IEP team as an IEP team decision prior to being investigated through the child complaint process.

Issue Two

Did USD #458 maintain and provide documentation to the parent sufficient to demonstrate that the student's health-related services, including medication administration occurred during the 2025-2026 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Parent Position

The Parent alleged that the LEA did not maintain and provide documentation sufficient to demonstrate that the student's health-related services, including medication administration occurred during the 2025-2026 school year.

Local Education Agency Position

The Local Education Agency acknowledged that the student does have physician orders for medication administration during the school day, but the student does not have a health care plan or nursing services. Medication is not mentioned in the IEP or IEP meeting notes so therefore it is separate and independent of special education services and the IEP process.

Analysis: Findings of Fact

1. The findings of Issue One is incorporated herein by reference.

2. The April 4, 2025 IEP, Amendment signed with Parent consent on March 9, 2026, March 25, 2026 IEP, meeting notes or PWN document that the student did not have a health care plan or nursing plan. Also there was no documentation showing medication administration was discussed as a special education related health service during the 2025-26 school year.

Conclusion

Health-related services nor medication administration were included in the student's 2025-26 IEPs and therefore not under the authority of IDEA or Kansas special education regulation for investigation. As a result, the *LEA is found IN compliance*.

Issue Three

Did USD #458 provide training of school personnel to implement the student's health related services including medication administration as written into the student's IEP during the 2025-2026 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Parent Position

The Parent alleged a Certified Nursing Assistant (CNA) was not delegated to administer medication until February 9, 2026, raising concerns regarding who administered medication prior to that date and whether appropriate delegation, training, and supervision were in place. The Parent additionally, noticed behavioral changes with the student that are consistent with the student not receiving medication. Additionally, a record request caused the Parent to be more concerned when unable to secure complete documentation of mediation administration.

Local Education Agency Position

The Local Education Agency responded that the student's IEPs did not specify any training in the supplementary aids and supports section.

Analysis: Findings of Fact

1. The findings of Issues One and Two are incorporated herein by reference.
2. The IEP dated April 4, 2025, PWN dated February 27, 2026 with consent signed March 6, 2026, or amendment with consent signed March 9, 2026 do not indicate any Support for School Personnel in the Supplementary Aids and Supports section.

3. The IEP, Meeting Notes, or PWN dated March 25, 2026 does not indicate any Support for School Personnel in the Supplementary Aids and Supports section.
4. The Parent clarified in the interview with the Investigator that the training of concern is whether appropriately certificated, licensed or supervised staff were administering medication, documenting medication administration, and appropriately communicating with parents about medication changes and storage.

Conclusion

Neither of the 2025-26 IEPs contained a health related services nor specialized training regarding health related services in the Support for School Personnel section in the Supplementary Aids and Supports section. As such, the Parent's concerns are not under the authority of IDEA or Kansas special education regulations and should be addressed with the LEA. Based on the foregoing, the *LEA is found IN compliance*.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) was not found. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) was not found. Corrective action is not required.
3. ISSUE THREE: A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) was not found. Corrective action is not required.

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 458,
Basehor-Linwood Public Schools: 26FC458-003

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on May 5, 2026, by ------- on behalf of her son, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on June 5, 2026. That Complaint Report concluded that there was no violation of special education statutes and regulations

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified three issues, all of which are being appealed. We address each issue separately.

Issue One

Did USD #458 implement the IDEA-required, health-related services, including medication administration in accordance with physician orders for the student during the 2025-2026 school year.

In concluding that there was no violation regarding this issue, the investigator noted that the student's IEP did not include any provision for administering medication. The investigator explained that "The purpose of this investigation is not to determine if the student needs medication administration as a special education related service; the role of the investigator does not supersede the role of the IEP team members. Instead, the investigator's role is to determine if the IEP team had documented medication administration as a related service included in the student's 2025-2026 IEPs," and that "the Parent's belief that medication is necessary for the student's ongoing participation and educational progress should be referred to the student's IEP team." (Complaint Report, p. 5).

In her appeal, the parent asserts that the student's medication "was prescribed to support symptoms associated with ADHD and to enable him to access and benefit from his education." Even if that assertion is correct, however, the Appeal Committee agrees with the investigator that (except in very unusual circumstances that are not evident in this case) the complaint process is not a proper method for amending an IEP, and that the Parent's (and doctor's) belief that medication is necessary for the student's ongoing educational progress should be referred to the student's IEP team. While a doctor may prescribe medication for a student, a doctor has no authority to prescribe special education or related services in an IEP. That is the province of an IEP team. For the same reasons expressed by the investigator in her report, the Appeal Committee: (a) declines the request in this appeal to conclude that this student's IEP should have included administration of medication, and (b) suggests that the parent present her request to her child's IEP team.

Sufficient evidence exists to support the findings and conclusions on this issue in the Complaint Report.

Issue Two

Did USD #458 maintain and provide documentation to the parent sufficient to demonstrate that the student's health-related services, including medication administration occurred during the 2025-2026 school year.

In a very brief analysis, the investigator concluded that: "Health-related services nor medication administration were included in the student's 2025-26 IEPs and therefore not under the authority of IDEA or Kansas special education regulation for investigation. As a result, the LEA is found IN compliance. (Report, p. 6)"

In her appeal, the parent asserts that the district had sufficient information and was aware that the student's medication "significantly affected his educational functioning, behavioral regulation, participation in instruction, and access to educational benefit." Yet, the district "declined to issue Prior Written Notice and stated that it was not proposing or refusing any changes to services, supports, or placement."

While the Appeal Committee agrees that the district had a significant amount of information, it does not accept the parent's invitation to interpret the information that was available to the district. As the investigator emphasized in her report, the interpretation of this kind of information and its application to an individual student and to that student's individual circumstances belongs to the student's IEP team. In considering whether an IEP is appropriate for an individual child, no less authority than the United State Supreme Court has said that the IEP must be reasonably calculated to enable a child to make progress appropriate in light of the child's unique and individual circumstances. Endrew F. v. Douglas County School District, 137 S.Ct. 988, 117 LRP 9767 (S.C. 2017). The Supreme Court went on to say that when determining whether an IEP is appropriate courts should give deference to the judgement of school officials.

In addition, United States Circuit Court of Appeals for the 10th Circuit (and Kansas is in the 10th Circuit) has said that when considering whether a school has properly implemented a student's IEP, the court should consider only the written IEP developed by the student's IEP team (Sytsema v. Academy Sch. Dist. No. 20, 538 F.3d 1306, 50 IDELR 213 (10th Cir. 2008)). Here the parent acknowledges that a related service was not part of the student's IEP but asserts that it should have been added to the IEP. While accepting that such a situation can emerge, the complaint process is ill equipped to be used to make such judgements except in the most extreme situations. That is especially the case where, as in this instance, the IEP team has not yet considered a proposal to add such a related service to the IEP. The most direct, most effective and legally compliant method for first determining whether a related service should be added to an IEP is to convene an IEP team meeting and let the IEP team do its work.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Issue Three

Did USD #458 provide training of school personnel to implement the student's health related services including medication administration as written into the student's IEP during the 2025-2026 school year.

In another very brief analysis, the investigator concluded that "Neither of the 2025-26 IEPs contained a health related service nor specialized training regarding health related services in the Support for School Personnel section in the Supplementary Aids and Supports section. As such,

the Parent's concerns are not under the authority of IDEA or Kansas special education regulations and should be addressed with the LEA. Based on the foregoing, the LEA is found IN compliance."

For the same reasons cited in the previous issues in this appeal, the Appeal Committee agrees with the investigator that the district was not required by the IDEA or by Kansas special education laws or regulations to train school personnel to implement health related services including medication administration to the student when there was no such requirement in the student's IEP.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 16th day of June, 2026.

Appeal Committee

Brian Dempsey

Mark Ward

Melissa Valenza

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #383
ON MAY 7, 2026

DATE OF REPORT: JUNE 18, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ------, by their parent, ------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #383 Manhattan-Ogden Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #383.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 7, 2026 and the 30-day timeline ended on June 6, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #383, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), amended the Student's Individualized Education Program (IEP) prior to changing the time the check-out accommodation was to be provided. K.A.R. 91-40-16(a); 34 C.F.R. § 300.324(a)(4)(6).

ISSUE TWO: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided the Parent with Prior Written Notice (PWN) before changing the Student's check-out accommodation. K.A.R. 91-40-26, K.S.A. 72-3430(b)(2); 34 C.F.R. § 300.503(a).

ISSUE THREE: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided the accommodations in the Student's IEP, specifically the

teacher-provided notes for coursework and assignments, during their interim alternative educational setting (IAES) placement. K.A.R. 91-40-35(b)(c); 34 C.F.R. § 300.530(b)(2).

ISSUE FOUR: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, ensured the Parent was afforded the opportunity to participate in the manifestation determination meeting. K.A.R. 91-40-38; 34 C.F.R. §§ 300.322, 300.501(b)(c).

ISSUE FIVE: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, reviewed the medical information provided by the Parent to determine if the conduct in question was caused by or had a direct substantial relationship to the child's disability when conducting the manifestation determination meeting. K.A.R. 91-40-38; 34 C.F.R. § 300.530(e)(f).

ISSUE SIX: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, obtained parental consent prior to discussing confidential information regarding the Student in front of the Student's peers, other parents, and school staff members. K.A.R. 91-40-50; 34 C.F.R. §§ 300.622, 99.3.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on May 28, 2026. The following LEA staff were interviewed on May 26, 2026: The Principal, the Assistant Director of Special Education, and the Special Education Coordinator.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Video footage, Front Office Interaction, 04/24/26
2. Accommodations Tracker, 08/12/[25]-11/18/[25]
3. Screenshot of Online Course Documents, 05/11/26
4. Manifestation Determination Review, 04/27/26
5. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent, 03/03/25, 08/18/25,11/13/25, 03/02/26, 03/10/26, 03/30/26, 01/07/26, 04/27/26
6. Individual Education Program Meeting Participants, 04/28/26
7. Notice of Meeting, 04/27/26
8. Incident Statements, 04/24/[26]-05/13/26
9. Behavior Detail Report, 10/09/25-04/24/26
10. Individual Education Program Amendment Between Annual Individual Education Program Meetings, 08/18/25, 11/17/25, 01/08/26, 04/28/26
11. Service Assignment, 08/18/25-03/02/26
12. Service Log, 08/18/25-03/02/26
13. Individualized Educational Program, 03/03/25, 03/02/26

14. Notice of Meeting, 03/11/26
15. Individual Student Safety Plan, 03/11/26
16. Notice of Meeting, 03/27/26
17. ParentSquare Message exchange, 01/16/25-05/11/26
18. Staffing Summary, 02/09/26, 03/02/26, 03/11/26, 03/30/26, 04/28/26
19. [The Student] Passport, undated
20. Emails between parties, 04/27/26-05/21/26

Background Information

This Investigation involved a 12-year-old, 6th-grade student enrolled at a middle school in USD #383. The Student's primary area of exceptionality is OHI as a student who experiences Attention-deficit Hyperactivity Disorder (ADHD) and seizures. The Student is receiving special education or related services as a child with a disability per the IDEA. The Student has shown strong progress in reading and enjoys earning incentives.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. Relevant information from the Student's IEP, dated March 3, 2025, included:
    a. The Parent signed the Meeting Participants page, indicating they attended the meeting.
    b. The IEP contained information on the Student's Present Levels of Academic Achievement and Functional Performance (PLAAFP) and goals.
    c. Related and Special Education Services were noted.
    d. Relevant information from Program Modifications, Accommodations, and Supplementary Aids and Services included:
        i. "Check out during the day or at the end of the day," from March 3, 2025 through March 2, 2026. The location was noted as "Other" and the frequency was daily. The duration stated, "Other: Must be specific. Outside of the classroom." This accommodation information was stated similarly in the Student's undated School Passport and PWN dated March 3, 2025. For the latter, the Parent signed, dated, and checked the box giving their consent.
2. An Accommodations Log, from August 12, 2025 through November 18, 2025, documented "Frequent Check-ins" and "Check[-]Ins/Check[-]Outs" for the Student:
    a. Frequent check-ins were documented 55 times between August 12, 2025 and November 18, 2025. On November 6, 2025, the Student was "not in class."

b. Check-ins/check-outs were documented 52 times between August 12, 2025 and November 16, 2025. On November 6 and November 17, 2025, the Student was "not in class," and on November 18, 2025 it was noted the Student had "Switched advisories."

3. An IEP Amendment, dated August 18, 2025, documented the Student's new special education service "for executive functioning and social skills goal work," in the 'G' setting from August 18, 2025 to March 2, 2026, for 22 minutes daily, as long as school was in session, provided by the Case Manager. The Parent agreed to amend the Student's IEP without conducting a meeting and signed and dated it accordingly.
    a. PWN, dated August 18, 2025, described a material change in services and a substantial change in placement for the Student.
        i. Proposal: Add the Student to Learning Strategies "during an advisory period for 22 minutes, daily, for support with executive functioning and social skills goal work."
        ii. Explanation: The IEP team believed this would meet the Student's needs and keep them in the Least Restrictive Environment (LRE). Not adding the Student to Learning Strategies was considered, but the IEP team rejected this idea due to the Student's need for support.
        iii. Data: Observations, parent input, and teacher input.
        iv. Other factors: Harmful effects were described.
    b. The Parent acknowledged consent with an "X" in the "I give consent" box, a signature, and the August 18, 2025 date.
4. The Student's Behavior Detail Reports documented the following from October 9, 2025 through April 24, 2026:
    a. 22 referrals for one or more of the following topics: disrespect, defiance, elopement, verbal aggression, physical aggression, threat, lying in the street, and vandalism.
        i. Consequences:
            1. One conference with the Student.
            2. Five days of lunch detention.
            3. 14 days (and a "for the rest of the day") of Alternative Educational Setting (AES).
            4. Nine days (and a "for the rest of the day") out-of-school suspension (OSS).
    b. One of the April 24, 2026 referrals documented the following resolution: "For their actions, [the Student] received 1 day of OSS. [The Parent] was contacted through ParentSquare by [the Principal] concerning this suspension, and a manifestation meeting scheduled for Tuesday morning [sic]."
5. An IEP Amendment, dated November 15, 2025, indicated the IEP team proposed to move the Student to a general education advisory and documented the end date of the

"Learning Strategies (advisory)" as November 17, 2025. The Parent agreed to amend the Student's IEP without conducting a meeting and signed and dated it accordingly.

a. PWN, dated November 13, 2025, indicated that on November 17, 2025, the IEP team documented the change in services and a change in placement, neither material nor substantial, detailing the proposal to move the Student to a general education advisory. An explanation, options considered, data used, and other factors were noted.
b. The Parent acknowledged consent with an "X" in the "I give consent" box, a signature, and a November 15, 2025 date.

6. PWN, dated January 7, 2026, with a listed meeting date of March 3, 2025, indicated a change in services and a change in placement for the Student which did not require parental consent. The Parent marked the "I give consent" box and signed the form on January 7, 2026. An accompanying IEP amendment, dated January 8, 2026, noted the proposed change was "… [the Student] will be moved out of Learning Strategies." "Current Services to be Changed" listed "Learning Strategies," with a setting of "G," with a frequency of 50 minutes daily. The Case Manager was listed as the provider. The Parent waived their right to an IEP meeting and signed the amendment on January 7, 2026.
7. A Staffing Summary, dated February 9, 2026, documented the Parent stated they "wanted to discuss services that … are not being followed," including "social work services were not being followed until after fall conferences." The document recorded new medications for the Student, a discussion about increased behavior incidents, and the Parent inquiring about accommodations.
8. An annual IEP, dated March 2, 2026, included:
    a. Most recent evaluation: March 3, 2025.
    b. Educational changes: Escalated behaviors.
    c. Special considerations: The Student's behaviors impeded learning, and positive behavior interventions and supports were included in the IEP. The Student required a nursing care plan, but did not require a BIP.
    d. Goals: Writing, self-management, de-escalation, and coping strategies.
    e. Related services, special education services, and support for school personnel from March 2, 2026 to March 1, 2027.
    f. Placement: "Special Education Direct Services in a General Education Classroom in a[n] Elementary or Secondary building; Outside regular class less than 21% of time; Special Education Classroom in General Education Elementary or Secondary Building."
    g. Relevant accommodations: Teacher provides a hard copy (paper or electronic) of the outline of the notes for the class period from March 2, 2026 to March 1, 2027, in all core subjects, daily, for all core subjects.
9. A Staffing Summary, dated March 2, 2026, summarized the relevant information in the IEP and noted the Parent's concerns. Additionally, it was noted the Nurse requested, and the Parents provided, updated medications for the Student.

a. PWN, dated March 2, 2026, described a material change in services, a substantial change in placement, and other changes not involving services or placement.
    i. Proposal: The IEP team proposed increased supports, escort services between classes, the addition of a "social [-] emotional" based Learning Strategies class, social work check-ins, and social worker visits.
    ii. Explanation: The proposed actions were a result of an increase in behaviors requiring an increase in services.
    iii. Options: A variety of models were considered.
    iv. Data: Parent and teacher input, observations, "behavior specialist," and student work samples.
    v. Other factors: The harmful effects of removal from general education peers were noted.
    vi. The Parent acknowledged consent with an "X" in the "I give consent" box and a signature. It was not dated.

10. The following documentation was related to a March 11, 2026 IEP meeting:
    a. A Notice of Meeting, dated March 11, 2026, indicated an IEP team meeting scheduled for the same day to discuss possible changes to the IEP. The Parent acknowledged via signature they consented to waive their right to a 10-day notification for the meeting with a signature and the March 11, 2026 date.
    b. PWN, dated March 10, 2026, indicated that on March 9, 2026, the LEA refused to initiate or change the identification, placement, or provision of services.
        i. Proposal: "The District is refusing the parent request that staff use physical restraint when the student attempts to run or elope."
        ii. An explanation, options considered, data, and other factors were noted.
    c. An Individual Student Safety Plan, dated March 11, 2026, listed the Student's medical diagnoses, including epilepsy, ADHD, depression, and anxiety. Unsafe behaviors were described, and a Crisis Response Plan was documented. Warning signs/triggers, strategies that worked and did not work, and behavior supports were documented.
    d. A Staffing Summary, dated March 11, 2026, indicated the purpose of the staffing was to discuss safety plan implementation. It was noted the "Parent will provide documentation regarding the Student's appointments and [emergency room] ER visits, and that the Student is also on a safety plan at home."

11. The following documentation was related to a March 30, 2026 IEP meeting:
    a. A Notice of Meeting, dated March 27, 2026, proposed a meeting on March 30, 2026 to discuss possible changes to the Student's IEP. The Parent signed and dated the acknowledgment on March 30, 2026, and waived their right to a 10-day meeting notice.

b. PWN, dated March 30, 2026, indicated the IEP team met to determine the Student's services, educational placement, and any additions or changes to the IEP.
    i. Proposal: The IEP team proposed to move the Student to a more restrictive Level 3 program.
    ii. Explanation: The Student required increased "adult support, redirection, and intervention."
    iii. Options: The IEP team considered continuing the Student's services in the current placement, but determined the Student had not made "sufficient progress despite these supports" and the Student's "level of need" exceeded "what can be effectively provided in the current setting."
    iv. Data: Performance data, observations, progress monitoring results, teacher reports, teacher and social worker input.
    v. The Parent acknowledged consent with an "X" in the "I give consent" box, a signature, and a March 30, 2026 date.
c. A Staffing Summary, dated March 30, 2026, indicated the purpose of the staffing was a "Change of placement to district level program." It was noted the Parent requested the meeting to discuss moving the Student to a Level 3 program. The Level 3 Teacher described their program, "how things wouldn't change on [the Student's] schedule," and how support would be added.

12. The following ParentSquare interactions occurred on April 24, 2026:
    a. Level 3 Teacher, 8:58 a.m.: "[The Student] is wondering [sic], mad [the Student] spilled water on [them]self."
    b. Assistant Principal, 11:14 a.m.: "Hi [the Parent], I just wanted to let you know that [the Student] is escalated again. [The Student] is starting to become physical with staff in the room."
    c. The Parent, 11:17 a.m.: "Please have someone call me."
    d. The Other Parent, 3:08 p.m.: "Is [the Student] able to come to school Monday if not what's the plan [sic]."
13. The following emails were sent to the Director of Special Education on May 20, 2026 describing their communication with the Parents on April 24, 2026:
    a. The Assistant Principal called the Parent after sending an earlier ParentSquare message. According to the Assistant Principal, "I filled [the Parent] in on the little that I knew and that we needed someone to come to the school to pick [the Student] up." The Assistant Principal confirmed with the Athletic Director and then the Parent that the Student pulled the fire alarm and the police department was en route. The Assistant Principal indicated the Parent was "very mad and yelled on the phone" and the Assistant Principal attempted to contact both the Director and Assistant Directors of Special Education.

b. The Athletic Director indicated, "I never called or messaged [the Parent] or [the Other Parent]. The only conversations I had with them were in person and in the building."
    i. 9:30 a.m.: The Athletic Director indicated the Parent was disappointed the Juvenile Supervision Officer was called to assist with the Student and the safety precaution "hold."
    ii. 11:30 a.m.: The Athletic Director recalled walking the Parent to the courtyard to meet with the Student and the police officers, at which time the Parent indicated the Athletic Director was one of the Student's triggers, asked if the Student caused the classroom damage, and "yelled" at the School personnel "to all leave [the Parent] with [the Student] and the police officers."
    iii. The Athletic Director recalled talking to the Other Parent in the front office and answering several questions about the Parent's trespass order. According to the Athletic Director, "After we answered [the Other Parent's] questions, I never had another conversation with either of them."

14. The following statements were provided by the LEA regarding a front office conversation witnessed by the Parent on April 24, 2026:
    a. Athletic Director (undated): "On April 24th, I joined a conversation that was taking place in our front office as to whether a student, [the Student] would be attending [their] classes for the rest of the day or if [the Student] was going to be kept in [the Level 3 Teacher's] classroom. The conversation was short, where it was determined that the plan was for [the Student] to attend [their] classes throughout the day. During the conversation [the Student's] name was never mentioned by anyone."
    b. Assistant Principal (May 13, 2026): "On April 24, [the Level 3 Teacher] approached me in the office, and we had a short conversation of what the remainder of [the Student's] day was going to look like. [The Athletic Director] and the [Special Education Coordinator] joined us where [the Student's] schedule was confirmed. The conversation then turned to if [the Juvenile Supervision Officer] was still in the building. This was all a brief conversation, and no student names were mentioned during this time."
    c. Level 3 Teacher (May 12, 2026): "On April 24, 2026, following a behavioral incident involving [the Student], a behavior assistant asked for clarification regarding the student's schedule for the remainder of the day. Because I had only been working with this student for a few weeks, I wanted to ensure my decision was approved by administration before finalizing it, so I went to the main office. Upon my arrival, [the Assistant Principal] approached the counter directly across from me and inquired about the plan. I explained that I believed it was best to maintain consistency by having the student follow their usual schedule and check into their classes. [The Assistant Principal] stated that [they]

trusted my judgment, but I noted that I also wanted to consult [the Special Education Coordinator] as [they] had been present for all meetings regarding this student. … The [Special Education Coordinator] expressed [their] agreement. At this time, [the Athletic Director] joined us … inquiring if [the Juvenile Supervision Officer] was still in the building. I informed [them] that [the Juvenile Supervision Officer] had left. During this exchange, [the Parent] entered the office and immediately expressed frustration regarding a perceived lack of privacy, stating that the student 'deserves dignity.' [The Special Education Coordinator] apologized to [the Parent], who then asked who had contacted [the Juvenile Supervision Officer]. … I also apologized to [the Parent] for the setting of the conversation, explaining that what was intended to be a quick schedule update had inadvertently turned into a discussion involving three people. After I explained the plan for the remainder of the student's day, [the Parent] agreed it was the best option. To ensure further privacy, I transitioned the topic to the student's Orchestra class and asked [the Parent] if [they] would like to move to an office for that discussion. When [the Parent] agreed, I borrowed [the Athletic Director's] badge to access [their] office for a private conversation. At no point during the discussion did anyone mention the student by name."

d. Special Education Coordinator (May 13, 2026): On April 24, 2026, the Special Education Coordinator participated in a conversation with the Level 3 Teacher, the Athletic Director, and the Assistant Principal in the office regarding the Student's plans for the remainder of the day. According to the Special Education Coordinator, "Throughout the conversation, the student's name was not used, and no personally identifying or confidential information was disclosed. The discussion was limited to logistical planning related to the implementation of the student's intervention plan, including whether the student would require escort support to class. When the parent entered the office area, [the Parent] requested additional privacy for the conversation. [The Level 3 Teacher] escorted the parent to a private room within the office to continue the discussion. At no point was there a breach of student confidentiality."

15. On Sunday, April 26, 2026, the Principal messaged the Parents via ParentSquare to respond to their question regarding the Student's return to school on Monday, "I was out of the building Friday when [the Student's] incident occurred. I needed some time to talk to several staff members to get the details of the incident and what all transpired. Due to [the Student's] behaviors, [the Student] will be suspended tomorrow, Monday, and we will need to meet for a Manifestation Meeting upon [the Student's] return. This meeting is currently scheduled for Tuesday morning at 7:40 a.m." The Parent responded, "Who will be present at [the Student's] meeting?" The Principal responded they would know more "tomorrow" when they were back in the building.
16. The following documentation was related to an April 28, 2026 Manifestation Determination Review (MDR) meeting:
    a. A Notice of Meeting, dated April 27, 2026, included:

i. April 24, 2026: "[The] Parent was informed of meeting time and date by phone call."

ii. April 27, 2026: "[The] Parent was sent meeting link for meeting [sic]."

iii. The purpose of the meeting was to discuss possible changes to the Student's IEP and conduct an MDR.

iv. The Notice of Meeting was emailed to the Parent on April 27, 2026. The Parent signed it on May 6, 2026 and acknowledged they planned to attend. During their interview, the Assistant Director of Special Education explained a check box on the Notice of Meeting indicated the Parent planned to attend. They indicated the Parent provided confirmation of their attendance verbally and via email. They stated the Parent had to attend virtually because there was a no trespass order against the Parent from the School. They indicated all documents were provided to the Parent in a timely manner, but they had to prompt the Parent to sign the document on two occasions, even though they had verbal and email correspondence showing the Parent would attend the MDR.

b. The MDR document, dated April 27, 2026, included the following:

i. Student's Behavior: On April 24, 2026, the Student's behaviors included dysregulation, elopement, defiance, and verbal and physical aggression. The School enacted the Student's safety plan.

ii. Student's IEP: The document indicated the Student's primary exceptionality was OHI. The Student experienced ADHD and seizures. Academics, functional performance, social-emotional needs, behaviors, and triggers were noted.

iii. Teacher Observation: The Student required intensive academic and behavior supports.

iv. Relevant Information Provided by the Parent: "[The] Parent shared details about multiple med[ication] changes that have occurred throughout the course of the school year as well as in recent months (March-April). [The] Parent shared that [the Student's] recent changes to [their] medication (on/off different [medications]) within the last couple of months can be a factor in [the Student's] moods and behaviors. [The] Parent isn't sure how much communication has been shared between therapists/doctors. [The] Parent is concerned of the social[-]emotional phase that [the Student] is currently in with frequent suicidal thoughts. [The] Parent shared that [the Student] has experienced numerous seizures throughout the course of the school year with three happening while at school. [The] Parent shared major behaviors happened within the window of the seven days of med[ication]s changing."

v. Other Relevant Information: On March 30, 2026, the IEP team proposed to move the Student to a more restrictive setting in a Level 3 program to provide greater structure and support to meet the Student's needs.

vi. "No" was checked as a response to the question, "Was the conduct in question caused by or have [sic] a direct and substantial relationship to the child's disability?"

vii. "No" was checked as a response to the question, "Was the conduct in question a direct result of the school's failure to implement the IEP?"

viii. Determination: The IEP team determined the Student's behaviors were not a manifestation of their disability and two boxes were checked, indicating "disciplinary removal may occur, but the school district must continue to make a free appropriate public education (FAPE) available to the student in a manner which enables the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP" and, "if appropriate, the school will conduct a functional behavioral assessment and develop a behavior intervention plan designed to address the behavior violation so that it does not recur."

ix. Team Members Present: The Parent, the Principal, the General Education Teacher, the School Social Worker, the Assistant Director of Special Education, and the Level 3 Teacher. The Parent was also listed under "Dissenting Opinion Team Members."

17. The following documentation was related to the April 28, 2026 IEP meeting:

a. An IEP Amendment, dated April 28, 2026, included:

i. Proposed changes: "Special Education social work services in the X setting for 15 minutes weekly for the duration of the 45[-]day period" and "Special Education services in the X setting for 15 minutes bi-weekly for the duration of the 45[-] day period." The X setting is noted as indirect services.

ii. The document was not signed or dated by any party.

b. A Staffing Summary, dated April 28, 2026, indicated the purpose of the staffing was for an MDR. Notes indicated "Parent was given the opportunity to share anything [they] would like to add to the documentation." The IEP team "voted", 5-1, that the Student's behaviors were not a manifestation of the Student's disability. The Parent was the lone dissenting "vote" and indicated medication changes "can be a factor in [the Student's] moods and behaviors." The IEP team voted 6-0 that the Student's behaviors did not result from the LEA not implementing the Student's current IEP. PWN was reviewed regarding the Student's placement and mimicked the aforementioned amendment. The notes included the Parent's concern "with how conversations regarding [the Student] [were] happening in the open where others not involved with [the Student] could possibly hear the conversation. [The Principal] apologized and mentioned

this has been addressed with those staff members and to review our expectations moving forward [sic]. [The] Parent also shared concerns regarding [the Juvenile Supervision Officer] [a]s a part of this situation/conversation [sic]. [The Level 3 Teacher] apologized and clarified the conversation [about] how [the Juvenile Supervision Officer's] name was brought up and [their] participation in working with [the Student]."

c. Relevant sections of the PWN, dated April 27, 2026, indicated the IEP team met on April 28, 2026 to determine "Other" changes to the Student's IEP that did not involve services or placement.
    i. Proposal: A 45-day IAES due to the Student's behaviors and safety concerns. According to the proposal, "The IAES will allow the student to continue receiving special education services, supports, and instruction while providing a structured environment focused on safety, behavioral regulation, and skill development through an online platform." The aforementioned social work services proposal was noted.
    ii. Explanation: "The student's actions created a significant risk of harm to staff and others in the classroom." According to the document, "The IAES placement will be a virtual platform that the student can access at home. During this time, the student will continue to receive a free appropriate education (FAPE), including services and supports necessary to participate in the general education curriculum, progress toward IEP goals, and receive behavioral interventions designed to address the conduct that resulted in the disciplinary action. This setting provides a structured and supervised environment focused on safety, behavioral regulation and skill development."
    iii. Options: "The team considered continuing the student's placement in the current program with additional supports. However, due to the severity of the behaviors and the immediate safety concerns presented … ," this option was determined to be "insufficient."
    iv. Data: The data the IEP team used to make the decision was listed.
    v. Other factors: The IEP team "will review behavioral data and may revise the Student's Behavior Intervention Plan … or conduct additional assessment as needed to address the behaviors that led to disciplinary action. The goal of this placement is to maintain safety while providing the student with continued access to instruction and behavioral support … ." PWN was not signed by the Parent.
    vi. The participant page indicated the Parent, the Principal, the Assistant Director of Special Education, the General Education Teacher, the Social Worker, and the Level 3 Teacher were present for the IEP meeting.

18. Between April 27, 2026 and May 4, 2026, an email exchange occurred between the LEA and the Parent:

a. April 27, 2026:
    i. The Principal attached the documentation the Parents requested.
    ii. The Parent wrote, "I would like to clarify what the plan will be for [the Student] tomorrow. I do not feel it is in [their] best interest to attend the meeting, and I am requesting that [the Student] not be present. Additionally, will [the Student] be allowed to return to [their classes]?"
    iii. The Assistant Director of Special Education indicated the "team will discuss the plan moving forward in great detail with you tomorrow during the meeting," and indicated the Student should not attend.
b. April 28, 2026:
    i. The Parent wrote, "After further review of [the Student's] plans and IEP, I would like to change my answer to no for the school following [the Student's] plan. It was not implemented with fidelity, and I would like that changed."
c. April 30, 2026:
    i. The Assistant Director of Special Education indicated the Parent's dissent "is noted on the manifestation document" and indicated the Parent could send a letter detailing their dissent.
    ii. The Parent wrote, "I am writing to formally document my disagreement with the implementation of my child's …" IEP. The Parent described the lack of social work services at the beginning of the school year and "access to a designated check-out person … outside of the classroom setting."
    iii. The Assistant Director of Special Education replied, "Please know that concerns related to the implementation of [the Student's] IEP are taken seriously. The [LEA] is committed to ensuring that services and supports outlined in a student's IEP are provided appropriately, and we recognize the importance of carefully reviewing any concerns regarding implementation."
d. May 4, 2026:
    i. The Parent wrote, "The end-of-day check-out is a specific, bargained-for support designed to meet [the Student's] needs, and this accommodation was legally required to be provided through March 2, 2026. I was previously informed that this service would not be provided and that [the Student's] Advisory [sic] period would be used instead. Replacing a dedicated check-out with Advisory based on a lower student-to-teacher ratio constitutes a unilateral change to the IEP. A lower student count in a different setting does not fulfill the specific functional goals of a structured, end-of day [sic] check-out as mandated."

19. On May 4, 2026, the Assistant Director of Special Education emailed the Online Learning Coordinator regarding the Student's accommodation, "Teacher provides hard

copy (paper or electronic) of the outline of the notes for the class period," and inquired about the options "for notes to be provided to [the Student] for [their] core subjects." The Online Coordinator indicated "the guided notes tab" was selected for the Student's four courses. The Online Coordinator provided screenshots of the four courses showing where the guided notes were available in each course.

20. In an email to the Special Education Director, dated May 12, 2026, the Level 3 Teacher shared the following relevant notes from a May 8, 2026 meeting with the Student and the Other Parent:
    a. Accommodations: "[Level 3 Teacher] asked [the Student] if [the Student] has used the eNotes on Edgenuity. After [the Student] said [they] hadn't found the eNotes, [the Level 3 Teacher] shared [their] screen to show [the Student] the guided notes. When given options, [the Student] said [the Student] prefers to complete the notes on [their] tablet (electronic access). [The Level 3 Teacher] told [the Student] that if [the Student] changes [their] mind and wants paper copies, let [the Level 3 Teacher] know. [The Level 3 Teacher] will also follow up with [the Student's] parents via email with instructions for accessing the eNotes."
    b. The Level 3 Teacher emailed the Parents and provided the link to a video on how to find the guided notes.
21. In an email to the Special Education Director, dated May 14, 2026, the Advisory Teacher explained, "[The Student] was in my advisory from 11/18/2025 to present. When [the Student] was present in my advisory [they] sat within 5 feet of my desk. … I walked the track with [them] for 20 minutes during a Friday 'fun day.' Every day [the Student] was in school [the Student] would drop [their] instrument off in my classroom after band and we would have a quick conversation."
22. An undated document supplied by the Parent listed medication and medical protocol changes in response to the Student's behavior and medication side effects.
23. On May 26, 2026, the Complaint Investigator reviewed LEA provided video-only footage of the front office interaction with the Parent on April 24, 2026, and the following relevant details were noted:
    a. A large column partially obstructed the camera's view. An individual behind the counter was observed interacting with two individuals standing in front of it. Two additional individuals, presumably staff members, were present in the main office: one positioned near the camera (distant from the counter interaction) and another seated at a computer adjacent to the primary staff member. At this point, the Parent entered the office.
    b. The Parent joined the two individuals at the front counter and actively participated in the ongoing discussion. During the 4-6 minute interaction, four additional individuals (several appeared to be students) entered the front office area. The individual situated near the camera moved toward the discussion but behind the counter, retrieved paper from the printer and upon returning to their desk, appeared to engage in conversation with an individual off-camera.

c. The front-desk discussion continued for approximately 4.5 minutes, with the Parent remaining an active participant (as indicated by their gestures) for the duration of the interaction. The Parent and one of the individuals walked together through the front office and off camera.

24. The Parent filed the Complaint on May 7, 2026.

Parent Interview

25. During an interview with the Complaint Investigator, when asked about the Student's check-out accommodation, the Parent said it was "… written in such a way that it's at the end of every day [the Student] meets with someone outside of the classroom and just has that decompressed transition time." When asked what their understanding of "outside the classroom" was, the Parent described that when the Student was in grade school, the Student and a staff member would walk around together. They indicated the accommodation was to have someone help the Student with processing everything that had happened during the day. The Parent did not recall the IEP stating a specific person was assigned to provide the accommodation. The Parent stated the March 3, 2025 IEP indicated the Student's check-out was to be provided daily, during the day or at the end of the day, and with a location of "outside of the classroom."
26. According to the Parent, when the Student started at the School, the Parent was told check-outs were not done in middle school, and the accommodation would be provided during advisory because it had a smaller teacher-to-student ratio. They indicated the Student was with their case manager for two hours in the afternoon and did not get "any break from it … ."
27. The Parent stated they never signed a written agreement allowing the School to change the Student's accommodation, never received PWN, and there was never an amendment regarding the accommodation.
28. The Parent stated they were first notified of the MDR scheduled for April 28, 2026 by the Principal on the evening of April 26, 2026 through ParentSquare. They stated there was no additional communication regarding the MDR. The Parent stated they did not request a different date or time for the meeting because they were "… told that's when we would be having it."
29. During the interview, the Parent viewed the Notice of Meeting for the MDR and indicated the checkmark was in the box for "I plan to attend the meeting." The Parent stated the School did not give them their "10 days," and the Parent initially refused to sign the document, but the Assistant Director of Special Education encouraged them to sign it. The Parent said, "… I can assure you I did not put the checkmark there." The Parent explained they did not sign the Notice of Meeting until May 6, 2025 because they were not given the time they needed and did not want to sign. The Parent stated they told the Principal on April 26, 2026 that they wanted more time, but could not recall how they communicated this to the Principal.
30. The Parent stated they shared the Student's diagnoses of epilepsy and ADHD with the School prior to the MDR, and that the School had communicated with the Student's

therapist and neurologist. They stated this information was not discussed at the MDR. The Parent explained they were unable to obtain a response from the Student's neurologist, therapist, or psychiatrist about the Student's medication changes prior to the MDR on April 28, 2026. The Parent believed when they shared their concerns about the Student's medication, it did not "hold as much weight" as if it would have if it came from a doctor. The Parent recalled that during the MDR, they shared information about the Student's medication changes for their epilepsy and how it could cause behavioral side effects.

31. The Parent stated "nobody seemed to know" how to provide the Student's accommodation to receive notes while they were in the IAES. They believed the Student did their first week of schoolwork without notes and then the Parent received a link to a video on how to find the notes, which they printed off for the Student. The Parent explained the notes from the online platform were different from the notes they were normally provided. They stated the different format of the notes caused the Student frustration and they struggled to do their work. The Parent stated the School did not send home any physical packets or outlines.
32. The Parent explained as they were walking up to the office on April 24, 2026, they observed five staff members talking about the Student and "… very personal information that did not need to be shared." The Parent stated there were two students, three office professionals, and another parent in the office. They indicated the case manager asked the Parent if they wanted to speak in private, which they did. The Parent stated they heard people saying the Student's name. The Parent indicated they participated in the conversation for 3-4 minutes before talking with the case manager in another room. They explained during their conversation that they stated this was an inappropriate place to have a conversation about the Student. The Parent stated they told the Special Education Coordinator they were disappointed in how the conversation was being held, and stated the Special Education Coordinator said, "Yes, you're completely right."

Special Education Coordinator Interview

33. During an interview with the Complaint Investigator, the Special Education Coordinator described a log case managers used for students to show the provision of accommodations. The Special Education Coordinator indicated the Case Manager completed the log until the Student switched to the Advisory Teacher for advisory. They stated the change from a resource advisory to a general education advisory was a change in services which was documented in PWN with parental consent.
34. The Special Education Coordinator explained Learning Strategies was a pullout hour and considered direct special education support. They indicated the Student was moved from special education advisory to general education advisory in fall 2025.
35. The Special Education Coordinator recalled the Student's check-out accommodation was started in the fifth grade, and when the Student started at the School, the check-outs were conducted during advisory. They explained "advisory" was when every

teacher in the building had students in their class. They stated the Student was placed with the Case Manager and their advisory class by the previous IEP team. They indicated until the Student was moved from the Case Manager's advisory, the accommodation was completed by either the Case Manager or their paraprofessional each day.

36. The Special Education Coordinator stated the Student's check-out accommodation did not change "in its entirety" until the annual IEP meeting. They were unsure if this was in March or May of 2026. The Special Education Coordinator did not believe the Student switching advisories impacted the check-out accommodation. They perceived the same process was in place, other than the teacher conducting the check-out with the Student next to their desk rather than in the hallway. They indicated the check-out was still happening each day, and the Student "refused it quite often." They also shared they had seen "a PWN version" of the accommodation and the IEP document, "and those things did not match." The Special Education Coordinator indicated they only had one conversation with the Parent about the check-out accommodation. They stated at one point, the Behavior Consultant was conducting check-outs hourly, and the Student was receiving multiple check-outs throughout the day.
37. The Special Education Coordinator believed a building administrator and the Assistant Director of Special Education communicated with the Parents about the need for an MDR. They explained the MDR was scheduled for April 28, 2026 to ensure services started at the right time. They indicated "day 10" was April 27, 2026, and believed the MDR was held on April 28, 2026 to ensure the School could start providing services and placement to the Student. The Special Education Coordinator stated an IEP amendment went into effect when the Student was placed in a 45-day alternative placement, and did not require a parent signature.
38. The Special Education Coordinator explained that during the Student's interim placement, the Student received their education through an online platform. They stated packets were not sent home because everything was accessible through the platform, including teacher-made notes. They explained no teacher was assigned to provide hard copies or electronic copies of the outline of the daily notes because it was done via the online platform. They indicated the Student was shown how to access the notes from the platform.

Assistant Director of Special Education Interview

39. During an interview with the Complaint Investigator, the Assistant Director of Special Education explained that during the 2025-26 school year, the case manager for the Student changed from the Case Manager to the Special Education Teacher, and then the Level 3 Teacher.
40. The Assistant Director of Special Education explained that, whether the Student was in advisory class or not, the check-out accommodation was implemented. They indicated the Case Manager provided the accommodation initially. They believed that, eventually, an every-hour check-in situation occurred. When asked about their understanding of

PWN when the check-out shifted, they said, "... it's not a material change to change the person responsible for the checkout procedure or the checkout process as long as a member of the team was providing that. ... PWN would not have been provided in that instance simply because the team as a whole is responsible for implementing. So as long as one person is implementing that and it's happening every day ... [the Parent] wouldn't necessarily have been informed of that change as long as there was a person responsible. ... to my knowledge, there was a person each day that was checking in, but I'm not entirely certain that [the Parent] was informed every time because it was not a change that constituted a signature or permission."

41. The Assistant Director of Special Education explained they had recently learned the Parent was not called on April 24, 2026 regarding the MDR. They had previously believed the Assistant Principal was going to call the Parent and inform them the meeting was scheduled for April 28, 2026, but did not believe that occurred. They stated the Principal messaged the Parent the evening of April 26, 2026 through ParentSquare.
42. The Assistant Director of Special Education stated the MDR was scheduled for April 28, 2026 because they had "hit our [sic] 11th day" and the meeting was held quickly to ensure services were in place for the Student. They stated the School communicated with the Parent and ensured one of the Parents could attend. They indicated the Parent could attend, so the meeting proceeded as scheduled. They were not aware of the Parent requesting a different date or time for the MDR. They stated the Parent did not share any concerns about how the MDR was scheduled with them or anyone else on their team. They stated the Parent had only mentioned the Other Parent could potentially not attend due to a work conflict.
43. The Assistant Director of Special Education stated they attended the MDR meeting. They indicated the only medical information the Parent mentioned was their concern the Student's behavior was due to their medication changes and did not share any medical documents. They indicated medical documentation was reviewed during the MDR, including a document regarding the Student's seizure activity. They stated the Level 3 Teacher had called the children's hospital prior to the MDR, and that information was presented to the Parent during the meeting.
44. When asked how the Student received their accommodation of receiving notes while in the 45-day IAES, they said, "... we have the ability when students are enrolled in [virtual] classes to make those notes available. So I confirmed with the teacher ... to ensure that [the Student] had notes provided for all of [their] core subjects ... . And so those notes were available from day one and [the Student] had access to notes that outlined the lessons ... ." They said, "... throughout ... meetings with [the Level 3 Teacher], [they] [have] been checking with [the Student] on that particular accommodation to ensure accessibility and make sure [the Student] doesn't have any questions about accessing those notes. [The Level 3 Teacher] even offered to print them all if they didn't have access to printer [sic] ... ."

Principal Interview

45. During an interview with the Complaint Investigator, the Principal explained after they learned of the April 24, 2026 incident, they contacted the Parents via ParentSquare regarding the MDR. They stated the Parents asked if the Student could return to school on Monday, and the Principal replied the MDR had to be held first. They indicated the Student was suspended on April 27, 2026. The Principal stated they told the Parents they had to hold an MDR based on the number of days the Student had been suspended.
46. The Principal believed they were the first person to communicate with the Parents about the MDR, but were unsure if any other staff members contacted them first. The Principal confirmed the MDR was held on April 28, 2026.
47. The Principal explained students could only be suspended a maximum of 10 days without services. They indicated for the 2025-26 school year, the Student had been suspended for nine days and April 27, 2026 was the tenth day. They stated the MDR was held "so fast" to meet legal standards regarding suspensions. The Principal did not recall the Parents sharing concerns about the date and time of the MDR.
48. The Principal stated the Student "struggled" to complete the check-ins with the Case Manager during advisory. The Principal recalled the Student was taken out of the Case Manager's advisory and placed in a general education advisory with the Advisory Teacher in November 2025.
49. The Principal recalled an incident where the Parent was upset about a conversation regarding the Student happening in the main office area. The Principal stated they spoke with School staff and learned the conversation was about the Student's intervention schedule. They indicated the conversation was then moved to another office after the Parent expressed their concern. The Principal stated they instructed School staff to have any future conversations of that nature in a private area. They indicated the only other people who could have heard the conversation would have been some of the office staff. The Principal stated the staff did not recall saying the Student's name during the conversation and only discussing the Student's intervention schedule.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #383, in accordance with state and federal regulations implementing IDEA, amended the Student's IEP prior to changing the time the check-out accommodation was to be provided. K.A.R. 91-40-16(a); 34 C.F.R. § 300.324(a)(4)(6).

According to K.A.R. 91-40-16(a), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. According to 34 C.F.R § 300.324(a)(4)(6), in making changes to a child's IEP after the annual IEP team meeting for a school year, the parent of a child with a disability and the public agency

may agree not to convene an IEP team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. If changes are made to the child's IEP in accordance with the law, the public agency must ensure that the child's IEP team is informed of those changes. Changes to the IEP may be made either by the entire IEP team at an IEP team meeting or as provided in this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

The Parent alleged the LEA changed how the Student's check-out accommodation was provided without an amendment or an IEP meeting.

The LEA denied it improperly changed the Student's IEP accommodation without complying with applicable IDEA procedures.

The Student's March 3, 2025 IEP described the check-out accommodation as being "during the day or at the end of the day," with the duration as, "Other: Must be specific. Outside of the classroom." The IEP did not state it was to be provided by a specific person, which the Parent acknowledged. The evidence and interviews indicated the Student was provided check-ins and check-outs between August 12, 2025 and November 16, 2025, and then the Student switched advisories. In their interviews, the Special Education Coordinator and the Assistant Director of Special Education believed the check-out accommodation was properly implemented. The Special Education Coordinator perceived the same process was in place, other than the teacher conducting the check-out with the Student next to their desk rather than in the hallway. This was corroborated in a May 14, 2026 email from the Advisory Teacher, where they stated the Student was in their advisory from November 18, 2025 to the present time (of the email), and described how the check-out accommodation was provided. They described walking the track with the Student for 20 minutes during a Friday "fun" day, and every day after the Student dropped their instrument off in the Advisory Teacher's classroom, they had a conversation together.

The evidence did not show the LEA amended the Student's IEP; however, there was not a material change in how the accommodation was implemented which would have required an amendment. While there might have been some minor deviations in implementation, such as the Student being at the teacher's desk, these variations did not indicate the check-out accommodation was substantially changed. Because these deviations did not represent a material shift in the Student's IEP, an amendment was not necessary.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA was required to amend the Student's IEP prior to adjusting how the check-out accommodation was to be provided.

Issue Two

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided the Parent with PWN before changing the Student's check-out accommodation. K.A.R. 91-40-26, K.S.A. 72-3430(b)(2); 34 C.F.R. § 300.503(a).

According to K.A.R. 91-40-26, in providing any notice to the parent or parents of an exceptional child in accordance with the law and amendments thereto regarding any action proposed or refused by an agency, each agency shall ensure the notice includes the following information: a description of other options the agency considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal. The notice shall be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

According to K.S.A. 72-3430(b)(2) and 34 C.F.R. § 300.503(a), the parents of exceptional children shall have the right to written prior notice in accordance with the law, and amendments thereto, whenever an agency proposes to initiate or change, or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child.

The Parent alleged the LEA did not provide PWN before changing services to the Student's IEP when it unilaterally determined the Student would receive an accommodation at a different time than it was listed in the IEP.

The LEA denied PWN was required under the circumstances alleged.

As stated in allegation one, the evidence showed the check-out accommodation was implemented. According to state and federal regulations, parents have the right to PWN under specific circumstances. Minor variances in where the check-out happened did not constitute a formal change in educational placement or a structural modification to the provision of a FAPE, therefore, PWN was not required.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA was required to provide the Parent with PWN before adjusting the Student's check-out accommodation.

Issue Three

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided the accommodations in the Student's IEP, specifically the teacher-provided notes for coursework and assignments, during their IAES placement. K.A.R. 91-40-35(b)(c); 34 C.F.R. § 300.530(b)(2).

According to K.A.R. 91-40-35(b)(c) and 34 C.F.R. § 300.530(b)(2), a child with a disability shall be entitled to continue to receive special education and related services if the child is suspended

from school under either of the following circumstances: for more than 10 cumulative school days in any school year, but with these suspensions not resulting in a change of placement for disciplinary reasons, or for more than 10 consecutive school days in any school year for behavior that has been determined not to be a manifestation of the child's disability. If a child with a disability is suspended from school under either of these circumstances, the agency that suspended the child shall provide, commencing on the 11th day of suspension and during any subsequent day or days of suspension, special education and related services that are needed to enable the child to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the child's IEP.

If a child with a disability is placed in an IAES in accordance with K.S.A. 72-991(a) and amendments thereto, the agency shall provide special education and related services to the child that enable the child to continue both of the following: to progress in the general curriculum, although in another setting, and to receive those services and modifications, including those described in the child's IEP, that will enable the child to meet the goals set out in the IEP. The services shall include services and modifications that address the child's misbehavior and that are designed to prevent the misbehavior from recurring.

The Parent alleged the LEA did not consistently provide the accommodation of teacher-provided notes for coursework and assignments during the Student's IAES placement.

The LEA denied it failed to implement the Student's accommodations in their IAES.

The Student's March 3, 2026 IEP contained an accommodation for the Student to receive teacher-provided hard copies (paper or electronic) for coursework and assignments. It was documented the Student would receive their special education services, support, and instruction through an online platform while in the IAES, which was corroborated in interviews. The evidence showed the Assistant Director of Special Education worked with the Online Learning Coordinator to ensure the Student would have access to their notes. Additional email communications showed there was a way for the Student to access the notes via the online platform, that the Level 3 Teacher showed the Student how to access them, and communicated how-to instructions to the Parent. This contrasted with the Parent's statements that "nobody seemed to know" how to provide the Student's accommodation while they were in the IAES. The Parent also stated the Student struggled to do their work and the School did not send home any physical packets or outlines. Overall, the evidence demonstrated the Student had appropriate access to teacher-provided notes during their IAES placement.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to provide the accommodations in the Student's IEP, specifically the teacher-provided notes for coursework and assignments, during their IAES placement.

Issue Four

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, ensured the Parent was afforded the opportunity to participate in the manifestation determination meeting. K.A.R. 91-40-38; 34 C.F.R. §§ 300.322, 300.501(b)(c).

According to K.A.R. 91-40-38, if an agency proposes to make a change in educational placement for disciplinary reasons, the agency shall implement the provisions of the law and amendments thereto. An agency may conduct the manifestation determination at the same IEP team meeting that is held in regard to developing or reviewing a behavioral intervention plan under the law and amendments. If, in making a manifestation determination, deficiencies are identified in the child's IEP or placement or in the provision of services to the child, the IEP team shall make any changes it deems appropriate, and the agency shall implement those changes. An agency shall convene meetings under this regulation as expeditiously as possible and shall be required to give only 24 hours' prior notice of a meeting to the child's parent or parents.

According to 34 C.F.R. § 300.322, each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place. The notice required related to this section must indicate the purpose, time, and location of the meeting and who will be in attendance, inform the parents of the provisions in § 300.321(a)(6) and (c).

If neither parent can attend an IEP team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with the law related to alternative means of meeting participation. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed-on time and place, such as detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents, and any responses received, and detailed records of visits made to the parent's home or place of employment and the results of those visits.

According to 34 C.F.R. § 300.501(b)(c), the parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of a FAPE to the child. Each public agency must provide notice consistent with § 300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section. Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child. In implementing the requirements of paragraph (c)(1) of this section, the

public agency must use procedures consistent with the procedures described in § 300.322(a) through (b)(1). If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls or video conferencing. A placement decision may be made by a group without the involvement of a parent if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure its involvement.

The Parent alleged the LEA impeded their ability to meaningfully participate in the manifestation meeting by providing only 24 hours' notice.

The LEA denied it prevented or impeded Parent participation in the MDR meeting.

ParentSquare messages and interview statements showed the Principal was more than likely the first School staff person to contact the Parent the evening of April 26, 2026 specifically regarding the MDR scheduled for the morning of April 28, 2026. The evidence showed the Parent received approximately 36 hours' notice of the MDR meeting. State regulations indicate an agency shall convene meetings as expeditiously as possible and shall be required to give only 24 hours' prior notice of a meeting. While the School may have faltered in not confirming the Parent was called the day of the incident, they did not violate state regulations regarding the timing of the MDR meeting.

In their interview, the Parent stated they were not given enough time before the meeting and told this to the Principal. The Parent could not recall how they relayed this information to the Principal and there was no evidence to corroborate it. The Parent also indicated they did not check the box in the Notice of Meeting that they would attend the MDR, even though it was checked. There was no evidence to show another person fraudulently marked the Parent would be attending. Additionally, neither the Principal nor the Assistant Director of Special Education recalled the Parent expressing concern or displeasure about the date and time of the MDR. Overall, there was no evidence to demonstrate the Parent's ability to participate in the MDR was impeded.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to ensure the Parent was afforded the opportunity to participate in the manifestation determination meeting.

Issue Five

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, reviewed the medical information provided by the Parent to determine if the conduct in question was caused by or had a direct substantial relationship to the child's disability when conducting the manifestation determination meeting. K.A.R. 91-40-38; 34 C.F.R. § 300.530(e)(f).

According to K.A.R. 91-40-38, if an agency proposes to make a change in educational placement for disciplinary reasons, the agency shall implement the provisions of K.S.A. 72-991a and amendments thereto. An agency may conduct the manifestation determination at the same IEP team meeting that is held in regard to developing or reviewing a behavioral intervention plan under K.S.A. 72-991a and amendments thereto. If, in making a manifestation determination, deficiencies are identified in the child's IEP or placement or in the provision of services to the child, the IEP team shall make any changes it deems appropriate, and the agency shall implement those changes. An agency shall convene meetings under this regulation as expeditiously as possible and shall be required to give only 24 hours' prior notice of a meeting to the child's parent or parents.

According to 34 C.F.R. § 300.530(e)(f), within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability, or if the conduct in question was the direct result of the LEA's failure to implement the IEP. The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

If the LEA, the parent, and relevant members of the child's IEP team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies. If the LEA, the parent, and relevant members of the IEP team make the determination that the conduct was a manifestation of the child's disability, the IEP team must either conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child, or if a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

The Parent alleged the LEA failed to consider relevant medical information and medication side effects when conducting the manifestation meeting and disciplinary proceedings.

The LEA denied it failed to consider medical information provided by the Parent during the MDR.

According to the evidence, the School was aware of the Student's new medications as early as February 2026, approximately two months prior to the MDR. The MDR document noted the

Student's exceptionality under OHI, and that they experienced ADHD and seizures. The document also showed that during the meeting, the Parent shared information about the Student's medication changes and how they believed it impacted the Student's behavior. This was corroborated by the Parent and the Assistant Director of Special Education. The Parent explained they were unable to obtain a response from the Student's neurologist, therapist, or psychiatrist about the Student's medication changes prior to the MDR on April 28, 2026. However, the evidence showed there was a discussion regarding the Student's diagnoses and medications during the MDR meeting. Overall, the evidence demonstrated the School team followed federal mandates and reviewed relevant medical information during the MDR.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is not substantiated* the LEA failed to review the medical information provided by the Parent to determine if the conduct in question was caused by or had a direct substantial relationship to the child's disability when conducting the manifestation determination meeting.

Issue Six

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, obtained parental consent prior to discussing confidential information regarding the Student in front of the Student's peers, other parents, and school staff members. K.A.R. 91-40-50; 34 C.F.R. §§ 300.622; 99.3.

According to K.A.R. 91-40-50, as used in this regulation, the following terms shall have the meanings specified in this subsection: "education records" means any document or medium on which information directly related to one or more students is maintained by a participating agency in accordance with the law and amendments thereto, and "participating agency" means any educational agency or institution that collects, maintains, or uses personally identifiable student information to provide special education and related services to children with disabilities.

According to 34 C.F.R. § 300.622, parental consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 C.F.R. part 99. Except as provided in paragraphs in this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part.

According to 34 C.F.R. § 99.3, directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes, but is not limited to: the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, grade level, enrollment status, dates of attendance, participation in officially

recognized activities and sports, weight and height of members of athletic teams, degrees, honors, and awards received, and the most recent educational agency or institution attended.

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

Education records are records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record, records of the law enforcement unit of an educational agency or institution, subject to the provisions of § 99.8.

Personally identifiable information includes, but is not limited to, the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or biometric record. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty, or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

"Record" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. "Student" means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

The Parent alleged the LEA discussed confidential information regarding the student in front of peers, parents, and staff members who did not have a legitimate educational interest or need to know.

The LEA denied confidential personally identifiable student information was improperly disclosed in violation of IDEA or FERPA protections.

The parties involved shared a similar narrative of what happened in the front office on April 24, 2026, other than the Parent asserting the Student's name was used, and four School staff members stating it was not. Among the staff members, there was a consensus that the conversation was focused on the Student's schedule and the Student's name was not mentioned. There was video evidence, but it did not have audio to prove or disprove what was said. While there were differences in the accounts between the Parent and the School staff, the

evidence could not conclusively determine whether confidential information about the Student was shared publicly.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to obtain parental consent prior to discussing confidential information regarding the Student in front of the Student's peers, other parents, and school staff members.

Tania Tong, Licensed Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #102
ON MAY 11, 2026

DATE OF REPORT: JUNE 11, 2026

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ------- by his mother, -------. In the remainder of the report ------- will be referred to as "the student", ------- will be referred to as the "complainant", "the parent", or "the mother", ------- will be referred to as "the father", and together, the mother and father will be referred to as "the parents".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

In this case, the complaint is against USD #102 (Cimarron-Ensign Public Schools) which contracts with the Southeast Kansas Area Cooperative District (SKACD) to meet the requirements of the IDEA. In the remainder of the report, both of these responsible public agencies will be referred to as "the local education agency (LEA)".

In the remainder of the report, the LEA staff will be referred to as follows:

- Erica Edmondson, Principal
- Jennifer Cunningham, Counsel for USD #102
- Summer Kite, Speech Pathologist for SKACD
- Vickie Ridenour, School Counselor
- Whitney Axman, Third Grade Teacher, Classroom Teacher 1
- Trish Burns, Physical Education, Classroom Teacher 2
- Dr. Mike Water, Superintendent
- Jason Wright, Executive Director for SKACD

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE and the LEA. In this case, May 11, 2026 is considered as the date the complaint was filed.

Evidence Reviewed

The father was interviewed by telephone on May 19, 2026 and the mother was interviewed by telephone on May 28, 2026.

The following LEA staff from the LEA were interviewed via GoogleMeet on May 29, 2026:

- Building Principal
- Counsel for USD #102
- Speech Pathologist for SKACD
- School Counselor
- Classroom Teacher 1
- Executive Director for SKACD

In completing this investigation, the Investigator reviewed written documentation provided by both the complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Speech-Language attendance record dated between September 3, 2025 and May 13, 2026
2. Notice of Meeting dated September 18, 2025 with parent acknowledgement
3. Parent Teacher Conference, Fall 2025 for the student
4. Progress Report dated October 3, 2025
5. Evaluation/Eligibility Team Report dated October 3, 2025, all team members signed agreement with report
6. IEP Submission Checklist dated October 3, 2025 Teacher Information Page dated October 3, 2025
7. Individualized Education Program (IEP) dated October 3, 2025
8. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Changes in Services, Change in Placement, and/or Request for Consent dated October 3, 2025, consent signed October 3, 2025
9. Individualized Education Program (IEP) amended May 5, 2026
10. Classroom Support Notes, Teacher 1 dated December 5, 2025, March 24, April 16, May 1, May 6, 2026
11. Student attendance April 10, 2026 through May 15, 2026
12. Superintendent letter, dated April 16, 2026
13. Suspension letter from Principal to parent dated April 16, 2026, signed by parent on April 17, 2026
14. Parent's handwritten timeline with dates including April 16, 17, 20, 24, 29, 30, May 1, 4, 2026
15. Classroom Support Notes, Teacher 2 dated April 16, 17, 2026

16. Principal Notes dated April 16, 17, 20, 21, May 1, 6, 2026
17. Guest and Student Sign-Out Sheet dated April 20-21, 2026
18. Appointment note for student at outpatient behavioral health center for April 28, 2026
19. Suspension letter from Principal to parent dated April 21, 2026, signed by parent on April 30, 2026
20. Email from Speech Pathologist to student dated May 6, 2026 at 10:43 a.m., 10:50 a.m. and 3:38 p.m. sharing meeting link and time for speech service and then following up after the student did not log on to the link
21. Notice of Special Education Meeting dated May 6, 2026 with parent acknowledgement
22. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Changes in Services, Change in Placement, and/or Request for Consent dated May 6, 2026, mother signed consent May 6, 2026
23. Staff note dated May 11, 2026 handwritten on student data collection sheet
24. Email from Speech Pathologist to student dated May 11, 2026 at 2:14 p.m. and 3:43 p.m. rescheduling speech service and following up after student did not log on to the link at rescheduled time
25. Email from Speech Pathologist to mother dated May 11, 2026 at 2:25 p.m. sharing May 6, 2026 IEP attendee list and notifying mother that SPL virtual services were being scheduled
26. Email from Speech Pathologist to student and mother dated May 11, 2026 at 3:55 p.m. with meeting link for speech services to be held virtually on May 13, 2026
27. Email from Speech Pathologist to student dated May 12, 2026 at 2:16 p.m. with link for speech service
28. Teacher Information Page, printed May 19, 2026
29. Documentation of Contact dated May 20, 2026 at 5:40 p.m.
30. Response to Complaint dated May 26, 2026
31. Safety Plan for Student for 2026-27 school year
32. Undated handwritten note from student
33. Parent's handwritten document listing bullies and descriptions

Background Information

The student is a third grader at the elementary school, receiving special education and related services under the primary eligibility category of hearing impairment and secondary eligibility category of speech or language impairment. The student wears bilateral hearing aids. The student was reevaluated October 3, 2025 and it was reported that the student's hearing loss impacts access to vocabulary and incidental learning which may limit access to the general education curriculum.

The student began attending USD #102 in February of 2025 when he transferred with an IEP from the previous school district. The child has moved four times in four years, but the IEP has stayed consistent through each of those transitions. The IEP team convened on October 3, 2025 and again on May 6, 2026 during the 2025-26 school year.

Two IEPs were in effect during the investigation. The October 3, 2025 IEP shows that the student receives 20 minutes of speech services two times every week and 10 minutes of indirect deaf education consultation service every nine weeks in the school setting. An IEP meeting was held May 6, 2026 amending the location of the student's speech services to virtual delivery. This change accommodated student's move to homebound instruction through the end of the 2025-26 school year. The amended IEP further shows that special education services will revert back to 20 minutes of speech services two times per week and 10 minutes of indirect deaf education consultation service every nine weeks in the school setting at the start of the 2026-27 school year. Both IEPs include four accommodations addressing the student's hearing impairment related to academic instruction.

Issues Investigated

Based on the written complaint, three issues related to the Individuals with Disabilities Act (IDEA) were identified and investigated.

Issue One

USD #102, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate disciplinary procedures during the 2025-26 school year, specifically by not conducting a manifestation determination meeting.

Applicable Law

Regulations at 34 C.F.R. §§ 300.530– 300.536 describe the procedural framework for disciplinary removal of students with disabilities. A local educational agency is required to conduct an MDR when a disciplinary removal constitutes a "change of placement." A change of placement occurs when a student is removed for more than ten (10) consecutive school days, or when a series of removals constitutes a pattern amounting to more than ten (10) school days in a given school year (34 C.F.R. § 300.536(a)).

Regulations at 34 C.F.R. § 300.536(a) document that a disciplinary removal is based on a school day.

Parent Position

In the letter of complaint the mother alleged that the LEA applied "inconsistent" disciplining practices with the student resulting in the student being suspended for over ten days without holding a manifestation determination meeting.

LEA Position

The LEA responded in their Response to the Complaint dated May 26, 2026 that they only suspended the student nine days and therefore a Manifestation Determination was not required under IDEA. They responded that the parents incorrectly believe disciplinary removals included a parent-elected absence, weekend days and non-school days occurring during the out-of-school suspension count toward the ten day threshold.

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation.

1. The parent and LEA agree that the student was an IDEA eligible student during the 2026 -26 school year.
2. The suspension letter dated April 16, 2026 documented that the student was suspended for 1 day, on April 16, 2026. The parent and LEA agree the student was suspended for April 16, 2026 with the attendance overview documenting the out-of-school suspension (OSS) on that date.
3. The parents and LEA agree that the student was not suspended on April 17, 2026. The parent's letter of complaint recorded that "The district permitted [student] returning 4/17 with a scheduled meeting with [student], my husband, and myself before going to [student's] classroom. Due to the concerns regarding tension surrounding the incident, we voluntarily kept [student] home in hopes that returning the following week would allow for a calmer transition." The attendance overview shows that the student was marked as absent on April 17.
4. The schools office Sign-in and Sign-out sheet documented that on April 20, 2026 at 2:38 p.m. the student's mother signed out the student for personal reasons. The attendance overview shows the student was in attendance for the day. The LEA noted the student and siblings all left with the mother on that afternoon.
5. The suspension letter dated April 21, 2026 documented that the student was suspended for eight days starting April 21 through May 1, 2026. The letter indicated that April 23, 2026 was not a school day due to staff inservice. The parent and LEA agree that the student was suspended for April 21, 22, 24, 27, 28, 29, 30 and May 1. The 2025-2026 school calendar showed that April 23, 2026 was an inservice day and school was not in session for students. The attendance overview is marked as OSS April 21, 22, 24, 27, 28, 29, 30 and May 1, 2026. The attendance records for speech and language services show that the student was absent due to behavior on April 22, 27 and 29, and May 1, 2026.
6. Attendance records, parents and LEA agree the student was not suspended any additional days during the 2025-26 school year.

Conclusion

The attendance records and letters sent to the parent notifying of disciplinary removals show that the student was suspended nine (9) school days during the 2025-26 school year.

Regulations at C.F.R. § 300.536(a) refers to school days so weekends, days that school is not in session, and days that a family does not send a student to school are not considered in contributing to a "change of placement" for an IDEA eligible student. The regulations at 34 C.F.R. §§ 300.530– 300.536 which describe the disciplinary removal procedures including when a manifestation determination meeting need to occur are established as when a student is removed for more than ten (10) consecutive school days, or when a series of removals constitutes a pattern amounting to more than ten (10) school days in a given school year. In this case, there was no requirement to conduct a Manifestation Determination as no disciplinary change of placement occurred.

Based on the foregoing, the *LEA is IN compliance* with following 34 C.F.R. §§ 300.530– 300.536 on behalf of this student during the 2025-26 school year.

Issue Two

USD #102, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to ensure that the elementary school principal had access to the student's IEP during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. § 300.321(a) describes the membership of the IEP team to include the parents of the child; not less than one regular education teacher of the child; not less than one special education teacher of the child; a representative of the public agency who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the public agency; an individual who can interpret the instructional implications of evaluation results; any other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and whenever appropriate, the child with a disability.

Under 34 C.F.R. § 300.323(d)(1) the child's IEP must be accessible to the teachers, related service providers and any other service provider responsible for implementation.

Parent Position

The parents alleged that the principal may not have initially realized [student] had an IEP raising concerns regarding whether [student's] disability protections were fully considered during disciplinary decision-making.

LEA Position

The LEA's response to the allegations noted that the building Principal attended and signed as a team member at both IEP team meetings held during the 2025-26 school year so was aware the student received special education and related services. Through this attendance and

participation, the principal was directly and contemporaneously informed of the student's services, accommodations, modifications, and the LEA's corresponding responsibilities.

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation. Additionally, the findings of Issue One are incorporated herein by reference.

1. The Reevaluation report shows that the building principal hand-signed agreement with the findings of the October 3, 2025 Reevaluation Report as "Administrator". The building principal hand-signed attendance as the "Administrator/Designee" on the October 3, 2025 Draft IEP. The draft IEP with an initiation date of services beginning May 5, 2026 shows the building principal hand-signed attendance as "Principal".
2. The Principal reported to the Investigator that concerns of being unaware of the student's IEP likely stem from the Principal's phone call notifying the parents that the student was being suspended on April 16, 2026. The Principal noted that there was a glitch between the student information systems (SIS) of USD #102 and the SKACD which resulted in USD #102's SIS not displaying that the student had an IEP. The Principal initially did not recognize the error while communicating with the parent, but remembered having attended the student's fall IEP and corrected the statement to the parent. The Principal alerted the LEA and the SKACD of the display error and it was fixed so that USD #102's SIS now displays IEP information for all students correctly.
3. The Building Principal stated that this error likely led the mother to believe that the Building Principal's disciplinary decision-making may not have been fully informed with the information that the student was IDEA eligible. However, as this was the first day of suspension, the Building Principal stated that IDEA protections related to discipline were not yet necessary for consideration.

Conclusion

The IDEA nor Kansas regulations specifically state that the building principal must receive an IEP or be briefed on its contents. However, the IDEA does require that those responsible for implementing the student's IEP have access (34 C.F.R. § 300.323(d)(1)). Federal regulations at 34 C.F.R. § 300.321(a) lists the membership of the IEP team and while the building principal is not mentioned specifically, the representative who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the public agency is often the building principal. In many cases the building principal is this person. The IEP signature pages and reevaluation meeting signature page showed that the building principal signed in that capacity.

In this case, while the building principal was initially making a call to inform the parent of a disciplinary suspension, the glitch between USD #102 and the SKACD's student information systems resulted in the student not being flagged as having an IEP. When the Principal realized the system error, the parent was contacted again and the student's suspension was discussed in light of the student's IDEA protections. While this event led to a miscommunication with the parent which caused concerns about the student's IDEA protections, there is evidence to support a finding that the Principal was knowledgeable about the student's IEP. Based on the foregoing, the ***LEA is IN compliance*** with following Federal regulations at 34 C.F.R. § 300.321(a) and 300.323(d)(1).

Issue Three

USD #102, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to address concerns with bullying at the IEP Team meeting held on May 6, 2026 when changing the student's placement to homebound as a result of a disciplinary incident on April 16, 2026.

Applicable Law

Federal regulations at 34 C.F.R. §§ 300.324(a)(1)(ii) addresses that when developing each child's IEP, the IEP Team must consider the concerns of the parents for enhancing the education of their child.

Federal regulations at 34 C.F.R. §§ 300.324(b)(1)(ii)(C) further addresses that review and revision of the child's IEP must occur when information about the child is provided to, or by the parents.

Parent Position

The parent alleges that the student's behavior leading to two suspensions and the decision to change placement to homebound beginning May 1, 2026 was due to the student being bullied by classmates about the student wearing hearing-aids. The parent alleges that the school staff observed the bullying, but did nothing to stop it. As a result, the mother and father agreed to a change of placement to homebound with virtual special education services to protect the student through the end of the school year. The mother and the father reported meeting with LEA staff to develop a safety plan for the student to ensure bullying does not occur during the 2026-27 school year.

LEA Position

The LEA responded that during the April 17, 2026 post-suspension meeting attended by the parent, the student, and the Principal, no mention of bullying or teasing about the student's hearing-aids was shared. The first time bullying was brought up was on May 1, 2026, following the second disciplinary suspension for threatening behavior towards peers. In spite of finding

no documentation confirming the bullying claims, the school staff and the parents met and created a safety plan for the student on May 19, 2026 which will be in place when the student returns to school in August 2026.

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation. Additionally, the findings of Issues One and Two are incorporated herein by reference.

1. The parents and LEA staff agree that a safety plan was developed during a meeting held on May 19, 2026 following reports from the parents of bullying taking place at school on May 1, 2026. The LEA staff reported this was a general education intervention to provide additional support for the student. The IEP amendment and PWN dated May 6, 2026 do not address a safety plan.
2. Classroom teachers 1 and 2 provided written statements detailing threatening behavior throughout the 2025-26 school year, but do not detail any reported incidents of bullying or bullying being the cause of the threatening behavior.
3. No mention of bullying nor reports of bullying were documented prior to the parents' mention of bullying on May 1, 2026 while arranging the May 6, 2026 IEP meeting. The Principal documented in a May 1, 2026 written note, "When [student's] mom came to office she mentioned [student] and [mother] had conversations that this particular student was making fun of [student's] hearing aids."
4. The student reported to the mother that the student's hearing aids were taken by a bully on the playground and thrown in a trashcan while a teacher watched without intervening. The LEA staff reported to the Investigator that they investigated the incident, but were unable to determine the date of the incident or the name or description of the teacher from information provided by the student and the mother. The student's teacher reported the student got along well with classmates and had never witnessed any bullying.
5. The parent and LEA agree that following the second disciplinary suspension the student completed the academic school year through homebound education with virtual special education services. This move was made as a result of the parent's ongoing concerns about disciplinary removals and the student's request to not return to school for the remainder of the school year.
6. The Notice of Meeting dated May 4, 2026 proposed the May 6, 2026 IEP meeting to discuss an IEP amendment to change speech services from in person to virtual as a result of the student completing the remainder of the school year in the homebound setting.
7. The PWN dated May 6, 2026 recorded that the change of placement was for the remainder of the 2025-26 school year due to a disciplinary action resulting in a nine day suspension for threatening behavior towards peers and the mutual decision between the parent and the LEA for the student to access general education and

special education services through a virtual/home bound model. The IEP dated May 6, 2026 documented the change of placement for delivery of the special education services to virtual beginning May 1, 2026 through the end of the school year. The parent signed consent for the change of placement on May 6, 2026.

8. The Speech Pathologist and the mother both reported the student was offered the 40 minutes per week of speech therapy services for the two weeks the student was in the homebound setting and he participated in a total of 60 minutes of speech therapy during that timeframe.

Conclusion

The IDEA requires that the IEP team must consider concerns brought to the IEP team by the parents and revise the IEP as needed (34 C.F.R. §§ 300.324(a)(1)(ii) and 34 C.F.R. §§ 300.324(b)(1)(ii)(C)). In this case the parents expressed concerns about bullying following nine days of out-of-school suspension.

It is found that the LEA was not aware of bullying allegations until May 1 and the Principal responded to these reports by investigating the incident shared by the parents as well as previous incidents of the student's threatening behavior towards peers reported by classroom teachers in light of the April 16 incident. The parents and the LEA mutually agreed for the student to complete third grade in the homebound setting but this was not a special education action. In response to this change, the IEP Team met on May 6 and the LEA proposed to change the location of the speech services from in-school to virtual as a result of the mutual decision to allow the student to complete the 2025-26 school year in the homebound setting.

Although the LEA was unable to verify the reported incidents of bullying from the parents during the 2025-26 school year, the parents and LEA staff met to consider the potential role bullying may have had in the student's threatening behavior and developed a general education safety plan to provide additional support to the student.

Based on the foregoing, it is found that the LEA is IN compliance with implementing the IDEA regulations at 34 C.F.R. §§ 300.324(a)(1)(ii) and 34 C.F.R. §§ 300.324(b)(1)(ii)(C).

Summary of Conclusions/Corrective Action

Issue One: Based on interviews and a review of documentation, no violation of IDEA or Kansas regulations was found.

Issue Two: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

Issue Three: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

With this issuance of the complaint report, my role as the complaint investigator has concluded. Any comments or questions you have must be directed to Brian Dempsey, Assistant Director for Special Education and Title Services at the KSDE, at brian.dempsey@ksde.gov

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #261
ON MAY 13, 2026

DATE OF REPORT: JUNE 12, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ------- by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #261 Haysville Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #261.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 13, 2026 and the 30-day timeline ended on June 12, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #261, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), changed the Student's placement when the special education program changed locations. K.A.R. 91-40-21(c)(d); 34 CFR §§ 300.501(c), 300.116.

ISSUE TWO: Whether USD #261, in accordance with state and federal regulations implementing the IDEA, allowed the Student to participate in extracurricular activities, specifically cheerleading, to the same extent as their general education peers. K.A.R. 91-40-1(ttt); 34 CFR § 300.42.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on June 4, 2026. The following LEA staff were interviewed on June 3, 2026: the Special Education Director, the Previous School Principal, the Athletic Director, the Cheer Coach, and the Assistant Cheer Coach.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Prior Written Notice (PWN) for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Consent, 09/27/23
2. Individualized Education Plan, 09/10/25
3. Request for Transportation - Special Needs Students, 09/10/25
4. Behavior Intervention Plan, no date
5. Individualized Education Plan Amendment, 01/05/26
6. [The Previous School] Student Handbook, 2025-26 School Year
7. [The School] Student Handbook, 2025-26 School Year
8. Board of Education Policy Manual, 08/18/25
9. Enrollment History, 08/16/23-03/30/26
10. Emails between parties, 07/31/25-06/08/25
11. Statement from Cheer Coach, no date
12. Staffing Summary, 09/10/25

Background Information

This Investigation involved a 13-year-old student previously enrolled at two of the middle schools in USD #261. The Student was receiving special education services as a child with a disability per the IDEA and was part of a program which focused on behavior management. The current IEP did not include an eligibility category. The most recent documentation of eligibility category included in the materials was a September 27, 2023 PWN for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, which listed the eligibility as Other Health Impairment (OHI).

1. In a March 24, 2025 email to the Parent, the Cheer Coach stated, "Here are the documents I sent out for cheer. Ignore the dates. We will work with you." Four documents were attached, titled "Cheer Contract 2025-26," "Parent_Cheer Tryout Letter," "2025-26 Cheer Gear Order Form," and "Tryouts." The email chain also contained instructions for accessing practice routine videos and a directive for the Student to learn the routines prior to trying out.

2. Cheerleading tryouts for the School were held March 4-7, 2025. Cheerleading tryouts for the Previous School concluded on March 12, 2025. In a written statement, the Cheer Coach reported, "[The Student] did not attend any pre-tryout meetings or participate in tryouts at [the Previous School], [which] [the Student] was attending at the time. The meetings and their tryout was [sic] held before [the Parent] contacted our athletic director about trying out at [the School]." In a follow-up email to the Complaint Investigator on June 8, 2026, the Assistant Cheer Coach stated if the Student had tried out for cheerleading at the Previous School and made the team, the Student would have been accepted on the School team when the Student transferred.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. The Student is described as "social, outgoing, willing to try and learn, [and] determined."
2. In a July 31, 2025 email to the Superintendent, the Parent expressed their "dissatisfaction with the district's performance over the past couple years. My child is being moved from [the Previous School] to [the School] without my knowledge. This decision negatively impacted their cheer tryouts last year, but I chose to let it go and arranged for them to have lessons."
3. 2025-26 Student Handbooks for the School and the Previous School both indicated that to participate in athletics, a student must, "Demonstrate satisfactory work in all subject matters and be in good standing, "Demonstrate proper conduct in and out of school," and have appropriately completed physical forms.
4. The Student's enrollment history report for the Previous School indicated an entry date of August 14, 2024 and exit date of May 21, 2025, and an entry date of August 13, 2025 and exit date of March 30, 2026 for the School. A comment noting the Student "transferred to [the Current School]".
5. The August 18, 2025 Board of Education Policy Manual for the LEA included the following relevant policies:
    a. Policy JBC-3, which indicated, "Unless otherwise provided herein, the superintendent shall assign students to the appropriate building. … Assignment to a particular grade level or particular classes shall be determined by the building principal based on the educational abilities of the student. If the parents disagree, the principal's decision may be appealed to the superintendent. If the parents are still dissatisfied with the assignment, they may appeal in writing to the board."
    b. Policy JH, which indicated students who participate in any school activity "shall meet" requirements including "academic eligibility requirements noted

in handbooks," and "other requirements requested by the administration and approved by the board."

c. Policy JQ, which indicated, "All programs for exceptional students shall be managed in accordance with the local plans for exceptional students, the policy and rules of the local board, and the rules and regulations of the state board of education."

6. The Student's September 10, 2025 IEP included relevant information as follows:

a. The impact of the Student's exceptionality was that they struggled with impulse control and social skills, along with time management and organizational skills.

b. The Student's behavior impeded their learning, or that of others, and the IEP included a Behavior Intervention Plan (BIP), accommodations/modifications, goals, and positive behavioral supports to address that need.

c. There were two goals for social-emotional, one goal for math, and one goal for reading.

d. Special education and related services included weekly social work services, daily special education services for English Language Arts (ELA), math, science, and social studies in the special education setting, and daily special education services for reading and elective courses in the general education setting.

e. Accommodations/Modifications included frequent breaks, extended time on assignments, a separate setting for tests, reading aloud on tests/assignments, written directions for multi-step instructions, fidgets, and preferential seating.

f. Participation with non-identified students in the general education environment indicated:

i. The Student would not have the opportunity to participate with non-identified peers in all general education classes and extracurricular activities. The explanation was, "[The Student] will have social work services[,] as well as classes in the special education classroom (in the PBS classroom). This is to help with [their] social[-]emotional needs and self[-]regulation."

ii. It was noted there would be potential harmful effects of the placement, but the positive effects of the placement outweighed the potential harmful effects. "[The Student] needs the smaller setting and services to help with [their] social[-]emotional needs and self[-]regulation."

iii. The Student would "have the opportunity to participate in all non-academic and extracurricular activities such as clubs, sports, etc., to the same extent as non-identified peers."

g. Transportation was required for the distance of the route to and from school because, "Transportation is needed for [the Student] to attend the [P]rogram that is not offered at [their] neighborhood school."

h. In the documentation of "Need for Special Transportation," it was noted the Student "needs transportation to attend the [P]rogram at [the School]. This program is only offered at [the School] and is not offered at [the Student's] neighborhood school."

i. An included BIP listed strengths/interests, target behaviors, function of target behaviors, goals/expected outcomes, and interventions with replacement behaviors and reactions.

j. A staffing summary from the September 10, 2025 IEP meeting reported, "[The Parent] is pleased with how [the Student] has been doing [at the School] and … is content with all services and accommodations."

7. A January 5, 2026 IEP amendment to the September 10, 2025 IEP included relevant new information as follows:

   a. "[The Student] will have ELA, science, and social studies in the general education setting with special education support. All other services will remain the same."

8. In a March 17, 2026 email to the Case Manager, the Parent stated the Student could not stay in the School and the family was planning on moving to a different city. The Parent indicated they did not "want to fight the district anymore. [The Student] needs consistency. … We just can't stay where we are anymore. Also, how will [the Student's] IEP work without [the Program]?"

9. On May 13, 2026, the Parent filed this Complaint.

10. In a May 18, 2026 email to the Special Education Director, the Former Special Education Director stated they spoke with the Parent about the changes in the Program and the Former Special Education Director's "email on March 12[,] [2025] indicated it was a long conversation because [the Parent] wanted to discuss ABA concerns during the phone call." The Former Special Education Director recalled the phone call being on or around March 12, 2025.

11. In a May 19, 2026 email to the Superintendent, the Previous School Principal indicated they spoke with the cheerleading coach at the Previous School, who had not had correspondence with the Student or the Parent during the spring of 2025, which was when cheer tryouts would have been for the 2025-26 school year. The Previous School Principal also clarified, "Being enrolled in [the Program] would NOT have impacted [the Student's] ability to try out and participate."

Parent Interview

12. In an interview with the Complaint Investigator, the Parent confirmed the Student transferred from the Previous School to the School due to the LEA moving their special education program. The Parent recalled emailing the Former Special

Education Director in March 2025 about the Program, and in their reply, the Former Special Education Director informed the Parent about the change of location. The Parent stated they never received a formal letter from the LEA regarding the move. They said, "I had no correspondence at all. … There was no email. There wasn't a call. I found out … because I reached out." The Parent shared, after they were informed of the move, they contacted the Former Program Teacher. The Former Program Teacher confirmed the relocation and stated the Case Manager would be the new teacher.

13. The Parent stated the lack of notification about the move affected the Student's ability to participate in cheerleading because the School had their tryouts before the Parent learned the Program was moving. Therefore, the Student did not get the same tryout experience as their peers. The Parent described not being able to participate in the official cheerleading tryouts as "a big thing" for the Student. The Parent acknowledged the School accommodated the Student by letting them try out after the official tryouts had passed. However, the Parent described the Student as "singled out. It was just [the Student] in [their] tryout as opposed to everybody in the group." They stated this negatively affected the Student because they "didn't have a room full of [other students] to sit there and watch various people to be able to do the tryout properly."
14. The Parent reported supplementary aids or services for the Student for extracurricular activities were never discussed by the IEP team. The Parent did not request accommodations for cheerleading for the Student because "I did not want [the Student] to be treated differently by the other children." The Parent stated the Student participated in wrestling at the School for three practices during the 2025-26 school year. The Parent explained a transportation issue occurred, and the Student decided they did not want to continue with the wrestling program.
15. The Parent stated the Student did not participate in cheerleading during sixth grade at the Previous School or during seventh grade at the School. They indicated the Student took a total of four private lessons.

Cheer Coach Interview

16. In an interview with the Complaint Investigator, the Cheer Coach confirmed they accommodated the Student trying out after the official cheerleading tryouts due to the relocation of the Program. They explained cheerleading tryouts for the next school year took place in spring of the previous school year.
17. Regarding requirements for joining the cheer squad, the Cheer Coach explained each student who tried out received a score. Half the score was the tryout routine, the other half was based on "grades, attendance, behavior and teacher evaluations." The Cheer Coach indicated the Student's evaluation score was "significantly lower" than the students who passed tryouts that year.
18. The Cheer Coach stated the Parent and the Student arrived on the agreed upon date and time for a tryout practice. The Cheer Coach said the Parent did not have

any questions about the cheerleading program at the time. They reported the Parent sat with them and watched the Student work with another cheerleader on learning the try-out routines.

19. Regarding accommodations, the Cheer Coach reported they "have several girls on our cheer team that had IEPs. However, those didn't really apply to the process of trying out for cheer. You would still have to learn the same cheers, chants, jumps, motions, all of those kind[s] of things."

20. In an additional statement, the Cheer Coach explained the Student was given more time with practice routine videos than was typical, and received one-on-one instruction from an experienced cheerleader. On the day of their tryout practice, the Student "did not want to put in any effort" and "did not show much interest in even trying." The Cheer Coach indicated the Student admitted to not watching the routine videos prior to the practice. They suggested to the Parent "it might be best if [the Student] worked on [their] confidence by participating in other sports or activities [their] 7th grade year and then trying out to cheer [their] 8th grade year." The Cheer Coach reported the Parent did not raise any concerns at the time, and the Student did not return the next day for their official tryout. They stated they would have given the Student more time if asked.

Assistant Cheer Coach Interview

21. In an interview with the Complaint Investigator, the Assistant Cheer Coach stated they did not have direct contact with the Parent or the Student. They explained that because they worked at the Previous School, the Cheer Coach asked them to get evaluations from the Student's teachers, and they reported those evaluations back to the Cheer Coach. The Assistant Cheer Coach described the evaluations as ten questions with a scoring rubric of a possible total score of 50. They stated the Student scored an average of 21.

Athletic Director Interview

22. In an interview with the Complaint Investigator, the Athletic Director stated they did not have direct contact with the Parent or the Student regarding cheerleading tryouts. They reported, as far as they were aware, the Student received the same opportunity to try out for cheerleading as other students, other than the timing of their tryout. The Athletic Director indicated they had the same forms on file regarding cheerleading for the Student as other students who tried out. They confirmed tryouts typically happened in the spring prior to the start of the next school year. The Athletic Director was not aware of any requests for accommodation for cheerleading from the Parent or the Student.

Previous School Principal Interview

23. In an interview with the Complaint Investigator, the Previous School Principal explained why the Program changed locations. They shared, "we had conversations at the district level in regards to some equity [between schools] ... so that [the

Previous School] would have three special programs and [the School] would have two special programs." The Principal indicated the LEA administration agreed to contact parents regarding the move. They stated, "We had no conversation with the parents. That was taken on by the district administrator."

24. The Previous School Principal stated the Parent did not contact them about the relocation.
25. The Previous School Principal reported they asked the cheer coach at the Previous School if the Parent or Student had contacted them about cheerleading. According to the Previous School Principal, the cheer coach at the Previous School said the names of both the Parent and the Student were unfamiliar.

Special Education Director Interview

26. In an interview with the Complaint Investigator, the Special Education Director explained the Program was for "students who need extra support and instruction around social skills, behavior management." They stated it was considered a more restrictive placement.
27. The Special Education Director confirmed the Former Special Education Director spoke with the Parent in March 2025 about the Program relocating. The Special Education Director indicated the Parent did not express any concerns at the time. They stated the Parent had not relayed any concerns to them in the 2025-26 school year.
28. The Special Education Director reported the change in location from the Previous School to the School did not change the Student's special education placement. They stated the Student's services and time with non-disabled peers remained the same.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #261, in accordance with state and federal regulations implementing the IDEA, changed the Student's placement when the special education program changed locations. K.A.R. 91-40-21(c)(d); 34 CFR §§ 300.501(c), 300.116.

According to K.A.R. 91-40-21(c)(d) and 34 CFR § 300.501(c), in determining the educational placement of a child with a disability each agency shall ensure the placement decision meets the following requirements: the decision shall be made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options, and in conformity with the requirement of providing services in the LRE.

Each agency shall give notice to the parents of any meeting to discuss the educational placement of their child. The notice shall meet the requirements of K.A.R. 91-40-17. If a parent cannot participate in person at a meeting relating to the educational placement of the child,

the agency shall offer to use other methods to allow the parent to participate, including conference calls and video conferencing. An agency may conduct a meeting to determine the appropriate educational placement of a child with a disability without participation of a parent if the agency, despite repeated attempts, has been unable to contact the parent or to convince the parent to participate. If an agency conducts a meeting to determine the appropriate educational placement of a child without the participation of a parent, the agency shall have a record, as prescribed in K.A.R. 91-40-17(e)(2), of the attempts that the agency made to contact the parent. An agency shall take action to ensure that parents understand, and are able to participate in, any discussions concerning the educational placement of their children, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

According to 34 CFR § 300.116, the child's placement is determined at least annually, is based on the child's IEP, and is as close as possible to the child's home. Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled. In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs, and a child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

The Parent alleged they were not told the Student needed to move schools until after it happened.

The LEA noted that while the location of the Student's program changed, the educational placement (restrictiveness, structure and supports available in the classroom) did not change.

In this case, the LEA informed the Parent of the change of location through a phone call with the Former Special Education Director in March 2025, and the Parent did not voice concerns to the LEA until July 2025. The Parent did not reach out to building or special education staff and no IEP meetings were held in that four month time frame. The evidence contained no response from the LEA addressing the Parent's disagreement with the relocation. The 2025-26 school year began in August 2025, so the Parent had ample time to request further accommodations or review placement.

Additionally, a change in location is not automatically considered a change in placement. According to Murray v. Montrose County School Dist., 51 F. 3d 921 - Court of Appeals, 10th Circuit 1995, the IDEA states that a disabled child should be educated in the school he or she would attend if not disabled, unless the child's IEP requires placement elsewhere. It does not further specify where, within an LEA, that inclusion shall take place. In Erickson v. Albuquerque Public Schools, 199 F. 3d 1116 - Court of Appeals, 10th Circuit 1999, the Court held, "An educational placement is changed when a fundamental change in, or elimination of, a basic element of the educational program has occurred." The Special Education Director confirmed

the Student's special education placement within the Program remained the same when the physical location of the Program changed.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA changed the Student's placement when the special education program changed locations.

Issue Two

Whether USD #261, in accordance with state and federal regulations implementing the IDEA, allowed the Student to participate in extracurricular activities, specifically cheerleading, to the same extent as their general education peers. K.A.R. 91-40-1(ttt); 34 CFR § 300.42.

According to K.A.R. 91-40-1(ttt) and 34 CFR § 300.42, "supplementary aids and services" means aids, services, and other supports that are provided in regular education classes, other education-related settings, and extracurricular and nonacademic settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

The Parent alleged the Student was told to "wait until next year" for cheer tryouts, after issues arose from missing the initial tryout and scheduling a secondary tryout.

The LEA indicated having an IEP, including being in the PBS classroom, did not prevent the Student from trying out nor did it prevent them from participating in cheer.

According to the evidence, the activities surrounding cheerleading tryouts took place outside of the one-year look back period for special education complaints. However, evidence indicated the Student participated in after-school sports during the 2025-26 school year. No accommodations or services related to extracurricular activities were written into the IEP, and the evidence showed no accommodations or services for extracurricular activities were requested.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to allow the Student to participate in extracurricular activities, specifically cheerleading, to the same extent as their general education peers.

Corrective Action

Information gathered in the course of this investigation did not substantiate noncompliance with special education statutes and regulations. Therefore, no corrective action is ordered.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 261
Haysville Public Schools: 26FC261-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on May 13, 2026, by ------- on behalf of her child, -------. In the remainder of this decision, ------- will be referred to as "the parent," and ------- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on June 12, 2026. That Complaint Report did not substantiate noncompliance with special education statutes and regulations.

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified two issues. This appeal involves only Issue Two:

Issue Two

Whether USD #261, in accordance with state and federal regulations implementing the IDEA, allowed the Student to participate in extracurricular activities, specifically cheerleading, to the same extent as their general education peers.

This complaint involves a student who was transferred by the school district from one middle school in the district to another middle school in the same district (Report, p. 3). The cheerleading tryouts for the new school were held on March 4 through March 7, 2025 at the new school but were extended to March 12, 2025 at the previous school (Report, p.3). For some reason not fully explained in the report, the parent believed this transfer negatively impacted the student's opportunity to try out for cheerleading at the new location, in violation of 34 C.F.R. 300.107, which requires that children with disabilities have an equal opportunity to participate in extracurricular activities. However, the evidence shows that the new school permitted the student to try out for cheerleading after the tryout timeline had passed, as the parent acknowledged to the investigator (Report, Finding 13, p. 8).

The Cheer Coach described the student's performance as follows:

> *the Student was given more time with practice routine videos than was typical, and received one-on-one instruction from an experienced cheerleader. On the day of their tryout practice, the Student "did not want to put in any effort" and "did not show much interest in even trying." The Cheer Coach indicated the Student admitted to not watching the routine videos prior to the practice. They suggested to the Parent "it might be best if [the Student] worked on [their] confidence by participating in other sports or activities [their] 7th grade year and then trying out to cheer [their] 8th grade year." The Cheer Coach reported the Parent did not raise any concerns at the time, and the Student did not return the next day for their official tryout. They stated they would have given the Student more time if asked. (See report, Finding 20, p. 9-10).*

On that same page, the investigator noted that, "*the Student participated in after-school sports during the 2025-26 school year. No accommodations or services related to extracurricular activities were written into the IEP, and the evidence showed no accommodations or services for extracurricular activities were requested.*"

The Appeal Committee makes no judgement as to the actions of school personnel, the parent or the student because such judgement is not necessary to resolve this appeal. This allegation is based on events that took place in March of 2025. This complaint was filed on May 13, 2026, well beyond the one-year filing requirement, as noted in the report on page 14 and as required by federal and state law. Both 34 C.F.R. 300.153 and K.A.R. 91-40-51(f) require that a complaint allege a violation of law that occurred not more than one year before the date the complaint is received.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 9th day of July, 2025.

Appeal Committee

Melissa Valenza

Brian Dempsey

Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #415
ON MAY 13, 2026

DATE OF REPORT: JUNE 11, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by a complainant, -------. In the remainder of the report, the student will be referred to as "the Student" and the complainant as "the Complainant."

The Complaint is against USD #415 Hiawatha Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #415.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 13, 2026 and the 30-day timeline ended on June 12, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #415, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), followed child find protocols prior to creating the Student's October 2025 Individual Education program (IEP). K.A.R. 91-40-7(a)(b)(2-3)(c); 34 C.F.R. § 300.111(a)(c).

ISSUE TWO: Whether USD #415, in accordance with state and federal regulations implementing the IDEA, developed an IEP that addressed the Student's behavior issues and diagnoses of Intermittent Explosive Disorder (IED), Attention-deficit Hyperactivity Disorder (ADHD), and Oppositional Defiant Disorder (ODD). K.A.R. 91-40-1(gg), K.A.R. 91-40-18(a)(b)(c); K.S.A. 72-3429(c)(4)(d)(1-4)(e)(1); 34 C.F.R. §§ 300.320(a)(4)(b)(d), 300.324(a)(1)(2)(i).

ISSUE THREE: Whether USD #415, in accordance with state and federal regulations implementing the IDEA, ensured the Student's teachers had access to the IEP. Further,

whether the IEP accommodation of allowing the Student time to process was followed. K.A.R. 91-40-16(b); 34 C.F.R. § 300.323(a)(c)(2)(d).

ISSUE FOUR: Whether USD #415, in accordance with state and federal regulations implementing the IDEA, conducted a comprehensive evaluation of the Student. K.S.A. 72-3428(a)(1-3)(b)(c); 34 C.F.R. §§ 300.301(a)(c)(2), 300.304(b)(c)(1-4)(6-7).

Investigation of Complaint

The Complaint Investigator interviewed the Complainant on June 1, 2026. The Principal, accompanied by the Special Education Director, was interviewed on June 2, 2026. The Special Education Director submitted written responses to additional questions on June 3, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the LEA. The Complainant did not provide any

materials to be reviewed. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Program (adopted), 10/07/24, and 10/06/25
2. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 09/23/25
3. Teacher Information Page, 10/06/25
4. IEP Amendment Form for Changes not Requiring a Full IEP Team Meeting, 04/14/26
5. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 04/14/26
6. Progress Report, 2025-26 School Year
7. Team Meeting Record, 04/13/26
8. Student Transcript, no date
9. Manifestation Determination Review, 01/29/26
10. Attendance Overview, 2025-26 School Year
11. Discipline Log Entries, 04/26/24-01/28/26
12. Email, re: Additional Questions: KSDE 26FC415-001, 06/03/26

Background Information

This Investigation involved a rising 11th-grade student enrolled at a high school in USD #415. The Student's primary exceptionality was Other Health Impairment (OHI), and they are currently receiving special education or related services as a child with a disability per the IDEA.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant and staff in the LEA.

1. An IEP, dated October 7, 2024, with the handwritten word "adopted," included:
   a. Relevant transition services:
      i. Present levels: "[The Student] has a goal for behavior in the Social-emotional area. [The Student] is capable of doing Grade-level work but is hindered by motivation to complete [their] assignments."
      ii. Activities and strategies: "[The Student] needs to use the plan for self-regulation in [their] general education classes to limit [their] disruptions and lessen the times [the Student] is off[-]task while meeting [the Student's] Social-emotional goal," from the present to graduation, provided by the Student, Parent, special and regular education staff, and the counselor.
   b. Relevant Present Levels of Academic and Functional Performance (PLAFP):
      i. The Student experienced needs in the social-emotional area that required special education and related services, but did not have behaviors that impeded the learning of others or themself.
      ii. Strengths: The Student was pleasant, had a few good friendships, and communicated appropriately with peers and adults.
      iii. Needs: The Student was diagnosed with Attention-deficit Hyperactivity Disorder (ADHD), Post-traumatic Stress Disorder (PTSD), and Intermittent Explosive Disorder (IED). The Complainant reported the Student needed structure in their day and time to respond with communication or action following a direction or request. The Complainant indicated the Student shut down the longer someone attempted to explain the reasoning behind a request.
      iv. Current Performance: The Student struggled with focusing during school due to classroom distractions and was "currently experiencing a few moments of shutdown." The Student's needs would be met by general education supports, accommodations, modifications, and supplementary aids and supports, supports for school personnel, assistive technology, and a behavior plan.
   c. Goal: "By the end of the IEP year, [the Student] will use self[-]regulating/anxiety reducing strategies without prompting in 5 out of 5 corrective behavior events as recorded by observation."
      i. Baseline: "The Student has had a few instances of shutting down in classes this year. [The Student] is approximately working around 80%. Evaluation procedures included classroom observations, and the responsible provider listed both general and special education.
   d. Complainant input: The Complainant indicated the Student would shut down if they were pushed too much, and the Student "does better with direct conversation and expectations."
   e. Special Education and Related Services:
      i. Pull out services in the [instructional resource center] IRC for three days a week every week; one day, for 46 minutes, and for two days, 80 minutes, from October 7, 2024 through May 21, 2025.

ii. Pull out services in the IRC for three days a week every week; one day, for 46 minutes, and for two days, 80 minutes, from August 14, 2025 through October 6, 2025.

iii. Inclusion, in the regular education classroom, five days a week, for 60 minutes per day, from October 7, 2024 through May 21, 2025.

iv. Inclusion in the regular education classroom, five days a week, for 60 minutes per day, from August 14, 2025 through October 6, 2025.

v. Accommodations/Modifications/Supplementary Aids and Support included:

1) Breaks for self-regulation as needed when dysregulated, inside or directly outside the classroom, not to exceed five minutes per class period, from October 7, 2024 through October 6, 2025.

2) Quiet and separate space for regulation as needed for a safe space to de-escalate, in the general and special education classrooms, until the behavior is regulated from October 7, 2024 through October 6, 2025.

3) Allow a response time for communication or action after making a corrective behavior request, as needed per the corrective behavior, without giving a lengthy explanation. State the request and allow time for the response either by communication or action in all school settings for the length of the corrective behavior or communication from October 7, 2024 through October 6, 2025.

vi. A Team Meeting Record from the IEP meeting on October 7, 2024 indicated the Complainant shared, they do not "see many behaviors at home. [The Complainant] also said if [the Student] gets pushed too much that [the Student will shut down."

vii. A Progress Report for the 2024-25 school year included progress from May 9, 2025:

1) Comments: "[The Student] has had a rough last quarter in school, specifically ELA. [The Student] has caused many disruptions in that class and has been asked to leave on several occasions. We had met to restructure [the Student's] behavior plan, but [the Student] has still had issues and is not always taking advantage of [their] break and recovery time for self-regulation."

(a) Score of "4" (slight regression) based on referrals.

2. An IEP, dated October 6, 2025, with the handwritten word "adopted" included:

a. The PLAFP indicated the Student experienced needs in the social-emotional area that required special education and related services, but did not have behaviors that impeded the learning of others or themself.

b. Goal: "Given the appropriate situation … [the Student] will use self[-]regulating/anxiety reducing strategies without prompting in 5 out of 5 corrective behavior events as recorded by observation over 36 weeks."

i. Baseline: The Student experienced a few instances of shutting down and was "approximately working around 70%. The Student has been removed from [their] Accounting class to do it online and will have the opportunity to use more self-regulation in this setting."

ii. Evaluation procedures: Observations; provider responsible: special education.

c. Special Education and Related Services:

i. Pull out services in the IRC, with a frequency of five days over a two week period, for 82 minutes three days a week and 82 minutes times two days the alternating weeks, from October 6, 2025 through May 21, 2026.

ii. Inclusion services in general education classrooms, five days per week, 60 minutes per day (two class periods one day and two class periods on alternating days), from October 6, 2025 through May 21, 2026.

iii. Pullout services in the IRC, with a frequency of five days over a two week period, for 82 minutes one week and 82 minutes times two days the following week, from August 13, 2026 through October 5, 2026.

iv. Inclusion services in general education classrooms, five days per week, 60 minutes per day (two class periods one day and two class periods on alternating days), from August 13, 2026 through October 5, 2026.

d. Accommodations/Modifications/Supplementary Aids and Support:

i. Breaks for self-regulation as needed when dysregulated, inside or outside the classroom, not to exceed five minutes during a class period, from October 6, 2025 through October 5, 2026.

ii. A quiet and separate setting for regulation, as needed for a safe space to de-escalate, in the general and special education classrooms, until behavior is regulated, from October 6, 2025 through October 5, 2026.

iii. Allow a response time for communication or action after making a corrective behavior request, as needed per the corrective behavior. Do not give a lengthy reason, state the request and allow time for the response either by communication or action, in the general and special education classrooms, for the length of the corrective behavior or communication from October 6, 2025 through October 5, 2026.

e. A Team Meeting Record from the IEP meeting on October 6, 2025 indicated the Student "tends to shut down when frustrated, it is suggested [the Student] is given space during this time to calm down."

3. PWN for an eligibility, services, and placement meeting dated October 6, 2025 included:

a. The Student was eligible for special education under OHI.

b. Proposal: "Beginning 10/6/25, and continuing throughout the duration of the IEP, [the Student] will be in [the] IRC for 1 of [their] 8 block classes for study skills[.] This class will last 82 minutes and meet every other day due to block scheduling (82 minutes X 3 days one week and 82 minutes X 2 days on alternating weeks. In addition, [the Student] will have inclusion services in 4 of [their] 8 block classes. These classes will last 82 minutes and meet every other day due to block scheduling. However[,] [the Student] will only receive 30 minutes per class of inclusion services. Since 2 classes are on each day for the block schedule, [the Student] will receive 60 minutes of service each day of the week. (60 minutes X 5 days every week)."

c. An explanation, options, and a description of data was used as the basis for the proposal.

d. The Teacher Information Page described the anticipated services to be provided and indicated an "N" (no) for "Has Behavior Intervention Plan."

4. A Progress Report for the 2025-26 school year included:

a. October 24, 2025: "[The Student] has had a few moments in classes where [the Student] has had to self-regulate and [is] not always successful at [it]. [The Student] has been sent to the office on at least 1 occasion. [The Student] has done very well overall, but has the times where [the Student] falls back into the trap of poor behavior." The Student received a score of "5" (maintained performance).

b. December 17, 2025: "[The Student] has made strides to be a better behaved student. [The Student] has not been sent to the office as much this semester as in the past. [The Student] has met the teacher[']s requests with minimal resistance." The Student received a score of "6" (slight improvement).

c. April 2, 2026: "[The Student] is in long[-]term suspension and completing [their] work online." The Student received a score of "4" (slight regression). "Behaviors" were listed as data points.

d. May 8, 2026: "[The Student] is in long-term suspension and is completing [their] work online. [The Student] is keeping up with [their] work except for Civics. Hopefully, [the Student] will complete [their] classes before the 21st." The Student received a score of "5" maintained performance. "Grades" were listed as data points.

5. A Manifestation Determination Review (MDR) dated January 29, 2026 indicated:

a. During Advisory, the Substitute directed the Student to monitor their language because the "F-Word" was being used repeatedly. The Student responded with "Fuck you!" and "I'll beat your ass. Your [sic] dumbass retarded!" The Substitute described their own tone as "relaxed" and suggested the Student pack their things and head to the office. They described the Student as packing "slowly" and the Substitute suggested they "pick up the pace." In response, the Student responded, "You better hope I don't catch you in the hallway bruh" and pointed a finger at the Substitute to make a gun gesture, to which the Substitute responded with another directive.

b. The Complainant stated, "[The Student] will shut down the longer a person continues to try to explain the reasoning behind the direction or request when [sic] regards to corrective behavior."

c. A handwritten note indicated the general education teachers reported, "when confronted, [the Student] will fire back."

d. The Complainant listed the Student's diagnoses.

e. Whether the conduct in question was caused by, or had a direct and substantial relationship to the Student's disability indicated a marked box of "No."

f. Whether the conduct was a result of the School's failure to implement the IEP indicated a marked box of "No."

   g. The determination indicated a marked box of "IS NOT a manifestation of the disability" with two marked boxes below:
      i. "Disciplinary removal may occur … ."
      ii. "… the school will conduct a functional behavioral assessment and develop a behavior intervention plan to address the behavior violation so that it does not recur.

6. An April 14, 2026 IEP Amendment Form included:
   a. Changes: "[The Student] is serving a long[-]term suspension. [They] will continue their education at a different location. Beginning 04/14/2026, [the Student] will receive Special Ed[ucation] services for 40 minutes per day, 1 day per week, every week while school is in session off campus."
   b. A statement saying, "We agree to amend this student's IEP as described above, and we do not wish to convene an IEP meeting" was signed by the Complainant on April 14, 2026.
7. An April 13, 2026 Team Meeting Record indicated the team met to analyze educational options for the Student:
   a. "[The Student] will be signed out of special education. Then, an education plan will be discussed with [the School] administration."
   b. "[The Student] will complete [their] sophomore year online. [The Student] will continue as a virtual student for [their] junior year. At the end of each semester, progress will be evaluated to determine if [the Student] continues virtually or not."
   c. "[The Student] will complete [their] sophomore year online. [The Student] will return to in[-]person classes for [their] junior year."
   d. Notes indicated, "[The Complainant] would like a behavior plan with no backdating." Additionally, the Complainant requested "full testing." Notes indicated the Special Education Teacher would contact the School Psychologist and testing would be completed at the public library.
   e. In a June 3, 2026 written response, the Special Education Director clarified the team discussed three options for the Student's return for the 2026–27 school year. One option, to be "signed out," meant "[the Complainant] would revoke special education services." They further clarified no one had revoked special education services for the Student.
8. Prior Written Notice, dated April 14, 2026, included:
   a. The LEA proposed a reevaluation to include assessment of social/emotional behavioral development, and may include a functional behavioral assessment (FBA) or evaluation to determine appropriate positive behavioral supports. Academic skills may also be assessed. The Complainant acknowledged consent by signing the notice on April 14, 2026.
9. PWN, incorrectly dated September 23, 2025 (should have been dated April 14, 2026), included:

a. According to the PWN, the IEP team met on October 6, 2025 to discuss any additions or changes to the Student's special education or related services and proposed a material change in services and a substantial change in placement.
b. The explanation indicated "due to long[-]term suspension, the team considered different options to provide services for [the Student]. The decision was to provide services for 40 minutes per day, 1 day per week, every week while school was in session at [their] home."
c. The Complainant signed the form giving consent on April 14, 2026.
d. In a June 3, 2026 written response, the Special Education Director confirmed a clerical mistake and stated the date on the PWN should be dated April 14, 2026.

10. Transcripts for the 2025-26 school year for the Student indicated redacted comments and the following relevant information:
    a. First Semester:
        i. Advisory: No grade.
        ii. American Sign Language: A, competency-based.
        iii. Art History: No grade, competency-based.
        iv. Biology B: No grade, competency-based.
        v. English II: A.
        vi. Geometry: A.
        vii. Physical Conditioning: No grade.
        viii. World Cultural History: A.
    b. Second Semester:
        i. Advisory: No grade.
        ii. Art I: No grade.
        iii. Civics and Government: No grade, competency-based.
        iv. Biology I: A.
        v. English II B: No grade, competency-based.
        vi. Geometry B: No grade, competency-based.
        vii. Study Skills: A.
        viii. World History B: No grade, competency-based.
    c. Total units earned: 17; GPA: 2.4615.
11. Attendance records for the 2025-26 school year indicated the Student was absent for the following reasons:
    a. One out-of-school suspension, August 21, 2025.
    b. Seven illness-related absences.
    c. Ten unexcused tardies.
    d. Three unexcused absences.
    e. The attendance record did not include the long-term out-of-school suspension (OSS).

12. Discipline logs for the Student during the Complaint period indicated:
    a. March 11, 2025: "Disrespect" when the Student did not comply with a directive.
    b. March 13, 2025: The Student was "Disrespectful/Disruptive" to a class.
    c. April 16, 2025: The Student was "Disrespectful/Not following rules" during a hockey activity.
    d. August 21, 2025: The Student was marked as "Disrespect/language" when they used a derogatory term towards another student.
    e. October 21, 2025: The Student stole a breakfast bag and did not pay or stay in line.
    f. January 28, 2026: A "Threat to staff" stated the Student used "inappropriate language."
13. On May 13, 2026, the Complainant filed this complaint.
14. In an email, dated June 1, 2026, the Special Education Director clarified the Substitute was a "regular teacher who was asked to cover one fifty-minute advisory period." Additionally, they explained that to not violate the Family Education Rights and Privacy Act (FERPA), "… temporary substitutes are not given access to IEPs. Teachers and other personnel who regularly work with a student and who would need to know about accommodations and modifications are provided a sheet of these and the teacher who monitors the IEP talks through those … ."

Complainant Interview

15. In an interview with the Complaint Investigator, the Complainant explained the Substitute did not have access to or knowledge of the Student's IEP. The Complainant reported that during an incident in January [2026], the Substitute directed the Student to stop talking loudly but failed to implement the accommodation of providing processing time, and instead continued to press the Student. According to the Complainant, this lack of processing time escalated the situation, resulting in the Student "supposedly" making a gun gesture which resulted in law enforcement involvement. The Complainant maintained the classroom confrontation and subsequent legal charges could have been prevented had the Substitute been informed of and followed the IEP. Note: For the purpose of this report, the title "Substitute" is attributed to the teacher who "covered" a class period in January 2026 in which the Student had a behavior incident.
16. The Complainant shared they had ongoing concerns regarding the Student's behaviors rather than academic difficulties, which aligned with the Student's diagnoses. They explained they became aware a behavior plan was not in place mid-school year, "when [the Student] got in all this trouble." Furthermore, they shared staff at the School had suggested a behavior plan along with the accommodations in place for when the Student "shuts down" or has an "outburst."
17. The Complainant clarified they initially requested an IEP during the Student's eighth-grade year, and stated, "[The Student] already supposedly had it for this year." Additionally, they added they felt that a behavior plan or the implementation of the IEP would have prevented the trouble the Student was in.

18. When asked about a comprehensive behavior evaluation, the Complainant confirmed one was completed after the incident and stated the results focused on "big ideas" to support the Student's success for the next school year.

Principal Interview

19. In an interview with the Complaint Investigator, the Principal confirmed the Substitute was a teacher within the School and served as a short-term substitute, covering the Student's class for the day. They explained that a short-term substitute was only notified of a student's IEP via roster markings or verbal communication to maintain student confidentiality. Furthermore, they shared specific accommodations and modifications were not automatically distributed to short-term substitutes unless they proactively reached out to the case manager with questions.
20. The Principal explained general education teachers were made aware of students with IEPs at the start of the year with a snapshot summary. The Special Education Director added that special education teachers review the summary with teachers to ensure understanding. Teachers were able to view an icon in the student information system (SIS) to identify if a student had an IEP. Additionally, they were able to ask case managers directly about students with IEPs.
21. When asked about the Substitute being informed of the Student's accommodations and modifications, the Principal stated, "[The Substitute] wouldn't have been unless [they] had questions about [the Student]."
22. The Principal explained the Student did not have a behavior intervention plan (BIP) and the Student's accommodations through the IEP had addressed their behavior. They described the Student's behavior over the course of the school year as "very good" and noted the Student had one other recorded disciplinary action, with a total of two for the year. The Principal shared no FBA was completed and there was no BIP within the Student's IEP.
23. When asked about the Student's behavior during the 2024-25 school year, the Principal recalled the Student had experienced increased behavioral challenges during the final quarter, specifically within their ELA class. The Principal described the Student's difficulties as disrespect, failure to complete schoolwork, and issues with inappropriate language. The Special Education Director shared the team met to remind the Student to take advantage of their accommodation of a break and recovery time.
24. The Principal described the response time accommodation as being, "I need you to get to work. Then you just walk away and let [the Student] have that time to process and do what was requested of [them]."
25. When asked about the Student's IEP being implemented during the long-term suspension, the Principal stated, "There is [sic] no academic goals or academic concerns or modifications for [the Student]." The Special Education Director added, "There's no specially designed instruction and really the goal is, is [the Student] following it or not on making [themself] leave the room? So there's no really specially designed instruction. There is [sic] no true goals, annual goals."
26. The Principal shared the Student was on track to graduate.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #415, in accordance with state and federal regulations implementing the IDEA, followed child find protocols prior to creating the Student's October 2025 IEP. K.A.R. 91-40-7(a)(b)(2-3)(c); 34 C.F.R. § 300.111(a)(c).

According to K.A.R. 91-40-7(a)(b)(2-3)(c) and 34 C.F.R. § 300.111(a)(c), each board shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction, including children with exceptionalities who attend private schools, are highly mobile, including migrant and homeless children, or are suspected of being children with disabilities even though they are advancing from grade to grade.

Each board's policies and procedures under this regulation shall include age-appropriate screening procedures that meet the following requirements:

for children from ages five through 21, observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening as required by state law, and implementation of procedures ensuring the early identification and assessment of disabilities in children.

Any board may refer a child who is enrolled in public school for an evaluation if one of the following conditions is met: School personnel have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child. Furthermore, School personnel have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met: the child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel; the child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction; the assessment results were provided to the

child's parent or parents; and the assessment results indicate that an evaluation is appropriate. Finally, the parent of the child requests and gives written consent for an evaluation of the child, and the board agrees that an evaluation of the child is appropriate.

The Parent alleged that, despite the Student having a history of behavior problems, an IEP was not created until October 2025.

The LEA noted the Student had been on an IEP for several years, making the Complainant's allegation regarding Child Find unclear. The LEA utilized a Student Intervention Team (SIT) process to identify and monitor students who may require additional support.

The record indicated a finalized IEP for the Student in October 2024, establishing special education eligibility under OHI. At the annual IEP in October 2025, the LEA adjusted service delivery times while maintaining the same accommodations.

Based on the foregoing, according to the IDEA and Kansas special education regulations*, it is not substantiated* the LEA failed to complete its Child Find obligations.

Issue Two

Whether USD #415, in accordance with state and federal regulations implementing the IDEA, developed an IEP that addressed the Student's behavior issues and diagnoses of IED, ADHD and ODD. K.A.R. 91-40-1(gg), K.AR 91-40-18(a)(b)(c); K.S.A. 72-3429(c)(4)(d)(1-4)(e)(1); 34 C.F.R. §§ 300.320(a)(4)(b)(d), 300.324(a)(1)(2)(i).

According to K.A.R. 91-40-1(gg), "Individualized education program" and "IEP" mean a written statement for each exceptional child that meets the requirements of the law and amendments and describes the unique educational needs of the child and the manner in which those needs are to be met, and is developed, reviewed, and revised in accordance with applicable laws and regulations. According to K.A.R. 91-40-18(a)(b)(c), in developing or reviewing the IEP of any exceptional child, each agency shall comply with the requirements of the law and, as appropriate, consider the results of the child's performance on any general state or districtwide assessment programs. If, as a result of its consideration of the special factors described in the law, an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive a FAPE, the IEP team shall include those items in the child's IEP. Each agency shall ensure that the IEP of each exceptional child includes the information required by law.

According to K.S.A. 72-3429(c)(4)(d)(1-4)(e)(1) and 34 C.F.R. § 300.320(a)(4)(b)(d), and 34 C.F.R. § 300.324(a)(1)(2)(i) the IEP for each exceptional child shall include a statement of the special education and related services and supplementary aids, based on peer-reviewed research to the extent practicable, and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum in accordance with provision, to participate in extracurricular and other nonacademic activities; and to be educated and participate with other exceptional and nonexceptional children in the activities described in the law. In developing each child's IEP, the IEP team shall consider the strengths of the child and the concerns of the parents for enhancing the education of their child, the results of the initial evaluation or most recent evaluation of the child, and the academic, developmental, and functional needs of the child. In the case of a child whose behavior impedes the child's learning or that of others, the use of positive behavioral interventions, supports, and other strategies to address that behavior.

The regular education teacher of the child, as a member of the IEP team, to the extent appropriate, shall participate in the development of the IEP of the child, including the

determination of appropriate positive behavioral interventions supports and other strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with this section. Additionally, 34 C.F.R. § 300.320(b) indicates that beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills. The transition services (including courses of study) that are needed to assist the child in reaching the goals.

The Parent alleged the Student's IEP did not contain a behavior plan, despite the Student's behavioral issues and diagnoses of IED, ADHD, and ODD.

The LEA stated because formal diagnoses from qualified professionals were incorporated directly into the IEP, the LEA determined that additional behavioral assessments were unnecessary. The IEP accommodations and modifications served as the Student's behavior plan.

Under the standard established in Endrew F. ex rel. Endrew F. v. Douglas County School District RE–1, 580 U.S. 386 (2017), a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. Furthermore, according to Kansas law, an IEP must accurately reflect the child's unique needs and explicitly address whether the student's behavior impedes learning. Finally, according to 34 C.F.R. 300.320(d), nothing in this section shall be constructed to require additional information be included in a child's IEP beyond what is explicitly required in section 614 of the act or the IEP team to include information under one component of the child's IEP that is already contained under another component of the child's IEP.

The October 6, 2025 IEP addressed the Student's behaviors related to their diagnoses of IED, ADHD, and ODD using accommodations instead of a BIP, with self-regulation breaks and processing time. Under this plan, the Student was expected to meet their sole behavior goal, "Given the appropriate situation … [the Student] will use self[-]regulating/anxiety[-]-reducing strategies without prompting in 5 out of 5 corrective behavior events as recorded by observation over 36 weeks." To implement this IEP, the LEA designated inclusion services in the general education classroom for 60 minutes per day, alongside pull-out services in the IRC for 82 minutes per session on an alternating block schedule (three days one week, two days the next). While behavior improved until the January 26, 2026 incident, the

MDR ruled it was not a manifestation of the Student's disability; furthermore, existing IEP goals and accommodations sufficed, making a BIP unnecessary.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** the LEA failed to develop an IEP that addressed the Student's behavior issues and diagnoses.

Issue Three

Whether USD #415, in accordance with state and federal regulations implementing the IDEA, ensured the Student's teachers had access to the IEP. Further, whether the IEP accommodation of allowing the Student time to process was followed. K.A.R. 91-40-16(b); 34 C.F.R. § 300.323(a)(c)(2)(d).

According to K.A.R. 91-40-16(b) and 34 CFR § 300.323(a)(c)(2)(d), except as otherwise provided in subsection (c), each agency shall ensure that an IEP is in effect before special education and related services are provided to an exceptional child. Those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown. An IEP is in effect for each exceptional child at the beginning of each school year. The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider is informed of their specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parent alleged that at least one of the Student's teachers did not have access to the Student's IEP. Further, the IEP was not implemented when teachers did not follow the accommodation of allowing the Student time to process.

The LEA confirmed teachers received a Teacher Information Page (TIP) form. The LEA stated the incident that resulted in the Student's suspension happened in a class with a teacher who was substituting.

Under the standard established in Van Duyn v. Baker School District 5J, 502 F.3d 811 (9th Cir. 2007), a failure to implement an IEP is only a violation if the deviation from the IEP is "material," meaning there is more than a minor discrepancy between the services provided and those required. This materiality threshold is widely supported across jurisdictions, as articulated in Beer ex rel. A.B. v. USD 512 Shawnee Mission (2023), which noted that school districts incur liability when a material failure to implement an IEP violates the IDEA. Furthermore, E.C. by W.C. and K.C. v.

U.S.D. 385 Andover (2020) emphasizes that to prevail on a claim under the IDEA, a party challenging the implementation of an IEP must show more than a de minimis failure to implement all elements of that IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP. In the absence of further guidance from the Tenth Circuit on this standard, courts proceed under this

prevailing materiality standard from its sister circuits, including the Fifth Circuit's holding in Houston Independent School District v. Bobby R. (2000).

The record indicated the October 6, 2025 IEP mandated School personnel allow the Student response and processing time following any corrective behavior requests. This accommodation was not implemented during a January 2026 advisory period when the Substitute directed the Student to monitor repeated profanity. When the Student responded with “Fuck you!” and “I’ll beat your ass,” the Substitute did not provide the required processing time to allow the Student time to process the instruction. Instead, the Substitute immediately suggested that the Student pack their things and head to the office, and as the Student packed slowly, the Substitute followed up by suggesting they “pick up the pace.” These immediate, consecutive demands directly denied the Student the necessary time to process and execute the behavioral requests.

Both the Principal and the Special Education Director confirmed the Substitute covering the Student's January 2026 advisory period was a regular building teacher; however, they argued, to maintain compliance with FERPA regulations during short-term coverage, the Substitute was not granted access to the Student's IEP or snapshot summary. Because the Substitute was uninformed of the Student's IEP requirements, they did not implement the processing-time accommodation and instead issued successive directives, telling the Student to pack their things, head to the office, and “pick up the pace,” thereby escalating the confrontation which resulted in the Student's long-term suspension. Following this removal, an April 2026 amendment indicated the Student transitioned to virtual instruction. Services

were reduced to forty minutes per week, a period during which the Principal and the Special Education Director acknowledged the LEA provided no academic modifications, goal support, or SDI. Throughout this virtual placement, as corroborated by a May progress report documenting the Student’s performance, the Student was evaluated entirely through academic grades rather than the required “corrective behavior event” observation data. By failing to provide behavioral accommodations, specialized instruction, or goal tracking during the subsequent long-term suspension, the LEA committed a material failure to implement the Student's IEP that resulted in a denial of a FAPE.

Based on the foregoing, in accordance with the IDEA and Kansas special education regulations, *it is substantiated* the LEA failed to ensure the Student’s teachers had access to or were informed of the Student’s IEP, and the required IEP behavior supports were not provided when the Student was long-term suspended, which resulted in a material implementation failure and a denial of a FAPE.

Issue Four

Whether USD #415, in accordance with state and federal regulations implementing the IDEA, conducted a comprehensive evaluation of the Student. K.S.A. 72-3428(a)(1-3)(b)(c); 34 C.F.R. §§ 300.301(a)(c)(2), 300.304(b)(c)(1-4)(6-7).

According to K.S.A. 72-3428(a)(1-3)(b)(c) and 300.304(b)(c)(2)(4)(6-7), an agency shall conduct a full and individual initial evaluation before the initial provision of special education and related services to an exceptional child. An initial evaluation may be initiated either by the parent of a child or by an agency. An initial evaluation shall consist of procedures to determine whether a child is an exceptional child and the educational needs of such child.

An agency shall provide notice to the parents of a child that describes any evaluation procedures the agency proposes to conduct. In conducting the evaluation, the agency shall use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information, including information provided by the parent, that may assist in determining whether the child is an exceptional child and the content of the child's individualized education program, including information related to enabling the child to be involved, and progress, in the general education curriculum. Additionally, the agency shall: not

use any single measure or assessment as the sole criterion for determining whether a child is an exceptional child or determining an appropriate educational program for the child. The agency shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. In determining whether a child has a specific learning disability, the agency is required to take into consideration whether the child has a severe discrepancy between achievement and intellectual ability, and may use a process that determines if the child responds to scientific, research-based intervention as part of the child's evaluation.

An agency shall ensure that assessments and other evaluation materials used to assess a child under this section are selected and administered so as not to be discriminatory on a racial or cultural basis; are provided and administered in the language and form most likely to yield accurate information on what the child knows and is able to do academically, developmentally, and functionally, unless it is not feasible to so provide or administer; are valid and reliable for the specific purpose for which they are used; are administered by trained and knowledgeable personnel; are administered in accordance with instructions provided by the producer of such tests; and the child is assessed in all areas of suspected exceptionality. The agency shall ensure that assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

According to 34 C.F.R. §§ 300.301(a)(c)(2), each public agency must conduct a full and individual initial evaluation, in accordance with the law, before the initial provision of special education and related services to a child with a disability. The evaluation must consist of procedures to determine if the child is a child with a disability under the law and to determine the educational needs of the child.

The Parent alleged the LEA did not conduct a complete evaluation of the Student because a Behavior Assessment System for Children (BASC) was not completed.

The LEA asserts the Student was comprehensively evaluated and all relevant data was considered.

The record indicated on April 14, 2026, following the Student's disciplinary removal, the LEA issued PWN proposing a comprehensive reevaluation to assess academic, social, emotional, and behavioral development, and possible FBA, for which the Complainant provided immediate consent. Academic records and administrative testimony indicated that despite the Student's behavioral history, they maintained a 2.4615 grade point average, earned seventeen units, and remained on track to graduate. Furthermore, the Complainant confirmed the comprehensive evaluation was successfully completed after the incident, yielding strategies to support the Student's success for the upcoming school year.

Based on the foregoing, in accordance with the IDEA and Kansas special education regulations, *it is not substantiated* that the LEA failed to conduct a comprehensive evaluation of the Student.

Additional Findings

The record indicated on January 29, 2026, the MDR team concluded the Student's conduct on January 21, 2026 was not a result of a failure to implement the IEP. However, as in the analysis of Issue Three, the Substitute covering the class lacked access to the Student's IEP and failed to implement the mandatory processing-time accommodation during the directive exchange. As a result, the Student's required IEP accommodations were not implemented during the incident. Consequently, because the School failed to implement a behavioral accommodation designed to prevent escalation during corrective requests, the MDR team's determination that the behavior was not a result of a failure to implement the IEP is flawed and resulted in a denial of a FAPE.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A.Federal regulations at 34 C.F.R. §§ 300.323(c-d) and 300.530(d)(1)(e)(1)(ii) specify that a public agency must ensure a student's IEP is fully accessible to implementing teachers, its documented accommodations are executed, and appropriate services continue during disciplinary removals.

In this case, the evidence supports the finding that USD #415 violated these requirements by failing to provide Student's IEP to a substitute teacher who was providing classroom coverage for one period in January 2026. The failure to provide the IEP impacted the Substitute's ability to implement the Student's processing-time accommodation. Additionally, because this

behavioral support was omitted during the incident, the LEA's MDR team further violated regulatory standards by incorrectly finding the behavior did not result from a failure to implement the IEP. Furthermore, the LEA failed to provide the required SDI, academic modifications, or goal support during the virtual instruction period of the Student's long-term suspension.

Based on the foregoing, USD #415 is directed to take the following actions:

1 Within 15 calendar days of the date of this report, USD #415 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 C.F.R. §§ 300.323(c-d) and 300.530(d)(1)(e)(1)(ii).

2 Prior to the start of the 2026-27 school year, USD #415 shall convene an IEP team meeting to discuss the hours of compensatory education owed to the Student. The calculation must account for all instructional weeks from January 28 to April 13, 2026, at a rate of 505 minutes per week, and from April 14 to May 21, 2026, at a rate of 465 minutes per week. The LEA must generate a written compensatory services schedule detailing the method of delivery, which must be distinct from the Student's current IEP service minutes. Additionally, the LEA shall maintain documentation confirming the Complainant's receipt of the offer and their written response regarding the acceptance or declination of these services. Within two weeks of the convened meeting, the LEA will submit the compensatory time plan and a receipt of the Complainant's decision to the department.

3 Within 30 days of receiving this report, USD #415 must update its internal operational procedures regarding short-term and temporary classroom coverage. The revised policy must ensure that any regular building teacher or substitute assigned to instruct a student with disabilities has immediate access to a summary of that student's mandatory accommodations and modifications.

4 Prior to the start of the 2026-27 school year, the LEA must provide mandatory, documented training for all building administrators, special education staff, and general education teachers at the Student's School. This training must focus on: the legal requirement to provide explicit SDI rather than relying solely on accommodations for behavioral needs; the obligation to implement documented accommodations and modifications; and the proper criteria for determining implementation compliance during MDR. The LEA will submit the professional development agenda and staff sign-in sheet to the department five days after completion.

The LEA shall schedule the required compensatory services and provide that schedule to the parent/decision maker and to Special Education and Title Services (SETS) in writing. The parent or education decision maker may choose to accept all, some, or none of the offered compensatory services. The parent or the education decision maker must respond to the school district and Special Education and Title Services (SETS), in writing, to identify which

services (if any) are accepted. The written schedule of services may be sent to SETS at brian.dempsey@ksde.gov.

Once the district receives the written response, it will schedule any accepted compensatory services. If a student is absent or a parent is unable to make the student available at the scheduled time, the services scheduled for that day will not be made up. If district staff are unavailable, the services will be rescheduled. Any compensatory service that is declined or not used as scheduled will be considered waived, as long as the district has made a good-faith effort to begin and to provide the services in a timely manner."

Tania Tong, Licensed Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 415,
Hiawatha Public Schools: 26FC415-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on May 13, 2026, by _____ on behalf of her child, _____. In the remainder of this decision, Ms. _____ will be referred to as "the parent," and _____ will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on May 13, 2026. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, both the parent and the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the district's notice of appeal, and the parent's notice of appeal as well as both of the parties responses to the appeals. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

School Districts' Appeal

ISSUE THREE

Issue Three

Whether USD #415, in accordance with state and federal regulations implementing the IDEA, ensured the Student's teachers had access to the student's IEP. Further, whether the IEP accommodation of allowing the Student time to process was followed.

At some time during January, 2026, the student was suspended for behavior that escalated when a substitute teacher allegedly did not provide the processing time required by the student's IEP to allow the Student time to process the instruction. The investigator described the incident as follows: "

> *Both the Principal and the Special Education Director confirmed the Substitute covering the Student's January 2026 advisory period was a regular building teacher; however, they argued, to maintain compliance with FERPA regulations during short-term coverage, the Substitute was not granted access to the Student's IEP or snapshot summary. Because the Substitute was uninformed of the Student's IEP requirements, they did not implement the processing-time accommodation and instead issued successive directives, telling the Student to pack their things, head to the office, and "pick up the pace," thereby escalating the confrontation which resulted in the Student's long-term suspension.*
>
> *Following this removal, an April 2026 IEP amendment indicated the Student transitioned to virtual instruction. Services were reduced to forty minutes per week, a period during which the Principal and the Special Education Director acknowledged the LEA provided no academic modifications, goal support, or SDI. Throughout this virtual placement, as corroborated by a May progress report documenting the Student's performance, the Student was evaluated entirely through academic grades rather than the required "corrective behavior event" observation data. By failing to provide behavioral accommodations, specialized instruction, or goal tracking during the subsequent long-term suspension, the LEA committed a material failure to implement the Student's IEP that resulted in a denial of a FAPE. (Report, p. 21)*

The investigator concluded as follows:

> *Based on the foregoing, in accordance with the IDEA and Kansas special education regulations, it is substantiated the LEA failed to ensure the Student's teachers had access to or were informed of the Student's IEP, and the required IEP behavior supports were not provided when the Student was long-term suspended, which resulted in a material implementation failure and a denial of a FAPE. (Report, p. 22)*

In its appeal, the district states that it contests the claim that the substitute teacher caused a quick escalation of the situation. In support, the district says: "Testimony from those in the room indicate that this episode took a number of minutes during which the student continually used objectional language, not just within one or two minutes, which seems to be the complaint."

This may be one of those incidents that participants reasonably view differently depending on their point of view. The Appeal Committee will defer to the investigator's conclusions on this issue as the investigator looked at the documentation, interviewed those who were directly involved in the incident, and used independent judgement in her analysis. An additional factor favoring the investigator's conclusion is the uncontested fact that the substitute was not granted access to the Student's IEP or snapshot summary and was not even aware of the IEP requirement to provide the student with time to process changes.

The district also appeals on the basis that, "*The student's sole IEP goal is behavioral. Because the student was working at home, there were no behavioral accommodations required."* That position would have been supported if the IEP team had met and determined that the student did not need a behavioral goal or behavioral supports while being educated at home. However, that did not happen. The student's IEP remained in force, including the behavioral goal portion. The district was not free to ignore the existing IEP while the student was being educated from home.

In the conclusion portion in the report on this issue, the investigator concludes that the district failed to follow legal requirements in two ways: (1) a material failure to implement the student's IEP by not providing the required IEP behavior supports in the IEP and (2) a failure to ensure that the student's teachers had access to or were informed of the Student's IEP, and were aware of the required IEP behavior supports. The Appeal Committee agrees with both conclusions. There is nothing in FERPA that would restrict a school district from disclosing information in an IEP to a temporary substitute who is assigned to assist a child with a disability. The special education regulations, at 34 C.F.R. 300.323(d) states:

> *(d) Accessibility of child's IEP to teachers and others. Each public agency must ensure that-*
> *(1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and*
> *(2) Each teacher and provider described in paragraph (d)(1) of this section is informed of--*
> *(i) His or her specific responsibilities related to implementing the child's IEP; and*
> *(ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.*

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Parents' Appeal

The parent appeals the conclusion in Issue One.

Issue One

Whether USD #415, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), followed child find protocols prior to creating the Student's October 2025 Individual Education program (IEP).

The parent's appeal asserts that the school district had sufficient information to conduct a special education evaluation for the student as early as age 5. The Appeal Committee will not comment on the merits of the parent's appeal because the timeline for addressing this issue through the complaint process has expired.

The student has had an IEP since at least October 7, 2024. (Report, Finding 1, p. 3). Both Federal and state regulations permit the filing of a formal complaint to allege only violations that occurred not more than one year prior to the date the complaint is received. See: 34 C.F.R. 300.153(c) and K.A.R. 91-40-51(b)(1)

This complaint was received on May 13, 2026, well beyond one year from any date this student was without an IEP. Accordingly, the Appeal Committee is without authority to reverse the investigator's conclusion, and will not do so.

The parent also states that: "*I am also appealing the decision that a behavior plan was not needed (while the student was working from home). If that is correct why do I have e-mails from the principal stating his IEP needed to be updated and corrected and a behavior plan needs to be put in place.*" The Appeal Committee notes that the investigator made no such conclusion. This was an argument the district made in its appeal. The Appeal Committee addressed this issue above in its discussion of the district's appeal, where it sustained the conclusion of the investigator.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 21st day of July, 2026.

Appeal Committee

Melissa Valenza

Brian Dempsey

Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #497
ON MAY 14, 2026

DATE OF REPORT: JUNE 11, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #497 Lawrence Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #497.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 14, 2026 and the 30-day timeline ended on June 13, 2026.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #___, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), obtained the Parent's consent prior to disclosing personally identifiable information in board meeting documents. K.A.R. 91-40-50; 34 C.F.R. §§ 300.622, 99.3.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on June 3, 2026. The following LEA staff were interviewed on June 3, 2026: the Executive Director of Special Education, the Executive Director of Finance, and the Board Clerk.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the Investigation:

1. Board Business Meeting Agenda, 04/13/26, 04/27/26, 05/11/26
2. Superintendent Report, 04/13/26, 05/11/26
3. Emails between parties, 03/27/26-05/19/26
4. Fund ID Summary and Check Register, 04/18/26-05/15/26
5. Accounts Payable - Vendor Invoice Status, 03/20/26-04/17/26
6. Due Process Conclusion, 01/26/26

The LEA also provided documentation of the following board policies:

a. Student Records, JR, reviewed on March 26, 2008;
b. Types of Records, JRA, reviewed on May 7, 2008;
c. Release of Student Records, JRB, revised on May 26, 2015;
d. Disposition of Records, JRC, reviewed on May 7, 2008; and
e. Hearing Request, JRD, reviewed on April 23, 2008. (D573-D582)

Background Information

The Student was previously enrolled in USD #___ but has not been enrolled since the 2023-24 school year. According to an interview with the Parent, the Student was enrolled in a different LEA during the Complaint period, and the Complaint is based on a due process complaint involving USD #___ filed in October 2024 and resolved in January 2026. According to the Parent, the Student is currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA), however, the LEA could only confirm the Student's status for the 2023-24 school year.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. In an interview with the Complaint Investigator, the Parent explained that, as a result of their October 2024 due process complaint against the LEA, the hearing officer awarded the family a year of private school tuition and ongoing reimbursement for private tutoring or speech therapy services for 18 months. The Parent also shared that the hearing officer took "deliberate" steps to protect the Student's identity by using only their initials in the final decision, and the Parent chose to keep the due process hearing closed to the public to protect the Student's privacy regarding sensitive matters included in the documentation.

2. The conclusion of the January 26, 2026 State Department of Education Due Process Report remained silent on specific confidentiality measures.

3. On March 27, 2026, the Parent emailed the Executive Director of Finance regarding reimbursement for the Student's speech therapy services and wrote, "We request that payments made to us be done in a way to shield our public identity preventing [the Student] from being identified as the student in this due process case. We are aware that generally all district payments are made public as part of the standard Board process and would like to continue to protect [the Student's] confidentiality."

4. On March 30, 2026, the Executive Director of Finance emailed the Executive Director of Special Education indicating they were unfamiliar with the situation and wrote, "We'll need to discuss the confidentiality issue." On the same day the Executive Director of Special Education emailed the Attorney for the LEA, "reaching [out] for guidance on next steps with this payment and confidential request."

5. The April 13, 2026 Board Business Meeting Agenda documented the following relevant items and documents accessed by a public link:

    a. 2.6 Financial Reports: A link to "Cash Summary February 28, 2026," several budget documents, and "Petty Cash Activity February 2026" were listed.

        i. A "Petty Cash" spreadsheet for one of the high schools in the district included the date, a description, the check number and amount, the vendor name, the amount deposited, and the balance. Of the seven entries from February 1, 2026 to February 27, 2026, one entry appeared to be a refund to a named individual.

    b. 2.7 Monthly Vouchers: A link to "Monthly Vouchers 031426 to 040326 for 041326 Board Meeting" was listed.

        i. Recommended Action: For the Board to approve the disbursements as presented.

        ii. Records of "Donations Received" spanning March 1 to March 31, 2026, detailed the receipt dates, amounts, and donors, noting a single instance of an in-kind contribution.

            (1) Of the 16 donors listed, five were organizations, and the rest were listed as "Individual" or "Individuals," along with donor names.

        iii. A District "Fund ID Summary and Check Register" spreadsheet included the check and vendor numbers, the vendor name, the check date, and the amount.

            (1) Of the more than 300 entries, more than 40 appeared to be attributed to named individuals.

6. On April 20, 2026, the Parent emailed the LEA regarding additional receipts for reimbursement and reiterated the aforementioned statement about protecting the

Student from being identified and acknowledging their request was not "standard Board process."

7. On April 20, 2026, the Executive Director of Finance emailed the Executive Director of Special Education, "On the confidentiality concern, the payee field will determine how this shows on reports. Are we paying [the Parent] [sic]? If we're paying a parent and not supposed to refer to the student's name, that's not a problem[.] If they're asking that we not show the payee name[,] that would be a manual adjustment for the initial board report but it would not hold up over time. We have companies that are constantly doing [Kansas Open Records Act] KORA requests on all of our payments."
8. The April 27, 2026 Board Business Meeting Agenda documented the following relevant items and documents accessed by a public link:
    a. 2.4 Monthly Vouchers: No link was provided in the agenda.
        i. Recommendation: For the Board to approve the disbursements as presented (April 4 to April 17, 2026).
9. A May 9, 2026 screenshot of the "Fund ID Summary and Check Register" listed check number 00101194, with the Parent's name, dated April 22, 2026 for the amount of $240.
10. On May 11, 2026, the following email exchanges occurred:
    a. 10:40 a.m.: The Parent emailed the LEA alleging they disclosed "information that identifies our [child] whose privacy the District is obligated to protect under state and federal law. Despite my having notified you twice in writing that [the Student's] identity must be protected and that my own name, as personally identifiable information, should be redacted from the public check register, that information appears in the public board materials for today's meeting. This disclosure is unacceptable. The District is well aware that the Hearing Officer took deliberate steps to protect [the Student's] identity, and it was plainly not the intent of the decision that any reimbursement process would publicly reveal [the Student] or our family. Publishing my name in board documents directly undermines those protections. … Because this matter relates to disability-based services, accommodations, or proceedings, the District also has confidentiality obligations under IDEA and Section 504[.] … I am demanding that the District immediately remove or redact the identifying information from the public board materials and any related public records by the end of business today. I also expect written confirmation, by that same deadline, that the District will take immediate steps to ensure that neither [the Student's] identity nor our family's personally identifiable information is disclosed in any future public records, board documents, or related publications."
    b. 11:33 a.m.: The Executive Director of Special Education emailed the Attorney for the LEA asking for guidance on a response, "[The Parent] is referring to the payment register in the [Board of Education] BOE doc[ument]s, which includes [the Parent's]

name as the payee. I don't believe there is any information about the reason for the payment, but [the Parent's] name is listed as a payee. This is for the reimbursement of tutoring as laid out in the hearing findings. [The Executive Director of Finance] is checking with [the Kansas Association of School Boards] KASB about whether it can be redacted, and about how these payments should be made moving forward."

c. 1:10 p.m.: The Board Clerk emailed the Parent indicating the "item has been pulled from our agenda."

11. The May 11, 2026 Board Business Meeting Agenda documented the following relevant items and documents accessed by a public link:

    a. 2.6 Monthly Vouchers: A link to "Monthly vouchers 041826 to 050126 for 051126 Board Meeting" was listed.

        i. Recommendation: For the Board to approve the disbursements as presented.

        ii. A District "Fund ID Summary and Check Register" spreadsheet for the dates of April 18 to May 2, 2026 included the check and vendor numbers, the vendor name, the check date, and the amount.

            (1) Of the more than 240 entries, more than 30 appeared to be attributed to named individuals.

            (2) The aforementioned check number, 00101094, was not listed between 00101093 and 00101095.

        iii. A "Donations Received" by the LEA document for April 1, 2026 through April 30, 2026 listed the date received, the amount, and the benefactor.

            (1) Of the six donors listed, four were organizations (one was listed twice), and one donor name was listed as "Individual."

12. On May 14, 2026, the Executive Director of Finance emailed the Executive Director of Special Education to describe a payee manual override. They wrote, "We recently learned that the [special education] parent that we are reimbursing for services not only has requested the student name not be reported but also that the parent's name not be reported. So even though our records will show the parent name as the payee, we need to manually override the payee name on the check listing for board enclosures. … Please replace the parents [sic] name with "Parent" on the check listing so they are not identified. We have informed [special education] and [the Superintendent] that this will not remove the parents [sic] name from our system so their name would be revealed in future reports such as KORA requests. … These reimbursements may continue for over a year so please be diligent and watch for these. With this being a completely manual adjustment that we will need to catch every time, lets [sic] keep in communication so this one doesn't slip through."

13. On May 15, 2026, the Executive Director of Finance and the Certified Public Accountant (CPA) exchanged emails regarding the removal of the payee name:

    a. The Executive Director of Finance wrote, "We have a legal situation with a [special education] student where we are required to reimburse the parent for services that are being provided to their student. The parent asked us to not reveal the students [sic] name so the student's name is not in our accounts payable records. When the parents [sic] name, as the payee, came out on the board enclosure to approve checks, the parent complained that we were in fact, revealing the students [sic] identity by revealing [the Parent's] name. Our superintendent supports not showing the parents [sic] name. KASB said, even though it's not required, we could probably remove the parents [sic] name from the check listing but check with your auditors. The Specific Attorney involved in this case from [a city] responded that [the attorney] doesn't think it's allowable to remove [the Parent's] name from the check listing. So I'm seeking your input. What I have said so far is if we remove the payee name from the board Enclosure that approves checks, it would be a manual adjustment, and the parents [sic] names would not actually be removed from our accounting records so they would be made public during [a] KORA request, which we get all the time. The district says that's good enough." The Executive Director of Finance closed by asking the CPA to confirm that it was permissible to remove the Parent's actual name from the board enclosure and replace it with "parent."

    b. The CPA replied on the same day and indicated it would be "allowable to just list 'Parent' on the board check listing for confidentiality purposes."

14. On May 19, 2026, the Executive Director of Finance emailed the Executive Director of Special Education and the Director of Special Education to describe a conversation they had with the KASB Attorney. According to the email, "The conversation with [the KASB Attorney] was - Can we pull the parents [sic] name? [The KASB Attorney] said - I don't know the context of the case and what was agreed upon but I don't think it's a FERPA [Family Educational Rights and Privacy Act] violation. We discussed pulling the board item for now. We pulled the check off of that board meeting and have included it on the May 26[,] [2026] board meeting listed as 'Parent.'"

    a. A District "Fund ID Summary and Check Register" spreadsheet for the dates of May 2, 2026 to May 15, 2026 included the check and vendor numbers, the vendor name, the check date, and the amount.

        i. Of the more than 290 entries, more than 75 appeared to be attributed to named individuals.

        ii. Check number 00101094, dated April 22, 2026 for $240, was listed with the vendor number and "Parent" as the payee.

15. An Accounts Payable Vendor Invoice Status document listed the following:

a. The Parent's name and their vendor number, V0022071.

b. March 20, 2026, April 2, 2026, and April 17, 2026 as three separate dates for "Reimbursement for Services" for $80 each, for a total of $240. The account number 0521000000-53230, the check date April 22, 2026, and the check number 00101194 were documented.

16. On May 14, 2026, the Parent filed this complaint.

17. In an interview with the Complaint Investigator, the Parent stated that on a Friday evening prior to a Monday board meeting, they reviewed the public check register in the School Board minutes and discovered their name listed alongside a $240 payment. On the Monday following the disclosure, after consulting with an attorney, the Parent emailed the LEA requesting the removal of their name from the Board documents and confirmation of future preventative procedures. The Parent stated that the LEA removed their name from the registry within two hours, but did not provide confirmation that it would protect the Parent's identity for future reimbursements over the remaining 18-month period. The Parent confirmed they had no other examples of potential disclosure of personally identifiable information (PII).

18. When asked how outside entities could connect the Parent's name in the LEA check register with the due process case, the Parent said, "There would be no other reason for the district to write me a check." They explained that because the family's due process complaint was publicly accessible on the KSDE website and contained the Student's initials alongside specific references to the LEA, an outside individual could easily identify the family by matching the specific $80 payment increments on the check register with the details of the public complaint. Ultimately, the Parent concluded that the LEA's removal of their name from the register within two hours demonstrated their awareness that the publication violated privacy protections.

19. In an interview with the Complaint Investigator, the Executive Director of Special Education reported their understanding of the due process case was that the Student's name and identity would be protected to prevent the Student from being publicly identified as the subject of the filing. They noted they were unaware of any other specific confidentiality mandates within the hearing officer's findings. The Executive Director of Special Education clarified the formal due process findings did not stipulate explicit requirements regarding the Parent's name, board documents, or parental confidentiality as a payee, but rather outlined that the Parent could submit for reimbursement or that the providing agency could bill the LEA directly. They added that typical public check registers include numerous individual names without providing reasons or details that connect the lines to confidential information or student identities.

20. The Executive Director of Special Education confirmed the LEA received emails from the Parent on March 27 and April 20, 2026. Near the time of the Parent's follow-up communication, the Executive Director of Special Education consulted with the Executive

Director of Finance to ensure the Student's identity was protected within the Board enclosure documents. The Executive Director of Special Education stated the LEA believed it was sufficiently protecting confidential information by publishing only the Parent's name and the payment amount without including the Student's name or any explicit text explaining the purpose of the transaction.

21. In an interview with the Complaint Investigator, the Executive Director of Finance explained the LEA processes financial reimbursements through an internal accounting system, and a cumulative listing of all checks issued since the prior Board meeting is regularly included as a Board enclosure within the consent agenda for public Board meetings twice a month. The Executive Director of Finance confirmed that a check register shared during the Investigation initially included a line item specifying a check number and vendor number attributed directly to the Parent. The Executive Director of Finance stated that public Board enclosures display the check number, vendor number, payee name, and payment amount, but they do not contain explicit details regarding the specific purpose of the reimbursement.

22. The Executive Director of Finance also stated the special education and finance departments held internal discussions regarding the Parent's reimbursement request and focused entirely on ensuring the Student's name was excluded from all entry points in the accounting system. They stated the LEA believed it was fulfilling the necessary confidentiality requirements by omitting the Student's name and utilizing a vague description such as "reimbursement for services." The Executive Director of Finance indicated the finance department did not know the Parent desired their own name to be withheld from the public Board documents, as personnel operated under the assumption that the privacy protections applied strictly to the Student's identity. While the Executive Director of Finance recalled noting in an early email that an alternative process would be required if the Parent's name needed to be withheld, they stated, "Nobody ever took us up on that," leading the LEA to publish the Parent's name in the initial Board documents without a modified manual override.

23. The Executive Director of Finance and the Executive Director of Special Education explained that on the morning of the May 11, 2026 Board meeting, the LEA received an inquiry from the Parent objecting to the public inclusion of their name. Because representatives from the finance department had not previously understood the request to extend to the Parent's name, they immediately removed the entire line item from the final May 11, 2026 Board checklisting to allow time to consult with legal counsel. After obtaining guidance from legal counsel, the LEA applied a manual override to the check listing for the subsequent Board meeting, replacing the Parent's actual name with the term "parent" on the public document while maintaining the Parent's name within the internal accounting system. The Executive Director of Finance noted that manually replacing a parent's name with "parent" on a special education Board enclosure was an unprecedented, unique action for the LEA. The Executive Director of Special Education

added that the district employs personnel to review and redact confidential information prior to fulfilling public Kansas Open Records Act (KORA) requests.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD # 497, in accordance with state and federal regulations implementing the IDEA, obtained the Parent's consent prior to disclosing personally identifiable information in board meeting documents. K.A.R. 91-40-50; 34 C.F.R. §§ 300.622, 99.3.

According to K.A.R. 91-40-50, "Education records" means any document or medium on which information directly related to one or more students is maintained by a participating agency in accordance with the law and amendments thereto. "Participating agency" means any educational agency or institution that collects, maintains, or uses personally identifiable student information to provide special education and related services to children with disabilities.

According to 34 C.F.R. § 300.622, parental consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies in accordance with the law, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 C.F.R. part 99. Except as provided in the law, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part.

According to 34 C.F.R. § 99.3, directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status; dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.

Directory information does not include a student's Social Security number or student identification (ID) number, except as provided in this definition. In accordance with this definition, directory information includes a student ID number, user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user; and a student ID number or other unique personal identifier that is displayed on a student ID badge, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate

the user's identity, such as a PIN, password, or other factor known or possessed only by the authorized user.

Personally identifiable information includes, but is not limited to, the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or biometric record. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty, or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

Education records are records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record, records of the law enforcement unit of an educational agency or institution, subject to the provisions of the law.

Record means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. Student means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

The Parent alleged the LEA used their personally identifiable information in public board agenda documents.

The LEA contends that no confidential student information was disclosed, as the documents only included the Parent's name and a payment amount, not the Student's name or reason for payment.

Under K.A.R. 91-40-50, "education records" are defined as documents or media directly related to one or more students maintained by an agency to provide special education and related services. In this case, the document in question was a standard district Fund ID Summary and Check Register used for accounts payable. This ledger is an administrative financial record required for public accountability, board approval, and municipal transparency. The entry disclosed only the Parent's name, a vendor number, a check number, and a dollar amount ($240). It contained no reference to the Student's name, disability, special education services,

tutoring, or the due process case. Therefore, the ledger itself does not inherently constitute an "education record" under the IDEA or the FERPA.

To establish a violation of confidentiality under 34 C.F.R. § 99.3, the disclosed information must be linkable to a specific student in a way that:

> *"... would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty."*

The Parent contended that an outside entity could connect their name to the confidential due process case by cross-referencing the $240 payment (broken down into $80 increments) with the anonymized public due process text on the KSDE website. This claim, however, does not meet the regulatory criteria. The LEA's public check registers regularly included numerous individual names as part of normal operations – more than 40 named individuals were listed on the April 13, 2026 register, and more than 30 on May 11, 2026. Furthermore, a member of the public looking at a generic payee line item would have no reason to suspect the payment was related to special education. For an outside observer to make the connection, they would need specific, personal knowledge of the family's private circumstances, the tutor's hourly rate ($80), and the family's legal history. Because a reasonable person lacking personal knowledge could not identify the Student with reasonable certainty from the face of the check register, the publication does not meet the legal threshold for linkable PII.

Finally, while the Parent proactively requested that payments be shielded to prevent the Student from being identified, the LEA's finance and special education departments actively collaborated to ensure the Student's identity was completely suppressed across all accounting data entry points. Additionally, the January 26, 2026, due process report was silent regarding modifications to standard parental payee reporting. Therefore, LEA personnel operated under the reasonable assumption that standard privacy protections applied to the Student's identity, not to the standard administrative logging of adult vendors receiving public funds. However, once the LEA realized on May 11, 2026, that the Parent desired their own name to be withheld, the LEA pulled the item from the public agenda within two hours of the official Board meeting, thereby preventing any formal public Board action on an unredacted document.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA disclosed PII without the Parent's consent.

Corrective Action

Information gathered in the course of this investigation has not substantiated noncompliance with special education statutes and regulations.

Tania Tong, Licensed Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 497
Lawrence Public Schools: 26FC497-005

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on May, 14, 2026, by a parent on behalf of her child. In the remainder of this decision, the complainant will be referred to as "the parent," and the child will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on June 11, 2026. That Complaint Report concluded that there was not a violation of special education statutes and regulations

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified one issue:

Issue One

> Whether USD #497, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), obtained the Parent's consent prior to disclosing personally identifiable information in board meeting documents.

The Complaint is based on a due process hearing decision requiring reimbursement of speech services by the school district. (Report, p. 3).

The Appeal Committee reviewed the decision in the due process hearing and noted that the conclusion required reimbursement of the costs for compensatory services.

The issue in this complaint is whether the method used to reimburse the parent constituted a violation of the consent requirement in 34 C.F.R. 300.622. That regulation is a bit complicated. It says:

> *(a) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. (Emphasis added).*

This is a unique provision. What it means is that consent must be obtained before disclosing any personally identifiable information of any kind that is collected, maintained or used for special education purposes unless that information is in education records. Then, in that situation, consent is required but FERPA exceptions will apply.

These same special education regulations define the term "personally identifiable information," in pertinent part, in 34 C.F.R. 300.32 as follows:

Personally identifiable information means information that contains--(a) The name of the child, the child's parent, or other family member; (Emphasis added)

Accordingly, unless the information is in an education record, consent must be obtained before disclosing the name of the child or the name of the parent in any information that has been collected, maintained or used for special education purposes. Thus, if the information related to this complaint is not in an education record, and was used for any special education purpose (and it clearly was) the analysis would be over. The public disclosure of the parent's name as a payee to reimburse the cost of related services would require consent.

However, we believe this information was in an education record. The term "education records" is defined in the special education regulations, at 34 C.F.R. 300.611(b), as follows:

> *Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).*

So, we look at the FERPA definition of the term "education record," which appears in the FERPA regulations at 34 C.F.R. 99.3, as follows:

> *Education records. (a) The term means those records that are:*
> *(1) Directly related to a student; and*
> *(2) Maintained by an educational agency or institution or by a party acting for the agency or institution.*

Directly related means the record includes personally identifiable information, including the name of the student or the name of the student's parent or other family members (34 C.F.R. 99.3). Emphasis added.

Putting all this together, the disclosure of a parent's name in any record of any kind that is collected, maintained or used for special education purposes requires parent consent, unless the information is contained in education records and the disclosure is authorized without parent consent under FERPA. The Appeal Committee could find no FERPA exception that applies to the facts in this complaint.

A brief summary of the facts in this complaint are as follows:

On March 27, 2026, the Parent emailed the district's Executive Director of Finance regarding reimbursement for the Student's speech therapy services and wrote, "We request that payments made to us be done in a way to shield our public identity preventing [the Student] from being identified as the student in this due process case. We are aware that generally all district payments are made public as part of the standard Board process and would like to continue to protect [the Student's] confidentiality." Report, Finding 3, p 3-4.

On April 20, 2026, the Parent emailed the LEA regarding additional receipts for reimbursement and again reminded them to protect the Student from being identified. (Finding 6, p. 5).

At some point prior to the May 11, 2026 Board meeting, the board publicly posted its agenda for that May 11, 2026 Board Meeting. That agenda included information under the title: "Fund ID Summary and Check Register." That information listed check number 00101194, with the Parent's name, dated April 22, 2026 for the amount of $240. (Finding 9, p. 5). On May 9 the parent took a screen shot of that information and submitted it with this complaint. (Report, Finding 9, p. 5).

This public posting, referred to above, contained personally identifiable information (the parent's name) in a record that was maintained by the district (and so in an education record) without parent consent and without a FERPA exception.

The district acted quickly to the parent's subsequent request to remove the information from public view. Even so, for a brief time the information was available to the public. An aggravating factor in this scenario is that the parent had alerted district officials that her name was not to appear in any information accessible to the public but the information was made public anyway. It was only due to the diligence of the parent that the information was discovered on the publicly available board agenda and eventually removed.

For the reasons provided herein, the Appeal Committee reverses the decision in the complaint report and concludes that a violation of special education regulations has occurred. Specifically, by publicly disclosing confidential information (name of the student's parent) that is contained in education records without the requisite parent consent, the district has failed to comply with the confidentiality requirements of 34 C.F.R. 300.622.

Because the Appeal Committee finds a violation of the IDEA consent requirements occurred, it finds no need to consider the additional consent requirement regarding personally identifiable information that is "linked or linkable" to a specific student under FERPA regulations at 34 C.F.R. 99.3(f).

Corrective Action

In her appeal, the parent requested that corrective action include thirteen separate actions. The Appeal Committee does not believe all thirteen are necessary to resolve this complaint, but does require the school district to take the following actions requested by the parent:

1. Public-record cleanup. USD #497 shall remove or redact the Parent's name, vendor number, check number, and any other identifying or stable linkable identifier from all previous public Board materials, BoardDocs postings, check registers, voucher lists, downloadable files, archives, and related postings connected to the Student's due-process reimbursement or compensatory education services (confirm with KSDE by September 18, 2026).
2. Future public listings. USD #497 shall use a non-identifying label such as "Parent," "Confidential Parent Reimbursement," or a confidential vendor code or other appropriate label in any public Board materials connected to the Student's due-process remedy (confirm with KSDE by August 14, 2026).
3. Vendor number protection. USD #497 shall not publicly display the same vendor number that was previously tied to the Parent's name, or any replacement identifier that can be linked back to the Parent (confirm with KSDE by August 14, 2026).
4. Invoice confidentiality. Any provider invoices containing the Student's name, client name, family name, service type, service dates, disability-related services, or other identifying information shall be treated as confidential student-related records and shall not be

publicly posted or produced in response to KORA without a FERPA/IDEA and KORA exception review and appropriate redaction (confirm with KSDE by August 7, 2026).

5. Written assurance. USD #497 shall provide written assurance to KSDE that future payments connected to the due-process order will not publicly identify the Parent, family, or Student. (Confirm by August 7, 2026)
6. Pre-publication notice. Before publicly posting any Board payment material connected to the Student's due-process reimbursement or compensatory education services, USD #497 shall provide advance written notice to the Parent and identify the exact public payee label, vendor identifier, check number, and amount that will appear. If any proposed public entry could identify the Parent, family, or Student, USD #497 shall offer a lawful non-identifying alternative, including direct provider billing, a non-identifying public payee label, a confidential vendor code, or another confidential payment method (confirm with KSDE by September 18, 2026).
7. KORA review. USD #497 shall review any KORA request involving these reimbursement records, provider invoices, payment records, or related documents for FERPA/IDEA confidentiality and KORA exceptions before release and redact all parent/family/student identifiers and stable linkable identifiers unless a lawful exception applies (confirm with KSDE by August 14, 2026).
8. Procedure. USD #497 shall adopt a written procedure for payments related to due-process orders consistent with this appeal decision (confirm with KSDE by September 18, 2026, along with a copy of the written procedure).
9. Training. USD #497 shall provide training for the board finance office and special education administrative staff on FERPA and IDEA confidentiality requirements related to duties, and handling of special-education reimbursement and provider-billing records (by November 30, 2026).

Conclusion

For the reasons stated herein, the Complaint Report is reversed and corrective action is required.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 9th day of July, 2026.

Appeal Committee

Melissa Valenza

Brian Dempsey

Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #454
ON MAY 14, 2026

DATE OF REPORT: JUNE 17, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ------- by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #454 Burlingame Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #454.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 14, 2026, and the 30-day timeline ended on June 13, 2026.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #454, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), obtained parental consent prior to instructing the Student to disclose their disabilities to their classmates. K.A.R. 91-40-50(a); 34 CFR §§ 300.622(a)(b)(1); 99.3.

Investigation of Complaint

The Complaint Investigator interviewed the Student on May 20, 2026 and the Parent on June 4, 2026. The following LEA staff were also interviewed on June 4, 2026: the Principal, the Superintendent, and the Counselor.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the Investigation:

1. District Response to this Complaint, 05/20/26
2. Superintendent's Documentation, 05/19/26
3. Communication Timeline, 03/27/26-04/02826
4. Student's Statement, no date
5. Email, re: 03/05/26
6. Email, re: Escalation, no date
7. Email, re: Touching Base, 04/23/26
8. Email, re: Meeting Opportunity in June, 05/13/26-05/19/26
9. Principal's Documentation, 05/19/26
10. Science Teacher's Statement, 05/21/26
11. Yearbook Teacher's Statement, 05/26/26
12. Student Statement, 03/27/26-04/13/26
13. Individualized Education Plan (IEP), 03/03/26

Background Information

This Investigation involved a middle school student in USD #454. The Student is currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA).

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. In the Student's March 3, 2026 Individualized Education Plan (IEP), the exceptionality was listed as "Autism (Primary)" and "Other Health Impairment" (OHI). The IEP indicated the Student had an Individualized Health Care Plan and a diagnosis of Type 1 Diabetes (T1D) Mellitus in January of 2016. The IEP included related services in social work and with a school nurse, along with goals in the areas of math and "social/emotional/adaptive skills."
2. In an undated written statement from the Student, they wrote, "[The Principal] showed up in Advisory and asked me what I had and I said that I had [Attention-Deficit Hyperactivity Disorder] ADHD and Autism, but then [the Principal] asked me about what I had medically[,] which was Type 1 Diabetes and [the Principal] used me and my insident [sic] with the kids as a way to make my class be nice to each other. After that[,] as I was packing up [the Principal] caught me and said that he was thankful that I stood up for myself when I didn't[,] and [the Principal] dilibaretly

[sic] put me in the spotlight, and so I didn't say anything I was going to regret[.] I agreed while swallowing my anger and frustration I had towards [the Principal]."

3. In an additional undated written statement from the Student, the Student wrote that the Principal "asked about my medical equipment" and turned the situation into "a big deal that in my [eyes] didn't need to be [made] such a bigger deal." The Student expressed how "LIVID" they were and explained the follow-up conversation with the Principal was when they "went back to my stuff from my locker since we were heading to the caftirea [sic]." The Student added their desire to "hit" the Principal with their backpack, "punch" the Principal in the face, "slap" the Principal "across the face," and "kick" the Principal "in the balls." They noted they were "extremely angry." The Student indicated the Principal was using them "as a way to make my classmates be nice to each other."
4. In a March 5, 2026 email to the Principal, the Parent was "reaching out" for "blanks that need to be filled in" regarding the Student reporting they had staples thrown at them in Science class, along with comments about the Student's T1D, and that the Principal "came in at advisory and 'made a spectacle' of [the Student]."
    a. The Principal replied the same day and stated, "I did go into advisory and talked to them about how they treat each other, and that this behavior was unacceptable and would stop moving forward. While [the Student] was definitely mentioned, a spectacle it was not. The majority of the conversation was about [the whole class], and the things they say and do to each other. [The Student] was given the opportunity to talk about [them]self, to defend [them]self, and to state that [they do] not like the negative attention. At the end of the day[,] I found [the Student] and thanked [them] for standing up for [them]self, and that I appreciated [them] being strong when students have used the fact that [they have] T1D as joke material."
5. In a written statement from the Educational Cooperative Assistant Director, they described a conversation with the Parent on March 27, 2026 in which the Parent recounted the March 5, 2026 event. They wrote "[The Student] was asked by [the Principal] to share information with the class about [their] disability. [The Parent] said that [the Student] thought [the Principal] was referring to [their] ADHD and Autism so [the Student] shared this information with the class. [The Parent] stated that [the Principal] prompted [the Student] to talk about [their] Type 1 Diabetes, not these other disabilities."
6. In a timeline created by the Parent, the March 27, 2026 entry indicated the Superintendent would look into the allegations made about March 5, 2026 and would contact both Advisory Teachers. The Parent noted the Superintendent asked to speak with the Student about the March 5, 2026 advisory class and the Parent told them they were "fine with it." The Parent spoke with the Educational Cooperative Assistant Director on the same day, who was "unaware of any instances [of bullying] this year." The Parent wrote that the Student asked an employee of the

Educational Cooperative "to not say anything about what had happened to the administration as [the Student] knew I was quite livid about what had transpired."

7. In a timeline created by the Parent, the March 30, 2026 entry was a recollection of the Parent's conversation with the Principal on that day. "[The Principal] said that [they] had heard about the students harassing [the Student] in Science class and that [the Principal] headed down to advisory to 'speak with them.' [The Principal] said that [they] 'assumed' everyone in the class was aware of [the Student's] T1D and that it was okay for [the Principal] to speak freely about it. I told [the Principal] that it was obviously uninformed consent as [the Student] didn't even know which 'thing' [the Principal] was talking about when [they] told [the Student] to tell the [class] about [the Student's] disability; that [the Principal] had to prompt [the Student] to say [their] T1D after [the Student] disclosed [their] ADHD and Autism, both of which [the Student's] classmates were not aware of. … [The Principal] repeatedly told me that [they] had given [the Student] the choice to 'stand up for [them]self' and that it was [the Student's] choice to tell them about [their] disabilities." The Parent pointed out the Student did not know they had the option to tell the Principal no and the Student "takes things very literally" due to their autism.

8. In a timeline created by the Parent, the April 1, 2026 entry explained the meeting that day with the Superintendent, the Parent, and the Student. The Parent noted they "had to help rephrase questions so that [the Student] could better understand what the Superintendent was asking." The Parent additionally noted the Superintendent reporting to them that Advisory Teacher 2 noticed the Student's "discomfort about the [March 5, 2026] situation." The Parent wrote, "I did discern from [the Student] that while [they were] not made to stand in front of the class, that [the Principal] did have [the Student] talk about [their] disabilities, while seated, to the class." The Parent reiterated the Student did not see it as an opportunity to defend themself, rather, the Student "felt that [they were] being told to by the adult."

9. In an April 23, 2026 email to the Parent, the Superintendent offered a check-in regarding their meeting and informed the Parent that the Counselor was willing to meet with the Student, as was offered in an April 10, 2026 email to the Parent.
    a. In a May 18, 2026 reply, the Parent indicated the Student would "prefer to stay in Advisory and not be further singled out" by going to their art class during that time, which was suggested by the Superintendent. The Parent also inquired as to whether or not the Principal had "apologized for what [they] had done."
    b. The Superintendent replied May 19, 2026 and indicated the Principal had not spoken with the Student because "I thought you had said that [the Student] was not comfortable talking to [the Principal] as of yet. I would be happy to schedule something- just let me know."

10. In May 19, 2026 documentation by the Principal, they explained the reason they visited the Advisory class that day was because earlier during Science class,

students were "throwing paperclips" at the Student and "casually using the phrase 'type 1' when [the Student] was present." They indicated this was "important" because the Student was diabetic "and this is known by all of [their] classmates." They stated that when they went into the Advisory class, their "intention was to bring awareness to their behavior and discuss respect and appropriate behavior at school towards their peers." The Principal wrote, "The class … openly stated that they had been throwing them at [the Student]. I cannot recall how I phrased it, whether I asked the class as a whole, or if I asked [the Student] directly, but I wanted to know who had been throwing them. [The Student] pointed at one or two specific students who had thrown paperclips at [them]. I mentioned to the group that it was reported that they were also casually using the phrase "type 1" in [the Student's] presence. At this point, I asked [the Student] if [they] would mind telling [their] peers why that was uncomfortable for [them]. [The Student] did not hesitate to respond and further discussed that [they are] a diabetic. I do not recall, and did not even in the days following, if [the Student] discussed anything else. [The Student] did this at [their] desk, and was not asked to go to the front of the room. … My intention was to solely address the paperclips and use of the phrase 'type 1.' However, when [the Student] responded to the discussion, I allowed [them] to speak voluntarily without interruption, but did not force [them] to, or require [them] to divulge any other information[,] as we were only discussing paperclips and use of the phrase 'type 1.'"

a. The Principal indicated they did not get parental consent prior to their action because they did not go into the classroom "to disclose any new information. My understanding was that [the Student's] diabetes management needs were already commonly observable within the school setting," "the students received previous training and information on [the Student's] condition," and the School Nurse and the Student routinely check in on the Student's health and blood sugar "in the presence of other students."

b. The Principal reiterated their intention and stated, "I believed an immediate conversation with the group was the most effective way to address the behavior at that time. In retrospect, I understand there may be concerns regarding discussing the matter in a group setting, and I recognize the importance of balancing timely intervention with student privacy considerations."

11. In May 19, 2026 documentation by the Superintendent, they explained the Student's classmates were taught about T1D in the fourth grade, "so that [the Student's] classmates would have a better understanding of the disease and the need for [the Student] to have interventions during the school day. … The parents approve of treatment in front of [the Student's] peers and continue to approve of it even after this situation." The Superintendent noted they would not ask for permission from the Parent to "treat" the Student in front of their peers, as the Parent has "been very supportive of allowing [the Student] to be treated publicly."

The Superintendent claimed "none of the three adults in the room can confirm that [the Student] spoke of [their] diagnoses: ADHD and Autism."

a. The Superintendent noted they met with the Student, with the Parent present, and the Parent "continuously interrupted my questioning as well as [the Student's] responses in an effort to redirect or have [the Student] rephrase [their] responses to me." The Superintendent also noted they had created a plan of support for the Student moving forward.

12. In May 21, 2026 documentation by Advisory Teacher 1, they explained their perspective of what happened in class on March 5, 2026. "[The Principal] started to talk to them about their behavior as a class and how they had been treating each other. [The Principal] mentioned that they had been throwing staples at each other and that that needed to stop. [They] also talked to the class about working on their building respect for each other in the way that they talk to each other and treat each other. [The Principal] asked [the Student] if [they] would add something to the conversation about what [they were] dealing with. … [The Student] stood up and was on the east side of the classroom near where [they were] sitting at a counter chair. [The Student] then explained the various conditions that [the Student] experiences including type 1 diabetes. [The Principal] mentioned that students have been walking by [the Student] saying "type 1" as they passed [them], and how this was totally unacceptable and not something that we would allow in our school. [The Principal] challenged them to do better as a class and to treat each other with more respect, kindness, and understanding."

13. In May 26, 2026 documentation by Advisory Teacher 2, they explained their perspective of what happened in class on March 5, 2026. "[The Principal] was wanting to talk to the [students] about their behaviors and how it can create a positive environment or a negative one. … As [the Principal] was talking, [they] asked [the Student] if [they] wanted to share part of [their] story. [The Student] did not and was not really interested in talking. At the time I suspected that [the Principal] was hinting at [the Student] being a diabetic. I did not know for sure that [the Student] was diabetic[,] but I suspected it in seeing the special ed[ucation] teacher come in and check [the Student's] phone with [the Student] and sometimes take [them] to get a snack. [The Student] is not on my roster so [their] medical information was not shared with me. … [The Principal] did not seem to push the issue and wanted the entire group to think about the type of climate they were choosing to create and to redirect them to a different place. I remember being impressed with how [the Principal] handled and managed the group."

14. On May 13, 2026, the Parent filed this Complaint.

Student Interview

15. In an interview with the Complaint Investigator and the Parent present, the Student described the exchange on March 5, 2026. They recalled "[The Principal] asked me, '[W]hat do you have?' … I thought about the most recent ones[,] Autism and ADHD.

But then [the Principal] didn't want any of that. And then I told [the Principal] that I had type 1 diabetes. And then [the Principal] told the class because they were bullying because they were making fun of type one because they were repeating it in class." The Student stated, "[The Principal] wanted me to talk about what I had, about my disabilities." They shared, "[The Principal] just came in and told me to talk about [the disabilities]. [They] didn't even come up to talk to me about them." The Student said, "I felt angry, more like beyond frustrated, livid." Throughout the interview, both the Student and the Parent characterized the Principal as "making" the Student discuss their disabilities during the exchange.

16. The Student confirmed the exchange happened during their advisory period. They could not recall an exact date. The Student stated no part of the exchange was private. The Student acknowledged their class had been aware of their diabetes the entire time they were enrolled at the School.
17. Regarding whether they disclosed their ADHD and autism during the exchange, the Student reported they stated they had ADHD and autism, but did not discuss those diagnoses. They only discussed their diabetes.
18. The Student stated they usually ignored their peers saying "type one" because their classmates were "morons" who "say it randomly."
19. During the interview, the Parent stated the Principal admitted to the exchange, explaining, "[The Principal] thought that it was okay because everybody should know that [the Student] has type one. I told [the Principal] ... just because that's an outward disability doesn't mean that's something that you single someone out for, especially if they're being bullied about it. ... [The Principal] didn't ask [the Student] ahead of time. [The Principal] didn't ask me if [they] could." The Parent reported, "at one point the [P]rincipal called me. [They] never apologized for what [they] had done. [The Principal] told me that our perspective was skewed."
20. The Parent shared the Student had been continually bullied by a particular student, and that was the reason the Student disliked attention. The Parent stated the exchange on March 5, 2026, "put a spotlight on [the Student]." They expressed, "why would you tell someone that is being bullied and has been bullied to talk about what they're bullying you about when they already know what they're bullying?" The Parent stated, "I don't think that [the Student] having ADHD, autism, or type one should have been brought up at all. None of those should have been covered. It should have been the bullying [that] needs to stop." The Parent reported they discussed the ongoing bullying and the exchange on March 5, 2026 with the Superintendent, and the Superintendent indicated they would conduct an investigation.

Parent Interview

21. In an interview with the Complaint Investigator, the Parent shared their understanding of the exchange on March 5, 2026. The Parent believed the Principal wanted the Student's peers to stop bullying them about their type one diabetes,

and thought the solution was to have the Student explain how the bullying made them feel. According to the Parent, the Principal said, "I wanted [the Student] to be able to stand up for [themself]." They believed the Student disclosed their ADHD and autism during the exchange. The Parent stated the Student reported to them they were "sitting at the table and … didn't want to talk about it."

22. The Parent stated, "I've been told … the Principal's intentions were good. [The Principal] thought [they] [were] helping give [the Student] a platform to defend [themself] against these bullies. … Certainly you don't make a child that's bullied regularly disclose their disabilities. [The Principal] didn't ask [the Student]. [The Principal] didn't ask me. There was no preface on any of this."
23. The Parent acknowledged the Student's class had been aware of the Student's diabetes for several years. They asserted, "just because everybody knows [the Student] has it doesn't mean that that should have been aired."
24. The Parent reported one specific student had a history of bullying the Student, and continued bullying them after the March 5, 2026 exchange. The Parent shared they discussed this with the Superintendent.
25. Regarding impact, the Parent shared, "I see the negativity, I see the hurt and I see [the Student] … pulling away … from wanting to deal with the School. … [The Student] enjoys being social. So for [them] to have pulled away socially from those classmates tells me the extent of the bullying." They expressed, "I feel very let down."

Principal Interview

26. In an interview with the Complaint Investigator, the Principal stated they were "a highly visible principal." They saw the Student every day, and prior to the exchange in question, had a normal principal/student relationship with them. They reported "nothing significant" happened between themself and the Student prior to March 5, 2026.
27. Regarding the exchange on March 5, 2026, the Principal reported another student had alerted them classmates were throwing staples at the Student. They explained they waited until the advisory period at the end of the day because they knew the entire class would be together. The Principal stated they asked the teachers for permission to address the class, saying, "my intention was just to bring awareness to their behavior and discuss respect and appropriate behavior." The Principal reported the Student pointed out specific classmates and the classmates admitted throwing staples at the Student.
28. Regarding discussing the Student's disabilities, the Principal recalled being informed classmates were saying "type one" around the Student. They shared, "I asked [the Student] if [they] [were] comfortable telling [their] peers why this was uncomfortable for [the Student] and that's when [the Student] responded and talked about the fact that [they] had type one diabetes and why it was hurting [their] feelings." The Principal reported the Student stayed at their seat and described how the classmates' behavior hurt their feelings. The Principal said the

exchange lasted less than five minutes and they stayed at the front of the room for the entire exchange. The Principal explained, "It's confidential, yes, but it is known by [the Student's] group. … I knew that [the] entire class knew that [the Student] was diabetic and that was the reason they were picking on [the Student]. … I wouldn't have gone in there … if I knew that the class did not know that." The Principal did not mention the Student disclosing their ADHD or autism.

29. After March 5, 2026, the Principal shared, "I felt like there was some tension" regarding their relationship with the Student. They described the Student as "hesitant to provide greetings if I were to say hello." The Principal reported, "I knew just from the comments made by [the Parent] that [the Student] was told to basically not have contact with me or [the Superintendent] unless [the Parent] was present." They shared they respected the request and continued to generally support the Student at a distance.

30. The Principal reported, "It was pretty rare for [the Student] to come to me, or a school counselor, or [their] IEP case manager to state [bullying] [was] happening. [The Student] usually kept [the bullying] to [themself] and they would go home and tell [the Parent] and then [the Parent] would reach out to us."

31. The Principal acknowledged the Student's peers had known for quite awhile about the Student's diabetes. They confirmed an educational presentation about diabetes for the class happened in the past.

32. The Principal described the relationship between the peers in the Student's class as "sibling-like." They reported the bullying is "not as pervasive as [the Parent] is insinuating." The Principal believed since March 5, 2026, "things got better." They stated there had been no new reports from the Student or their peers about classmates bullying the Student.

Superintendent Interview

33. In an interview with the Complaint Investigator, the Superintendent shared their understanding of the incident. They knew classmates were throwing staples at the Student and "using the phrase 'type one' … as often as they could. They would infuse it into any kind of conversation that they could." The Superintendent was aware the Principal had received reports about the students' behavior. Since the entire class was together for the advisory period, the Superintendent believed the Principal "wanted to address the concern." They reported they were not present for the exchange. From their subsequent internal investigation, the Superintendent did not believe the Student disclosed their ADHD and autism.

34. The Superintendent stated since the LEA was small, the Student had been with the same peers for several years, and their whole class knew about their diabetes. The Superintendent recalled the School Nurse developing an educational presentation for the Student's class explaining diabetes, in or around fourth grade. They reported the School Nurse checked the Student's sugar level everyday at lunch, and staff

would often give the Student snacks throughout the day in front of peers. The Superintendent said, "I feel like for years we've addressed it."

35. The Superintendent indicated they asked the Parent if the Parent wanted the School to stop publicly giving the Student snacks or checking their sugar levels, and reported the Parent was "fine with all of that."
36. Regarding resolving the concerns about the Principal asking the Student to share private medical information, the Superintendent indicated they attempted to have multiple meetings about the incident with the Parent and stated, "I had trouble getting [the Parent] to respond to me."
37. The Superintendent shared, "I know that this parent is concerned about bullying and I don't think there was mal intent, or I don't believe that [the Principal] went in there to disclose anything that the students didn't already know." They further stated, "I think that [the Principal] was doing [their] very best to try to resolve the situation and I think it just took a turn that [they] didn't intend for it to take. I don't think [the Principal] ever intended for [the Student] to disclose anything."
38. Regarding the Student, the Superintendent shared, "I do worry about the authenticity of the report. [The Parent] had [the Student] draw about it. [The Parent] had [the Student] write it one time. [The Parent] had [the Student] rewrite it."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #454, in accordance with state and federal regulations implementing the IDEA, obtained parental consent prior to instructing the Student to disclose their disabilities to their classmates. K.A.R. 91-40-50(a); 34 C.F.R. §§300.622(a)(b)(1); 99.3.

According to K.A.R. 91-40-50(a), as used in this regulation, the following terms shall have the meanings specified in this subsection: "Education records" means any document or medium on which information directly related to one or more students is maintained by a participating agency in accordance with K.S.A. 72-6214 and amendments thereto. "Participating agency" means any educational agency or institution that collects, maintains, or uses personally identifiable student information to provide special education and related services to children with disabilities.

According to 34 C.F.R. §300.622(a)(b)(1), parental consent must be obtained before personally identifiable information is disclosed to parties, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. Parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part.

According to 34 C.F.R. §99.3, directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes, but is not limited to: the student's name;

address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status; dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended. Directory information does not include a student's social security number or student identification number. Directory information includes a student ID number, user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password or other factor known or possessed only by the authorized user; and a student ID number or other unique personal identifier that is displayed on a student ID badge, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a PIN, password, or other factor known or possessed only by the authorized user.

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

Education records are records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record, records of the law enforcement unit of an educational agency or institution, subject to the provisions of §99.8.

Personally identifiable information includes, but is not limited to, the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or biometric record. It also includes other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty, or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

Record means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. Student means any

individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

The Parent alleged the Principal made the Student disclose their disabilities to their peers, in class, as a way to "educate [the Student's] peers as well as stand up for [themself]."

The LEA maintains the Principal's actions on March 5, 2026, did not constitute an unauthorized disclosure of protected information nor a mandate for the Student to reveal their disability. The interaction in the advisory class was a targeted disciplinary response to reports of peer-to-peer harassment, specifically, the physical act of throwing staples and the verbal use of the phrase "type 1" as a derogatory label.

On March 5, 2026, the Principal entered the advisory classroom to address an active, spontaneous disciplinary issue where classmates were using the phrase "type 1" in a way that targeted the Student. The Principal's subsequent intervention was an immediate, practical response to witnessed peer conflict, rather than a premeditated action based on a review or extraction of data from the Student's confidential IEP or Individualized Health Care Plan. Because the source of the Principal's knowledge was the ongoing classroom behavioral disruption itself, the conversation falls outside the scope of protected education records.

The statutory definition of a "disclosure" under 34 C.F.R. § 99.3 requires the educational agency or school official to release, transfer, or otherwise communicate the PII. The facts demonstrate the Principal did not announce, publish, or reveal the Student's diagnoses to the class. Instead, the Principal provided a platform for the Student to express their feelings, asking them to explain why the classmates' behavior was hurtful. The ultimate verbal execution and choice of what information to share, including the unsolicited mention of ADHD and autism, was carried out by the Student.

The specific medical condition targeted by the Principal, T1D, fails to meet the regulatory definition of PII within this specific environment. Information is only considered personally identifiable under 34 C.F.R. § 99.3 if it would allow a reasonable person in the school community, who lacks personal knowledge, to identify the student with reasonable certainty. Here, the Student's T1D was already a matter of absolute certainty and public daily observation within this specific peer group due to a previous class presentation, visible blood sugar checks, and public snack administrations. Because the classmates were already actively targeting this specific condition, the Principal's reference to it did not newly identify the Student or expose unrevealed data.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to obtain parental consent prior to instructing the Student to disclose their disabilities to their classmates. However, LEA officials are hereby cautioned that mandating or pressuring students to disclose confidential information—the direct disclosure of which would otherwise necessitate parental consent—may constitute non-compliance with

the Family Educational Rights and Privacy Act (FERPA) and the Individuals with Disabilities Education Act (IDEA).

Corrective Action

Based on the foregoing, according to IDEA and Kansas special education regulations, it is not substantiated that the LEA violated regulations regarding confidentiality or PII.

Tania Tong, Licensed Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #408
ON MAY 26, 2026

DATE OF REPORT: JUNE 23, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ---------- by their parents, ----------. In the remainder of the report, the student will be referred to as "the Student" and the parents as "the Parents."

The Complaint is against USD #408, Marion Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #408.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 26, 2026 and the 30-day timeline ended on June 25, 2026.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #408, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to ensure the IEP was in effect and implemented as written, specifically when the English Teacher refused to provide a mandated accommodation reducing independent assignment questions by up to 25% and denied an accommodation for additional time on an assignment during the 2025-26 school year. K.A.R. 91-40-16 (a)(b); 34 CFR § 300.323(a)(c)(d).

Investigation of Complaint

The Complaint Investigator interviewed the Parents on June 11, 2026. The following LEA staff were interviewed on June 11 and June 15, 2026: the Special Education Teacher, the

Superintendent, the Principal, the Special Education Director, the Paraeducator, and the English Teacher.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parents and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. State Assessment Report, 2025-26 School Year
2. IEP Snapshot, 04/02/26
3. Accommodated Student Assignment, no date
4. Complaint form, no date
5. Complaint Investigation, 05/07/26
6. Complaint Response, 05/14/26
7. Individualized Education Plan Final, 03/12/26
8. Prior Written Notice, 03/12/26
9. Progress Report, 03/04/26, 05/29/26
10. Individualized Education Plan, 04/16/25
11. Learning Center Assessment, 11/18/25
12. Emails between parties, 11/18/25-05/07/26

Background Information

This Investigation involved a sixth-grade student enrolled at a middle school in USD #408. The Student received special education or related services as a child with a disability per the IDEA. The Student qualifies for special education under the exceptionality of Specific Learning Disability (LD). The Student was diagnosed with dyslexia and dysgraphia, which hinder their ability to independently read and comprehend grade-level text and produce written work. The Student had multiple accommodations listed in their IEP. The School staff noted that the Student enjoys spending time with their friends and prefers group work in an academic setting. The Student followed classroom rules and listened to directions well. When the Student was engaged or questioned, the Student expressed their honest opinions about their special education services and supports.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parents and staff in the LEA.

1. An IEP dated April 16, 2025, with a handwritten note of "Final accepted" with initials of "CM" and "OG" indicated the following relevant portions:

    a. The Student's IEP team noted concerns that the English language arts (ELA) classroom pace was too fast for the Student and emphasized the need to build self-advocacy skills.

b. Parent concerns focused on the Student being quiet and potentially "falling through the cracks" by failing to speak up when help was needed.

c. The Present Levels of Academic Achievement and Functional Performance section stated:

   i. Social-Emotional - The Student struggled to express emotions, often leaving feelings bottled up inside, separating from friends, and waiting for peers to engage first. Test anxiety was noted, creating a baseline need for fidgets, breaks, and alternative non-verbal communication methods (such as polling or thumbs up/down symbols) in large groups.

   ii. Reading - The Student utilized specialized instruction during multi-tiered system of supports (MTSS) to develop foundational phonics and fluency skills. Needs included pacing, directions repeated/clarified, extra time to complete assignments, scaffolding, sentence stems, and verbal prompts.

   iii. Written language - A writing baseline sample showed that when writing a paragraph about fashion, the Student generated five complete sentences with 71% accuracy in spelling, making errors primarily with vowel digraphs and letter omissions. Needs included extra time, additional adult support, graphic organizers, and chunking of assignments.

d. Annual goals were indicated as:

   i. Written Language – "By the end of the IEP, [the Student] will write a 5[-]sentence paragraph, over a topic of [their] choice, with 95% accuracy in capitalization, punctuation, and spelling, and including at least one noun, verb, and adjective in each sentence."

   ii. Reading – "By the next annual IEP, when given a grade-level reading passage fluency probe, [the Student] will be able to read 145 words per minute with 90% accuracy over three given trials."

e. Services for the fifth-grade term, April 16, 2025 through May 16, 2025:

   i. Pull-out services for 55 minutes per day, 5 days a week, for resource room mathematics.

   ii. Inclusion services for 110 minutes of daily paraeducator support, divided evenly between science/social studies (55 minutes) and reading/writing blocks (55 minutes).

f. Services for the sixth-grade term, August 13, 2025 through April 16, 2026:

   i. Pull-out services for 86 minutes per day, 5 days a week, split into 50 minutes for math and 36 minutes for a support class.

ii. Inclusion services for 250 minutes of special education staff support per week, distributed as 50 minutes each for reading, social sciences, science, 6th-grade skills/writing, and literature.

g. Effective for the full IEP term (April 16, 2025 to April 15, 2026), the following accommodations applied to all assignments and assessments across both general and special education settings:

i. Extended time of 1.5 times for all reading and writing assignments and assessments.

ii. Workload reduction allowed up to a 50% reduction in assignment length for all writing tasks and text-based questions.

iii. Dictation (speech-to-text) software for use on "all writing assignments that are more than 5 sentences in length."

h. Modifications for the full IEP term in the special education classroom indicated:

i. A shortened spelling list (no less than 25% and no more than 50%) for spelling assessments across all settings.

i. No assistive technology indicated.

j. Participation with non-disabled peers detailed a placement history that during 5th grade, the Student completed multiple "trials" and final reintegration into the general education room for reading and writing with accommodation support while remaining separated only for core math blocks.

k. The Student participated in District assessments with 1.5 extended time, in a separate/quiet location, and the use of math manipulatives

2. A Learning Center Assessment dated November 18, 2025 indicated the Student exhibited patterns of dyslexia and dysgraphia and was not performing at grade level. The report recommended systematic Academic Language Therapy using an approach for 60 minutes a day, three to five days per week. Additionally, the Assessor noted classroom accommodations would be necessary to help the Student overcome learning barriers and access grade-level curriculum. Consideration included the use of audiobooks, speech-to-text software, a scribe, and extended time for both tests and assignments.

3. In an email dated November 18, 2025 to Parent 1, the Agency Assessor provided a list of accommodations "that would best support [the Student] in reaching [their] academic potential."

4. In an email dated November 19, 2025 to Parent 1, the Special Education Teacher offered a meeting to "rework accommodations" and shared, "we have several in place."

5. In an email dated February 22, 2026 to the Principal, Parent 1 expressed concern regarding the Student being provided one-on-one "emotional support." They formally requested documentation and data demonstrating whether the Student's active IEP accommodations were ineffective. Additionally, they stated no modifications or adjustments were to be made to the Student's accommodations without clear data proving a need for change.

6. In an email dated February 23, 2026 to Parent 1, the Counselor clarified they had not been included in recent meetings or communications regarding the concerns raised by Parent 1. The Counselor explained one-to-one emotional support had not been provided to the Student because they were unaware that additional intervention had been requested. To address the Student's emotional needs moving forward, the Counselor proposed regular school check-ins, consulting the Special Education Teacher about a social work referral, and initiating a referral for outside counseling services.

7. An email exchange on February 23, 2026 indicated:

    a. The Principal requested documentation from the Student's teachers after Parent 1 requested proof the current accommodations were ineffective.

    b. The Special Education Teacher responded that they had no data indicating the accommodations were ineffective, adding the Student's classroom grades showed their IEP supports were helping them succeed. Additionally, they recommended continuing several supports, including a reduction of no less than 25% and no more than 50% for assignment lengths and extended time up to time and a half.

    c. The Social Studies Teacher noted the Student was graded based on their individual IEP accommodations rather than standard peer requirements and still required significant paraeducator support in all of their classes.

    d. The Principal responded, stating they would ask Parent 1 for clarification regarding the specific documentation requested.

8. In an email exchange on February 24, 2026 between Parent 1 and the Principal, the following was discussed:

    a. The Principal informed the Parent that a review of grades and teacher feedback indicated the Student's accommodations were "successfully supporting" the Student's academics. The Principal noted classroom teachers were grading the Student's assignments based on the Student's IEP

rather than standard peer metrics. Additionally, they clarified that the District was actively processing paperwork to secure additional paraeducator support to assist the Student in the classroom.

b. Parent 1 responded and questioned an "F" grade entered by the English Teacher for a book report assignment. Parent 1 noted the Student had completed the report over the weekend, which was the Student's understanding of the timeline, and submitted it before school started. Parent 1 noted the entered grade caused the Student distress and anxiety regarding School attendance.

9. In an email exchange on February 27, 2026, the English Teacher informed the Principal the Student had requested a shortened test before an assessment, which the English Teacher reported felt like being put "on the spot." They expressed frustration, referring to the requirements stating the "50% of an assignment has to go" and argued that the Special Education Teacher should handle the accommodations. The Principal reviewed the IEP and confirmed the Student's accommodations were legally mandated up to a 50% reduction on both assignments and assessments in general education settings and provided a copy of the accommodation.

10. In an email exchange on March 2 and 3, 2026, the English Teacher emailed the Student's teachers, expressing frustration that the Student's testing accommodations were securing a higher grade rather than helping them learn the curriculum. The English Teacher reported they had reduced a recent science assessment from 50 to 30 questions after the Student directly asked if they were supposed to receive a shortened test. The Special Education Teacher responded by explaining an assessment reduction of up to 50% was necessary to increase equity and remove the learning barriers created by the Student's dyslexia and dysgraphia.

11. An IEP dated March 12, 2026, with a handwritten note of "Final OG," indicated:

a. The Student's primary exceptionality was listed as LD.

b. Staff concerns noted, "There has also been an expressed concern about the conditions of some of [the Student's] accommodations, particularly the 50% reduction of assignments and assessments."

c. Parent concerns included work avoidance, anxiety, motivation, effort, and accountability. The section indicated, "These concerns will be addressed through the services, accommodations, para[professional] support, and modifications outlined in the IEP, as well as through the general education services available to [the Student] through the [S]chool."

d. Present levels of academic and functional performance indicated:

i. Areas of need in social-emotional, reading, math, and written language. These areas were to be met through accommodations, modifications, assistive technology, supplementary aids and supports, and positive behavioral supports.

ii. The Student required scaffolding, specific IEP accommodations, and paraeducator support within core general education classes to complete reading and writing assignments. To address literacy and written language needs, the Student utilized accommodations such as audiobooks, speech-to-text software, graphic organizers, and sentence starters to comprehend texts and formulate structured responses. Finally, due to observed academic anxiety and a tendency toward a learned dependency on educators, the Student required targeted support to improve independent engagement, motivation, and self-advocacy.

e. Goals were indicated as:

i. Social Emotional -- "By the next annual IEP, given a daily planner and a scheduled teacher check-in time with an adult, [the Student] will write in [their] planner assignments, due dates, and progress for each core class 5 days a week."

ii. Reading -- "By the next annual IEP, when given a grade-level informational or literary text and access to audio-support or text-to-speech software, [the Student] will independently answer 4 out of 5 comprehension questions correctly or earn an 80% in accuracy (including identifying the main idea and supporting details) across 4 trials.

iii. Written language -- "By the next annual IEP, when given a grade-level prompt, graphic organizer, sentence starters, and a writing support checklist, [the Student] will independently produce a structured paragraph that includes a clear topic sentence, at least three supporting details, and a concluding sentence in 3 out of 4 trials."

f. Services with a start date of March 12, 2026 through March 11, 2027, provided 5 days a week, indicated:

i. General Education/Inclusion for 250 minutes: "[The Student] will receive 250 minutes of special education staff support in a general education setting, 5 days per week (50 min[utes] for English, 50 min[utes] for social sciences, 50 min[utes] for science, 50 min[utes] for health, and 50 min for grade-level electives) to help support with writing, organization, comprehension, and information processing."

g. Effective for the full IEP term, the following accommodations applied to all assignments and assessments across both general and special education settings:

   i. "Use of visuals & manipulatives including number lines, graphic organizers, graph paper, etc. For all district and state assessments. For math and ELA assignments and assessments[.]"

   ii. "[E]tended time 1.5x[.] For all assessments[.]"

   iii. "Text read aloud via screen reader, electronic reader, or audiobook[.] For all assessments. When the material is above [the Student's] independent reading level. The purpose is for [the Student] to access grade-level content. Until reading assigned text or questions are completed."

   iv. "Dictation (Speech-to-Text)[.] For all writing assignments, and when answering questions on worksheets or other assignments that require writing (excluding daily grammar practice and intentional handwriting practice)[.]"

   v. "[S]eperate/quiet [sic] location[,] for all assignments and assessments in the general education classroom, and to utilize [their] text-to-speech accommodation[.]"

   vi. "[G]raphic organizers, writing checklists, and chunking of larger task[s][.] [The Student] will have all multipart assignments and assessments in the general education classroom broken down and chunked into small parts, using graphic organizers or checklists to help guide the work and manage the workload[.]"

   vii. "Not grading for spelling or grammar errors[.] [The Student] will not be penalized for spelling or grammar errors if spelling and grammar are not the goal of the assignments or assessment, including when [the Student] is demonstrating comprehension of the material[.]

   viii. "Reduced [i]tem [l]oad for independent assignments and assessments, no more than 25% reduction. Decreasing the total number of questions in independent assignments and assessments while maintaining the focus on key concepts. The reduction shall be no more than 25%."

   ix. "[C]opy of notes/notes scribing[.] [The Student] will take notes along with the class, but will also be provided a copy of the notes by the teacher or [their] para-professional[.]"

h. Assistive technology for the term of the IEP and length of assignments and/or assessments stated the "use of a scribe pen" and "use of talk-to-text (dictation)" for multi-part writing assignments/assessments in the resource

classroom, hallways, or other locations that were not near the Student's peers.

i. Participation with non-disabled peers stated the Student was educated in the general education classroom alongside non-disabled peers for the majority of the School day, utilizing special education services for a fifty-minute math period in a resource room setting. Despite ongoing concerns regarding anxiety and dependent behaviors, the Student successfully maintained adequate grades within the general education curriculum since transitioning to middle school. The team determined that these social-emotional challenges could be effectively supported through school counseling and outside therapy, ensuring the Student retained full access to all non-academic and extracurricular activities to the same extent as their peers.

j. The Student participated in district-wide assessments with extended time, a separate, quiet location, and math manipulatives.

12. March 12, 2026 PWN indicated:

a. The Student met the criteria for special education eligibility under the primary exceptionality of LD.

b. A material change in services was proposed, indicating an increase or decrease of 25% or more in the duration or frequency of a special education service, related service, or supplementary aid.

c. The team proposed other changes to the Student's IEP that did not directly involve modifications to services or placement.

d. The team proposed special education services to support the Student's academic deficits associated with medical diagnoses of dyslexia and dysgraphia. Approved services 250 minutes of staff support in the general education setting for English, Science, Social Studies, Health, and electives. Accommodations were authorized, including the use of visuals and manipulatives, extended time (1.5x), audio read-aloud tools, speech-to-text dictation, separate testing locations, chunked tasks, reduced assignment loads, and note-scribing assistance. General grading policies adjusted to ignore spelling or grammar errors when they were not the direct objective of the assignment.

e. The services and supports were proposed because the Student's reading and writing challenges, coupled with academic anxiety, required specialized intervention to achieve academic success.

f. The team rejected the option of withholding special education services entirely. The team also rejected an alternative option to increase resource

room pull-out time for reading and writing, concluding that the selected general education placement with specialized supports was more appropriate.

g. The proposed adjustments were based on a review of parent, teacher, and staff input alongside historical general and special education records.

13. In an email thread dated April 20, 2026, to the Principal, the English Teacher shared the Paraeducator had taken the Student one-on-one for a science test and requested a shortened assessment, which the English Teacher confirmed they provided. The Teacher noted the Student's IEP specified the utilization of electronic text-to-speech assistive technology rather than a human reader. In response, the Principal thanked the English Teacher for maintaining alignment with the written IEP guidelines and stated they planned to meet with the Special Education Teacher to address how accommodations were being administered to ensure overall accountability.

14. In an email, dated April 23, 2026, to the Student and the Student's teachers, the Special Education Teacher provided an updated summary of active IEP accommodations to clarify implementation for the Student, the Student's teachers, and paraeducators. They specified the Student was entitled to 1.5 times extended time on all assignments and assessments that required reading and writing. Additionally, they noted the Student was permitted a reduced item load of up to 25% fewer questions on independent tests and assignments, emphasizing this reduction did not apply to non-independent tasks. Regarding literacy supports, the Special Education Teacher clarified that text-to-speech, screen readers, or audiobook accommodations were to be utilized for assessments and grade-level assignments when the material was above the Student's independent reading level.

15. In an email exchange on April 30, 2026 between the English Teacher and Parent 1, the following was discussed:

a. The English Teacher inquired about one of the Parent's opinion on the Student's ability to complete an assignment. They stated, "I'm struggling because others believe that I should reduce it for [the Student] by 25% and I just feel like this is something [the Student] can do." The email indicated an attachment of the assignment, and the English Teacher added they had sentence starters.

b. Parent 1 replied they thought the Student could complete the assignment.

c. The English Teacher responded and stated, "I'm fighting a battle here. … [The Student's] para[educator] keeps trying to get me to reduce it. … I feel like I'm fighting the para[educator] on this. … I feel [the Student] can handle this. [The Paraeducator] wants me to reduce the assignment. [The Student's] IEP

isn't for a one[-]on[-]one para and I don't feel we are helping [the Student] by doing that." They added the Student could work on the assignment at home and provide four sentences per paragraph.

d. Later that day, Parent 1 replied and added, " … for now let's follow the 25% reduction in the IEP and encourage [the Student] to write more but not count it against [them]."

e. On the same day, the English Teacher forwarded the communication to the Principal and indicated they were going to call Parent 1 and express their "frustrations" regarding the one-on-one help from the Paraeducator.

f. In a separate email to Parent 1, the Special Education Teacher identified the writing assignment as an opportunity for the Student to practice writing skills and use accommodations. They noted that although the English Teacher provided classroom scaffolding, the Student was struggling to complete the task due to heightened academic anxiety. While they maintained the Student was capable of completing the full workload, the Special Education Teacher explained this heightened anxiety was blocking the Student's processing abilities. Furthermore, the Special Education Teacher recommended utilizing the Student's IEP accommodation for a workload reduction of up to 25%, modifying the requirement to three or four sentences per paragraph with the additional use of sentence starters.

g. Parent 1 replied they thought the Student could complete the assignment.

16. In a May 7, 2026 email to the Special Education Teacher, the English Teacher shared the Student struggled to understand grade-level text independently, even when read aloud. Additionally, the Student could not answer four out of five questions correctly with the accommodations in place. They highlighted the Student was unable to complete a recent writing task on their own, failing to work independently even when supplied with prompts, targeted questions, and sentence starters.

17. An undated Complaint Form indicated the Parents filed an LEA complaint alleging that, on April 30, 2026, the English Teacher failed to implement the IEP-mandated 25% assignment reduction. However, a May 7, 2026, Complaint report detailed the English Teacher's experience on April 30, 2026. The English Teacher shared they distributed the assignment, along with sentence starters, and the Paraeducator took the Student into the hallway and then asked for the 25% reduction of the assignment. They explained they informed the Paraeducator due to the assignment being personal, "[the Student] could do this," and they provided questions "to help [the Student] out." The English Teacher stated the Paraeducator continued to argue about the reduction, so they headed to the Special Education Teacher to discuss the assignment. [The Special Education Teacher] said it needs to be reduced but I felt like [the Student] could do the work." The outcome was a decision to reduce the

number of sentences per paragraph from five to four. They shared the following day the assignment was completed.

18. In an Investigation Outcome Letter dated May 14, 2026, the Superintendent determined the English Teacher was required to strictly follow the Student's IEP as written whenever modifications or accommodations were requested. The Superintendent concluded that although assignment modifications were implemented following discussions and emails with Parent 1, the written IEP still had to be honored precisely when asked. Furthermore, the investigation findings clarified that the Student did not possess one-on-one Paraeducator support within their IEP, which meant the Student either had to stay in the general classroom with other supported peers or the classroom's services needed to be combined.

19. A May 29, 2026 Progress Report outlined the Student's relevant progress on IEP goals:

    a. Written Language: The Student initially demonstrated moderate improvement in October 2025, then maintained performance in December 2025, and achieved slight improvement by February 2026.

    b. Reading: The Student recorded a slight improvement during the fall of 2025, which then shifted to a consistent status of maintained performance in February and May 2026

    c. Social-Emotional: The Student achieved a moderate level of improvement in their social-emotional goal in May 2026.

20. A Narrative Writing-End of Year 6th Grade assignment, no date, indicated the following:

    a. Four to five sentences per paragraph.

    b. Prompts for three paragraphs.

    c. Sentence starter examples.

21. On May 26 2026, Parent 1 filed the Complaint.

Parent Interview

22. In an interview with the Complaint Investigator, Parent 1 clarified that they were unaware of other instances where accommodations were not implemented, noting they “don’t know of any specific times during any of that. All I know for sure was the [reading assessment] and then the situation that took place on [April] 30th, [2026].” They described the reading assessment incident in February 2026. Their main concern regarding the Student’s IEP arose after the Student failed a retake of a grade-level reading assessment. The English Teacher allowed them to complete a book report over the weekend for submission on Tuesday morning. On Tuesday,

the English Teacher entered an "F" grade for the assessment, which automatically placed the Student on the Extended Daily Learning (EDL) list. Parent 1 shared they contested the grade with the Principal, arguing it violated the Student's IEP accommodation of extended time, but the Principal maintained EDL because the English Teacher reported the work was turned in late. Parent 1 then escalated the issue to the Superintendent, who reviewed the records, ensured the grade was updated, and successfully removed the Student from the EDL list.

23. When asked about the April 30, 2026 incident, Parent 1 explained the English Teacher reportedly "yelled at [the Student] in front of everybody in the classroom," then stated, "Not every single assignment's going to be shortened for you," after the Student requested an accommodation.

24. Parent 1 stated the Student's accommodations were only an issue in English class and the English Teacher had expressed frustration regarding the accommodation of a 25% reduction on assignments.

Special Education Teacher Interview

25. In an interview with the Complaint Investigator, the Special Education Teacher explained the regular education teaching staff participated in the development of the Student's IEP accommodations, all of which were mutually agreed upon and accessible via a shared digital folder. They added the Student had their own list of the accommodations and could "advocate and ask for a certain accommodation if [the Student] wants to use them." Additionally, they noted "friction" around the implementation of the Student's accommodations and shared "either a lack of understanding in some staff about accommodations … or … they knew it and were like, 'I'm not going to do this. This is my classroom." The Special Education Teacher explained this culminated in the April 30, 2026 incident when the English Teacher interrupted their teaching to discuss the Student's request for a 25% workload reduction on an assignment. They described the English Teacher as refusing to implement the accommodation in front of the Student, arguing the Student was capable of completing the entire assignment. When the Special Education Teacher reiterated the accommodation was a legal mandate within the active IEP, the English Teacher became visibly upset, warned that the two would have a private conversation later, and left. The Special Education Teacher recalled the Student completed the assignment later that night with assistance from Parent 2 and turned it in the following day but could not recall if the accommodation was utilized.

26. Within the resource room setting, the Special Education Teacher implemented math accommodations for the Student by utilizing visuals, number lines, extra time, and concrete manipulatives. For written tasks, they provided structural scaffolding through the use of graphic organizers, guiding questions, and specific sentence stems. Finally, to accommodate the Student's self-consciousness, the Special

Education Teacher routinely conducted service check-ins privately and provided a student-friendly checklist to help them manage their accommodations discreetly.

Superintendent Interview

27. In an interview with the Complaint Investigator, the Superintendent recalled around January or February 2026, Parent 1 met with them regarding a zero grade that had been entered for the Student's assignment, a situation that was corrected and resolved after an administrative check-in.

28. The Superintendent noted they met with the English Teacher during the District investigation and informed them, "It's very important that we follow those accommodations if it is available. If someone's asking for it, we just do it." They noted the English Teacher "understood it," and they informed them "it shouldn't have gotten to the point where it did."

29. The Superintendent asserted that prior to the April 30, 2026, incident, no compliance issues or concerns regarding the non-implementation of the Student's active IEP had ever been reported or brought to their attention.

Principal Interview

30. In an interview with the Complaint Investigator, the Principal acknowledged the English Teacher experienced frustration after the recent IEP team meeting, when there was an increase in the volume of the Student's accommodations. They stated they directly told the English Teacher, " … we've got to follow the IEP even if it's frustrating and that it's [sic] what is in the document that we need to be following."

Special Education Director Interview

31. In an interview with the Complaint Investigator, the Special Education Director confirmed the English Teacher was an active participant in the Student's IEP meeting, but had openly commented the Student was assigned too many accommodations and questioned how they would ever catch up with the rest of the class.

32. When asked about tracking the implementation of IEP mandates, the Special Education Director stated that classroom teachers did not typically document or track accommodation usage on their own, meaning implementation was frequently left to a teacher's perception of whether a student required the support rather than collected data.

33. The Special Education Director explained that while accommodations like extended time and a 25% workload reduction were mandated to support the Student's academic struggles, the April 30, 2026 incident escalated because the English Teacher chose to treat an IEP accommodation as an ongoing daily negotiation. They stated, "This was the assignment that had the 25% reduction, and maybe if another student had … a different accommodation of … marking out a distractor on multiple

choice, that it was just done and given. It was not a negotiation. So I was hearing this about that [the Student] had to ask for it and … that it was like this negotiation every day. I did not realize it was happening and how frequently it seems like it's happening and that's wrong."

34. The Special Education Director shared it was their understanding the Student was granted the reduction in assignment size for the April 30, 2026 assignment.

35. When asked about the impact of the confrontation, the Special Education Director explained the Student became "upset," "emotional," and required weekly therapy sessions to cope with an increased level of academic anxiety that made returning to school a daily "battle."

Paraeducator Interview

36. In an interview with the Complaint Investigator, the Paraeducator stated that they provided daily support to the Student following spring break, assisting them with completing assignments and advocating with accommodation requests.

37. When asked about teachers implementing the Student's accommodations, the Paraeducator stated, "I would say some teachers are better at it than others. There has [sic] been a lot of problems with some teachers not wanting to honor [the Student's] accommodations." They shared that at several moments when the Student had requested an accommodation, the English Teacher replied with, "I'm not going to do that," or "Oh, I'm so tired of this."

38. Regarding the April 30, 2026 incident, the Paraeducator stated when the Student experienced difficulty with a writing assignment, they requested a reduction, and the English Teacher declined the accommodation. The Paraeducator noted that following a conversation outside of the Special Education Teacher's room and an email exchange between the English Teacher and the Parents, the Student was permitted to submit a reduced assignment consisting of three to four sentences per paragraph, completed at home.

39. When asked about IEP implementation, the Paraeducator shared when they first started working with the Student, the Student advocated for their accommodations. They stated after the April 30, 2026, incident, the Student stopped attempting to self-advocate directly to the English Teacher because the English Teacher routinely rejected their requests in a loud, indiscreet manner in front of the classroom, ordering the Student to return to their seat.

English Teacher Interview

40. In an interview with the Complaint Investigator, the English Teacher stated they had known the Student since infancy due to a long-standing personal relationship with Parent 1. They described the Student as quiet, shy, and hardworking, noting the Student achieved a full year's worth of reading growth between August 2025 and

January 2026 after entering the regular education classroom. The English Teacher noted they had the IEP provided from 5th grade and "followed everything that I needed to do for it."

41. The English Teacher explained they implemented the Student's IEP by providing unrestricted extended time on assessments, utilizing separate hallway locations for assignments, and exempting the Student from spelling and grammar when mechanics were not the primary grading criteria. For writing and language tasks, the English Teacher provided structural scaffolding, text read aloud via a screen reader, visual modeling, graphic organizers, sentence starters, speech-to-text, and structured problem check-ins to build the Student's independent capacity. They noted the Student "could just ask for it" regarding accommodations. Additionally, the Teacher noted the workload reduction accommodation had been decreased from 50% to 25% under the updated IEP, an accommodation they were much more willing to implement.

42. The English Teacher stated that due to digital platform constraints, they did not apply the 25% reduction to the 100-point reading assessments administered every three weeks. When the Student failed one test, the English Teacher provided an alternative "one-pager" assignment that the Student completed at home with parental assistance.

43. When asked about the April 30, 2026 incident, the English Teacher stated the Paraeducator initiated an accommodation request in front of the Student by asking for an immediate 25% workload reduction on an end-of-year personal writing assignment. They initially resisted the reduction, stating that because the essay was a personal reflection, the Student was an expert on the topic and could complete the task using the provided prompts and sentence starters. The English Teacher explained they sat with the Student in the hallway to verbally provide prompts and generate ideas, then escalated the request to the Special Education Teacher and contacted Parent 1 via email to explain the assignment parameters. Upon receiving confirmation from the Parent requesting the accommodation, they applied the IEP accommodation by reducing the length requirement from five sentences per paragraph to four, and the Student completed the assignment successfully.

44. The English Teacher explained that on May 11, 2026, they received a letter from LEA leadership regarding IEP compliance. The correspondence stated, "Compliance with an IEP is both a legal obligation and [an] essential part of supporting student success. Moving forward, you are expected to ensure all accommodations are implemented consistently."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #408, in accordance with state and federal regulations implementing the IDEA, failed to ensure the IEP was in effect and implemented as written, specifically when the English Teacher refused to provide a mandated accommodation reducing independent assignment questions by up to 25% and denied an accommodation for additional time on an assignment during the 2025-26 school year. K.A.R. 91-40-16 (a)(b); 34 CFR § 300.323(a)(c)(d).

According to K.A.R. 91-40-16 (a)(b); 34 CFR § 300.323(a)(c)(d), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. The agency shall ensure that an IEP is in effect before special education and related services are provided to an exceptional child. Those services to which the parent has granted written consent as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown. An IEP is in effect for each exceptional child at the beginning of each school year.

In addition, an IEP should be in effect for each exceptional child at the beginning of each school year, and accessible to each regular education teacher, special education teacher, related service provider, and other service providers who are responsible for its implementation. Each teacher and provider should be informed of their specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Parents alleged on April 30, 2026, Parent 1 received an email requesting input regarding an English assignment. According to Parent 1, the Student's IEP specifically stated under accommodations that the number of questions for independent assignments and assessments will be decreased by no more than 25%. According to Parent 1, the English Teacher expressed that they did not believe the Student should receive the accommodation on the assignment because the English Teacher felt the Student was capable of doing the work. The Parents feel that the IEP was not implemented as written and accommodations were not being followed. The Student had been struggling with the work for multiple days. In addition, Parent 1 stated they had to advocate for the Student's accommodations to be followed consistently throughout the 2025-26 school year.

The LEA indicated in regard to the incident in question, the English Teacher reached out to Parent 1 to see if they felt the Student was capable of doing the entire self-reflection assignment with para support and sentence starters. The LEA indicated that initially, Parent 1 felt the Student would be able to do the assignment. Later, Parent 1 came back and said they weren't sure the Student would be able to complete the assignment without the 25% reduction accommodation. The English Teacher agreed to shorten the assignment.

The Student's IEP legally mandated specific accommodations, including 1.5 extended time on reading and writing tasks and an independent assignment workload reduction of up to 25%. Under the standard established in Van Duyn v. Baker School District 5J, 502 F.3d 811 (9th Cir. 2007), a failure to implement an IEP is only a violation if the deviation from the IEP is "material," meaning there is more than a minor discrepancy between the services provided and those required. This materiality threshold is widely supported across jurisdictions, as articulated in Beer ex rel. A.B. v. USD 512 Shawnee Mission (2023), which noted that school districts incur liability when a material failure to implement an IEP violates the IDEA. Furthermore, E.C. by W.C. and K.C. v. U.S.D. 385 Andover (2020) emphasizes that to prevail on a claim under the IDEA, a party challenging the implementation of an IEP must show more than a de minimis failure to implement all elements of that IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP. In the absence of further guidance from the Tenth Circuit on this standard, courts proceed under this prevailing materiality standard from its sister circuits, including the Fifth Circuit's holding in Houston Independent School District v. Bobby R. (2000).

While administrative and special education staff treated these provisions as non-negotiable mandates, the English Teacher routinely substituted their subjective assessment for these requirements. The English Teacher stated that due to digital platform constraints, they did not apply the 25% reduction to the 100-point reading assessments administered every three weeks. When the Student failed one test, the English Teacher provided an alternative "one-pager" assignment that resulted in an "F" grade, causing the Student academic anxiety. Furthermore, the English Teacher maintained that the Student "could just ask for it" to access accommodations, yet routinely rejected accommodation requests in a non-discreet manner in front of peers. Testimony from the Paraeducator revealed the Student ceased attempting to self-advocate after accommodation requests were routinely rejected. The Special Education Director reported, the Student became "upset," "emotional," and required weekly therapy sessions to cope with an increased level of academic anxiety that made returning to school a daily "battle."

This pattern culminated on April 30, 2026, when the English Teacher refused a requested 25% reduction in workload on an independent writing project. This confrontation caused the Student distress, and the accommodation was implemented only after Parent 1 confirmed its use via email. Furthermore, following an internal review of the incident, leadership issued a formal directive to the English Teacher on May 11, 2026, ordering them to implement all IEP accommodations consistently. Mandated IEP accommodations cannot depend on an educator's subjective approval or a student's public negotiation. By the English Teacher repeatedly questioning, delaying, or omitting the 25% workload reduction on assessments and assignments, the LEA committed a material deviation from required services.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is substantiated*** that the LEA materially failed to implement the mandated classroom accommodations in the Student's IEP.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at K.A.R. 91-40-16 (a)(b); 34 CFR § 300.323(a)(c)(d) specify that public agencies must ensure special education and related services are made available to a child with a disability in accordance with their IEP, and that each teacher is fully informed of their specific implementation responsibilities.

In this case, the evidence supports the finding that USD #408 did not ensure the consistent provision of these required services when a classroom teacher omitted, delayed, or negotiated the Student's mandated 25% workload reduction.

Based on the foregoing, USD #408 is directed to take the following actions:

1. USD #408 must design and deliver a comprehensive professional development training session for all School general education and special education instructional staff, building administrators, and paraeducators regarding the non-negotiable status of legally binding IEP accommodations. This training must clarify that individual educators cannot alter, delay, or condition accommodations and modifications based on subjective assessment of student capability or a student's failure to self-advocate. This training must take place prior to the start of the 2026-27 school year, and USD #408 must provide the Department with the training curriculum, presentation materials, agenda, and signed attendance logs verifying 100% staff participation.
2. USD #408 must establish and implement a mandatory, structured collaboration protocol between special education staff and general education teachers to ensure the consistent and compliant delivery of IEP accommodations within the general education environment. This framework must require regular, documented consultation meetings between special education case managers and general education instructors to co-plan modifications, review the ongoing efficacy of classroom accommodations, and collaboratively resolve implementation barriers. This collaboration protocol must be finalized and integrated into School procedures within 60 calendar days of this report and operationalized ahead of the 2026–27 school year, and the LEA must provide the Department with the formalized written policy, a schedule of recurring consultation meetings, and a copy of the standardized collaboration logs or meeting templates as evidence of compliance.

Tania Tong, Licensed Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON MAY 4, 2026

DATE OF REPORT: JUNE 8, 2026

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ------- and ------- by their parents, -------. In the remainder of the report ------- will be referred to as "student A", ------- will be referred to as "student B" and both will be referred to as "the students". ------- will be referred to as the "complainants" or "the parents" or individually as "the father" and "the mother" respectively.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the complaint is against USD #437 (Auburn/Washburn Public Schools) which employs its own staff to meet the requirements of the IDEA. In the remainder of the report, this responsible public agency will be referred to as "the local education agency (LEA)".

In the remainder of the report, the LEA staff will be referred to as follows:

- Heidi Carlson, Director of Secondary Special Services
- Charlie Stoltenberg, Washburn Rural North Middle School (WRNMS) Principal
- Tina Schindler, Special Education Teacher / Case Manager
- Ed Raines, Washburn Rural High School (WRHS) Principal
- Jamie Callaghan, WRHS Assistant Principal
- Hillary Osborn, Special Education Department Chair
- Sandi Roe, WRHS Lead Nurse
- Katy Dulaney, WRHS Nurse
- Portia Jurado, Special Education Teacher / Case Manager
- Rachael Loyd, Physical Therapist
- Anthony Wunder, Adaptive PE Teacher
- Alex Hutchins, General Education PE Teacher for Individual/Team Sports
- Danyelle Sostre, Special Education Teacher 1

- Ruth May, Special Education Teacher 2
- Amy Kester, Special Education Teacher 3
- Lexi Ellis, Speech/Language Pathologist (SLP)
- Jennifer Tiller, General Education Advisory Teacher
- Dr. Scott McWilliams, Superintendent
- Chelsea Clark, ADA/504 Coordinator and Executive Director of Human Resources (HR)

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE and the LEA. In this case, May 4, 2026 is considered as the date the complaint was filed.

Evidence Reviewed

The father was interviewed by telephone on May 19, 2026 and the mother was interviewed on May 22, 2026 and also responded to written interview questions on May 25, 2026.

The following LEA staff from the WRNMS were interviewed by telephone on May 19, 2026:

- WRNMS Principal
- Special Education Teacher / Case Manager
- Director of Secondary Special Services

The following LEA staff from the WRHS were interviewed by telephone on May 19, 2026:

- WRHS Assistant Principal
- Special Education Teacher / Case Manager
- Director of Secondary Special Services
- Special Education Department Chair
- WRHS Lead Nurse
- WRHS Nurse
- Special Education Teacher / Case Manager
- Physical Therapist

In completing this investigation, the Investigator reviewed written documentation provided by both the complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Evaluation Team Report dated October 26, 2023 for student A
2. Individual Education Program (IEP) for student A dated October 8, 2024 from USD #437
3. IEP Amendment for student A dated August 12, 2025
4. Prior Written Notice (PWN) for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated August 12, 2025

proposing to add transportation as a related service and attendant care to student A's IEP which was signed by both parents on September 8, 2025

5. IEP for student A dated September 25, 2025
6. Email dated September 28, 2025 at 9:20 PM written by the father to Special Education Teacher 3
7. Email dated October 2, 2025 at 10:58 AM written by the WRHS Assistant Principal to the parents
8. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent proposing to update IEP goals and increase special education services which was signed by the mother on October 6, 2025
9. Email chain dated November 17, 2025 at 7:55 and 10:02 AM between Special Education Teacher 3 and the mother regarding a pinching incident
10. Email chain dated April 24, 2026 between the mother and the WRHS Assistant Principal, WRHS Principal, Director of Secondary Special Education, and Special Education Teacher / Case Manager at 8:43, 9:33, 9:44, 10:00, 10:21, 10:24, 10:42, and 10:58 AM
11. Email chain dated April 24, 2026 written by the mother to the WRHS Assistant Principal, WRHS Principal, Director of Secondary Special Education, and the Special Education Teacher / Case Manager with responses not copied to the Special Education Teacher / Case Manager at 11:46 AM, 12 noon, 12:05, 12:39, 12:43, 1:04, 2:18, 2:24, 2:32, and 2:54 PM
12. Children's Mercy Hospital note dated April 28, 2026 written by Katherine Carpenter, APRN regarding physical restrictions
13. Group email dated April 28, 2026 at 11:53 AM written by the Special Education Teacher / Case Manager to the parents of student B and the parents of 11 peers
14. Reply All Email responses dated April 28, 2026 at 11:56 AM from one parent and a second parent response at 3:49 PM
15. Email dated April 28, 2026 at 12:25 PM written by the mother to the WRNMS Principal, the Secondary Special Education Director, the Superintendent, and the ADA/504 Coordinator and Executive Director of HR
16. Email dated April 29, 2026 at 7:55 AM written by the mother to the WRHS Principal, WRHS Assistant Principal, Special Education Department Chair, and the Special Education Teacher / Case Manager sharing the Children's Mercy medical note
17. Email dated April 29, 2026 at 9:36 AM written by the WRHS Assistant Principal to the mother regarding scheduling an IEP meeting in response to the Children's Mercy medical note
18. Email dated April 29, 2026 at 9:51 AM written by the mother to the WRHS Assistant Principal
19. PWNfor Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated April 29, 2026 proposing an IEP Team meeting "*to review the newly received medical information, consider revisions to [student A's]*

goal, services, accommodations, considerations and ensure that all aspects of her program are aligned and can be implemented safely".

20. Heartland Community Health Center note dated April 29, 2026 written by Marshall Kelley, M.D.
21. Email dated April 29, 2026 at 1:42 PM written by the WRNMS Principal to the Director of Secondary Special Education
22. Email dated April 29, 2026 at 4:56 PM written by the WRHS Assistant Principal to the parents
23. Notice of Meeting dated April 29, 2026 scheduling an IEP Team meeting for May 12, 2026 at 3:30 PM
24. Email dated April 29, 2026 at 8:08 PM written by the mother to the WRHS Assistant Principal
25. Email dated April 30, 2026 at 8:37 AM written by the WRHS Assistant Principal to the mother
26. Email dated May 1, 2026 at 4:59 PM written by the WRHS Assistant Principal to the mother
27. Emails dated May 1, 2026 at 5:36 and 5:26 PM written by the mother to the WRSH Assistant Principal
28. Email dated May 1, 2026 at 6:19 PM written by the WRHS Assistant Principal to the parents
29. Notice of Meeting dated May 6, 2026 offering an IEP Team meeting on May 15, 2026 at 3:30 PM
30. Notice of Meeting dated May 6, 2026 offering an IEP Team meeting on May 19, 2026 at 8:30 AM
31. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated May 6, 2026 proposing an IEP Team meeting to consider medical notes provided by the parents and refusing to conduct an annual IEP review at this time
32. The LEA's Response to the Issues dated May 13, 2026
33. Email dated May 19, 2026 at 9:49 AM written by the Director of Secondary Special Education to the Investigator
34. Mother's response to written interview questions included in an email sent to multiple KSDE staff, the father, and the Investigator dated May 25, 2026
35. Student A's Attendance Record for the 2025-26 school year
36. Student A's Discipline Log for the 2025-26 school year
37. The WRNHS Student Handbook for the 2025-26 School Year
38. USD #437 School District Calendar the 2025-26 school year

Background Information

The students previously attended school in another LEA in Kansas and both students received special education and related services through IEPs. The students transferred to the current LEA at the conclusion of the 2024-25 school year and received extended school year services in the current LEA during the summer of 2025.

Student A was enrolled in the 10th grade at WRHS during the 2025-26 school year. Her most recent reevaluation was completed on October 28, 2024 and it was determined that she continued to meet the eligibility criteria for the exceptionality of Intellectual Disability and Autism. There were two IEPs in effect during the 2025-26 school year with the first being an August 12, 2025 IEP amendment to the transfer IEP from USD #345 and the second being the annual IEP developed on September 25, 2025. Both IEPs include special education support in general education classes and special education and related services provided in the low incidence programs in the district.

Student B was enrolled in the 8th grade at WRNMS for the 2025-26 school year. Her most recent triennial reevaluation was completed on October 18, 2023. At that time, it was determined that she continued to meet the eligibility criteria for the exceptionality of Multiple Disabilities based on medical diagnoses of Down's Syndrome, Attention Deficit Hyperactivity Disorder (ADHD), and Reactive Attachment Disorder (RAD). There were two IEPs in effect during the 2025-26 school year with the first being an August 6, 2025 IEP amendment to the transfer IEP from USD #345 and the second being the annual IEP developed on October 13, 2025. Both IEPs include special education support in general education classes as well as specialized instruction and related services provided in the low incidence program in the district.

Issues Investigated

Student A

The parent made 14 allegations of violations of the IDEA for student A. These 14 allegations were all related to three IDEA issues which were investigated.

Issue One

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate procedures to develop an IEP that provides FAPE to the student during the 2025-26 school year through May 4, 2026.

[This issue addresses Allegations 1, 2, 10, and 14]

Applicable Law

Federal regulations, at 34 C.F.R. §300.17(a) and (d) state that a "free appropriate public education" means special education and related services that are provided at public expense, under public supervision and without charge and are provided in conformity with an individualized education program.

Federal regulations, at 34 C.F.R. §300.323(e) states that when a child with a disability who had an IEP that was in effect in a previous public agency in the same State transfers to a new public agency in the same State, the new public agency in consultation with the parents must provide FAPE to the child including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either 1) adopts the child's IEP from the previous public agency; or 2) develops, adopts, and implements a new IEP.

Federal regulations, at 34 C.F.R. §300.320(a)(4), require school districts to develop an IEP describing the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum; 3) participate in extracurricular and other nonacademic activities; and, 4) be educated and participate with other children with disabilities and nondisabled children.

Federal regulations, at 34 C.F.R. §300.324(a), require school districts to ensure that each IEP Team considers the strengths of the student, the concerns of the parents for enhancing the education of their student, the results of the most recent evaluation of the student, and the academic, developmental, and functional needs of the student when developing the IEP.

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Federal regulations at 34 C.F.R. §300.324(b)(1) require each public agency to review each student's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and to revise the student's IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters.

Federal regulations, at 34 C.F.R. §300.321(a) requires school districts to ensure that the IEP Team for each child with a disability include the parents of the child, not less than one regular education teacher of the child, not less than one special education teacher of the child, a representative of the school district, an individual who can interpret the instructional implications of evaluation results, other individuals who have knowledge of special expertise

regarding the child at the discretion of the parent or the school district, and the child with a disability whenever appropriate.

Federal regulations, at 34 C.F.R. §300.321(e)(1) allow for a required member of the IEP Team to be excused and not required to attend an IEP Team meeting, in whole or part, if the parent of a child with a disability and the school district agree, in writing, that the attendance of that member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting.

Federal regulations, at 34 C.F.R. §300.321(e)(2) allow for a required member of the IEP Team to be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if 1) the parent, in writing, and the public agency consent to the excusal; and 2) the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

Parent Position

The parents made the following four allegations against USD #437:

> Allegation 1: USD #437 failed to include medical and personal care information from prior IEPs in student A's current IEP developed during the 2025-26 school year.
>
> Allegation 2: USD #437 failed to incorporate parent-provided medical information shared at the IEP Meeting into student A's IEP during the 2025-26 school year.
>
> Allegation 10: The USD #437 Building Principal systematically removed the IEP case manager from parent email communications regarding placement and IEP implementation concerns thereby impeding the case manager from her IEP team member responsibilities.
>
> Allegation 14: USD #437 scheduled an IEP Team meeting at a time when IEP Team members will need to leave early without first obtaining parent consent for the excusal of the affected IEP Team members.

LEA Position

In regards to Allegations 1 and 2, the WRHS Assistant Principal reported WRHS staff met with the parents in August prior to the beginning of the 2025-26 school year and reviewed the most recent reevaluation of the student on October 26, 2023 and the transfer IEP from USD #437 dated October 8, 2024. The parents and the LEA agreed to amend the October 8, 2024 IEP to add transportation as a related service on August 12, 2025. The LEA provided the parents with prior written notice proposing these changes and obtained written parent consent on September 8, 2025. The IEP Team met on September 25, 2025 to conduct the annual review and to revise the IEP based on IEP goal progress and parent input. The LEA indicated the revisions included expanded health information, updated goals, a change in services, and

change in placement and reported that the mother provided written consent on October 6, 2025. The LEA noted that the parents never shared any concerns regarding the health information included in the IEP until the student was sent home a second day on April 24, 2025 for diarrhea.

In regards to Allegation 10, the WRHS Principal reported he intentionally responded to the parents' emails which contained accusations of alleged noncompliance and violations of federal law by copying only administrative staff. He indicated that the adjustment to the email distribution list was based on the nature and escalation of the parent communication, not on the role of any individual staff member. The LEA further noted the Case Manager / Special Education Teacher was never removed from any email communications that addressed IEP responsibilities during the 2025-26 school year.

In regards to Allegation 14, the WRHS Assistant Principal reported the parents provided two medical notes from student A's medical providers on April 29, 2026. When trying to find a mutually agreeable date/time for the IEP Team meeting to review this information, the parent requested a total of 14 staff members attend the meeting. The WRHS Assistant Principal stated, "*During that process, the district informed the parents through email communication that three of the additional requested participants (total of 14) had scheduling limitations and would need to leave prior to the anticipated conclusion of the meeting. The district communicated this information openly in an effort to coordinate scheduling and participation transparently*". The parent was not in agreement to excuse these IEP Team members and no IEP Team meeting was held where IEP Team members would need to be excused.

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation.

1. The October 8, 2024 IEP developed by USD #345 included the following medical information for student A: Down Syndrome, Scoliosis, Heart surgery in infancy, hearing loss and use of a hearing aid, history of ear infections, and astigmatism. This IEP included the following functional needs for student A: personal care and hygiene, prompting for routines, and functional independence.
2. The parents stated they did not believe the IEP from USD #345 adequately addressed the student's medical needs and the resulting functional needs. The parents reported that they verbally shared extensive and specific information gained over 16 years about student A's medical needs and their practical implications for the school environment with LEA staff at the August 12 and September 25, 2025 IEP meetings.
3. The parents met with WRHS staff on August 12, 2025 to review the transfer/current IEP from USD #345 and to develop a schedule for student A. The resulting class schedule for the 2025-26 school year included two PE classes as electives at the parents' request in order to address student A's back and core issues related to a back surgery and her hypotonia.

4. Also as a result of the August 12, 2025 transfer IEP meeting, the parents and the LEA agreed to amend student A's IEP without conducting a meeting and the LEA issued a PWN proposing to add transportation as a related service and additional attendant care to student A's IEP. The parents provided signatures affirming they were in agreement with the IEP amendment as well as provided written consent for the PWN on September 8, 2025.
5. The IEP Team for student A met on September 25, 2025 to conduct the annual IEP review and to revise the IEP as needed. As a result of this meeting, the LEA issued a PWN proposing to update IEP goals and increase special education services. The mother provided written consent on October 6, 2025
6. An email dated September 28, 2025 at 9:20 PM written by the father to Special Education Teacher 3 stated, "*[The mother] and I had some time over the weekend to review the two samples that [Special Education Teacher 3] sent home. I think we are going to go with 3rd grade reading comprehension for the goal. Obviously, we want her to be pushed as far as she can but we also want her to feel success. Also, can we make sure there is language in the IEP acknowledging that because of [student A's] autism diagnosis, she can struggle with inconsistent sleeping patterns?*".
7. The WRHS Assistant Principal sent an email to the parents on October 2, 2025 stating, "*I have attached an updated draft IEP that reflects the changes in the reading goal in addition to adding language about her inconsistent sleeping patterns and hearing loss. The information about inconsistent sleep patterns and hearing loss were added to the impact of Exceptionality section connected to each goal*".
8. The mother reported that the May 6, 2026 Complaint, Section III.A, and May 12 Complaint, Sections A and B included the omitted medical information that should have been included in the September 25, 2025 IEP. That document included the following list: "*Back and spinal conditions requiring surgical intervention (present in every prior IEP); Pain management needs and protocols during the school day; Toileting support needs; Ambulation and endurance limitations; Use of sensory stemming necklace; [student A's] nonverbal communication system — how she communicates through her beads and stimming behaviors*".
9. The September 25, 2026 IEP included the following information regarding the alleged omitted medication information about student A's:
    a. Back and spinal conditions requiring surgical intervention (present in every prior IEP);
        i. Scoliosis is listed under Student A's health history In the Present Levels of each of the seven goals
        ii. Corrective surgery for scoliosis is listed under Current Functional Performance for Goals six and seven
        iii. Uses supramalleolar foot orthoses (SMO) bilaterally is listed listed the Present Levels for Goals six and seven

b. Pain management needs and protocols during the school day and Toileting support needs;
    i. "*Due to her hx [history] of spinal surgery core strengthening and stabilization are necessary in order to minimize pain and facilitate proper upright postural support during daily tasks*." is written under the Present Levels, Current Functional Performance for Goal six.
    ii. Under Goal four, Present Levels, Current Functional Performance, it states that the student continues to require adult support and assistance navigating the school setting and independently caring for her personal needs and she has scheduled bathroom breaks throughout the school day and staff prompts the student to use the bathroom when it's her scheduled time.
c. Ambulation and endurance limitations; Use of sensory stemming necklace; [student A's] nonverbal communication system — how she communicates through her beads and stimming behaviors.
    i. Under Goal six, Present Levels, Impact of Exceptionality, it states: "*[Student A's] diagnosis impacts her gross motor abilities due to increased joint mobility and ligamentous laxity (hyperflexibility). She demonstrates decreased balance, strength, and endurance with motor activities.*"
    ii. Under Goal five, Present Levels, Current Functional Performance, it states that Student A utilizes a speech generating device (SGD) which is a family-owned portable ViaPro device which has LAMP Words for Life installed.
    iii. No mention is made of a sensory stemming necklace.

10. The October 8, 2024 IEP and the September 25, 2025 IEP included all of the medical conditions with the following additions describing student A's functional needs:
    a. The student requires prompting to initiate tasks and navigate the school environment
    b. The use of a visual schedule to support independence
    c. Scheduled bathroom breaks with staff prompting
    d. Ongoing support for personal care and daily routines by:
        i. Providing greater specificity regarding prompting and support levels
        ii. Embedding these needs within functional performance and daily school routines
        iii. Addressing personal care within goals, transition planning, and independence skill development
        iv. Including parent input regarding hygiene, independence, and long-term care concerns in transition planning
11. The mother reported the parents first became aware that the September 25, 2025 did not include the medical information the parents had shared when the student reportedly pinched a peer on November 17, 2025 and the WRHS Assistant Principal

indicated student A appeared to be anxious based on the use of her stimming necklace. The mother indicated that written questions asking how and why this information was left out of student A's IEP were sent to the WRHS Assistant Principal, the Case Manager and other members of the IEP Team; however, no one responded. Subsequently, the parents sent additional emails about this issue as well as other concerns but did not request to reconvene the IEP Team until April 27, 2026 following a situation on April 24, 2026 when the student was sent home a second day for diarrhea.

12. The mother and WRHS staff emailed back and forth a total of 18 times between 8:43 AM and 2:54 PM regarding the decision for the student to be sent home a second day for diarrhea. Every email sent by the mother was copied to the Special Education Teacher / Case Manager; however, all email responses were written by the WRHS Principal beginning at 11:46 AM and did not copy the Special Education Teacher / Case Manager.

13. It is noted that the LEA did not propose to reconvene student A's IEP Team until receiving medical notes from two of student A's medical providers on April 29, 2026.

14. In the mother's response to written interview questions, she stated, *[The WRHS Principal] actively removed [student A's] case manager from email communications — a direct violation of 34 C.F.R. §300.321(a), 300.322, and 300.500 et seq*." *The mother reported that "By removing [the Case Manager] from reply chains, [the WRHS Principal] prevented her from:*

- *Knowing what medical information we had shared with administration*
- *Responding to or correcting the district's positions on our IEP meeting requests*
- *Fulfilling her obligations as case manager to coordinate IEP implementation*
- *Being aware of decisions being made about her student's educational program*".

15. In the response to Allegation 10, the WRHS Principal stated, "*As reflected in the email record, the communication shifted from routine questions regarding implementation to formal allegations of legal violations, assertions of IDEA and ADA noncompliance, and notification of a complaint being filed with KSDE. In response to this escalation, I handled the matter at the administrative level and limited reply communications to administrative personnel responsible for oversight and coordination (Principal and Assistant Principal), while also including the Superintendent and Director of Special Education due to the likelihood of further escalation. This approach ensured that responses were:*

- *Coordinated and consistent,*
- *Aligned with appropriate administrative authority, and*
- *Focused on directing concerns into the formal processes required under IDEA, such as IEP team meetings and Prior Written Notice, rather than informal email exchanges.*

The case manager was not excluded from any educational decision-making process. Rather, she was not included in a specific email thread that had become adversarial and complaint-driven in nature, and which required an administrative-level response".

16. The mother shared the medical note from Children's Mercy Hospital with multiple LEA staff in an email dated April 29, 2026 at 7:55 AM stating, "*Please find attached a medical letter from children's mercy [sic] regarding [the student's] physical needs, since the district has chosen to discriminate against her physical disability, by actively ignoring her medical history, having no plan for students with disabilities in an entry change, and [the WRHS Assistant Principal's]retaliatory change of school entrance. We went ahead and again got it clearly from them . . .*"

17. The WRHS Assistant Principal emailed the mother on April 29, 2026 at 9:36 AM stating, "*Thank you for providing the recent medical documentation from Children's Mercy. We have reviewed the information carefully and want to ensure we are responding in a way that prioritizes [the student's] safety and well-being. Based on the medical guidance provided, which indicates limitations with prolonged standing, walking long distances, and restrictions related to lifting and certain movements, we are making the following immediate adjustments effective today:*

- *Pausing activities that require extended walking, endurance-based exertion, or increased physical strain*
- *Allowing access to seating, rest breaks, and reduced physical demands throughout the school day as needed*
- *Adjusting transitions to minimize distance and physical demand, including use of the closest available entrance and exit*
- *Ensuring staff support for carrying materials as needed*

We recognize that these changes differ from the current focus of her IEP goals and services. As a result, we will be initiating an IEP team meeting to review this new medical information, consider any necessary revisions to her goals and services, and ensure her plan appropriately reflects her current needs. In the meantime, our physical therapist will be reaching out to you directly to gather additional details and clarify any specific recommendations that will help guide safe implementation at school. We are also working to develop a safe and supportive plan for arrival and dismissal and will follow up with you shortly to ensure this aligns with your input and [student A's] needs. We appreciate your partnership and your prompt sharing of this information".

18. An email dated April 29, 2026 at 9:51 AM written by the mother to the WRHS Assistant Principal stated, ". . . *It has always been an expectation that someone would help [student A] carry her backpack. It has always been an expectation that [student A] would be allowed to take breaks when she needed to. This was all discussed in the IEP meeting that you were the LEA for, [the WRHS Assistant Principal] . . . Again, all of these things were discussed with you at [the student's] IEP meeting In [sic] the fall. What were you doing during that meeting as the LEA that you heard and did not ensure any of this was documented in the IEP? I HAVE NOW REPEATEDLY ASKED YOU WHY YOU AS THE LEA DID NOT ENSURE THAT THIS MEDICAL INFORMATION WAS INCLUDED IN [student A's] IEP. All of those on copy know that I have now repeatedly asked you this question, what were*

you doing during [student A's] IEP meeting as the LEA if you did not hear any of this information and did not ensure it was captured in her IEP? I already spoke to the physical therapist, she has common sense. We are all set".

19. The LEA provided the parents with a PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated April 29, 2026 proposing an IEP Team meeting "*to review the newly received medical information, consider revisions to [student A's] goal, services, accommodations, considerations and ensure that all aspects of her program are aligned and can be implemented safely*".
20. The WRHS Assistant Principal sent an email to the parents on April 29, 2026 at 4:56 PM stating, "*As outlined in the Prior Written Notice, the district has reviewed the medical guidance alongside [the student's] current IEP, including her goals, participation in physical education, and access to the school environment. Based on this review, we believe it is important for the IEP team to meet to ensure that all aspects of her program are aligned with her current needs and can be implemented safely. In addition, the district will collaborate with the school nurse to address the recently provided medical information related to health needs during the school day and determine appropriate supports*". The email noted the IEP Team for the meeting would include the parents, the Physical Therapist, the Adaptive PE Teacher, the General Education Teacher for Individual/Team Sports (PE elective), Special Education Teacher / Case Manager, WRHS Lead Nurse, WRHS Special Education Department Chair, Director of Secondary Special Services, and the WRHS Assistant Principal.
21. Attached to this email was a Notice of Meeting dated April 29, 2026 scheduling an IEP Team meeting for May 12, 2026 at 3:30 PM. The Notice of Meeting stated the purpose of the IEP Team meeting was to "*discuss possible changes to your child's Individualized Education Program (IEP)*" and that all of the IDEA required IEP Team members including the LEA representative, the special education teacher, a staff member who can interpret evaluation results and at least one general education teacher of the student , will be present for the meeting.
22. The mother responded via email to the WRHS Assistant Principal on dated April 29, 2026 at 8:08 PM stating *"Since [student A's] normal IEP date is September 25, 2026, we would want to convene the full team and complete a full IEP, not just an update, and we want her full team, this would include those listed with the addition of: Special Education Teacher 1, Special Education 2, Special Education Teacher 3, SLP, General Education Advisory Teacher*".
23. During the mother's interview, she stated that a "*full IEP*" meant the annual IEP review. This question was asked to discern which IEP Team members were requested for the meeting since the IDEA does not include the term "*full IEP*".
24. The WRHS Assistant Principal responded to the mother via email on April 30, 2026 at 8:37 AM indicating she would check to see if a full IEP could be arranged for the May 12 date.

25. On May 1, 2026, the WRHS Assistant Principal sent an email to the parents at 4:59 PM stating that, in order to hold a meeting to review and revise the full IEP, the time of the IEP Team meeting would need to be adjusted from 3:30 to 3:00 PM and shared that "*a few staff members noted prior commitments at 3:45 and 4:00 p.m*". During the interview, the Director of Secondary Special Education noted that the SLP and the General Education Advisory Teacher needed to leave approximately 3:45 PM in order to attend to other professional commitments.
26. The mother responded in an email dated May 1, 2026 at 5:25 and 5:26 PM indicating the IEP Team meeting would not be able to be completed within the 45 - 60 minutes being allotted for the IEP Team meeting. She stated, "*This one is going to be a long one, so I think you need to inform the whole team to buckle up. If they need to leave by 3:45 or four, we are not going to be done, even if we start at 3*".
27. On May 1, 2026 at 6:19 PM, the WRHS Assistant Principal emailed the parents and stated, "*We have scheduled this time to get started in a focused and organized way and will review key components of the IEP together. Given the complexity of the IEP and the importance of ensuring all areas are thoughtfully addressed, additional time may be needed to complete the process. Several team members have prior professional commitments later in the afternoon, and we will structure the meeting to ensure each member is able to provide input related to their role. If additional time is needed, we will reconvene to continue the discussion and ensure all components are fully addressed. Our goal is to maintain a collaborative and organized process focused on developing an IEP that is appropriate and aligned with [student A's] current needs, including the recent medical information*".
28. In the written interview questions, the mother summarized the district's response to their repeated requests for an IEP Team meeting to address student A's full IEP. She stated, "M*ay 1, 2026: [The WRHS Assistant Principal] commits by email to a full IEP meeting by May 12, then states team members will be allowed to leave early. Parents object in writing. [The WRHS Assistant Principal] then narrows the scope of the proposed meeting to medical information only. Parents object to this as well. We have never requested a medical-only IEP meeting. We have requested a full IEP meeting — every time, without exception*".
29. The WRHS Assistant Principal provided the parents with a Prior Written Notice dated May 6, 2026 which stated, "*The district proposes to convene the IEP team to review the medical documentation and educational concerns identified by the parents and determine whether amendments such as accommodations, supports, services, health-related planning, participation considerations, mobility considerations, physical access supports, or implementation adjustments to the student's current IEP are appropriate at this time. The district further proposes that participation in the meeting include parent(s), general education representation, special education representation, related service providers relevant to the concerns being reviewed, administrative representation, and personnel knowledgeable regarding the student's current*

programming, accommodations, implementation, and medical-related educational needs".

30. The May 6, 2026 prior written notice also stated, "*The district declines at this time to immediately conduct a complete redevelopment or replacement of the student's current annual IEP prior to the upcoming annual review cycle*".

Conclusion

All four of the parent's allegations impact the provision of a free appropriate public education (FAPE) to student A. Allegations 1, 2, and 10 are related to the information considered during the development of the IEP for the goals, the special education services, and the accommodations / modifications as well as what is included in the IEP which the IEP Team has determined to offer FAPE to a student with a disability. Allegation 14 is related to IEP Team membership as to who and how those IEP Team members participate in the IEP development process which determines the offer of FAPE to the student.

In regards to Allegations 1 and 2, interviews and documentation support a finding that the LEA considered information from the previous IEP dated October 8, 2024 as well as parent input when student A's IEP was amended on August 12, 2025. This amendment added more attendant care at the end of each school day to assist the student to navigate the school building and access transportation as a related service as well as developed a class schedule for the 2025-26 school year for student A that included two PE classes as electives at the parents' request in order to address student A's back and core issues related to a back surgery and her hypotonia.

Interviews and documentation also support a finding that the LEA included information from the previous IEP dated October 8, 2024 as well as parent input when student A's IEP was reviewed and revised at the September 25, 2025 IEP Team meeting. While the parents indicated they were unaware that medical information was omitted until a pinching incident, there is documentation showing that the LEA provided the parents with drafts of the IEP for their review immediately following the September 25, 2025 IEP Team meeting and emails documenting that the parents requested additional information be included in the IEP and the final version of the September 25, 2025 IEP includes these requested updates.

The parents' believe that all previous IEPs should have been reviewed by the LEA and that historical information included in the development of subsequent IEPs. The parents also believe that all of the medical information and knowledge shared by the parents during the August 12 and September 25, 2025 IEP should have been included in student A's IEP. However this is not required by the IDEA.

Instead, when a student with a disability transfers into another public agency within the same state, the transfer process requires the new public agency to review the most recent evaluation report and IEP from the previous public agency to determine the special education

and related services required to provide FAPE to the student. In this situation, the student transferred into the LEA in August 2025 and the parents and the LEA agreed to amend the student's October 8, 2024 IEP to add additional special educational services in order to provide FAPE to the student and provided the parents with appropriate PWN and obtained written consent.

The September 25, 2025 IEP includes historical medical information from the previous IEP dated October 8, 2024 as well as expands on the functional implications of these diagnoses based on information shared by the parents as evidenced by the inclusion of more specific information.

As a result of the September 25, 2025 IEP Team meeting considering the transfer IEP, the LEA issued a PWN proposing to update IEP goals and increase special education services which was signed by the mother on October 6, 2025.

In regards to Allegations 1 and 2, based on the foregoing, there is evidence to support a finding that the LEA did consider the concerns of the parents for enhancing the education of student A as well as the academic, developmental, and functional needs of the student based on current and historical data when developing the IEP. As such the LEA is found IN compliance with federal regulations at 34 C.F.R. §300.324(a).

In Allegation 10, the parents believe that the WRHS Principal failing to copy the Special Education Teacher / Case Manager in his replies in an email chain regarding placement and IEP implementation concerns impeded the Special Education Teacher / Case Manager's ability to fulfill her IEP team member responsibilities. The documentation shows the Special Education Teacher / Case Manager was copied on each of the emails sent by the parents and, thus, was aware and had access to the information being shared by the parents. The WRHS Principal chose to exclude the Special Education Teacher / Case Manager from his email responses which required administrative awareness and actions. It is noted that the Special Education Teacher / Case Manager served in the role through the last day of the 2025-26 school year and was invited to all proposed IEP team meetings scheduled in April and May 2026. As such, there is no evidence to support a finding that there was any negative impact to the Special Education Teacher / Case Manager's ability to fulfill her IEP Team member responsibilities as alleged by the parents. As such The LEA is found IN compliance with federal regulations at 34 C.F.R. §300.324(a).

In Allegation 14, the parents believe that USD #437 scheduled an IEP Team meeting at a time when IEP Team members needed to leave early without first obtaining parent consent for the excusal of the affected IEP Team members. Note that the parents have made subsequent allegations of noncompliance in regard to the proposed IEP Team meetings in April and May 2026 and those allegations are being investigated in 26FC437-015.

Based on interviews and documentation, evidence shows that the April 29, 2026 Meeting Notification stated the purpose of the IEP Team meeting was to "*discuss possible changes to your child's Individualized Education Program (IEP)*" and that the IDEA required IEP Team members including the LEA representative, the special education teacher, a staff member who can interpret evaluation results and at least one general education teacher of the student, will be present for the meeting scheduled for May 12, 2026 at 3:30 PM.

The accompanying email written by the WRHS Assistant Principal on that same date clarified that the IEP meeting would be to consider the medical documentation provided by the parent on April 29, 2026 and indicated the IEP Team for the meeting would include the parents, the Physical Therapist, the Adaptive PE Teacher, the General Education Teacher for Individual/Team Sports (PE elective), Special Education Teacher / Case Manager, WRHS Lead Nurse, WRHS Special Education Department Chair, Director of Secondary Special Services, and the WRHS Assistant Principal.

After receiving the Notice of Meeting on April 29, 2026, the mother emailed the WRHS Assistant Principal and requested that the IEP meeting serve as the annual review and requested that additional IEP Team members be present. Interviews and documentation show the WRHS Assistant Principal made efforts to accommodate the mother's request and, on May 1, 2026, informed the parents that in order to conduct the annual review, the meeting time would be extended and several of the additional IEP Team members requested by the parents would need to be excused.

The parents were not in agreement to excuse these IEP Team members for part of the May 12, 2026 IEP Team meeting and the LEA did not proceed to change the original Notice of Meeting dated April 29, 2026. The parents continued to request a full IEP Team meeting with the full IEP team requested and USD #437 responded on May 6, 2026 by providing the parents with a PWN, which refused the request for a full IEP Team meeting and proposed an IEP Team meeting to review the medical documentation provided by the parents on April 29, 2026. In addition, the LEA provided the parents with two additional IEP Team meeting notifications which met the required 10-day notice requirement in Kansas. It is important to note that IDEA does not use the language of "full IEP" team meeting and through interview with the Investigator, it was determined that the parents were referring to an annual IEP meeting, which is required to occur at least one time in a twelve month period, rather than the IEP meeting to conduct a periodic review which the LEA was requesting with their Notice of Meeting as described in federal regulations at 34 C.F.R. §300.324(b)(1).

In regards to Allegations 14, based on the foregoing, there is evidence to support a finding that the LEA proposed an IEP Team meeting for May 12, May 15, and May 18, 2026 where the required IEP Team members including the LEA representative, the special education teacher, a staff member who can interpret evaluation results and at least one general education teacher of the student would be present as well as other IEP Team members relevant to discuss the

medical information provided by the parents including the Physical Therapist, the Adaptive PE Teacher, the General Education Teacher for Individual/Team Sports (PE elective), and the WRHS Lead Nurse. As such the *LEA is found IN compliance* with federal regulations at 34 C.F.R. §300.324(a).

The parents' allegation that the LEA scheduled an IEP Team meeting and unilaterally excused IEP Team members was a misunderstanding of the LEA's efforts to accommodate the parents' requests to expand the purpose of the original IEP Team meeting and include the parent requested additional IEP Team members. Such a change would mean extending the time of the meeting and excusing several EP Team members for part of the meeting. The WRHS Assistant Principal shared these implications with the parents and the parents assumed this IEP Team meeting had already been scheduled by USD #437; however, this was not the case as documented in PWN, emails from the WRHS Assistant Principal and the three Notice of Meetings dated April 29 and May 6, 2026. As such, there is sufficient evidence to support a finding the LEA did not schedule an IEP Team meeting unilaterally excusing required IEP Team members in whole or part and the *LEA is IN compliance* with the requirements of the IDEA.

Issue Two

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate disciplinary procedures when excluding student A for seven days during the 2025-26 school year through May 4, 2026, specifically conducting a manifestation determination and providing the parent with appropriate prior written notice (PWN).

[This issue addresses Allegation 7 and 8]

Applicable Law

Federal regulations at 34 C.F.R. §300.530(e) require that, within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine 1) if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or 2) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

Under federal regulations at 34 C.F.R. §300.536(a), a change of placement because of disciplinary removals occurs when a child with a disability has been removed from that child's current educational placement if the removal is for more than 10 consecutive school days or the child has been subjected to a series of removals that constitute a pattern 1) because the series of removals total more than 10 school days in a school year; 2) because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the

series of removals; and 3) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Parent Position

The parents made the following allegations against USD #437:

> Allegation 7: USD #437 removed student A from the required educational placement without providing the parents with prior written notice on April 23 and 24, 2026.
>
> Allegation 8: USD #437 failed to conduct a manifestation review when imposing a pattern of unlawful exclusion for disability - related toileting incidents during the 2025-26 school year.

LEA Position

The LEA indicated that student A was not subjected to disciplinary removals, suspensions, or exclusionary disciplinary actions constituting a change in placement that would trigger manifestation determination procedures under IDEA. District behavior records reflect that the student had zero disciplinary referrals during the 2025-26 school year.

Attendance documentation further reflects that absences or early pickups referenced by the parent were coded as illness-related, medical, nurse's office, or school activity related rather than disciplinary removals or suspensions. The

district notes that the illness ("IL") entries reflected on the attendance record were not school-imposed disciplinary exclusions. Rather, the attendance report reflects that only those illness entries immediately following nurse's office ("NO") entries were associated with nurse-initiated parent contact regarding illness-related concerns during the school day. The remaining illness-related absences reflected on the attendance report were parent-initiated illness absences.

The LEA reported that no proposal was made to change student A's services or placement as a result of her episodes of diarrhea which occurred monthly during the 2025-26 school year. The LEA acknowledged receiving a medical note from Heartland Community Health Center on April 29, 2026 from the parents with additional information about the situation.

Analysis: Findings of Fact

The following findings of fact are based on interviews and documentation review.

1. Student A's Discipline Log shows no entries were made during the 2025-26 school year.
2. Student A's Attendance Record for the 2025-26 school year shows that no absence was coded as a disciplinary action.

3. The parents reported the student was sent home for seven days during the 2025-26 school year because of disability-related toileting incidents.
4. The parents indicated that Student A had not been sent home for disciplinary reasons during the 2025-26 school year.
5. The parents provided a note from Heartland Community Health Center dated April 29, 2026 to the LEA which stated that student A may have intermittent diarrhea for three to five days each month associated with the monthly period and she should not be excluded from school unless there are other signs of illness such as vomiting, fever, lethargy.

Conclusion

In this case, student A was never sent home from WRHS due to a violation of the student code of conduct which resulted in a disciplinary action during the 2025-26 school year. As such, there was no requirement that the LEA conduct a manifestation determination meeting as no change of placement occurred as described in federal regulations at 34 C.F.R. §300.536(a). In addition, there was no requirement that the LEA provide the parent with Prior Written Notice as the LEA did not propose any change in the identification, evaluation, educational placement, or the provision of FAPE to the student.

Based on the foregoing, the LEA is *found IN compliance* with federal regulations at 34 C.F.R. §300.530(e), 34 C.F.R. §300.536(a), and 34 C.F.R. §300.503(a).

Issue Three

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parents with opportunities for meaningful participation in education decisions for student A during the 2025 - 26 school year.

[This Issue addresses Allegations 3, 4, 5, 6, 9, 11, 12, and 13]

Applicable Law

Federal regulations at 34 C.F.R. §300.501(b)(1) require that the parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child.

Federal regulations at 34 C.F.R. §300.501(b)(3) states that a meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

Federal regulations at 34 C.F.R. §300.322(a) requires that each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place.

Federal regulations at 34 C.F.R. §300.321(a)(1) specifies that parents are mandatory members of the IEP Team.

Federal regulations at 34 C.F.R. §300.324(a)(1) require the IEP Team, including the parents, to consider the strengths of the student, the parents' concerns for enhancing the education of their child, the initial or most recent evaluation results, and the academic, developmental, and functional needs of the child when developing the IEP.

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Federal regulations at 34 C.F.R. §300.610 requires public agencies to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the public agency.

Parent Position

The parents made the following allegations against USD #437:

Allegation 3: USD #437 repeatedly refused to respond to written parent inquiries regarding student A's communication, stimming, and bead use during the 2025-26 school year thereby impeding parent participation in educational decisions for student A.

Allegation 4: USD #437 repeatedly refused to answer written questions regarding the exclusion of student A's medical information thereby impeding parent participation in educational decisions for student A.

Allegation 5: Student A's IEP Team members in USD #437 failed to respond to direct written questions during the 2025-26 school year thereby impeding parent participation in educational decisions for student A.

Allegation 6: The USD #437 assistant building administrator for student A provided written misrepresentation regarding the reason the student was excluded from school on April 24, 2026 thereby impeding parent participation in educational decisions for student A.

Allegation 9: USD #437 refused to disclose whether other students were exhibiting viral symptoms and were excluded from school thereby impeding parent participation in educational decisions for student A.

Allegation 11: USD #437 scheduled and held an IEP Team meeting deliberately excluding the parents from attending or participating as described in the Building Principal's email dated April 24, 2026 and thereby impeding parent participation in educational decisions for student A.

Allegation 12: USD #437 set a deadline for the parents to provide information by May 6, 2026 so it could be considered and incorporated in the draft IEP thereby impeding parent participation in education decisions for student A.

Allegation 13: USD #437 pre-drafted an IEP thereby pre-determining the IEP for student A and impeding parent participation in educational decisions for student A.

LEA Position

The LEA noted that courts interpreting IDEA have consistently recognized that meaningful parent participation does not require districts to adopt every parental request or preferred educational approach, but rather requires districts to provide opportunities for participation, communication, and collaborative discussion. See Board of Education v. Rowley, 458 U.S. 176 (1982); Endrew F. v. Douglas County School District, 580 U.S. 386 (2017). Courts have additionally recognized that predetermination occurs only where districts refuse to consider parent input or make decisions without meaningful participation opportunities. See Deal v. Hamilton County Board of Education, 392 F.3d 840 (6th Cir. 2004). The actions of the LEA demonstrates ongoing communication, procedural safeguards, repeated invitations for participation, and continued district willingness to review concerns and consider revisions through the IEP process. Accordingly, the LEA has provided the parents with meaningful opportunities to participate in educational decision-making regarding Student A during the 2025-26 school year.

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation. Note that the findings of Issues One and Two are incorporated herein by reference.

1) The parents reported they emailed two of the IEP Team members at the September 25, 2025 IEP Team meeting, specifically the Special Education Department Chair and the Special Education Teacher / Case Manager, to ask "*whether they recalled the medical, personal care, and communication information shared by the parents at that meeting*". However, neither WRHS staff person responded to these questions.
2) The parents stated, "*Over the course of several months, [the parents] submitted multiple written requests asking why information shared at [student A's] IEP meeting regarding her use of her*

beads and her stimming had not been incorporated into her IEP . . . These written requests received no response from any district personnel".

3) The parents indicated that they "*submitted written questions asking why [student A's] medical information — including her spinal tumor's impact on toileting sensation, her hypotonia-related GI challenges, and her medication side effects — was not included in her IEP and was not utilized in the decisions made on April 23 and 24, 2026 that resulted in her removal from school. Neither WRHS Principal, WRHS Assistant Principal, Director of Secondary Special Education, Special Education Department Chair, nor Special Education Teacher / Case Manager provided any written response to these inquiries. This non- response denied parents their federally guaranteed right to meaningful participation and triggered an unanswered Prior Written Notice obligation*".
4) An email chain between the WRHS Assistant Principal and the mother on April 24, 2026 between 9:44 and 10:48 AM discussed the reasons student A was being sent home a second day due to diarrhea with the LEA referencing the Shawnee County School Communicable Disease Exclusion Guidelines and the mother's reporting such a document does not exist per the Shawnee County Health Department. The mother believes the WRHS Assistant Principal purposely lied in order to justify sending student A home that day.
5) An email dated April 24, 2026 at 11:46 AM written by the WRHS Principal to the mother stating, "*I want to clarify the basis for the health office decision today. The WRHS Student Handbook states: "Please do not send your child to school if he/she has been ill (vomiting, diarrhea, etc.) or has had a fever of over 100.4 degrees within the last 24 hours." This is the standard our health office follows when students are experiencing symptoms such as diarrhea. The communicable disease document used by school districts in coordination with the Shawnee County Health Agency identifies diarrhea as "2 or more loose or watery stools in 24 hours" and states the return standard as "No diarrhea for 24 hours or per disease protocols or note from healthcare provider." Our health office practices are also aligned with guidance from the Kansas Department of Health and Environment for managing communicable diseases in school settings. That guidance supports symptom-based decision making by school nurses and coordination with public health resources when needed. Based on [student A's] current symptoms, the determination remains that she needs to be picked up today. She will continue to be supervised and supported while awaiting your arrival"*.
6) The mother was contacted and asked to pick up the student on the morning of April 24, 2026; however, she disagreed with the decision to send the student home a second day and she and WRHS Assistant Principal and the WRHS Principal emailed back and forth between 9:44 AM and 2:56 PM that day regarding the decision and rationale. Student A remained isolated in the school nurse's office until the father left work early and picked the student up from school in the afternoon of April 24, 2026.
7) In an email dated April 24, 2026 at 2:32 PM the mother requested a copy of student A's nurse's office visit log for that date as well as "*documentation of a student who has had to be kept in the nurses office all day long and what symptoms they might have exhibited that would justify them not being in their class*".

8) The Director of Secondary Special Education acknowledged there was an informal meeting held on May 6, 2026 involving LEA staff to review the medical notes provided by the parents and to draft proposed changes for amending student A's September 25, 2025 IEP.
9) Two Notifications of Meeting forms were sent to the parent for possible IEP Team meeting dates and times of May 15 or May 19, 2026 following the informal meeting.
10) The LEA also sent the parents a PWN proposing to conduct an IEP meeting in order to consider amending student A's based on the medical information in the notes.
11) The PWN dated May 6, 2026 states, "*On 05/06/2026, we met to review the evaluation/assessment data on your child, including any evaluations or information you provided, current classroom-based assessments and observations, and teacher or other staff observations to determine, with your input: to enable your child to meet the measurable annual goals set in the IEP and to participate, as appropriate, in the general curriculum*".
12) The Director of Secondary Special Education indicated the LEA used the KSDE model PWN form which automatically includes a statement indicating the IEP Team met on the date listed on the PWN. The Director of Secondary Special Education acknowledged that this form can be very confusing in situations like this when the PWN is used to propose an IEP Team meeting.

Conclusion

In this case, Allegations 3, 4, and 5 all involve various WRHS staff not responding to questions emailed by the parents. These questions were focused on why certain health, personal care, and communication information had not been included in the September 25, 2025 IEP. As noted in Issue One, the parents were provided with drafts of the IEP for student A, reviewed those drafts, and provided feedback for additional information that should be included in the IEP, and the LEA incorporated that feedback into the final copy of the September 25, 2025 IEP. If this information needed to be included in the IEP, the parents were provided with the opportunity to add such information and thus certainly had the opportunity to participate in the development of the September 25, 2025 IEP. The fact that various WRHS staff failed to respond to emailed questions is a personnel matter and the IDEA does not address personnel issues.

Allegation 6 involves an incident on April 24, 2026 when the student was sent home a second day for diarrhea and the WRHS Assistant Principal referenced a specific guidance document in an email as the rationale for the student being sent home.. The parent disagreed with this decision and contacted the health department and found that the specific guidance document did not exist. At that point, the WRHS Principal email the parent explaining the decision to send student A home that day referencing the WRHS Student handbook, the communicable disease document used by school districts in coordination with the Shawnee County Health Agency and noting that WRHS health office practices are also aligned with guidance from the Kansas Department of Health and Environment for managing communicable diseases in school settings. The WRHS Principal noted that this guidance supports symptom-based decision

making by school nurses and coordination with public health resources when needed and again asked the mother to come pick up student A.

Allegation 9 is also based on the situation which occurred on April 24, 2026. The mother requested personal health information about students at WRHS related to being excluded from school for medical reasons and the LEA rightly refused to provide such information in order to protect student's confidential health information.

In this case the LEA acknowledged that while the WRHS Assistant Principal initially referred to the wrong documents in explaining the decision to send the student home, the mother was subsequently provided the correct references by the WRHS Principal the same morning of the misstatements from the WRHS Assistant Principal. Based on the foregoing, the parents were provided with the requested information in a timely manner in spite of the original error.

Allegations 11, 12, and 13 all involve an alleged IEP Team meeting that was held without the parents being invited. Based on documentation and interviews, the LEA did conduct a meeting on May 6, 2026 with only LEA staff to understand the information in the two medical notes recently provided by the parents and to draft possible changes to discuss at an IEP meeting to consider amending the September 25, 2025 IEP. This type of informal meeting is allowed as described in federal regulations at 34 C.F.R. §300.501(b)(3). Following that meeting, the LEA sent the parents two meeting notifications on May 8, 2026 scheduling an IEP Team meeting for two possible dates and times.

In addition, the LEA also sent that parents a PWN proposing to conduct an IEP meeting to review the updated medical information and to consider amending or revising the September 25, 2026 IEP. The May 8, 2026 PWN included the following statement - "*On 05/06/2026, we met to review the evaluation/assessment data on your child, including any evaluations or information you provided, current classroom-based assessments and observations, and teacher or other staff observations to determine, with your input: to enable your child to meet the measurable annual goals set in the IEP and to participate, as appropriate, in the general curriculum*". This statement suggests that the parents were in attendance at a meeting held on May 8, 2026; however, that is not the case. It is understandable why the parents were confused and alarmed to be informed in the PWN that the IEP Team had apparently met without them. This is why the PWN notice form should not have been used to propose an IEP Team meeting as already described in the two Notification of Meeting forms dated May 6, 2026 which were also sent to the parents.

It is found that the LEA did comply with federal regulations at 34 C.F.R. §300.501(b)(3) because the LEA did not actually conduct an IEP Team meeting without inviting the parents as suggested by the PWN dated May 6, 2026; however, it is recommended that the IEP update their practices for when to use the Notification of Meeting form and the PWN form so as not to confuse and alarm any additional parents.

It is acknowledged that some communications between the IEP team members and parents were not always clearly understood but ultimately none of these miscommunications were in violation of IDEA regulations. Based on the foregoing, the *LEA is found IN compliance* for providing the parents with opportunities for meaningful participation in education decisions for student A during the 2025 - 26 school year.

Student B

The parents made three allegations of systemic violations of the IDEA for student A and 11 peers at WRNMS. These three allegations were all related to one IDEA issue which was investigated.

Issue One

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to protect the confidentiality of personally identifiable information for 12 students on April 28, 2026, specifically by emailing the parents of the 12 students and identifying each student as a student with a disability.

Applicable Law

Federal regulations at 34 C.F.R. §300.610 requires public agencies to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the public agency.

Federal regulations at 34 C.F.R. §99.3 defines personally identifiable information as any information that can be used to identify a student and it protects personally identifiable information from being disclosed without consent from the student or their guardians. Disability status is considered to be personally identifiable information.

Federal regulations at 34 C.F.R. §99.3 defines directory information as information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.

Federal regulations at 34 C.F.R. §99.7 require public agencies to annually notify parents and eligible students of their rights under the Family Education Right to Privacy Act (FERPA), including: 1) the types of information designated as directory information, 2) the right to refuse disclosure of directory information, 3) the period of time to opt out, and 4) the method for opting out.

Parent Position

The parents made the following three allegations against USD #437:

Allegation 1: USD #437 disclosed personally identifiable information about 12 students without obtaining prior written consent of their parents on April 28, 2026.

Allegation 2: USD #437 failed to ensure the confidentiality of student B and 11 peers on April 28, 2026.

Allegation 3: USD #437 failed to inform the twelve parents that the email on April 28, 2026 was a group email which resulted in three parents replying and exposing personally identifiable information about their child.

LEA Position

The LEA acknowledged that a clerical error occurred in the delivery of a group email on April 28, 2026 which involved student B and 11 peers at WRNMS. While the LEA maintains rigorous standards for student privacy, in this specific instance, the protocol regarding blind carbon copy (bcc) usage was not followed. The LEA has taken immediate and documented corrective action to remediate the breach and prevent recurrence.

Analysis: Findings of Fact

The following findings of fact are based on interviews and a review of documentation.

1. The WRNMS Student Handbook for the 2025-26 School Year includes a list of the information that USD #437 has designated the following as directory information: a) Student's name, address, telephone number, date of birth, and parent's name; b) Student's participation in officially recognized school activities and sports; c) The weight, height and grade of members of athletic teams; d) The dates of attendance; e) Scholarships and awards received; f) The most recent previous school district attended by the student; g) Photograph, audio recording, or video recording of student at school or school-sponsored activity; and h) Student's school email address as provided by USD 437.
2. The Director of Secondary Special Education reported the parents of student B had not opted out from the release of personally identifiable information for the 2025-26 school year.
3. The Special Education Teacher / Case Manager sent a group email on April 28, 2026 at 11:53 AM to the parents of 12 students, including the parents of student B, with the subject line "Your student is eligible for ESY" and requesting a response from each parent regarding attendance so that transportation could be arranged.
4. The mother sent an email at 12:25 PM on April 28, 2026 to the WRNMS Principal, the Secondary Special Education Director, the Superintendent, and the ADA/504 Coordinator and Executive Director of HR which stated, "While you are at it, you might want to do a little training on FERPA, and how publicly including the email addresses of

parents on a list that is titled "Your student Is eligible for ESY" is a violation of said federal law".

5. An email dated April 29, 2026 at 1:42 PM written by the WRNMS Principal to the Director of Secondary Special Education confirmed that a formal corrective action meeting to address the breach and adjust communication practices had been held with the Special Education Teacher / Case Manager.
6. The Director of Secondary Special Education sent an email dated May 19, 2026 at 9:49 AM describing planned actions to address the breach in confidentiality by conducting training with all special education staff during the August Inservices prior to the start of the 2026-27 school year about the requirement to use blind carbon copy when sending a group email to ensure confidentiality as well as updating the districtwide Special Education Handbook with this guidance.

Conclusion

In this case, the LEA did not designate the email addresses of student's parents as directory information for the 2025-26 school year. On April 28, 2026 at 11:53 AM, the Special Education Teacher / Case Manager sent a group email to the parents of 12 students which disclosed the disability status of those students. As a result of this email, two pieces of personally identifiable information were shared.

The LEA administrators first learned of this breach of confidentiality on April 28, 2026 at 12:25 PM through an email sent by the mother. In response, the WRNMS Principal met with the Special Education Teacher / Case Manager on April 29, 2026 to address the breach of confidentiality and adjust communication practices during a formal corrective action meeting. In addition, the Director of Secondary Special Education plans to update the districtwide Special Education Handbook to include guidance for sending group emails as well as provide training for all special education staff regarding this guidance prior to the start of the 2026-27 school year. However, the parents of the 12 students were not informed of the breach in confidentiality and the plan for correction.

Based on the foregoing, the LEA is ***found OUT of compliance*** with federal regulations at 34 C.F.R. §300.610 for failing to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the public agency. As such, corrective action is required.

Summary of Conclusions/Corrective Action

Student A

Issue One: Based on interviews and a review of documentation, no violation of IDEA or Kansas regulations was found.

Issue Two: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

Issue Three: Based on interviews and a review of documentation, no violation of IDEA or Kansas regulations was found.

Student B

Issue One: Violations of federal regulations were found at 34 C.F.R. §300.610 and corrective action is required as described below:

1. Within 20 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. §300.610 which require public agencies to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the public agency.
2. Within 30 days of the date of this report, the LEA will send a letter to the parents of the 12 affected students acknowledging the breach of confidentiality and describing the corrective actions taken as a result of the incident. The LEA will provide SETS with a copy of the letter and documentation the letters were mailed to the parents.
3. Prior to the first day of the 2026-27 school year, the LEA will update the districtwide Special Education Handbook to include a procedure for using blind carbon copy when sending a group email to ensure confidentiality of personally identifiable information and notify all special education staff in the district of this update. The LEA will provide SETS with a copy of the updated procedure and documentation of staff notification no later than August 31, 2026.
4. Prior to the first day of the 2026-27 school year, the LEA will provide training for all special education staff regarding the requirements of the Family Education Rights to Privacy Act specifically addressing personally identifiable information and the LEA's procedures for sending group emails to parents. In addition, the training will include notifying staff of what the LEA has designated as directory information for the 2026-27 school year. No later than August 31, 2026, the LEA will provide SETS with documentation that the training was provided including who provided the training, when the training was provided, and copies of the training agenda and the presentation slides and/or handouts.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 437
Auburn - Washburn Public Schools: 26FC437-014

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on May 4, 2026, by ------- on behalf of their children ------- and -------. In the remainder of this decision, ------- will be referred to as "the parents." ------- will be referred to as “student A” and ------- will be referred to as “student B.” An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on June 8, 2026. That Complaint Report concluded that there was no violation of special education statutes and regulations with regard to student A and one violation with regards to student B.

Thereafter, the parents filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent’s notice of appeal, the parents email, dated June 9, 2026, and the district’s response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The parents made 14 allegations of violations of the IDEA for student A. None of these allegations were substantiated by the investigator. For student B, the parent made 3 allegations of a systemic violation, all related to a single incident, in which confidential student information involving student B and 11 other students was released without parent consent. These allegations were substantiated.

The parents' appeal came in an email dated June 8, 2026. The email consisted of two pages which did not identify which findings, conclusions or even which issues were being appealed. The closest statement regarding which issues were being appealed appeared near the end of the email in which the parents stated "To be clear, we appeal the entire findings regarding (student A)…"

In a separate email sent to the appeal committee by the parents on June 9, 2026, the parents' stated in whole, "*Please find the "misrepresentations," LIES, of [school administrator] in just ONE email from May 14th. This one email from [the director] violates IDEA 7 times!!! In writing! Please explain how you can justify finding this LEA as compliant with IDEA??? It is absurd!*"

This email did not appear to be relevant to the complaint report as it referred to a Prior Written Notice (PWN) dated May 14, 2026. This complaint was filed on May 4, 2026. A member of the Special Education and Title Services (SETS) team contacted the parents in a reply email on June 11, 2026 noting that it was unclear what relevance the parents' June 9, 2026 email had with this appeal, and asking, whether the parent sent this email as part of her appeal, and if so, to "*please clarify which issue or issues to which it applies.*"

The parents' responded by email on June 11, 2026, stating their June 9, 2026 email applied to both this appeal and to another complaint currently being investigated. In this response, the parents stated:

> *If you read the email, you will see that it applies to both cases, as it clearly outlines the full history of our request for a full IEP meeting, and the number of places in which Jamie Callahan lied and said she issued a PWN and did not, or stated that she proposed a full IEP meeting, but actually only proposed a medical information only meeting, etc, etc. I have literally laid every single piece and violation out for you. But, you do have to read. So you really will have to go allegation by allegation and tie it back to all of these issues, as it is highly complicated and has lots of moving parts. The fact that you can't tie together, which part of this email applies to our appeal is highly concerning. Your investigator just found that the school district was completely IN Compliance With ignoring Our request, and this goes back to my request to the appeal committee to go through our original complaint allegation by allegation and tie it back to the fact that Nancy did not investigate all of the violations of the district and that these emails and information clearly outline all the ways that they have violated IDA over and over and over and over and over. So, if you want me to point out which*

> *pieces of this email point to what allegations then you need to go to my original complaints and tie this email back to each individual complaint because it lays it all out for you. But, you will have to read and you will have to go through all of the stuff that I submitted to the investigator. I submitted all of this to the investigator. I submitted everything the school district sent to us to the investigator. By negating, the fact that this LEA outright lied about everything from the beginning of our IEP request and ignoring this email because it was after my complaint, but is in regard to things that were a part of my complaint, is exceedingly frustrating. This demonstrates right here that this LEA Has fully violated our child's rights, and our parental rights, over and over and over. If the appeals committee has decided to actively ignore evidence in front of them, And refuses to go back and look at my original complaints and tie them back to all the evidence that I have provided, and that the investigator chose not to include in her , then that just continues to support my complaint to OSEP. How are you at KSDE organizing and accessing all of the evidence that I have provided to the investigator in regard to these multiple complaints that are part of these decisions and my appeal?? If you can't see how this email below from Jamie Callaghan and my outlining of all the ways she violates IDA with her lies, applies to the multiple complaints that were a part of the current investigation and the investigation that we had a decision from Nancy on this week, then I am really confused about what it is you do at KSTE and how you are organizing your own evidence and your own documentation.*

While the Appeal Committee sympathizes with the parents' frustrations it finds nothing in the appeal materials presented to the committee that convinces it that any of the facts or conclusions in the report are incorrect.

Each complaint report that is issued by this agency, including the report issued in this complaint, includes a full copy of the Kansas regulation governing the appeal of a complaint report. That regulation, K.A.R. 91-40-5(f)(1), states, in relevant part, that:

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

This appeal did not provide a detailed statement of the basis for alleging that the report is incorrect on any of the issues under appeal. The parents' request that the Committee go thorough the parents' original complaint allegation by allegation. The Committee declines this request because it does not have authority under this state regulation to conduct a separate investigation. The authority of the Appeal Committee is restricted to an analysis of whether the findings or conclusions in the report are correct based on the "detailed statement of the basis for

alleging that the report is incorrect." The burden of providing this detailed statement is assigned by state regulation to the appealing party. The parents have not met this burden.

The Committee closely examined the complaint report's findings and analysis, and believes the conclusions to be legally sound. Sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 30th day of June, 2026.

Appeal Committee

Dean Zajic, Bert Moore and Cary Rogers

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #500, KANSAS CITY KANSAS PUBLIC SCHOOLS
ON JUNE 12, 2026

DATE OF REPORT: JULY 13, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #500 (Kansas City Kansas Public Schools) on behalf of _____ by her mother, _____. In the remainder of the report, _____ will be referred to as "the student" and _____ as "the mother" or "the complainant."

The complaint is against USD #500 (Kansas City Kansas Public Schools). In the remainder of the report, USD #500 will be referred to as "the Local Education Agency" or "LEA". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." In this case USD #500 provides their own special education services. Local Education Agency staff will be referred to In the remainder of this report as follows:

- Andrea Richardson, Director Special Education PreK-5
- Ann Kelly, Special Education Coordinator
- Katina Brenn, Director of Special Education

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on June 12, 2026.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency, the parent and PACES Service Coordinator. The investigator initially interviewed the mother and Nolan Moore, PACES Service Coordinator from Wyandot Behavioral Health Network by phone on June 17. Andrea Williams, the student's targeted case manager for the IDD waiver and the PACES Service Coordinator were individually interviewed on June 29, 2026. Emails were exchanged between the mother and investigator on June 18, 19, 20, and 22, 2026. An interview was conducted with the Early

Childhood Special Education Coordinator, Special Education Coordinator, and Special Education Director representing the LEA on July 7, 2026. Members of the IEP team were not available for interview during the summer while not on teaching contracts.

While all evidence was reviewed, ultimately, some of the evidence was older than twelve months and summarized in the Background information section or not related to the issues investigated. The following materials were used as the basis of the findings and conclusions of the investigation:

1. Letter from Director Special Education PreK-5 to parent dated June 30, 2026
2. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent (PWN) dated May 14, 2026, parent consent signed May 14, 2026.
3. IEP amendment without a meeting dated May 14, 2026 signed by parent May 14, 2026.
4. Heartland ABA Initial Assessment Report dated May 2026.
5. Individualized Education Program dated April 7, 2026
6. Section 504 of the Rehabilitation Act Accommodation Plan Reviewed September 29, 2025.
7. Special Education Cooperative Evaluation/Initial Eligibility Report dated April 15, 2025

Background Information

The subject of this complaint is a nine-year-old who completed third grade at a local elementary school during the 2025-2026 school year and is eligible for special education and related services with the exceptionality category of giftedness since April 2025.

The student was first evaluated at an outpatient Occupational Therapist appointment on February 4, 2022 with parent concerns for Autism. The student was later evaluated for Autism and the findings presented in a June 22, 2022 Final Psychological Report from the Children's Mercy Division of Developmental and Behavioral Sciences. The evaluation found that the student met the diagnostic criteria for Autism Spectrum Disorder, social communication Severity Level 1, restricted/repetitive behaviors and interests, Severity Level 1, without accompanying intellectual disability and language impairment and Unspecified Anxiety Disorder, R/O Generalized Anxiety Disorder.

A Section 504 plan was developed at the student's home school on February 28, 2023 using academic records, discipline (sic) reports, classroom observations, medical records and parent input. The release of information to obtain the Children's Mercy medical records was signed by the parent on March 2, 2023. Accommodations were provided related to anxiety, medical and sensory issues. The mother reported as part of this initial 504 evaluation that the student is struggling socially with peers since July 2022 and needs to learn to self-advocate. It further is written that lack of supports or prompts at school gives the student anxiety, creating behaviors

at home that are "masked" for behaviors at school. The health history also indicated Autism Spectrum Disorder.

The student was initially evaluated for giftedness during an evaluation dated April 15, 2025. The student receives the 210 minutes of direct gifted services at a neighboring elementary school one day every week. The April 7, 2026 IEP reports that the student excels in classwork, using critical thinking and problem solving and it is important to continue to challenge the student in the general education and special education settings. It further indicates that accommodations will be in place to address the student's anxieties.

Issues Investigated

Issue One

Did the District develop an IEP for the student during the 2025-26 school year that addressed the student's needs for gifted and talented services in addition to social emotional, language, listening comprehension, behavior, nursing (access to asthma inhaler), transportation associated with a 2022 outside medical diagnosis of Autism Spectrum Disorder?

Applicable Law

K.S.A. at 72-3429(c)(1)(A) states that the IEP for each exceptional child shall include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability or giftedness affects the child's involvement and progress in the general education curriculum. Further, a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability or giftedness, to enable the child to be involved in and make progress in the general education or advanced curriculum; and (B) meet each of the child's other educational needs that result from the child's disability or giftedness must be included (K.S.A.72-3420(c)(2)(A) and (B)).

Parent Position

The parent wrote in her child complaint that the student's IEP only identifies giftedness as the student's exceptionality, but in fact the student has a medical diagnosis of autism spectrum disorder impacting the student social/emotional, language and listening comprehension that the LEA has known about since the 504 evaluation. The LEA has refused to identify these needs despite being provided with the evaluations and recommendations from the student's physicians, parents and daily evidence of impairment. Due to this the student is not receiving the support and accommodation necessary for the student to meeting the student's needs.

Local Education Agency Position

The LEA responded to the parent on June 30, 2026 as follows: "We are writing in response to your letter dated June 12, 2026 in which you expressed concerns regarding the addition of Autism as an exceptionality and including supports and accommodations for social/emotional and related needs, including transportation and nursing plan. First, we want to acknowledge your dedication to [student's] education and well-being. We understand the importance of ensuring that all services and supports are delivered in accordance with the Individualized Education Program (IEP) and applicable laws." Further, "We found that medical documentation had been provided to the educational team, behaviors and other characteristics potentially related to the diagnosis were identified in the school setting as well as potential impact. We found that the team had discussed and took measures to add accommodations and modifications to the IEP as well as the decision to not add special transportation." As the next steps the LEA proposed, 1) "We will schedule an IEP team meeting on an agreed upon date to review and revise the IEP to ensure accommodations and modifications address identified areas of concern impacting access, progress and participation in the general education and special education curriculum". 2) "Review documentation to determine if a re-evaluation is necessary to determine eligibility under the category of Autism as a primary or secondary exceptionality or whether to note in within the IEP and present level to help guide services." 3) "Review documentation to determine if a formal nursing plan is needed as part of the IEP to address diagnoses." and 4) Review documentation to define and assess the educational impacts related to transportation and determine need for specialized transportation as part of the IEP."

Analysis: Findings of Fact

1. The student was medically diagnosed with Autism Spectrum Disorder and Unspecified Anxiety Disorder on June 15, 2022 by Children's Mercy Hospital.
2. The February 28, 2023 Section 504 initial evaluation referral documents that the parent wrote an Autism diagnosis as a basis of the referral to the LEA and signed a release of information for the LEA to obtain medical information from Children's Mercy Hospital. The student was provided a Section 504 plan subsequent to the 504 evaluation for access to an inhaler for asthma, social skills and sensory issues that has been continuously in place since February 2023. The 504 plan reviewed on September 19, 2025 documents the student experiences physical or mental impairment which substantially limits one or more of his/her major life activities to include: 1) limitations in activities of daily living in breathing with an accommodation for the student to have permission to go to nurse when needed for asthma symptoms or caring for self; 2) use of a break card to request a break, participation in social skills group at school and a Classroom Teacher check-in with the student to check level of understanding and emotion regulation due to anxiety around communicating with peers and adults; 3) access to flexible seating options (wobble chair and seat cushions in the classroom due

to sensory input needs; and 4) access to district transportation (bus to and from school) to assist with anxiety in coming to school and learning life skills.

3. The initial evaluation for gifted education occurring during April 2025 did not refer to the June 15, 2022 Children's Mercy report medically diagnosing Autism Spectrum Disorder. The parent, targeted case manager and educational advocate stated to the investigator that the Children's Mercy evaluation was provided to the student's home school following the evaluation but was not used during the gifted evaluation.
4. The Special Education Coordinator stated to the investigator that during the May 14, 2026 meeting with the parent it was determined that the LEA staff attending the meeting did not have the Children's Mercy report and the targeted case manager emailed it to the Special Education Coordinator during the meeting.
5. The Special Education Coordinator stated that the parent did not request a special education evaluation for autism during the May 14, 2026 meeting after explaining that there is a distinction between a medical and educational autism diagnosis. The letter dated June 30, 2026 indicates that the LEA review documentation to "determine if a re-evaluation is necessary to determine eligibility under the category of Autism as a primary or secondary exceptionality or whether to note in within the IEP and present level to help guide services."
6. The parent, targeted case manager and service coordinator stated that a special education evaluation to consider Autism as an eligibility category was being planned at the beginning of the 2026-27 school year.
7. The April 7, 2026 annual IEP, amended on May 14, 2026 documents that the student receives gifted services and does not have behavior or communication needs nor have an individualized nursing care plan in the Special Considerations section. The IEP only lists transportation between the student's school of attendance and the school where gifted services are provided. The IEP documents that specialized transportation is not necessary for the student. The parental concern section indicates that the mother would like the student to self-advocate for some of the student's school anxieties such as school work and other tasks.

   It is check marked that the team considered the functional performance of the student and determined that there were no needs. The LEA did not have any staff attending the annual IEP available to the investigator to verify or describe this discussion. The parent, targeted case manager and services coordinator stated that the parent's concern was related to the student becoming anxious when not understanding expectations or changes at school. The parent stated the student managed the anxiety at school, but at home the student's anxiety was expressed through behaviors and not wanting to go to school the next day. The parent stated that she wanted the IEP team to teach the student to learn to "self-advocate" rather than masking it inside at school and letting it out as behavior at home. The parent reported that the staff stated that because this behavior occurred outside of school it was not an educational concern to be addressed by the IEP. It is noted that this concern was a re-statement of the concern identified in

the initial referral for the Section 504 evaluation in February 2023. The IEP included one goal, " given a problem/project based learning opportunity, the student will apply critical thinking and problem solving skills, using provided materials, achieving a score of 10 out of 12 on a teacher created rubric, with these higher order thinking components: curious and questioning; productive thinking; risk-taking; applying concepts and formulas; evaluative thinking, as measured by teacher created rubric." This goal is met by 210 direct gifted service minutes one day every week outside the general education classroom at a different elementary school that provided Quest, the LEA's gifted services. Thirty minutes of transportation services are provided one day every week to bus the student to the different elementary school. Five accommodations were written into the student's IEP including 1) access to enrichment materials on a daily basis in the general education setting, 2) access to an inhaler for Asthma; 3) use of fidgets in the general and special education setting during seated tasks; 4) use of flexible seating in the general and special education settings during seated tasks; and 5) access to a sensory break when requested. These accommodations were simultaneously listed in the student's Section 504 plan. Both parties agree that the 504 accommodations were added to the IEP to ensure that staff at both schools had all of the student's needs consolidated in one document.

8. The PWN dated May 14, 2026 is signed by the parent and added the "sensory accommodations" (written in the Section 504 plan) to the student's IEP. The handwritten notes taken during this meeting state, "student will have access to accommodations however student will need to request on own."
9. The parent and service coordinator stated to the investigator that there is a critical need for the student to learn to self-advocate for use of the inhaler. They recounted an incident that the student asked to use the inhaler during class and the teacher asked the student to wait until after class to get it from the nurse. The service coordinator stated this is an incident of the student's Autism Spectrum Disorder characteristics impacting the student as the student accepted the teacher's direction rather than self-advocate and state it was needed immediately. The LEA staff agreed this was unacceptable but were unaware of the incident. Staff that work directly with the student were not available for interview by the investigator to clarify the incident.
10. The Heartland ABA Initial Assessment Report May 2026 indicated that based on the assessment the student would benefit from receiving ten hours of direct ABA services to address communication, social skills, maladaptive behaviors, requests, labeling, intraverbals, social interactions, play and leisure. In addition, the ABA services would address in appropriate vocalizations and property destruction, overly needy or dependent, anxious or nervous behavior, temper tantrums and avoidance in interacting with others. The parent and targeted case manager stated that this report has been provided to the student's IEP team.
11. The LEA stated that the parent's request for transportation between home and school was discussed during the April and May 2026 meetings and the need is not related to a special education issue, but a parent request for transportation between home and

school. According to LEA policy because the student is not attending the home elementary school bus transportation is not guaranteed. Alternately transportation is provided for the student to received gifted services.

Conclusion

The parent's complaint was related to whether the IEP team had addressed the student's anxiety, behaviors associated with a medical diagnosis of autism, and access to a medically-needed inhaler. The evidence provided by the parent and LEA show that these concerns had been consistently identified by the parent as far back as 2023 when the parent first indicated that the student had an Autism diagnosis in the 504 evaluation referral request. Although, the current IEP indicated that the parent's concern was discussed and the IEP team determined it did not need to be addressed through goals or services there was no documentation to show how the need was discussed, beyond the parent stating to the investigator that because the behaviors were not observed to occur at school it was not considered to be educationally relevant. The investigation was hindered as the student's direct teaching staff were not available during the summer to interview with the investigator but given that the concern was consistently identified and the parent, targeted case manager and service coordinator described that the behavior was tied to the student masking anxiety and skill deficits at school it is determined that the IEP team did not adequately address this need during the annual IEP meeting or May 14, 2026 meeting where these concerns were again brought to the team. Additionally, the IEP indicated there were no concerns with behavior or communication when accommodations written into the IEP specifically address behavioral concerns associated with anxiety. It is noted that in the June 30, 2026 letter to the parent a meeting at the beginning of the 2026-2027 school year is proposed to address many of these issues.

Although the parent alleged that transportation between home and school was not considered as a special education need, it is found that the IEP team discussed and determined that specialized transportation was not needed. Therefore, the LEA relied on district policy in denying district transportation between home and school as it was not a special education issue.

Finally, it is found that the parent made a request (or the equivalent) for a special education evaluation for her student related to behavior associated with ASD, anxiety, etc. and the LEA has an obligation to provide a PWN following consideration of that request at the meeting in which the June 2022 medical evaluation was provided to the LEA.

In sum, it is found that although the student's IEP is written for giftedness, the parent consistently identified concerns related to anxiety, behavior, and medical access to a prescribed inhaler which were not discussed in terms of services or goals at either the annual IEP or during the IEP amendment. Instead they were listed as accommodations first as part of a Section 504 plan and later added to the student's IEP at the request of the parent. Further, the handwritten note from the May 14, 2026 meeting indicated that the student would need to

ask for the accommodation, something that the parent had continually stated the student could not do and needed to learn to do. It is acknowledged that the June 30, 2026 letter to the parent offers a meeting with the parent to address the parent's concerns regarding anxiety, behavior and unfettered access to the prescribed inhaler. Therefore the ***LEA is out of compliance*** with implementing K.S.A.72-3420(c)(2)(A) and (B).

Summary of Conclusions/Corrective Action

ISSUE ONE: A violation of K.S.A.72-3420(c)(2)(A) and (B) was found. Corrective action is required as follows.

1. Provide assurances to SETS that it will follow K.S.A.72-3420(c)(2)(A) and (B) within two weeks following the sixty (60) days at the conclusion of the investigation.
2. Provide the parent with a prior written notice either agreeing to conduct a special education evaluation to consider the parent concerns about eligibility for Autism, behavioral concerns, anxiety or declining to evaluate within one week of the student returning to school. A copy of the PWN shall be provided to SETS within one week of providing the PWN to the parent.
3. Reconvene the IEP team within two weeks of the student returning to school to discuss the parent's identified concerns: 1) how the student will access the inhaler across to two school settings to determine if two inhalers will be kept for the student or transported and how the student will request the inhaler and be granted its access; 2) teaching self-advocacy skills when requesting the inhaler, when unsure of expectations, experiencing anxiety at school, 3) connecting the student to the social work/counselor resources for anxiety at school and teaching the student how to self-advocate to use these resources. A copy of the IEP meeting minutes, amended IEP, and/or PWN will be provided to SETS within one week of the meeting documenting the discussion and decisions. Additionally, the procedures for the inhaler storage, access will be documented as a set of procedures. A copy of the procedures and evidence that the procedures have been provided to the school staff at both school and parent shall be provided to SETS as well.

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #521
ON FEBRUARY 19, 2026

DATE OF REPORT: APRIL 24, 2026

This report is in response to a complaint filed with our office on behalf of students attending Lawrence Gardner High School by an employee of the LEA, -------. For the remainder of the report, the students will be referred to as "the Students" and the employee as "the Complainant."

The Complaint is against USD #521. In the remainder of the report, "the High School" and the "local education agency (LEA)" shall refer to USD #521.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the systemic complaint on February 19, 2026 and the timeline was extended to April 15, 2026.

Allegations

The following issue will be investigated:

ISSUE ONE: Whether USD #521, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), ensured an Individualized Education Program/Plan (IEP) was in effect for each exceptional child at the beginning of the school year to the filing of the Complaint. K.A.R. 91-40-16 (b)(3); 34 CFR § 300.323.

The High School, served by USD #521, is an accredited school located on the main campus of the Kansas Juvenile Correctional Complex. Due to the nature of the facility and the movement of students in and out of the complex and the High School, the following additional statutes are relevant:

1. K.A.R. 91-40-5, A FAPE for Detained or Incarcerated Children with Disabilities.
2. K.A.R. 91-40-1(lll), Definitions

3. K.S.A. 72-3429(g)(1), Transfer of Child During School Year

Investigation of Complaint

The Complaint Investigator interviewed the Complainant on April 1, 2026. The Director of Special Education and the Principal were interviewed on March 30, 2026. The School Psychologist and the Special Education Teacher submitted responses to written questions on April 7, 2026. Additional written responses were submitted by the Principal on April 7, 2026 and Teacher 7 on April 10, 2026.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and reviewed, the materials used as the basis of the findings and conclusions of the investigation are identified in Appendix A.

Background Information

This investigation involved high school students enrolled at the High School in USD #521. The Students are currently receiving special education or related services as children with disabilities per the Individuals with Disabilities Education Act (IDEA).

The LEA response described the High School as a "state institutional program" providing "educational services under Kansas special education regulations applicable to state institutions and correctional settings." Additionally, in an interview with the Complaint Investigator, the Director of Special Education described the High School as a correctional facility for incarcerated youth, and described that educational services were provided in small classroom "pods," typically consisting of two adults and one to seven students, with teacher assignments based on behavioral management abilities, rather than specific subject licensure, and the curriculum was primarily online and accommodated for all students. The programming at the High School must function with the correctional facility's "… safety procedures, student movement restrictions, and security protocols while ensuring students maintain access to educational services consistent with their Individualized Education Programs (IEPs)."

In a written response, the Special Education Teacher described the intake and placement processes in effect when students enter the facility:

a. Intake: During their first 21 days at the facility, students transition from the "Reception and Diagnostic Unit" to quarantine units that constitute a "highly restrictive educational setting." According to the Special Education Teacher, this placement significantly limits traditional school participation in implementing state-mandated programming, including health and substance abuse assessments. According to the Special Education Teacher, while in this intake phase, the High School is required to conduct diagnostic and transition testing for up to one hour per day, a requirement mandated by the State.

i. In an interview with the Complaint Investigator, the Principal described the Lion/Pride unit as a segregated intake/mental health unit for students who cannot "function … in the general population."

b. Placement: According to the Special Education Teacher, student access to education at the High School is dictated by their housing assignment, which determines the level of restrictiveness and the method of instructional delivery. The Special Education Teacher described that the "General Population" is the least restrictive environment with the most consistent access to teachers. For students assigned to Restrictive Housing (RH), students typically receive packets in isolation rather than attending physical classrooms. Those under "Special Security Orders" face the most extreme limitations, as safety concerns prevent direct contact with staff and require students to work independently in their rooms. Specialized units support behavioral and mental health needs, but student participation remains governed by a color-coded status system. "Red Status" students in these units are prohibited from attending school entirely, while those on "Yellow" or "Green" status may attend with security-related modifications. According to the Special Education Teacher, these placement decisions and the resulting educational restrictions are mandated by the State Department of Corrections, rather than by the School's staff or a student's IEP team.

Relevant information from the High School's Instructional and Service Delivery Model indicated that it was designed to meet the needs of high-mobility learners, students with significant opportunity gaps, and students with diverse learning needs. According to the document, a high percentage of the High School's population experienced disabilities, and the High School "… meets students where they are by modifying work to their testing levels." The High School used a "high-tech, high-touch" approach, and every classroom was anchored by individualized digital pathways using a specific online platform, which allowed for immediate credit recovery, honors-level acceleration, and a curriculum that moved with each student, regardless of their entry/exit date. Certified educators provided daily direct instruction, small-group "pull aside" sessions, and one-on-one coaching to ensure mastery of the state College and Career-Ready Standards. Students could earn a diploma from the High School, reflecting their skill acquisition.

According to the Instructional Service and Delivery Model, the High School used a Multi-Tiered System of Supports (MTSS) to ensure the academic and behavioral needs of all students were met, with specific legal protections for students with disabilities. The Modifications and IEP Integration for the tiers included:

a. Tier I (universal): Accommodations (text-to-speech, extended time) were available to all as a Universal Design for Learning (UDL).
b. Tier II (targeted): Specially Designed Instruction (SDI) modification was delivered in these groups to address specific IEP goals.
c. Tier III (intensive): Intensive modifications and related services (speech and language, occupational therapy, and social work) were delivered with maximum fidelity.

Findings of the Investigation

The following findings are based on a review of documentation, interviews, and responses to written questions from the Complainant and LEA staff. The following relevant information was included for Students A-O.

Student A

1. Student A is a 17-year-old student eligible for special education services as a student who experiences a Specific Learning Disability (SLD).
   a. High School Entry Date: November 6, 2025.
2. According to the Student's schedule, Student A was scheduled in the following courses at the High School for the 2025-26 school year:
   a. Pre-Algebra B with the Math Teacher, English Language Arts (ELA) IB with the ELA Teacher, Physical Science A with the Science Teacher, Physical Education (PE) with the PE Teacher, Seminar with the Seminar Teacher, and College and Career Preparation II with the Math Teacher.
3. Student A's unofficial transcript, titled "Student Progress," reflects the following academic history for the 2025-26 school year:
   a. Semester 1: Completed at a previous school, earning five "C" grades for a total of 2.5 credits.
   b. Semester 2: Completed at the High School, earning one "D" grade, for 0.5 credits.
4. An IEP dated October 2, 2025, included:
   a. Attending school: A previous school.
   b. Transition Services were noted. Additionally, Student A "… completes the general education curriculum using an online platform."
   c. Annual goals were documented in writing, reading, and transition provided by a special education teacher and assisted by a general education teacher.
   d. Special Education and Related Services: "[Student A] will receive special education services 120 min[ute]s X 5 days per week, in the general education classroom, participating with [their] general education peers for ELA, Math, [Social Studies] SS, and Science."
   e. Accommodations and modifications were listed.
5. An undated Teacher Information Page listed Student A's services in the "Y [juvenile correction facility]" setting from November 6, 2025 to June 24, 2026:
   a. Special education services, primary provider: the Complainant (120 minutes/day, 5 days/week).
6. Between January 19, 2026 and February 16, 2026, Student A's time on task, self-control, and social skills behaviors were documented on five dates.

7. The Complainant explained even though Student A was listed on their caseload, "… I was never allowed to actually be with [Student A]." They added "no one" provided special education services to Student A.
8. In a written response, the Special Education Teacher wrote the following regarding Student A:
   a. The Special Education Teacher was responsible for implementing the services on Student A's October 2, 2025 IEP from the date of Student A's arrival on November 7, 2025 to December 1, 2025.
   b. From September 2, 2025 to December 1, 2025, the Complainant served as "supervised support staff" and completed "delegated administrative tasks" under the Special Education Teacher's direction to comply with the IDEA and State juvenile correctional facility mandates.
   c. Student A received instruction in reading and writing in an "integrated classroom setting" from a general or special educator and a paraprofessional. The Special Education Teacher collaborated regularly with general education staff on accommodations, behavior strategies, and instruction to meet Student A's needs.
   d. Student A's progress was monitored weekly via i-Ready, classroom performance, and modified curriculum and assessments based on Student A's needs.
   e. Documentation used to verify the implementation of special education services included i-Ready data, behavior records, progress reports, and teacher observations.
   f. On December 1, 2025, case management and IEP implementation duties transferred to the Complainant.

Student B

9. Student B is an 18-year-old student eligible for special education services as a student who experiences an Other Health Impairment (OHI).
   a. High School Entry Date: July 1, 2025.
10. According to the Quick Lookup, Student B was scheduled in the following courses at the High School for the 2025-26 school year:
   a. Algebra IB with the Math Teacher, College and Career Preparation II with the College and Career Teacher, ELA IIIA with the ELA Teacher, World History A/Geography A with Teacher 7, Advocacy with the Advocacy Teacher, and Physical Science B with the Science Teacher.
11. Student B's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:
   a. Semester 1: Completed at the High School, passing 8 of 9 classes with a "D-" or higher, earning 4.0 credits.
   b. Semester 2: Completed at the High School, earning one "D-" for 0.5 credits.
12. An IEP dated October 23, 2024, included:
   a. Attending school: the High School.

b. Transition Services were noted.

c. Annual goals:

   i. Person responsible: "Special Edu[cation] Teacher/General Ed[ucation]" for transition, reading, math, and writing goals.

d. Accommodations, modifications, and supportive aids were listed.

e. Special Education and Related Services from October 23, 2024 to October 22, 2025:

   i. Special Education in the Special Education Resources/ Pull- Out/Push-In "as per block scheduling [Student B] will receive 108 minutes of special education services 2 times a week every other week and 108 minutes of special education services 3 times a week every other week for 2 core classes. This averages out to 108 minutes of services per day, 5 days per week," for the duration of the IEP.

   ii. Case management as indirect services for five minutes every week for the duration of the IEP.

f. Alternative Services Plans #1 and #2 for remote learning were noted.

13. An undated Teacher Information Page listed Student B's services from October 23, 2024 to June 25, 2025:

    a. Case management, primary provider: Teacher 3 (5 minutes/week).

    b. Special education services, primary provider: Teacher 3 (108 minutes/5 days weekly).

14. Student B's behaviors, including time on task, self-control, and social skills, were documented across four separate log periods:

    a. May 5, 2025 – August 11, 2025: Documented on nine dates.

    b. August 18, 2025 – October 13, 2025: Documented on nine dates.

    c. October 20, 2025 – January 12, 2026: Documented on seven dates.

    d. January 19, 2026 – February 16, 2026: Documented on five dates.

15. An IEP dated October 16, 2025, indicated:

    a. Attending school: the High School.

    b. Transition services were noted.

    c. Annual goals:

    d. Persons responsible: A math teacher for the math goal, an English teacher for the writing goal, and "Teacher input and observation" for the health goal.

    e. Accommodations, modifications, and supportive aids were listed.

    f. Special Education and Related Services from October 16, 2025 to October 15, 2026:

       i. Special Education in the Special Education Resources/ Pull- Out/Push-In "as per block scheduling [Student B] will receive 108 minutes of special education services 2 times a week every other week and 108 minutes of special education services 3 times a week every other week for 2 core classes. This averages out to 108 minutes of services per day, 5 days per week" for the duration of the IEP.

ii. Case management, as indirect services, for five minutes every week for the duration of the IEP.

16. An undated Teacher Information Page listed Student B's services in the "Y" setting from October 16, 2025 to June 24, 2026:
    a. Case management, primary provider: the Special Education Teacher (5 minutes/week).
    b. Special education services, provider: the Complainant (108 minutes/5 days per week).
17. Student B's Progress Report comments from April 7, 2025 to April 23, 2025 included:
    a. Area of Mastery (Score of 8): Math.
    b. Area of Maintenance (Score of 5): Social-emotional.
    c. Areas of Regression (Scores of 2 - 4): Social-emotional, health, reading, and writing.
18. Student B's October 30, 2025 Progress Report comments included:
    a. Areas of Mastery (Score of 8): Social-emotional, reading.
    b. Areas of Regression (Score of 4): Health, math, and writing.
    c. Missing Documentation: One social-emotional entry lacked progress notes.
19. In an interview with the Complaint Investigator, the Complainant explained they served as the case manager for Student B and partially authored their IEP. The Complainant indicated SDI was not effectively provided to Student B while the Complainant was assigned as a science teacher. Although the Complainant attempted to support Student B and check in during that time, they maintained that they could not fulfill their role while simultaneously managing the science classroom. Additionally, the Complainant shared that services from July 1 through October 16, 2025 were not implemented, "Unless you count me being in science class with [Student B], none of that was done." They added, " … I believe that the school psychologist met with [them] weekly for behavioral stuff, so that would count for a couple of minutes a week."
20. In a written response, the Special Education Teacher wrote the following regarding Student B:
    a. From July 2025 to December 1, 2025, the Special Education Teacher was Student B's case manager and was responsible for the implementation of Student B's IEP.
    b. From September 2, 2025 to December 1, 2025, the Complainant served as "supervised support staff" and completed "delegated administrative tasks" under the Special Education Teacher's direction to comply with the IDEA and State juvenile correctional facility mandates.
    c. Student B received "specialized instruction in reading, writing, and math in an integrated classroom setting" with services delivered by a general education teacher, a special education teacher, and a paraprofessional, according to the IEP.
    d. The Special Education Teacher "… provided ongoing consultation and support to general education teachers regarding the implementation of IEP requirements

within their classrooms. This included guidance on accommodations, behavior supports, and instructional strategies to ensure consistency across all settings."

e. Progress toward IEP goals was monitored using i-Ready data, classroom performance, and modified curriculum and assessments based on Student B's needs.

f. Documentation supporting the implementation of the IEP included diagnostics, behavior records, progress reports, and observations.

g. On December 1, 2025, case management and IEP implementation responsibilities were transferred to the Complainant.

Student C

21. Student C is a 16-year-old student eligible for special education services as a student who experiences an SLD.
    a. High School Entry Date: July 29, 2025.
22. According to the Quick Lookup and the Bell Schedule, Student C was scheduled in the following courses at the High School for semester 1 of the 2025-26 school year:
    a. PE with the PE Teacher, Seminar with the Special Education Teacher, Algebra IA, Physical Science B, World History B, and College and Career Preparation II, ELA IIA with Teacher 4, and Seminar with Teacher 4.
23. Student C's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:
    a. Semester 1: Completed at the High School, earning three passing grades (including a P) of a "B" or higher for 1.5 credits.
    b. Semester 2: Completed at the High School, earning two passing grades of "C-" or higher for 1.0 credits.
24. An IEP dated January 30, 2025, included:
    a. Attending school: a previous school.
    b. An annual goal in math was noted.
    c. Supplementary aids and services, accommodations, and supports for school personnel were noted.
    d. Special Education, Related Services and Educational Placement:
        i. Special education services for 20 minutes, one day per week, weekly, in the incarceration setting in the subject of special education, beginning on January 30, 2025 and ending on May 23, 2025, and from August 11, 2025 to January 29, 2026.
25. An IEP Summary Page dated January 30, 2025, included:
    a. Attending school: a previous school.
    b. Anticipated services:

i. Special education services outside of the general education educational classroom, every week, for 170 minutes two times a week, and 170 minutes three times a week, from August 13, 2025 through January 29, 2026.

ii. Special education services within the general education setting, every week, for 240 minutes twice a week, from August 13, 2025 through January 29, 2026.

iii. Special education services outside of the general education educational classroom, every week, for 170 minutes two times a week and 170 minutes three times a week, from May 2, 2025 through May 22, 2025.

iv. Special education services within the general education setting, every week, for 240 minutes twice a week, from May 2, 2025 through May 22, 2025.

v. An IEP Goal and Objectives document listed a math goal and short-term objectives.

26. Student C's Progress Report from their previous school, dated July 25, 2025, included comments from May 22, 2025:
    a. Area of Regression (Score of 2): Math.
27. An IEP dated December 11, 2025, included:
    a. Attending school: the High School.
    b. Transition services were noted.
    c. Annual goals:
        i. Persons responsible: A math teacher for the math goal and an English teacher for the reading goal.
    d. Accommodations, modifications, and supportive aids were noted.
    e. Special Education and Related Services from December 11, 2025 to December 10, 2026:
        i. Special education in the Special Education/Resources/Pull-out setting, "[Student C] will receive 108 minutes of special education services 2 times a week every other week and 108 minutes of special education services 3 times a week every other week in 2 core classes. This averages out to 108 minutes of services per day, 5 days per week," for the duration of the IEP.
        ii. Case management as "meeting with advisor" for five minutes daily for the duration of the IEP.
    f. Alternative Services Plans #1 and #2 for participation in a hybrid learning model were noted.
28. An undated Teacher Information Page listed Student C's services in the "Y" setting from December 11, 2025 to June 24, 2026:
    a. Case management, primary provider: the Special Education Teacher (5 minutes/week).
    b. Special education services, provider: the Special Education Teacher (108 minutes/5 days weekly).

29. Prior Written Notice (PWN) dated December 11, 2025, confirmed the information and services stated in the aforementioned IEP and noted, "The team determined that [Student C] needs direct special education services in math and reading."
30. Student C's January 16, 2026, Progress Report, with comments from December 11, 2025, included:
    a. Area of Regression (Score of 2): Math.
31. In an interview with the Complaint Investigator, the Complainant stated special education services for Student C were not implemented between July 29 and December 11, 2025, because they were unaware of the existence of Student C and lacked access to their records until November 2025. Even after discovering Student C was on their caseload, the Complainant was barred from entering that section of the building where Student C was located. Following the development of the December 11, 2025 IEP, the Complainant reported that services remained unfulfilled through February 19, 2026, as access restrictions persisted. During this time, the Complainant attempted to provide resources to the classroom teacher and occasionally entered the area to check in and offer support.
32. In a written response, the Special Education Teacher wrote the following regarding Student C:
    a. Upon entry to the High School in July 2025, the Special Education Teacher implemented the requirements outlined in Student C's January 30, 2025 IEP until a new IEP was developed in December 2025.
    b. From September 2, 2025 to December 1, 2025, the Complainant served as "supervised support staff" and completed "delegated administrative tasks" under the Special Education Teacher's direction to comply with the IDEA and State juvenile correctional facility mandates.
    c. Student C received instruction in reading and math in an "integrated classroom environment" by general education staff. The Special Education Teacher collaborated with general education staff regularly regarding the provision of accommodations, behavior strategies, and instruction designed to meet Student C's needs.
    d. Student C's progress was monitored weekly via i-Ready, classroom performance, and modified curriculum and assessments "tailored to [Student C's] instructional level as determined through diagnostic testing."
    e. According to the Special Education Teacher, documentation used to verify the implementation of special education services included i-Ready data, behavior records, progress reports, and teacher observations.
    f. On December 1, 2025, case management and IEP implementation duties transferred to the Complainant.

Student D

33. Student D is a 15-year-old student eligible for special education services as a student who experiences an Emotional Disturbance (ED).

a. High School Entry Date: November 13, 2025.

34. According to the Quick Lookup, Student D was scheduled in the following courses at the High School for the 2025-26 school year:
    a. PE with the PE Teacher, and Pre-Algebra B, Earth & Space Science A, World History B, College and Career Preparation I, and ELA IA with Teacher 4.
35. Student D's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:
    a. Semester 1: Completed at a previous school, earning one passing grade of a "C" for .5 credits.
36. An IEP dated September 16, 2025, with an initiation date of October 6, 2025, indicated:
    a. Attending school: a previous school.
    b. Transition services were noted.
    c. Special Education and Related Services:
        i. "[Student D] will receive special education services for all core subjects (ELA, Math, Social Studies and Science) in a general education building, participating with non-exceptional peers for the same frequency and duration as [their] non-exceptional peers [are in general education]."
        ii. "Counseling services for 20 minutes once weekly."
        iii. "Student [D] is currently residing at … [a county juvenile detention facility]. This placement was not an IEP team/educational decision. Student [D] will participate in online learning while at [the Juvenile Detention Facility] JDF and services will resume as listed in the IEP upon return to a comprehensive school setting."
    d. Supplementary aids and services were noted.
    e. A behavior intervention plan was documented.
37. According to a letter from the School Psychologist to Student D's Educational Advocate, "[Student D] entered [the High School] … on November 13, 2025 with an IEP dated September 16, 2025 from … [a previous district]. … [The High School] has adopted [Student D's] incoming IEP and will provide services comparable to those described in the original plan with the exception of changing counseling services to psychological services. This change in service is proposed because … this service is going to be provided by the school psychologist instead of a school counselor." PWN dated November 14, 2025, confirmed the information and services stated in the aforementioned letter.
38. An undated Teacher Information Page listed Student D's services in the "Y" setting from November 13, 2025 to June 24, 2026:
    a. Special education services, primary provider: the Complainant (80 minutes/5 days weekly).
    b. Psychological services, provider: the School Psychologist (20 minutes/week).
39. Regarding Student D, the Complainant shared they were only able to see Student D a few times due to Student D being in RH, a secure location where educational materials

were reportedly prohibited. According to the Complainant, students in RH were denied access to paper, pencils, and any form of special education services. The Complainant stated the special education services Student D received from November 13, 2025 through February 19, 2026 as, "Other than me going and talking to [them] once in RH and me talking to [Student D's] teacher when I could and bringing resources when I could sneak in, I don't know how else to put it."

40. In a written response, the Special Education Teacher wrote the following regarding Student D:
    a. Upon entry to the High School on November 13, 2025, Student D was placed on "intake." The Student was determined to be a security risk and was placed in a restrictive area. Educational access was "adjusted to meet the custodial restrictions of that unit." Student D remained in an RH unit until January 6, 2026 at which time Student D was "… permitted to begin attending school with other students."
        i. According to the Special Education Teacher, the School Psychologist provided psychological services.
    b. From September 2, 2025 to December 1, 2025, the Complainant served as "supervised support staff" and completed "delegated administrative tasks" under the Special Education Teacher's direction to comply with the IDEA and State juvenile correctional facility mandates.
    c. On December 1, 2025, case management and IEP implementation duties transferred to the Complainant.
41. Regarding Student D, the School Psychologist described the following in their written response:
    a. For safety reasons, Student D was not allowed to attend school until the beginning of the second semester on January 6, 2026.
    b. Services were provided by the Special Education Teacher via the classroom teacher, and the School Psychologist provided weekly psychological services to Student D once they started school.
    c. On December 1, 2025, case management responsibilities and the provision of services listed on the IEP were assigned to the Complainant.

Student E

42. Student E is a 16-year-old student eligible for special education services as a student who experiences an Intellectual Disability (ID).
    a. High School Entry Date: July 29, 2025.
43. According to the Quick Lookup, Student E was scheduled in the following courses at the High School for the 2025-26 school year:
    a. ELA IA, Pre-Algebra B, Earth & Space Science A, American History A, and College and Career Preparation I with the Special Education Teacher, and PE with the PE Teacher.

44. Student E's unofficial transcript, titled "Student Progress," did not list any academic history for the 2025-26 school year.
45. An IEP dated April 22, 2025, included:
    a. Attending school: a previous school.
    b. Transition services were noted.
    c. Annual goals:
        i. Reading, writing, math, behavior, and transition provided by a special education teacher.
    d. Special Education and Related Services:
        i. "[Student E] will attend night school in an alternative school setting for 2 hours, 4 days per week. [Student E] will receive 10 minutes of indirect counseling services bi[-]weekly while [Student E] is in the night school setting."
    e. Accommodations and modifications were listed.
    f. A Behavior Intervention Plan (BIP) was noted.
46. Student E's behaviors, including time on task, self-control, and social skills, were documented across two log periods:
    a. October 20, 2025 – January 12, 2026: Documented on three dates.
    b. January 19, 2026 – February 16, 2026: Documented on five dates.
47. Relevant information from weekly student progress reports between January 5-9, 12-16, and 19-23, 2026, included:
    a. For Student E, it was noted they worked on transitional surveys for the IEP. Student E worked on reading a low-level book and read "The Black Cat," which was lowered to a fourth-grade level, and answered questions. The "Focus" section stated, "… journal writing 2 sentences with beginning capitalization and ending punctuation 50% of the time, multi-digit addition and subtraction with regrouping with 80% accuracy, work independently for 15 minutes after being given direct instruction, work on being physically safe and being in [their] assigned area." The "Expectations" section indicated Student E had met and exceeded expectations.
    b. For January 12-16, 2026, Student E's Progress Report described their reading, writing, and math work. The "Focus" section remained the same as above. The "Expectations" section stated Student E exceeded expectations. Additional notes indicated Student E was making "significant advancements" in their learning and making "huge strides academically … ."
    c. For January 19-23, 2026, Student E's work on their reading was described. The "Expectations" section stated, "Working on adding and subtracting within 10. Writing letters. Reading [consonant-vowel-consonant] CVC and [consonant-vowel-consonant-silent e] CVCE words. Read at 75% for Why I can't Fly assessment."
48. An IEP dated February 17, 2026, included:
    a. Attending school: the High School.

b. Transition services were noted.

c. "[Student E] spent a total of 15 days In Restrictive Housing (RH) between 8/18/25 and 2/17/26 based on disruptive behaviors on either [their] living unit or at school [sic]."

d. Annual goals:

   i. Persons responsible: A math teacher for the math goal, an English teacher for the reading and writing goals, and the teaching staff for the social-emotional goals.

e. Accommodations, modifications, and supportive aids were listed.

f. Special Education and Related Services:

   i. Special education in the following setting: Special Education/Resources/Pull-out for "… 108 minutes of special education services 2 times a week every other week and 108 minutes of special education services 3 times a week every other week in 4 core classes. This averages out to 216 minutes of services per day, 5 days per week," for the duration of the IEP from February 17, 2026 to February 16, 2027.

   ii. Case management, "meeting with advisor," for five minutes every week for the duration of the IEP from February 17, 2026 to February 16, 2027.

g. Alternative Services Plans #1 and #2 for participating in a hybrid learning model were noted.

49. An undated Teacher Information Page listed Student E's services in the "Y" setting from February 17, 2026 to June 24, 2026:

    a. Case management, primary provider: the Special Education Teacher (5 minutes/week).

    b. Special education services, provider: the Special Education Teacher (216 minutes/5 days weekly).

50. PWN dated February 17, 2026, indicated Student E's services represented "a significant change in services." Five minutes of weekly case management was added, and counseling services would be "… provided to [Student E] by the facility through [Student E's] corrections counselor and is not provided by the school." Additionally, the IEP team noted Student E had a behavior plan on their previous IEP and determined "… that due to the additional structure and accommodations provided at [the School] and the facility[-]wide discipline program, that an individualized plan is not needed at this time and because [Student E's] behaviors will be addressed through goals and accommodations on [their] IEP." Additionally, the IEP team "… determined that [Student E] needs direct special education services in math, reading, and writing."

51. Student E's February 27, 2026 Progress Report, with comments from February 17, 2026, included:

    a. Areas of Mastery (Score: 8): Reading and safety.

    b. Area of Improvement (Score: 7): Independent work.

c. Areas of Regression (Scores 2-4): Writing, math, and "assigned area."

52. In an interview with the Complaint Investigator, the Complainant shared that when they worked with Student E in Lion/Pride, they started to teach them to read, as Student E was at a kindergarten level at the age of 16. They added, "[Student E's] one of the only that received services, but [Student E's] been in RH a lot and every time [they are] in RH, [Student E] does not get anything, period. They will not allow us."
53. When asked about Student E's April 22, 2025 IEP, the Complainant explained the special education services outlined in the April 22, 2025, IEP were not implemented between July 29, 2025 and February 17, 2026 because the document's requirements did not align with the facility's operations. Specifically, the Complainant noted that the mandate for night school was not fulfilled, stating, "That was not because it doesn't even match what we do at all. We don't have night school." The Complainant stated Student E's February 17, 2026 IEP with 108 minutes was serviced in Lion/Pride, where a paraeducator worked with Student E on math.
54. In a written response, the Special Education Teacher wrote the following regarding Student E:
    a. Upon entry to the High School on July 29, 2025, the Special Education Teacher implemented the requirements outlined in Student E's April 22, 2025 IEP until a new IEP was developed on February 17, 2026.
    b. From September 2, 2025 to December 1, 2025, the Complainant served as "supervised support staff" and completed "delegated administrative tasks" under the Special Education Teacher's direction to comply with the IDEA and State juvenile correctional facility mandates.
    c. The Special Education Teacher did not provide direct instruction to Student E, "... but maintained responsibility for ensuring that services were implemented as written." Student E received specialized instruction in reading, writing, and math in an "integrated classroom" provided by general and special educators and paraprofessionals.
    d. The Special Education Teacher consulted with general education teachers regarding the implementation requirements of Student E's IEP.
    e. Student E's progress was monitored weekly via i-Ready, classroom performance, and modified curriculum and assessments "based on the student's individual needs and grade levels, as identified through diagnostic testing."
    f. Documentation used to verify the implementation of special education services included i-Ready data, behavior records, progress reports, and teacher observations.
    g. The School Psychologist provided psychological services to Student E.
    h. On December 1, 2025, case management and IEP implementation duties transferred to the Complainant.

Student F

55. Student F is a 16-year-old student eligible for special education services as a student who experiences an OHI.
    a. High School Entry Date: January 31, 2025
56. According to the Quick Lookup, Student F was scheduled in the following courses at the High School for the 2025-26 school year:
    a. Pre-Algebra B with the Math Teacher, ELA 1B with the Seminar Teacher, Welding with Teacher 5, American History A with the History Teacher, and Physical Science A with the Science Teacher.
57. Student F's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:
    a. Semester 1: Completed at the High School, passing five classes with a "D-" or higher, earning 2.5 credits.
    b. Semester 2: Completed at the High School, passing one class with a "D+" and earning 0.5 credits.
58. An IEP dated January 31, 2025, included:
    a. Attending school: the High School.
    b. Transition services were noted.
    c. Annual goals:
        i. Persons responsible included a classroom teacher for a "time on task" goal, the teaching staff for self-control, a testing coordinator for the reading and math goals, and an English teacher for the writing goal.
    d. Accommodations, modifications, and supportive aids were listed.
    e. Special Education and Related Services from January 31, 2025 to January 30, 2026:
        i. Special education in the Special Education/Resources/Pull-out setting for 216 minutes twice per week, every other week, and 108 minutes of special education services three times per week, every other week, in four core classes for an average of 108 minutes of services, five days per week for the duration of the IEP.
        ii. Case management as an indirect service for five minutes every week for the duration of the IEP.
    f. Alternative Services Plans #1 and #2 for participating in a hybrid learning model were noted.
59. An undated Teacher Information Page outlined the following services for Student F in the "Y" setting:
    a. January 31, 2025 to June 25, 2025: Case management by the Special Education Teacher (5 minutes/week) and special education services by Teacher 2 (216 minutes/day, 5 days/week).

b. July 1, 2025 to June 30, 2026: Case management (5 minutes/week) and special education services (216 minutes/day, 5 days/week) provided by Teacher 2.

60. Student F's behaviors, including time on task, self-control, and social skills, were documented across four separate log periods:
    a. May 5, 2025 – August 11, 2025: Documented on nine dates.
    b. August 18, 2025 – October 13, 2025: Documented on nine dates.
    c. October 20, 2025 – January 12, 2026: Documented on seven dates.
    d. January 19, 2026 – February 16, 2026: Documented on five dates.
61. Student F's August 5, 2025 Progress Report, with comments from June 3 and 10, 2025, and July 29 and 31, 2025, included:
    a. Areas of Improvement (Score: 7): Health, reading, and math.
    b. Areas of Regression (Scores of 3 and 4): Writing and social-emotional.
62. An IEP dated January 22, 2026, included information from a reevaluation with the same date:
    a. Attending school: the High School.
    b. Transition services were noted.
    c. Annual goals:
        i. Persons responsible included an English teacher for the reading and writing goals, a math teacher for the math goal, and teaching staff for the "time on task" and social-emotional goals.
    d. Accommodations, modifications, and supportive aids were listed.
    e. Special Education and Related Services from January 27, 2026 to January 26, 2027:
        i. Special education in the Special Education/Resources/Pull-out setting for 108 minutes twice per week, every other week, 108 minutes of special education services three times a week every other week in three core classes for an average of 162 minutes of services per day, five days per week for the duration of the IEP.
        ii. Case management as indirect services for five minutes each week for the duration of the IEP.
    f. Alternative Services Plans #1 and #2 for participating in a hybrid learning model were noted.
63. An undated Teacher Information Page outlined Student F's services in the "Y" setting for the period of January 22, 2026 to June 24, 2026:
    a. Case management, primary provider: Special Education Teacher (5 minutes/week).
    b. Special education services, provider: the Complainant (162 minutes/day, 5 days/week).
64. PWN dated January 22, 2026, included information from the Evaluation/Eligibility Team Report used for reevaluation and to create the Student's January 22, 2026 IEP. The IEP

team "… determined that [Student F] needs direct special education services in math, reading, and writing."

65. Student F's February 23, 2026 Progress Report, with comments from December 3 and 5, 2025, and January 7 and 9, 2026, included:
    a. The Complainant was noted as the teacher.
    b. Area of Improvement (Scores: 6 and 7): Health, reading, and math.
    c. Areas of Regression (Score: 4): Writing and social-emotional.
66. In an interview with the Complaint Investigator, the Complainant explained that when they were Student F's science teacher, they accommodated and modified Student F's work when they realized Student F was unable to read.
67. When asked about the implementation of Student F's special education services from July 1, 2025 through January 1, 2025 as described on the January 31, 2025 IEP, the Complainant stated, "Unless you count me as a science teacher, they were not." They also stated that 108 minutes of special education services from the January 22, 2026 IEP were not implemented.
68. In a written response, the Special Education Teacher wrote the following regarding Student F:
    a. The Special Education Teacher was responsible for implementing the services on the Student F's IEP from July 16, 2025 to December 1, 2025.
    b. From September 2, 2025 to December 1, 2025, the Complainant served as "supervised support staff" and completed "delegated administrative tasks" under the Special Education Teacher's direction to comply with the IDEA and State juvenile correctional facility mandates.
    c. Student F received instruction in reading, writing, and math in a classroom setting from a general or special educator and a paraprofessional. The Special Education Teacher collaborated with general education staff regularly regarding the provision of accommodations, behavior strategies, and instruction designed to meet Student F's needs.
    d. Student F's progress was monitored weekly via i-Ready, classroom performance, and modified curriculum and assessments based on Student F's needs.
    e. Documentation used to verify the implementation of special education services included i-Ready data, behavior records, progress reports, and teacher observations.
    f. On December 1, 2025, case management and IEP implementation duties transferred to the Complainant.

Student G

69. Student G is a 15-year-old student eligible for special education services as a student who experiences ED.
    a. High School Entry Date: December 30, 2025.

70. According to the Quick Lookup, Student G was scheduled in the following courses at the High School for the 2025-26 school year:
    a. World History A with the History Teacher, ELA IA with the ELA Teacher, College and Career Preparation I with Teacher 7, Pre-Algebra B with the Math Teacher, Earth & Space Science A with the Science Teacher, and Seminar with the ELA Teacher and/or Teacher 7.
71. Student G's unofficial transcript, titled "Student Progress," did not list any academic history for the 2025-26 school year.
72. An Evaluation/Eligibility Team Report dated September 19, 2025, indicated an initial evaluation was conducted to determine Student G's eligibility for special education services while Student G attended a previous high school.
73. An IEP dated September 19, 2025, included:
    a. Attending school: a previous school.
    b. Annual goals indicated three social-emotional goals with no "person responsible" listed.
    c. Accommodations, modifications, supportive aids, and supports for school personnel were listed.
    d. Special Education and Related Services:
        i. Direct services with a behavior specialist within the school, weekly for 20 minutes, from September 19, 2025 to September 18, 2026.
        ii. Consult services with a case manager within the school, weekly for 10 minutes, from September 19, 2025 to September 18, 2026.
74. PWN dated September 19, 2025, reflected Student G's eligibility for special education services and the decisions made regarding Student G's IEP.
75. Between January 19, 2026 and February 16, 2026, Student G's time on task, self-control, and social skills behaviors were documented on five dates.
76. Student G's undated Progress Report from their previous school for the 2025-26 school year, with comments from September 19, 2025 and October 20, 2025, included:
    a. Area of Maintained Performance (Score: 5): Three social-emotional goals.
77. An IEP, dated January 6, 2026, included:
    a. Attending school: the High School.
    b. Annual goals indicated three social-emotional goals with no "person responsible" listed.
    c. Accommodations, modifications, supportive aids, and supports for school personnel were listed.
    d. Special Education and Related Services:
        i. Direct services with a behavior specialist within the school, weekly for 20 minutes, from September 19, 2025 to November 5, 2025.

ii. Consultative, indirect services with a case manager, weekly for 10 minutes, from September 19, 2025 to September 18, 2026.

iii. Direct services with a behavior specialist, off-site, weekly for 20 minutes, from November 6, 2025 to September 18, 2026.

78. An undated Teacher Information Page outlined the following services for Student G in the "Y" setting from January 6, 2026 to June 24, 2026:

a. Special education services, primary provider: the Special Education Teacher (10 minutes/week).

b. Psychological services, provider: the School Psychologist (20 minutes/week).

79. In an interview with the Complaint Investigator, the Complainant stated Student G's special education services and direct behavior services from December 25, 2025 through February 19, 2026 were not implemented. In regard to the consult services in Student G's IEP, the Complainant shared they spoke to and emailed with teachers.

80. In a written response, the Special Education Teacher wrote the following regarding Student G:

a. Student G entered the facility on December 30, 2025 and began receiving educational services when classes commenced after the winter break on January 6, 2026.

b. The Complainant was assigned as Student G's case manager.

81. Regarding Student G, the School Psychologist described the following in their written response:

a. Student G entered the facility on January 6, 2026 with an out-of-district IEP dated September 19, 2025.

b. Upon Student G's enrollment, case management responsibilities and the provision of services listed on the IEP were assigned to the Complainant. Services were also provided by Teacher 7 in the classroom. The School Psychologist provided weekly psychological services to Student G.

Student H

82. Student H is a 15-year-old student eligible for special education services as a student who experiences an OHI.

a. High School Entry Date: January 6, 2026.

83. According to the Quick Lookup, Student H was scheduled in the following courses at the High School for the 2025-26 school year:

a. Pre-Algebra B with the Math Teacher, ELA IB with the ELA Teacher, World History A with the History Teacher, Earth & Space Science A with the Science Teacher, PE with the PE Teacher, and Seminar with the ELA Teacher.

84. Student H's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:

a. Semester 1: Completed at a previous school, passing five classes with a "D" or higher, earning 2.5 credits.

85. An IEP dated December 11, 2025 included:
    a. Attending school: a previous school.
    b. Transition services were noted (copy was smudged).
    c. Annual goals:
        i. Reading, math, and writing, provided by a special education teacher; and
        ii. Social-emotional, provided by a social worker.
    d. Special Education and Related Services:
        i. From December 11, 2025 to May 21, 2026 and from August 11, 2026 to December 10, 2026:
            1. Special education services for specialized reading support and instruction provided by a special education teacher in the incarceration setting for 45 minutes, four times per week.
            2. Special education services for specialized support and instruction in math provided by a special education teacher in the incarceration setting for 45 minutes, four times per week.
            3. Special education services for support in other classes provided by a special education teacher in the incarceration setting for 45 minutes once a week.
            4. Transition for transition and post-secondary goals provided by a special education teacher in the incarceration setting for 15 minutes once per year.
        ii. From December 11, 2025 to May 28, 2026 and July 1, 2025 to December 10, 2026:
            1. Social work services provided by a social worker in the incarceration setting for 20 minutes once every two weeks.
    e. Supplementary aids and services, and supports for school personnel were listed.
    f. Assessment accommodations were described.
86. An undated Teacher Information Page outlined the following services for Student H in the "Y" setting from January 6, 2026 to June 24, 2026:
    a. Special education services, primary provider: the Complainant (45 minutes/4 days weekly; listed twice).
    b. Special education services, provider: the Complainant (45 minutes/1 day weekly).
    c. Psychological services, provider: the School Psychologist (20 minutes/week).
    d. Transition services, provider: Special Education Teacher (15 minutes/annually).
87. Between January 19, 2026, and February 16, 2026, Student H's time on task, self-control, and social skills behaviors were documented on five dates.
88. The Complainant shared their understanding that no one provided special education services to Student H.

89. In a written response, the Special Education Teacher wrote the following regarding Student H:
    a. Student H entered the facility on January 6, 2026 with an IEP dated December 11, 2025.
    b. The Complainant was assigned as Student H's case manager.
90. Regarding Student H, the School Psychologist described the following in their written response:
    a. Student H entered the facility on January 6, 2026 with an out-of-district IEP dated December 11, 2025.
    b. Upon Student H's enrollment, case management responsibilities and the provision of services listed on the IEP were assigned to the Complainant. The School Psychologist provided weekly psychological services to Student H.

Student I

91. Student I is a 19-year-old student eligible for special education services as a student who experiences an SLD.
    a. High School Entry Date: July 1, 2025.
92. According to the Bell Schedule, Student I was scheduled in the following courses at the High School for the 2025-26 school year:
    a. Seminar with the Seminar Teacher, Algebra 1B with the College and Career Teacher, and PE with the PE Teacher.
93. Student I's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:
    a. Semester 1: Completed at the High School, passing 8 classes with a "D-" or higher, earning 4.5 credits.
    b. Semester 2: Completed at the High School, passing 2 classes with a "D–" or higher, earning 1.0 credit.
94. Student I's undated Progress Report from their previous school for the 2025-26 school year, included the following comments from January 21, 2026, February 4, 2026, February 5, 2026, and February 13, 2026:
    a. Areas of Regression (Score of 2): Social-emotional, reading, and math.
    b. Area of Improvement (Score of 7): Writing.
95. An IEP dated March 11, 2025, included:
    a. Attending school: the High School.
    b. Transition Services were noted.
    c. Annual goals in the areas of reading, writing, math, and social-emotional were provided by "Special ED[ucation]/General [Ed]ucation."
    d. Special Education and Related Services from March 11, 2025 to March 10, 2026:
        i. Special Education in the Special Education/Resources/Pull-out/Push-in setting, per block scheduling, for 108 minutes twice a week every other week and 108

minutes three times a week every other week for two core classes for an average of 108 minutes of services per day, five days per week for the duration of the IEP.

ii. Case management as an indirect service for five minutes weekly for the duration of the IEP.

iii. Accommodations, modifications, and supportive aids were listed.

e. Alternative Services Plans #1 and #2 for participating in a hybrid learning model were noted.

96. An undated Teacher Information Page listed Student I's services in the "Y" setting from July 18, 2025 to March 10, 2026:

a. Special education services, primary provider: Teacher 3 (108 minutes/day, 5 days/week).

b. Case management, provider: Teacher 3 (5 minutes/week).

97. PWN dated March 11, 2025, confirmed the information and services stated in the aforementioned IEP and noted, "The team determined that [Student I] needs direct special education services in math, reading, and writing."

98. Student I's Progress Report dated April 24, 2025 included comments from February 13, 2025 and February 26, 2025:

a. Areas of Mastery (Score of 8): Reading and math.

b. Area of Improvement (Score of 6): Writing.

99. An IEP Amendment Form, signed on May 6, 2025, indicated Student I requested to amend the March 11, 2025 IEP without a meeting to document their intention to pursue their GED. PWN dated May 6, 2025, reflected the decisions made and documented in the aforementioned IEP Amendment Form.

100. The Student's most recent IEP was created on February 26, 2026.

101. In a written response, Teacher 7 wrote the following regarding Student I:

a. Teacher 7 was responsible for case management and the implementation of the services on Student I's IEP beginning on July 16, 2025.

b. Student I received instruction in all subject areas in an "integrated classroom setting" from a general educator and a paraprofessional with "… ongoing support and supervisory oversight to ensure the consistent implementation of all individualized goals, accommodations, and related services."

c. Progress was monitored weekly via i-Ready and reading progress monitoring, as well as with weekly goals in digital learning courses.

Student J

102. Student J is a 20-year-old student eligible for special education services as a student who experiences an ID.

a. High School Entry Date: July 1, 2025.

103. According to the Bell Schedule, Student J was scheduled in the following courses at the High School for the 2025-26 school year:
    a. Physical Science A with the Science Teacher, Pre-Algebra B with the College and Career Teacher, ELA IB with the ELA Teacher, Advocacy with the Advocacy Teacher, World History B with the History Teacher, and PE with the PE Teacher.
104. Student J's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:
    a. Semester 1: Completed at the High School, earning two grades of a "D-" or higher for a total of 1.0 credits.
    b. Semester 2: Completed at the High School, earning one "D-" for 0.5 credits.
105. An IEP dated April 17, 2025, included:
    a. Attending school: the High School.
    b. Transition services were noted.
    c. Annual goals:
        i. Persons responsible: An English teacher for the reading and writing goals, a math teacher for the math goal, and the teaching staff for the three social-emotional goals.
    d. Accommodations, modifications, and supportive aids were listed.
    e. Special Education and Related Services from April 17, 2025 to April 16, 2026:
        i. Special Education in the Special Education/Resources/Pull-out setting for 108 minutes "2 times a week every other week and 108 minutes of special education services 3 times a week every other week in 4 core classe[es]. This averages out to 216 minutes of services per day, 5 days per week" for the duration of the IEP.
        ii. Case management, as indirect services, for five minutes every week for the duration of the IEP.
    f. Alternative Services Plans #1 and #2 for participating in a hybrid learning model were noted.
106. An undated Teacher Information Page outlined the following services for Student J in the "Y" setting from July 16, 2025 to April 16, 2026:
        i. Case management, primary provider: the Special Education Teacher (5 minutes/1 day weekly).
        ii. Special education services, provider: the Special Education Teacher (216 minutes/5 days weekly).
107. PWN dated April 17, 2025, confirmed the information and services stated in the aforementioned IEP and noted, "The team determined that [Student J] needs direct special education services in math, reading, and writing."
108. In a written response, the Special Education Teacher wrote the following regarding Student J:

a. The Special Education Teacher was responsible for implementing the services on Student J's April 2025 IEP from July 2025 to February 19, 2026.

b. Student J received instruction in reading, writing, and math in an "integrated classroom environment" by a general or special educator and a paraprofessional. The Special Education Teacher collaborated with general education staff regularly regarding the provision of accommodations, behavior strategies, and instruction designed to meet Student J's needs.

c. Student J's progress was monitored weekly via i-Ready, classroom performance, and modified curriculum and assessments based on individual needs and grade levels, determined via diagnostic testing.

d. Documentation used to verify the implementation of special education services included i-Ready data, behavior records, progress reports, and teacher observations.

Student K

109. Student K is a 17-year-old student eligible for special education services as a student who experiences an SLD.
    a. High School Entry Date: July 1, 2025.
    b. High School Exit Date: September 10, 2025.
110. According to an enrollment document, Student K was withdrawn from the following courses on September 10, 2025:
    a. Algebra IA, ELA IIB, Physical Science B, and Sociology. No teachers were listed.
111. Student K's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:
    a. Semester 1: Completed at the High School, earning two passing grades of a "D+" or higher for a total of 1.0 credits.
112. An IEP dated September 26, 2024, included:
    a. Attending school: the High School.
    b. Transition services were noted.
    c. Annual goals:
        i. Persons responsible: An English teacher for the writing goal, a math teacher for the math goal, and the teaching staff for the health goal.
    d. Accommodations, modifications, and supportive aids were noted.
    e. Special Education and Related Services from September 26, 2024 to September 25, 2025:
        i. Special education in the Special Education/Resources/Pull-out setting for 108 minutes, twice per week, every other week; and 108 minutes, three times a week, every other week in two core classes for an average of 108 minutes per day, five days per week for the duration of the IEP.

ii. Case management as indirect services for five minutes every week for the duration of the IEP.

f. Alternative Services Plans #1 and #2 for participating in a hybrid learning model were noted.

113. Student K's Progress Report comments from March 6, 2025 to March 27, 2025 included:

a. Area of Regression (Scores of 2): Writing and math.

b. Area of Mastery (Score of 8): Health.

114. An undated Teacher Information Page outlined the following services for Student K in the "Y" setting from July 1, 2025 to September 25, 2025:

a. Special education services, primary provider: the Special Education Teacher (108 minutes/5 days weekly).

b. Case management, provider: the Special Education Teacher (5 minutes/1 day weekly).

115. Student K's Progress Report comments from July 30, 2025 to August 21, 2025 included:

a. Area of Regression (Score of 3): Writing.

b. Area of Maintenance (Score of 5): Math.

c. Area of Improvement (Score of 6): Health.

116. An IEP dated August 21, 2025, included:

a. Attending school: the High School.

b. Transition services were noted.

c. Annual goals:

i. Persons responsible: A math teacher for the math goal, an English teacher for the reading and writing goals, and the teaching staff for the health goal.

d. Accommodations, modifications, and supportive aids were listed.

e. Special Education and Related Services from August 21, 2025 to August 20, 2026:

i. Special Education in the Special Education/Resources/Pull-out setting for 108 minutes, twice per week, every other week; and 108 minutes three times per week every other week in two core classes, averaging to 108 minutes per day for five days per week for the duration of the IEP.

f. Alternative Services Plans #1 and #2 for participating in a hybrid learning model were noted.

117. PWN dated August 21, 2025, confirmed the information and services stated in the aforementioned IEP and noted, "The team determined that [Student K] needs direct special education services in reading, math, and writing."

118. An undated Teacher Information Page outlined the following services for Student K in the "Y" setting from August 21, 2025, to June 24, 2026:

a. Case management, primary provider: the Special Education Teacher (5 minutes/1 day weekly).

b. Special education services, provider: the Special Education Teacher (108 minutes/5 days weekly).

119. In a written response, the Special Education Teacher wrote the following regarding Student K:

a. The Special Education Teacher was responsible for implementing the services on Student K's September 2024 IEP from July 2025 until a new one was developed on August 21, 2025, for which the Special Education Teacher was also responsible until Student K transitioned out of the facility on September 9, 2025.

b. Student K received instruction in reading, writing, and math in an "integrated classroom environment" by general education staff and a paraprofessional. The Special Education Teacher collaborated with general education staff regularly regarding the provision of accommodations, behavior strategies, and instruction designed to meet Student K's needs.

c. Student K's progress was monitored weekly via i-Ready, classroom performance, and modified curriculum and assessments "tailored" to meet Student K's needs.

d. Documentation used to verify the implementation of special education services included i-Ready data, behavior records, and teacher observations.

Student L

120. Student L is a 19-year-old student eligible for special education services as a student who experiences an OHI.

a. High School Entry Date: July 1, 2025.

b. High School Exit Date: October 2, 2025.

121. According to the Attendance Overview, Student L was scheduled withdrawn from the following courses at the High School during the 2025-26 school year:

a. GED Math on September 12, 2025, and Pre-Algebra B, ELA IA, U.S. Government & Politics, and Earth Science A on October 1, 2025.

122. Student L's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:

a. Semester 2: Completed at the High School, earning five passing grades of "C+" or higher for 2.5 credits.

123. An IEP dated October 24, 2024, included:

a. Attending school: the High School.

b. Transition Services were noted.

c. Annual goals:

i. Persons responsible: Teaching staff for the health and social-emotional goals, a math teacher for the math goal, and an English teacher for the writing goal.

d. Special Education and Related Services from October 24, 2024 to October 23, 2025:

i. Special education services in the Special Education/Resources/Pull-out setting for 108 minutes twice weekly, every other week; and three times weekly, every other week in four core classes for an average of 216 service minutes per day, five days a week.

ii. Case management as indirect services for 15 minutes every day for the duration of the IEP.

e. Alternative Services Plans #1 and #2 for remote learning were noted.

124. Student L's Progress Report dated May 9, 2025 with comments from March 31, 2025 to April 28, 2025 included:

a. Areas of Mastery (Score of 8): Social-emotional, health, and writing.

b. Area of Improvement (Score of 7): Math.

125. An IEP Amendment Form, signed on June 19, 2025, indicated Student L served as their own educational decision-maker and agreed to amend the October 4, 2024 IEP without a meeting to document their intention to pursue their GED. PWN dated June 19, 2025, reflected the decisions made and documented in the aforementioned IEP Amendment Form.

126. PWN dated October 1, 2025, indicated Student L passed the GED, did not intend to earn their high school diploma, and was "… exiting school and special education services … ."

127. In a written response, the Special Education Teacher wrote the following regarding Student L:

a. The Special Education Teacher was responsible for implementing the services on Student L's October 2024 IEP from July 2025 until Student L completed their GED on October 1, 2025.

b. From October 2024 to October 2025, Student L "… demonstrated behavioral challenges that resulted in placement within both the Restrictive Housing Unit (RHU) and the behavioral unit. These settings are among the most restrictive living environments in the facility and substantially limit a student's access to educational services." Additionally, "Students assigned to RHU or the behavioral unit frequently experience decreased instructional time, limited or no access to traditional classroom instruction, and may instead be provided with educational materials in an isolated setting."

c. The Special Education Teacher wrote, "… all educational services are subject to the overriding safety and security mandates" of the security complex.

d. When Student L was not in RH, they received specialized instruction in writing and math provided by a general or special educator with the support of a paraprofessional. The Special Education Teacher collaborated with general education staff regularly regarding the provision of accommodations, behavior strategies, and instruction designed to meet Student L's needs.

e. Documentation used to verify the implementation of special education services included i-Ready data, behavior records, progress monitoring data, and teacher observations.

Student M

128. Student M is a 15-year-old student eligible for special education services as a student who experiences an OHI.
    a. High School Entry Date: December 23, 2025.
129. According to the Bell Schedule, Student M was scheduled in the following courses at the High School for the 2025-26 school year:
    a. Pre-Algebra B with the Math Teacher, ELA IA with the ELA Teacher, World History A with Teacher 7, Earth & Space Science A with the Science Teacher, PE with the PE Teacher, and Seminar with College and Career Teacher.
130. Student M's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:
    a. Semester 1: Completed at a previous school, earning four "C" grades or higher (including a P) for a total of 1.75 credits. An "F" was listed for five classes with no credit awarded.
131. An IEP dated November 20, 2025, included:
    a. Attending school: a previous school.
    b. Transition services were noted.
    c. Annual goals:
        i. Person responsible: A special education teacher for the reading and behavior goals.
    d. Special Education and Related Services:
        i. "[Student M] will receive special education services in a general education building participating with [their] general education peers when enrolled in English [L]anguage [A]rts, math, science, and social studies classes or when enrolled in an independent study hall course." Additionally, Student M required transportation services with behavior accommodations in the form of preferential seating every school day in a school-provided vehicle, for the length of the ride between home and school.
        ii. Supplementary aids, services, accommodations, and modifications were noted.
        iii. A BIP was documented.
132. In a written response, the Special Education Teacher wrote the following regarding Student M:
    a. Student M entered the facility on December 23, 2025 and began receiving educational services when classes commenced after the winter break on January 6, 2026.

b. Student M received instruction in reading in an "integrated classroom setting" from a general or special educator and a paraprofessional. The Special Education Teacher collaborated with general education staff regularly regarding the provision of accommodations, behavior strategies, and instruction designed to meet Student M's needs.

c. Student M's progress was monitored weekly via i-Ready, classroom performance, and modified curriculum and assessments based on Student M's needs.

d. Documentation used to verify the implementation of special education services included i-Ready data, behavior records, progress reports, and teacher observations.

Student N

133. Student N is a 17-year-old student eligible for special education services as a student who experiences an SLD.

a. High School Entry Date: February 5, 2026.

134. According to the Bell Schedule, Student N was scheduled in the following courses at the High School for the 2025-26 school year:

a. Pre-Algebra B with the Math Teacher, ELA IB with the ELA Teacher, World History A with the History Teacher, Physical Science A with the Science Teacher, College and Career Preparation I with Teacher 7, and Seminar with the ELA Teacher.

135. Student N's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:

a. Semester 1: Completed at a previous school, earning one "C" grade and 0.5 credits.

b. Semester 2: Completed at a previous school, earning one "C" grade and 0.5 credits.

136. An IEP dated January 24, 2025, was amended and initiated on October 1, 2025 and included:

a. Attending school: A USD - Home.

b. Two social-emotional goals were noted, with one to be implemented by the education staff and the other by a teacher.

c. Special Education and Related Services from January 24, 2025 to January 23, 2026:

i. Special education in the home setting as "support online curriculum" for 15 minutes, 5 days a week.

ii. Special education in the alternative setting as "support online curriculum tests" for 30 minutes twice a week.

iii. Special education in the alternative setting as counseling services for 20 minutes once a week.

137. An IEP dated January 22, 2026, included:

a. Attending school: A USD - Incarceration.

b. A social-emotional goal was noted with education staff listed as the provider.

c. Special Education and Related Services from January 22, 2026 to January 21, 2027:

i. Special education service in an unidentified setting, for online curriculum for 15 minutes, five days a week.

ii. Social work service in an unidentified setting for counseling, 20 minutes once a week.

d. Accommodations and modifications were listed.

138. PWN from a previous school dated January 22, 2026, described the following action, "Beginning on 1/22/26 and continuing until the end of the IEP year, or until the IEP team decides to make a change, [Student N] will receive the following special education services":

a. "Via email/[Z]oom - (I) - On-line curriculum support - 15 minutes, 5 days a week, every week."

b. "[County Jail] - (SW) - Counseling - 20 minutes, 1 day a week, every week."

According to the PWN, "Due to [Student N's] incarceration, the best way to support [their] academic progress is to communicate daily through email and or Zoom. [Student N] will continue to meet with the counselor once a week to receive the social/emotional support [Student N] needs." Options considered included not offering "… specially designed instruction to [Student N] [which] would be a violation of [their] unique educational needs and would hinder [Student N's] acquisition of these necessary academic skills."

139. A Progress Report dated February 2, 2026, from a previous school included the following comments:

a. Social Emotional:

i. May 2025: Area of Regression (Score of 3)

ii. October 2025 and December 2025: Area of Maintenance (Score of 5): "[Student N] is no longer attending [Previous High School] in the school setting and is meeting regularly with [a Social-Emotional Learning] SEL counselor and teacher at RAC [sic]."

b. Reading:

i. May 2025 and December 2025: Not measured (Score of 1).

c. Social-emotional (additional goal):

i. May 2025: Not measured (Score of 1).

ii. October 2025 and December 2025: Area of Maintenance (Score of 5): "[Student N] is no longer attending [a previous school] in the school setting and is meeting regularly with SEL counselor and teacher at RAC [sic]."

140. In a written response, the Special Education Teacher wrote the following regarding Student N:

a. Upon entry to the High School on February 5, 2026, Student N was housed in the "intake" unit that included a restrictive educational setting. They entered with an

active IEP dated January 22, 2026 with "draft" in the title that was accepted as a "final" IEP.

141. Regarding Student N, the School Psychologist described the following in their written response:
    a. Student N entered the facility on February 5, 2026 and was placed in the "intake" unit until February 25, 2026. High School programming "… is restricted to less than an hour per day which is used to evaluate the student's academic skills … ."

Student O

142. Student O is a 16-year-old student eligible for special education services as a student who experiences an SLD.
    a. High School Entry Date: July 1, 2025.
    b. High School Exit Date: October 16, 2025.
143. Student O's unofficial transcript, titled "Student Progress," reflected the following academic history for the 2025-26 school year:
    a. Semester 1: Completed at the High School, earning seven "D-" grades in Algebra IB, Art Appreciation, Earth & Space Science A, ELA IIB, PE, Psychology, and World History A (no teachers listed), for a total of 3.5 credits.
144. An IEP dated April 1, 2025, included:
    a. Attending school: the High School.
    b. Transition services were noted.
    c. Persons responsible: A special education advisor for the health, social-emotional, and social skills goals, a testing coordinator for the reading and math goals, and an English teacher for the writing goal.
    d. Accommodations, modifications, and supportive aids were noted.
    e. Special Education and Related Services from April 1, 2025 to March 31, 2026:
        i. Special Education in the Special Education/Resources/Pull-out setting for 108 minutes twice a week, every other week, and 108 minutes three times a week, every other week in two core classes, averaging 108 for five days a week.
        ii. Case management as indirect services for five minutes every week for the duration of the IEP.
    f. Alternative Services Plans #1 and #2 for remote learning were noted.
145. PWN dated April 1, 2025, described a material change in services described in the IEP, "These changes in services represent a material change in placement. The recommendation is to reduce services from 216 minutes per day to a total of 108 minutes per day, covering two core classes. The adjustment reflects the current needs and ensures that the level of support provided remains appropriate for [Student O's] educational progress. [Student O] had social work listed as a service on [their] previous IEP. This is provided to [Student O] by the facility through [their] corrections counselor and is not provided by the school." Additionally, the "Behavior Improvement Plan" was determined to be unnecessary as Student O's behaviors would be

"addressed through goals and accommodations in [their] IEP." The team determined Student O "… needs direct special education services in reading and math."

146. A Progress Report dated June 13, 2025, included comments from March 13, 2025:
    a. Area of Improvement (Score of 6): Reading.
147. An undated Teacher Information Page listed Student O's services in the "Y" setting:
    a. Special education services, primary provider: Teacher 2 (108 minutes/day, 5 days/week) from April 1, 2025 to June 25, 2025.
    b. Case management, provider: Teacher 2 (5 minutes/day, 1 day/week) from July 16, 2025 to September 22, 2025.
    c. Special education services: No name listed, (108 minutes/day, 5 days/week) from July 1, 2025 to March 31, 2026.
    d. Case management: No name listed (5 minutes/day, 1 day/week) from July 1, 2025 to March 31, 2026.
148. In a written response, the Special Education Teacher wrote the following regarding Student O:
    a. The Special Education Teacher was responsible for implementing the services on Student O's IEP from July 16, 2025 to Student O's release from the facility on October 15, 2025.
    b. Student O received instruction in reading, writing, and math in an "integrated classroom setting" from a general or special educator and a paraprofessional. The Special Education Teacher collaborated regularly with general education staff on accommodations, behavior strategies, and instruction to meet Student O's needs.
    c. Student O's progress was monitored weekly via i-Ready, classroom performance, and modified curriculum and assessments based on Student O's needs.
    d. Documentation used to verify the implementation of special education services included i-Ready data, behavior records, and teacher observations.

LEA Materials

149. An Employee Contract dated July 9, 2025 indicated the Complainant was employed as a teacher at the High School. The Complainant was licensed in the State on November 3, 2025 with the following endorsements of which the administration was notified on November 17, 2026:
    a. Early Childhood Unified, Birth to Grade 3;
    b. Elementary Education, Pre-Kindergarten to 6th grade;
    c. High-Incidence Special Education, Kindergarten to 6th grade and 6th to 12th grade; and
    d. Middle Level Generalist, 5th to 8th grade.
150. According to the Principal, from August to November 2025, instruction at the High School was delivered with the following:
    a. "Modified coursework aligned to student needs";

b. "Individualized support within classroom settings"; and

c. "[Program]-based differentiation aligned to student ability levels."

151. On November 17, 2025, the Complainant emailed the Principal and the Special Education Teacher inquiring, "… can we please meet to discuss my new schedule and how I will pull students out of class for their interventions?"

152. The Complainant emailed the Director of Special Education on November 24, 2025 and explained they had multiple students who read at or below fifth and third-grade levels. They indicated it was difficult to find science work for the students who were working at a second-grade level and below. The Complainant stated they were doing their best to "adapt things," but it took time and resources they did not always have.

153. The Complainant emailed the Special Education Teacher on November 24, 2025 and quoted State law, which, according to the Complainant, explained special education teachers could not be used to cover general education classes without the written consent of the parents. The Complainant wrote they were not happy being used to "cover science" when they were hired as a special education teacher. They said, "I know you are going to say that I am doing special education in the classroom, but both of us know that is not the case. I have to help with the class and managing it[,] [sic] and when I get a chance I do a little [s]pecial [e]ducation. … students … are not getting services because I am being used as a sub[stitute]."

154. The Principal emailed the High School staff on November 30, 2025 and explained that due to staffing changes, the College and Career Teacher would assume the responsibilities of the staff person who resigned, and the Complainant would move to the Lion and Pride area to support those classrooms. The Principal indicated, "Students continued to receive individualized instruction aligned to IEP needs through established service delivery practices, including modified coursework and scaffolded instruction."

155. According to the Principal, from December 2025 to February 2026, "Students continued to receive individualized instruction" and cited the following evidence:

a. "Modified coursework aligned to student reading levels";

b. "Student work samples demonstrating access to grade-level content";

c. "Differentiated instructional materials across content areas"; and

d. "Diagnostic data supporting the need for intensive intervention."

156. The Principal listed the following aspects of the School's service delivery model, which included push-in instructional support, individualized instruction in the general education settings, and differentiated digital instruction.

157. On December 1, 2025, the Special Education Teacher emailed the Complainant regarding an update to their duties. They indicated the Complainant's caseload would include students housed in the Kilo, Lima, Echo, and Alpha units, and in this new role, the Complainant would provide direct and indirect special education services to the students assigned to them. This would include reviewing curriculum, providing individualized modifications, and ensuring all required accommodations were

implemented. The Special Education Teacher stated the Lion and Pride classes were small, which would allow the Complainant to develop individualized plans, modify curriculum, and meet with students outside of the Complainant's assigned classroom.

a. The Complainant replied and asked if they were required to provide SDI for students in Echo and Alpha, and how they could do that if they had to be in the Lion classroom. The Complainant expressed confusion about being unable to see students if they were in a different area of the building providing SDI. The Special Education Teacher replied and explained the Complainant would work with another staff member to schedule times outside of their assigned classroom. The Special Education Teacher indicated they would complete IEPs to allow the Complainant to become familiar with their new schedule.

b. The Principal emailed the Complainant and indicated case management could take place at 9:30 a.m., and the Complainant would be responsible for teaching and supporting all students in their assigned classroom. They stated the Complainant would "case-manage" the students with IEPs. The Principal added that from 9:30 a.m. to 10:00 a.m., SDI for students should focus on case management tasks for students with IEPs. They described that for students with IEPs in Kilo, Alpha, Echo, and Lima, the Complainant could use that time to review goals, prepare accommodations, and plan targeted instruction. They stated SDI for other students should be provided during the Complainant's regular teaching periods as appropriate.

158. The Principal emailed the School Psychologist, the Special Education Teacher, the Complainant, the Superintendent, and the Assistant Principal on December 3, 2025 regarding updates about special education services in a correctional facility setting. Relevant information included:

a. They stated special education law was different in correctional facilities, which had unique allowances and structures that differed from those in traditional public school environments.

b. They wrote that special education teachers might have non-special education students in their classrooms, which was permissible in the correctional facility setting and did not violate any regulations.

c. They stated co-teaching was allowed and met special education service requirements within the High School. They stated this model was considered compliant and supported effective service delivery.

d. They stated SDI should continue to be implemented, but it must be delivered through the approved curriculum and research-based tools. They stated the Director of Special Education provided a set of approved instructional tools that aligned with these requirements, and the materials would be kept in a classroom for staff use.

159. The Principal emailed the Special Education Teacher, the School Psychologist, and the Complainant on December 3, 2025, and stated that effective immediately, all special education teachers and service providers would maintain a daily service log

documenting students served, service duration, type of service delivered, notes on progress, and any missed minutes with an explanation. They indicated this standard aligned with state and federal expectations, and logs should be updated daily and submitted to the administration weekly.

160. The Complainant emailed the Director of Special Education on December 8, 2025 and asked to discuss being moved again without prior notification. They said, "… I just want to do my job and teach." About 30 minutes later, the Complainant emailed the Director of Special Education again and said, "… I am going to go get the one kid I am being allowed to see. … [The Principal] is only allowing me to see one kid now … and just told me [the Principal] doesn't want me in the school. … How are kids going to get SDI [be]cause I will tell you teachers are not doing it. In some classes kids aren't even getting their accommodations let alone SDI."

161. The Principal emailed the Special Education Teacher, the Director of Special Education, the Human Resources (HR) Director, and the Superintendent on December 8, 2025 and indicated that State special education regulations provided flexibility in the placement and assignment of staff in the correctional setting to meet security and educational needs. They wrote that consistent staffing in a single, secure classroom ensured students received appropriate support while also maintaining a safe environment.

162. The Superintendent emailed the Principal and the HR Director on December 8, 2025 and stated the Director of Special Education did not have any concerns about the students' special education needs not being met.

163. On January 26, 2026, the School Psychologist emailed the Complainant a list of eight students and stated the Special Education Teacher was "still writing the IEPs … ." The list included Students A, B, C, D, E, F, G, and H. This was in response to the Complainant emailing and asking for an updated caseload list.

164. The Complainant emailed the Director of Special Education on February 2, 2026 and stated they needed materials "below the levels you gave me" because of certain students' levels. The Complainant also asked if "modifications" were a form of SDI. They explained that multiple students had graduated from the High School who did not receive direct reading interventions and left with second-grade level reading and math skills.

    a. The Director of Special Education replied on February 6, 2026 and stated instruction at the High School looked different from that in a traditional school environment. They explained instruction must be grounded in a research-based curriculum, "… even when assignments or materials are modified to meet student needs." The Director of Special Education stated supplemental materials could be used to support instruction, but not serve as the primary foundation for instruction. They advised one acceptable option was to start with the existing research-based curriculum and use artificial intelligence (AI) to "modify the content down to the appropriate instructional level." They acknowledged many students might graduate with lower reading levels, and the High School's primary focus was to support

students in earning credits to graduate, and any gains in reading levels were a "valuable bonus" within that context. They stated they would be willing to locate additional curriculum options for the Complainant to support instruction.

b. The Principal replied to the Special Education Director and the Complainant the same day. They reiterated the High School had a different setting, and the model was to meet students where they were and keep them engaged. They acknowledged that while the model might not align with "everyone's personal preferences or past experiences," it allowed students to remain engaged, earn credits, and graduate.

c. The Complainant responded and stated they were reprimanded when they modified a research-based curriculum to meet students' needs. They also wrote that if the students had goals and SDI on their IEPs, the High School should be obligated to provide the students with interventions and show effort to increase their skills.

165. The Complainant emailed the Principal and the Superintendent on February 2, 2026 and explained that modifying could be a step in SDI, but it was not the entirety of it because students had to receive interventions in the areas addressed on their IEPs. They stated that without addressing students' missing skillsets and providing direct instruction in those areas, the students would not make progress and SDI would not have been provided. The Complainant proposed the general education teachers modify students' work, and then the Complainant would provide help as needed, including providing SDI in the areas where the students were weak. They stated this would allow a student's teacher of record to modify the content, and then the Complainant would provide the interventions deemed necessary by the IEPs.

166. The Principal emailed the Superintendent, the HR Director, and the Complainant on February 3, 2026 and provided a written outline of the Complainant's job and expectations, and stated they were effective immediately. The email stated the contract the Complainant signed was for a teacher and not a special education teacher. They wrote the Complainant would continue to manage their current caseload for the time being and then would honor the specific terms of the Complainant's signed contract as a teacher regarding their primary duties and instructional expectations. The Principal wrote that for approved materials, the High School was moving forward exclusively with a specific curriculum platform and the materials provided by the Director of Special Education. Any modifications to the curriculum had to be submitted to and approved by the administration and the Education Center prior to implementation. The Principal indicated a specific program would remain a building-wide expectation for daily intervention.

a. The Complainant replied that day and stated they had been previously told to modify students' work to meet their needs, but that was contradicted in the aforementioned email. The Complainant reiterated they were certified as a special education teacher and said, "… if students are not getting SDI from me[,] who is giving it to them[?]"

b. In their response from the same day, the Principal outlined directives about the Complainant's role:

   i. For periods one and two, the Complainant was required to be in the Lion and Pride classrooms providing direct instructional oversight, and as the certified teacher, they were responsible for monitoring student engagement and progress. Block three was designated for daily intake testing. A specific program remained a mandatory build-wide requirement.

   ii. For reading access, the High School provided an automated system that read text to students, and the Complainant's role was to ensure students used it effectively. For SDI and IEP compliance, it was written that none of the IEPs on the Complainant's current caseload required SDI, so instructional delivery remained standardized within the High School's curriculum framework.

   iii. Regarding modifications, the Complainant was not authorized to independently alter the content or standards of ELA, social studies, math, physical science, or earth science.

   iv. Any proposed modification to the "what" of the curriculum had to be submitted to and approved by the administration. For general instructional guidance, the Complainant should consult with the Special Education Teacher.

   v. The Special Education Teacher had the authority level for "Instructional Delivery (SDI)."

c. The Complainant emailed the Principal, the Superintendent, the HR Director, the Special Education Teacher, and the Assistant Principal on February 4, 2026 and asked if they were allowed to come to the High School and meet with the students they "case manage." The Principal replied and stated the Complainant's primary focus for periods one and two should be on the residents in the Lion and Pride classroom. They indicated a 9:30 [a.m.] plan time was built into the schedule specifically for case management work, and it should be utilized for those meetings.

167. The Principal emailed the High School staff on February 12, 2026 about special education curriculum modifications. They stated if staff needed assistance modifying curriculum, adjusting assignments, or determining appropriate special education accommodations or modifications for students, they should direct those questions to the Special Education Teacher because they were the designated staff member for overseeing special education-related curriculum adjustments and ensuring they aligned with student plans and LEA expectations.

   a. The Principal sent a follow-up email stating every staff position had defined expectations and each person should stay within those responsibilities and focus on their assigned duties. They stated the High School had two special education professionals. They indicated the Complainant remained on staff and "… roles remain as established."

168. On February 19, 2026, the Complainant emailed several people, including the Special Education Teacher and the Principal, and stated they were "the only special education

teacher" and two students, Student E and an unknown student, with intensive needs had to see the Complainant for SDI. The Complainant asked when these students would be available. The Principal replied, "Stop with the SDI talk (neither IEP calls for SDI). You should just modify the curriculum already in use. If you need assistance doing that … please reach out to [the Special Education Teacher] or myself."

169. The LEA provided iReady "Personal Instruction Summaries" for each student, A-O, that included learning domain, level, and lesson. i-Ready diagnostic information was also provided for math and reading for Students A-O.

Complainant Interview

170. In an interview with the Complaint Investigator, the Complainant shared they applied, interviewed for, and were informed they would serve as a special education teacher, but the contract stated "teacher." They indicated they were hired in July and started the position in August 2025.

171. The Complainant detailed their typical day and responsibilities and shared they were hired as a special education teacher with the understanding that they would transition to their specific caseload after a short orientation. However, according to the Complainant, the administration deviated from this plan due to staffing shortages. The Complainant described, "That did not happen. They kept me there because they couldn't find a … a science teacher. So they used me as a sub[stitute] and forced me to be the science teacher from August through November." According to the Complainant, after a permanent science teacher was hired in November 2025, the Complainant was initially required to serve as a paraprofessional during that teacher's training period.

    During the months spent in the science classroom, the Complainant contested the administration's suggestion to provide special education services while simultaneously teaching science. The Complainant argued that the high needs of the students, who required foundational instruction in reading and math, could not be met while also maintaining the safety of a volatile classroom environment. The Complainant stated they remained in this temporary assignment until November 19, 2025, when they were moved into a program with students who "may or may not have IEPs" after they filed a formal complaint.

172. According to the Complainant, while they were assigned a caseload of seven to 10 students prior to November 19, 2025, they stated they were assigned as a substitute from the day they started at the High School until that date.

173. When asked about how students on their caseload received special education services, the Complainant stated, "They weren't." The Complainant explained they had attempted to serve students if they were in their classroom and created opportunities with their paraeducator to work with students who were not in special education. They shared they were expected to teach science, "I couldn't teach them how to read or how to do math or anything like that. So they weren't getting special ed[ucation], and

they don't there. They don't at all. The only kids who've gotten special ed[ucation] are the ones who've been in Lion and Pride."

a. Additionally, the Complainant stated, " … no kids received any special ed[ucation] services unless they were in the Lion and Pride classroom, except for if you want to call it me helping them as services, then maybe you could call it that. But I was acting as the science teacher. … that is not SDI. [The Special Education Teacher], other than pulling kids out to go over behavior stuff, did not provide any services. … They never got any math, writing, or reading SDI." The Complainant stated that the 120 minutes, five days a week, on students' IEPs were not provided.

174. Upon review of the "LION/PRIDE/ECHO/ALPHA CLASSROOMS Schedule," the Complainant described they were considered a Lion and the paraeducators were considered the Pride. The Complainant shared that in the Lion/Pride classroom, they worked with students during three sessions per day, which could be shortened for security reasons.

175. The Complainant stated that service minute documentation was not recorded prior to their move to the Lion/Pride because the mandated services were not being provided. Upon transitioning into Lion/Pride, the Complainant implemented a detailed tracking system for each student that logged specific academic tasks, such as phonics or math lessons, alongside reasons for any missed sessions. The Complainant maintained that documentation for previous periods did not exist because the instruction itself never occurred.

176. The Complainant explained that the High School often accepted incoming IEPs from other jurisdictions and will "only amend the IEP on a very, very limited basis."

177. When asked about consult services as a case manager, the Complainant stated they emailed and spoke with teachers and added, " … I'm telling you, I was ostracized and put out into Lion and Pride." They added that the Special Education Teacher was unable to serve students because " … all [the Special Education Teacher] does is write stuff."

Director of Special Education Interview

178. In an interview with the Complaint Investigator, the Special Education Director explained how students' existing IEPs from their previous school districts were implemented immediately, with services and minutes provided as soon as they arrived. These incoming IEPs were then transferred into the facility's tracking system. If the High School determined they could implement the services as written in the existing document, they were not required to draft a new IEP until the annual review date. Generally, after a student has been at the facility for approximately two weeks, allowing staff time to learn the student's specific needs and behaviors, the High School holds an IEP meeting. Because of the correctional setting, parents attend these meetings remotely. During this meeting, the IEP is updated to reflect the goals, behavioral needs, and specific educational environment of the correctional facility.

179. The Director of Special Education stated students generally did not have missed minutes because educational services are provided at all times in all settings by various staff members, including special education teachers and paraprofessionals. In this correctional setting, services do not have to come directly from a special education teacher, as paraprofessionals are present in the rooms to provide support. They shared the only instance in which a student might not receive services is if their behavior prevents them from leaving their living unit to attend the classroom. In such cases, alternative plans are implemented to deliver work and services to the student's cell, provided the student's behavior does not pose a safety risk that would prevent them from receiving materials.

Principal Interview

180. In an interview with the Complaint Investigator, the Principal detailed the School's substitute policy, which was that they do not assign special education teachers to substitute for other teachers. The High School utilizes two primary positions for special educators, one located in the regular classroom area and another in the "Lion/Pride" classroom area.

181. The Principal stated the Complainant was never pulled from their class to serve as a substitute teacher. The Principal clarified that while the Complainant had questioned their presence in a science classroom, they were there to provide services to the special education students within that setting. They further explained that before the Complainant received their full Kansas teaching license in November 2025, they were officially serving in the role of a teacher's assistant.

182. The Principal noted the High School was in the process of transitioning tracking platforms to track the implementation of instruction. Teachers and teacher assistants in the Lion/Pride classroom maintained documentation that records student minutes, current assignments, and any necessary interventions. Additionally, they shared the High School modified State-approved curriculum, which qualified as SDI.

Principal Written Response

183. The Principal shared the following information in their written response:

a. The 2025-26 High School start date was July 16, 2025.

b. The Complainant began working with students after Labor Day in September 2025.

c. In September 2025 through mid-November 2025, "[The Complainant] served in a substitute/support role and was not assigned to a special education teaching position, consistent with [the Complainant's] contract as a teacher because we did not know if [the Complainant] would get certified as a [Special Education] SPED teacher and [the Complainant] had not yet provided documentation of a valid special education license." Upon notification the Complainant's license had been issued, in mid-November, "… the Complainant was assigned to the Lion/Pride classroom, which had a special education vacancy." The Complainant served in that role through February 19, 2026.

d. The Principal indicated, "Once we got [the Complainant's] certification the initial plan was for [the Complainant] to push into classrooms to provide support services, but [the Complainant] communicated that [they] did not want to follow that model and expressed concerns about not having [their] own classroom on multiple occasions."

School Psychologist Written Response

184. The School Psychologist explained in their written response that "all students enrolled in our program transfer from other districts. Only incoming IEP's created with the same IEP system (WebKIDS) we use can be directly uploaded into our database. If an incoming IEP is not from WebKIDS, I manually enter the relevant demographic information, dates, services, parent information, and goals into our system. In these cases - which applies to most incoming IEPs - we continue to reference the original IEP saved in the student's records file until a new IEP is developed. Even when we do upload an incoming WebKIDS IEP, not all the data loads into the system; therefore, we still refer back to the incoming IEP that I have saved in student records."

Special Education Teacher Written Response

185. The Special Education Teacher noted in their written response that operating the High School within a maximum-security juvenile correction facility creates "unique and significant challenges" that impact the delivery of educational and IEP services. Security protocols and movement restrictions often result in reduced or interrupted instructional time due to lockdowns, counts, staffing constraints, and additional safety requirements that take priority over classroom instruction.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #521, in accordance with state and federal regulations implementing the IDEA, ensured an IEP was in effect for each exceptional child at the beginning of the school year to the filing of the Complaint. K.A.R. 91-40-16 (b)(3); 34 CFR § 300.323.

According to K.A.R. 91-40-16(b)(3), an IEP must be in effect for each exceptional child at the beginning of each school year.

The Complainant alleged the LEA failed to provide reading, writing, and math SDI to students with IEPs at the High School.

The LEA described in their response they have implemented procedures to ensure eligible students have an IEP in effect at the beginning of the school year.

The primary issue centers around the Complainant and the LEA holding different interpretations of the provision of SDI in a juvenile correctional facility. According to K.A.R. 91-40-1(lll), SDI means adapting, as appropriate, to the needs of each exceptional child, by adapting the content, methodology, or delivery of instruction for the purpose of addressing the unique needs of the child that result from the child's exceptionality. Additionally, SDI means adapting in one or more of the aforementioned ways to ensure access of any child with a disability to the general education curriculum so that the child can meet the educational standards within the jurisdiction of the agency that applies to all children. In order to provide SDI to students at the High School, and with the understanding that most of the students come from other districts in the State, the High School has two options provided in K.S.A. 72-3429(g)(1): they can adopt and implement the student's transferred IEP from the previous school or create a new one. Either way, an IEP must be in effect at the beginning of each school year for each of those students.

Student A: A transfer IEP was in effect. While the Complainant claimed no one provided special education services to Student A, the preponderance of evidence indicated an IEP was in place and was implemented.

Student B: An IEP from the High School was in effect. While the Complainant claimed the IEP was not implemented because they were serving as a science teacher, the preponderance of evidence indicated an IEP was in place and implemented.

Student C: A transfer IEP was in effect, and a new IEP was created. While the Complainant indicated their access to Student C was restricted, the preponderance of evidence suggests an IEP was in place and was implemented.

Student D: A transfer IEP was in effect and was implemented once Student D was released from RH.

Student E: Student E's April 22, 2025 IEP indicated the special education services and counseling would be provided in the "night school" setting. While this should have been changed to reflect Student E's services in the High School setting, it was eventually rectified in the February 22, 2026 IEP. In Beer v. USD 512 Shawnee Mission, 82 IDELR 223 (D. Kan. 2023), a District court judge cited both the 10th circuit's Andover case and the 9th Circuit's Van Duyn case when discussing a "material failure" of the implementation of an IEP. According to Van Duyn v. Baker

School District 5J, 2007, the court defined "material failure" as occurring when the services provided to a child with a disability fall significantly short of those required by the IEP. It stated that there must be "more than a minor discrepancy between the services provided to a child with a disability and those required by the IEP." In this instance, the failure to amend the IEP to remove the "night school" language was a procedural error that did not result in a material failure to implement the IEP.

Student F: An IEP from the High School was in effect.

Student G: A new IEP was created after the winter break and was implemented. While the Complainant indicated Student G's IEP was not implemented, the preponderance of evidence indicated otherwise.

Student H: A transfer IEP was in effect. The Complainant indicated no one provided special education services to Student H, however; there is minimal evidence to support that statement.

Student I: A transfer IEP was in effect.

Student J: An IEP from the High School was in effect.

Student K: An IEP from the High School was in effect.

Student L: An IEP from the High School was in effect.

Student M: A transfer IEP was in effect.

Student N: A transfer IEP was received. Student N entered the High School on February 5, 2026 and was placed in the "intake" unit during the remainder of the complaint period.

Student O: An IEP from the High School was in effect.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure an IEP was in effect for each exceptional child at the beginning of the school year to the filing of this Complaint.

Corrective Action

Information gathered in the course of this investigation does not substantiate noncompliance with special education statutes and regulations. Therefore, no corrective action is ordered.

Tania Tong, Licensed Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #500
ON APRIL 15, 2026

DATE OF REPORT: JULY 1, 2026

This report is in response to a Complaint filed with our office on behalf of a student, _____, by their parent, _____. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #500, Kansas City Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #500.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on April 15, 2026, and the 30-day timeline ended on May 15, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #500, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to fulfill its child find obligations to evaluate the Student for suspected disabilities, including Attention-Deficit/Hyperactivity Disorder (ADHD) and Autism Spectrum Disorder (ASD). K.A.R. 91-40-7; 34 CFR § 300.111.

ISSUE TWO: Whether USD #500, in accordance with state and federal regulations implementing the IDEA, implemented an IEP that allowed the Student to make appropriate academic progress, particularly in the areas of reading and spelling, and appropriately manage and address the Student's behavioral needs within the school environment. K.A.R. 91-40-16, K.A.R. 91-40-18 (b); 34 C.F.R. §§ 300.320, 300.324(a)(2)(i).

ISSUE THREE: Whether USD #500, in accordance with state and federal regulations implementing the IDEA, denied the Parent an opportunity to meaningfully participate in the IEP process by failing to provide information regarding the Student's IEP and withholding education records upon the Parent's request. K.A.R. 91-40-50, K.A.R. 91-40-17; 34 C.F.R. §§ 300.501 (a), 300.613.

ISSUE FOUR: Whether USD #500, in accordance with state and federal regulations implementing the IDEA, failed to provide the Student with a free appropriate public education (FAPE) by failing to implement necessary educational services and supports, including a period during which the Student did not have an IEP. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parent on June 25, 2026. The Special Education Coordinator for the LEA was interviewed on June 22, 2026.

In completing this Investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Class Schedule and Grade Report, 06/09/26
2. Guardianship Documents, 05/05/10
3. Individualized Education Program (IEP), 02/04/25, 01/22/26
4. IEP Meeting Notes and Summary, 01/08/26, 01/22/26
5. Flyer, no date
6. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent, 01/08/26, 01/22/26
7. Notice of Meeting, 10/10/25, 01/08/26
8. Attendance Report, 2025-26 School Year
9. Student Progress Report, 01/22/26-01/21/27
10. Student Progress Report, 02/04/25-02/03/26
11. Eligibility Meeting Participants, 01/08/26
12. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 10/03/25
13. Occupational Therapy (OT) Service Logs, 04/03/25-05/14/26
14. Speech-Language Pathologist (SLP) Service Logs, 04/15/25-04/16/26
15. Special Education Teacher's Written Responses, 06/24/26
16. Emails between parties, 11/20/25-06/23/26

Background Information

This Investigation involved an eleventh-grade student enrolled at a high school in USD #500. The Student is currently receiving special education or related services as a child with a disability per the IDEA as a student who experiences an intellectual disability (ID) and a speech/language (SL) impairment. The Student was described as playful towards peers and adults and liked to participate in physical activities. A court order, dated May 5, 2010, indicated the Student was "Placed in the joint legal custody and physical custody of the parents, [the Parent] and [Parent 2]." At the time of the Complaint, the LEA's record listed Parent 2 as the Educational Decision-Maker. (D17-D18, D21)

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. An IEP, dated February 4, 2025, included:
    a. Educational decision-makers: Parent 2 and the Relative. (D307)
    b. The impact of the Student's exceptionality on their academic and functional performance.
    c. Required areas addressed in the IEP: Fine motor, language, reading, math, written expression, and sensory needs.
    d. Parent concerns: "[Parent 2] would like to see [the Student] continue to improve [their] communication and … reading." (D310)
    e. Special considerations: Communication, extended school year (ESY), and transition services.
    f. Goals:
        i. Reading, baseline: "When given a set of sight words and pictures to match, [the Student] is able to score 78% accuracy when matching word to picture and 100% accuracy when matching word to word. Previously, when given 100 1st Grade Fry Sight words, [the Student] is able to score 18% accuracy. When given the first 25 Fry Words, [the Student] is able to score 36% accuracy."
        ii. Reading goal, evaluated by data collection and observation; provided by a special education teacher: "By February 2026, when provided a set of words and their corresponding picture, [the Student] will be able to match (4) sets of pictures (36 pictures) and words (36 words) with 100% accuracy, in 3 out of 4 attempts."
            1. Benchmark 1.1.1: "By [the] fourth quarter of the 2024-2025 school year, [the Student] will be able to match 1 set of (9) words with the corresponding pictures at 70% accuracy, in 2 out of 4 attempts."

a. Quarter 4: Making progress toward annual goal (MPG). (D334)

2. Benchmark 1.1.2: "By [the] first quarter of the 2025-2026 school year, [the Student] will be able to match (2) sets of (18) words with the corresponding pictures at 70% accuracy, in 2 out of 4 attempts."
    a. Quarter 1: Making progress toward annual goal (MPG). (D334)
3. Benchmark 1.1.3: "By [the] second quarter of the 2025-2026 school year, [the Student] will be able to match (3) sets of (27) words with the corresponding pictures with 70% accuracy, in 2 out of 4 attempts."
    a. Quarter 2: Making progress toward annual goal (MPG). (D334)
4. Benchmark 1.1.4: "By February 2026, [the Student] will be able to match (4) sets of (36) words with the corresponding pictures with 70% accuracy, in 2 out of 4 attempts." (D313)
    a. No progress noted. (D334)

iii. Math, baseline: "When provided with a 100-Chart and asked to locate a specific number, [the Student] was able to accurately say and point to 15 out of 28 (54% accuracy) randomly selected numbers. [The Student] was able to say the numbers 1-10 with 100% accuracy on 2 separate attempts. For the numbers 11-20 [the Student] was able to identify and say the numbers 14 and 19 independently. [The Student] was able to rote count numbers from 1-100 with only 6 misreads, but struggled to find higher double-digit numbers when asked to select them at random."

iv. Math goal, evaluated by data collection and observation, provided by a special education teacher: "By February 2026, when provided with a 100-Chart, [the Student] will be able to say and point to the numbers 11-50, when asked to identify them at random, with 80% accuracy in 2 out of 4 attempts."

1. Benchmark 2.2.1: "By the fourth quarter of the 2024-2025 school year, when provided with a 100-Chart, [the Student] will be able to say and point to the numbers 11-20, at random, with 80% accuracy, in 2 out of 4 attempts."
    a. Quarter 4: Making progress toward annual goal (MPG). (D334)
2. Benchmark 2.2.2: "By the end of [the] first quart[er] of the 2025-2026 school year, when provided with a 100-Chart, [the Student] will be able to say and point to the numbers 21-30, at random, with 80% accuracy, at random, in 2 out of 4 attempts."

a. Quarter 1: Making progress toward annual goal (MPG). (D335)

3. Benchmark 2.2.3: "By the end of the second quarter of the 2025-2026 school year, when provided with a 100-Chart, [the Student] will be able to say and point to the numbers 31-40, at random, with 80% accuracy, in 2 out of 4 attempts."
    a. Quarter 2: Making progress toward annual goal (MPG). (D335)
4. Benchmark 2.2.4: "By February 2026, when provided with a 100-Chart, [the Student] will be able to say and point to the numbers 41-50, at random, with 80% accuracy, in 2 out of 4 attempts."
    a. No progress noted. (D335)

v. Speech/Language baseline: "[The Student] uses verbal prompts, visuals and examples to participate in a variety of language and vocational skills and demonstrate comprehension of multi-step directions on 5 of 10 trials."

vi. Speech/Language goal, evaluated by data; provided by a speech-language pathologist (SLP)/special education staff: "By February of 2026, [the Student] will use visual, verbal, and example cues to participate in language and vocational tasks on 9 of 10 trials."

1. Benchmark 3.1.1: "By March of 2025, [the Student] will use visual, verbal and example cues to participate in language and vocational tasks on 6 of 10 trials."
    a. Quarter 3: Making progress toward annual goal (MPG). (D335)
2. Benchmark 3.1.2: "By May of 2025, [the Student] will use visual, verbal and example cues to participate in language and vocational tasks on 7 of 10 trials."
    a. Quarter 4: Making progress toward annual goal (MPG). (D335)
3. Benchmark 3.1.3: "By October of 2025, [the Student] will use visual, verbal and example cues to participate in language and vocational tasks on 8 of 10 trials."
    a. Quarter 1: Making progress toward annual goal (MPG). (D336)
4. Benchmark 3.1.4: "By February of 2026, [the Student] will use visual, verbal and example cues to participate in language and vocational tasks on 9 of 10 trials."
    a. Quarter 2: Making progress toward annual goal (MPG). (D336)

vii. Occupational therapy (OT) baseline: "[The Student] is able to match measurement tools (cups, [tablespoon] tbs, [teaspoon] tsp) with 100% accuracy. [The Student] can identify measurement tools following a visual recipe with 33% accuracy. [The Student] struggles with accurately finding the measurement tool from a disorganized pile and if the tool indicates more than 1 scoop (ex: 2 cups, 3 TBS)."

viii. OT goal, evaluated by observation of performance and the frequency counting of tools correctly retrieved for all possible recipe measurements; provided by an OT: "By the next IEP in February 2026, following instructions from a recipe, [the Student] will be able to locate and use the measurement tool with 80% accuracy for 75% of opportunities." (D315)

1. Benchmark 4.1.1: "By the end of the 3rd quarter in March 2025, following instructions from a recipe, [the Student] will be able to locate and use the measurement tool with 50% accuracy for 75% of opportunities."
    a. Quarter 3: Making progress toward annual goal (MPG). (D336)
2. Benchmark 4.1.2: "By the end of the 4th quarter in May 2025, following instructions from a recipe, [the Student] will be able to locate and use the measurement tool with 60% accuracy for 75% of opportunities."
    a. Quarter 4: Making progress toward annual goal (MPG). (D336)
3. Benchmark 4.1.3: "By the end of the 1st quarter in October 2025, following instructions from a recipe, [the Student] will be able to locate and use the measurement tool with 70% accuracy for 75% of opportunities."
    a. Quarter 1: Not making progress toward annual goal (NMP). (D337)
4. Benchmark 4.1.4: "By the end of the 2nd quarter in December 2025, following instructions from a recipe, [the Student] will be able to locate and use the measurement tool with 75% accuracy for 75% of opportunities."
    a. Quarter 2: Not making progress toward goal (NMP). (D337)

g. Related services from February 4, 2025 to February 3, 2026:

i. OT (fine and visual motor) for independent living and vocational skills for 20 minutes, one day per week, as special education direct services outside of the regular education classroom/other location.

ii. Special education transportation on the special education bus for the time required to travel from home to school and from school to home, for 20 minutes, five days per week, as indirect services.

h. Special education services from February 4, 2025 to February 3, 2026, outside the regular education classroom/other location:

i. Reading and writing comprehension skills:

1. General, 45 minutes every other week and 90 minutes twice per week;
2. Science, 45 minutes every other week and 90 minutes twice per week; and
3. Social studies, 45 minutes every other week and 90 minutes twice per week.

ii. Math calculation and comprehension skills, 45 minutes every other week and 90 minutes twice per week.

iii. Speech/Language, 20 minutes, one day every three out of four weeks.

i. Supports for school personnel and transportation services.

j. Placement decision and ESY.

k. Post-secondary goals and transition services.

l. Modifications, accommodations, and supplementary aids and services. (D307-D327)

2. Prior Written Notice (PWN), dated October 3, 2025, indicated the LEA proposed to conduct a re-evaluation, parental consent was required, and the proposed areas of evaluation included: Health/motor, vision, hearing, social-emotional/behavioral, general intelligence, academic performance, communicative status, transition skills, and adaptive behavior/sensory processing. Existing data would be reviewed for all areas, and new data would be collected for the following: health/motor, general intelligence, academic performance, and adaptive behavior/sensory processing. Explanations, options, data descriptions, and other factors were noted. (D374-D375) Parent 2 signed consent for the re-evaluation on October 18, 2025. (D376)

3. A Notice of Meeting, dated October 10, 2025, and addressed to Parent 2 and the Relative , proposed an annual IEP meeting and re-evaluation meeting for December 10, 2025. The notice was emailed to Parent 2 and the Relative on the same date. (D305-D306)

4. On November 20, 2025, the Special Education Coordinator emailed the Principal and the Assistant Principal to request background information on the Student. The Parent called the superintendent's office regarding access to the Student, and the Special Education Coordinator indicated the Parent was not on the contact list. (D7) On the same day, the Special Education Teacher emailed the Special Education Coordinator to share, "[The Student's] parents are in a custody battle. [Parent 2] has asked us not to release [the Student] to [the Parent] while [the Student] is in

[Parent 2's] custody. I spoke with [Parent 2] today about clarifying the legal boundaries that are in place so that we (the district and the school) know how to appropriately handle [the Parent's] requests." (D15)

5. A Notice of Meeting to develop the Student's IEP, dated January 8, 2026, was mailed to Parent 2 on the same date. (D68-D69)
6. A re-evaluation report, dated January 8, 2026, included:
    a. Review of existing data, October 3, 2025.
    b. OT evaluation and recommendation, dated November 25, 2025.
    c. Social-emotional, record review.
    d. Adaptive behavior, tests and results.
    e. Cognitive processing, tests and results.
    f. Academic performance, record review, observation, tests and results.
    g. Special education classroom observations.
    h. Eligibility determination indicating criteria were met for ID and SL. (D338-D349)
    i. Meeting notes indicated the Student's evaluation results were reviewed by the Student's team. (D358-D359)
    j. A document titled "Eligibility Meeting Participants" included names, signatures, and roles indicating all LEA parties agreed with the findings. An accompanying paragraph indicated signatures and agreement meant, "It is the judgment of the undersigned members of the evaluation team, including parents, that an evaluation addressing all areas of concern has been completed." The document did not indicate a parent signature. (D359)
    k. PWN summarized the findings reflected in the re-evaluation report and meeting notes, and indicated, for eligibility purposes, parental consent was not required. (D352-D353)
7. Relevant information from an IEP, dated January 22, 2026, included:
    a. Evaluation date: January 8, 2026.
    b. Educational decision-makers: Parent 2 and the Relative.
    c. Goals:
        i. Math, baseline: "[The Student] currently struggles to identify coins and their value. [The Student] is currently able to identify some coins by name, but is not yet able to identify their value."
        ii. Math goal, evaluated by data collection; provided by a special education teacher: "By 01-21-2027, given a random set of 5 real coins, a visual chart of coin names and values, and a verbal prompt to identify each coin by name, [the Student] will verbally state … the name of each coin and its value, for 4 out of 5 coins, as measured by 3 out of 4 progress monitoring assessments."

1. Benchmark 1.1.1: "By the end of the third academic quarter (March 2026), given a set of 6 random coins (e.g., pennies, nickels, dimes, quarters), a visual chart of coin names and values, and a verbal prompt to sort the coins by color (e.g., silver, copper), [the Student] will sort the coins, for 4 out of 5 opportunities, as measured by 3 out of 4 progress monitoring assessments."
    a. Quarter 3: Making progress toward annual goal (MPG). (D329)
2. Benchmark 1.1.2: "By the end of the fourth academic quarter (May 2026), given a set of 4 numbers related to coins (e.g., 1, 5, 10, 25), a visual chart of coin names and values, and a verbal prompt to identify all of the numbers, [the Student] will say each number, for 4 out of 5 opportunities, as measured by 3 out of 4 progress monitoring assessments."
    a. Quarter 4: Making progress toward annual goal (MPG). (D329)
3. Benchmark 1.1.3: "By the end of the first academic quarter (October 2026), given a set of 4 real coins (e.g., penny, nickel, dime, quarter), a visual chart of the same 4 coins, and a verbal prompt to match the real coin to the coin on the chart (e.g., 'Pick up the coin that matches this penny.')[.] [The Student] will pick up the coin matching the chart, for 4 out of 5 opportunities, as measured by 3 out of 4 progress monitoring assessments."
4. Benchmark 1.1.4: "By 01-21-2027, given a random set of 5 real coins, a visual chart of coin names and values, and a verbal prompt to identify each coin by name, [the Student] will verbally state … the name of each coin and its value, for 4 out of 5 coins, as measured by 3 out of 4 progress monitoring assessments." (D32-D33)

iii. Reading, baseline: "When presented social, environmental or academic high[-]frequency sight words without corresponding photographs or icons, [the Student] was able to independently read 26 out of 60 words. When presented [with] social, environmental or academic high[-]frequency sight words with corresponding photographs or icons, [the Student] was able to independently read 42 out of 60 words."

iv. Reading goal, evaluated by data collection; provided by a special education teacher: "By 01-21-2027, after an illustrated instructional-level functional high-frequency word or phrase is read aloud (Community safety signs, vocational words, etc.), given 3 written word choices and a verbal prompt to match the illustrated word to the corresponding written word, [the Student] will point to the corresponding written word,

for 4 out of 5 illustrated words, on 3 out of 4 progress monitoring assessments."

1. Benchmark 2.1.1: "By the end of the third academic quarter (March 2026), after an illustrated instructional-level functional high-frequency word is read aloud, given 3 illustrations and a verbal prompt to match the illustration to the given illustrated high-frequency word, [the Student] will point to the matching illustration, for 4 out of 5 illustrated words, on 3 out of 4 progress monitoring assessments."
    a. Quarter 3: Making progress toward annual goal (MPG). (D330)
2. Benchmark 2.1.2: "By the end of the fourth academic quarter (May 2026), given an illustrated instructional-level functional high-frequency word with the first letter read aloud and verbally asked which of 3 written letter choices match the first letter of the illustrated high-frequency word, [the Student] will point to the matching letter, for 4 out of 5 illustrated words, on 3 out of 4 progress monitoring assessments."
    a. Quarter 4: Making progress toward annual goal (MPG). (D330)
3. Benchmark 2.1.3: "By the end of the first academic quarter (October 2026), given an illustrated instructional-level functional high-frequency word with the word and the first letter read aloud and verbally asked which of 3 written word choices begin with the same letter as the illustrated high-frequency word, [the Student] will point to the word that starts with the same letter, for 4 out of 5 illustrated words, on 3 out of 4 progress monitoring assessments."
4. Benchmark 2.1.4: "By 01-21-2027, after an illustrated instructional-level functional high-frequency word or phrase is read aloud (Community safety signs, vocational words, etc.), given 3 written word choices and a verbal prompt to match the illustrated word to the corresponding written word, [the Student] will point to the corresponding written word, for 4 out of 5 illustrated words, on 3 out of 4 progress monitoring assessments."

v. Speech/Language, baseline: "[The Student] comments on familiar and unfamiliar tasks with a 2-3 word response on 5 of 10 trials."

vi. Speech/Language goal, evaluated by data provided by an SLP or a special education teacher: "By the end of the 2025-2026 IEP school year, [the Student] will use verbal, visual and hands[-]on cues to complete familiar

and unfamiliar tasks and respond to questions about the task with a 2-3 word comment on 9 of 10 trials."

1. Benchmark 3.1.1: "By March of 2026, [the Student] will use visual, verbal and hands[-]on cues to complete a task and use 2-3 word comments … during tasks (familiar and unfamiliar) on 6 of 10 trials."
    a. Quarter 3: Making progress toward annual goal (MPG). (D331)
2. Benchmark 3.1.2: "By May of 2026, [the Student] will use verbal, visual and hands[-]on cues to complete familiar and unfamiliar tasks and respond to questions about the task with a 2-3 word phrase on 7 of 10 trials."
    a. Quarter 4: Making progress toward annual goal (MPG). (D331)
3. Benchmark 3.1.3: "By October of 2026, [the Student] will use verbal, visual and hands[-]on cues to complete familiar and unfamiliar tasks and respond to questions about the task with a 2-3 word phrase on 8 of 10 trials."
4. Benchmark 3.1.4: "By the end of the 2025-2026 IEP school year, [the Student] will use verbal, visual and hands[-]on cues to complete familiar and unfamiliar tasks and respond to questions about the task with a 2-3 word phrase on 9 of 10 trials."

vii. OT baseline: "[The Student] is able to independently complete between 20%-50% of the steps for routine vocational and independent living tasks (ex: folding/hanging laundry, cleaning tables, washing dishes, sorting/storing material)."

viii. OT goal, evaluated by observation of performance and task checklists provided by an OT: "By the next IEP in January 2027, following visual instructions and initial training of the steps in the task, [the Student] will be able to independently complete at least 80% of the steps for a vocational or independent living task aligned to [their] skills for 75% of task opportunities."

1. Benchmark 4.1.1: "By the end of the 3rd quarter in March 2026, following visual instructions and initial training of the steps in the task, [the Student] will be able to independently complete at least 60% of the steps for a vocational or independent living task aligned to [their] skills for 75% of task opportunities."
    a. Quarter 3: Making progress toward annual goal (MPG). (D331)
2. Benchmark 4.1.2: "By the end of the 4th quarter in May 2026, following visual instructions and initial training of the steps in the

task, [the Student] will be able to independently complete at least 70% of the steps for a vocational or independent living task aligned to [their] skills for 75% of task opportunities."

   a. Quarter 4: Not making progress toward annual goal (NMP). (D331)

3. Benchmark 4.1.3: "By the end of the 1st quarter in October 2026, following visual instructions and initial training of the steps in the task, [the Student] will be able to independently complete at least 75% of the steps for a vocational or independent living task aligned to [their] skills for 75% of task opportunities."
4. Benchmark 4.1.4: "By the end of the 2nd quarter in December 2026, following visual instructions and initial training of the steps in the task, [the Student] will be able to independently complete at least 80% of the steps for a vocational or independent living task aligned to [their] skills for 75% of task opportunities."
   a. Writing baseline: "When asked to write [their] last name, [the Student] was unable to spell [their last name] without help or a model to copy from. When given a model to copy [their] last name from, [the Student] will copy each letter, but [the Student] does not consistently write within the space [the Student] is provided and becomes obsessive about the way certain letters look."
   b. Writing goal, evaluated by data collection provided by special education staff: "By 01-21-2027, given a visual of a personal information card, a paper job application and a verbal prompt to fill out the application, [the Student] will utilize the personal information card to produce [their] name, address, and phone number in writing, for 4 out of 5 practice opportunities, as measured by 3 out of 4 progress monitoring assessments."
5. Benchmark 5.1.1: "By the end of the third academic quarter (March 2026), given a visual of a personal information card, a paper job application, and a verbal prompt to recall [their] name, [the Student] will utilize the personal information card to produce [their] name in writing for 4 out of 5 practice opportunities, as measured by 3 out of 4 progress monitoring assessments."
   a. Quarter 3: Making progress toward annual goal (MPG). (D332)
6. Benchmark 5.1.2: "By the end of the fourth academic quarter (May 2026), given a visual of a personal information card, a paper job application, and a verbal prompt to recall [their] personal address, [the Student] will utilize the personal information card to

produce [their] name and home address in writing, for 4 out of 5 opportunities, as measured by 3 out of 4 progress monitoring assessments."

a. Quarter 4: Making progress toward annual goal (MPG). (D332)

7. Benchmark 5.1.3: "By the end of the first academic quarter (October 2026), given a visual of a personal information card, a paper job application, and a verbal prompt to recall [their] personal phone number, [the Student] will utilize the personal information card to produce [their] name, home address, and phone number in writing, for 3 out of 5 opportunities, as measured by 3 out of 4 progress monitoring assessments."
8. Benchmark 5.1.4: "By 01-21-2027, given a visual of a personal information card, a paper job application and a verbal prompt to fill out the application, [the Student] will utilize the personal information card to produce [their] name, address, and phone number in writing, for 4 out of 5 practice opportunities, as measured by 3 out of 4 progress monitoring assessments."

d. Related services from January 22, 2026 to January 21, 2027:
   i. OT (fine motor) for 20 minutes, one day per week, as special education direct services outside of the regular education classroom/other location.
   ii. Speech/Language for 20 minutes one day every three out of four weeks, as special education direct services outside of the regular education classroom/other location.
   iii. Special education transportation on the special education bus for the time required to travel from home to school and from school to home, for 20 minutes, five days per week.

e. Special education services from January 22, 2026 to January 21, 2027 as special education direct services outside the regular education classroom/other location:
   i. Reading, writing, math, IEP goals: 270 minutes, once per week; 345 minutes one day every three out of four weeks; 385 minutes, three days per week; and 365 minutes, one day over one out of four weeks.

f. Supports for school personnel and transportation services.

g. Placement decision and ESY.

h. Post-secondary goals and transition services.

i. Modifications, accommodations, and supplementary aids and services.

j. Meeting notes. (D19-D48)

k. Dynamic Learning Maps (DLM) Participation Guidelines (an alternative assessment) pertaining to the Student.

l. PWN, dated January 22, 2026, documenting the Student's eligibility for special education, mirroring the IEP. (D58-D61)

m. Signed consent for the Student's placement and provision of services by Parent 2. (D63)

8. On March 6, 2026, the Administrative Assistant emailed the Special Education Coordinator to share the Parent had called to express they had "concerns with [the Student's] education and does not know anything about what is going on with [the Student's] education. [The Parent] shared that [the Parent] has joint custody of [the Student] however I don't see [the Parent] listed …" in the student information system (SIS). (D9)

9. On March 24, 2026, the Assistant Principal alerted the Special Education Coordinator via email that the Parent contacted a case manager not affiliated with the Student and attached a custody agreement. (D10) On the same day, the Special Education Coordinator responded, indicating the Parent had parental rights, and wrote, "When we discussed this previously, I believe [the Parent] was not listed in [the SIS], which raised some concerns. I do think we should move forward with adding [the Parent] to [the SIS] so [the Parent] has appropriate access to [the Student's] records." (D11) The Assistant Principal asked if guardianship or custody documents were provided to the special education team and the Special Education Coordinator replied, "No, I don't believe so. [Parent 2] stated that [the Parent] still has parental rights … ." (D12)

10. A 2025-26 grade report indicated that the Student earned 94% or 100% in all courses for the school year. (D1-D6)

11. A 2025-26 attendance document indicated the Student attended an average of 89% of the school days. (D328)

12. SLP Service Logs dated April 15, 2025 through April 16 2026, indicated 27 entries of service, for 20-minute durations, and noted "Moderate Improvement" of progress for the Student. (D450-D454)

13. OT Service Logs dated April 3, 2025 through April 16, 2026 indicated 24 entries of service during the complaint period. Noted were 20-minute durations of individual or group services, and the Student participated in the classroom or outside of the classroom setting in services in independent or group activities. (D380-D439)

14. An undated SIS record indicated the Student was enrolled in December 2017 by Parent 2. Parent 2 was marked as "Guardian," "Emergency Priority #1," and "Mailing" with a start date of August 18, 2023. The Parent was marked as "Guardian" with an indicated start date of June 8, 2026. "Legal Designee" boxes were not checked for either parent. (D457)

15. On April 15, 2026, the Parent filed the Complaint. (Complaint, April 10, 2026)

16. In an email dated June 23, 2026, the Special Education Coordinator confirmed the Parent's information was added into the SIS on June 8, 2026. They stated the delay was due to unsuccessful attempts to contact the Parent to confirm a residential address. The Parent provided the LEA with an email address and phone number and has been "unresponsive" to attempts to communicate. (D455)
17. In a written response, dated June 24, 2026, the Special Education Teacher described the implementation of the Student's IEP. They shared they have served the Student for "approximately" two years. Their instruction included delivering "one-on-one instruction in reading, spelling, phonics, and functional academics." The Special Education Teacher shared that because the Student experienced difficulties maintaining focus for extended periods, lessons were structured in "short segments" that integrated visual daily schedules, color-coding, and music to reinforce concepts. Daily routines included a morning social-emotional check-in to guide instruction, alongside collaborative efforts with related service providers to implement "consistent wait time and prompting strategies." They shared the Student received continuous staff support across educational settings and was encouraged to communicate using complete sentences. The Special Education Teacher stated the Student's IEP has "remained in effect throughout the time I have worked with [them] and was never revoked." (D458-D459)
18. The Special Education Teacher explained they "primarily" communicated with Parent 2, as they were "the parent identified in the [SIS] and the individual with whom school staff routinely communicated." The Special Education Teacher stated, "Prior to spring 2026, I was not provided with contact information for [the Parent] and did not have any indication that [they] should be included in routine school communications. We did not have information regarding who [the Parent] was until documentation was provided in spring 2026." They shared the Parent provided documentation in the spring of 2026 "establishing joint parental rights" with an indicated phone number and email address. (D458-D459)
19. The Special Education Teacher was "not made aware" of concerns that the Student should be evaluated for ADHD or ASD. They "did not receive information, documentation, or requests" regarding these concerns, noting the concerns were never raised during IEP meetings. The Special Education Teacher stated they were not made aware of these evaluation concerns by either the Parent or Parent 2. (D458-D459)
20. The Special Education Teacher described the Student's progress in reading and spelling. They shared the Student was able to read consonant-vowel-consonant (CVC) words with visual supports and self-correct consonant sounds, though they experienced "difficulty independently spelling words upon request" due to memory and recall challenges. They shared behaviorally, the Student was respectful and had "not exhibited significant behavioral concerns in the school setting" over the past two years. While staff were aware of past incidents involving physical aggression during the Student's freshman year, such behaviors were not observed during the

past two years because consistent communication strategies were implemented to "reduce frustration and support successful interactions." (D459)

Parent Interview

21. In an interview with the Complaint Investigator, the Parent explained the School would not share information with them in regard to the Student due to them not being "on the contact list." (P3, 07:57)
22. The Parent shared they have "always been" one of the Student's educational decision makers. (P4, 12:03)

Special Education Coordinator Interview

23. In an interview with the Complaint Investigator, the Special Education Coordinator explained after the superintendent's office received the November 20, 2025 phone call from the Parent, the LEA sought to verify whether they held educational rights. The Special Education Coordinator shared they spoke with the Parent and outlined the LEA procedures and steps required to establish their parental rights within the LEA's SIS. They explained to establish such, a parent must provide an address and "documentation that they're the parents." The Special Education Coordinator shared Parent 2 had enrolled the Student in School and the LEA was unaware the Parent was "involved," and Parent 2 was the Student's "primary guardian." (P2, 02:48, 03:39)
24. The Special Education Coordinator explained that according to LEA policy, parents must be registered within the SIS by providing verified address documentation and proof of parental rights to access a student's educational records. School personnel are prohibited from sharing any student details with anyone who is not listed in this database. To gain access, a parent can visit the school building at any time to provide their information and ensure they are properly entered into the system as a guardian. (P2, 03:39; P4, 09:54)
25. The Special Education Coordinator stated they received custodial parental documentation from the Parent on March 24, 2026. (P2, 05:05)
26. When asked about the notice of meeting on January 8, 2026, the Special Education Coordinator explained the case manager completed the task, and said notice was sent to Parent 2 because the Parent was not in the SIS, adding there was "no communication with [the Parent] at this time period." They stated, "At the time we weren't aware that [the Parent] was a parent that had rights. … there wasn't another guardian that was put in the system at that time. So as far as we were concerned, there was only one primary guardian that we were dealing with because we didn't have that information." (P4, 09:00, 09:32, 09:54)
27. The Special Education Coordinator shared after receiving this Complaint, they had attempted to reach the Parent multiple times via phone and email with no success. (P5, 12:06)

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #500, in accordance with state and federal regulations implementing the IDEA, failed to fulfill its childfind obligations to evaluate the Student for suspected disabilities, including Attention-Deficit/Hyperactivity Disorder (ADHD) and Autism Spectrum Disorder (ASD). K.A.R. 91-40-7; 34 CFR § 300.111.

According to K.A.R. 91-40-7; 34 CFR § 300.111, each board shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction, or are suspected of being a child with disabilities even though they are advancing from grade to grade.

Each board's policies and procedures under this regulation shall include age-appropriate screening procedures that meet the requirements for children from ages five through 21, observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening as required by state law. In addition, the implementation of procedures ensuring the early identification and assessment of disabilities in children is required. Any board may refer a child who is enrolled in public school for an evaluation if school personnel have data-based documentation indicating general education intervention and strategies would be inadequate to address the areas of concern for the child.

In addition, an agency may refer a child when school personnel have data-based documentation indicating that before the referral or as part of the referral, the child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel, and the child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction. In addition, assessment results were provided to the child's parent. Any board may refer a child when the parent of the child requests, and gives written consent for an evaluation of the child, and the agency agrees that an evaluation of the child is appropriate. The agency needs a practical method developed and implemented to determine which children are currently receiving needed special education and related services.

The Parent alleged the LEA neglected the Student's education because the Student had no IEP and was not in a special needs class. The Parent indicated the LEA "doesn't want to know my [Student's] diagnosis so they can properly educate [the Student].

The LEA indicated that, based upon the re-evaluation process completed on January 8, 2026, the multidisciplinary team reviewed existing data, conducted assessments, and considered information from educational staff, related service providers, and Parent 2, who participated in the evaluation process. The evaluation team determined the Student continued to qualify for special education services under the eligibility category of Intellectual Disability, with Speech-

Language Impairment identified as a secondary exceptionality. During the review of evaluation data, the team did not identify characteristics, behaviors, or other evidence indicating a need to evaluate for ADHD or ASD. Additionally, the LEA did not receive independent evaluations, medical documentation, parent requests, or other information suggesting the Student should be evaluated for ADHD or ASD. Parent 2 participated in the January 8, 2026 re-evaluation meeting. No concerns regarding ADHD or ASD were raised by participating team members or by Parent 2. The LEA was not aware, and had no documentation indicating that the Parent possessed educational decision-making rights until they provided court documentation establishing joint parental rights on March 24, 2026. Prior to that date, the LEA had not received documentation identifying the Parent as a person entitled to educational records or participation in special education decision-making.

According to the evidence provided, the Student is currently eligible for special education under the categories of ID and SL impairment. While the Student was already receiving extensive special education and related services under a February 4, 2025 IEP, the LEA proactively addressed mixed performance data and benchmark progress in reading, math, and OT during the 2025–2026 school year. Furthermore,

the Special Education Teacher was not made aware of any concerns, documentation, or requests by either Parent or Parent 2 to evaluate the Student for ADHD or ASD, noting these issues were never raised during IEP meetings. Despite the absence of a formal parental request, the LEA issued PWN on October 3, 2025, to conduct a comprehensive re-evaluation, securing parental consent from Parent 2. The resulting January 8, 2026 re-evaluation report utilized classroom observations, record reviews, and standardized testing to determine that the Student met eligibility criteria for ID and SL impairment. The evaluation team noted that all areas of concern had been completed, and Parent 2 consented to the placement and services outlined in the updated January 22, 2026 IEP, the evidence demonstrates the LEA successfully recognized, investigated, and evaluated all suspected areas of disability.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that USD #500 failed to fulfill its childfind obligations to evaluate the Student for suspected disabilities, including ADHD and ASD.

Issue Two

Whether USD #500, in accordance with state and federal regulations implementing the IDEA, implemented an IEP that supported the Student to make appropriate academic progress, particularly in the areas of reading and spelling, and appropriately manage and address the Student's behavioral needs within the school environment. K.A.R. 91-40-16, K.A.R. 91-40-18 (b); 34 C.F.R. §§ 300.320, 300.324(a)(2)(i).

According to K.A.R. 91-40-16 and 34 C.F.R. § 300.320, each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency shall ensure an IEP is in effect before special education and related services are provided to an exceptional child, and those services to which the parent has granted written consent as specified by law are implemented not later than ten school days after parental consent is granted unless reasonable justification for a delay can be shown. In addition, each agency shall ensure an IEP is in effect for each exceptional child at the beginning of each school year. The child's IEP must be accessible to each regular education teacher, related service provider, and other service providers who are responsible for its implementation. Furthermore, each teacher and provider needs to be informed of that individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

According to 34 C.F.R. § 300.320 the IEP is a written statement for each child with a disability that is developed, reviewed, and revised in a meeting. It includes a statement of the child's present levels of academic achievement and functional performance including how the child's disability affects the child's involvement and progress in the general education curriculum. It includes a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum, meet each child's other educational needs that result from the child's disability, and for children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives.

In addition, an IEP includes a description of how the child's progress toward meeting the annual goals is measured, as well as periodic reports on the child's progress. An IEP includes a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child. In addition, a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately toward attaining the annual goals, to be involved in and make progress in the general education curriculum, in extracurricular and other nonacademic activities, and to be educated and participate with other children with disabilities and nondisabled children.

Furthermore, an IEP includes an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in activities. Furthermore, a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district assessments. The IEP includes the projected date for the beginning of the services and

modifications, the anticipated frequency, location, and duration of those services and modifications, and transition services.

In the development, review, and revision of the IEP in consideration of special factors in the case of a child whose behavior impedes the child's learning or that of others, the IEP team will consider the use of positive behavioral interventions and supports, and other strategies to address that behavior,

According to K.A.R. 91-40-18 (b).; 34 C.F.R. § 300.324(a)(2)(i), if as a result of its consideration of special factors and amendments, an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive a FAPE, the IEP team shall include those items in the child's IEP.

The Parent alleged the LEA steadily advanced the Student from grade to grade when the Student was not learning anything. The Parent indicated the Student cannot spell or read. The Parent explained the Student sits folded up in school, and continually bangs their head.

The LEA responded that progress monitoring data and progress reports for the Student demonstrated the Student made educational progress in reading, spelling, and other areas consistent with the Student's individual abilities. The LEA expressed they appropriately addressed the Student's behavioral needs.

The record indicated that the Special Education Teacher delivered one-on-one instruction in reading, spelling, phonics, and functional academics, structuring lessons in short segments that integrated visual daily schedules, color-coding, and music to accommodate the Student's difficulties maintaining focus for extended periods. Additionally noted by the Special Education Teacher, the Student was behaviorally respectful and did not exhibit significant behavioral concerns in the School setting over the past two years. Although staff were aware of incidents involving physical aggression during the Student's freshman year, no such behaviors were observed during the past two years due to the implementation of consistent communication strategies designed to reduce frustration and support successful interactions. Daily routines included a morning social-emotional check-in to guide instruction, alongside collaborative provider strategies such as consistent wait times, prompting strategies, and continuous staff support across educational settings. The record indicated when performance data from the February 4, 2025 IEP showed a lack of progress in reading and OT benchmarks, the LEA conducted a re-evaluation. The subsequent January 22, 2026 IEP updated the Student's objectives to focus on functional high-frequency words, written application skills, and coin identification based on newly established baselines. Related service logs confirm the implementation of these supports during the Complaint period, tracking 24 occupational therapy sessions and 27 speech-language pathology sessions that noted "Moderate Improvement" in the Student's communication progress. During the 2025–26 school year, while receiving these individualized academic and behavioral interventions, the Student

maintained an 89% average attendance rate and earned final marks ranging from 94% to 100% in all courses.

Based on the foregoing, according to the IDEA and Kansas special education regulations, ***it is not substantiated*** that USD #500 failed to implement an IEP that enabled the Student to make appropriate academic progress, particularly in the areas of reading and spelling, and to appropriately manage and address the Student's behavioral needs within the school environment.

Issue Three

Whether USD #500, in accordance with state and federal regulations implementing the IDEA, denied the Parent an opportunity to meaningfully participate in the IEP process by failing to provide information regarding the Student's IEP and withholding education records upon the Parent's request. K.A.R. 91-40-50, K.A.R. 91-40-17; 34 C.F.R. §§ 300.501 (a), 300.613.

According to K.A.R. 91-40-50 and 34 C.F.R. § 300.613, regarding parental access to student records and confidentiality, “Education records” means any document or medium on which information directly related to one or more students is maintained by a participating agency. A “participating agency” means any educational agency or institution that collects, maintains, or uses personally identifiable student information to provide special education and related services to children with disabilities.

The parents of a child with a disability will be given the opportunity to examine records and participate in meetings. Parents will be given the opportunity to examine records. The parent will be given the opportunity to inspect and review all educational records with respect to the identification, evaluation, and educational placement of the child, and the provision of a FAPE to the child. Regarding access rights, each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency. The agency must reply with the request without unnecessary delay and before any meeting regarding an IEP, or a resolution session, and in no case more than 45 days after the request has been made. The parent will be given the right to a response from the participating agency to reasonable requests for explanations and interpretations of the records, and the right to request the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records. Also, the parent will have the right to have a representative of the parent inspect and review the records.

An agency may presume the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

According to K.A.R. 91-40-17; 34 C.F.R. § 300.501 (a), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP meeting or are

afforded the opportunity to participate. These steps include scheduling each meeting at a mutually agreed upon time and place and informing the parents of the information, and providing a written notice to the parents of any IEP team meeting at least ten days in advance of the meeting. The notice shall indicate the purpose, time, and location of the IEP team meeting and the titles or positions of the persons who will attend on behalf of the agency, including, if appropriate, any other agency invited to send a representative to discuss needed transition services. The notice shall indicate the following information: If the purpose is to consider postsecondary goals and needed transition services for the child, the agency will invite the parents' child to attend. One of the purposes of the meeting will be to consider the postsecondary goals and needed transition services for the student.

The Parent alleged the LEA hangs up on the Parent when they call, even though they are the biological parent. The Parent indicated that they have legal proof of custody and the Student's education is being neglected.

The LEA responded the Parent did not provide documentation establishing their status as a parent with educational decision-making rights to the LEA until March, 2026. When the Parent presented themself as being an "interested party and educational-decision maker," the LEA took the required steps to confirm their status as an educational-decision maker.

The record indicated IEP meeting notices, prior written notices, and educational updates were directed to Parent 2 and the Relative because the Parent was not registered in the LEA's SIS prior to spring 2026. The Student was originally enrolled in 2017 by Parent 2, who was listed as the primary guardian, and School personnel lacked prior documentation or contact information regarding the Parent's involvement. When the Parent contacted the LEA in November 2025, the Special Education Coordinator outlined the LEA's standard safety and privacy policy, which required an individual to provide proof of parental rights and a verified residential address before being entered into the database and granted access to educational records. The Parent subsequently submitted the custody agreement establishing joint parental rights on March 24, 2026, at which point the LEA initiated the process to add the Parent to the SIS. Although the Parent's status was finalized as a guardian in the system on June 8, 2026, as indicated by the Special Education Coordinator the delay resulted from the Parent being unresponsive to multiple phone and email attempts by LEA personnel to obtain the mandatory residential address. Consequently, School staff adhered to confidentiality protocols by restricting information sharing until the Parent's registration criteria were completed in accordance with established LEA procedures.

Based on the foregoing, according to *IDEA and Kansas special education regulations, it is not substantiated* that USD #500 denied the Parent an opportunity to meaningfully participate in the IEP process by failing to provide information regarding the Student's IEP and withholding education records upon the Parent's request.

Issue Four

Whether USD #500, in accordance with state and federal regulations implementing the IDEA, failed to provide the Student with a FAPE by failing to implement necessary educational services and supports, including a period during which the Student did not have an IEP. K.A.R. 91-40-2, K.A.R. 91-40-1(z); 34 CFR §§ 300.17, 300.101.

According to K.A.R. 91-40-2; 34 CFR § 300.101, each agency shall make a FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday. An IEP or IFSP shall be in effect by the child's third birthday, but if that birthday occurs during the summer when school is not in session, the child's IEP team shall determine the date when services will begin. Each agency shall provide a FAPE to exceptional children. Each agency shall make a FAPE available to each child with a disability residing in its jurisdiction. A FAPE means special education and related services that are provided at public expense, under public supervision, and without charge, meeting state board standards, including appropriate education from preschool through secondary school and provided in conformity with an IEP.

According to K.A.R. 91-40-1(z); 34 CFR §§ 300.17, a FAPE means special education and related services that are provided at public expense, under public supervision and direction, and without charge, meet the standards of the SEA, including the requirements of an appropriate preschool, elementary school or secondary school education in the state involved. In addition, services are provided in conformity with an IEP that meets all legal requirements. A FAPE must be available to all children residing in the state between the ages of 3 through 21, inclusive, including children with disabilities who have been suspended or expelled from school. Beginning at age three, each state must ensure that the obligation to make a FAPE available to each eligible child residing in the state begins no later than the child's third birthday. Each state must ensure that a FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or a grade, and is advancing from grade to grade. The determination that a child has a disability must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

The Parent alleged the LEA did not address behavioral issues as well as cognitive and motor issues. The Parent indicated the Student does not know how to communicate well even though they are in the eleventh grade.

The LEA responded that the Student had IEPs dated February 4, 2025 and January 22, 2026, in effect during the Complaint period. The LEA explained they implemented the Student's special education services and supports as verified by service logs, IEP records, progress reports, attendance records, and class schedules. The Student also participated in a re-evaluation process completed on January 8, 2026, and a subsequent IEP was developed on January 22, 2026.

The record indicated the Student's IEP remained continuously in effect and was never revoked, providing uninterrupted access to special education and related services. The District delivered intensive, one-on-one instruction in reading, spelling, phonics, and functional academics, enabling the Student to read CVC words with visual supports and self-correct consonant sounds despite memory challenges.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that USD #500 failed to provide the Student with a FAPE.

For a further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f), which is included at the end of this report.

Tania Tong, Licensed Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON MAY 18, 2026

DATE OF REPORT: JUNE 30, 2026

This report is in response to two child complaints filed with the Kansas State Department of Education on behalf of _____ and _____ by their parents, _____. In the remainder of the report _____ will be referred to as "student A", _____ will be referred to as "student B" and both will be referred to as "the students". _____ will be referred to as the "complainants" or "the parents" or individually as "the father" and "the mother" respectively.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student."

In this case, the complaint is against USD #437 (Auburn/Washburn Public Schools) which employs its own staff to meet the requirements of the IDEA. In the remainder of the report, this responsible public agency will be referred to as "the local education agency (LEA)".

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE and the LEA and KSDE. If emailed after business hours, the complaint is considered filed on the next business day. In this case, May 18, 2026 is considered as the date the complaint was filed as KSDE combined two separate complaints into one investigation as 26FC437-015.

In the remainder of the report, the LEA staff will be referred to as follows:

- Heidi Carlson, Director of Secondary Special Services
- Charlie Stoltenberg, Washburn Rural North Middle School (WRNMS) Principal
- Tina Schindler, Special Education Teacher / Case Manager for student B
- Ed Raines, Washburn Rural High School (WRHS) Principal
- Jamie Callaghan, WRHS Assistant Principal
- Hillary Osborn, Special Education Department Chair
- Sandi Roe, WRHS Lead Nurse
- Portia Jurado, Special Education Teacher / Case Manager for student A
- Rachael Loyd, Physical Therapist

- Anthony Wunder, Adaptive PE Teacher
- Alex Hutchins, General Education Teacher for Individual/Team Sports
- Danyelle Sostre, Special Education Teacher 1
- Ruth May, Special Education Teacher 2
- Amy Kester, Special Education Teacher 3
- Lexi Ellis, Speech/Language Pathologist (SLP)
- Jennifer Tiller, General Education Advisory Teacher

Evidence Reviewed

The mother responded to written interview questions as part of this investigation. In addition, the Director of Secondary Special Services also responded to written interview and clarification questions during the investigation.

In completing this investigation, the Investigator reviewed written documentation provided by both the complainant and the LEA following the KSDE assignment of the first child complaint on May 14 and the assignment of the second child complaint on May 21, 2026. Note that a significant amount of additional documentation had been provided by both the parents and the LEA as part of three previous investigations regarding these two students and this documentation was also considered during this fourth investigation. The following materials were used as the basis of the findings and conclusions in the investigation of 26FC437-015:

1. Individual Education Program (IEP) developed on October 24, 2024 in USD #345 for student B
2. IEP Amendment dated August 6, 2025 for student B
3. Prior Written Notice (PWN) for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated August 6, 2025 proposing to add transportation as a related service and update special education service minutes and accommodations to student B's IEP with written parent consent provided on August 6, 2025
4. IEP for student A developed on September 25, 2025
5. Email dated September 28, 2025 at 9:20 PM written by the father to Special Education Teacher 3
6. Email dated October 2, 2025 at 10:58 AM written by the WRHS Assistant Principal to the parents
7. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent proposing to update student A's IEP goals and increase special education services which was signed by the mother on October 6, 2025
8. IEP dated October 13, 2025 for student B
9. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated October 13, 2025 proposing to update

student B's IEP goals and increase special education services with written parent consent provided on October 16, 2025

10. IEP Goal Data Sheets for the six goals in student B's IEP dated between the weeks of April 1 through May 18, 2026.
11. Children's Mercy Hospital note dated April 28, 2026 written by Katherine Carpenter, APRN regarding physical restrictions
12. Heartland Community Health Center note dated April 29, 2026 written by Marshall Kelley, M.D. regarding recommended accommodations related to toileting
13. PWNfor Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated April 29, 2026 proposing an IEP Team meeting "to review the newly received medical information, consider revisions to [student A's] goal, services, accommodations, considerations and ensure that all aspects of her program are aligned and can be implemented safely".
14. Notice of Meeting dated April 29, 2026 scheduling an IEP Team meeting for May 12, 2026 at 3:30 PM
15. Email dated April 29, 2026 at 7:55 AM written by the mother to the WRHS Principal, WRHS Assistant Principal, Special Education Department Chair, and the Special Education Teacher / Case Manager for student A sharing the Children's Mercy medical note
16. Email dated April 29, 2026 at 9:10 AM written by the WRHS Assistant Principal
17. Email dated April 29, 2026 at 9:35 AM written by the WRHS Assistant Principal
18. Email dated April 29, 2026 at 9:36 AM written by the WRHS Assistant Principal to the mother regarding scheduling an IEP meeting in response to the Children's Mercy medical note
19. Email dated April 29, 2026 at 9:51 AM written by the mother
20. Email dated April 29, 2026 at 10:18 AM written by the mother
21. Email dated April 29, 2026 at 1:52 PM written by the Physical Therapist
22. Email dated April 29, 2026 at 4:56 PM written by the WRHS Assistant Principal
23. Email dated April 29, 2026 at 7:18 PM written by the Physical Therapist
24. Email dated April 29, 2026 at 8:08 PM written by the mother
25. Email dated April 30, 2026 at 8:37 PM written by the WRHS Assistant Principal
26. Email dated April 30, 2026 at 10:18 AM written by the WRHS Assistant Principal
27. Email dated May 1, 2026 at 2:51 PM written by the mother
28. Email dated May 1, 2026 at 4:59 PM written by the WRHS Assistant Principal
29. Emails dated May 1, 2026 at 5:25 and 5:26 PM written by the mother
30. Email dated May 1, 2026 at 6:19 PM written by the WRHS Assistant Principal
31. Email dated May 1, 2026 at 7:09 PM written by the mother
32. Email exchange between the parent and the WRHS Assistant Principal dated May 4, 2026 at 1:09, 1:20, 1:48, 1:50 PM

33. Email dated May 4, 2026 at 1:39 PM written by the mother
34. Email dated May 5, 2026 at 11:50 AM written by the Director of Secondary Special Education
35. Email dated May 5, 2026 at 1:26 PM written by the WRNMS Principal
36. Email dated May 5, 2026 at 1:36 PM written by the mother
37. PWNfor Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated May 6, 2026 proposing an IEP Team meeting to consider medical notes provided by the parents and refusing to conduct an annual IEP review at this time
38. Notice of Meeting dated May 6, 2026 offering an IEP Team meeting on May 15, 2026 at 3:30 PM
39. Notice of Meeting dated May 6, 2026 offering an IEP Team meeting on May 19, 2026 at 8:30 AM
40. Email dated May 6, 2026 at 12:37 PM written by the Director of Secondary Special Education
41. Email dated May 6, 2026 at 12:44 PM written by the mother
42. Email dated May 6, 2026 at 2:36 PM written by the WRHS Assistant Principal
43. Email dated May 6, 2026 at 2:58 PM written by the mother
44. Email dated May 6, 2026 at 3:13 PM written by the mother
45. Email dated May 6, 2026 at 3:16 PM written by the mother to the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, and OCR
46. Email dated May 6, 2026 at 4:50 PM written by the WRHS Assistant Principal
47. Email dated May 6, 2026 at 6:57 PM written by the mother to the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, and OCR
48. Email dated May 8, 2026 at 5:26 PM written by the mother to the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, and OCR
49. Email dated May 8, 2026 at 5:49 written by the mother to the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, and OCR
50. Email dated May 10, 2026 at 11:59 AM written by the mother to the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, OCR, OSEP, and the Kansas Attorney General
51. Email dated May 12, 2026 at 5:23 PM written by the WRHS Assistant Principal
52. Child Complaint filed by the parents on Tuesday, May 12, 2026 at 8:49 PM
53. Email dated May 13, 2026 at 8:43 PM written by the mother
54. PWNfor Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated May 14, 2026 proposing an IEP Team meeting and describing operational actions taken as a result of the restrictions in the updated medical information
55. Email dated May 14, 2026 at 11:45 AM written by the parents

56. Child Complaint filed by the parents on Friday, May 15, 2026 at 4:13 PM
57. Email dated May 21, 2026 at 7:05 AM written by the mother
58. Email dated May 22, 2026 at 8:19 Am written by the mother
59. Mother's response to written interview questions included in an email sent to multiple KSDE staff, the father, and the Investigator dated May 25, 2026
60. Investigation Report for 26FC437-014 dated June 8, 2026
61. LEA's Response to the Allegations dated June 5 and June 18, 2026
62. Mother's response to written interview questions questions included in an email sent to multiple KSDE staff, the father, and the Investigator dated June 15, 2026
63. Student B's Class Schedule for the 2025-26 school year
64. Student B's Grade Card for the 2025-26 school year
65. IEP Goal Progress Reports for student B for the 2025-26 school year
66. Notice Regarding Q1 Progress Documentation created by the LEA
67. Fourth Quarter raw Data Collection Sheet for student B
68. Fourth Quarter IEP Goal raw data collections sheets for student B
69. The WRNMS Student Handbook for the 2025-26 school year
70. Goal Data Collection Sheets for student A for 2025-26 school year
71. Copy of student A's visual schedule
72. Copies of daily Bathroom Details forms for student A
73. Copies of student A's daily communication sheet sent home in lavender folder
74. Inservice training log for Lamp Words for Life (used on AAC device)
75. School Board Policy IHA

Background Information

The students previously attended school in another Kansas public school district and both students received special education and related services through IEPs. The students transferred to USD #437 at the conclusion of the 2024-25 school year and received extended school year services in USD #437 during the summer of 2025.

Student A was enrolled in the 10th grade at WRHS during the 2025-26 school year. Her most recent reevaluation was completed on October 28, 2024 and it was determined that she continued to meet the eligibility criteria for the exceptionality of Intellectual Disability and Autism. There were two IEPs in effect during the 2025-26 school year with the first being an August 12, 2025 IEP amendment to the transfer IEP from USD #345 and the second being the annual IEP developed on September 25, 2025. Both IEPs include special education support in general education classes and special education and related services provided in the low incidence programs in the district.

Student B was enrolled in the 8th grade at WRNMS for the 2025-26 school year. Her most recent triennial reevaluation was completed on October 18, 2023. At that time, it was determined that she continued to meet the eligibility criteria for the exceptionality of Multiple Disabilities based on medical diagnoses of Down's Syndrome, Attention Deficit Hyperactivity Disorder (ADHD), and Reactive Attachment Disorder (RAD). There were two IEPs in effect during the 2025-26 school year with the first being an August 6, 2025 IEP amendment to the transfer IEP from USD #345 and the second being the annual IEP developed on October 13, 2025. Both IEPs include special education support in general education classes as well as specialized instruction and related services provided in the low incidence program in the district.

Issues Investigated

Student A

The parent made eight allegations of violations of the IDEA for student A. These eight allegations were all related to five IDEA issues which were investigated. Note that the Parents' first two allegations, which related to information the parents believed should have been included in the IEP, were not investigated as they were investigated previously as part of 26FC437-014 and will not be addressed in this Complaint Report.

[This issue addresses Violation 3]

Applicable Law

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Federal regulations at 34 C.F.R. §300.503(b) require the prior written notice to include:

(1) A description of the action proposed or refused by the agency;
(2) An explanation of why the agency proposes or refuses to take the action;
(3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
(4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
(5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
(6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and

(7) A description of other factors that are relevant to the agency's proposal or refusal."

Federal regulations at 34 C.F.R. §300.324(b)(1) require each public agency to review each student's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and to revise the student's IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters.

Federal regulations, at 34 C.F.R. §300.321(a) requires school districts to ensure that the IEP Team for each child with a disability include the parents of the child, not less than one regular education teacher of the child, not less than one special education teacher of the child, a representative of the school district, an individual who can interpret the instructional implications of evaluation results, other individuals who have knowledge of special expertise regarding the child at the discretion of the parent or the school district, and the child with a disability whenever appropriate.

Federal regulations, at 34 C.F.R. §300.321(e)(1) allow for a required member of the IEP Team to be excused and not required to attend an IEP Team meeting, in whole or part, if the parent of a child with a disability and the school district agree, in writing, that the attendance of that member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting.

Federal regulations at 34 C.F.R. §300.321(e)(2) allow for a required member of the IEP Team to be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if 1) the parent, in writing, and the public agency consent to the excusal; and 2) the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

The Kansas Special Education Process Handbook, Chapter 4(A)(2), pg 83 states;

"Excusals through written agreement or consent apply only to the required IEP team members. Other members of the team, who have been invited by the school district or the parent, may be excused from attending the meeting without agreement or consent. If an individual that is not a required IEP team member, as described above, but is invited to attend a meeting, and is included on the notice of meeting, it is not required for the parent and school to consent and/or provide written agreement to excuse those individuals because they are not required members of an IEP team (Federal Register, August 14, 2006, p. 46675)."

Parent Position

The parents made the following allegation of a violation of the IDEA against USD #437:

Violation 3: Failure to Convene Full IEP Meeting Upon Parent Request

— 34 C.F.R. § 300.321

The parent stated, "Six formal requests for a full IEP meeting have been made since April 29, 2026 — a period of 13 days. None has resulted in a full IEP team meeting. While 30 days has not yet elapsed, the consistent and deliberate nature of the refusals — including the district's written commitment on May 1 followed by immediate reversal, its misuse of the amendment provision, its substitution of a Notice of Meeting for a required PWN, and its explicit deferral to next school year — establish that this is not a matter of scheduling delay but of deliberate, sustained noncompliance."

LEA Position

The LEA denied that it failed to convene an IEP Team meeting upon parent request and indicated that, upon receipt of the updated medical information provided by the parent, LEA staff reviewed the information and determined the need to conduct an IEP Team meeting to discuss this new information provided by the parents. An IEP was originally scheduled to review student A's IEP in light of the updated information on May 12, 2026 but the parents requested this IEP Team meeting be a comprehensive annual review with additional IEP Team members present.

The LEA made efforts to accommodate this request and proposed additional time and partial attendance of the additional parent request IEP Team members; however, the parents refused to meet unless all the IEP Team members stayed for the entire IEP Team meeting. The LEA was unable to meet this request and provided the parent with PWN of the refusal to hold a "full" IEP Team meeting with the "full" IEP Team in attendance for the entire meeting and provided the parents with two additional opportunities to reconvene the IEP Team to review student A's IEP in light of the updated medical information provided by the parents.

However, the parents continued to request a "full" IEP Team meeting with the "full" IEP Team in attendance for the entire meeting and refused to meet unless the LEA complied with this request. The LEA noted it continued to make efforts to offer IEP Team meetings to the parents but to no avail. Ultimately, no IEP Team meeting was held prior to the end of the 2025-26 school year.

Analysis: Findings of Fact

The following findings of fact are based on a review of written interview questions and documentation.

1. The mother shared the medical note from Children's Mercy Hospital with multiple LEA staff in an email dated April 29, 2026 at 7:55 AM stating, "Please find attached a medical letter from children's mercy regarding [the student's] physical needs, since the district has chosen to discriminate against her physical disability, by actively ignoring her medical history, having no plan for students with disabilities in an entry change, and

[the WRHS Assistant Principal's]retaliatory change of school entrance. We went ahead and again got it clearly from them . . ."

2. In response to updated medical information from Children's Mercy Hospital and Heartland Community Health Center received on April 29, 2026, the LEA provided the parents with a PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated April 29, 2026 proposing an IEP Team meeting "to review the newly received medical information, consider revisions to [student A's] goal, services, accommodations, considerations and ensure that all aspects of her program are aligned and can be implemented safely".
3. The WRHS Assistant Principal sent an email to the parents on April 29, 2026 at 4:56 PM stating, "As outlined in the Prior Written Notice, the district has reviewed the medical guidance alongside [student A's] current IEP, including her goals, participation in physical education, and access to the school environment. Based on this review, we believe it is important for the IEP team to meet to ensure that all aspects of her program are aligned with her current needs and can be implemented safely. In addition, the district will collaborate with the school nurse to address the recently provided medical information related to health needs during the school day and determine appropriate supports". The email noted the IEP Team for the meeting would include the parents, the Physical Therapist, the Adaptive PE Teacher, the General Education Teacher for Individual/Team Sports (PE elective), Special Education Teacher / Case Manager, WRHS Lead Nurse, WRHS Special Education Department Chair, Director of Secondary Special Services, and the WRHS Assistant Principal.
4. Attached to this email was a Notice of Meeting dated April 29, 2026 scheduling an IEP Team meeting for May 12, 2026 at 3:30 PM. The Notice of Meeting stated the purpose of the IEP Team meeting was to "discuss possible changes to your child's Individualized Education Program (IEP)" and that all of the IDEA required IEP Team members including the LEA representative, the special education teacher, a staff member who can interpret evaluation results and at least one general education teacher of the student , will be present for the meeting.
5. The mother responded via email to the WRHS Assistant Principal on dated April 29, 2026 at 8:08 PM stating "Since [student A's] normal IEP date is September 25, 2026, we would want to convene the full team and complete a full IEP, not just an update, and we want her full team, this would include those listed with the addition of: Special Education Teacher 1, Special Education 2, Special Education Teacher 3, SLP, General Education Advisory Teacher".
6. The IDEA does not include the term "full IEP". During the mother's interview as part of the investigation of 26FC437-014, she stated that a "full IEP" meant the annual IEP review.
7. The WRHS Assistant Principal responded to the mother via email on April 30, 2026 at 8:37 AM indicating she would check to see if a "full" IEP could be arranged for the May 12 date and stated, ". . . let me talk with [student A's] case manager and team members to ensure that we would be able to develop an annual IEP within the timeframe that I

initially proposed. I will also reach out to the additional special education teachers and the additional general education teacher to inquire about their availability".

8. The WRHS Assistant Principal reached out to all of the parent requested IEP Team members via email on April 30, 2026 at 10:18 AM to determine if they believed a comprehensive IEP review could be completed at the already scheduled IEP Team meeting on May 12, 2026 and to determine each member's availability to attend the scheduled IEP Team meeting. The IEP Team members responded at various points throughout the school day.
9. On May 1, 2026, the WRHS Assistant Principal sent an email to the parents at 4:59 PM stating that, in order to hold a meeting to review and revise the full IEP, the time of the IEP Team meeting would need to be adjusted from 3:30 to 3:00 PM and shared that "a few staff members noted prior commitments at 3:45 and 4:00 p.m". During the interview as part of the investigation of 26FC437-014, the Director of Secondary Special Education clarified that Special Education Teacher 3, the SLP, and the General Education Advisory Teacher needed to leave approximately 15 minutes early from the scheduled meeting time in order to attend to other personal and professional commitments.
10. The mother responded in an email dated May 1, 2026 at 5:25 and 5:26 PM indicating the IEP Team meeting would not be able to be completed within the 45 - 60 minutes being allotted for the IEP Team meeting. She stated, "This one is going to be a long one, so I think you need to inform the whole team to buckle up. If they need to leave by 3:45 or four, we are not going to be done, even if we start at 3". We have lots and lots and lots of input and things that will be added to the IEP going forward. We may get you a draft of those ahead of time, but otherwise we will get them to you at the meeting. So, I wouldn't spend a whole lot of time creating a draft from your perspective, as we have lots of things that the KSDE has given us feedback on how to more appropriately write it into the IEP after what has occurred at your school this year, that we will be including in the IEP to make sure going forward, you will be held accountable".
11. On May 1, 2026 at 6:19 PM, the WRHS Assistant Principal emailed the parents and stated, "We have scheduled this time to get started in a focused and organized way and will review key components of the IEP together. Given the complexity of the IEP and the importance of ensuring all areas are thoughtfully addressed, additional time may be needed to complete the process. Several team members have prior professional commitments later in the afternoon, and we will structure the meeting to ensure each member is able to provide input related to their role. If additional time is needed, we will reconvene to continue the discussion and ensure all components are fully addressed. Our goal is to maintain a collaborative and organized process focused on developing an IEP that is appropriate and aligned with [student A's] current needs, including the recent medical information".
12. The mother emailed the WRHS Assistant Principal on May 1, 2026 at 7:09 PM stating, "If you know in advance that the team is not going to be able to stay long enough for a full meeting of the entire IEP team, then we need to change the date. IDEA is very clear on

this, if team members are leaving early, that undermines the integrity of the process. Please consider this our notice that we want a different date when the entire team can be available for a full meeting. This note is to formally notify you that I do not consent to the excusal of any required IEP team member, in whole or in part, for the meeting. Under 34 CFR §300.321(e) and 20 U.S.C. §1414(d)(1)(C), excusal requires written consent from both the LEA and the parent. I am withholding that consent. Please reschedule the meeting for a date when all required team members can attend in full. Insinuating that you as the LEA can override our permission for participants to be at the meeting or leave the meeting is another clear violation of our parental rights".

13. The WRHS Assistant Principal provided the parents with a prior written notice dated May 6, 2026 which stated, "The district proposes to convene the IEP team to review the medical documentation and educational concerns identified by the parents and determine whether amendments such as accommodations, supports, services, health-related planning, participation considerations, mobility considerations, physical access supports, or implementation adjustments to the student's current IEP are appropriate at this time. The district further proposes that participation in the meeting include parent(s), general education representation, special education representation, related service providers relevant to the concerns being reviewed, administrative representation, and personnel knowledgeable regarding the student's current programming, accommodations, implementation, and medical-related educational needs".
14. The May 6, 2026 prior written notice also stated, "The district declines at this time to immediately conduct a complete redevelopment or replacement of the student's current annual IEP prior to the upcoming annual review cycle".
15. The Explanation for the Action Proposed or Refused in the May 6, 2026 PWN stated, "The district acknowledges its obligation under IDEA to review parent-provided information and revise the student's IEP as appropriate. Consistent with 34 CFR § 300.324, the district proposes convening the IEP team to review the information provided and determine whether amendments such as accommodations, supports, services, health-related planning, participation considerations, or implementation adjustments to the current IEP are appropriate at this time. IDEA further provides that changes to an IEP may be made through amendment rather than redrafting the entire IEP. See 34 CFR § 300.324(a)(6).

    The district believes the proposed review and amendment process is appropriate under the circumstances presented, including the limited remaining instructional time in the current school year, the student's anticipated summer surgery and recovery, non-participation in ESY services, and the need for additional educational and recovery data to support comprehensive annual IEP development. The district acknowledges the parent concerns regarding the student's physical disability-related needs, including mobility, access, participation, accommodations, and implementation supports.

    The district believes these concerns may appropriately be reviewed and addressed through targeted review and amendment of the student's current IEP. Consistent with

34 CFR § 300.321, the district also believes participation by staff members whose areas of responsibility are directly relevant to the educational and medical concerns being reviewed is appropriate to the purpose of the proposed meeting. The district believes the proposed meeting composition satisfies IDEA requirements for IEP team participation and allows for meaningful discussion regarding the concerns identified by the parents.

The district does not believe that immediate comprehensive redevelopment of the student's annual IEP at this point in the school year would allow for a sufficiently thoughtful, data-driven, and collaborative annual planning process. The student's current annual IEP remains in effect through September 2026. Additionally, the current school year concludes on May 21, 2026, leaving limited remaining instructional time for meaningful implementation, monitoring, and evaluation of a newly developed annual IEP prior to the conclusion of the school year.

The district also considered information indicating the student is expected to undergo surgery during the summer and will not participate in Extended School Year (ESY) services. As a result, the district will have limited opportunity to implement, monitor, and evaluate the effectiveness of newly developed annual programming prior to the beginning of the 2026–2027 school year.

The district believes additional progress monitoring, implementation data, educational input, recovery information, and team review during the upcoming school year are necessary to support comprehensive annual IEP development and long-term programming decisions".

16. The May 6, 2026 PWN included the following description of options available if the parents disagreed with the action described in the PWN: " Any disagreement we have regarding any of the above matters may be resolved by our mutual agreement, through mediation or through due process proceedings".
17. An email dated May 6, 2026 at 2:58 PM written by the mother to the WRHS Assistant Principal stated, "Thank you for the meeting proposal. However, we are requesting a full IEP meeting rather than a medical update meeting only. With only 3-5 days remaining in the school year from your proposed dates, a medical update meeting at this time serves little practical purpose. Our preference is to hold a full IEP meeting that can be completed and implemented prior to the start of school in August, ensuring that any necessary changes to [student A's] IEP are in place from day one of the new school year rather than waiting until the September 25 renewal date. Please let us know your availability to schedule a full IEP meeting".
18. An email dated May 6, 2026 at 3:13 PM written by the parent to the WRHS Assistant Principal stated, "We are formally noting that refusing a parent's request for a full IEP meeting is a procedural violation under 34 CFR §300.322 and 34 CFR § 300.324(b)(1), which grant parents the right to request an IEP review at any time and require the district to ensure meaningful parental participation. Proposing a limited medical update meeting in place of a full IEP meeting without parental agreement does not satisfy this

obligation and constitutes a denial of FAPE for [studentA]. We expect the district to honor our request for a full IEP meeting".

19. An email dated May 6, 2026 at 3:16 PM written by the mother to the WRHS Assistant Principal, the LEA Administration, School Board Members, KSDE and OCR stated, "On April 29, 2026, we submitted a written request for a full IEP meeting. Under 34 CFR § 300.324(b)(1), the district is obligated to honor that request. Substituting a limited medical update meeting does not satisfy this obligation, and the district does not have the authority to unilaterally deny or redefine the scope of a parent-requested IEP meeting".
20. An email dated May 6, 2026 at 4:50 PM written by the WRHS Assistant Principal to the parents stated, "IDEA further provides that changes to an IEP may be made through amendment rather than redrafting the entire IEP. See 34 CFR § 300.324(a)(6). The district believes the proposed review and amendment process is appropriate under the circumstances presented, including the limited remaining instructional time in the current school year, the student's anticipated summer surgery and recovery, non-participation in ESY services, and the need for additional educational and recovery data to support comprehensive annual IEP development.

    Consistent with 34 CFR § 300.321, the district also believes participation by staff members whose areas of responsibility are directly relevant to the educational and medical concerns being reviewed is appropriate to the purpose of the proposed meeting. The district's proposed participants include parent(s), general education representation, special education representation, related service providers relevant to the concerns being reviewed, administrative representation, and personnel knowledgeable regarding the student's current programming, accommodations, implementation, and medical-related educational needs The district's communications regarding scheduling and coordination were intended to facilitate organization of the proposed IEP meeting and identify staff members whose areas of responsibility are directly relevant to the concerns being reviewed. The district remains committed to convening the IEP team, reviewing the information provided by the parents, considering parent concerns, and determining whether revisions or amendments to the current IEP are appropriate based upon team discussion and available educational information.

    Because the district has considered the parent request for immediate comprehensive redevelopment of the student's annual IEP and has determined that targeted review and amendment of the current IEP is the appropriate course of action at this time, the district is providing the attached Prior Written Notice (PWN) documenting the district's proposal and refusal consistent with IDEA procedural requirements, The district remains willing to convene the IEP team to review the information provided, discuss parent concerns, and consider whether revisions or amendments to the current IEP are appropriate at this time. As previously proposed, the district remains available to meet on May 15, 2026 at 8:30 a.m. or May 18, 2026 at 1:00 p.m. If neither proposed date is workable, please provide additional availability and the district will continue working collaboratively to identify a mutually agreeable meeting time".

21. An email dated May 6, 2026 at 6:57 PM written by the mother the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, and OCR stated, "The district is citing 34 CFR § 300.324(a)(6) — the amendment provision — as justification for limiting this meeting to a targeted review. However, that provision only permits amendment without a full IEP meeting when BOTH parties agree in writing to that process. We have not agreed. We have twice requested a full IEP meeting in writing. The district cannot unilaterally impose the amendment process over our explicit objection. That is not a gray area under IDEA".

    Additionally, the district's justification that limited instructional time, upcoming surgery, and ESY non-participation support a reduced process has no basis in IDEA. None of those circumstances constitute a legal exception to a parent-requested IEP meeting under federal law. We also wish to be clear: the IEP is developed by the team — which includes us. The district does not have the unilateral authority to determine that a "targeted review" is appropriate in place of the full meeting we have requested. That decision belongs to the team, not the district alone".

22. An email dated May 8, 2026 at 5:26 PM written by the mother to the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, and OCR stated, "We are in receipt of the Notice of Meeting dated May 8, 2026, and we must formally object to its contents. This is our fourth written request for a full IEP meeting, with our first request in writing on April 29, 2026. The district has repeatedly and deliberately denied this request, and we are making it unequivocally clear that the district does not have the legal authority to deny parents a full IEP meeting. This decision is not the district's to make. This pattern of denial is a serious and ongoing violation of IDEA and will not be tolerated.

    Violations the District Continues to Commit:

    1. Denial of a Full IEP Meeting — 34 CFR § 300.324

    The district does not have the unilateral authority to limit the scope of an IEP meeting. An IEP meeting must address all areas of a student's present levels of performance, goals, services, accommodations, and placement. Restricting the meeting to medical information only denies our daughter a comprehensive review of her IEP to which she is entitled under IDEA. The district cannot predetermine the outcome or scope of an IEP meeting. Doing so is a textbook procedural violation of IDEA . . .

    3. Failure to Convene a Full IEP Team — 34 CFR § 300.321

    The Notice of Meeting does not reflect the full IEP team we have formally requested be present for the entirety of this meeting. We are formally requiring the following individuals be present for the full duration of the meeting, without exception:

    1. Special Education Teacher, Math
    2. Special Education Teacher, History
    3. Special Education Teacher, Reading
    4. Speech Therapist
    5. Advisory Teacher
    6. Physical Therapist
    7. Adaptive PE Teacher

8. General Education Teacher, Individual/Team Sports (PE Elective)
9. Special Education Teacher and Case Manager
10. WRHS Lead Nurse
11. WRHS Special Education Department Head
12. Director of Secondary Special Services, USD 437

The attendance of each of these individuals for the full duration of the meeting is non-negotiable. No absences will be accepted. If any of these individuals are not present at the start of the meeting and for its entirety, we will not proceed, the meeting will be rescheduled, and the district's failure to produce the required team members will be immediately documented and submitted as additional evidence in our active KSDE and OCR complaints.

Our Formal Demands:

1. The district must issue a corrected Notice of Meeting that reflects a full IEP meeting — not a limited or partial meeting restricted to medical information
2. The corrected notice must include all twelve individuals listed above as required attendees for the full duration of the meeting
3. If the district refuses to issue a corrected notice, we will interpret that refusal as a continued denial of a full IEP meeting and it will be documented and submitted as additional evidence in our active KSDE and OCR complaints

We remain willing to attend this meeting on either May 15, 2026 or May 18, 2026, provided the above conditions are met. However, we will not attend a meeting that has been predetermined and limited in scope in direct violation of our daughter's rights under IDEA. The district does not have the authority to make this decision for us. We are her parents and we are exercising our rights under federal law".

23. An email dated May 10, 2026 at 11:59 AM written by the mother to the Director of Secondary Special Education Services and School Board Members stated, "Do you also refuse our Federally protected right to request a full IEP meeting for [student A]? This is now our fifth request. [The WRHS Assistant Principal] has positioned that she represents the district and has refused us on four previous occasions. She has refused to share who from the school district was in those meetings and a part of that decision, which is a continued violation of federal law. As documented, you have been copied on all of the previous requests and refusals. Again, as a public school administrator and individual board members, do all of you on copy of this email approve of [the WRHS Assistant Principal] refusing to hold a full IEP meeting for [student A] as requested by us her parents on four previous occasions?

    Just making sure I get it clearly documented, as I have clearly documented previously, and attempted to educate all of you on the federal laws you are violating, that you are personally culpable if you continue to willfully, violate the federally protected rights of a child with multiple disabilities. There is no denying that you didn't understand the law. It is very very clear. You are personally responsible for understanding the law, and IEP and IDA and FAPE laws are very, very clear. If any of you

disagree with [the WRHS Assistant Principal's] continued violation of [student A's] rights, it is time for you to get it on record, because you at this point have passed over from being protected by the school district to being personally and willfully culpable".

24. An email dated May 12, 2026 at 5:23 PM written by the WRHS Assistant Principal to the parents stated, "The district remains committed to convening the IEP team to review the updated medical information, consider parent concerns, and discuss whether revisions or additional supports within [student A's] current educational programming are appropriate at this time. The district intends to include required IEP team members, along with personnel knowledgeable regarding [student A's] educational programming, related services, health-related needs, and the areas anticipated for discussion.

    The district remains available to meet on Friday, May 15, 2026 at 8:30 a.m. or Monday, May 18, 2026 at 1:30 p.m. If neither proposed date works for the parents' schedules, please provide alternative dates and times for the district's Consideration. . . . Given the limited remaining instructional time in the current school year, along with [student A's] anticipated summer surgery and recovery period in early June, the district anticipates additional IEP team discussion at the beginning of the upcoming school year to review updated educational and medical information following [student A's] return to school.

    The district also anticipates convening the annual IEP team prior to the September 2026 annual review date to review [student A's] present levels, programming needs, related services, supports, and educational access considerations. The district is also willing to begin coordinating with the parents regarding scheduling of the annual IEP meeting prior to the September 2026 review date.

    The district remains committed to meaningful parent participation and collaborative discussion regarding [student A's] educational needs, health considerations, safety, and continued access to her educational program".

25. An email dated May 13, 2026 at 8:43 PM written by the mother to the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, OCR, OSEP, and the Kansas Attorney General stated, "This is our seventh formal written request for a full IEP team meeting for [student A]. Under the Individuals with Disabilities Education Act, 20 U.S.C. § 1414(d)(1)(B) and 34 C.F.R. § 300.321, we have the right to request and participate in a full IEP team meeting. Under 34 C.F.R. § 300.322, the district is required to ensure meaningful parent participation. A district may not refuse a parent's request for a full IEP meeting without issuing Prior Written Notice citing a specific legal basis, as required by 34 C.F.R. § 300.503. We will not agree to a partial meeting, a limited-scope meeting, or a meeting with less than the full required IEP team. We have not agreed to any amendment process in lieu of a meeting. Our position has not changed. [Student A's] surgery is scheduled for June 2, 2026. We are requesting this meeting occur before that date.

    We are writing to ensure all parties are aware that the following formal complaints and proceedings are currently active:

- A formal complaint has been filed with the Kansas State Department of Education (KSDE) documenting six prior refusals to convene a full IEP meeting, among other IDEA violations.
- A formal complaint has been filed with the U.S. Department of Education Office for Civil Rights (OCR) documenting disability discrimination and retaliation against [student A].
- We have contacted the Office of Special Education Programs (OSEP) regarding the district's continued noncompliance following a prior KSDE finding, and we have a scheduled meeting with OSEP on May 14, 2026.
- We have provided formal written notice to the Kansas Attorney General's Office of multiple Kansas Open Meetings Act violations in connection with the Board's May 4, 2026 executive session and have initiated the complaint filing process with that office.

Every response — or non-response — from this point forward is being documented and will be provided to each of these agencies".

Conclusion

In this case, the evidence demonstrates that the district, not the parents, initiated the proposal to convene an IEP Team meeting. Upon receipt of updated medical information from Children's Mercy Hospital on April 29, 2026, the LEA immediately reviewed the information, consulted with relevant staff, and determined that an IEP Team meeting was necessary to review the medical information and determine whether revisions to accommodations, supports, services, health-related planning, mobility supports, physical access supports, or other implementation adjustments were warranted.

The LEA then provided the parents with a PWN dated April 29, 2026 proposing to convene an IEP Team meeting on May 12, 2026 to consider the updated medical information, to review student A's September 25, 2025 IEP in light of the updated medical information, and to revise the IEP as deemed appropriate by the IEP Team although the LEA was not proposing or refusing any action related to the identification, evaluation, placement, or the provision of FAPE to student A at that time.

On that same date, the LEA also provided the parents with a Notice of Meeting for May 12, 2026 which invited both the required IEP Team members as defined in federal regulations at 34 C.F.R. §300.321(a) and other LEA staff who the LEA believed had special expertise directly related to the medical and educational concerns identified in the Children's Mercy documentation.

Upon receiving this Notice of Meeting, the parents requested a "full" IEP Team meeting with a "full" IEP Team. The parents believed a "full" IEP Team meeting meant what IDEA describes as the annual IEP review as described in federal regulations at 34 C.F.R. §300.324(b)(1). The parents also believed the term "full" IEP Team included IEP Team members who were not

considered as "required" as defined by federal regulations at 34 C.F.R. §300.321(a). These requests were made despite the fact that when the Physical Therapist contacted the mother on April 29, 2026 at 9:35 AM to clarify the educational implications of the medical restrictions, the mother indicated that the concerns were primarily related to arrival and dismissal procedures and stated that the student's IEP should not change.

Based on the parents' request, the LEA attempted to convene an IEP Team meeting which would include the LEA staff requested by the parents as well as allow for a more comprehensive IEP review. The LEA proposed adding more time to the scheduled meeting and arranged for the additional requested LEA staff to attend the IEP Team meeting. However, three of those additional LEA staff would need to leave the meeting approximately 15 minutes early without parent consent as allowed by KSDE guidance based on the August 2006 Federal Register.

Even though the LEA had appropriately responded to the parents' request for a "full" IEP Team meeting, the parents refused to attend the scheduled IEP Team meeting. The parents indicated that they refused to meet for an IEP Team meeting unless the "full" IEP Team working with student A were able to attend for the entire IEP Team meeting.

The LEA subsequently provided the parents with a PWN dated May 6, 2026 refusing to conduct an annual IEP Team review under the circumstances demanded by the parents and explaining the rationale for the refusal and the parents' options if they disagreed with the action, which included mediation or due process. Unlike the previous PWN provided to the parents which simply proposed an IEP Team meeting , the LEA's refusal to conduct a comprehensive IEP review under the conditions the parents demanded triggered the requirement to provide the parents with a PWN because this refusal was linked to a parent requested action which could impact the provision of FAPE to the student.

The May 6, 2026 PWN also proposed to keep the purpose of the IEP Team meeting for considering the updated medical information provided by the parents, reviewing student A's IEP in light of the updated medical information, and revising the IEP as determined appropriate by the IEP Team as required by federal regulations at 34 C.F.R. §300.324(b)(1). The LEA also provided the parents with Notices of Meeting for two additional opportunities to reconvene the IEP Team prior to the end of the 2025-26 school year but the parents continued to refuse to meet because the IEP Team meeting was not a "full" IEP Team meeting with a "full" IEP Team. Ultimately, the student's IEP was never reviewed and revised, as appropriate, based on the new information provided by the parents on April 29, 2026 because the parents were unwilling to participate in the IEP Team process.

When reviewing the documentation, it appears the disagreement between the parents and the LEA was not whether an IEP Team meeting would occur, but rather the scope, purpose, duration, and participant composition of the meeting. Documentation supports a finding that the LEA did respond appropriately to the provision of updated medical information provided by the parent by scheduling an IEP Team meeting with the appropriate IEP Team membership

to consider the updated medical guidance, review student A's IEP, and to revise the IEP as determined appropriate by the IEP Team.

The documentation also supports a finding that the LEA also responded appropriately to the parents' request on April 29, 2026 by attempting to expand the purpose of the IEP Team meeting, extend the time of the IEP Team meeting, and invite additional IEP Team members to the already scheduled May 12, 2026 IEP Team meeting in order to facilitate parent participation. However, the parents refused to meet unless a "full" IEP Team meeting occurred with the "full" IEP Team in attendance for the entire meeting.

On May 1, 2026, the parents again requested a "full" IEP Team meeting with a "full IEP Team in attendance for the entire meeting. Based on the parents' second request, the LEA responded appropriately by providing the parents a PWN refusing to conduct a comprehensive IEP Team meeting under the circumstances demanded by the parents. In addition, the LEA provided the parents with two additional opportunities to reconvene the IEP Team to review student A's IEP in light of the updated medical information provided by the parents as required by the IDEA as the annual or "full" IEP meeting was not due until September 24, 2026 and multiple factors including the complex nature of the student's needs, the impending end of the school year and the student's upcoming summer surgery would directly impact the ability of the IEP Team to be able to thoughtfully consider a complete comprehensive IEP review at this time.

It is important to note that it was not unreasonable for the parents to request to begin the process of reviewing student A's IEP because of her complex needs and because it was the end of the school year and the annual IEP is due shortly after the beginning of the next school year. It is also important to note that it was not unreasonable for the LEA to begin the IEP review process by focusing on the current updated information from Children's Mercy Hospital and then continue the IEP development process when new information was available post-surgery in August 2026, prior to the start of the 2026-27 school year as the LEA proposed to do. In addition, it is also not unreasonable for the LEA to set time limits for an IEP Team meeting and to have a focused agenda to guide the IEP team discussions so long as the LEA is also willing to reconvene the IEP Team to continue to discuss relevant issues with the IEP Team membership to include those staff with special expertise related to those relevant issues as the LEA proposed to do.

However, it is unreasonable for the parents to refuse to meet with the IEP Team unless their demand for a "full" IEP Team meeting be held for an unlimited amount of time is arranged. It is also unreasonable for the parents to threaten to end the IEP Team meeting if the "full" IEP Team was not in attendance for the entire IEP Team meeting regardless of their special expertise related to the issues being discussed as the KSDE guidance based on the Federal Register specifically allows those IEP Team members who do not fulfill a required role at the IEP Team meeting to be excused without parent consent. Ultimately, the parents' refusal to

meet with the IEP Team on any of the three dates proposed by the LEA resulted in the entire IEP process to be delayed until the beginning of the next school year.

It is important to remember that the IDEA requires the LEA to provide parents with the opportunity to participate in the IEP Team meeting for their child but, ultimately, it is the LEA's responsibility to develop and offer an IEP that is designed to provide FAPE to each student with a disability, even if the parents refuse to participate in the IEP Team process.

The IDEA anticipated situations where parents were given the opportunity to participate in the IEP Team meetings regarding their student but refused to participate. If the LEA has been unable to persuade the parents to participate in their student's IEP Team meeting, federal regulations at 34 C.F.R. §300-322(d) allow LEAs to proceed to conduct an IEP Team meeting without parent participation so long as the LEA can demonstrate efforts to try and persuade the parents to participate in the IEP Team meeting. These federal regulations ensure the parents cannot indefinitely delay or impede the IEP Team process.

As noted previously, the parents providing updated medical information on April 29, 2026 initially triggered the need to reconvene student A's IEP Team and required the LEA to send the parents notice of the proposed meeting to reconvene students A's IEP Team. The parents' subsequent request for a "full" IEP Team meeting with a "full" IEP Team on April 29, 2026 was considered and scheduled by the LEA; however, the parents refused to meet unless the LEA scheduled an IEP Team meeting per the parents' demands for the "full" IEP Team to attend the entire meeting. The LEA provided the parents with a PWN on May 6, 2026 refusing to conduct a "full" IEP Team meeting as demanded by the parents and provided an explanation of why the parents' request was being refused.

The parents responded by continuing to request the same "full" IEP Team meeting with a "full" IEP Team present for the entire IEP Team meeting on multiple dates between May 6, 2026 and the end of the school year. The parents believe the LEA was required to issue a PWN refusing to conduct the parents' demanded IEP Team meeting after each of the parents' subsequent requests for the same IEP Team meeting under the same circumstances even though the LEA had refused the exact same request on May 6, 2026.

The IDEA regulations at 34 C.F.R. §300.503(a) and (b) do require LEAs to provide parents with PWN describing the requested action refused and explaining the rationale for that action, which in this case was to conduct a "full" IEP Team meeting with a "full" IEP Team present for the entire meeting. The IDEA regulations do not require LEAs to continue to respond to subsequent parent requests for the exact same action since the rationale for the parent has already been explained and the PWN includes a description of what parents can do if they disagree with the action proposed or refused through mediation or due process.

It is noted that scheduling an IEP Team meeting is not an action that is being proposed by the LEA which would impact the identification, evaluation, placement, or the provision of FAPE to

the student at that point in time. As such, a Notice of Meeting is the appropriate document to be provided to the parents when responding to new information provided by parents.

But, because the LEA unnecessarily provided the parents with PWN on April 29 and May 6, 2026 proposing IEP Team meetings at the same time as providing them with Notices of Meeting for the May 12, May 15, and May 18, 2026 proposed IEP Team meeting dates/times, it bolstered the parents' assumption that a PWN was required every time an IEP Team meeting is scheduled or requested. When parents are issued PWN at incorrect points in the IEP process, it causes confusion and implies procedural safeguard protections that do not exist. The LEA is strongly encouraged to review its procedures and practices in regards to the use of a PWN in conjunction with a notice of an IEP Team meeting to avoid any future misunderstandings.

Based on the foregoing, the *LEA is found IN compliance* for following IDEA regulations regarding proposing to reconvene student A's IEP Team based on their multiple requests for an annual IEP team meeting and the updated medical information provided by the parents and which began on April 29, 2026.

Issue Two

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate procedures to amend student A's September 25, 2025 IEP, specifically by unilaterally making changes without mutual agreement with the parents during the 2025-26 school year.

[This issue addresses Violation 4]

Applicable Law

Federal regulations at 34 C.F.R. §300.324(b)(1) require each public agency to review each student's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and to revise the student's IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters.

In making changes to a student's IEP after the annual IEP Team meeting in a school year, federal regulations at 34 C.F.R. § 300.324(a)(4)(i) state that the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.

Federal regulations at 34 C.F.R. § 300.324(a)(6) that changes can be made to the IEP by amending the IEP rather than by redrafting the entire IEP. An amendment to the IEP can be made by either the entire IEP Team at an IEP Team meeting, or without a meeting so long as

both the parent of a child with a disability and the public agency agree to make changes to the IEP without holding an IEP Team meeting. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

If either party does not agree to amend the child's IEP without a meeting, an IEP Team meeting must be held to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters as required by federal regulations at 34 C.F.R. §300.324(b)(1)(ii).

Parent Position

The parents made the following allegation of a violation of the IDEA against the LEA:

Violation 4: Unlawful Use of Amendment Provision Over Parental Objection — 34 C.F.R. § 300.324(a)(6)

The parents stated, "The district invoked the amendment-without-meeting provision unilaterally and without parental agreement. This provision requires mutual consent. Five requests for a full meeting had been made and refused. The district's use of this provision as a unilateral tool to circumvent parent rights is a deliberate misapplication of federal law".

LEA Position

The LEA stated, "At no time during the period relevant to this complaint did USD 437 amend Student A's September 25, 2025 IEP. No amendment document was developed, no amendment agreement was presented to the parents for signature, and no amendment was implemented". The LEA reported that after the receipt of the updated medical documentation on April 29, 2026, the district determined that the information warranted review by the IEP Team and initiated the process of convening a meeting. Although the district discussed the possibility that revisions or amendments could be considered at the IEP Team meeting after the review of the medical documentation, the parents were opposed to making any changes to student A's IEP without a "full" IEP Team meeting. Despite offering three different dates and times to conduct an IEP Team meeting, no IEP Team meeting occurred because the parents did not attend any of the meeting dates proposed by the district, and no IEP revisions to the September 25, 2025 IEP through the amendment process were initiated or completed.

Analysis: Findings of Fact

The following findings of fact are based on a review of written interview questions and documentation. Note the findings and conclusion in Issue One are incorporated herein by reference regarding the repeated requests for a "full" IEP meeting with "full" IEP Team membership in attendance.

1. The WRHS Assistant Principal provided the parents with a PWN dated April 29, 2026 proposing to conduct an IEP Team meeting to review the updated medical information

and revise the IEP, as appropriate. The Other Options Considered and Why Rejected statement in the PWN stated, "The district considered continuing the current IEP programming without proposing an amendment, rejected due to conflict with updated medical restrictions and potential risk to student safety".

2. The parents responded as noted in the findings in Issue One by requesting a "full" IEP Team meeting and refused to meet unless all of the parent requested IEP Team members could attend, ensuring that each could not arrive late or leave early from the meeting. These emails between LEA staff and the parents were exchanged between April 29 through May 6, 2026.
3. The WRHS Assistant Principal provided the parents with a prior written notice dated May 6, 2026 which stated, "The district proposes to convene the IEP team to review the medical documentation and educational concerns identified by the parents and determine whether amendments such as accommodations, supports, services, health-related planning, participation considerations, mobility considerations, physical access supports, or implementation adjustments to the student's current IEP are appropriate at this time.
4. An email dated May 6, 2026 at 4:50 PM written by the WRHS Assistant Principal to the parents stated, "IDEA further provides that changes to an IEP may be made through amendment rather than redrafting the entire IEP. See 34 CFR § 300.324(a)(6). The district believes the proposed review and amendment process is appropriate under the circumstances presented, including the limited remaining instructional time in the current school year, the student's anticipated summer surgery and recovery, non-participation in ESY services, and the need for additional educational and recovery data to support comprehensive annual IEP development . . . Because the district has considered the parent request for immediate comprehensive redevelopment of the student's annual IEP and has determined that targeted review and amendment of the current IEP is the appropriate course of action at this time, the district is providing the attached Prior Written Notice (PWN) documenting the district's proposal and refusal consistent with IDEA procedural requirements.
5. The district remains willing to convene the IEP team to review the information provided, discuss parent concerns, and consider whether revisions or amendments to the current IEP are appropriate at this time. As previously proposed, the district remains available to meet on May 15, 2026 at 8:30 a.m. or May 18, 2026 at 1:00 p.m. If neither proposed date is workable, please provide additional availability and the district will continue working collaboratively to identify a mutually agreeable meeting time".
6. An email dated May 6, 2026 at 6:57 PM written by the mother the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, and OCR stated, "The district is citing 34 CFR § 300.324(a)(6) — the amendment provision — as justification for limiting this meeting to a targeted review. However, that provision only permits amendment without a full IEP meeting when BOTH parties agree in writing to that process. We have not agreed. We have twice requested a full IEP meeting in writing. The

district cannot unilaterally impose the amendment process over our explicit objection. That is not a gray area under IDEA".

7. Documentation shows that no amendment was made to student A's IEP because no IEP Team meeting was held prior to the end of the 25-26 school year and the September 25, 2025 IEP was never reviewed and revised, as appropriate, by student A's IEP Team.

Conclusion

The IDEA requires the IEP Team to reconvene in certain circumstances, one of which is to consider new information provided by parents. Based on that review, the IDEA allows revisions to an IEP following the annual review in two ways - either with a meeting or without a meeting. The IDEA allows these revision(s) to be documented in two ways - either through an amendment to the current IEP or by redrafting the entire IEP document. However, it is important to note that the only way to revise an IEP without a meeting is when both the LEA and parents are in agreement with the revision and agree that an IEP Team meeting is not necessary. Otherwise, the IEP Team is required to meet to review the new information and determine if revisions are appropriate. And if revisions are appropriate, the IEP can either be amended or redrafted to include the revisions.

In this case, the parents provided the LEA with updated medical information on April 29, 2026 which included documented medical restrictions for student A based on significant spinal conditions, including spinal implants with mechanical failure. Evidence shows the LEA responded appropriately by proposing to reconvene the IEP Team to review and consider this new medical information provided by the parents and to revise student A's IEP as appropriate.

The parent's allegation in this issue focuses on how they understood the LEA would accomplish the review and revision, as appropriate, of student A's IEP. Based on the documentation, the parents believed the LEA was proposing to amend the IEP without a meeting over the parents' objections. The mother is correct that the IDEA only allows such an amendment process so long as both the LEA and parent agree with the proposed revision and agree not to conduct an IEP Team meeting. However, the emails also show that what the LEA was actually proposing was not what the parents believed was going to happen.

The parents misinterpreted the process allowed under the IDEA to revise an IEP through an amendment as described in federal regulations at 34 C.F.R. § 300.324(a)(6). The documentation shows the LEA's intention was always to conduct an IEP Team meeting to consider the updated medical information, review student A's IEP in light of the updated medical information, and then revise the IEP, as appropriate, as allowed under 34 C.F.R. § 300.324(a)(6). Student A's IEP was never reviewed at an IEP Team meeting nor revised, as determined appropriate by the IEP Team, through either an amendment or a redrafting of the September 25, 2025 IEP during the 2025-26 school year because the parents refused to meet with the LEA for an IEP Team meeting.

Based on the foregoing, the LEA is found IN compliance with federal regulations related to the IEP amendment process.

Issue Three

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parents with appropriate prior written notice for the program changes described in the May 12, 2026 letter.

[This issue addresses Violation 5]

Note that only the restrictions included in the Children's Mercy letter dated April 29, 2026 will be included in this investigation as the medical information provided in the Heartland Community Health Center letter dated April 29, 2026 solely related to toileting recommendations and this issue was previously investigated in 26FC437-014. In addition, note that the allegation related to information the parents believed should have been included in student A's IEP dated September 25, 2025 was previously investigated in 26FC437-014 and will not be addressed in this investigation.

Applicable Law

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Federal regulations at 34 C.F.R. §300.101 require a free appropriate public education (FAPE) be made available to all eligible children with disabilities. Federal regulations at 34 C.F.R. §300.17 define FAPE as meaning special education and related services that are provided at public expense, under public supervision and direction, and without charge; and are provided in conformity with an individualized education program (IEP).

Federal regulations, at 34 C.F.R. §300.320(a)(4), require school districts to develop an IEP describing the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum; 3) participate in extracurricular and other nonacademic activities; and, 4) be educated and participate with other children with disabilities and nondisabled children.

Parent Position

The parents made the following allegation of a violation of the IDEA against USD #437:

Violation 5: Failure to Provide Prior Written Notice — 34 C.F.R. §300.503

The parents stated, "Multiple changes were made to [student A's] educational program without Prior Written Notice. The PWN the district issued on May 6 documents only its refusal to hold a comprehensive IEP review — it does not satisfy PWN requirements for the unilateral program changes acknowledged in the May 12 letter."

LEA Position

The LEA stated, "The allegation appears to arise from the district's May 12, 2026 correspondence. However, the May 12 communication did not implement a change to [student A's] IEP, educational placement, special education services, related services, goals, accommodations, transportation, or other components of her educational program. Rather, the correspondence reiterated the district's willingness to convene the IEP Team, reviewed the status of temporary operational supports being utilized in response to recently submitted medical documentation, and invited further discussion through the IEP process . . .The temporary operational supports referenced in the May 12 correspondence were implemented in response to newly submitted physician restrictions and were intended to facilitate safe access to the student's existing educational program while the district sought to convene the IEP Team. These measures did not modify the student's placement, reduce or increase special education services, alter annual goals, change related services, or otherwise amend the student's IEP. Rather, they represented short-term implementation supports designed to address newly received medical information pending formal IEP Team review and discussion. During this period:

- Student A remained in her existing educational placement;
- Student A continued receiving all special education and related services identified within her September 25, 2025 IEP;
- Student A continued participating in both of her physical education elective courses, consistent with parent preference and existing programming;
- Student A continued receiving Adaptive Physical Education services as identified within her IEP;
- Student A continued attending school and accessing her educational program;
- No annual goals were revised;
- No accommodations were added to or removed from the IEP;
- No special education services were increased, reduced, or discontinued;
- No related services were increased, reduced, or discontinued;
- No transportation changes were implemented through the IEP process;
- No amendment document was developed;
- No amendment agreement was executed; and
- No IEP revision was implemented without IEP Team consideration.

Accordingly, the district's temporary implementation supports were operational responses to newly received medical restrictions intended to maintain student safety and educational access pending IEP Team review, rather than changes to the student's special education program requiring amendment of the IEP. The district had previously provided Prior Written Notices documenting its proposals and refusals related to the newly submitted medical information and the parents' requests. Following additional parent concerns regarding implementation of temporary operational supports, the district issued a further Prior Written Notice on May 14, 2026.

The May 14 Prior Written Notice also documented the district's continued willingness to convene the IEP Team to review updated medical information, consider parent concerns and recommendations, review implementation of accommodations and related services, and collaboratively determine whether revisions or amendments to the current IEP were appropriate.

To the extent the parents sought formal documentation regarding the temporary operational supports referenced in the May 12 correspondence, the district provided that documentation through the Prior Written Notice issued on May 14, 2026 . . . The May 12 correspondence did not constitute a new proposal or refusal requiring a separate Prior Written Notice. Rather, it reflected the district's ongoing efforts to review newly submitted medical information, maintain student safety, and convene the IEP Team for collaborative discussion regarding any potential future revisions.

Analysis: Findings of Fact

The following findings of fact are based on a review of written interview questions and documentation.

1. The mother shared the medical note from Children's Mercy Hospital with multiple LEA staff in an email dated April 29, 2026 at 7:55 AM stating, "Please find attached a medical letter from children's mercy regarding [the student's] physical needs, since the district has chosen to discriminate against her physical disability, by actively ignoring her medical history, having no plan for students with disabilities in an entry change, and [the WRHS Assistant Principal's]retaliatory change of school entrance. We went ahead and again got it clearly from them . . ."
2. The Children's Mercy Hospital letter written by the Advanced Practice Registered Nurse dated April 29, 2026 referred to an appointment on April 28, 2026 and documented medical restrictions for student A based on significant spinal conditions, including spinal implants with mechanical failure. The letter stated, "She is unable to stand for prolonged periods of time and has difficulty walking long distances. For this reason, she should be permitted to enter the school through the closest available entrance to her classrooms or primary destinations within the building. She should also be allowed to rest or sit as needed throughout the school day to prevent worsening symptoms. Additionally, she must avoid extreme bending or twisting movements of the back, and

her lifting should be limited to no more than 5-10 pounds. To support these restrictions, she will require a backpack buddy to assist with carrying heavier items. If the school has an elevator available, she should be granted an elevator pass to reduce strain and ensure safe mobility between floors if this applies to her school location. These accommodations are medically necessary to support her health, safety, and ability to participate in school activities".

3. The WRHS Assistant Principal sent the Physical Therapist, Special Education Teacher and Case Manager for student A, and the APE Teacher an email on April 29, 2026 at 9:10 AM alerting them of the updated medical guidance. The email stated, "I recently received this medical guidance for [student A]. This will require an amendment to her IEP, specifically her PT goal, special transportation question about mobility, and we will need to consider additional accommodations. Please review this information. Rachael, we will need your support and guidance given this new information. If you all recall, currently her IEP has a Physical Therapy and Adaptive PE Goal that has quite the opposite intention. I have attached it as a reminder. Therefore, we need to make immediate changes to her programming for her two PE electives and any guidance and training for her paraeducators, etc."
4. In response to receiving the updated medical information, the WRHS Assistant Principal emailed the parents on April 29, 2026 at 9:35 AM stating, "Thank you for for providing the recent medical documentation from Children's Mercy. We have reviewed the information carefully and want to ensure we are responding in a way that prioritizes [student A's] safety and well-being. Based on the medical guidance provided, which indicates limitations with prolonged standing, walking long distances, and restrictions related to lifting and certain movements, we are making the following immediate adjustments effective today:
    - Pausing activities that require extended walking, endurance-based exertion, or increased physical strain
    - Allowing access to seating, rest breaks, and reduced physical demands throughout the school day as needed
    - Adjusting transitions to minimize distance and physical demand, including use of the closest available entrance and exit
    - Ensuring staff support for carrying materials as needed

    We recognize that these changes differ from the current focus of her IEP goals and services. As a result, we will be initiating an IEP team meeting to review this new medical information, consider any necessary revisions to her goals and services, and ensure her plan appropriately reflects her current needs. In the meantime, our physical therapist will be reaching out to you directly to gather additional details and clarify any specific recommendations that will help guide safe implementation at school".
5. The Physical Therapist called and spoke with the mother on April 29, 2026 at 9:35 AM after reviewing the updated medical information. The conversation was shared with the WRHS Assistant Principal in an email on that same date at 1:52 PM stating, " PT

asked to clarify orders that include [verbatim list from letter]. PT discussed above restrictions for clarification due to current PT IEP goal including long distance ambulation and endurance as well as participation in sports during two PE classes. [The mother] stated that "use common sense and that we will keep PT and APE goal the same. Continue with sport involvement and stair use and continue to encourage participation in PE classes." She did not want restrictions for PE involvement as PT educated that sports including racquet activities may involve twisting and bending. [The mother] states to continue with involvement and restrictions were provided to document need for entering and exiting the building only. PT explains and educates that student has been completing bleacher stairs and standing/walking for 30 minutes during each PE class and sport participation without c/o [complaints of] pain and has taken rest periods as needed to sit. Student typically states "I need a break" and will sit for 1-2 minutes. Mom, [the mother], reports no issue with those activities. PT also explains that we need to follow medical restrictions and mom states that she did not want any changes to PT, APE or PE at this time. PT does state that this conflicts with what medical note states, however, it may be beneficial for more specific quantification of restriction variables to carryout restrictions. (e.g. what specifically is considered prolonged standing time in minutes and maximum distance in feet allowed to walk) in order to maintain consistency with staff to follow medical restrictions. PT to follow up with team to discuss amending IEP in order to implement specific medical restrictions related to activity per recent medical documentation received 4/29/26".

6. An email dated April 29, 2026 at 9:51 AM written by the mother to the WRHS Assistant Principal stated, ". . . It has always been an expectation that someone would help [student A] carry her backpack. It has always been an expectation that [student A] would be allowed to take breaks when she needed to. This was all discussed in the IEP meeting that you were the LEA for, [the WRHS Assistant Principal] . . . Again, all of these things were discussed with you at [the student's] IEP meeting In the fall. What were you doing during that meeting as the LEA that you heard and did not ensure any of this was documented in the IEP? I HAVE NOW REPEATEDLY ASKED YOU WHY YOU AS THE LEA DID NOT ENSURE THAT THIS MEDICAL INFORMATION WAS INCLUDED IN [student A's] IEP. All of those on copy know that I have now repeatedly asked you this question, what were you doing during [student A's] IEP meeting as the LEA if you did not hear any of this information and did not ensure it was captured in her IEP? I already spoke to the physical therapist, she has common sense. We are all set".
7. The mother replied via an email dated April 29, 2026 at 10:18 AM stating, "Halt! There will be no changes made without us being consulted on every single change. I have already talked to[student A's] physical therapist. [The father] and I are a part of [student A's] IEP team, you will make no changes without us being consulted. None".
8. The WRHS Assistant Principal sent an email on April 29, 2026 at 4:55 PM to the parents stating, "I am writing to follow up on the recent medical documentation provided and our ongoing communication regarding [the student's] needs at school. Attached to this email, you will find:

- A Prior Written Notice outlining the district's proposed actions and rationale based on the newly received medical information
- A Notice of Meeting to convene the IEP team to review this information and discuss proposed revisions to [student A's] IEP

As outlined in the Prior Written Notice, the district has reviewed the medical guidance alongside [student A's] current IEP, including her goals, participation in physical education, and access to the school environment. Based on this review, we believe it is important for the IEP team to meet to ensure that all aspects of her program are aligned with her current needs and can be implemented safely".

9. The Description of the Action Proposed in PWN dated April 29, 2026 stated, "At this time, the district is not proposing a change to [student A's] placement or the amount of services provided. However, the medical guidance received on April 29, 2026 from Children's Mercy outlines physical restrictions that directly conflict with the current IEP goal and associated instructional activities. As a result, the district is proposing to convene the IEP team to review this information and determine whether revisions to the goal, services, and accommodations are necessary to ensure safe and appropriate implementation".
10. The Explanation of Why the Action is Proposed in the PWN dated April 29, 2026 stated, "The district received new medical documentation from Children's Mercy (dated April 29, 2026) indicating that [student A] has functional limitations that affect her mobility and endurance, including:
    - Inability to tolerate prolonged standing or long-distance walking
    - Need to enter the school through the closest available entrance
    - Restrictions on lifting, bending, and twisting movements of the back
    - Requirement of a backpack buddy and access to an elevator, when available

    These medically necessary restrictions are not consistent with the current IEP, which includes a gross motor goal and instructional programming designed to increase endurance, distance, and physical exertion. The district has also considered the requested arrival and drop-off location in relation to [student A's] participation in physical education and her current IEP goal. The requested access point reflects a need to minimize walking distance and physical demand. However, [student A's] current programming requires her to walk from the building to the football field, tennis courts and track area for physical education and participate in activities involving endurance and sustained physical effort. These combined expectations are not consistent with the medical guidance. As a result, the district must consider arrival, transitions, participation in physical education, and IEP goal expectations collectively to ensure consistency and safe implementation across the school day. District staff, including the physical therapist and adapted physical education teacher, have reviewed the medical documentation and determined that continuing activities requiring prolonged walking,

endurance, speed, bending, twisting, or lifting beyond medical restrictions presents a risk of increased pain, fatigue, or injury and therefore requires immediate safety-based adjustments. [Student A's] current gross motor goal includes expectations such as walking on a variety of surfaces for greater than 15 minutes without rest, transitioning 500 feet within a set time, negotiating stairs, and performing core stability tasks requiring sustained positioning. These expectations were developed to improve endurance, balance, and strength within the school environment. However, the Children's Mercy documentation indicates that [student A] is currently experiencing significant spinal conditions resulting in pain and functional limitations, including difficulty walking long distances, inability to tolerate prolonged standing, and restrictions on bending, twisting, and lifting. The documentation further indicates the need for reduced physical demand throughout the school day, including use of the closest entrance, rest as needed, and support for carrying materials . In addition, [student A's] current IEP does not include specific accommodations to address mobility or access needs within the school environment. For example, the IEP indicates that [student A] is physically able to independently access the school environment without limitation. This determination must be reconsidered in light of the updated medical information . . . Based on the above, the district is proposing to convene the IEP team to review the newly received medical information, consider revisions to [student A's] goal, services, accommodations, considerations and ensure that all aspects of her program are aligned and can be implemented safely".

11. The April 29, 2026 PWN also stated, "The district considered continuing the current IEP programming without proposing an amendment, rejected due to conflict with updated medical restrictions and potential risk to student safety".
12. The April 29, 2026 PWN also noted, "The district acknowledges parent input and the importance of supporting the student's physical development. However, the district must ensure that all programming is aligned with current medical guidance and can be implemented safely. The district also notes that while the parent indicated that the physical therapist is comfortable with the current programming, district staff, including the physical therapist, have indicated the need to follow the medical recommendations and have expressed concern regarding continuing current activities without modification".
13. The Physical Therapist sent an email on April 29, 2026 at 7:18 PM to the WRHS Assistant Principal guidance for changes needed as a result of the Children's Mercy letter stating, "I would recommend we follow spinal precautions - no bending (at the waist past 90 degrees), no twisting (this would be monitoring or adapting PE so [student A] wouldn't be twisting (as in swinging a bat), Lifting no more than 5-10lbs (for now I would stick to the 5lbs until we meet just to be safe). For the no prolonged standing I would recommend after 15- 20 minutes offer a seated break and ensure we have places (benches, chairs to sit). With walking I think making sure that we take a path that

has chairs/benches available. Offering use of the adapted trike as an option during PE would be acceptable if needed and would be available for long distances such as the track/football field Allowing rest breaks when [student A] asks and encourage sitting in a chair vs. on the floor to avoid bending and deep hip flexion. Have a wheelchair available for use as needed (We have this in the Sped suite storage that could be accessed). I'm not sure about the elevator vs. use of the stairs and will think on this".

14. An email dated May 12, 2026 at 5:23 PM written by the WRHS Assistant Principal to the parents stated, "In consideration of the medical documentation provided, the district has begun utilizing and reviewing operational supports intended to assist with [student A's] continued educational access and physical needs during the school day without changing her overall educational placement or current IEP services. These efforts have included providing a cart with wheels for her bookbag, prompting more frequent breaks, planning routes with more frequent placement of benches, and adapting physical education participation through her existing APE supports to align with the medical guidance regarding bending, twisting, lifting, and endurance-based activities".
15. The parents sent an email on May 14, 2026 at 11:45 AM to the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, OCR, and OSEP stating, "The district's communication references the use of a wheeled cart for [student A's] bookbag, increased break frequency, modified route planning, and adapted physical education participation. We were not informed of when any of these changes were initiated, who directed them, or what documentation exists authorizing them. We are formally requesting the exact dates of implementation and the name(s) of the staff or administrators who authorized each modification".
16. The parents then note in the May 14, 2026 email that these changes were made without an IEP Team meeting, without parent participation, and without appropriate prior written notice of the changes. The parents state, "The district has indicated that providing a wheeled cart for [student A's] bookbag constitutes a support for her physical needs. We must be direct: pulling a wheeled cart is not a medically appropriate accommodation for a child with [student A's] documented condition. Given [student A's] gait and the nature of her back condition — which specifically restricts bending, twisting, and physical strain — pulling or maneuvering a cart requires precisely the movements and physical exertion she has been medically directed to avoid. This proposed solution does not eliminate the physical burden; it redistributes it in a way that remains contraindicated by her treating physician's guidance".
17. The May 14, 2026 email ends with the parents stating, "We are formally notifying the district that:
    - We do not consent to the use of a wheeled cart as an accommodation for [student A] under any circumstances until her treating physician has reviewed and explicitly approved it in writing
    - Any continued use of the wheeled cart following receipt of this letter will be considered willful disregard of a parent's clearly stated objection and will be included in any complaints filed with KSDE and the Office for Civil Rights

- We are requesting written confirmation by the end of the school day today, May 14, 2026,the end of the school day today, May 14, 2026, that the wheeled cart has been discontinued and that all staff have been notified accordingly".

18. The LEA provided the parents with a PWN dated May 14, 2026. The Description of the Action Proposed states, "This Prior Written Notice is being provided in response to parent email communication received on May 14, 2026 regarding concerns and objections related to implementation of medically necessary assistance for educational materials, specifically the wheeled backpack trolley/cart, and the parents' request for a formal written district response regarding implementation of medical recommendations, educational access supports, and proposed IEP team review.

    Following receipt of updated Children's Mercy medical documentation on April 29, 2026 from parents, the district reviewed the medical restrictions and recommendations provided and implemented temporary operational supports that aligned with the Children's Mercy medical documentation intended to maintain [student A's] safe educational access during the school day pending additional IEP team review and discussion. These temporary supports included:

    - implementation of a wheeled backpack trolley/cart intended to assist with transportation of educational materials;
    - opportunities for breaks during longer walking distances;
    - access to seating/rest opportunities during transitions as needed;
    - continued monitoring of physical education participation and physical tolerance;
    - and staff review of implementation considerations related to the updated medical restrictions.

    The district additionally proposed full IEP team meetings on May 12, 2026, May 15, 2026 and May 18, 2026 to review updated medical documentation, discuss parent concerns, review current accommodations and implementation needs, and consider whether revisions, accommodations, supports, services, or implementation adjustments were necessary to support [student A's] educational access and physical needs within the educational environment. The district acknowledges the parents' objection communicated on May 14, 2026 regarding continued use of the wheeled backpack trolley/cart and is willing to discontinue its use and request that support staff carry her backpack or any other educational items".

19. The Explanation of Why the Action is Proposed in the May 14, 2026 PWN states, "The district received updated Children's Mercy medical documentation identifying restrictions related to lifting, carrying, prolonged standing/walking, bending, twisting, endurance-based activities, and transportation of heavier educational materials provided by the parents. The medical documentation specifically identified the need for assistance with carrying [student A's] backpack and heavier items due to the identified physical restrictions. Based upon the medical information provided and staff review of

[student A's] school-day mobility and transportation of materials needs, the district determined that transportation assistance for educational materials was necessary in order to support safe educational access during the school day pending additional IEP team review and discussion. The district selected implementation of a wheeled backpack trolley/cart as a temporary implementation support intended to reduce lifting and carrying strain associated with transportation of educational materials throughout the school day while maintaining access to needed educational items, in compliance with the specificity of the Children's Mercy documentation provided by parents which stated, "Additionally, she must avoid extreme bending or twisting movements of the back, and her lifting should be limited to no more than 5-10 pounds. To support these restrictions, she will require a backpack buddy to assist with carrying heavier items…These accommodations are medically necessary to support her health, safety, and ability to participate in school activities."

The district additionally notes that [student A] routinely arrived at school with her backpack on during parent drop-off, and staff continued attempting to identify and implement supports intended to reduce lifting/carrying strain during the instructional day continued attempting to identify and implement supports intended to reduce lifting/carrying strain during the instructional day consistent with the medical guidance provided. The district further notes that the requisition for the wheeled backpack trolley/cart was approved through the district purchasing process by [the father] in his administrative role as the assistant principal overseeing the special education department at Washburn Rural High School and as the student's parent. While the district would have preferred that the requisition be reviewed and approved by [student A's] assigned supervising assistant principal in order to avoid any potential conflict concerns, the district understood the approval provided by [the father] in his administrative capacity to reflect authorization for the purchase and implementation of the backpack assistance support at the time it was obtained. The district considered the parents' concerns communicated on May 14, 2026 regarding the possibility that pulling or maneuvering the trolley could involve twisting motions or otherwise create additional physical strain. The district acknowledges the parents' objection to continued use of the trolley support while also recognizing that the Children's Mercy medical guidance and related staff review supported the need for transportation assistance for educational materials due to the identified physical restrictions and limitations".

20. The Options Considered and Why Rejected section of the May 14, 2026 PWN stated, "The district considered multiple methods for implementation of the Children's Mercy medical restrictions and assistance recommendations, including:
    - implementation of a wheeled backpack buddy/trolley based upon the district's understanding that pulling the trolley did not constitute extreme bending and would reduce lifting/carrying strain associated with transportation of educational materials;

- continuation of student transportation of her backpack, as staff observations indicated the backpack itself appeared to remain below the identified 5–10 pound lifting restriction; and
- staff assistance with transportation of educational materials throughout the school day, as [student A] has support personnel available during the instructional day.

The district also considered the parents' concerns communicated on May 14, 2026 regarding whether pulling or maneuvering the wheeled trolley could involve twisting movements inconsistent with the medical guidance provided. Following parent objection to continued use of the wheeled backpack trolley/cart, the district will discontinue its use and rely on support personnel to carry the student's items".

21. The Other Factors Relevant to the Proposed Action section of the May 14, 2026 PWN noted that "The district remains willing to convene the IEP team to:
    - review updated medical documentation and any additional clarification provided by the treating physician;
    - consider parent concerns and recommendations;
    - discuss transportation of educational materials during the school day;
    - review implementation of accommodations and related services;
    - discuss physical education participation and related supports; and
    - collaboratively determine whether revisions or amendments to the current IEP are appropriate.

    The district has provided Prior Written Notices throughout this process and proposed full IEP team meetings previously on May 12, 2026 and upcoming for May 15, 2026 and May 18, 2026 in order to review updated medical documentation, discuss parent concerns, review implementation considerations, and collaboratively determine whether any additional accommodations, supports, services, or revisions to the current IEP may be appropriate. The district remains committed to meaningful parent participation and collaborative discussion regarding [student A's] educational access, safety, physical needs, accommodations, and continued provision of services within the educational environment".

Conclusion

In this case, changes described in the May 12, 2026 email did not relate to the identification, evaluation, or educational placement of student A. The parents believe the changes instituted by the LEA were a change in the provision of FAPE to student A and, as such, required prior written notice being provided to the parents before any implementation of the proposed changes.

IDEA defines FAPE as the IEP being implemented as written. In this case, the Physical Therapist reviewed the updated medical information dated April 29, 2026 from Children's Mercy Hospital

and found that a current goal in the September 25, 2026 IEP was contraindicated as well as several other school activities that would need to be adjusted in order to follow the new restrictions. The Physical Therapist discussed these contraindications with the mother on April 29, 2026; however, the mother did not want any changes made to student A's current IEP except for school drop-off to be at the closest door to the student's classroom. However, documentation shows the LEA staff believed the updated medical information needed to be reviewed and considered by the IEP Team in case revisions to the student's IEP were necessary prior to the end of the 2025-26.

The WRHS Assistant Principal sent an email to the parent on April 29, 2026 at 9:35 AM stating that "Based on the medical guidance provided, which indicates limitations with prolonged standing, walking long distances, and restrictions related to lifting and certain movements, we are making the following immediate adjustments effective today" and described these adjustments in daily school activities / interim safety measures and indicated the LEA planned to convene the IEP Team to further review student A's IEP in light of the updated medical information and propose revisions, as appropriate.

While not required, the LEA provided the parents with a PWN dated April 29, 2026 that specifically stated no changes were being made to the students special education services or the educational placement of the student. In addition, the PWN documented the physical restrictions, described how these do not align with student A's IEP and daily school activities and indicated that the LEA was bound by the medical restrictions in the letter which were deemed be "medically necessary to support her health, safety, and ability to participate in school activities" even though the mother did not want any changes made to the student's IEP and indicated LEA staff needed to "use common sense" and continue the IEP goals and services as currently written. Finally, the PWN proposed an IEP Team meeting to review the current IEP, consider the updated medical information, and revise the IEP, as appropriate.

Issue One for student A describes the multiple attempts between April 29 and May 6, 2026 that the LEA made to schedule an IEP Team meeting prior to the end of the school year. In an email on May 12, 2026, the WRHS Assistant Principal sent the parents an email which reiterated the need to reconvene the IEP Team to review the updated medical information and revise student A's IEP, as appropriate. The email noted that two possible IEP Team meeting dates were already scheduled for May 15 and May 18, 2026. That email included more specific descriptions and details of the adjustments in daily school activities / interim safety measures first described in the April 29, 2026 email from the WRHS Assistant Principal which were put into place in order to implement the restrictions which were medically necessary for the student to be healthy, safe, and able to participate in school activities.

The parents were not in agreement with the adjustments in daily school activities / interim safety measures described and being implemented by the school and specifically wanted the use of a cart/trolley stopped immediately. The parent sent an email on May 14, 2026

demanding that the LEA stop the use of the cart/trolley, provide additional information about the changes and adjustments, and again requested to convene all IEP Team members for a "full" IEP Team meeting.

The LEA responded on May 14, 2026 with a PWN describing the adjustments in daily school activities / interim safety measures in greater detail, agreeing to stop the use of the cart/trolley, and again inviting the parents to the proposed IEP Team meetings on May 15 and May 18, 2026 to discuss the safety measures.

Based on the foregoing, the ***LEA is found IN compliance*** for providing the parents with appropriate PWN regarding the interim safety measures and actions taken as a result of the updated medical information provided by the parents because the April 29, 2026 PWN clearly indicated that the updated medical information included restrictions that were medically necessary but not consistent with the current IEP even though the mother had indicated no IEP changes were needed so long as LEA staff used "common sense".

The PWN also stated that an IEP Team meeting was necessary to review the updated medical information and made it clear that student A's special education services and placement would not change but that the LEA was bound to follow the medically necessary restrictions described in the Children's Mercy Hospital letter to keep the student safe during her daily school activities. The LEA subsequently kept the parents informed via email regarding the adjustments to student A's daily school activities based on the restrictions while negotiating with the parent to arrange an IEP Team meeting to review the updated medical information and responded immediately when the parents shared disagreement with one of the adjustments.

Issue Four

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to invite the necessary IEP Team members to develop an IEP to provide FAPE to student A following the parents' provision of written medical information regarding student A on April 29, 2026.

[This issue addresses Violation 6]

Note that the parents' allegations related to their request to include all LEA staff persons working with the student in a "full" or annual IEP Team meeting was investigated in 26FC437-014. As such, this investigation will focus solely on the question of who were the required IEP Team members who needed to be invited to the three proposed IEP Team meetings on May 12, May 15, and May 18, 2026 in order to review student A's IEP in light of the updated medical information provided by the parents on April 29, 2026.

Applicable Law

Federal regulations at 34 C.F.R. §300.101 require a free appropriate public education (FAPE) be made available to all eligible children with disabilities. Federal regulations at 34 C.F.R. §300.17 define FAPE as meaning special education and related services that are provided at public expense, under public supervision and direction, and without charge; and are provided in conformity with an individualized education program (IEP).

Federal regulations, at 34 C.F.R. §300.320(a)(4), require school districts to develop an IEP describing the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum; 3) participate in extracurricular and other nonacademic activities; and, 4) be educated and participate with other children with disabilities and nondisabled children.

Federal regulations, at 34 C.F.R. §300.321(a) require school districts to ensure that the IEP Team for each child with a disability includes the parents of the child, not less than one regular education teacher of the child, not less than one special education teacher of the child, a representative of the school district, an individual who can interpret the instructional implications of evaluation results, other individuals who have knowledge of special expertise regarding the child at the discretion of the parent or the school district, and the child with a disability whenever appropriate.

Parent Position

The parents made the following allegation of violations of the IDEA against USD #437:

Violation 6: Failure to Include Required IEP Team Members — 34 C.F.R. § 300.321

The parents stated, “The district's proposed meeting structures have not confirmed all required team members. A meeting missing required members is not a lawful IEP team meeting regardless of what it is called.

The parents believe that the LEA should be required to invite all of the LEA staff working with student A including the SLP, the Physical Therapist, the School Nurse, all three special education teachers of the student, the administrative team, as well as all of the general education teachers of the student to all of the scheduled IEP Team meetings.

LEA Position

The LEA stated, “Upon receipt of updated Children's Mercy medical documentation on April 29, 2026, the district determined that an IEP Team meeting should be convened to review the newly submitted medical information and determine whether revisions, accommodations, supports, services, health-related planning, participation considerations, mobility supports,

physical access supports, or implementation adjustments were warranted. Consistent with the purpose of the proposed meeting, the district invited individuals whose responsibilities were directly related to the concerns raised in the medical documentation, including administration, special education personnel, general education representation, physical therapy, and staff responsible for implementation of the student's educational program.

The district's proposed team included all members required under IDEA and Kansas regulations. In addition, because the concerns raised by the parents related primarily to mobility, physical access, physical education participation, adaptive physical education services, transportation of educational materials, and implementation of physician restrictions, the district included staff members directly responsible for those areas. After the district proposed the meeting, the parents requested participation by additional individuals, including multiple special education teachers, a speech-language pathologist, and additional general education personnel who were not required IEP Team members under IDEA or Kansas regulations.

Although the district was not legally required to include all requested individuals, it nevertheless explored the request, contacted the requested staff members, and adjusted scheduling in an effort to facilitate broader participation . . . the parties' disagreement concerned the scope of participation and the parents' preference for additional attendees rather than any failure by the district to invite required IEP Team members. At no point did the district refuse to invite a required IEP Team member, nor have the parents identified any IDEA-required participant who was omitted from the proposed meetings. Ultimately, no IEP Team meeting occurred because the parents did not attend the meeting dates proposed by the district".

Analysis: Findings of Fact

The following findings of fact are based on a review of written interview questions and documentation.

1. The parents provided the LEA with updated medical information from Children's Mercy Hospital and Heartland Community Health Center on April 29, 2026.
2. The LEA provided the parents with a PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated April 29, 2026 proposing an IEP Team meeting "to review the newly received medical information, consider revisions to [student A's] goal, services, accommodations, considerations and ensure that all aspects of her program are aligned and can be implemented safely".
3. Documentation shows the LEA provided the parents with a Notice of Meeting proposing an IEP Team meeting on May 12, 2026 via email on April 29, 2026 at 4:56 PM and indicated the positions of the persons who were also invited to attend the IEP Team meeting. The accompanying email written by the WRHS Assistant Principal noted

the names of the LEA staff who were invited to the meeting: 1) the WRHS Assistant Principal [for the LEA Representative role]; 2) the Special Education Teacher / Case Manager for student A [for the Special Education Teacher role]; 3) the General Education PE Teacher for Individual/Team Sports [for the General Education Teacher of the Student role]; 5) the Special Education Department Chair, and the Director of Secondary Special Education [for the individuals who can interpret the instructional implications of evaluation results], and 6) the Physical Therapist, the Lead WRHS Nurse, and the Adaptive PE Teacher [as Other Persons with Special Expertise role as determined by the LEA].

4. The mother responded via email to the WRHS Assistant Principal on dated April 29, 2026 at 8:08 PM stating "Since [student A's] normal IEP date is September 25, 2026, we would want to convene the full team and complete a full IEP, not just an update, and we want her full team, this would include those listed with the addition of: Special Education Teacher 1, Special Education 2, Special Education Teacher 3, SLP, General Education Advisory Teacher".
5. An email dated May 1, 2026 written by the WRHS Assistant Principal stated, "I have reached out to the team members, and they believe it will be possible to draft an annual IEP in time for the May 12 meeting. During that communication, a few staff members noted prior commitments at 3:45 and 4:00 p.m. To maximize their participation, would it be possible to adjust the meeting time to 3:00 p.m.?"
6. An email dated May 1, 2026 written by the mother stated, "This one is going to be a long one, so I think you need to inform the whole team to buckle up. If they need to leave by 3:45 or four, we are not going to be done, even if we start at 3. We have lots and lots and lots of input and things that will be added to the IEP going forward. We may get you a draft of those ahead of time, but otherwise we will get them to you at the meeting. So, I wouldn't spend a whole lot of time creating a draft from your perspective, as we have lots of things that the KSDE has given us feedback on how to more appropriately write it into the IEP after what has occurred at your school this year, that we will be including in the IEP to make sure going forward, you will be held accountable".
7. The findings of 26FC437-014 showed the LEA attempted to modify the scheduled May 12, 2026 IEP Team meeting by adding an additional 30 minutes to the meeting and noting that three of the parent requested IEP Team members including the General Education Advisory Teacher, Special Education Teacher 3, and the SLP would need to leave the IEP Team meeting approximately 15 minutes prior to the scheduled end of the IEP . However, the parents refused to meet unless all of the IEP Team members were able to attend for the entire IEP Team meeting.
8. On May 6, 2026, the LEA subsequently provided the parents with two additional Notice of Meetings for May 15 and May 18, 2026 with the same list of LEA staff who were invited to the originally scheduled May 12, 2026 IEP Team meeting.

Conclusion

The IDEA defines the required members of the IEP as the parents of the child, not less than one regular education teacher of the child, not less than one special education teacher of the child, a representative of the school district, an individual who can interpret the instructional implications of evaluation results, other individuals who have knowledge of special expertise regarding the child at the discretion of the parent or the school district, and the child with a disability whenever appropriate.

It is important to note the IDEA also requires the IEP Team to be able to develop an IEP that meets each individual student's needs and provides FAPE to the student. As such, additional IEP Team members with special expertise or knowledge of the student may be required to attend the IEP Team meeting. It is equally important to remember that KSDE guidance based on comments in the Federal Register do not require persons attending the IEP Team meeting in the role of staff with special expertise to be excused from the meeting in whole or part with parent consent.

In this case, the LEA received updated medical information provided by the parents and provided the parents with a Notice of Meeting to review the September 25, 2025 IEP to determine if any revisions were necessary in light of this updated medical information. The LEA invited all of the required IEP Team members including the parents of the child, at least one regular education teacher of the child, at least one special education teacher of the child, a representative of the school district, individuals who can interpret the instructional implications of evaluation results, and other individuals the LEA determined had special expertise in regards to interpreting the updated medical information and the impact on the IEP goals, services, and accommodations/modifications in the September 25, 2025 IEP.

Based on the foregoing, the *LEA is found IN compliance* with federal regulations at 34 34 C.F.R. §300.321(a) for inviting all required IEP Team members including those with special expertise to the May 12, May 15 and May 18, 2026 IEP Team meetings to appropriately consider the updated medical information provided by the parents in order to review and revise, as necessary, the goals, services, and accommodations/modification in student A's September 25, 2025 IEP.

Issue Five

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to develop an IEP that provides FAPE for student A, specifically by deferring the IEP team meeting to the beginning of the 2026-27 school year.

[This issue addresses Violation 7 and 8]

Note that the parents' allegation related to the LEA responding to IEP Team meeting requests was addressed in Issue One of this investigation. The parents' allegations related to unilateral program changes was addressed in Issue Two of this investigation. The parents' allegations related to IEP Team meeting participants is addressed in Issue Four of this investigation. The parents' allegations related to the IEP not including current / historical disability related needs and unanswered written questions were addressed in 26FC437-014. As such, this issue will solely focus on the parent's allegation related to whether the LEA deferring the annual IEP review until the 2026-27 school year denied FAPE to student A.

Applicable Law

Federal regulations at 34 C.F.R. §300.101 require a free appropriate public education (FAPE) be made available to all eligible children with disabilities. Federal regulations at 34 C.F.R. §300.17 define FAPE as meaning special education and related services that are provided at public expense, under public supervision and direction, and without charge; and are provided in conformity with an individualized education program (IEP).

Federal regulations, at 34 C.F.R. §300.320(a)(4), require school districts to develop an IEP describing the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum; 3) participate in extracurricular and other nonacademic activities; and, 4) be educated and participate with other children with disabilities and nondisabled children.

Federal regulations at 34 C.F.R. §300.324(b)(1) require each public agency to review each student's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and to revise the student's IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters.

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Parent Position

The parents made the following two allegations of violations of the IDEA against the LEA:

Violation 7: Denial of Meaningful Parent Participation — 34 C.F.R. § 300.322

Five refused meeting requests, unanswered written questions, unilateral program changes without consent, concealment of meeting participants, and explicit deferral to next school year collectively constitute a systematic denial of meaningful parent participation.

Violation 8: Denial of Free Appropriate Public Education — 34 C.F.R. § 300.101

The parent stated, "Student A's IEP does not reflect her current or historical disability-related needs. The district's explicit intention to defer substantive IEP action to next school year compounds this denial. FAPE obligations are not suspended by the school calendar or a student's scheduled surgery."

LEA Position

The LEA stated, ". . .throughout the period from April 29, 2026 through the conclusion of the school year, the district actively sought parent participation regarding the newly submitted medical information and its potential educational implications. The district reviewed parent-provided medical documentation, consulted with relevant staff, communicated directly with the parents regarding implementation concerns, issued Prior Written Notices, issued Notices of Meeting, proposed multiple IEP Team meetings, offered mediation through a neutral third party, accepted additional parent documentation, and repeatedly invited parent concerns, recommendations, proposed accommodations, and proposed revisions for consideration through the IEP process.

The district worked collaboratively with the parents regarding the scope, structure, duration, and purpose of the proposed meeting and made ongoing efforts to accommodate parent requests and concerns. Although the parties disagreed regarding the timing of comprehensive annual IEP redevelopment, the district continued to seek an IEP Team meeting to review the medical information provided by the parents and consider whether revisions to the current IEP were warranted based on that information. The district proposed conducting the annual review prior to the start of the 2026–2027 school year after additional medical information related to the student's anticipated surgery became available, while still remaining willing to meet and discuss potential revisions to the existing IEP during the spring of 2026. This disagreement regarding the timing of the annual review does not constitute a denial of parent participation".

Analysis: Findings of Fact

The following findings of fact are based on a review of written interview questions and documentation.

1. Student A's most recent IEP was developed on September 25, 2025 with the parents in attendance. This IEP states the annual IEP review must occur no later than September 24, 2026.

2. An email dated September 28, 2025 at 9:20 PM written by the father to Special Education Teacher 3 stated, "[The mother and I had some time over the weekend to review the two samples that [Special Education Teacher 3] sent home. I think we are going to go with 3rd grade reading comprehension for the goal. Obviously, we want her to be pushed as far as she can but we also want her to feel success. Also, can we make sure there is language in the IEP acknowledging that because of [student A's] autism diagnosis, she can struggle with inconsistent sleeping patterns?".
3. The WRHS Assistant Principal sent an email to the parents on October 2, 2025 stating, "I have attached an updated draft IEP that reflects the changes in the reading goal in addition to adding language about her inconsistent sleeping patterns and hearing loss. The information about inconsistent sleep patterns and hearing loss were added to the impact of Exceptionality section connected to each goal".
4. The LEA issued a PWN proposing to update IEP goals and increase special education services in order to provide FAPE to student A based on the IEP Team meeting held on September 25, 2025 and subsequent parent input and clarifications on September 28, 2025. The mother provided written consent on October 6, 2025.
5. The parents provided the LEA with updated medical information from Children's Mercy Hospital and Heartland Community Health Center on April 29, 2026. The parents also informed the LEA that student A was scheduled for back surgery in June 2026.
6. The LEA provided the parents with a PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated April 29, 2026 proposing an IEP Team meeting "to review the newly received medical information, consider revisions to [student A's] goal, services, accommodations, considerations and ensure that all aspects of her program are aligned and can be implemented safely".
7. Documentation shows the LEA provided the parents with a Notice of Meeting proposing an IEP Team meeting on May 12, 2026 via email on April 29, 2026.
8. The mother responded via email to the WRHS Assistant Principal on dated April 29, 2026 at 8:08 PM stating "Since [student A's] normal IEP date is September 25, 2026, we would want to convene the full team and complete a full IEP, not just an update, and we want her full team, this would include those listed with the addition of: Special Education Teacher 1, Special Education 2, Special Education Teacher 3, SLP, General Education Advisory Teacher".
9. Documentation shows the LEA provided the parents with two additional Notice of Meetings proposing IEP Team meeting dates on May 15 and May 18, 2026 via email on May 6, 2026.
10. The WRHS Assistant Principal provided the parents with a prior written notice dated May 6, 2026 which stated, "The district proposes to convene the IEP team to review the medical documentation and educational concerns identified by the parents and determine whether amendments such as accommodations, supports, services, health-related planning, participation considerations, mobility considerations, physical access supports, or implementation adjustments to the student's current IEP are appropriate

at this time. The district further proposes that participation in the meeting include parent(s), general education representation, special education representation, related service providers relevant to the concerns being reviewed, administrative representation, and personnel knowledgeable regarding the student's current programming, accommodations, implementation, and medical-related educational needs". The May 6, 2026 prior written notice also stated, "The district declines at this time to immediately conduct a complete redevelopment or replacement of the student's current annual IEP prior to the upcoming annual review cycle".

11. The parent sent an email on May 6, 2026 at 6:57 PM stating, "We remain willing to meet, but it must be a full IEP meeting consistent with our rights under federal law".
12. An email dated May 12, 2026 at 5:23 PM by the WRHS Assistant Principal to the parents stated, "The district remains committed to convening the IEP team to review the updated medical information, consider paren concerns, and discuss whether revisions or additional supports within [student A's] current educational programming are appropriate at this time. The district intends to include required IEP team members, along with personnel knowledgeable regarding [student A's] educational programming, related services, health-related needs, and the areas anticipated for discussion. The district remains available to meet on Friday, May 15, 2026 at 8:30 a.m. or Monday, May 18, 2026 at 1:30 p.m. If neither proposed date works for the parents' schedules, please provide alternative dates and times for the district's consideration.

    Given the limited remaining instructional time in the current school year, along with [student A's] anticipated summer surgery and recovery period in early June, the district anticipates additional IEP team discussion at the beginning of the upcoming school year to review updated educational and medical information following [student A's] return to school. The district also anticipates convening the annual IEP team prior to the September 2026 annual review date to review [student A's] present levels, programming needs, related services, supports, and educational access considerations. The district is also willing to begin coordinating with the parents regarding scheduling of the annual IEP meeting prior to the September 2026 review date".
13. The parents sent an email to the WRHS Assistant Principal ET AL on May 14, 2026 at 11:45 AM stating, "During the September 2025 IEP meeting, the following supports were specifically identified and agreed upon as part of [student A's]'s educational program: • She was not to carry her backpack. The agreement was simply that [student A] would not be responsible for carrying her backpack during the school day. No cart was ever discussed. • Adaptive Physical Education (APE) was to be integrated into her school day and present during her PE classes from that point forward. • Physical Therapy was identified as a related service to be provided as part of her ongoing program. • Frequent breaks while walking were identified as a necessary physical accommodation specifically because of [student A's]'s back condition. The agreement was that [student A] would be permitted to stop and rest during transitions between classes and while moving through the building — because sustained movement without rest periods directly aggravates her condition. This was not a general

behavioral or academic accommodation. It was a medically necessary physical support tied directly to her documented back issues.

We left the September 2025 IEP meeting believing these supports were in place or would be immediately implemented. We had no reason to believe otherwise. We were not contacted at any point to indicate that any of these services had been delayed, modified, or withheld".

14. In the mother's response to interview questions on May 25, 2026, she indicated that unless the LEA was willing to meet for a "full" IEP Team meeting and not just a "medical only" IEP Team meeting, the parents were unwilling to meet.
15. The LEA stated, "The district determined that review of the newly submitted medical information was the most pressing educational issue because [student A's] annual IEP was not due until September 2026, the school year was ending, and spinal surgery was scheduled for June 2026. The district anticipated that surgery and recovery would provide additional information relevant to future educational planning and communicated this rationale to the parents. The district also expressed its willingness to schedule the annual IEP meeting in early August 2026 so the team could consider updated post-surgical information before the start of the new school year".

Conclusion

The parents argue that the IDEA required the LEA to conduct a "full" or annual IEP as requested by the parents on multiple occasions instead of an IEP Team meeting to review the updated medical information from Children's Mercy Hospital and Heartland Community Health Center. However, the IDEA requires an IEP be reviewed at least annually but also whenever certain situations occur that may impact the provision of FAPE as described in the IEP.

Documentation shows the annual review date for the September 25, 2026 IEP is September 24, 2026. This date falls at the beginning of the 2026-27 school year and therefore, at a minimum, student A's IEP was required to be reviewed and revised, as appropriate, no later than that date.

However, the parents providing updated medical information triggered the IDEA requirements for the IEP to be reviewed and revised, as appropriate, because of situations that may impact the provision of FAPE as described in each individual student's IEP. Because the updated medical information provided by the parents on April 29, 2026 could impact the IEP goals, services, and accommodations/modifications, the LEA is required to reconvene the IEP Team to review this updated information and revise the IEP, as appropriate. That is exactly what the LEA attempted to do when scheduling three IEP Team meetings on May 12, May 15, and May 18, 2026, all within 13 school days of receiving the updated medical information.

Another situation triggering the IDEA requirement for the IEP to be reviewed and revised, as appropriate, is to address the anticipated needs of a student, such as the anticipated needs of student A resulting from her back surgery in June, 2026. In this situation, the LEA is again required to reconvene the IEP Team to consider those anticipated medical needs post-surgery.

And again, that is what the LEA is proposing to do by planning to reconvene the IEP Team in August prior to the start of the 2026-27 school year when updated medical information and recommendations will be available after student A's surgery and recovery during the summer of 2026.

The parents also argue that student A's September 25, 2025 IEP should have already included the accommodations and modifications described in the medical information provided to the LEA on April 29, 2025. The parents reported all of the medical information included in the letters from Children's Mercy Hospital and Heartland Community Health Center had been shared at the September 25, 2025 IEP Team meeting and was purposely not included in the student A's IEP. The parents indicated in the May 14, 2026 email that they had no idea that the September 25, 2025 IEP did not include the medical recommendations and, because of these deliberate omissions, student A's IEP did not provide her with FAPE which required a "full" IEP Team meeting prior to the start of the 2026-27 school year.

However, documentation shows that student A's IEP Team, including the parents, met on September 25, 2025 and developed an IEP designed to provide FAPE to the student. The parents were provided opportunities to participate in the development of the IEP both during the IEP Team meeting as well as through a review of the draft version of the IEP developed at that IEP Team meeting. There is documentation to show that the parents provided written feedback based on the IEP draft and that the feedback was subsequently included in the final version of the September 25, 2025 IEP. Further, the LEA obtained written parent consent for the proposed IEP on October 6, 2025 after the parents' feedback had been incorporated into student A's IEP.

Based on the foregoing, the *LEA is found IN compliance* with federal regulations at with 34 C.F.R. §300.324(b)(1) which requires the IEP Team to reconvene to consider information about the student provided by the parents because the LEA offered three different IEP Team meeting dates within 13 school days of receiving the updated medical information, all of which the parents chose not to attend.

In addition, the *LEA is in compliance* with the requirement to reconvene the IEP Team based on the anticipated needs of the student because the LEA is planning to reconvene student A's IEP Team prior to the beginning of the 2026-27 school year to consider the student's anticipated needs when updated medical information will be available following her surgery on June 3, 2026 as well as IN compliance with federal regulations at 34 C.F.R. §300.301 and 34 C.F.R. §300.320(a)(4) for developing an IEP reasonably calculated to provide FAPE to the student at the September 25, 2025 IEP Team meeting.

It is noted that, should the parents continue to refuse to meet with the IEP Team when school resumes in August 2026, the LEA may have to proceed to conduct an IEP Team meeting without parent participation so long as the LEA can demonstrate efforts to try and persuade the parents to participate in the IEP Team meeting as required by federal regulations at 34

C.F.R. §300-322(d). As noted in Issue One for student A, these particular federal regulations ensure the parents cannot indefinitely delay or impede the IEP Team process for the LEA to develop and offer an IEP reasonably calculated to offer FAPE to student A.

Student B

Issue One

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to maintain documentation to support IEP goal progress reporting and student B's grades during the 2025-26 school year.

[This Issue addresses Violations 1, 2, and 4]

Applicable Law

Federal regulations at 34 C.F.R. §300.320(a)(3) require the LEA to include a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided in each student's IEP.

Federal regulations at 34 C.F.R. §300.320(a)(4) require the LEA to include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and 3) be educated and participate with other children with disabilities and nondisabled children.

Federal regulations at 34 C.F.R. §300.323(c)(2) require each public agency to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The parents made the following three allegations of violations of the IDEA against USD #437:

Violation 1: Failure to maintain grade documentation to support student B's grades. (34 C.F.R. § 300.320(a)(3)

The parents stated, "Failure to maintain grade documentation to sufficient to

demonstrate how an 80% grade was determined for student B's Social Skills Trek courses, inconsistent with IDEA's requirement that progress measurement be documented".

Violation 2: Assertion of a legally unsupported pass/fail exemption from grade documentation requirements.

The parents stated, "Neither IDEA nor FERPA contains any provision excusing a district from documenting the basis for a student's grade on the grounds that the grading structure is pass/fail. The district's own principal's acknowledgment that a goal book with grade percentiles exists directly contradicts this position".

Violation 4: Failure to maintain grade documentation to support student B's grades.

The parents stated, "Assignment of a uniform 80% final grade using a systemwide proxy entry with no individualized student performance documentation, in violation of IDEA's requirement that grading be tied to the individual student's IEP.

In addition, the parents allege that the LEA failed to provide them with an IEP Goal Progress Report for the first quarter of the 2025-26 school year. The parents indicated student B's IEP goal progress was shared and used during the October 13, 2025 IEP team meeting as the basis for updating and developing goals; however, they never received a written copy of this data.

LEA Position

The LEA reported that the Special Education Teacher / Case Manager for student B collected raw data percentages in the goal book based on student participation to determine the quarterly class grades and collected raw data on goal data sheets used for reporting on the quarterly IEP Goal Progress Reports.

The LEA noted that raw goal data sheets and the goal book data compiled during the fourth quarter of the 25–26 school year were provided as documentation because these were maintained due to the pending child complaint investigation. However, raw data collection artifacts for the first, second, and third quarters are not available for production because the LEA's practice is to routinely purge this data after their contents are formalized and reported in the quarterly IEP Goal Progress Report and on the quarterly grade card. The LEA also indicated a practice that classroom teachers do not maintain copies of individual student work once it has been graded and entered into the goal book and used to determine the quarterly grade. In addition, grade records are also purged after the classroom teachers enter quarterly grades in the Infinite Campus system.

The LEA reported the parents were provided with paper copies of student B's IEP Goal Progress Reports for the second, third and fourth quarters of the 2025-26 school year based on the October 13, 2025 IEP. The first quarter IEP Goal Progress Report was based on the transfer IEP and was verbally reviewed with the IEP Team, including the parents at the October 13, 2025 IEP Team meeting. This data was used in the development of the goals and objectives included in the October 13, 2025 IEP.

The LEA reported that all parents within the district have access to real-time student grades through the student portal in the Infinite Campus system during each quarter. However, once these grades are recorded and reported on the quarter grade card, this data is no longer required to be maintained. Student grade cards can also be accessed through the student portal.

Analysis: Findings of Fact

The following findings of fact are based on a review of written interview questions and documentation.

1. Student B's IEP in effect during the first quarter of the 2025-26 school year was the transfer IEP from USD #345, which was accepted by the LEA on August 6, 2025. That IEP required parents to "receive written reports of the student progress toward meeting annual IEP goals in accordance with the district's established grade reporting schedule".
2. The IEP Team for student B met on October 13, 2025 to review and revise the student's IEP as appropriate. A prior written notice was provided to the parents proposing to update IEP goals and increase special education services and written parent consent was provided on October 16, 2025.
3. Student B's IEP dated October 13, 2025 required observation charts to be used to measure progress for goals one, five, and six; curriculum based assessments to be used to measure progress for goals two and three; and work samples to be used to measure progress for goal four.
4. The LEA document titled "Notice Regarding Q1 Progress Documentation", which was provided to the Investigator on June 5, 2025, acknowledged that the IEP goal progress for Quarter One was verbally shared with parents during the IEP Team meeting held on October 13, 2025, which happened to be the first day of the second quarter but no written IEP Goal Progress Report was provided to the parents. The LEA reported that each goal from the transfer IEP was reviewed and the data was used to develop new goals in the IEP developed on October 13, 2025.
5. The October 24, 2024 IEP did not include a modification for pass/fail grading; however, the October 13, 2025 IEP included a grading modification for student B which required "effort based grading pass/fail" for assignments and activities for all subjects for the duration of the IEP.
6. USD #437 School Board Policy IHA: Grades and Grading System which allows the Board of Education to set the grades system and includes a requirement that this grading system must be included in all building handbooks.
7. The WRNMS Student Handbook for the 2025-26 school year includes a section titled "Grades and Grading System" which states "Courses that are designated as pass/fail will follow a 70% or above as pass and 69% or lower as fail".
8. An email dated May 1, 2026 at 2:51 PM written by the mother questions why three of student B's classes did not include any logged grades for the quarter in the Infinite

Campus system but showed the student's grade was an 80% and why the PE, Science, and Social Studies classes were reporting letter grades instead of pass/fail as required by the IEP.

9. During the email exchange on May 4, 2026 at 1:09, 1:20, 1:39, 1:48, and 1:50 PM with the mother, the WRNMS Principal reported that "[The Special Education Teacher / Case Manager for student B] keeps the grade percentiles in her goal book that tracks [student B's] progress toward her IEP goals. We will get those records for you asap" and the mother responded by requesting copies of the gradebook and IEP Goal Progress Reports. In the email written at 1:50 PM, the mother indicated no IEP Goal Progress Reports had been provided during the entire 2025-26 school year.
10. On May 5, 2026, the WRNMS Principal responded in an email at 1:26 PM that the Special Education Teacher / Case Manager for student B had sent home the IEP Goal Progress Reports in student B's backpack.
11. An email dated May 5, 2026 at 1:36 PM written by the mother stated, "Ah yes, we are very familiar with your school's "it was in the bag" response. No Q1 progress report??? Also, as a reminder, we are still awaiting a copy of those grade book entries that you say [the Special Education Teacher / Case Manager for student B] keeps for the classes that she does not log into the district-wide student information system for [student B's] grades".
12. An email dated 5/6/26 at 12:37 PM written by the Director of Secondary Special Education stated, "First quarter progress reporting occurred through [student B's] annual IEP review process. The IEP team met on October 13, 2025 to conduct the annual IEP meeting and update her goals consistent with IDEA's annual review requirements. Because the annual IEP meeting occurred around the same time first quarter grades and progress reports were issued, [student B's] progress was addressed through the development and revision of updated annual goals".
13. An email dated 5/6/26 at 12:44 PM written by the mother stated, "Thank you for your response. However, we respectfully disagree that the discussion at our IEP meeting satisfies the district's obligation to provide a written progress report. Under 34 CFR §300.320(a)(3), the IEP must include a description of when periodic progress reports will be provided to parents, specifically "at least as often as parents are informed of their nondisabled peers' progress." This means that when the district issues Q1 report cards to general education families, a corresponding written progress report on IEP annual goals is legally required for our child. An IEP meeting discussion does not constitute a written progress report. These are two separate and distinct obligations under IDEA. One does not satisfy the other. So to be clear, you are saying that you did not do a Q1 progress report for [student B] as is required under IDEA, correct? If you had provided us with a progress report at the IEP meeting, you would have met that obligation, but you did not".
14. The Director of Secondary Special Education emailed the parents on May 14, 2026 at 4:23 PM and stated, " . . . [student B's] IEP provides for effort-based pass/fail grading on assignments and activities. Because the district's student information system does not

permit a simple "P/F" entry, a score of 80% is utilized to reflect passing performance consistent with implementation of the student's IEP accommodations".

15. An email dated 5/22/26 at 8:19 AM by the mother stated, " . . . I received a notification that [student B's] Social Skills Trek grade had been changed from 80% to 70%. This grade change occurred the day after KSDE accepted our complaint regarding this exact issue and assigned an investigator. As of this writing, no graded assignments, no graded materials, and no grading track record have been entered into the system to support either the previous grade or this revised grade. The following comment was added alongside the grade change: "[Student B's] binder work and her daily sheets show her struggles to comply to staff requests for work completion."

    We must note that this represents yet another change in the district's account of how [student B's] grades are determined. [The WRNMS Principal] previously told us that [the Special Education Teacher / Case Manager for student B] maintained a specific gradebook with specific grades that justified the grades entered into the system — and that this gradebook existed and could be produced. That gradebook has never been produced despite our repeated requests, and it remains the subject of our pending KSDE complaint. Now, with no gradebook produced and a KSDE investigator assigned, the justification has shifted entirely — to behavioral compliance logs and binder work that have never previously been cited as grading documentation. This is not a clarification. It is a contradiction of what [the WRNMS Principal] himself told us, and it raises serious questions about the accuracy and integrity of the grades entered into student B's] academic record".
16. Raw Data Collection Sheets for student B dated between the weeks of April 4 and May 18, 2026 for 2nd period Math and 5th period Reading show
17. Raw Goal Data Collection Sheets for the six goals on student B's IEP dated between April 1 and May 13, 2026
18. The IEP Goal Progress Report shows this documentation was provided to the parents on December 29, 2025 (second quarter); March 11, 2026 (third quarter); and May 14, 2026 (fourth quarter) for the goals and objectives included in student B's October 13, 2025 IEP.
19. The 2025-26 Grade Card shows student B earned a grade of "P" for passing in the six year-long classes including special education reading and special education math, supported science and supported social studies, and two PE classes. In addition, student B earned a grade of "P" in a first semester Design class. Student B also earned grades of "A" for two semester-long classes including Intro into Computers and Family and Consumer Science (FACS) classes while earning a grade of "B" in the semester-long Intro to Photography class.
20. Sample of copies of Goal Data Collection Sheets, communication logs, and toileting logs for student A dated during the first through fourth quarters of the 2025-26 school year.

Conclusion

The first part of this issue pertains to implementation of the IEP, specifically how and when IEP Goal Progress Reports are provided to the parents during the 2025-26 school year, as well as grading student B according to the IEP modifications for grading required by both the October 24, 2024 IEP and the October 13, 2025 IEP.

In regards to IEP Goal Progress Reports provided to parents during the 2025-26 school year, the October 24, 2024 IEP for student B was in effect during the first quarter of the 2025-26 school year and required the parents to "receive written reports of the student progress toward meeting annual IEP goals in accordance with the district's established grade reporting schedule". The October 13, 2025 IEP was in effect during the second, third, and fourth quarters of the 2025-26 school year and included this same requirement for IEP goal progress reporting. As such, there is evidence to support a finding that the LEA met the requirements of 34 C.F.R. §300.320(a)(3) by describing when and how IEP goal progress will be provided to the parents.

There is also evidence to support a finding that progress on IEP goals from student B's October 24, 2024 IEP was shared verbally with the IEP Team, including the parents, on October 13, 2025; however, the LEA did not provide the parents with a written IEP Goal Progress Report for Quarter One as required by the IEP in effect during that time period. Documentation shows that written IEP Goal Progress Reports were provided to the parents during the second, third and fourth quarters of the 2025-26 school year.

In regards to grades, student B's IEP requires the modification of pass/fail grading in all classes during the second, third, and fourth quarters of the 2025-26 school year based upon the October 13, 2026 IEP. However, the October 24, 2024 IEP in effect during the first quarter did not include a modification for pass/fail grading.

Student B's grade card for all four quarters includes both pass/fail grades as well as letter grades even though letter grading was required by the IEP in effect during the first quarter and pass/fail grading was required by the IEP in effect during the second, third, and fourth quarters.

Based on the foregoing, the LEA is found OUT of compliance with federal regulations at 34 C.F.R. §300.323(c)(2) for failing to implement student B's IEPs as written during the 2025-26 school year, specifically by failing to provide a written copy of the first quarter IEP Goal Progress Report for student B as required by the student's IEP as well as for not following the requirement in both IEPs in effect during the 2025-26 school year in regards to grading. As such, corrective action is required.

The second part of this issue relates to the allegation of the LEA failing to maintain documentation to support grades and IEP Goal Progress for student B. The IDEA requires that IEPs include how progress towards achieving IEP goals will be collected and measured as

described in 34 CFR §300.320(a)(3). However, the IDEA regulations do not obligate school districts to maintain or provide parents with the daily instructional tally sheets, scrap papers, or raw data-collection tools used by staff to compute those summaries.

Documentation shows the Special Education Teacher / Case Manager for student B was only able to provide copies of raw IEP Goal Data Collection Sheets for the fourth quarter which were used for reporting grades and IEP goal progress. The LEA reported a practice where data is purged and destroyed after grades and IEP Goal progress reports are recorded. However, the Special Education Teacher / Case Manager for student A was able to provide samples of data collection sheets from, toileting reports, and daily communication sheets from across all four quarters during the 2025-26 school year, which suggests different buildings have different procedures and practices.

In this case, the documentation shows WRNMS has a practice that does not maintain sufficient supporting data to document that progress was monitored as described and that the IEP goal progress reported was based on actual data. Based on the foregoing, the L*EA is found OUT of compliance* with 34 C.F.R. 76-731 and corrective action is required.

Issue Two

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to respond appropriately to the parents' request for educational records on May 4, 2026.

[This Issue addresses Violation 3]

Applicable Law

Federal regulations at 34 C.F.R. §300.613(a) require that each public agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 [filing a due process complaint] or §300.530 through §300.532 [disciplinary change of placement], or resolution session pursuant to §300.510 [due process resolution process], and in no case more than 45 days after the request has been made.

Parent Position

The parents made the following allegation of violation of the IDEA against USD #437:

Violation 3: Failed to respond to parents' request for education records

The parents stated, "Failure to produce education records — specifically the teacher's gradebook and goal book entries — in response to a formal written FERPA request submitted May 4, 2026 (34 C.F.R. § 99.10; 34 C.F.R. § 300.613)".

LEA Position

The LEA stated, "The parent initially emailed the district on May 1, 2026 requesting information regarding the grading procedures used in classes taught by [the Special Education Teacher / Case Manager for student B]. [The WRNMS Principal] and [the Director of Secondary Special Education] corresponded with the parent between May 1 and May 4 in an effort to understand and respond to the request. During this correspondence, additional questions and references were introduced that expanded beyond the original inquiry, resulting in uncertainty regarding the specific records being requested.

In an effort to obtain clarity and facilitate productive communication, the district offered mediation on May 5, 2026. The parents declined this offer. Despite the lack of clarity regarding the precise records being sought, district staff continued to respond based on their understanding of the request.

On May 21, 2026, the parent provided clarification regarding the specific records being requested. Upon receipt of that clarification, the district was able to identify the requested records and begin the process of gathering them. The district considers May 21, 2026 to be the date on which the request was sufficiently clarified to allow fulfillment. Accordingly, the 45-day timeline would conclude on July 5, 2026. USD 437 is in the process of gathering the requested records and intends to provide them within that timeframe.

Analysis: Findings of Fact

The following findings of fact are based on a review of written interview questions and documentation.

1. An email dated May 1, 2026 at 2:51 PM written by the mother questions why three of student B's classes did not include any logged grades for the quarter but showed the student's grade was an 80% and why the PE, Science, and Social Studies classes were reporting letter grades instead of pass/fail as required by the IEP.
2. An email dated May 4, 2026 at 1:39 PM written by the mother stated, "Please consider this is our official request for the teacher's gradebook records in writing, citing 20 U.S.C. § 1232g and 34 C.F.R. § 99.10. [Student B] currently shows multiple classes that [the Special Education Teacher / Case Manager for student B] is the teacher of record for [those] [sic] that have no grades recorded but a percentage of 80%. How have you gotten to this percentage with no grades logged?? We need an officially written up progress report on each of these courses along with the grades for the classes".
3. On May 5, 2026 at 11:50 AM, the Director of Secondary Special Education sent an email to the parents stating, "We remain committed to working collaboratively with you and making progress; however, we are finding it challenging to move forward in a way that feels productive for all involved. In an effort to support more productive conversation and problem-solving, we would like to pursue mediation with a neutral third party.

Would you be willing to engage in mediation with us?". The parent responded on the same date at 1:00 PM declining to participate in mediation.

4. The parents sent a second email on May 21, 2026 at 7:05 AM stating, "This letter constitutes a formal records request under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and its implementing regulations at 34 C.F.R. Part 99, as well as the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., and 34 C.F.R. § 300.613 . . . We are requesting the following records in their complete, original form for [student B] for the 2025-2026 school year across all four classes taught by [the Special Education Teacher / Case Manager for student B]:
    a. The complete grade book (electronic or paper) for each of the four classes, showing all individual assignment entries, dates, assignment titles, point values, and scores, not merely the percentage summaries posted in the student information system.
    b. All graded assignments, tests, quizzes, projects, and work samples that form the basis for any grade entered or reflected in the student information system, across all four classes.
    c. All rubrics, grading keys, scoring guides, or criteria used to evaluate [student B's] work and determine a pass or fail outcome in any of the four classes.
    d. Any teacher notes, progress monitoring data, or other documentation used to calculate or support the grades posted in any of the four classes."
5. The mother reported in the written interview questions received on June 15, 2026 that no records had been provided by the LEA as of that date.
6. The 45 day timeline for the request dated May 4, 2026 ended on June 18, 2026 and the 45-day timeline for the records request made on May 21, 2026 will end on July 5, 2026.
7. The LEA acknowledged that the education records requested on May 4, 2026 had not been provided to the parents within the 45-day window because of uncertainty of exactly what records were being requested.

Conclusion

In this case, the parents made two requests for student B's educational records during the fourth quarter of the 2025-26 school year.

The first record request made by the parents on May 4, 2026 in an email that clearly states the records being requested were the gradebook records from the Special Education Teacher / Case Manager for student B. However, as noted in Issue One for student B, these records were only available for the fourth quarter as the LEA's practice is to purge the data after the quarter grades have been entered into the Infinite Campus system.

Therefore, the fourth quarter grade book records which were maintained by the LEA at the time of the request should have been provided to the parents as soon as possible but no later than 45 days of the May 4, 2026 request. The parents reported and the LEA acknowledged that these records were not provided to the parents within the 45-day window.

The second record request was made by the parents on May 21, 2026 in another email that clearly delineates the educational records being requested. The LEA has until July 5, 2026 to respond to this record request to be considered to be in compliance with federal regulations. As such, this issue cannot be investigated at this time.

Based on the foregoing, the *LEA is found OUT of compliance* for failing to appropriately respond to the parents' record request on May 4, 2026 and corrective action is required.

Both Students A and B:

The parents made one allegation of a systemic violation of the IDEA regarding accommodations and modifications required by IEPs not being implemented as written. This allegation stems from a previous finding of noncompliance addressing the provision of accommodations related to multiple choice questions and visual cues included in student B's IEP investigated as part of 26FC437-014. On April 28, 2026, a finding of noncompliance was made against the LEA in regards to that issue for which corrective action was ordered and must be completed no later than August 31, 2026. The parents allege the LEA continues to fail to implement the student's IEP in regards to these accommodations; however, per KSDE guidance, the findings, conclusions and pending corrective actions in a previous complaint report are not subject to review through a subsequent complaint.

It is noted that the LEA was found out of compliance during this investigation for not implementing student B's IEP in regards to grading modifications when reporting class grades in the findings of Issue One for student B and corrective is action ordered.

The parents allege the LEA is now failing to provide the accommodations and modifications for student A and clarification was sought as no specifics were provided in the child complaint filed with KSDE. Based upon the written clarification from the mother on May 25, 2026, specific accommodations and modifications not being provided to student A were identified. However, no facts or documentation was provided to support the allegation of the LEA's failure to implement accommodations/modifications for any other students with IEPs at either the WRMS or WRHS.

Issue One

USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the IEP for student A, specifically by failing to provide the accommodations and modifications for toileting support, building access, backpack relief, frequent walking breaks, nonverbal communication system, and the communication notebook for student A after April 28, 2026.

[This Issue addresses Violation 1]

Applicable Law

Federal regulations at 34 C.F.R. §300.320(a)(4) require the LEA to include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and 3) be educated and participate with other children with disabilities and nondisabled children.

Federal regulations at 34 C.F.R. §300.323(c)(2) require each public agency to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The parents made the following allegation of violations of the IDEA against USD #437:

Violation 1: Failure to provide accommodations and modifications required by the IEPs of students with disabilities

The parents stated, "Systemic Noncompliance — Continued Violations After

Prior KSDE Finding USD 437 continued to violate [student B's] IEP after a KSDE finding of violations under the same special education director. It is now engaged in the same category of violations regarding [student A]. A district that does not correct course after a KSDE finding is engaged in willful noncompliance. KSDE is respectfully requested to treat this as a systemic matter and to conduct a district-wide review of USD 437's special education compliance".

The mother reported the following specific instances of the LEA's failure to provide the accommodations and modifications required by student A's IEP on May 25, 2026. Note that this list includes references to previous allegations of violations,which were investigated in previous complaints filed by the parents. The mother stated:

1. Toileting Support — April 25 Complaint, Violations 1, 2, 7, 8
   Personal care for toileting is explicitly documented in [student A's] IEP. The district used disability-caused toileting incidents as grounds to exclude her seven times — without MDRs, without PWN, and without continuation of services. The accommodation was in the IEP. The district was excluding [student A] for the very incidents that the accommodation was designed to address.
2. Building Access — April 27 Complaints
   The south entrance by the auditorium was established as[student A's] drop-off point by her case manager and paraeducator. It was changed six times without PWN, IEP team involvement, or any disability accommodation plan. The district's own maintenance

worker confirmed the entrance was open on April 27. The sixth change was pretextual and retaliatory. OCR has accepted the complaint.

3. Backpack Relief — September 25, 2025 IEP
   The team agreed [student A] would not carry her backpack. No cart was discussed. The district's May 12 email admits the cart was only recently introduced — meaning the original accommodation was not in place. We asked the district to confirm whether [student A] carried her backpack at any point since September. They did not answer.
4. Frequent Walking Breaks — September 25, 2025 IEP
   Break protocols during transitions were agreed upon in September. The district's May 12 email presents them as a new implementation — confirming they were not consistently provided as agreed.
5. Adaptive Physical Education — September 25, 2025 IEP
   APE was agreed upon in September. The district's May 12 email presents it as a recent implementation — again confirming it was not consistently in place.
6. [Student A's] Nonverbal Communication System
   Parents provided detailed guidance at the September 25 IEP meeting on how [student A] communicates through her beads and stimming. Her bead twirling is an expression of joy — not anxiety. This was not incorporated into her IEP. [The WRHS Assistant Principal] subsequently mischaracterized [student A's] bead use as anxiety. When asked in writing whether she had listened to anything shared about [student A's] communication, [the WRHS Assistant Principal] did not respond. For a nonverbal child, correctly reading her communication system is a safety issue.
7. Communication Notebook — Peer Interactions and Social Support
   We requested in [student A's] IEP that her communication notebook document the peers she interacted with and the conversations that took place — so that we could reference them at home and ask [student A] questions about her day, and so that we could confirm that social interactions were being intentionally supported by staff. [Student A] is nonverbal. This documentation was not a preference. It was the primary way we had any window into her social world at school and any ability to verify that meaningful peer interaction was being facilitated. This was never done. Not once during the entire school year. For a nonverbal child, the failure to maintain this record is not a clerical oversight. It is a denial of her right to have her communication needs actively supported and documented as agreed upon in her IEP".

LEA Position

The LEA stated, "Upon review of Student A's September 25, 2025 IEP, several items identified in the complaint, including backpack carrying restrictions, backpack assistance, elevator use, limitations on walking distances, and modified building access procedures, were not accommodations or modifications contained within the student's IEP. Rather, these recommendations first appeared in medical documentation provided by the parents on April 29, 2026".

The LEA noted that once the new medical information was provided by the parents, the LEA immediately began trying to reconvene the IEP Team to consider the recommendations in the report; however, no IEP Team meeting was able to be arranged prior to the end of the 2025-26 school year, so the accommodations and modifications required by the IEP have not been updated since September 25, 2025.

Analysis: Findings of Fact

The following findings of fact are based on a review of written interview questions and documentation.

1. The parents' allegations that the September 25, 2025 IEP did not include all of the information the parents shared at the IEP Team meeting held on that date was investigated in 26FC437-014. The finding of facts noted " . . .there is documentation showing that the LEA provided the parents with drafts of the IEP for their review immediately following the September 25, 2025 IEP Team meeting and emails documenting that the parents requested additional information be included in the IEP and the final version of the September 25, 2025 IEP includes these requested updates".
2. The September 25, 2025 IEP present level describes the functional concerns for Student A as follows: "[Student A's] learning rate is slower than typical peers and the complexity of learning is less developed than typical peers her age. She requires instruction to be tailored to match her level and rate of learning, including high frequencies of successful practice, repetition, and structured, sequential design to lessons and units of study. She demonstrates decreased balance, strength, and endurance with motor activities. Due to her health-related fitness levels, this keeps [student A] from being able to participate at the same level or length of time as her same age peers. This impacts her ability to independently and efficiently navigate throughout her school environment as well as participate and interact with peers during classroom/PE activities".
3. The September 25, 2025 IEP does not include any specific description of toileting support. The IEP does include a goal for following a visual schedule and the present level noted that student A "has scheduled bathroom breaks throughout the school day. Staff prompts her to use the bathroom when it's her scheduled time". The Parent Concerns section of the IEP notes the parents " . . . suggested including in the communication paper the reason and description of any clothing change when an accident happens".
4. The LEA provided a copy of student A's visual schedule which includes bathroom breaks throughout the school day as well as copies of a Bathroom Details form, a toileting report which was sent home on a daily basis.
5. Student A's IEP dated September 25, 2025 does not include any specific description for building access. However, this IEP does require transportation as a related service because of the student's cognitive ability rather than any physical restrictions that limit her ability to go to/from the bus stop as documented on the checklist for determining if

transportation as a related service is a necessary related service for a particular student.

6. The September 25, 2025 IEP does not include backpack relief as an accommodation or modification. The IEP does note in the present level that "Due to her hx [history] of spinal surgery, core strengthening and stabilization are necessary in order to minimize pain and facilitate proper upright postural support during daily tasks". The IEP includes physical therapy as a related service and a goal to ". . . perform activities that require total body coordination, endurance and balance . . ." as measured by performing high plank on hands and modified bird dog exercises during physical therapy sessions.
7. The September 25, 2025 IEP does not include an accommodation or modification for walking breaks. However, it does include an accommodation to "Allow extra time for transitions for all subjects for passing periods, before lunch, and/or when changing activities within a class period up to 5 minutes". The IEP also includes physical therapy as a related service and a goal to "". . . perform activities that require total body coordination, endurance and balance . . ." as measured by performing the following tasks: 1) walking on variety of surfaces including; sidewalk, mulch, grass and curbs independently for >15 minutes without requiring a rest period and no loss of balance; 2) independently negotiating bleacher/full flight of stairs with the use of a single handrail alternating feet; and 3) transitioning in a crowded hallway a distance of 500 feet with no more than one verbal prompt in <30 seconds.
8. The September 25, 2025 IEP includes adaptive PE as a special education service and a goal for increasing communication skills with peers during physical education classes. Student A's abilities are described as follows: "[Student A] actively participates within her PE class (Lifetime Fitness). She demonstrates independence with ball skills including- kicking a ball, throwing a ball, hitting a ball with a racket and participates with peer mentor during PE class. When given choices on what game or activity to play, [student A] has gestured or communicated which one she would prefer".
9. The September 25, 2026 IEP does include accommodations and modifications related to the use of a nonverbal communication system and notes student A uses the ViaPro portable speech generating device with the Lamp Words for Life language program installed as her augmentative and alternate communication (AAC) device. The IEP also requires staff to model aided language input on her speech generating communication device.
10. The LEA provided documentation showing all special education staff working with student A have been trained to use the Lamp Words for Life language program.
11. The Special Education Teacher / Case Manager for student A provided copies of IEP Goal Data Sheets for the two communication goals on the IEP documenting the student using the AAC device to communicate with peers and adults at school.
12. The September 25, 2025 IEP also includes speech/language therapy as a related service and a goal to increase the use of verbalizations, use of the student A's augmentative/alternate communication (AAC) device, gestures, etc. to initiate or maintain a three exchange conversation with an adult or peer.

13. The September 25, 2025 IEP does include an accommodation and modification related to a communication system between school and home which requires an organizational tool for classroom materials such as a home folder, daily planner / communication book, shared electronic documentations, etc. The Parent Input section of the IEP notes the parents " . . . requested that teachers and paras write in the parent communication paper any conversation [student A] has with a peer, noting only the peer's first name, so they can continue the interaction at home".
14. The LEA daily communication sheets showing student A's daily schedule and handwritten notes for each time period describing "What I Did Today". The handwritten notes documented interactions with peers as requested by the parents.

Conclusion

In this case, there is documentation to support a finding that the LEA implemented student A's IEP, specifically the accommodations and modifications required by the September 25, 2026 IEP during the 2025-26 school year. Based on the foregoing, the LEA is found IN compliance with federal regulations at 34 C.F.R. §300.320(a)(4).

Summary of Conclusions/Corrective Action

Student A

Issue One: Based on interviews and a review of documentation, no violation of IDEA regulations was found

Issue Two: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

Issue Three: Based on interviews and a review of documentation, no violation of IDEA or Kansas regulations was found.

Issue Four: Based on interviews and a review of documentation, no violation of IDEA or Kansas regulations was found.

Issue Five: Based on interviews and a review of documentation, no violation of IDEA or Kansas regulations was found.

Student B

Issue One: Violations of federal regulations were found at 34 C.F.R. §300.323(c)(2) for failing to provide a written copy of the first quarter IEP Goal Progress Report for student B as required by the student's IEP and corrective action is required as described below:

1. Within 20 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. §300.323(c)(2) which require public agencies to ensure that IEPs are implemented as written.

2. Within 30 days of the date of this report, the LEA will provide the parents with an IEP Goal Progress Report for the first quarter of the 2025-26 school year. The LEA will provide SETS with a copy of the IEP Goal Progress Report and documentation this document was provided to the parents. The LEA will provide a copy of this corrected grade card to SETS within 14 days of the date it was provided to the parents.
3. Within 30 days of the date of this report, the LEA will correct student B's grades in the student information system (SIS) and provide the parents with a grade card for the 2025-26 school year that shows letter grading for all classes during the first quarter and pass/fail grading for all classes during the second, third, and fourth quarters as required by the two IEPs in effect during the school year. The LEA will provide a copy of this corrected grade card to SETS within 14 days of the date it was provided to the parents.
4. Prior to the first day of the 2026-27 school year, the LEA will provide inservice training to all special education teachers at WRNMS regarding the requirements of implementing the IEP as written. The LEA will provide SETS with a copy of the training agenda and any handouts / PowerPoint presentations as well as a sign-in sheet documenting who attended this inservice training within 14 days of the date of the inservice training.

Issue Two: Violations of federal regulations were found at 34 C.F.R. §300.613(a) for failing to appropriately respond to the parents' request for educational records on May 4, 2026 and corrective action is required as described below:

1. Within 20 days of the date of this report, the LEA will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. §300.613(a) which require public agencies to respond to record requests as soon as possible but no later than 45 days from the date of the request.
2. No later than July 15, 2026, the LEA will provide the parents with the Special Education Teacher / Case Manager for student B's fourth quarter grade book records as part of the parents' May 21, 2026 record request. The LEA will provide SETS with documentation showing the records have been provided to the parents no later than July 30, 2026.

Both Students A and B:

Issue One: Based on interviews and a review of documentation, no violation of IDEA or Kansas regulations was found.

Nancy Thomas

Nancy Thomas, M.Ed., IDEA Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 437
Auburn-Washburn Public Schools: 26FC437-015

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on May 18, 2026, by _____ on behalf of their children, ____ and _____ _____. In the remainder of this decision, _____ will be referred to as "the parents." _____ will be referred to as "student A" and _____ will be referred to as "student B." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on June 30, 2026. That Complaint Report concluded that there were no violations of special education statutes and regulations with regard to Student A and there were two violations regarding Student B. Corrective action was ordered as a result of those two violations.

Thereafter, the parents filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parents, the Complaint Report, the parents' notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal

The report identified the following issues for student A:

ISSUE ONE: USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to appropriately respond to the parent's request for an annual IEP Team meeting between April 29 and May 21, 2026.

ISSUE TWO: USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate procedures to amend student A's September 25, 2025 IEP, specifically by unilaterally making changes without mutual agreement with the parents during the 2025-26 school year.

ISSUE THREE: USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parents with appropriate prior written notice for the program changes described in the May 12, 2026 letter.

ISSUE FOUR: USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to invite the necessary IEP Team members to develop an IEP to provide FAPE to student A following the parents' provision of written medical information regarding student A on April 29, 2026.

ISSUE FIVE: USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to develop an IEP that provides FAPE for student A, specifically by deferring the IEP team meeting to the beginning of the 2026-27 school year.

The report identified the following issues for student B:

The parents made four allegations of violations of the IDEA for student B. These four allegations were all related to two IDEA issues which were investigated.

ISSUE ONE: USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to maintain documentation to support IEP goal progress reporting and student B's grades during the 2025-26 school year.

ISSUE TWO: USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to respond appropriately to the parents' request for educational records on May 4, 2026.

Both Students A and B

The parents made one allegation of a systemic violation of the IDEA regarding accommodations and modifications required by IEPs not being implemented as written. This allegation stems from a previous finding of noncompliance addressing the provision of accommodations related to multiple choice questions and visual cues included in student B's IEP investigated as part of 26FC437-014.

The Appeal Committee Decision

Issue One – Student A

With regard to Issue One, Student A, the parents made the following allegation of a violation of the IDEA against USD #437:

Violation 3: Failure to Convene Full IEP Meeting Upon Parent Request — 34 C.F.R. § 300.321.

The parent stated, "Six formal requests for a full IEP meeting have been made since April 29, 2026 — a period of 13 days. None has resulted in a full IEP team meeting. While 30 days has not yet elapsed, the consistent and deliberate nature of the refusals — including the district's written commitment on May 1 followed by immediate reversal, its misuse of the amendment provision, its substitution of a Notice of Meeting for a required PWN, and its explicit deferral to next school year — establish that this is not a matter of scheduling delay but of deliberate, sustained noncompliance."

The parent requested an IEP meeting on April 29, 2026, "to review the newly received medical information, consider revisions to [student A's] goal, services, accommodations, considerations and ensure that all aspects of her program are aligned and can be implemented safely". (Report, Finding 1, p. 12).

That request triggered a number of email exchanges between the parties. We cite only those necessary to the resolution of this complaint, as follows:

An Assistant WRHS Principal responded that same day (April 29) in an email indicating that it would be important for the IEP team to meet to discuss the parent's proposal and "The email noted the IEP Team for the meeting would include the parents, the Physical Therapist, the Adaptive PE Teacher, the General Education Teacher for Individual/Team Sports (PE elective), Special Education Teacher / Case Manager, WRHS Lead Nurse, WRHS Special Education Department Chair, Director of Secondary Special Services, and the WRHS Assistant Principal." (Report, Finding 3, p. 12). Attached to this email was a Notice of Meeting dated April 29, 2026 scheduling an IEP Team meeting for May 12, 2026 at 3:30 PM. (Report, Finding 4, p. 12).

On that same date (April 29), the parent responded with an email, stating: ""Since [student A's] normal IEP date is September 25, 2026, we would want to convene the full team and complete a full IEP, not just an update, and we want her full team, this would include those listed with the addition of: Special Education Teacher 1, Special Education 2, Special Education Teacher 3, SLP, General Education Advisory Teacher". (Report, Finding 5, p 12-13).

On April 30, 2026, the Assistant principal sent an email response, saying: ". *let me talk with [student A's] case manager and team members to ensure that we would be able to develop an annual IEP within the timeframe that I initially proposed. I will also reach out to the additional special education teachers and the additional general education teacher to inquire about their availability*". (Report, Finding 7, p 13)

On May 1, 2026, the WRHS Assistant Principal sent an email to the parents at 4:59 PM stating that, in order to hold a meeting to review and revise the full IEP, the time of the IEP Team meeting would need to be adjusted from 3:30 to 3:00 PM and shared that "a *few staff members noted prior commitments at 3:45 and 4:00 p.m*". During the interview as part of the investigation of 26FC437-014, the Director of Secondary Special Education clarified that Special Education Teacher 3, the SLP, and the General Education Advisory Teacher needed to leave approximately 15 minutes early from the scheduled meeting time in order to attend to other personal and professional commitments. (Report, Finding 9, p 13)

The mother emailed the WRHS Assistant Principal on May 1, 2026 at 7:09 PM stating, *"If you know in advance that the team is not going to be able to stay long enough for a full meeting of the entire IEP team, then we need to change the date. IDEA is very clear on this, if team members are leaving early, that undermines the integrity of the process. Please consider this our notice that we want a different date when the entire team can be available for a full meeting. This note is to formally notify you that I do not consent to the excusal of any required IEP team member, in whole or in part, for the meeting. Under 34 CFR §300.321(e) and 20 U.S.C. §1414(d)(1)(C), excusal requires written consent from both the LEA and the parent. I am withholding that consent. Please reschedule the meeting for a date when all required team members can attend in full. Insinuating that you as the LEA can override our permission for participants to be at the meeting or leave the meeting is another clear violation of our parental rights".* (Report, Finding 12, p 14)

The district provided a prior written notice (PWN) dated May 6, 2026, which stated:
"The district proposes to convene the IEP team to review the medical documentation and educational concerns identified by the parents and determine whether amendments such as accommodations, supports, services, health-related planning, participation considerations, mobility considerations, physical access supports, or implementation adjustments to the student's current IEP are appropriate at this time. The district further proposes that participation in the meeting include parent(s), general education representation, special education representation, related service providers relevant to the concerns being reviewed, administrative representation, and personnel knowledgeable regarding the student's current programming, accommodations, implementation, and medical-related educational needs". (Report, Finding 13, p. 14-15)

The May 6, 2026 prior written notice also stated, "The district declines at this time to immediately conduct a complete redevelopment or replacement of the student's current annual IEP prior to the upcoming annual review cycle". (Report, Finding 14, p. 15). (Emphasis added with bold print).

The Explanation for the Action Proposed or Refused in the May 6, 2026 PWN stated:

"The district acknowledges its obligation under IDEA to review parent-provided information and revise the student's IEP as appropriate. Consistent with 34 CFR § 300.324, the district proposes convening the IEP team to review the information provided and determine whether amendments such as accommodations, supports, services, health-related planning, participation considerations,

or implementation adjustments to the current IEP are appropriate at this time. IDEA further provides that changes to an IEP may be made through amendment rather than redrafting the entire IEP. See 34 CFR § 300.324(a)(6).

The district believes the proposed review and amendment process is appropriate under the circumstances presented, including the limited remaining instructional time in the current school year, the student's anticipated summer surgery and recovery, non-participation in ESY services, and the need for additional educational and recovery data to support comprehensive annual IEP development. The district acknowledges the parent concerns regarding the student's physical disability-related needs, including mobility, access, participation, accommodations, and implementation supports.

The district believes these concerns may appropriately be reviewed and addressed through targeted review and amendment of the student's current IEP. Consistent with 34 CFR § 300.321, the district also believes participation by staff members whose areas of responsibility are directly relevant to the educational and medical concerns being reviewed is appropriate to the purpose of the proposed meeting. The district believes the proposed meeting composition satisfies IDEA requirements for IEP team participation and allows for meaningful discussion regarding the concerns identified by the parents.

The district does not believe that immediate comprehensive redevelopment of the student's annual IEP at this point in the school year would allow for a sufficiently thoughtful, data-driven, and collaborative annual planning process. The student's current annual IEP remains in effect through September 2026. Additionally, the current school year concludes on May 21, 2026, leaving limited remaining instructional time for meaningful implementation, monitoring, and evaluation of a newly developed annual IEP prior to the conclusion of the school year.

The district also considered information indicating the student is expected to undergo surgery during the summer and will not participate in Extended School Year (ESY) services. As a result, the district will have limited opportunity to implement, monitor, and evaluate the effectiveness of newly developed annual programming prior to the beginning of the 2026–2027 school year.

The district believes additional progress monitoring, implementation data, educational input, recovery information, and team review during the upcoming school year are necessary to support comprehensive annual IEP development and long-term programming decisions". (Report, Finding 15, p. 15-16

The May 6, 2026 PWN included the following description of options available if the parents disagreed with the action described in the PWN: " Any disagreement we have regarding any of the above matters may be resolved by our mutual agreement, through mediation or through due process proceedings". (Report, Finding 16, p. 16)

An email dated May 8, 2026 at 5:26 PM written by the mother to the WRHS Assistant Principal, LEA Administration, School Board Members, KSDE, and OCR stated, "*We are in receipt of the Notice of Meeting dated May 8, 2026, and we must formally object to its contents. This is our fourth written request for a full IEP meeting, with our first request in writing on April 29, 2026. The district has repeatedly and deliberately denied this request, and we are making it unequivocally clear that the district does not have the legal authority to deny parents a full IEP meeting. This decision is not the district's to make. This pattern of denial is a serious and ongoing violation of IDEA and will not be tolerated.*

Violations the District Continues to Commit:

1. Denial of a Full IEP Meeting — 34 CFR § 300.324

The district does not have the unilateral authority to limit the scope of an IEP meeting. An IEP meeting must address all areas of a student's present levels of performance, goals, services, accommodations, and placement. Restricting the meeting to medical information only denies our daughter a comprehensive review of her IEP to which she is entitled under IDEA. The district cannot predetermine the outcome or scope of an IEP meeting. Doing so is a textbook procedural violation of IDEA . . .

3. Failure to Convene a Full IEP Team — 34 CFR § 300.321

The Notice of Meeting does not reflect the full IEP team we have formally requested be present for the entirety of this meeting. We are formally requiring the following individuals be present for the full duration of the meeting, without exception:

1. *Special Education Teacher, Math*
2. *Special Education Teacher, History*
3. *Special Education Teacher, Reading*
4. *Speech Therapist*
5. *Advisory Teacher*
6. *Physical Therapist*
7. *Adaptive PE Teacher*
8. *General Education Teacher, Individual/Team Sports (PE Elective)*
9. *Special Education Teacher and Case Manager*
10. *WRHS Lead Nurse*
11. *WRHS Special Education Department Head*
12. *Director of Secondary Special Services, USD 437*

The attendance of each of these individuals for the full duration of the meeting is non-negotiable. No absences will be accepted. If any of these individuals are not present at the start of the meeting and for its entirety, we will not proceed, the meeting will be rescheduled, and the district's failure to produce the required team members will be immediately documented and submitted as additional evidence in our active KSDE and OCR complaints.

Our Formal Demands:

1. *The district must issue a corrected Notice of Meeting that reflects a full IEP meeting — not a limited or partial meeting restricted to medical information*
2. *The corrected notice must include all twelve individuals listed above as required attendees for the full duration of the meeting*
3. *If the district refuses to issue a corrected notice, we will interpret that refusal as a continued denial of a full IEP meeting and it will be documented and submitted as additional evidence in our active KSDE and OCR complaints*

We remain willing to attend this meeting on either May 15, 2026 or May 18, 2026, provided the above conditions are met. However, we will not attend a meeting that has been predetermined and limited in scope in direct violation of our daughter's rights under IDEA. The district does not have the authority to make this decision for us. We are her parents and we are exercising our rights under federal law". (Report, Finding 22, p. 18-20)

Analysis regarding Issue One.

Issue one is that the district "failed to appropriately respond to the parents' request for an annual IEP Team meeting between April 29 and May 21, 2026."

The Appeal Committee first makes two clarifications in the legal analysis:

First Clarification:

Parents may request that particular school staff members attend a specific IEP meeting. However, the District is not required to comply with that request.

34 C.F.R. 300.321 describes the required members of an IEP team. That description includes (6) to be: "at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate."

That creates two basic categories of IEP meeting participants: those individuals whose attendance is mandatory but under some circumstances can be excused, and those whose attendance is discretionary (permitted but not required). Thus, 34 C.F.R. 300.321(a)(6) creates an opportunity for each party to "invite" non-required members to an IEP meeting at their discretion. That is only a discretionary option, not a mandatory option. This is clear in OSEP's comments in the Federal special education regulations, where OSEP explains the intent of 34 C.F.R. 300.321(a)(6) to be as follows:

> *With regard to the recommendation that the notice state that the parent has a legal right to require an IEP Team member to participate in an IEP Team meeting, it is important to emphasize that it is the public agency that determines the specific personnel to fill the roles for the public agency's required participants at the IEP Team meeting. A parent does not have a legal right to require other members of the IEP*

> *Team to attend an IEP Team meeting. Therefore, if a parent invites other public agency personnel who are not designated by the LEA to be on the IEP Team, they are not required to attend.* *(Federal Register, Aug 14, 2006, p. 46674), (Emphasis added).*

And

> *We do not believe it is necessary to require consent or a written agreement between the parent and the public agency to excuse individuals who are invited to attend IEP Team meetings at the discretion of the parent or the public agency because such individuals are not required members of an IEP Team. We will add new language to Sec. 300.321 to clarify the IEP Team members for whom the requirements regarding excusals apply. (Federal Register, Aug 14, 2006, p. 46675) (Emphasis added).*

More recently, OSEP addressed the same question in Letter to Rangel-Diaz, 58 IDELR 78, (OSEP 2011), stating that "the Department has also stated that a parent does not have a legal right to require a public agency employee not invited by the public agency to attend his or her child's IEP Team meeting, even though the individual is considered a member of the child's IEP Team. (See, Analysis, 71 Fed. Reg. 46674 (Aug. 14, 2006)).

Second Clarification:

A school district is not required to hold an IEP meeting upon parent request.

The pertinent regulation is 34 C.F.R. 300.324(b). that regulation says:

(b) Review and revision of IEPs--(1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team--

(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

(ii) Revises the IEP, as appropriate, to address--

(A) Any lack of expected progress toward the annual goals described in Sec. 300.320(a)(2), and in the general education curriculum, if appropriate;

(B) The results of any reevaluation conducted under Sec. 300.303;

(C) Information about the child provided to, or by, the parents, as described under Sec. 300.305(a)(2);

(D) The child's anticipated needs; or

(E) Other matters. (Emphasis added with bold print).

To comply with this regulation, a school district must, at minimum, conduct an annual review of an IEP. That is a minimum requirement. School districts should keep in mind that they cannot ignore the fact that an IEP is clearly failing while waiting for an annual review date to come due. See, O'Toole v. Olathe USD 233, 144 F.3d 962, 28 IDELR 177 (10th Cir. 1998). When an IEP is clearly failing, the school district must proceed with a review of the IEP. Whether an IEP is clearly failing is

often a matter of judgement where parents and school district personnel can disagree, sometimes resulting in dispute resolution processes such as this complaint. The Appeal Committee will not address this issue because the school district agreed to hold an IEP meeting prior to the annual review date.

With these two clarifications, the Appeal Committee moves to the more narrow issue of whether a district may agree to conduct an IEP meeting but not permit parents to discuss issues the parent wants to discuss at the scheduled meeting.

The above regulation, 34 C.F.R. 300.324(b), requires a school district to (1) conduct an IEP meeting to review an IEP periodically but not less than annually, and when doing so, to ensure that the team "revises the IEP, as appropriate, to address… information provided by the parent." That is a broad requirement that covers almost any parent concern. An IEP team cannot fulfill its obligation to "revise the IEP, as appropriate, to address information provided by the parent when it refuses to allow the parent to present the information the parent wants to address at the meeting. In addition, federal regulation 34 C.F.R.324(a)(1)(ii) states that In developing each child's IEP, the IEP Team must consider-- the concerns of the parents for enhancing the education of their child (emphasis added).

In this complaint, the district has not refused to conduct an IEP meeting. Rather, it made a proposal to conduct an IEP meeting. When a district makes a proposal to conduct an IEP meeting, that IEP meeting must comply with the requirements of both 34 C.F.R. 300.324(b) and 34 C.F.R.324(a)(1)(ii).

By adding language to the PWN limiting the agenda for the meeting to only the topics the district wanted to address, and eliminating topics the parents wanted to address, the district failed to comply with 34 C.F.R. 300.324(b) and 34 C.F.R.324(a)(1)(ii).

The Appeal Committee cautions that the requirements of 34 C.F.R. 300.324(b) and 34 C.F.R.324(a)(1)(ii) apply when a district agrees to conduct an IEP meeting. However, a school district has some discretion as to whether it will conduct an IEP meeting that is not an annual review when it deems the request unreasonable. In that situation, the district must provide a PWN explaining why it deems the request to be unreasonable. That action is subject to review in due process or by using the complaint process.

A district may also set time limits for meetings or schedule IEP meetings only during regular school hours or regular business hours. Although, when schools and parents cannot schedule meetings to accommodate their respective scheduling needs schools must take other steps to ensure parent participation, such as conference telephone calls or videoconferencing. See, Letter to Thomas, 108 LRP 65843, 51 IDELR 224 (OSEP 2008).

Schools also have the right to adjourn the meeting after a reasonable time, even if the parents object. See, e.g., Grapevine-Colleyville Indep. Dist., 21 IDELR 875 (SEA TX 1994).

A district may establish reasonable time limits for individual meeting sessions. See El Paso Indep. Sch. Dist., 34 IDELR 226 (SEA TX 2001) . In another case, an administrative law judge concluded that a California district did not violate the IDEA's parental participation requirements despite ending an IEP meeting early where the parent and advocate had refused to discuss any placement except the one they had requested. Compton Unified Sch. Dist., 115 LRP 15206 (SEA CA 03/27/15).

However, once an IEP meeting is scheduled, the team is required by 34 C.F.R. 300. 320(a)(2) and 34 C.F.R.324(a)(1)(ii) to address information provided by the parent, and the educational the concerns of the parents. In this instance, the district provided a PWN, dated May 6, 2026, proposing to conduct an IEP meeting, and stating that: "The district declines at this time to immediately conduct a complete redevelopment or replacement of the student's current annual IEP prior to the upcoming annual review cycle". (report, Finding 14, p. 15). This proposal to conduct an IEP meeting but, at the same time refusing to address information the parent wants to discuss at the meeting, is inconsistent with the requirements in 34 C.F.R. 300. 320(a)(2) and 34 C.F.R.324(a)(1)(ii). The parent's right to participate in IEP meetings necessarily requires that the parent be permitted to present information the parent wants to address at the meeting. Accordingly, the conclusion in the complaint report on Issue One is reversed.

Conclusion on Issue One – Student A

The school district is out of compliance with the requirement in 34 C.F.R. 300. 320(a)(2) by refusing to address "information provided by the parent" during an IEP meeting.

Remaining Issues

For the remaining issues, the parents' appeal says:

> *Please consider this a formal appeal of each of the decisions in this response that do not hold the district accountable to IDEA. The investigator has made excuses for the district allowing them to bypass the requirements in IDEA, and this in itself is illegal. It is the job of the SEA to hold the district accountable to IDEA.*

The parents added:

> *We would also like it to be considered in the appeal that we documented where the investigator lied about the investigation of this case on Recording, and then she lied and writing to her superiors at KSDE about that lie. We complained to KSDE leadership and requested that the investigator be removed. WE FULLY UNDERSTAND THAT [the investigator] IS COMPASSIONATE TO THE SCHOOL DISTRICTS, LYING, AND HAS A BIAS FOR ALLOWING THEM TO DO IT, BECAUSE SHE HERSELF HAS DEMONSTRATED HER OWN WILLINGNESS TO LIE ON TAPE, AND THEN LIE TO HER LEADERSHIP, BECAUSE THEY KNOW THAT MUCH LIKE THE SCHOOL DISTRICTS, THEY*

> *WILL NOT HOLD HER ACCOUNTABLE. The appeal committee needs to consider the lying, the lack of organization, the lack of transparency, the lack of our ability to be a part of the evidence and investigation to ensure that our children's evidence was all considered by this investigator, and the refusal of leadership to enforce that issue.*

As previously referenced, K.A.R, 91-40-51(f) is clear that "each" notice of appeal "shall provide a detailed statement of the basis for alleging that the report is incorrect." The Appeal Committee is not at liberty to grant an exception to that legal requirement. The appeal process was never contemplated to be a separate investigation. It is a process whereby either party can contest a finding or a conclusion in a complaint report by providing a "detailed statement of the basis for alleging that the report is incorrect." The Appeal Committee then reviews the report to reconsider findings or conclusions that are alleged to be incorrect based on the detailed statements of an appellant.

In this report, the investigator addressed five issues regarding Student A, two issues regarding Student B and one issue involving both students. In doing so, the investigator cited 75 separate documents that were reviewed and determined relevant (Report, p. 3 through 7), and made 116 findings of fact over 82 pages of analysis. The parents' appeal makes no reference to any finding of fact in the report nor any reference to a specific conclusion. Under these circumstances, the Appeal Committee has determined that the appeal does not meet the minimum requirements of K.A.R. 91-40-51(f) requiring that each notice of appeal "shall provide a detailed statement of the basis for alleging that the report is incorrect."

This requirement is a reasonable requirement. It was put into the Kansas regulations for two reasons: (1) to allow parties to appeal what they believe is an incorrect finding or conclusion while still meeting the time requirements of state and federal law for completing complaint investigations and (2) to allow the other party "the detailed statement of the basis for alleging that the report is incorrect," that they have a right to receive and that they will need to appropriately respond to the appeal.

Conclusion

Outside of Issue One for Student A, the parents' appeal does not meet the minimum requirement in K.A.R. 91-40-51(f), which requires that each notice of appeal "shall provide a detailed statement of the basis for alleging that the report is incorrect." For that reason, except for Issue One for Student A, the Appeal Committee sustains the remaining conclusions in the report. Corrective action is required for Issue One for student A.

Corrective Action for Issue One on Student A

The following corrective action is required:

1. No later than August 3, 2026, the LEA shall provide a written statement of assurance that it will comply with the requirement in 34 C.F.R.324(a)(1)(ii) and 34 C.F.R. 300.324(b)(1)(ii)(C) to address information about the child provided to or from the parents at any IEP meeting.
2. No later than October 15, 2026, the LEA shall provide training to all special education administrative staff in USD 437 on the requirements of 34 C.F.R. 300.324(b)(1) and inform SETS in writing when that training was completed and the names of the administrative staff members who attended.
3. No later than August 3, 2026, the LEA shall make a written offer to the parents to hold an IEP meeting to discuss any of the concerns of the parents at a mutually agreed upon time, and provide Special Education and Title Services (SETS) with a copy of that written offer.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 21st day of July, 2026.

Appeal Committee

Kerry Haag

Josie McClendon

Stephen Anderson

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #231
ON MAY 22, 2026

DATE OF REPORT: JULY 6, 2026

This report is in response to a Complaint filed with our office on behalf of a student, ------- by the complainant, -------. In the remainder of the report, the student will be referred to as "the Student" and the complainant as "the Complainant."

The Complaint is against USD #231, Gardner Edgerton Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #231.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 22, 2026, and the 30-day timeline ended on June 21, 2026. The Complaint Investigator received the appointment letter on June 2, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #231, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to fulfill its Child Find obligations by delaying the initiation of an evaluation for special education services for the Student, who exhibited a suspected disability and a persistent need for intensive interventions. K.A.R. 91-40-7(a-c); 34 C.F.R. § 300.111 (a)(c).

ISSUE TWO: Whether USD #231, in accordance with state and federal regulations implementing the IDEA, improperly refused or delayed a parental request for evaluation on January 16, 2026. K.A.R. 91-40-8(a-c), K.S.A. 72-3430(b)(2); 34 C.F.R. § 300.301(b).

ISSUE THREE: Whether USD #231, in accordance with state and federal regulations implementing the IDEA, failed to ensure a properly constituted Individualized Education Plan

(IEP) team during the April 21, 2026 and April 24, 2026 meetings, when the Special Services Coordinator replaced the campus Principal. K.A.R. 91-40- 1(hh); 34 C.F.R. § 300.321(a)(4).

ISSUE FOUR: Whether USD #231, in accordance with state and federal regulations implementing the IDEA, predetermined eligibility when Special Services Coordinator 1 repeatedly communicated that the Student did not qualify for special education services prior to the completion of the evaluation discussions and eligibility reviews during the April 21, 2026, and April 24, 2026 meetings. K.S.A. 72-3428(e), K.A.R 91-40-10; 34 C.F.R. § 300.306(a-c).

ISSUE FIVE: Whether USD #231, in accordance with state and federal regulations implementing the IDEA, denied the student a Free Appropriate Public Education (FAPE). K.A.R. 91-40-2(a)(d), K.A.R. 91-40-1(z); 34 § 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Complainant and the Parents on June 23, 2026. The following LEA staff were interviewed on June 22, 2026: the Special Services Coordinator, School Psychologist 1, School Psychologist 2, the Assistant Principal, the Math Interventionist, the Classroom Teacher, the School Psychologist, and the Principal.

In completing this Investigation, the Complaint Investigator reviewed documentation provided by the Complainant and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 08/15/25, 01/16/26, 02/05/26, 04/24/26
2. Evaluation Team Report - 3-Year Reevaluation, 09/05/25
3. Prior Written Notice for Identification, 09/05/25, 05/05/26, 05/13/26
4. Meeting Notes, 09/05/25, 05/04/26
5. Progress Monitoring Report, 09/05/25
6. Notice of Meeting, 04/24/26
7. Evaluation Team Report - Initial Evaluation, 05/04/26
8. Letter of Dissent Regarding [the Student], 05/08/26
9. Letter of Concern, 05/04/26
10. [The Student] Staff Meeting Transcript, 04/21/26
11. [The Student] Evaluation Meeting Transcript, 04/21/26
12. [the Student] IEP Meeting Transcript, 04/24/26
13. [the Student] IEP Meeting Part 2 Transcript, 05/04/26
14. Report Card, 2025-26 School Year
15. Individualized Education Plan, 09/06/24
16. Emails between parties, 12/16/25-05/13/26

Background Information

This Investigation involved a fifth grade student enrolled at a middle school in USD #231. The Student is not currently receiving special education or related services as a child with a disability per the IDEA. The Student was originally identified in second grade as a student with a health impairment and began services to address reading deficits. The Student was diagnosed with Attention-Deficit/Hyperactivity Disorder (ADHD) in August 2022. The Student currently manages their symptoms with environmental supports. The Student has made "great gains" in reading throughout elementary school and historically responds positively to intervention. The Student does well socially and is a very hard worker who is eager to learn. The Student is described as kind-hearted and has a passion for learning. The Student likes volleyball, cheer/tumbling, and science experiments.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Complainant, the Parents, and staff in the LEA.

1. The Student's September 6, 2024 Individualized Education Plan (IEP) listed an exceptionality of Other Health Impairment (OHI). Considerations included academic concerns, and Present Levels of Academic Achievement and Functional Performance (PLAAFP) included a diagnosis of ADHD. Parent concerns included reported concerns regarding the Student's "reading comprehension and math." Under the academic need for math, it was reported "the team has determined that the Student has adequate functioning in this area at this time." One goal for reading was included and the accommodations were:
    a. Separate setting (special education classroom) for all in-class, district, and state assessments;
    b. Read aloud in the general education classroom for all testing described above;
    c. Preferential seating in the general education classroom during all core instruction; and
    d. Extended time to complete all tasks and assignments in the general education classroom when any task or assignment was given.
2. August 15, 2025 Prior Written Notice (PWN) for Evaluation or Reevaluation indicated the LEA "proposes to conduct a reevaluation" for the Student and included:
    a. Explanation of why the action was proposed indicated the lawful requirement a student be evaluated at least every three years.
    b. Options considered and rejected were to not evaluate.
    c. Data used included review of records, input from team members, observations, progress on current IEP goals, and assessment data.
    d. Other relevant factors considered were the Student missing class and their placement, schedule, or classes changing as a result of the evaluation.

e. PWN was signed electronically by Parent 2 on August 18, 2025.

3. A September 5, 2025 Evaluation Team Report for the Student's three-year reevaluation included:
    a. Background on the Student's eligibility for OHI, along with a diagnosis of ADHD.
    b. "In addition to [the Student's] special education services, [they] [have] worked with the math specialist throughout elementary school and into [their] fifth grade year. [The Student] utilizes a separate setting for testing and progress monitoring in math and has access to noise cancelling headphones when working independently."
    c. Cognitive assessments:
        i. Woodcock-Johnson of Cognitive Abilities, fourth edition, with scores listed below as "compared to peers [the Student's] age."
            A. General Intellectual Ability - "low average range."
            B. Comprehension Knowledge - "average range."
            C. Fluid Reasoning - "low average range."
            D. Short-term Working Memory - "average range."
            E. Auditory Processing - "average range."
            F. Perceptual Speed - "low range."
            G. Long-term Retrieval - "average range."
            H. Visual Processing - "average range."
        ii. Woodcock-Johnson Tests of Oral Language, fourth edition.
            A. Broad Oral Language- "low average range." and "similar to abilities of peers [the Student's] age."
            B. Oral Expression - "average range." and "similar to abilities of peers [the Student's] age."
            C. Listening Comprehension - "average range" and "similar to abilities of peers [the Student's] age."
    d. Social/Emotional Assessment was the Behavior Assessment System for Children, third edition (BASC-3). The Parent rated the Student's "overall concerning behaviors" and "internal distress" in the "Clinically Significant" range. Additionally, the Parent reported the Student's "Hyperactivity, Depression, Somatization, Attention Problems and Atypicality" in the "Clinically Significant" range.
    e. Behavior noted during observation included the Student being a "great reader," "able to keep up with the [fourth] grade expectations for writing," and no "behavior issues." It was noted the Student "struggles to recall math concepts and facts" and "needs redirection multiple times and reminders as to what process [the Student] is in." The Student was described as "verbal and will tell great stories," along with "gets distracted easily," and "struggle[s] to maintain attention during reading … Struggling to keep up with the class … Difficulty

working independently, maintaining attention, following written or verbal instructions, and completing homework."

f. Academic Assessments
    i. FastBridge assessments, which compared the Student's performance to students in the national norm group at the same time during the school year. The Student's scores were:
        A. aReading (broad reading assessment) - "no risk" category.
        B. Curriculum-Based Measurement (CBM)reading (timed reading assessment) - "some risk" category.
        C. AUTOreading (accuracy and rate of reading areas) - "some risk" category.
        D. aMath (broad math assessment) - "some risk" category.
        E. CBMmath (basic math facts) - "some risk" category.
    ii. For Woodcock-Johnson Tests of Achievement, fourth edition, the Student's scores were:
        A. Broad Reading - "skills similar to the abilities of peers."
        B. Basic Reading - "skills similar to the abilities of peers."
        C. Reading Comprehension - "similar to the abilities of peers."
        D. Reading Fluency - "similar to the abilities of peers."
        E. Broad Mathematics - "low range."
        F. Math Calculation Skills - "low range."
        G. Math Problem Solving - "low range."
        H. Broad Written Language - "similar to the abilities of most peers."
        I. Written Expression - "similar to the abilities of most peers."
    iii. Acadiance timed assessments for basic math computation. The Student's scores were:
        A. Fifth Grade level math computation - "slightly below benchmark for fall of [fifth] grade."
        B. Applications, fifth grade - "slightly below benchmark for fall of [fifth] grade."
    iv. In the EasyCBM Fifth Grade Proficient Math Test, the Student solved problems with 57% accuracy, which placed them "within the low average range."

g. Summary and conclusions included the Student was receiving "30 minutes of in-class special education services in reading" and the Student "has worked with a math specialist throughout elementary school and into [their] fifth grade year." The Student's cognitive skills were in the "average to low average range." The Student "continues to make gains in reading and met [their] IEP goals for the fourth grade." The Student's elementary math specialist shared the Student had

"difficulty reading math concepts and facts and often needs redirection and reminders of previous learning. [The Student] can have difficulties if the whole group instruction is too fast. [The Student's] current classroom teacher shares that [the Student] is able to understand readings in class and participates in reading discussions." The Student was observed "on-task" 90% of the time.

h. Exceptionalities considered were Specific Learning Disability (SLD) for "math problem solving" and OHI.

i. On September 5, 2025, the report was signed by both of the Parents, the Classroom Teacher, Special Education Teacher 1, the Assistant Principal, a school psychologist, and a counselor.

4. A September 5, 2025 Progress Monitoring Report completed by Special Education Teacher 1 indicated the Student was "able to read a 5th grade leveled text with 100 correct words a minute 2 out of 3 data collection days. The goal was met."

5. September 5, 2025 Meeting Notes indicated all parties who signed the three-year reevaluation report were present. The purpose of the meeting was to "review the reevaluation report for [the Student]." Relevant notes included:

   a. Parent 2 shared a "potential dyslexia diagnosis."

   b. Parent 2 shared the Student was having "lots of frustration" at home and "showing high anxiety" in math. The team discussed the potential of using paper and pencil for math homework.

   c. The Student's reading scores were reviewed and the trend was "upward with showing some risk."

   d. The Student's math scores were "trending upward making progress."

   e. Academic math probes were given to the Student because "one math data was not matching the historical math data" and the Student "was above the cut score for students typical in special education."

   f. The "tiered system where specialized instruction needs to [be] given" was explained to the team and it was noted a special education coordinator "would like for us to have six weeks of interventions before repeating an evaluation."

   g. There was a proposal to "dismiss the reading goal."

   h. There was a suggestion to "bring [the Student] through the [Student Intervention Team] SIT process with math to see if [the Student] is able to make progress. This would give the team six weeks to collect data on math."

   i. "The services that [the Student] is currently receiving would not change because [they] will still continue to receive general education interventions in reading and math. Separate setting accommodations are still available."

   j. Parent 2 shared their concern because the Student had responded to intervention.

   k. The "paperwork as [a] team decision was signed."

6. September 5, 2025 PWN for Identification indicated the LEA decided the Student was not eligible for special education services and proposed exiting the Student from services because their needs would "continue to be met in the general education setting through tier 2 supports. [The Student] will continue tiered reading and math support and receive additional math support through the math interventionist. Data will be gathered by the general education team and reviewed regularly by the [SIT] to monitor [the Student's] progress."
    a. Explanation of why the action was proposed was the Student made "great gains" in reading, special education services had been reduced, and "while [the Student's] math skills are in the low average to low range, data supports that [they] [are] making progress in [their] math skills with tier 2 supports."
    b. Options considered and rejected were special education services to address math, but "through historical data that [the Student] is making appropriate gains in [their] math skills through tier 2 interventions and the general education classroom is [the Student's] least restrictive environment."
    c. Data used included a review of existing records, parent and teacher interviews, classroom observations, and assessment results included on the three-year evaluation report.
    d. Other relevant factors considered were the Student "may stop making appropriate progress in the general education setting and may require more intensive supports later in [their] academic career."
    e. PWN was signed electronically by Parent 2 on September 19, 2025.
7. In a December 16, 2025 email to the Principal, Parent 2 stated, "I was essentially forced into having [the Student's] IEP removed." They explained the staff were aware the Student was struggling in math, but exited the Student without an offer to modify the IEP to include math. "I kept being told in previous years (and this year) that [the Student's] abysmal math scores still were not low enough to qualify [them] for an IEP in Math and that [they] would just continue to be in 'tier' and be 'monitored.'" Parent 2 indicated they expected the evaluation "used to remove [the Student] from [their] IEP, would be reassessed to have [the Student's] IEP reimplemented and modified with a math goal."
    a. The Principal replied the same day and indicated they would reach out to a school psychologist and special education coordinator to "review the information shared, including [the Student's] recent assessment results and prior evaluation data."
8. In a December 17, 2025 email to the Principal, the Assistant Principal, and School Psychologist 1 and 2, Special Services Coordinator 1 indicated they spoke with Parent 2 and reported, "after reviewing the data, we would either send consent for an initial evaluation or send a PWN stating that we would not be opening consent for evaluation based on the data." The Assistant Principal replied the same day clarifying that at the IEP meeting, they let Parent 2 know the Student would be in the SIT process. They

confirmed the Student was discussed at SIT meetings on October 27 and November 18, 2025.

9. In a December 17, 2025 email exchange between the Principal, the Assistant Principal, School Psychologist 2, and Special Education Teacher 1, the Student's assessment scores and math grades were discussed. School Psychologist 2 stated, "[The Student] did okay in math calculation, but math problem solving (application) was more difficult for [them] ([the Student] scored a 79). [The Student] was also lower in the fluency portions (which is pretty typical of kiddos with ADHD, since their processing is slower). … The real question isn't on prong one (we know [the Student] has an exceptionality), it would be prong two (is there a need for specialized instruction to progress in the curriculum). We would look at all assessments/work in the classroom, not just [the Student's] FastBridge scores (which I know is what [Parent 2's] concern is at this point)." Special Education Teacher 1 noted the Student "improved scores on the screener that the [Math Interventionist] gave and was in the average group for growth on the forefront math screener."
10. In a January 14, 2026 email exchange with the Principal, Parent 1 indicated Special Services Coordinator 1 spoke with Parent 2 and clarified the Student was not receiving special education services any longer, "so we have to work with gen[eral] ed[ucation]. So essentially this is not [Special Services Coordinator 1's] problem, its [sic] now gen[eral] ed[ucation]'s problem."
11. January 16, 2026 PWN for Evaluation or Reevaluation indicated the LEA "refuses to conduct an initial evaluation" and included:
    a. An explanation of why the action was refused was that the team would "implement general education interventions (GEI) to address concerns and collect data prior to moving forward with a special education evaluation. [The Student] has shown the ability to make progress with GEI and intervention."
    b. Options considered were a special education evaluation, which was rejected, and GEI would continue because the Student has "indicated growth."
    c. Data used included a parent request for evaluation, district-wide assessments, SIT input, progress monitoring on current interventions, observations, present levels, and a review of records.
    d. Other relevant factors considered were using GEI to keep the Student in the Least Restrictive Environment (LRE) and, "The team will reconvene following the next intervention cycle to discuss progress and review [the Student's] performance to determine if adequate progress has been made."
12. A transcript from a February 5, 2026 voice-recorded meeting regarding the Student included:
    a. Meeting attendees were the Principal, the Assistant Principal, the Math Interventionist, the Classroom Teacher, the Complainant, and Parent 2.

b. The Classroom Teacher indicated they had not been making the Student do the online math course the rest of the class had been doing "because it was frustrating [the Student] so much" due to how difficult it was.

c. The Math Interventionist described the tier three intervention the Student was receiving as "four days a week for 30 minutes" outside of the classroom. They indicated they were "very concerned" because the Student was not retaining information and stated the Student was "struggling more than anyone with [their] math facts."

d. The Classroom Teacher and the Math Interventionist explained the Student was missing math class to do the pull out intervention time, but was not responsible for work missing in the math class, so received a participation grade for that work.

e. The Classroom Teacher shared the Student "doesn't recall what was taught in previous lessons. I mean even a week from a week ago, [the Student] won't recall what was taught." The Classroom Teacher also noted the Student's challenges were not due to an engagement or participation issue.

f. The Math Interventionist stated, "I think that's why we started this second tier three group, so that [the Student] would kind of be getting double dipped when we're in Tier cycles. So [they] would be getting two math groups a day, except for one day a week. That was kind of our goal with this. I don't think we've been in it long enough to see if it's making a huge impact. I think we probably need eight weeks of this to see [whether] [the Student] [is] retaining and did it make a difference?" When the Complainant asked what was different now compared to the last semester, the Math Interventionist replied, "We've added on an additional 30 minutes that [the Student's] getting pull out." The Classroom Teacher added, "This one's a more intensive, smaller group, … the math strugglers" and the Principal clarified tier three intervention was the highest level of support and intervention for general education students.

g. The Math Interventionist clarified they believed the Student needed support in addition to what they were receiving. The Assistant Principal added the Student was continually discussed in SIT meetings, which has led to the "second tier three intervention."

13. In a February 5, 2026 email to the Special Education Director, with the Complainant, Parent 1, and the Principal copied, Parent 2 "formally request[ed] a review of existing data and, based on that review, the initiation of an initial evaluation to determine eligibility for special education and related services. … If the review of existing data indicates that additional evaluation is necessary, I am prepared to review and sign consent immediately so required evaluation timelines may begin without delay." They noted if the LEA were to decline the evaluation, they expected PWN.
14. February 5, 2026 PWN for Evaluation or Reevaluation indicated the LEA "proposes to conduct an initial evaluation" for the Student and included:

a. Information to be collected with existing data in seven categories and new data in academic performance and parent input, teacher input, and classroom observations.
b. Explanation of why the action was proposed was an evaluation focused on math, "as requested by the parent."
c. Options considered and rejected were "Continuing with current [GEI] [Response To Intervention/Multi-tiered Systems of Support] (RTI/ MTSS) without a formal evaluation. While interventions have been provided and ongoing, additional information is needed to determine the area of potential disability."
d. Description of data indicated, "This action is being proposed in response to a formal request from the [P]arent[s] on [February 5, 2026]. The [P]arent[s] expressed concerns regarding the [S]tudent's difficulty with Math."
e. Other relevant factors considered were, "The team collaborated approximately four weeks ago to review [the Student's] existing data. This review included previous evaluation data, current grades, and recent district-wide assessments. Upon thorough review of this information, the team determined that while current data shows a struggle in math, it is not comprehensive enough to definitively determine a specific need for Specially Designed Instruction (SDI). To ensure a "full and individual" evaluation, the team determined that new, standardized data points are required. This proposal aligns with the [P]arents' request to investigate these gaps further to ensure the [S]tudent's educational needs are being met in the [LRE]."
f. PWN was signed electronically by Parent 2 on February 6, 2026.

15. In a February 11, 2026 email to Parent 2, the Special Education Director indicated the Parent's request for an evaluation was "honored with the [c]onsent being sent and signed" and the team would move forward with an evaluation of new and existing data. They cited a 60-day timeline and indicated the IEP team would meet to discuss results. Parent 2 replied the same day inquiring about the timeline and the Special Education Director replied the team would "ensure their evaluation is completed within the 60 school days" and to follow up with the building team for more information.
16. In an April 2, 2026 email to Parent 2, with Parent 1, the Complainant, Special Services Coordinator 1, the Special Education Director, the Classroom Teacher, the Principal, and School Psychologist 2 copied, School Psychologist 1 indicated they completed the standardized math assessments, were collecting more data, and wanted to wait for the tiered intervention cycle to be complete to "ensure we have a more comprehensive assessment of skills using data from multiple sources."
17. April 21, 2026 meeting notes indicated:
    a. Meeting participants were the Principal, Special Services Coordinator 1, the Classroom Teacher, the Math Interventionist, School Psychologists 1 and 2, Special Education Teacher 1, the Complainant, and both of the Parents.

b. A summary of assessments "spanning from 2022-2025" were discussed and "discrepancies were shared due to several factors."
c. The Student's diagnosis was documented as ADHD, combined presentation, and dyslexia.
d. Parent input included their goal for the Student to be on grade level in reading and math.
e. The Classroom Teacher and the Math Interventionist provided input and stated the Student needed "one on one attention" and "did make growth from the beginning of the tier cycle." The Math Interventionist added the Student "need[s] support in clearly articulating [their] thinking independently."
f. The meeting concluded and the team set a time to "reconvene" on April 24, 2026.

18. The April 21, 2026 meeting transcript included:
    a. School Psychologist 1 expressed there were a few tests the Student measured in the "low to low average range" for processing speed and the "low average range" for "long term retrieval." They also explained short term memory "varied a little bit," depending on the test, and cited the reasons for the discrepancies as "a variation that can occur around, like a true score, distraction, medication, fatigue, nerves, confusing questions. … Some different subtests measure different components of the process, so for the long-term retrieval, for example, the [Kaufman Assessment Battery for Children, Second Edition] KABC has the subtests that more involve associative learning, and then on the [Woodcock-Johnson], they administer the [Story Recall subtest], which is more meaningful memory, so that can kind of explain the discrepancy."
    b. The Math Interventionist indicated the Student would sit in math class "and be confused" because they won't ask questions during the whole group instruction, but the Student was "really good in a small group," which is what contributed to "a lot of growth on those three [math] standards that we noticed for last semester."
    c. Special Education Teacher 1 stated during a fifth grade proficient math assessment, where data showed the Student had "all the skills that [they] need by the end of the day, based on the standards," they prompted the Student 13 times and "read aloud 15 of 30 questions." When Parent 2 asked about the Student being "read half the questions" and prompted "13 times," Special Education Teacher 1 responded "that's an accommodation I would give to any kid."
19. April 24, 2026 meeting notes indicated:
    a. Meeting participants were the Principal, Special Services Coordinator 1, the Classroom Teacher, the Math Interventionist, School Psychologists 1 and 2, Special Education Teacher 1, the Complainant, and both of the Parents.
    b. Classroom observation notes were shared, along with on-task behavior data.

c. Questions and commentary were noted:
    i. Parent 2 mentioned the Student had not shown growth on Fastbridge scores and the Student's dyslexia "affects [their] brain."
    ii. The Complainant stated the Student needed a math goal and "brought up the history of intervention and lack of retention." They also indicated the Student needed "Extended time, wait time, [and] repetition."
    iii. The Math Interventionist explained the Student was "struggling in math" and was not understanding grade level material.
    iv. Special Services Coordinator 1 referenced the difference between SDI and the tiered supports the Student was receiving.
d. The meeting was "paused" to collect BASC scores and "do additional testing."

20. The April 24, 2026 meeting transcript included:
    a. When asked by the Complainant what the LEA was recommending, Special Services Coordinator 1 stated this was a "collaborative conversation when we're looking at eligibility indicators." They explained the data did not support eligibility under SLD, but "we potentially could look at an OHI qualification, but then that would be prong one. Prong two would be, what is the need for [SDI]? And I don't know that we have enough data to determine that [the Student] does need [SDI] in the area of math. So then that would mean that [the Student] may or may not qualify for the indicator of OHI. Those are initial thoughts based on the evaluation. This is where it comes up to the team to have a discussion about what the eval[uation] reports says, and what do we need to do to go from there. … I think when we're looking at OHI, we're looking at the impact of how [the Student's] ADHD impacts [their] ability to access [their] curriculum. And I think that's where we have to look at, is there potential for a need for [SDI] in that area?"
    b. Special Services Coordinator 1 indicated the Student's challenge was not "the math itself," but it was "the ability of the brain and how it's able to process that information because of the ADHD." They added, "We can make a case for OHI, dependent on what is the [SDI] needed."
    c. Parent 2 stated, "My goal for [the Student] is [for them] to be able to gain the skill set where [they] [do] not need … a teacher to read 15 out of 30 questions to [them] [in order] for [the Student] to be able to to score a 50% on it or be in the 52nd percentile." An unknown speaker indicated many of the items Parent 2 was requesting for this goal "could be accommodations in a general classroom."
    d. The Complainant clarified "the eligibility does not drive the services or supports" and the Student needed a math goal. Special Services Coordinator 1 countered there was "contradictory data that supports [the Student] [was] operating on a fifth grade [level]," and that was "not a math deficit. That's a deficit in the area of [the Student's] ability to process information, which is what the [SDI] would be around." The Math Interventionist declared their disagreement and shared the

Student was missing second and third grade math standards and they observed the Student struggling with math on a regular basis.

e. The Complainant made the argument that the LEA's documentation describes intensive intervention and growth, yet the Student was continuing below mastery level. An unknown speaker countered, "Intervention does not equal [SDI], but it is something that we offer in the gen[eral] ed[ucation] space, because all kids have different levels of needs and different levels of accessibility." They added the intervention was available to "students that just need that extra level of tiered support throughout," and "that doesn't necessarily mean that they have a need for [SDI]."

f. The Complainant shared their belief the Student had been receiving SDI all year. "Call it what you want. But, whenever you're pulling a student 30 minutes out of [their] math class every day except Wednesday … . Every day, [the Student] is being pulled and getting Tiered support. On top of that, [the Student] is not being exposed to on grade-level [math] [and] [the Student] is getting a participation grade in math. You are using RTI as a gate, and that is very problematic."

g. Special Services Coordinator 1 stated, "I think we're to the point we can agree that we're going to staff-in under OHI in the area of executive functioning, we can agree with that. I think what we need to understand is [that] all of the standardized testing is in alignment [and] that [they] [do] not have an area of deficit in the area of math based on the data." They also stated, "So based on this conversation, we will send a[n] evaluation signature page to be signed. It sounds like we have determined that [the Student] meets prong one and two of OHI, and that we will need a schedule within the next 10 days, an IEP to be drafted in the area of concern."

21. April 24, 2026 PWN for Evaluation or Reevaluation indicated the LEA "proposes to conduct an initial evaluation" for the Student and included:

    a. Information to be collected with existing data in seven categories and new data in "Social/Emotional Status/behavioral Status," academic performance and parent input, teacher input, and classroom observations.

    b. Explanation of why the action was proposed was an evaluation focused on math, "as requested by the parent." It was noted, "Following an eligibility meeting held on [April 24, 2026], the team will collect additional data in the area of social/emotional status before reconvening on [May 4, 2026]."

    c. Options considered and rejected were, "Continuing with current [GEI] (RTI/MTSS) without a formal evaluation. While interventions have been provided and ongoing, additional information is needed to determine the area of potential disability."

    d. Description of data indicated, "This action is being proposed in response to a formal request from the [P]arent[s] on [February 5, 2026]. The [P]arent[s] expressed concerns regarding the [S]tudent's difficulty with Math."

e. Other relevant factors considered were, "The team collaborated approximately four weeks ago to review [the Student's] existing data. This review included previous evaluation data, current grades, and recent district-wide assessments. Upon thorough review of this information, the team determined that while current data shows a struggle in math, it is not comprehensive enough to definitively determine a specific need for [SDI]. To ensure a 'full and individual' evaluation, the team determined that new, standardized data points are required. This proposal aligns with the [P]arents' request to investigate these gaps further to ensure the [S]tudent's educational needs are being met in the [LRE]."

f. PWN was signed electronically by Parent 2 on April 27, 2026.

22. In an April 29, 2026 email to Special Services Coordinator 1 and School Psychologists 1 and 2, Special Education Teacher 1 shared their observation results and stated, "I'm at a loss on proposed/draft goal and services. Given the info." School Psychologist 2 replied the same day stating, "Task initiation was the only thing I could think of. [The Student's] [Behavior Rating Inventory of Executive Function] BRIEF isn't even clinically elevated. .. mostly within normal with only a couple mildly. I have no idea what functional goal we could even propose." They provided an example of a goal possibility for working memory and added an idea generated by Artificial Intelligence (A.I.) and cited as such. Special Services Coordinator 1 was included in this reply and stated, "Please [h]old. I will be speaking with someone and getting back to you regarding next steps."

    a. On April 30, 2026, School Psychologist 2 replied to all, asked Special Services Coordinator 1 for their advice, and stated, "I do think that the suggested goal and objectives would require [the Student] to do more than typical peers and be potentially more confusing. But, I have no [i]dea what to suggest given [the Student's] observations and the feedback that we received."

23. A May 4, 2026 Evaluation Team Report for an initial evaluation of the Student included multiple duplicate items from the September 5, 2025 three-year reevaluation report. Additionally, the report included:

    a. The referral was made by the Parents on February 5, 2026 "due to concerns in the area of mathematics."

    b. A note the Student's previous IEP addressed SDI for reading, that the Student was exited from IEP services on September 5, 2025, and "the team determined that [the Student] was making progress in math with tier 2 support."

    c. A summary of GEI showed six cycles of work with the Math Interventionist, four times per week, from September 2, 2025 to April 7, 2026. It was noted there were 64 days of tier 2 intervention. Starting January 15, 2026, the Student was in a tier 3 math group that met for 25 minutes, four days per week.

    d. It was noted the Student received 30 minutes of special education support in the general education classroom, five days per week, as part of their September 4, 2024 to September 5, 2025 IEP. IEP accommodations included "separate

setting for assessments, read aloud, preferential seating, and extended time to complete all tasks and assignments."

e. The Student had a diagnosis of "ADHD, Combined Presentation" from August 2022 and a diagnosis of dyslexia from February 2023.

f. The Student's BRIEF-2 had both the Classroom Teacher and the Math Interventionist rate the Student in 11 areas. All were rated by both staff as "within normal limits," "potentially elevated," or "mildly elevated," except the Math Interventionist rated the Student as "clinically elevated" for "working memory."

g. The Math Interventionist noted, "[The Student] is currently struggling in math, particularly with understanding place value, which is a critical foundation for more advanced concepts in middle school."

h. The Student's KeyMath-3 scores indicated "Basic Concepts," "Operations," and "Applications" were all in the "average range."

i. Easy CBM scores indicated on February 19, 2026 the Student was in the "some risk" category, and "spring" scores indicated the Student was in the "benchmark" category. 'This score places [the Student] in the 'Some Risk' category for Winter and Spring."

j. A Proficient Math assessment was given to the Student on April 6, 2026. The Student scored in the "benchmark" category. "To support access to the assessment, staff read aloud 15 of the 30 questions at the Student's request and/or when [the Student] appeared to have difficulty maintaining attention to the written task. … Reading the question aloud appeared to improve [the Student's] focus and ability to respond."

k. For Concepts and Applications, the Student's scores were "slightly below benchmark" in August 2025, they were "above benchmark" in February 2026, and then were "below benchmark" in April 2026.

l. On April 29, 2026 there were two "structured classroom observations" and the Student was observed to be "on-task" for 93.3% of the recorded intervals.

m. Summary and Conclusion indicated:

    i. "Helpful strategies may include extended time on tests and assignments, wait time for verbal responses, and emphasizing quality over speed/volume. … Reading scores are consistently falling in the average to low average range. Math scores vary, with scores on the Woodcock-Johnson Achievement falling in the low range, and scores on the KeyMath-3 falling in the average range." This was explained by "summer slide," test content, pace of test-taking, and the statement, "[The Student] has also been consistently receiving tier 2 and tier 3 math interventions throughout 5th grade."

    ii. "Based on the results of the evaluation, [the Student] does not demonstrate a need for [SDI]."

n. Under Eligibility, the Student's ADHD met the criteria for the OHI exceptionality, though it was documented the Student did not demonstrate the need for SDI.

o. Team Staffing Participants included signatures dated September 5, 2025 from both of the Parents, Special Education Teacher 1, the Principal, and the Math Interventionist. Signatures dated September 4, 2025 were included from the Classroom Teacher, Special Services Coordinator 1 and 2, School Psychologists 1 and 2, the Complainant, and Special Education Teacher 2.

24. May 4, 2026 meeting notes indicated:

a. Meeting participants were the Principal, Special Services Coordinator 1 and 2, the Classroom Teacher, the Math Interventionist, School Psychologists 1 and 2, Special Education Teacher 2, the Complainant, and both of the Parents.

b. The team reviewed the BASC scores.

c. The Complainant asked what "on-task behavior" looked like.

d. The Complainant stated, "we are not going to do this again" and noted the team had come to an agreement at the last meeting.

e. "The meeting concluded with the Student not qualifying for special education."

f. It was noted Special Services Coordinator 1 would present the option of an Independent Education Evaluation (IEE) to the Parents.

25. The May 4, 2026 meeting transcript included:

a. A review of the existing data and new data from the May 4, 2026 evaluation report.

b. Special Services Coordinator 1 stated the new data "brings to light less clinically significant scores than what we were maybe thinking might be there. We're really looking at clinically significant areas as being areas that need more intervention and [SDI]. … That [SDI] piece is the piece that is the current question when we were looking at this data and trying to come up with an appropriate, either executive functioning goal, or something along those lines, it was really feeling like a stretch because the new data really does not support that need. We know that prong one, that ADHD piece, is there, but that need for [SDI] regarding the new information is not really supported. And then the current observations in the classroom that we have that [the Student] is able to be on task 97% and 98% of the time relative to peers. Again, [this] isn't supporting that leaving the classroom would be a [LRE]."

c. The Complainant indicated the Student had been provided tiered interventions for "five years" and by pulling the Student from math class for "the majority" of the 2025-26 school year, that was "of itself SDI." They indicated the Student took a third grade exit exam and scored 60% and "that tells me [the Student] is two grade levels behind."

d. Parent 2, the Math Interventionist, and the Classroom Teacher both clearly indicated they were "not okay with" the Student testing low in third, fourth, and fifth grade levels and they were in support of the Student having an IEP.

e. Special Services Coordinator 1, serving as the role of "LEA" in this meeting, stated, "Based on the current data, [the Student] is a student that doesn't need [SDI] from special education. … [The Student] meets prong one, OHI, but [they] [do] not meet prong two."

f. Parent 2 polled some of the meeting attendees and Special Services Coordinator 2, Special Education Teacher 2, and School Psychologist 2 indicated they did not believe the Student met the criteria for special education.

26. In a May 4, 2026 letter, addressed "to whom it may concern," the Classroom Teacher shared their "thoughts and concerns regarding the decision" about the Student's "IEP placement." The Classroom Teacher expressed the Student "does not retain any of what has been taught over time. … [The Student] has been pulled since January [2026] for 30 minutes, 4 days a week, for Tier 3 math support[,] while only getting a participation grade for math." The Classroom Teacher noted "every math test" in the general education setting was taken using notes and the Student's scores were a "D or below," before making corrections with the Classroom Teacher's help. "I feel we are doing a huge disservice to this child by letting [them] slip through the cracks, by not giving [them] an IEP." They also noted this was their opinion throughout the entirety of the process.

27. May 5, 2026 PWN for Identification indicated the LEA decided the Student was not eligible for special education services because they did not meet the criteria as a child with an exceptionality and special education services were not necessary to enable the Student to receive educational benefits. "Based on the results of the evaluation, [the Student] does not have a need for special education service in order to adequately access and progress in the general education curriculum."

    a. Explanation of why the action was proposed was, "based on the results of the evaluation," the Student did not need SDI "at this time," and "general education accommodations" were recommended to "best meet" the Student's needs.

    b. Options considered and "refused" were initiation of special education, but the Student did "not meet the criteria for services under SLD and OHI," the Student's needs could be met through GEI, and the Student "should be served" in the LRE, which "results indicate" was general education.

    c. Data used included present levels, input from the SIT, observations, standardized cognitive and achievement testing, district testing, teacher input, parent input, and data collected by math intervention.

    d. Other relevant factors considered were the Student would be served in their LRE and the team would "continue to monitor [the Student's] progress to ensure growth and enrichment needs" would be addressed in general education.

28. In a May 5, 2026 email to Special Services Coordinator 1, the Complainant requested "clarification and correction" of PWN regarding:

    a. Specific data supporting the determination;

b. An explanation of educational need and adverse impact on the Student, which the Complainant claimed did not address the Student's suspected disability;
c. An analysis of rate of progress;
d. A clarification of the standard used to deny eligibility;
e. The intervention data and the Student's response;
f. Options considered and rejected;
g. The consideration of parent input; and
h. The harmful effects of the denial of services.
i. The Complainant followed up in a May 8, 2026 email claiming they had not received a response and requesting a response to their inquiry.

29. In a May 8, 2026 letter of dissent regarding the Student, the Math Interventionist documented their dissent regarding the May 4, 2026 decision regarding SDI for math. "I disagree with this decision based on my professional analysis of formative and summative assessments during [the Student's] time in my classroom. … I believe denying support at this stage will significantly hinder [the Student's] ability to access grade-level standards and may lead to further regression. … [The Student] has not shown significant progress, and frequently needs one-on-one support from myself or the classroom teacher. I believe [the Student] should have a math goal focusing on foundational skills [they are] missing from third and fourth grade."
30. In a May 5, 2026 email to School Psychologist 1, the Principal stated, "I respectfully dissent from the team's eligibility decision for [the Student]. Despite extensive Tier 2 and Tier 3 interventions, [the Student] continues to demonstrate difficulty in math, along with documented weaknesses in processing speed, working memory, and executive functioning that impact [their] ability to access grade-level content. Based on this data, I believe [the Student] requires [SDI]."
31. May 13, 2026 PWN for Identification indicated the LEA decided the Student was not eligible for special education services because they did not meet the criteria as a child with an exceptionality and special education services were not necessary to enable the Student to receive educational benefits. The action proposed was "initial eligibility for special education."
    a. Explanation of why the action was proposed indicated the Student was not eligible for SDI "at this time." The team considered SLD in the area of mathematics problem-solving and OHI. It was cited the KeyMath-3 "allows for more thorough assessment" and was "more representative of [the Student's] abilities," as compared to the Woodcock-Johnson tests. Acadiance and EasyCBM scores were also cited. "[The Student] has been consistently receiving tier 2 and tier 3 math interventions. [The Student's] math grades also reflect that [they are] making progress in the general education curriculum. [The Student's] math grades for the first three quarters were 89.5%, 86.35%, and 88.19% and [their] average unit test score is 81%." To account for the Student's OHI, it was explained the Student "may work at a slower pace compared to [their]

nondisabled peers, but [the Student] does not require [SDI] to access the general education curriculum." The Student's on task behavior observations were also cited.

b. Options considered and "refused" were qualifying the Student in the area of SLD for mathematics problem-solving, "but it was ultimately determined" the Student did not qualify for SDI. Also considered and refused was qualifying the Student under OHI, but the Student "did not demonstrate the limited strength, vitality, and alertness required to qualify" because the Student was observed on task in the classroom.

c. Data used included all of the assessments listed in the evaluation report and parent input, SIT input, math interventionist data, classroom and interventionist observations, and grades.

d. Other relevant factors considered were the Student was receiving tiered interventions and the team would continue to monitor the Student's progress "to ensure growth in the general education curriculum."

32. The Student's math grades for the 2025-26 school year were an "A-" in quarter one, a "B" in quarter two, and a "B+" in quarters three and four.

33. On May 22, 2026 the Parent filed the Complaint.

Complainant Interview

34. In an interview with the Complaint Investigator, the Complainant shared they served as the advocate for the Parents and entered the process during the final week of January 2026. The Complainant stated Parent 2 sought their guidance because "[Parent 2] told me [Parent 2] doesn't feel like [they're] being heard and that nobody is listening to [them]."

35. The Complainant explained the evaluation and eligibility meetings progressed across three dates in April and May of 2026. They shared after the discussion on April 21, 2026, the team reconvened on April 24, 2026, where the Complainant recalled an agreement that the Student "was eligible under OHI, ADHD" and to reconvene to plan and develop an IEP within ten days while the School collected additional data through observation and teacher surveys. However, at the May 4, 2026 meeting, the Complainant observed a shift in the LEA's roster, "we had people who hadn't been at the other meetings," and indicated a new coordinator, special education teacher, and another psychologist were in attendance. The Complainant stated the new data was instead "used to deny [the Student]" eligibility, reversing the prior consensus. After discussion around the Math Interventionist's scores, they noted Special Services Coordinator 1 stated, "Well, I don't think [the Student] needs especially [sic] design[ed] instruction." The Complainant added it was at this meeting they learned "[the Student] was being pulled out of math, [they] had an MTSS class, but [the Student] was also being pulled out of class 30 minutes of math to go over work on remedial work."

36. When asked about the April 24, 2026 meeting transcript regarding the discrepancy model, the Complainant explained their comments referred to the pre-2004 IDEA

framework that required a student's scores to fall a specific number of standard deviations below the norm. The Complainant shared that LEA personnel had asserted the Student needed to score below an 8% average cutoff to qualify for services. The Complainant countered that strict numerical cutoffs were no longer utilized under current regulatory pathways, noting the LEA's stance left them with the impression that the staff felt the Student was "struggling, but [the Student's] not struggling enough."

Parent 1 and Parent 2 Interview

37. In an interview with the Complaint Investigator, Parent 2 reported feeling misled during the September 2025 meeting when the LEA exited the Student from their IEP based on the completion of reading goals, adding, "That was their whole reason for dismissal." Parent 2 explained the LEA disregarded math deficits below the tenth percentile, instead promising to monitor the Student's math progress through general education channels until November 2025.
38. When asked about tier two supports, Parent 2 shared the Student had a history of receiving "intensive one-on-one work for math in elementary school" despite not having IEP support for math. Following the Student's special education dismissal, Parent 2 noted that School personnel did not clarify "what the actual supports were" and instead offered to "just keep an eye on" the Student through progress monitoring. Parent 2 added that the LEA provided no defined tracking goals, explaining that the tier two plan was described as "just making sure [the Student] wouldn't fall through the cracks essentially."
39. Parent 2 confirmed the Student received a formal dyslexia diagnosis in 2023 and immediately shared the physician's email and medical report with the LEA. When School Psychologist 1 later noted in January 2026 that the documentation was missing from the Student's official file, Parent 2 located and forwarded the email trail with the diagnosis to School Psychologist 1.
40. Parent 2 clarified that a bullet point in the September 5, 2025 meeting notes indicating they were concerned because the Student had "responded to intervention" was an administrative error. They explained their concern was the Student had not responded to the interventions, noting there would be no reason to express concern if the Student had successfully made progress and "just assumed that that was a typo."
41. Parent 2 recalled a January 2026 conversation with Special Services Coordinator 1. They perceived Special Services Coordinator 1 deflected the Student's math difficulties by asserting, "This sounds like a gen[eral] ed[ucation] problem." Parent 2 questioned this by pointing out the guidance received from the Classroom Teacher, and that the Math Interventionist had shared general education "resources are no longer helping [the Student]" and informing them "there are serious concerns."
42. When asked about the behavior rating scale discrepancy, Parent 2 explained the discrepancy occurred because the Student felt more comfortable expressing frustration at home when routines changed, whereas the School environment was highly regulated. Parent 2 shared they were not surprised by the variance and validated

the classroom observations submitted by the Classroom Teacher, noting the Student was well-behaved at School.

43. Parent 2 shared at the conclusion of the May 4, 2026 IEP meeting, Special Services Coordinator 1 presented a "brief" option of an IEE after the agreement to "implement an IEP" at the April 24, 2026 meeting. They stated, "So quite blindsided on May 4th [2026] when they were like, 'Never mind, we're not going to implement an IEP based off this new data' … it was a brief at the end of the meeting, they were like, 'You guys can do an IEE.'" Parent 2 and the Complainant opted to evaluate next steps first, and expressed skepticism that an IEE would resolve the dispute since the LEA was legally required only to consider outside findings rather than implement them.
44. Parent 1 shared the LEA's evaluation process has "destroyed [the Student's] confidence," observing that the Student frequently experienced intense frustration with homework and stated, "I don't want to learn differently. I want to learn like everybody else." Parent 2 added the Student's "love for learning … is so quickly slipping away" as the Student had become more aware of the widening academic gap between them and their peers.
    a. According to the Parents, this lack of targeted support caused the Student to internalize their struggles, transitioning from a healthy understanding of their learning differences to repeatedly stating, "I'm dumb." Parent 2 stated the Student's short-term memory and executive functioning deficits created a "cognitive load of it all and it's overwhelming for [the Student]."
45. Parent 2 explained the LEA took the Student's math grades out of context by reporting an 80% proficiency level that was achieved only through one-on-one test corrections with a teacher and one-on-one support to complete. They explained the Student had actually failed every math assessment prior to receiving those individual accommodations and was frequently awarded participation grades rather than grades reflecting independent mastery. They added, "I feel like the [S]chool's just pushing [the Student] along because [they] are a good kid."

Special Services Coordinator 1 Interview

46. In an interview with the Complaint Investigator, Special Services Coordinator 1 stated the Parent requested a math evaluation and sought to reactivate a previous IEP. Special Services Coordinator 1 explained that because the Student had already been dismissed from special education services, the team could not simply reinstate the program without undergoing a formal evaluation process to analyze current data. When questioned about a passage in the email dated January 20, 2026 stating a legal requirement to first document GEI through the SIT process, Special Services Coordinator 1 noted they were "giving" Parent 2 "PWN to refuse [the Student's] evaluation." They further clarified their mindset focused on requiring "data to show or suspected of a suspected disability," and asserted the documentation supplied by the general education staff at that time failed to show a disability. They added that the team

required documentation through the SIT process or "other data" to show the Student had a disability.

47. In the periods leading up to and between the meetings on April 24, 2026 and early May 2026, Special Services Coordinator 1 explained they engaged in discussions with staff regarding the Student's eligibility and the potential implementation of SDI for math. Their conversations centered around reviewing general and special education data points and "outlier" data, as well as reviewing the criteria for SLD and OHI. They shared at the meeting on May 4, 2026, a shift in team members occurred because the original special education teacher was unavailable, requiring another special education teacher to attend in their place. Special Services Coordinator 1 stated that, despite this role substitution, the participants still met all legal requirements for an IEP team.
48. When asked about the discussion that led to deciding to gather more data rather than moving forward with an IEP goal, Special Services Coordinator 1 explained at the conclusion of the April 24, 2026 meeting, the team discussed drafting an IEP with an executive functioning goal. They noted that because the previous September evaluation lacked executive functioning metrics, the Complainant requested the application of a BRIEF and a BASC, which was interpreted during the third meeting in May 2026. They explained when the BASC and BRIEF assessments were reviewed, the data "didn't really show an elevated level to look at a disability" or demonstrate an impact that warranted SDI.
49. When asked about the input from the Classroom Teacher, the Math Interventionist, and the Principal, Special Services Coordinator 1 explained these team members all communicated opposing opinions and noted their dissent from the final determination of the IEP meeting. They acknowledged this was a "very passionate" team that wrestled with conflicting data points, noting that while the Student had deficits in working memory and a low processing speed, the data did not meet the criteria for special education eligibility. Special Services Coordinator 1 further noted that because the Parents disagreed with the finding of ineligibility, the LEA offered the Parents the option of an IEE, which the Parents had not yet responded to at the time of the interview.
50. When asked about the progression of the evaluation from the date consent was provided on February 6, 2026 to the final meeting on May 4, 2026, Special Services Coordinator 1 affirmed "there was not a delay on our part" regarding the timeline. They explained the team utilized the available time to secure accurate data because the KeyMath assessment was an untimed evaluation tool. Special Services Coordinator 1 noted that examiners took multiple blocks of time to complete the assessment alongside other evaluations administered by the special education teacher to ensure completion.

School Psychologist 1 and School Psychologist 2 Interview

51. In an interview with the Complaint Investigator, School Psychologist 1 shared that prior to the April and May 2026 meetings, they distributed a draft of the evaluation report to the IEP team, including the Parent. School Psychologist 1 explained their conversations

prior to the meetings focused on analyzing data patterns, examining RTI, and reviewing eligibility indicators for potential suspected disabilities. They further noted the team specifically discussed whether to consider an eligibility classification of SLD or OHI to ensure they were fully prepared with the data points heading into the meetings. They indicated between meetings, the team "brainstormed potential" IEP goals based on the data. They did not recall conversations around SDI regarding math. School Psychologist 2 added they discussed prior and current math data collected during evaluations, and they did not recall a discussion around SLD or eligibility.

52. When asked about the discussion around proposed goals, School Psychologist 1 shared that following a discussion, they received a phone call from Special Services Coordinator 1, who directed the team to review the newly acquired evaluation data to make a new eligibility determination at the upcoming third meeting. School Psychologist 1 noted they were instructed that the team would not enter the third eligibility meeting with a pre-written draft IEP. School Psychologist 1 stated they agreed with this decision. School Psychologist 2 shared their understanding of the evaluation process required the team to take into account all available data whenever an addition was made to an open evaluation. They noted that because the team had obtained additional observations and new rating scales for the Student, the objective was to review the entirety of the collected information together before finalizing an eligibility determination.

Assistant Principal Interview

53. In an interview with the Complaint Investigator, the Assistant Principal explained exiting a student from an IEP was an uncommon practice that required reviewing psychologist data, teacher observations, and grades to "determine what are some of those accommodations that we can continue to implement in a general education classroom without the need for that [SDI]." Following a dismissal, they indicated they continuously tracked classroom and LEA assessments to ensure a student maintained academic progress and did not "fall between the cracks." During the interview, the Special Education Director added once a student was dismissed from an IEP, it was "not uncommon" if SDI was not needed, and that "a 504 would be appropriate." The Special Education Director further explained when a student was not making progress with interventions in the SIT process, a 504 plan or special education intervention was discussed. They added that if a student was demonstrating progress with SIT interventions, the student typically remained within the SIT process.
54. When asked about the Student moving through the intervention tiers, the Assistant Principal explained the team evaluated progress metrics across four cycles administered by the Math Interventionist to monitor the Student through the tier three process. They noted records indicated the Student increased their score from zero to four out of eight in multiplication fluency during the first cycle, and progressed from a 10 out of 10 pretest to a 21 out of 21 post-test in the second cycle while using multiplication breakdown strategies. For the third cycle, the Student achieved an 8 out of 10 on a decimal word-problem post-test despite noted difficulties with basic

multiplication facts. They added the fourth cycle utilized a FastBridge benchmark score for student placement but lacked a concluding post-test metric to measure final outcomes.

Math Interventionist Interview

55. In an interview with the Complaint Investigator, the Math Interventionist explained they began providing small-group tier interventions to the Student on September 2, 2025 and continued through the 2025-26 school year. They noted the parents shared during conferences that the Student "had been struggling in math throughout elementary school and [they] had been in different intervention groups." To address these ongoing difficulties, a tier three daily 30-minute pullout intervention was implemented from January 12, 2026 through April 6, 2026. The Math Interventionist explained after April 7, 2026, the format shifted to push-in classroom support due to scheduled state assessments and end-of-the-year testing.
56. When asked about the Student's math abilities, the Math Interventionist explained the Student "was a shining star" in the small groups and "made huge growth." They noted that although the Student made progress, they had significant difficulty with long-term retention of the concepts taught. They further noted the Student struggled with paper-and-pencil tasks, required the consistent use of manipulatives or place-value charts to complete problems, and struggled with remembering multi-step operations. They explained based on these classroom observations and assessments, the Student continued to struggle with number sense, retention, and word problem solving, which supported a need for SDI.

Classroom Teacher Interview

57. In an interview with the Complaint Investigator, the Classroom Teacher shared the Student experienced difficulties retaining mathematical concepts from day to day, frequently becoming frustrated and struggling to complete sequential or multi-step operations independently. Following a team decision to transition the Student into a tier-three pullout intervention, they explained the math scores entered on the report card were derived from classroom participation and noted those grades were not reflective of the Student's math skills.
58. When asked about their letter of dissent, the Classroom Teacher stated, "I just didn't agree … ." They explained the Student had "been in SIT since kindergarten, since first grade, and that there's not much growth in all those years," even though "[the Student] works, but [the Student] still struggles." The Classroom Teacher shared that across their entire career, they had never observed a student remain in the SIT process for that span of time without qualifying for special education services, stating they "just don't want [the Student] to be left behind."

School Psychologist 1 Interview

59. In an interview with the Complaint Investigator, School Psychologist 1 shared the IEP team decided to dismiss the Student from special education because the Student was

successfully meeting their reading goals. While initial testing revealed variable performance in mathematics, they explained that "we had a little bit of concern in math, but we just needed that more [sic] data, more time" to monitor the Student's response to intervention. The team ultimately determined the Student's math difficulties did not warrant specialized instruction, though it remained an area the team wanted to "keep an eye on" through continued tier-two supports.

60. School Psychologist 1 described the primary change following the Student's IEP dismissal was the termination of 30-minute specialized instruction sessions with a special education teacher. They explained the tier two framework maintained the Student's ongoing support by maintaining scheduled sessions with a math interventionist and participation in structured general education math tier groups. They noted the Student's regular classroom accommodations remained unchanged because those specific provisions were accessible to all students in the general education setting.

Principal Interview

61. In an interview with the Complaint Investigator, the Principal explained the February 5, 2026 meeting was requested by Parent 2 to obtain an update on the Student's growth, data, and performance within the general education classroom and SIT process. They noted during the February 5, 2026 meeting, the Classroom Teacher and Math Interventionist reviewed the data from their settings, though the discussion briefly drifted when Parent 2 began questioning the Assistant Principal's agreement with the Student's prior IEP dismissal. The Principal explained they interceded to keep the discussion on track, stating the team was there to "talk about [the Student's] current progress, what we're seeing." They shared the meeting concluded with the understanding the team was still in the evaluation phase and would meet at a later date to review the evaluation.
62. The Principal described the evaluation meeting as "a little bit contentious" because there was a staff divide where "not everybody was on the exact same page" and team members "weren't all interpreting the data the same way." The Principal explained the reasoning for their dissent was due to the team completely reversing its previous direction to qualify the Student under OHI, a shift that left the parents "blindsided" by the final ineligibility determination. The Principal noted they did not agree with the outcome, stating, "I think that there was an area of need and we decided that there was an area of need and I know that the data probably did not support that, but no, I don't think a questionnaire that was filled out … should have swayed that decision."

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #231, in accordance with state and federal regulations implementing the IDEA, failed to fulfill its Child Find obligations by delaying the initiation of an evaluation for special education services for the Student who exhibited a suspected

disability and a persistent need for intensive interventions. K.A.R. 91-40-7(a-c); 34 C.F.R. § 300.111 (a)(c)(e).

According to K.A.R. 91-40-7(a-c) and 34 C.F.R. § 300.111(a)(c)(e), each agency shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction, who are suspected of being children with disabilities even though they are advancing from grade to grade.

In addition, an agency shall adopt and implement policies for children from ages five through 21, including observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening as required by law. Furthermore, the implementation of procedures ensuring the early identification and assessment of disabilities in children is required. An agency may refer a child who is enrolled in public school for an evaluation if school personnel have data-based documentation which indicates that general education interventions and strategies would be inadequate to address the areas of concern for the child. Additionally, an agency may refer a child if school personnel have data-based documentation that indicates that prior to or as part of the referral, all of the following conditions were met: the child was provided appropriate instruction in regular education settings that was delivered by qualified personnel, the child's academic achievement was repeatedly assessed at reasonable intervals which reflected formal assessment of the child's progress during instruction, the assessment results were provided to the child's parents, and the assessment results indicate an evaluation is appropriate.

The Complainant alleged the Student has experienced Child Find failure by the LEA. The Complainant indicated the Student had been harmed, and continued to be harmed, by not finding the Student eligible to receive special education services.

The LEA indicated they did not delay the evaluation. After dismissing the Student from special education services in September 2025, there was no reason to suspect the Student was a child with an exceptionality. When the Parent requested an evaluation, the LEA team convened within 15 school days and determined that an educational disability was not suspected.

The Student was exited from special education on September 5, 2025, upon meeting reading goals. Despite reevaluation data indicating low-range math scores and ongoing parental concerns, the LEA determined the Student's math performance was adequate and transitioned the Student to Tier 2 GEIs. In December 2025, Parent 2 expressed the Student's IEP was removed prematurely and they had expected a modification to include math goals. LEA communications from that time acknowledged the Student's struggles with math problem-solving and fluency, recognizing these as ADHD-related processing deficits. Despite the available data, Special Services Coordinator 1 framed the Student's struggles as a general education issue. On January 16, 2026, the LEA issued PWN refusing an initial evaluation, opting instead for further GEIs. Subsequently, the Student was placed in intensive Tier 3 math

intervention, requiring them to be pulled from core instruction for 25–30 minutes, four days a week.

In a February 5, 2026 meeting, both the Classroom Teacher and the Math Interventionist expressed significant professional concerns about the Student's math struggles. The Classroom Teacher also indicated they had stopped requiring the Student to complete the standard online math course because it caused them "immense frustration," and acknowledged the Student's passing report card grades were based entirely on classroom participation, rather than an independent mastery of grade-level skills. Following a February 5, 2026 written request by the Parents, the LEA reversed its stance and issued PWN proposing to conduct an initial special education evaluation focused on math, for which the Parents provided consent.

The evidence showed the LEA delayed the initiation of an initial special education evaluation. Under federal and state frameworks, a MTSS/RTI or GEI model cannot be utilized to delay or deny a timely evaluation when an LEA has reason to suspect a disability. Office of Special Education and Rehabilitative Services Memo 11-07 explicitly states, "States and LEAs have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of an RTI strategy." The LEA possessed ample, standardized data showing a suspected disability in mathematics as early as September 2025. Rather than initiating an evaluation when those deficits persisted and parental concerns intensified throughout the fall of 2025, the LEA actively refused to evaluate the Student in January 2026, and left the Student in GEI tiers that required pull-out sessions, substantial teacher prompting, and heavily modified grading systems just to maintain a baseline presence in the curriculum. By ignoring clear indicators of a lack of mathematical concept retention, overriding explicit teacher alarms, and formally refusing a parental request in January 2026, the LEA improperly used GEIs as a barrier to special education, resulting in a delay of the evaluation until February 2026.

Based on the foregoing, according to IDEA and Kansas special education regulations ***it is substantiated t***hat the LEA failed to fulfill its Child Find obligations by delaying the initiation of an evaluation for special education services for the Student, who exhibited a suspected disability and a persistent need for intensive interventions.

Issue Two

Whether USD #231, in accordance with state and federal regulations implementing the IDEA, improperly refused or delayed a parental request for evaluation on January 16, 2026. K.A.R. 91-40-8(a-c), K.S.A. 72-3430(b)(2); 34 C.F.R. § 300.301(b).

According to K.A.R. 91-40-8 (a-c), each agency shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services. Each evaluation shall include procedures to determine whether the child is an exceptional child and

what the educational needs of the child are. In implementing the rule requirements the agency shall ensure that the evaluation is conducted in accordance with procedural requirements, the results of the evaluation are used by the child's IEP team to develop the child's IEP, and the evaluation is conducted before the initial provision of special education and related services to the child.

As part of the initial evaluation, if appropriate, and as part of any reevaluation, each agency shall ensure that members of an appropriate IEP team and other qualified professionals comply with the following: the evaluation team shall review existing evaluation data on the child, including evaluations and information provided by the child's parent(s); current classroom-based, local, and state assessments and classroom-based observations; and observations by teachers and related services providers. Based on that review and parent input, the evaluation team shall identify what additional data, if any, are needed to determine whether the child has a particular category of exceptionality, or in reevaluation, whether the child continues to have an exceptionality.

The evaluation team shall identify the child's present levels of academic achievement and educational and related developmental needs, as well as whether the child continues to need them. Furthermore, the evaluation team shall identify whether, in reevaluation, any additions or modifications to the special education and related services are needed to enable the child to meet measurable annual IEP goals and participate, as appropriate, in the general education curriculum.

According to K.S.A. 72-3430(b)(2), the parents of exceptional children shall have the right to written prior notice that proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, and the provision of FAPE to the child.

According to 34 C.F.R. § 300.301(b), either a parent of a child or a public agency may request an initial evaluation to determine if the child is a child with a disability, consistent with the consent requirements.

The Complainant stated on January 16, 2026, the LEA refused the Parent's request for an evaluation of the Student, the concern being the Student's performance in broad mathematics, math calculation skills, and math problem solving skills.

The LEA explained they responded to the December 16, 2025 initial evaluation request within the 15-school day timeframe. The LEA did not have a reason to suspect a disability on January 16, 2026.

The LEA formally refused the Parents' request for an initial special education evaluation by issuing PWN on January 16, 2026. In this notice, the LEA stated that it refused to conduct the evaluation because the team intended to implement GEI to address concerns and collect data prior to moving forward with a special education evaluation. The LEA justified this refusal by

noting that options to evaluate were rejected because the Student had shown the ability to make progress and indicate growth within the general education framework. Special Services Coordinator 1 later clarified that their mindset at the time focused on the belief that they needed to first document GEI through the SIT process, and they asserted that the documentation supplied by general education staff at that point failed to demonstrate a suspected disability. This justification aligns with the team's earlier discussions in September 2025, where a special education coordinator expressed a desire to have six weeks of interventions before repeating an evaluation and suggested routing the Student through the SIT process.

This reliance on GEI as a prerequisite effectively delayed the evaluation process, drawing criticism from the Complainant, who later argued the LEA was improperly using the RTI framework to prevent an evaluation. The Parents submitted a formal written request for a review of existing data and the initiation of an initial evaluation on February 5, 2026. On that same day, the LEA reversed its previous refusal and issued PWN proposing to conduct the initial evaluation focused on math. While the LEA did initially refuse, and thereby delay, the evaluation on January 16, 2026 by insisting on the completion of an intervention cycle, it corrected this stance twenty days later by moving forward with the formal evaluation process upon receiving the Parents' renewed request and signing of consent.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA improperly refused or delayed a parental request for evaluation on January 16, 2026.

Issue Three

> Whether USD #231, in accordance with state and federal regulations implementing the IDEA, failed to ensure a properly constituted IEP team during the April 21, 2026 and April 24, 2026 meetings when the Special Services Coordinator replaced the campus Principal. K.A.R. 91-40- 1(hh); 34 C.F.R. § 300.321(a)(4).

According to K.A.R. 91-40- 1(hh) and 34 C.F.R. § 300.321(a)(4), "Individualized education program team" and "IEP team" means a group of individuals composed of the parent or parents of a child, at least one regular education teacher of the child, if the child is, or may be, participating in the regular education environment, and at least one special education teacher, or if appropriate, at least one special education provider of the child. In addition, IEP team members shall include a representative of the agency directly involved in providing educational services for the child who meets the following criteria: is qualified to provide, or supervise the provision of specially designed instruction to meet the unique needs of exceptional children; is knowledgeable about general curriculum; and is knowledgeable about the availability of resources of the agency.

Furthermore, IEP team members shall include: an individual who can interpret the instructional implications of evaluation results; at the discretion of the child's parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and whenever appropriate, the exceptional child.

The Complainant alleged in the April 21, 2026 and April 24, 2026 meetings, Special Services Coordinator 1 replaced the Principal, failing to constitute an appropriate IEP team. The Complainant indicated Special Services Coordinator 1 "does not work on the campus, has never taught the Student, has not progress monitored the Student, and has never evaluated the Student." The Complainant stated Special Services Coordinator 1 "inserted [themself] into the IEP [m]eetings as [the] LEA representative, replacing the campus [P]rincipal who attended all meetings." The Complainant stated Special Services Coordinator 1 "is not a consensus member of the IEP committee and is not a stakeholder in [the] [S]tudent's IEP."

The LEA explained the Principal and Special Services Coordinator 1 were present at both meetings. According to the LEA, it was a common practice to have a Special Services Coordinator serve in the LEA role. The LEA explained the regulations do not require that a specific person, such as a principal, fill that role. The LEA stated all of the required participants attended the meeting.

Meeting documentation shows the Principal was present as a participating team member during both the April 21 and April 24, 2026 meetings, alongside Special Services Coordinator 1, the Classroom Teacher, the Math Interventionist, Special Education Teacher 1, School Psychologists 1 and 2, the Complainant, and both of the Parents. Special Services Coordinator 1 served in the role of the LEA representative during these eligibility discussions. All required personnel were documented as present on both dates.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to ensure a properly constituted IEP team during the April 21, 2026 and April 24, 2026 meetings, when Special Services Coordinator 1 replaced the campus Principal.

Issue Four

Whether USD #231, in accordance with state and federal regulations implementing the IDEA, predetermined eligibility when Special Services Coordinator 1 repeatedly communicated the Student did not qualify for special education services prior to the completion of the evaluation discussions and eligibility reviews during the April 21, 2026 and April 24, 2026 meetings. K.S.A. 72-3428(e), K.A.R 91-40-10; 34 C.F.R. § 300.306(a-c).

According to K.S.A. 72-3428(e) and 34 C.F.R. § 300.306(a), upon completion of the administration of assessments and other evaluation materials, the determination of whether the child is an exceptional child shall be made by the team of qualified professionals and the

parent of the child. In addition, a copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent.

According to K.A.R 91-40-10 and 34 C.F.R. § 300.306 (b-c), after the completion of appropriate evaluation procedures, a team of qualified professionals and the parent of the child who has been evaluated shall prepare a written evaluation report that includes a statement regarding the determination of whether the child has an exceptionality, the basis for making a determination, includes the relevant behavior noted during the observation of the child, the relationship of that behavior to the child's academic functioning, and if the child was evaluated for a specific learning disability. Each team member shall certify in writing whether the report reflects the member's conclusion. If the report does not reflect that member's conclusion, the team member shall submit a separate statement presenting the member's conclusion.

Each agency shall provide, at no cost, a copy of the evaluation report to the child's parent. An evaluation team shall not determine a child to be an exceptional child if the determinant factor for that eligibility is the child's lack of appropriate instruction in reading or mathematics or limited English proficiency, and if a child does not otherwise qualify as a child with an exceptionality. Each evaluation team, in determining whether a child is an exceptional child and what the educational needs of the child are, shall meet the following requirements: drawing upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical conditions, social or cultural background, and adaptive behavior.

The evaluation team shall ensure that the information obtained from all of the sources specified is documented and considered. If the evaluation team and the parent determine the parent's child to be a child with a specific learning disability, the evaluation team and the parent shall prepare a written evaluation report that includes a statement regarding an indication of whether the child has a specific learning disability, and the basis for making the determination, including an assurance that the determination has been made in accordance with applicable laws and regulations. In addition, the evaluation team shall ensure the sources specified are documented and considered, including the relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning.

Furthermore, the evaluation team shall document and consider educationally relevant medical findings, if any, an indication of whether the child does not achieve adequately for the child's age or meet state-approved grade-level standards, does not make sufficient progress to meet age standards or state-approved grade-level standards, or exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards or intellectual development. In addition, the determination of the team concerning the effect of visual, hearing or motor skills disability, mental retardation, emotional disturbance,

cultural factors, environmental or economic disadvantage, and limited English proficiency on the child's achievement level.

If the child has participated in a process that assessed the child's response to scientific, research-based interventions, the evaluation report shall also address the instructional strategies used and the student-centered data collected, and the documentation indicating that the child's parent was notified about the state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided strategies for increasing the child's rate of learning, and the parent's right to request an evaluation. After a child has been determined to be a child with an exceptionality and has been provided special education or related services, an agency shall conduct a reevaluation of the child before terminating special education or related services to the child.

The Complainant alleged Special Services Coordinator 1 repeatedly communicated the LEA position that the Student did not qualify prior to the completion of additional evaluation discussions and the eligibility review for the Student. The Complainant indicated on September 5, 2026, a reevaluation documented ADHD and deficits.

The LEA indicated the eligibility meeting took place across three days. During the second meeting the team recessed to gather additional data to consider OHI. According to the LEA, this showed the team did not predetermine eligibility, but collected and considered data for all areas of the suspected disability. While it would not be unusual for the team, in discussion of eligibility, to "discuss prongs a student did or did not meet, that is simply necessary discussion in eligibility determinations not predetermination."

At the April 21, 2026 meeting, the team reviewed historical assessments stretching from 2022 to 2025, and documented the Student's diagnoses of ADHD and dyslexia. When discussions resumed on April 24, 2026, Special Services Coordinator 1 initially questioned the Student's eligibility, stating the data did not support a SLD in mathematics and expressing uncertainty as to whether there was sufficient evidence to establish a need for SDI under the category of OHI. The transcript revealed Special Services Coordinator 1 explicitly presented these as "initial thoughts" meant to guide a "collaborative conversation," rather than a final mandate or decision. Special Services Coordinator 1 ultimately conceded to the team's consensus at the end of the April 24, 2026 meeting, stating the team could agree to "staff-in under OHI in the area of executive functioning" because the Student met both prongs of eligibility, and directed an IEP be drafted within the next ten days. Although the team subsequently paused the process to collect new behavior metrics, which ultimately led to a denial of eligibility at a later meeting on May 4, 2026, the evidence from the April 2026 meetings demonstrated Special Services Coordinator 1 remained open to team dialogue and consensus. Because Special Services Coordinator 1 participated in an active, fluid discussion that briefly resulted in an agreement to provide an IEP, the LEA did not predetermine the Student's ineligibility prior to the completion of the April 2026 evaluation discussions.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA predetermined eligibility when Special Services Coordinator 1 repeatedly communicated that the Student did not qualify for special education services prior to the completion of the evaluation discussions and eligibility reviews during the April 21, 2026, and April 24, 2026 meetings.

Issue Five

Whether USD #231, in accordance with state and federal regulations implementing the IDEA, denied the student a FAPE. K.A.R. 91-40-2(a)(d), K.A.R. 91-40-1(z); 34 C.F.R § 300.101.

According to K.A.R. 91-40-2 (a)(d) and 34 C.F.R. 34 § 300.101, each agency shall provide a FAPE to exceptional children. Each agency shall make a FAPE available to each child with a disability residing in its jurisdiction. Each agency shall make a FAPE available to any child with a disability even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination of whether a child who is advancing from grade to grade is a child with a disability shall be made on an individual basis in accordance with Child Find activities and evaluation procedures.

According to K.A.R. 91-40-1(z), a FAPE means special education and related services that are provided at public expense, under public supervision, and without charge, meeting state board standards, including appropriate education from preschool through secondary school and provided in conformity with an IEP.

The Complainant alleged the Student was denied a FAPE.

The LEA responded the Student was not denied a FAPE, the Student continued to make progress in the general education environment.

The Student was exited from their IEP on September 5, 2025 because they successfully met their fourth-grade reading goals. However, the Parents and core educators repeatedly documented that the Student faced difficulties with math concepts, multi-step operations, and long-term retention due to their diagnosed ADHD, along with working memory weaknesses. Rather than modifying the existing IEP to pivot toward the Student's evident mathematical gaps, the LEA opted to route the Student into general education Tier 2 and Tier 3 supports under the premise that they were making appropriate gains.

The LEA cited report card marks of “A-” and “B” to partially justify the denial of specialized services. The Classroom Teacher and Parent 2 clarified these grades were derived from classroom participation and intensive, one-on-one test corrections. They also indicated the Student failed every math assessment in the general education environment before making corrections with a teacher's help, and could not recall material taught just one week prior. Furthermore, the Student had to be pulled out of regular math instruction for 30 minutes, four

days a week, to receive Tier 3 remediation, causing them to miss core grade-level instruction in exchange for a participation grade. The Math Interventionist noted the Student struggled more than anyone else in the group with foundational skills, heavily relying on manipulatives and continuous prompts to complete basic tasks. By utilizing MTSS as a barrier to eligibility while the Student fell progressively behind their peers, the LEA failed to address how the Student's disabilities directly impeded their academic progression.

During the April 24, 2026 eligibility meeting, the team reached a consensus that the Student qualified for special education under the OHI criteria due to executive functioning deficits, and agreed to draft a new IEP within ten days. When the team reconvened on May 4, 2026, the LEA introduced a shifted roster of personnel who had not attended the previous sessions. Relying on newly acquired behavior rating scales that fell within normal-to-mild limits, the LEA reversed its previous determination and declared the Student ineligible. This reversal prompted formal letters of dissent from the Classroom Teacher, the Math Interventionist, and the Principal, all of whom asserted the Student required SDI. The LEA actively disregarded critical classroom data proving the Student could not independently access the fifth-grade curriculum without highly intensive, specialized intervention.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA denied the student a FAPE.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at 34 C.F.R. § 300.111(a)(c) and K.A.R. 91-40-7(a-c) specify that each agency shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction, who or are suspected of being children with disabilities even though they are advancing from grade to grade.

In this case, the evidence supports the finding that USD #231 delayed the initiation of special education evaluation by using GEI through MTSS/RTI.

B. Federal regulations at 34 C.F.R § 300.101, K.A.R. 91-40-2(a)(d), and K.A.R. 91-40-1(z) specify that each agency shall provide a FAPE to exceptional children.

In this case, the evidence supports the finding that USD #231 denied the Student a FAPE.

Based on the foregoing, USD #231 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #231 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the IDEA by convening

the eligibility team to prioritize the firsthand data and formal letters of dissent from the Classroom Teacher, the Math Interventionist, and the Principal.

2. By August 1, 2026, USD #231 will complete the following:
    a. Submit a written statement of assurance to Special Education and Title Services (SETS) that the LEA's practices and procedures have been reviewed and revised as appropriate to be responsive and compliant with child find procedures of the IDEA, specifically for:
        i. Child find;
        ii. The use of data, both quantitative and qualitative, to inform eligibility;
        iii. Assurance MTSS/RTI will not be used to delay or deny a timely evaluation when a disability is suspected; and
        iv. Clarification for staff that passing grades do not equate to a FAPE when grades are based on participation or modified expectations.
3. By August 15, 2026, USD #231 will hold an IEP meeting and find the Student eligible for special education services under OHI (or another appropriate category) reflecting their ADHD, working memory challenges, and mathematics deficits.
    a. Within the first 15 days of the 2026-27 school year, the LEA must draft and implement an IEP with specific and measurable goals for math, accommodations for executive functioning and working memory, and the required SDI.
4. By August 15, 2026, USD #231 shall:
    a. Provide the opportunity for compensatory services to the Student in the amount of 18 hours. February 6, 2026 (consent to evaluate) through April 21, 2026 (eligibility meeting series started) totals nine weeks, with minutes/hours calculated based on RTI math services being provided weekly to the Student (120 minutes per week).
    b. Schedule the required compensatory services and provide that schedule to the Parents and to SETS in writing. The Parents may choose to accept all, some, or none of the offered compensatory services. The Parents must respond to the school District and SETS, in writing, to identify which services (if any) are accepted. The written schedule of services may be sent to SETS at brian.dempsey@ksde.gov. Once the District receives the written response, it will schedule any accepted compensatory services. If a student is absent or a parent is unable to make the student available at the scheduled time, the services scheduled for that day will not be made up. If district staff are unavailable, the services will be rescheduled. Any compensatory service that is declined or not used as scheduled will be considered waived, as long as the District has made a good-faith effort to begin and to provide the services in a timely manner.

Tania Tong, Licensed Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 231
Gardner-Edgerton Public Schools: 26FC231-007

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on May 22, 2026, by _____ on behalf of his child, _____. In the remainder of this decision, Mr. _____ will be referred to as "the parent," and _____ will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on July 6, 2026. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the district filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the district's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Although Issue One is not under appeal, the Appeal Committee believes it is important to respond to this comment made in the LEA's appeal:

> *Without citing to an appropriate legal basis, the Investigator deemed the Student eligible, unilaterally overturning the conclusions of a multidisciplinary team of*

> *educators and disregarding the data that supported the determination. Secondly, even if the ineligibility decision was non-compliant, which the District does not concede, it is the responsibility of the IEP team, not a third-party investigator, to make substantive decisions regarding Student's education.*

When the current federal regulations were published in the Federal Register on August 14, 2006, the Office of Special Education Programs (OSEP) responded to similar comments, as follows:

> *We believe placing limits on the scope of the State complaint system, as suggested by the commenters, would diminish the SEA's ability to ensure its LEAs are in compliance with Part B of the Act and its implementing regulations, and may result in an increase in the number of due process complaints filed and the number of due process hearings held.*
>
> *We do not believe it is necessary to clarify in the regulations that the State complaint procedures can be used to resolve a complaint regarding the denial of appropriate services or FAPE for a child, since Sec. 300.153 is sufficiently clear that an organization or individual may file a written complaint that a public agency has violated a requirement of Part B of the Act or part 300. The State complaint procedures can be used to resolve any complaint that meets the requirements of Sec. 300.153, **including matters concerning the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child**. (Emphasis added).*
>
> *We believe that an SEA, in resolving a complaint challenging the appropriateness of a child's educational program or services or the provision of FAPE, **should not only determine whether the public agency has followed the required procedures to reach that determination, but also whether the public agency has reached a decision that is consistent with the requirements in Part B of the Act in light of the individual child's abilities and needs**. Thus, the SEA may need to review the evaluation data in the child's record, or any additional data provided by the parties to the complaint, and the explanation included in the public agency's notice to the parent as to why the agency made the determination regarding the child's educational program or services. If necessary, the SEA may need to interview appropriate individuals, to determine whether the agency followed procedures and applied standards that are consistent with State standards, including the requirements of Part B of the Act, **and whether the determination made by the public agency is consistent with those standards and supported by the data**. (Emphasis added).*

Accordingly, a state complaint investigator has authority to resolve disputes concerning both procedural and substantive violations of the law of special education, including whether child find and FAPE obligations have been met.

Discussion of Issues on Appeal

The report identified five issues. The Local Education Agency (LEA) appeals only the decision in Issue Five.

Issue Five

Whether USD #231, in accordance with state and federal regulations implementing the IDEA, denied the student a FAPE.

The conclusion in the report that the LEA "failed its child find obligation, not by unnecessarily delaying the evaluation, but by declining to find the student eligible for special education when there was more than sufficient information to support eligibility" does not necessarily mean that the district failed to provide the student with a FAPE.

On September 5, 2025, at a three-year reevaluation meeting, an evaluation report was issued. (Report, Findings 3 and 5, p 5 – 9). On the same date, a PWN was issued saying, "the Student was not eligible for special education services and proposed exiting the Student from services because their needs would "continue to be met in the general education setting through tier 2 supports (Report, Finding 6, p. 9). Although not specified in the report, apparently at least one parent provided consent for exiting the student from special education and the student was exited.

There was no evidence presented in this report or in this appeal to indicate there was any serious disagreement expressed regarding this September 5, 2025 exit from special education services at the time that decision to exit the student was made. On December 16, 2025, Parent 2 expressed concern about the student's difficulties in math. (Report, Finding 7, p. 9-10). On January 16, 2026, the LEA issued a PWN stating that the LEA was refusing to conduct an initial evaluation. That PWN included an explanation of why the action was refused, to "implement general education interventions (GEI) to address concerns and collect data prior to moving forward with a special education evaluation."

Shortly thereafter, on February 5, a 2026 PWN proposed to conduct an initial evaluation for the Student and parent 2 gave consent for the evaluation on February 6, 2026. (Report, Finding 14, p. 13). At the evaluation meeting, on April, 24, 2026, the LEA issued another PWN proposing to conduct additional evaluation procedures, and noting that "This action is being proposed in response to a formal request from the Parent's on [February 5, 2026]. The Parent expressed concerns regarding the student's difficulty with Math." Parent 2 provided consent on April 27, 2026 for the additional evaluation procedures. (Report, Finding 21, p. 18).

The resulting evaluation report was issued a week later on May 4, 2026. That report found that the student was not eligible because, although the student met the criteria for the OHI exceptionality, the Student did not demonstrate the need for specially designed instruction. Report, Finding 23, p. 19-21).

It was this evaluation report and the PWN issued at the April 24, 2026 meeting that prompted formal letters of dissent from the Classroom Teacher, the Math Interventionist, and the Principal, all of whom asserted the Student required specially designed instruction (special education). (Report, Findings 29, 30 and 31, p. 24 -25). The investigator cited these letters as important factors in concluding that the student was eligible. Even with these letters available to the evaluation team at the May 4, 2026 eligibility meeting, the evaluation team determined that the student was not eligible. That May 4, 2026 date is the date the LEA had sufficient information to conclude that the student was eligible, not February 6, 2026, as determined by the investigator. February 6, 2026 was the date that the LEA received parent consent to conduct the initial evaluation. An eligibility determination would have been premature on February 6, 2026, as that was only the date that consent to begin the evaluation was provided.

However, eligibility is just the first step for a student to receive special education services. Before a student can actually receive special education services, an IEP team must first meet to develop an IEP and then, after developing an IEP, the LEA must obtain the parent's written consent to provide the services in the proposed initial IEP. Kansas Administrative regulations, at K.A.R. 91-40-8(h) adds that, each agency shall ensure that an IEP is developed for each exceptional child within 30 days from the date on which the child is determined to need special education and related services.

Thus, even if the LEA had determined the student was eligible at the May 4 meeting, it had until June 3 to develop the IEP. This complaint was filed on May 22, twelve days before the IEP was required to be developed. Added to this calculation is that school is not currently in session and so the student, although eligible, has not been denied any service in an IEP. The present FAPE obligation of the LEA is to ensure that IEP is developed and services are available to this student on the first day of school during the 2026-2027 school year.

Conclusion

Accordingly, the Appeal Committee finds that the conclusion in the report in Issue Five that the district failed to provide this student with a Free Appropriate Public Education is premature and is reversed.

Corrective action 4 is rescinded.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 30th day of July, 2026.

Appeal Committee

Melissa Valenza

Brian Dempsey

Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #353
ON MAY 26, 2026

DATE OF REPORT: JUNE 27, 2026

This report is in response to a Complaint filed with our office on behalf of a student, -------, by their parent, -------. In the remainder of the report, the student will be referred to as "the Student" and the parent as "the Parent."

The Complaint is against USD #353, Wellington Public Schools. In the remainder of the report, "the School" and the "local education agency (LEA)" shall refer to USD #353.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the Complaint on May 26, 2026, and the 30-day timeline ended on June 25, 2026.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #353, in accordance with state regulations, completed the Student's gifted evaluation within 60 school days of the Parent providing consent. K.A.R. 91-40-8(f).

ISSUE TWO: Whether USD #353, in accordance with state regulations, scheduled a special education meeting at a mutually agreeable meeting time. The Parent further alleged they did not waive the standard 10-day meeting notice period. K.A.R. 91-40-17(a).

ISSUE THREE: Whether USD #353, in accordance with state regulations, provided timely prior written notice (PWN) for the March 2, 2026 gifted eligibility meeting and whether PWN was compliant as follows: whether the documentation of delivery was left blank; whether all assessment results, classroom observation data, and teacher input were recorded as a basis for eligibility, when they were referenced in the eligibility meeting; and whether it contained

inaccurate information regarding the discussion at the gifted eligibility meeting. K.A.R. 91-40-26, K.S.A. 72-3432.

ISSUE FOUR: Whether USD #353, in accordance with state regulations, evaluated the Student in all areas of suspected exceptionality. K.A.R. 91-40-9(a)(3)(9)(b)(1).

ISSUE FIVE: Whether USD #353, in accordance with state regulations, provided an evaluation report that included and interpreted "statistically significant" math scores as academic strengths for the Student. K.A.R. 91-40-1(bb), K.A.R. 91-40-8 (c)(1), K.A.R. 91-40-9(a)(9).

ISSUE SIX: Whether USD #353, in accordance with state regulations, provided the Parent with an inaccurate evaluation report, including incorrect attendance data, incorrect gender pronouns, conflicting testing dates, incomplete and inconsistent teacher input, unexplained assessment data, and post-meeting report revisions. K.A.R. 91-40-9(a)(3), K.A.R. 91-40-8(c).

ISSUE SEVEN: Whether USD #353, in accordance with state regulations, provided the Parent an opportunity to inspect and review the Student's education records following the Parent's request on March 6, 2026. K.A.R. 91-40-25(a), K.S.A. 72-3430(b)(1). 34 C.F.R. § 99.10(a)(b)(c)(d).

ISSUE EIGHT: Whether USD #353, in accordance with state regulations, provided the Student with gifted services prior to conducting an evaluation and developing an IEP for the Student. K.A.R. 91-40-16(b)(1).

Investigation of Complaint

The Complaint Investigator interviewed the Parent on June 15, 2026. The School Psychologist and the Assistant Superintendent/Special Education Director were interviewed on June 15, 2026.

In completing this Investigation, the Complaint Investigator reviewed documentation provided by the Parent and the LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Notice of Special Education Meeting, 02/12/26, 02/13/26, 02/16/26, 02/24/26
2. Student Schedule, 2025-26 School Year
3. FAST Family Report, 2025-26 School Year
4. FERPA Request Emails, 02/11/26-03/03/26
5. Prior Written Notice of Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent, 03/02/26
6. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 10/28/25
7. Student Period Attendance Detail, 2025-26 School Year
8. Student Transcript, 06/01/26
9. State Assessment Student Report, 2025-26 School Year

10. Psychoeducational Evaluation Report, 02/11/26
11. Addendum, 02/11/26
12. Emails between parties, 10/20/25-05/21/26

Background Information

This Investigation involved an eighth-grade student enrolled at a middle school in USD #353. The Student is not currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA). The Student receives enrichment services through an accelerated high school-level math course (Geometry). The Student has no behavior incidents or office referrals for the 2025-26 school year. The Student has several friend groups and often gets along better with older students and adults. The Parent reports the Student is mature for their age, which often leads to boredom in the Student's current classroom settings and curriculum.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the LEA.

1. A Student Period Attendance Detail for the 2025-26 school year indicated the Student had the following total absences:
    a. Wellington High School: 12
    b. English 8: 18
    c. Science 8: 17
    d. Social Studies 8: 19
    e. Introduction to Agriscience: 17
    f. Aide - Counselor: 15
    g. Career & Life Planning: 5
    h. Family and Consumer Sciences 3: 18
    i. Technology Synergistic 3: 5
    j. The Student had a total 37 absences in Term 1, and a total 113 absences in Term 2.
2. Student Schedules for the 2025-26 school year reported the Student attended the High School for first through third periods, and attended the School for fourth through ninth periods, beginning August 18, 2025. A grade transcript indicated the Student took a geometry course at the High School.
3. On October 20, 2025, the Assistant Superintendent/Special Education Director emailed the Parent to reschedule a meeting "to discuss potential options for [the Student's] ELA" planned on October 22, 2025. The Assistant Superintendent/Special Education Director explained, "I have not yet had an opportunity to meet with [the Principal] to discuss

potential options for [the Student's] ELA." The Parent agreed to a new meeting date of October 24, 2025.

4. In an October 27, 2025 email to the Assistant Superintendent/Special Education Director, the Parent wrote, "We have decided to move forward with the virtual program, beginning at [the next] semester. … I am going to reach out … and discuss having [the Student] tested for the gifted program." The Assistant Superintendent/Special Education Director replied on October 28, 2025, "I'll work with [the Principal] on next steps to get this going."
5. PWN for Evaluation or Reevaluation and Request for Consent, dated October 28, 2025, was signed by the Parent on October 30, 2025. The document noted it was for an initial evaluation and the Student would be evaluated for "general cognitive abilities" and "academic or preacademic skills and achievement levels." The document indicated the evaluation was initiated at parent request.
6. District Assessment data for fall 2025-26 reported the following results for the Student:
    a. 94th percentile for knowledge of math facts.
    b. 83rd percentile for overall math skills.
    c. 91st percentile for knowledge of math standards.
    d. 74th percentile for overall reading.
    e. 87th percentile for phonemic awareness, phonics, and vocabulary skills.
7. On December 3, 2025, the Parent emailed the Assistant Superintendent/Special Education Director and wrote, "[The Student] would like to put the online class plan on hold for the time being." They stated, "I am still not entirely comfortable with [the Student] staying in the current English class. However … we are choosing to let [the Student] make this decision for [themself]." The Parent asked to meet with the Assistant Superintendent/Special Education Director and the Principal to "discuss the logistics" of having the online class as a backup plan. The Assistant Superintendent/Special Education Director agreed and scheduled a meeting with the Parent and the Principal on December 8, 2025.
8. In an email dated December 9, 2025, the Principal informed the Parent the Student was "slated for testing in early January [2026]." The Principal stated the School Psychologist was "currently gathering information from [the Student's] teachers that will aid … the evaluation process." The Principal indicated they would let the Parent know the specific testing dates ahead of time.
9. On December 9, 2025, the School Psychologist emailed the ELA Teacher, the Social Studies Teacher, the Science Teacher, the Math Teacher, the Principal, and the Counselor, asking the staff members to fill out a "gifted screener" regarding the Student. The School Psychologist indicated they distributed the screener "a month or so ago." They requested the staff members fill out and return the screener as soon as possible, and offered new copies to anyone who needed one.

   a. The Counselor replied the same day and indicated they had not received an initial copy. They inquired if they needed to fill out the screener or if they were included in the email to help remind other staff.
   b. The School Psychologist replied the Counselor was included to help remind other staff.

10. On February 4, 2026, the School Psychologist emailed office staff to remind them, "When [the Student] gets here tomorrow morning after the high school, [they] [are] supposed to come to my room to do testing with me."
11. On February 5, 2026, the School Psychologist emailed the Student's teachers and wrote, "I am trying to finish up gifted testing today with [the Student], so if [they] [are] not in class, [they] should be with me!"
12. On February 6, 2026, the School Psychologist emailed the Gifted Facilitator. They reported, "I just finished testing and I need to write the report. However, I can be ready for a meeting at just about anytime! [The Student] is due Feb[ruary] 18th[,] [2026]."
13. On February 11, 2026, the School Psychologist emailed the Student's teachers, the Special Education Teacher, the Math Teacher, the Counselor, and the Principal, asking them to "return your GRS (Gifted Rating Scales) form for [the Student] … as soon as you can." The School Psychologist indicated the Student had not qualified for special education in the evaluation, and explained that for gifted qualification, "I rely heavily on your opinions in these cases."
   a. The Science Teacher reported they returned their form on February 11, 2026.
   b. On February 12, 2026, the Counselor replied in the email chain that the Student was an aide for them, which did not involve academics. They shared, "As [the Student's] counselor who has been involved in moving [them] up in math class I can attest to [their] drive to challenge [themself]. Due to [the Student's] work ethic and abilities [they] [are] able to work at a higher level than [their] peers successfully."
14. In an email exchange between the School Psychologist and the Parent, dated February 11, 2026 through February 25, 2026, the School Psychologist reported they had completed the Student's evaluation. They initially proposed an evaluation meeting on February 19 or 20, 2026.
   a. The Parent replied to the first email on February 11, 2026 they would check their schedule and asked, "can you please clarify if [the Student] is eligible for the program?"
   b. On February 12, 2026, the School Psychologist answered, "There are several aspects to eligibility for gifted services … the test scores are not showing that [the Student] is in the gifted range." They indicated they were "waiting on data from other staff members before we can make a team decision."
   c. The Parent agreed to a meeting on February 19, 2026, and the School Psychologist sent a Notice of Meeting (NOM).

d. After the Parent received the NOM on February 12, 2026, they followed up with two issues. They objected to the School Psychologist pre-checking the box for, "I consent to waive my right to a 10-day prior written notice of this meeting to develop, review, or revise the IEP for my child." The Parent stated, "I am not waiving any of my parental rights at this time." They also wanted confirmation that all data would be assembled before the eligibility meeting. The Parent requested a new meeting date, a revised NOM, and that the 10-day waiver checkbox not be checked.

e. The School Psychologist replied on February 13, 2026. They explained the purpose of the eligibility meeting, stated who would attend, and what information would be presented. The School Psychologist included an updated NOM with the previously agreed upon date of February 19, 2026.

f. The Parent replied, "Based off the amount of information needing to be discussed, the 19th is not an option for us. We are available the 23rd or 24th."

g. On February 16, 2026, the School Psychologist stated, "The team could do Tuesday, [February] 24th[,] [2026]." The Parent agreed and the School Psychologist sent a new NOM.

h. On February 18, 2026, the Parent emailed the School Psychologist and wrote, "After looking at the most recent meeting notice, I realized that the signature page did not include the updated meeting date. Please see attached for the updated version of the meeting notice."

i. The School Psychologist emailed on February 23, 2026 to inform the Parent that teachers would not be available for the meeting on February 24, 2026. They apologized for the last minute change, stating, "I didn't want you to show up and not have any teachers available to discuss [the Student]."

j. On February 24, 2026, the School Psychologist and the Parent agreed to a meeting on March 2, 2026. The School Psychologist thanked the Parent for "being flexible."

k. The School Psychologist sent a revised NOM and the Parent signed it on February 25, 2026.

15. A Psychoeducational Evaluation Report, dated February 11, 2026, included the following relevant information:

    a. The testing dates were listed as February 4, 2026 and February 5, 2026.

    b. The meeting date was listed as March 2, 2026.

    c. The reason for evaluation was listed as, "This was a parent's request for evaluation for gifted services due to excellent performance in the classroom."

    d. Assessments used were:

        i. Woodcock-Johnson VTests of Cognitive Abilities (WJ-VCog);

        ii. Woodcock-Johnson VTests of Achievement(WJ-Ach); and

        iii. Gifted Rating Scales-School Form (GRS-S).

e. Current performance:
    i. Geometry: 98%; English 8: 99%;
    ii. Intro to Agriscience: 96%; Science 8: 97%;
    iii. Social Studies: 99%; Aide- Counselor: No Score; and
    iv. FACS-3: 94%
f. The Student had no behavioral concerns.
g. Attendance data indicated the Student had been absent eight days between August 2025 and February 2026.
h. Educational concerns explained, "[The Parent] reports that [the Student] is mature for [their] age, which often leads to boredom in [their] current classroom settings/curriculum. [The Parent] states that [they] would like to provide [the Student] with hands-on, challenging learning opportunities that connect real-world concepts and allow [the Student] to explain the "how" and "why" things work. [The Parent] states that [they] [hope] to gain a better understanding of [the Student's] strengths and to be sure [the Student] is given opportunities to challenge [themself] at the level [they] [are] capable of."
i. Teacher input included the following highlights:
    i. FACS-3: "[The Student] performs very well in FACS. … [They] [go] beyond what is required, putting in strong effort and exceeding expectations."
    ii. Science: "I would not have ever guessed that [the Student] was gifted. [They] [seem] very average to slightly above. … When [the Student] is called on, [they] just [answer] the question without going into extra detail. [They] never [ask] questions, either."
    iii. Geometry: "[The Student] is doing well, overall; however, [they] [miss] some concepts at times. [The Student] is generally quiet and doesn't ask for help often. … [The Student] doesn't just effortlessly 'ace' everything in the class. … In general, [the Student] is bright and doing well. We'll just keep working on the learning part-which involves making mistakes."
    iv. English: "[The Student] maintains A grades in my class and completes [their] work consistently. [The Student] is responsible and performs well on assigned tasks. However, [the Student] rarely offers particularly insightful or advanced contributions during class discussions. … I would not consider [the Student] gifted at this time."
    v. Social Studies: No input.
    vi. Agriscience: "[The Student] works hard in my class. [Their] completed work meets and often exceeds my expectations and criteria."
j. A testing observation was completed on February 4, 2026. Notes stated the Student followed directions, did not ask questions, and "took the test seriously." The same notes indicated the Student "seemed to give up easily and did not go above and beyond in effort [sic] to complete more difficult items." The

observation notes ended with, "The following evaluation can be deemed a valid representation of [the Student's] current abilities."

k. A classroom observation was conducted on February 23, 2026. The observation notes indicated the Student relied on table partners to stay on task and participate in the science assignment observed.

l. Curriculum Based Measurement indicated the following:
    i. Winter 2026 reading score: 40th percentile (some risk); and
    ii. Winter 2026 math score: 51st percentile (low risk).

m. Assessment results showed the following:
    i. Woodcock-Johnson Test of Cognitive Abilities, Fourth Edition (WJ-IV Cog)*:
        1. Average in the areas of General Intellectual Ability, Comprehension Knowledge, GF-GC Composite, and Cognitive Efficiency.
        2. A "cognitive summary" noted, "[The Student] did not demonstrate any personal strengths or weaknesses."
        3. *[Complaint Investigator's Note: The first page of the evaluation lists the fifth edition of the WJ Cog, not the fourth edition.]
    ii. Woodcock-Johnson Test of Achievement, Fourth Edition (WJ-IVAch)*:
        1. Average in the areas of Achievement and Brief Reading.
        2. High Average in the area of Brief Math.
        3. Superior in the area of Math Calculation Skills.
        4. An "academic summary" noted, "[The Student's] overall academic abilities are in the average range. … [The Student] did not demonstrate any personal strengths or weaknesses."
        5. *[Complaint Investigator's Note: The first page of the evaluation lists the fifth edition of the WJ Ach, not the fourth edition.]
    iii. Gifted Rating Scale (GRS):
        1. Moderate Intellectual and Academics.
        2. Low Creativity, Artistic, Leadership.
        3. High Motivation.
        4. An explanation of the results stated, "The GRS-S yields five scale scores indicating the likelihood that a student is gifted in one or more of these areas: Intellectual Ability, Academic Ability, Creativity, Artistic Talent, and Leadership Ability, as compared to other students of the same age. In addition, a Motivation scale is included not as an index of giftedness, but as a measure of the child's level of drive, persistence, and desire to succeed."

n. A summary of all data reported, "These scores indicate that [the Student] is a high-achieving student, but does not fall into the high, or 'gifted' range at this time."
    i. The Student was found not eligible for special education services.
o. Recommendations included:
    i. "Continue differentiated instruction and accelerated courses where applicable and necessary."
    ii. "Provide enrichment opportunities with open-ended problems, choice in project topics, and opportunities for depth of content rather than acceleration."
    iii. "Facilitate connections with like-ability peers through interest-based clubs, academic competition, or mentor relationships."
    iv. "Teach resiliency and accepting failure."
    v. "Teach explicit studying strategies, self-monitoring techniques, and how to set/monitor goals."
    vi. The report was signed by the School Psychologist.
    vii. An Eligibility Determination indicated the Student did not meet the State's two-prong test for eligibility. The box for "The child is NOT eligible for special education" was checked.
p. An undated Addendum to the report acknowledged and corrected the following errors:
    i. The Student's attendance was updated.
    ii. The Social Studies teacher's input was listed as "omitted."
    iii. Testing observation administration was updated to reflect two days of testing.
    iv. The School Psychologist's credentials were corrected.
    v. The assessment editions and descriptions were updated to reflect the editions stated at the beginning of the document.
    vi. An incorrect pronoun was corrected.

16. A NOM, dated February 12, 2026, listed a proposed meeting date of February 19, 2026. The following checkboxes were checked:
    a. "Meeting to review the evaluation and determine eligibility."
    b. On the acknowledgement page:
        i. "I plan to attend the meeting … on 02/19/2026 … ."
        ii. "I consent to waive my right to a 10-day prior written notice of this meeting to develop, review, or revise the IEP for my child."
    c. Documentation of delivery showed the School Psychologist emailed the NOM to the Parent on February 12, 2026.

17. A NOM, dated February 13, 2026, listed a proposed meeting date of February 19, 2026. The following checkboxes were checked:
    a. "Meeting to review the evaluation and determine eligibility."
    b. Under "Meeting to develop the Individualized Education Program (IEP)," "If it is determined that your child is eligible for special education and related services, the IEP team will develop an [IEP] for your child and determine the appropriate placement."
    c. On the acknowledgement page:
        i. "I plan to attend the meeting … on 02/19/2026 … ."
    d. Documentation of delivery showed the School Psychologist emailed the NOM to the Parent on February 12 and 13, 2026.
18. A NOM, dated February 16, 2026, listed a proposed meeting date of February 24, 2026. The following checkboxes were checked:
    a. "Meeting to review the evaluation and determine eligibility."
    b. Under "Meeting to develop the [IEP], "If it is determined that your child is eligible for special education and related services, the IEP team will develop an [IEP] for your child and determine the appropriate placement."
    c. An acknowledgement was signed by the Parent on February 16, 2026. The checkboxes indicated they would attend the meeting scheduled for February 24, 2026.
        i. The previous meeting date of February 19, 2026 was originally listed on the document. The Parent crossed out February 19, 2026 and wrote in February 24, 2026.
        ii. The Parent included a note, "If [the Student] is eligible, the IEP meeting will have to be scheduled for a later date."
    d. Documentation of delivery showed the School Psychologist emailed the NOM to the Parent on February 12, 13, and 16, 2026.
19. On February 19, 2026, the School Psychologist reached out to the teachers again, stating, "I've only received 3 gifted rating scales back." They shared, "I am needing as much evidence of [the Student's] classroom performance as possible … send me a little blurb about [their] performance in your class … I am going to try to observe [the Student] in class today or tomorrow, so if I come in, just ignore me!"
20. In a February 23, 2026 email to the Science Teacher, the School Psychologist stated, "[The Student] [is] performing so differently across classes. I've had electives teachers tell me [the Student] [is] going above and beyond, but core is a different story."
21. In an email on February 23, 2026, the Gifted Facilitator thanked the School Psychologist for "asking teachers for more evidence/data. Determining giftedness means we have to follow state guidelines (such as the testing you do) as well as other factors. In this situation, the more data the better."

22. On February 23, 2026, the School Psychologist emailed the Student's teachers, the Special Education Teacher, the Math Teacher, the Counselor, the Gifted Facilitator, and the Principal, requesting "I'd love for as many teachers to be [at the eligibility meeting] as possible, as [the Student] does not qualify (according to testing). If you could bring as much 'classroom performance' evidence as possible to the meeting, that would be helpful." The School Psychologist stated, "[The Parent] is still pushing for a gifted exceptionality even though the numbers are not there for me. … Giftedness is unique in that we don't have to rely ONLY on my test scores, so I need as much input as possible from you all."
    a. The FACS Teacher responded on February 23, 2026 with their observations of the Student.
23. A NOM, dated February 24, 2026, listed a proposed meeting date of March 2, 2026. The following checkboxes were checked:
    a. "Meeting to review the evaluation and determine eligibility."
    b. Under "Meeting to develop the [IEP], "If it is determined that your child is eligible for special education and related services, the IEP team will develop an [IEP] for your child and determine the appropriate placement."
    c. An acknowledgement was signed by the Parent on February 25, 2026. The checkboxes indicated they would attend the meeting scheduled for March 2, 2026.
        i. The Parent included a note, "If [the Student] is eligible, the IEP meeting will have to be scheduled for a later date."
    d. Documentation of delivery showed the School Psychologist emailed the NOM to the Parent on February 12, 13, 16 and 25, 2026.
24. The School Psychologist sent another message on February 25, 2026, again reminding staff to return the GRS forms.
    a. The Principal replied to the group, "If you haven't completed this form, please do so ASAP. … These were sent out quite a while ago, so they should be done by now."
    b. The School Psychologist forwarded the message to the Technology Teacher and the Careers Teacher with the following note on February 25, 2026:
        i. "I know you don't have [the Student] this semester, but if you have any memory of [their] performance in your class last semester, could you send me a couple of sentences about it? I am doing a gifted evaluation, and [the Student] does not qualify, but parents are still pushing for a gifted exceptionality. I just want as much data as possible."
        ii. The Careers Teacher replied on February 25, 2026, "[The Student] was a wonderful student to have in class. Most of the assignments for Career and Life Planning are very individualized. However, if a student was having trouble understanding a question or how to format an assignment, [the Student] would be one of the first to help."

25. PWN, dated March 2, 2026, stated the Student was not eligible for special education services. The eligibility section noted consent was not required.
    a. The description of the action refused reported the evaluation "took 99 days to complete" and the Student did not meet exceptionality criteria.
    b. The description of data used included "Formal cognitive and achievement assessment, parent input, teacher input." The assessments were "Woodcock-Johnson V Tests of Cognitive Abilities (WJ-V Cog); Woodcock-Johnson V Tests of Achievement (WJ-Ach); Gifted Rating Scales - School Form (GRS-S)."
    c. There was no documentation of delivery on the PWN.
26. A recording of the March 2, 2026 eligibility meeting provided by the Parent contained the following relevant information:
    a. The Social Studies Teacher provided their teacher input. They stated, "I think [the Student] feels comfortable with this class. … [The Student] does good [sic] sharing answers."
    b. The Science Teacher shared, "[The Student] has a lot of dependency on [their] friends in that class. If [the Student] doesn't understand something, [they] won't ask me for help. [They] will ask [their] neighbor for help. … I can't get a higher level thinking or a higher level answer out of [the Student]. It's very to the point."
    c. An unidentified teacher shared, "[The Student] performs well in my class. If it's discussions that require more of a critical thinking, [I] don't generally get any responses from [them], but if it's a review and it's a straightforward answer, then I get quite a few responses from [the Student]." The unidentified teacher further stated, "We don't know if [the Student] understands the material because the work [the Student] puts out … [is] great and then when [the Student] needs help, [they] [ask] [their] friends."
    d. The High School Geometry Teacher was not present.
    e. The School Psychologist reported, "In [High School] math, [the Student's] test scores were … really good, but they're not 100% all the time. Whereas [their] homework, [the Student] [is] getting extra credit on everything. [They] [are] getting 180% on assignments. So I'm wondering if [the Student] can go home and correct things." The Parent replied, "[The Student] can [bring work home and correct it], but [the Student] also does every single extra credit assignment … because [the Student] absolutely does not want to take the final in that class. So [they] [are] making sure [they] [get] [their] A."
    f. While the School Psychologist was describing their classroom observation of the Student during their Science class, the Parent asked, "Do you typically only observe them in one class?" The School Psychologist replied, "Yeah, usually."
    g. During the meeting, there was discussion about standardized testing dates. The Principal stated winter curriculum based measurements were taken between November and December breaks. The Counselor stated the tests were

administered December 2, 2025. The Parent recalled the Student was sick that day, and had to make the tests up the following week.

h. The School Psychologist acknowledged the Student was "very, very, very fluent" in math.

i. The School Psychologist stated, "Going by my report and the evidence I have, [the Student] does not qualify for gifted services at this time. [The Student] does not demonstrate scores indicative of a gifted student right now, but that's one piece of the evidence. So I wanted to go around and discuss what everybody else sees and what they think because it is a team decision."

j. The Parent expressed that the Student was "bored." They noted that the Student had better evaluations from "hands-on" classes compared to "book" classes. The Parent observed the Student preferred the higher level math.

k. Regarding low curriculum based measurements for math within the evaluation report, the Parent asked if the Student had been tested at the eighth grade level or the high school level. They expressed they were "shocked" at the low score. The Principal and the Counselor stated they were unsure, but believed it was the eighth grade level. The Principal stated, "[It's] [b]een a while since [the Student] [has] actually done the skills that [they] [will] be tested on." The Counselor shared that many students who partake in enrichment classes, including the Student, need "a refresher to be successful" at grade level assessments. They suggested practicing in IXL before assessments. The Counselor reported state assessments are administered after spring break.

l. The Parent shared, "The reason I wanted to do this testing is because I've been told by three different district employees to have [the Student] tested over the years." They mentioned the Assistant Superintendent/Special Education Director encouraged them to move forward with the evaluation.

m. The Parent noticed a discrepancy in the report regarding the number of testing days and asked for clarification. The School Psychologist stated they tested the Student over two days, not one, as was listed in the report.

n. The School Psychologist told the Parent, "I do need you guys to sign this. It's the report and you can agree or disagree to it." The Parent replied, "I would like to look this over before I say I agree or disagree. Would that be okay? I will still sign it, but I would like to talk." The School Psychologist indicated that was acceptable. The Principal said, "You have plenty of time."

o. Regarding an additional document shared during the meeting, the School Psychologist said, "I'll just wait on this too, because this says whether [the Student] [is] eligible or not for special education and I haven't filled it out yet." The Parent stated, "I think all of you are in [sic] agreeance" the Student did not qualify for special education based on the evaluation.

27. On March 3, 2026, the Parent sent the Superintendent a [State] Open Records Act request for "any and all records created, sent, received, maintained, and/or stored

between October 27, 2025 and March 3, 2026, that reference, mention, relate to, or concern [the Student] in any capacity."

a. They wrote, "This request specifically includes, but is not limited to: Emails … Text messages … Internal messaging platforms … Draft documents; Notes or memoranda; Calendar entries; Evaluation documents; Internal reports; Communications on personal devices if used for district business."

b. The Parent referenced several staff members and requested, "communications between these individuals as well as communications between these individuals and any other district employee, contractor, or third party, if such communication references or concerns [the Student]."

c. They requested the records be shared in electronic format and, "If any portion of this request is denied, please cite the specific statutory exemption relied upon." They asked for clarifications to be in writing.

d. The Superintendent responded on March 6, 2026 with a fee for staff time to gather the records. They offered, "Since that is a high price you are welcome to amend your language and resubmit your request if you would like to. If you choose to move forward … upon receipt of that amount we will assemble the documents responsive to your request. That process is likely to take at least 10 business days … ."

28. On March 6, 2026, the Parent emailed the LEA requesting to review the Student's records between October 30, 2025 and March 3, 2026 under FERPA. They referenced a previous KORA request, noting, "Due to the ridiculous estimated fee for a simple email search, I am now writing to clarify that many of the records requested are also education records … and are therefore subject to my parental right to inspect and review those records."

    a. District Counsel responded on March 11, 2026, "Is your request for records, whether under KORA or FERPA, limited to e-mail records?"

    b. The same day, the Parent reiterated their request for "any and all records created, sent, received, maintained, and/or stored between October 27, 2025 and March 3, 2026, that reference, mention, relate to, or concern [the Student]."

    c. District Counsel replied that evening, "That's what I thought. I'll ignore your assertion that your KORA request was 'for a simple email search.' We'll get back to you on your FERPA request."

29. On April 23, 2026, the School Psychologist emailed the Parent, inquiring, "I wanted to reach out and see what you had decided in terms of [the Student's] gifted evaluation. Either way, there is still some paperwork I need to close out before the end of the school year."

    a. The Parent replied, "Could you please provide me with the documents as well as the following information in writing: A description of each document that requires my attention or signature; The purpose of each document; Whether

any document requires my signature, and if so, what I would be agreeing to by signing."

b. The School Psychologist responded that both the evaluation report and PWN needed parent signatures.

c. The Parent requested copies of PWN and the completed signature page from the evaluation report which included the signatures of the meeting participants.

d. The School Psychologist provided both requested documents.

30. On April 24, 2026, the Parent emailed several LEA staff, reporting they had filed "an official FERPA complaint with the Student Privacy Policy Office of the United States Department of Education. The complaint has been filed against USD 353, specifically [the Superintendent]."

    a. District Counsel responded, "Thanks for letting us know. I don't think the 60-day FERPA deadline has passed, but [the Superintendent] and I have discussed how to get you access to these records, and I'll get with you about that a little later this week."

31. The Parent sent an email to all members of the LEA School Board on May 11, 2026. The email stated, "I am requesting immediate attention to my FERPA request, originally sent to [the Superintendent] on March 6, 2026. Federal law states that I am to be provided access to the requested records within 45 days of the request being received. Today is day 67. I have not received the requested records or any communication providing a lawful basis for the district's continued noncompliance." They proceeded to detail their requests and correspondence with District Counsel.

    a. The School Board Vice President responded on May 11, 2026, "You should be hearing from [the Superintendent] and/or [District Counsel] tomorrow."

    b. The Parent emailed the School Board Vice President on May 14 and 21, 2026 to report they had not received any communications from the Superintendent or District Counsel.

32. District Assessment data for spring 2025-26 indicated the following results for the Student:

    a. 92nd percentile for knowledge of math facts.

    b. 84th percentile for overall math skills.

    c. 71st percentile for knowledge of math standards.

    d. 80th percentile for overall reading.

    e. 59th percentile for phonemic awareness, phonics, and vocabulary skills.

33. State Assessment data for the 2025-26 school year indicated the Student was "Level 2 … shows basic ability to demonstrate their knowledge and skills of grade-level Math standards" for eighth grade math. Their score was 510, below the School and District average score of 518, and State average score of 538. In specific areas, the Student scored the following:

    a. Proficient in geometry and in functions.

b. Below proficiency in expressions and equations and statistics and probability.

34. On May 26, 2026, the Parent filed the Complaint.

Parent Interview

35. During an interview with the Complaint Investigator, the Parent indicated the Student's 6th Grade Math Teacher shared the Student completed their math work "way ahead of other students" and the Student had the majority of their class time free because they "did not have any extra work to work on." The 6th Grade Math Teacher suggested the Parent have the Student "test out of sixth grade math." The Parent complied and the Student was moved into a pre-algebra class at the High School, which was a class a typical seventh grade student would take. The Parent gave their permission for the Student to attend the pre-algebra class. The Parent indicated they thought the pre-algebra class was considered enrichment.
36. The Parent indicated the Evaluation Report dated February 11, 2026, had the following inaccuracies:
    a. The English Teacher, the Science Teacher, and the School Psychologist's input were "oddly, oddly [sic] similar to each other." The Parent indicated, "[M]y suspicion is that they worked together to make sure that this evaluation did not pass."
    b. The report stated the Student was tested on February 4, 2026, but the Parent knew the Student was tested over two days.
    c. There was observation data dated February 4, 2026, but there was no observation data for February 5, 2026. There was no documentation of the February 5, 2026 testing.
    d. After the February 11, 2026 Evaluation Report, the School Psychologist did not update the number of missing assignments. The Parent indicated all of the Student's missing assignments were completed from being sick as of February 20, 2026.
    e. The report indicated teacher input was vital for gifted evaluations, but at the eligibility meeting, the School Psychologist indicated teacher input was subjective. The Parent felt "you can't have it both ways."
    f. The Parent indicated the report did not include written teacher input from all of the Student's teachers and that the School Psychologist did not reach out to the classroom teachers "within an acceptable timeframe."
    g. The report did not explain if the math testing was over the eighth grade curriculum or the geometry curriculum.
    h. The School Psychologist observed the Student in science class, not math class.
    i. According to the Parent, the evaluation took 99 days to complete.
    j. The Parent indicated during the eligibility meeting, the School Psychologist kept stating, "[The Student] doesn't qualify, but … ." Because of this, the Parent felt like the team received a biased opinion from the School Psychologist.

k. The Parent claimed the School Psychologist "offered the teachers a chance to review the report and make any changes that they wanted to make that they were uncomfortable sharing with the Parents prior to us seeing it."

37. The Parent stated when the team was trying to schedule the eligibility meeting, the Parent requested documentation to review prior to the eligibility meeting. According to the Parent, the School Psychologist told the Parent that the eligibility decision "will not be made until we are at the meeting because [Parent 2] and I would be part of it." The Parent never saw the March 2, 2026 PWN until April 30, 2026, and stated it was the only PWN they were aware of. The Parent indicated the only reason they had seen the PWN was because the School Psychologist emailed the Parent telling the Parent they had to come into "the school to sign documents so [the School Psychologist] could send in all of this information to the [S]tate." The Parent indicated they did not get PWN for the February 2, 2026 eligibility meeting. The Parent stated they did not receive PWN at the eligibility meeting on March 2, 2026.
38. The Parent indicated the following:
    a. The Evaluation Report included the Student had an identified need in "resiliency and accepting failure." During the eligibility meeting, regarding the direct observation, the team kept saying how the Student "gave up easily and moved on rather than solving difficult questions," which according to the Parent, "was used as negative evidence against [the Student]." The Parent shared the team also talked about the Student's high motivation and "it's characterized as atypical for gifted students."
    b. According to the Parent, the GRS test given to the Student showed the Student's motivation was in the high range. The Parent shared, "So it doesn't make sense how you can have high motivation in the report, but then use it as disqualifying evidence. It is contradictory." The Parent indicated, "[W]hat the actual law says, … you either have to have potential or show potential in one subject. So that means, inconsistency in the report."
    c. The Parent indicated during the eligibility meeting the Gifted Facilitator stated the Student was getting everything available that the Middle School could provide for advanced math coursework.
    d. The Parent indicated the Counselor stated if the Student was put on an IEP for giftedness, "there was nothing that would change."

School Psychologist Interview

39. During an interview with the Complaint Investigator, the School Psychologist indicated there were errors in the Eligibility Report. Those errors were:
    a. An error in the testing dates.
    b. An error in the pronouns used.
    c. An error in the School Psychologist's credentials.

d. An error in the test description. It was not the WJ Cog 4 and WJ Ach 4, but it was the WJ Cog 5 and WJ Ach 5.

40. Regarding PWN about the discussion at the gifted eligibility meeting on March 2, 2026, the School Psychologist indicated the Parent perceived the entire evaluation took 90 days. The School Psychologist explained they had 60 school days to conduct an evaluation. "At that time, a PWN would have been given to the Parent. They would have stated that it was around 60 or 61 school days that the evaluation took. We don't have a copy of that one, but the next one that we have, it states that it's 90 days from the date of consent and that was when the Parent had finally gotten back to me about eligibility or about signing the eligibility stuff."
41. When asked if there were 30 days in between the first PWN and the second PWN, the School Psychologist indicated, "Something like that, somewhere around that. And I emailed [the Parent] and asked [them] if they wanted to sign the documents and I never got a response." The School Psychologist indicated there was one eligibility meeting but two PWNs. The School Psychologist explained the Parent did not sign the eligibility report and the PWN which the Parent was required to sign in order to finalize the eligibility determination, and that was the reason why there was a second PWN sent 30 days later because the School Psychologist had not heard back from the Parent. In this case, the School Psychologist sent a copy of the evaluation report to the Parent.
42. The School Psychologist indicated they did not know why the PWN dated March 2, 2026 had the documentation of delivery left blank. They indicated it might have been because they did not have names and the data in the system. They stated the forms are usually auto-populated. The School Psychologist indicated the use of state testing data was not useful and "… honestly. It just isn't something that I use for any kid typically."

Assistant Superintendent/Special Education Director Interview

43. During an interview with the Complaint Investigator, the Assistant Superintendent/Special Education Director indicated the Student was taking a geometry course at the High School and indicated it was "a traditional high school geometry class." The Assistant Superintendent/Special Education Director shared the Student started the class in the fall of 2025, and the Student was enrolled in the geometry class for the entire 2025-26 school year.
44. Regarding alternatives for the Student's English Language Arts class, the Assistant Superintendent/Special Education Director explained during the time when the Parent challenged the curriculum, the Student was offered an alternative placement. The Parent had asked if there was an opportunity for the Student to take a virtual course. The Assistant Superintendent/Special Education Director indicated they worked through what that might look like together with the Parent.
45. When asked about what inaccuracies were present in PWN regarding the March 2, 2026 gifted eligibility meeting, the Assistant Superintendent/Special Education Director indicated the following:

a. The School Psychologist had left PWN blank because the team was going to talk about whether the Student was eligible at the meeting.
b. The School Psychologist indicated PWN was blank because they needed to fill it out based upon "what the team believed."

46. When asked about the discrepancies in the eligibility report, the Assistant Superintendent/Special Education Director indicated there were several, but stated, "I don't believe that they substantively changed the report." They stated the discrepancies included the following:
    a. The achievement testing the School Psychologist completed was "the fifth edition, not the fourth edition."
    b. There were grammatical errors.
    c. There was one incorrect usage of a pronoun.
    d. There was some confusion about attendance records when the report was initially made "versus when [the School Psychologist] added to it versus the last on the day of the meeting." The Assistant Superintendent/Special Education Director had the School Psychologist put in the Student's whole attendance record in the amended report.
47. When asked about PWN and meeting notice documentation process, the Assistant Superintendent/Special Education Director explained, "The [N]otice of [M]eeting, that seemed a little bit of a wonky process in terms of just getting everybody together and scheduling. And so that went back and forth several times so that they could get the whole team together." When asked about the Parent's concerns regarding the NOM not being collaborative for scheduling a meeting, the Assistant Superintendent/Special Education Director stated, " … there's a string of emails that goes back and forth between [the Parent] and [the School Psychologist] in terms of scheduling."
48. When asked about the March 2, 2026 PWN documentation of delivery being left blank, the Assistant Superintendent/Special Education Director indicated the "whole [PWN] was left blank so that after the team decision, they could fill it out together." In addition, the Parent requested extra time to go back and review the audio recording. The Assistant Superintendent/Special Education Director explained the audio recording indicated, "[The Parent] had no trouble with signing it." The Assistant Superintendent/Special Education Director shared their understanding regarding the final PWN was the entire process had not been finished because the School Psychologist had not heard back from the Parent.
49. According to the Assistant Superintendent/Special Education Director, the Parent did not sign the evaluation report and PWN which indicated appropriate placement of the Student which were required to finalize the eligibility process.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #353, in accordance with state regulations, completed the Student's gifted evaluation within 60 school days of the Parent providing consent. K.A.R. 91-40-8(f).

According to K.A.R. 91-40-8(f), unless an agency has obtained written parental consent to an extension of time, the agency shall complete the following activities within 60 school days of the date the agency receives written parental consent for evaluation of a child: conduct the evaluation of the child; conduct a meeting to determine whether the child is an exceptional child and, if so, to develop an IEP for the child. The agency shall give notice of this meeting to the child's parent or parents. The agency shall also implement the child's IEP.

The Parent alleged the Student's gifted evaluation was not completed within 60 days of the Parent providing consent.

The LEA indicated given a snow day, the 60th day would have been February 19, 2026. According to an email chain between the Parent and the School Psychologist, the School team initially scheduled the meeting on February 19, 2026. The meeting occurred on March 2, 2026, which was 69 days after consent was signed.

PWN for evaluation consent, dated October 28, 2025, documented the LEA proposed an initial evaluation at the Parent's request to assess the Student's general cognitive abilities and academic skills and achievement levels. The Parent signed consent on October 30, 2025. On December 9, 2025, the Principal emailed the Parent stating the Student was "slated for testing in early January." That same day, the School Psychologist emailed several staff members—including the ELA, Social Studies, and Science teachers, the Math Teacher, the Principal, and the Counselor, requesting completion of a gifted screener that had been distributed about a month earlier.

The School Psychologist informed the Gifted Facilitator on February 6, 2026 that they had finished testing the Student, needed to write the report, and were available for a meeting, noting the Student's eligibility deadline of February 18, 2026. In an email exchange with the Parent between February 11 and February 25, 2026, the School Psychologist stated the evaluation had been completed and initially proposed meeting dates of February 19 or 20, 2026. The Parent agreed to meet on February 19, 2026, and the School Psychologist issued a NOM for that date. On February 19, 2026 the LEA had a snow day. Due to the Parent's request for alternate meeting dates, and the teachers not being available on one of the previously selected meeting dates, the evaluation meeting was held on March 2, 2026 which was 69 days after the consent was signed.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** the LEA failed to complete the Student's gifted evaluation within 60 days of the Parent providing consent.

Issue Two

Whether USD #353, in accordance with state regulations, scheduled a special education meeting at a mutually agreeable meeting time. The Parent further alleged they did not waive the standard ten day meeting notice period. K.A.R. 91-40-17(a).

According to K.A.R. 91-40-17(a), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP team meeting or are afforded the opportunity to participate. Each agency will schedule each meeting at a mutually agreed-upon time and place, informing the parent of the information specified in this regulation. Each agency shall provide written notice to the parent of any IEP team meeting at least ten days in advance of the meeting.

The Parent alleged the notice of meeting procedures were not followed because the LEA issued formal meeting notices with predetermined meeting dates that had not been mutually agreed upon by the Parent. In addition, the Notice of Meeting included a pre-determined checkbox which indicated agreement to waive a ten-day meeting notice period.

The LEA indicated the first attempt at setting up the evaluation meeting was via email on February 11, 2026. Initially, the Parent shared February 19, 2026 would work. The Parent then requested another time given the amount of information to be discussed. The Parent and the LEA agreed to meet on March 2, 2026.

After the Parent received the NOM on February 12, 2026, they followed up with two issues. They objected to the School Psychologist pre-checking the box for, "I consent to waive my right to a 10-day prior written notice of this meeting to develop, review, or revise the IEP for my child." The Parent requested a new meeting date, a revised NOM, and that the 10-day waiver checkbox not be checked. The School Psychologist replied on February 13, 2026. The School Psychologist included an updated NOM with the previously agreed upon date of February 19, 2026 and the checkbox to waive the 10-day prior written notice of the meeting was not prechecked, correcting the Parent's concern.

A NOM, dated February 24, 2026, documented a proposed meeting date of March 2, 2026. The Parent signed the acknowledgement on February 25, 2026, indicating they would attend the March 2 meeting. Documentation showed the School Psychologist emailed the NOM to the Parent on February 12, 13, 16, and 25, 2026, confirming delivery of the notice of meeting. When the Parent originally agreed to attend the February 19, 2026 IEP, they were waiving the 10-day notice requirement because they agreed to attend the meeting without receiving 10 days notice.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the LEA failed to schedule a special education meeting at a mutually agreeable meeting time. Further, the NOM was adjusted regarding the 10-day waiver box.

Issue Three

Whether USD #353, in accordance with state regulations, provided timely PWN for the March 2, 2026 gifted eligibility meeting and whether PWN was compliant as follows: whether the documentation of delivery was left blank; whether all assessment results, classroom observation data, and teacher input were recorded as a basis for eligibility, when they were referenced in the eligibility meeting; and whether it contained inaccurate information regarding the discussion at the gifted eligibility meeting. K.A.R. 91-40-26(a)(b), K.S.A. 72-3432(a-e).

According to K.A.R. 91-40-26(a)(b) and K.S.A. 72-3432(a-e), in providing any notice to the parents of an exceptional child regarding an action proposed or refused by an agency, the agency shall ensure that the notice includes a description of other options the agency considered and the reasons why those options were rejected. In addition, a description of other factors that are relevant to the agency's proposal or refusal will be provided. The notice shall be written in a language understandable to the general public.

The Parent alleged the LEA did not provide PWN for the March 2, 2026 gifted eligibility meeting until April 23, 2026, with the documentation of the delivery section blank. The Parent indicated the LEA did not include assessment results, classroom observation data, or teacher input basis for eligibility in the PWN. The Parent alleged the PWN issued by the LEA contained inaccurate information regarding the discussion at the LEA eligibility meeting.

The LEA stated that based on the audio recording provided by the Parent, the Parent declined to sign anything at the meeting and took the paperwork with them. The School Psychologist explained that they would also need their signatures on another form, which was the PWN. The PWN document was left open due to that, which was why when another PWN was requested. To date, neither PWN, nor the eligibility report, had been signed by the Parent.

The Parent stated they did not receive PWN for the March 2, 2026 meeting until April 23, 2026, asserting the documentation-of-delivery section on the March 2, 2026 PWN had been left blank. In discussing PWN related to the gifted eligibility meeting held on March 2, 2026, the School Psychologist explained the Parent believed the entire evaluation process had taken 90 days, while the LEA had 60 school days to complete an evaluation. The School Psychologist explained a PWN would have been provided to the Parent at the time the evaluation was completed and it would have reflected an evaluation timeline of approximately 60 or 61 school days. They noted the LEA did not have a copy of the earlier PWN, and the next available notice documented a 90-day period from the date of consent, which corresponded to when the Parent ultimately responded regarding eligibility and the required signatures. This explanation

reflected the LEA's position on the differing timelines and the absence of the earlier PWN. The Parent received PWN at the March 2, 2026 meeting and took home this paperwork to consider the information. Another copy was provided on April 23, 2026, the timeframe was considered provided in a timely manner.

According to the LEA, the Parent declined to sign anything at the March 2, 2026 eligibility meeting and took the paperwork with them. The School Psychologist explained to the Parent they would need signatures "on another form, which was PWN." The LEA explained PWN was left open due to the Parent declining to sign PWN, which indicated the reason for the documentation-of-delivery section being left blank. Another PWN was requested because of this and that PWN stated that it took 99 days to complete the eligibility meeting.

PWN for the March 2, 2026 eligibility meeting provided a description of the data used as a basis for the proposed or refused action. The specific information included listing a formal cognitive and achievement assessment, parent input, teacher input, and the following administered tests:

1. Woodcock-Johnson V Tests of Cognitive Abilities (WJ-V Cog)

2. Woodcock-Johnson V Tests of Achievement (WJ-Ach)

3. Gifted Rating Scales - School Form (GRS-S).

The LEA included what assessments were used, the use of parent input, and teacher input, and actual assessment results were recorded in the Evaluation Report; however, the LEA did not state a direct classroom observation was conducted by the School Psychologist.

Based on the foreg*oing, according to IDEA and Kansas special education regulations, it is not substantiated* the LEA failed to provide timely and compliant PWN for the March 2, 2026 gifted eligibility meeting.

Issue Four

Whether USD #353, in accordance with state regulations, evaluated the Student in all areas of suspected exceptionality. K.A.R. 91-40-9(a)(3)(9)(b)(1).

According to K.A.R. 91-40-9(a)(3)(9)(b)(1), if assessment instruments are used as a part of the evaluation or reevaluation of an exceptional child, the agency shall ensure a variety of assessment tools and strategies shall be used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved and progress in the general curriculum to participate in appropriate activities that could assist in determining whether the child is an exceptional child and what the content of the child's IEP should be. Each agency shall use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child. Each child shall be assessed in all areas related to a suspected exceptionality, including, if appropriate, health, vision, hearing, social

and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

The Parent alleged the LEA did not evaluate the Student in the suspected areas of exceptionality.

The LEA responded that based on the consent form, the Student was to be evaluated in academic performance and general intelligence. Based on the evaluation report, the Student was evaluated using the Woodcock-Johnson Tests of Cognitive Abilities, Woodcock-Johnson Tests of Achievement Cognitive Profile, and Gifted Rating Scales. Also included in the evaluation report were the Student's FastBridge District assessment scores and current classroom performance.

PWN for Evaluation or Reevaluation and Request for Consent, dated October 28, 2025, was signed by the Parent on October 30, 2025. The document noted it was for an initial evaluation, described what the Student would be evaluated for, and the types of assessments to be used. A testing observation was completed on February 4, 2026, with the evaluator concluding the results were a valid representation of the Student's current abilities. A subsequent classroom observation was conducted on February 23, 2026. The Student was observed in science class, not math class, but math evaluation test scores, and Fastbridge tests were given.

Assessment data indicated the LEA gave the Student a variety of assessment tools, and, as required by law, teacher input regarding current classroom performance and parent input were included. The information was relevant and the Student was assessed in all areas indicated in the October 28, 2025 PWN.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the LEA failed to evaluate the Student in all areas of suspected exceptionality.

Issue Five

Whether USD #353, in accordance with state regulations, provided an evaluation report that included and interpreted "statistically significant" math scores as academic strengths for the Student. K.A.R. 91-40-1(bb), K.A.R. 91-40-8(c)(1), K.A.R. 91-40-9(a)(9).

According to K.A.R. 91-40-1(bb), "gifted" means a student who when compared to peers of similar age, experience, and environment, performs or demonstrates the potential to perform at significantly higher levels of accomplishment in one or more academic fields due to intellectual ability.

According to K.A.R 91-40-8(c)(1), as a part of an initial evaluation, if appropriate, and as a part of any reevaluation, each agency shall ensure that members of an appropriate IEP team for the child and other qualified professionals, as appropriate, shall review existing evaluation data on

the child. The evaluation data and information shall include evaluations and information provided by the parent of the child, current classroom-based, local, and state assessments. It shall also include classroom-based observations, as well as observations by teachers, and related service providers.

According to K.A.R. 91-40-9(a)(9), if assessment instruments are used as a part of the evaluation or reevaluation of an exceptional child, the agency shall use assessment tools and strategies that provide relevant information that directly assist persons in determining the educational needs of the child.

The Parent alleged the LEA evaluation report did not include or interpret statistically significant math scores as academic strengths. The Parent indicated that without clarification of the curriculum levels in which the Student was assessed, they were unsure whether the data could be considered reliable.

The LEA indicated math scores were included. During the evaluation meeting, according to the LEA, the scores were presented and discussed and documented in the recording the Parent submitted.

The Parent indicated the evaluation report did not acknowledge or interpret the statistically significant academic scores as a strength, although the score statistically showed exceptional performance. The Parent indicated the current Kansas State Assessment Scores placed the Student above school, district, and state medians in math, English, and science, which according to the Parent were directly relevant to a determination of academic giftedness. The evaluation report included the Student's math scores and referenced a FastBridge Report score of 229 on the evaluation report. The report did not explain if the math testing was over the eighth grade curriculum or the geometry curriculum.

According to the Woodcock-Johnson Test of Achievement, Fourth [Fifth] Edition(WJ-IVAch), the Student scored average in the areas of Achievement and Brief Reading, High Average in the area of Brief Math, and Superior in the area of Math Calculation Skills, which indicated math score differentiation was reported in each subtest area. An academic summary noted, "[The Student's] overall academic abilities are in the average range. … [The Student] did not demonstrate any personal strengths or weaknesses." Statewide test scores were not used by the School Psychologist in the report; they typically did not use the statewide test scores for identification.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide an evaluation report that included, and interpreted, "statistically significant" math scores as academic strengths for the Student.

Issue Six

Whether USD #353, in accordance with state regulations, provided the Parent with an inaccurate evaluation report, including incorrect attendance data, incorrect gender pronouns, conflicting testing dates, incomplete and inconsistent teacher input, unexplained assessment data, and post-meeting report revisions. K.A.R. 91-40-9(a)(3), K.A.R. 91-40-8(c).

According to K.A.R. 91-40-9(a)(3), if assessment instruments are used as a part of the evaluation or reevaluation of an exceptional child, the agency shall ensure that a variety of assessment tools and strategies shall be used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved and progress in the general curriculum, to participate in appropriate activities that could assist in determining whether the child is an exceptional child and what the content of the child's IEP should be.

According to K.A.R. 91-40-8(c), as part of an initial evaluation, if appropriate, and as a part of any reevaluation, each agency shall ensure that members of an appropriate IEP team for the child and other qualified professionals, as appropriate, comply with certain requirements. The evaluation team shall review existing evaluation data on the child, including evaluations and information provided by the parent of the child, current classroom-based, local, and state assessments, and classroom-based observations. In addition, the evaluation team shall review observations by teachers and related service providers.

On the basis of that review and input from the child's parents, the evaluation team shall identify what additional data, if any, is needed to determine whether the child has a particular category of exceptionality, and what the present levels of academic, achievement and educational and related developmental needs of the child are. In addition, whether the child needs special education and related services.

The Parent alleged the team over-relied on subjective teacher observations and personality-based impressions rather than the "full body" of the evaluation data. The Parent alleged the team used single instrument results, selectively treating low scores as disqualifying while discounting high scores as "atypical or suspicious." The Parent claimed the team selectively applied unfavorable results from an instrument the LEA itself validated.

The LEA acknowledged errors within the context of the evaluation report, including testing dates, gender pronoun usage, and some confusion about attendance data. The LEA indicated they would like the opportunity to provide the Parent with a report that included those corrections. The Assistant Superintendent/Special Education Director had the School Psychologist put in the Student's whole attendance record in the proposed amended report.

The teachers' input collectively described a pattern in which the Student participated comfortably with straightforward tasks but struggled to demonstrate higher-level thinking or

independent problem-solving. The Geometry Teacher was not present but provided written input regarding the Student's performance.

The LEA indicated there were inaccuracies in the Evaluation Report and made post-meeting corrections to the inaccuracies when the Assistant Superintendent/Special Education Director had the School Psychologist change the attendance information to put in the whole attendance record of the Student. There is no evidence to suggest these errors hindered the evaluation or eligibility process, and the LEA made efforts to make corrections.

Based on the foregoing, according to IDEA and Kansas special education regulations*, it is not substantiated* that the LEA failed to provide the Parent with an accurate evaluation report including incorrect attendance data, incorrect gender pronouns, conflicting testing dates, incomplete and inconsistent teacher input, unexplained assessment data, and post meeting report revisions.

Issue Seven

Whether USD #353, in accordance with state regulations, provided the Parent an opportunity to inspect and review the Student's education records following the Parent's request on March 6, 2026. K.A.R. 91-40-25(a), K.S.A. 72-3430(b)(1); 34 C.F.R. § 99.10(a)(b)(c)(d).

According to K.A.R. 91-40-25(a) and K.S.A. 72-3430(b)(1), each agency shall allow the parents of an exceptional child an opportunity to inspect and review all educational records and participate in any meeting concerning their child regarding the identification, evaluation, or educational placement of the child, and the provision of a Free Appropriate Public Education (FAPE) to the child.

Except as limited under § 99.12, a parent or eligible student must be given the opportunity to inspect and review the student's education records. This provision applies to any educational agency or institution, and any State educational agency (SEA) and its components. For the purposes of subpart B of this part, an SEA and its components constitute an educational agency or institution. An SEA and its components are subject to subpart B of this part if the SEA maintains education records on students who are or have been in attendance at any school of an educational agency or institution subject to the Act and this part. The educational agency or institution, or SEA or its component, shall comply with a request for access to records within a reasonable period of time, but not more than 45 days after it has received the request. The educational agency or institution, or SEA or its component shall respond to reasonable requests for explanations and interpretations of the records. If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the educational agency or institution, or SEA or its component, shall provide the parent or eligible student with a copy of the records requested;

or make other arrangements for the parent or eligible student to inspect and review the requested records.

The LEA indicated the Parent sent a Kansas Open Records Act, (KORA) request to the LEA. The LEA responded to the KORA request as required by law. The Parent sent the LEA an email changing their KORA request to a Family Educational Rights and Privacy Act (FERPA) request after the LEA responded to their KORA request. The Parent then sent an email to the LEA which stated they filed a Complaint with the US Department of Education. The LEA's attorney and Superintendent have continued to work through the FERPA request that was made.

In a March 6, 2026 email, the Parent requested to inspect and review the Student's education records created between October 30, 2025 and March 3, 2026 under FERPA, noting that many of the same materials previously sought through a KORA request were also education records subject to parental access. On March 11, 2026, District Counsel asked whether the Parent's request, under either KORA or FERPA, was limited to email records. The Parent reiterated later that day that they were seeking "any and all records" created, sent, received, maintained, or stored during the specified timeframe that referenced or related to the Student.

On May 11, 2026, the Parent emailed all members of the LEA School Board, asserting their original March 6, 2026 FERPA request was now 67 days old, despite federal law requiring access within 45 days, and that they had received neither the records nor any lawful justification for the delay. The Parent emailed the Vice Principal again on May 14 and May 21, 2026, reporting that they still had not received any communication from either the Superintendent or the District's Counsel regarding their FERPA request. The evidence did not indicate whether the Parent received the records they requested during the investigation period.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is substantiated*** that the LEA failed to provide the Parent an opportunity to inspect and review the Student's education records following the Parent's request on March 6, 2026.

Issue Eight

Whether USD #353, in accordance with state regulations, provided the Student with gifted services prior to conducting an evaluation and developing an IEP for the Student. K.A.R. 91-40-16(b)(1).

According to K.A.R. 91-40-16(b)(1), except as otherwise provided, each agency shall ensure an IEP is in effect before special education and related services are provided to an exceptional child.

The Parent alleged that during the eligibility meeting, the Gifted Facilitator/Case Manager verbally stated the Student was already receiving enrichment equivalent to what a gifted IEP would provide. The Parent expressed that if the Student was receiving gifted-equivalent

services informally and without a formal IEP, those services were undocumented, unenforceable, and subject to discontinuation without notice or parental consent, raising concern about whether the procedural protections required under IDEA were being provided.

The LEA indicated the Student was provided enrichment opportunities within the School setting during the 2025-26 school year. This included placement in a math course at the School.

Student Schedules for the 2025-26 school year reported the Student attended the High School for first through third periods, and attended the Middle School for fourth through ninth periods, beginning August 18, 2025. A transcript indicated the Student took a geometry course, not a pre-algebra course as the Parent stated in their interview, at the High School. This was corroborated by the Assistant Superintendent/Special Education Director during their interview, and they described it as, "a traditional high school geometry class." The Parent and the LEA indicated the geometry class was an enrichment class provided to the Student since the Student was in Middle School. It was not an enrichment or accelerated course at the high school level.

The geometry class was considered an enrichment course for the Student, according to the Parent. Since the Student was enrolled in the class for the entire 2025-26 school year, the Student was enrolled in the class prior to the gifted eligibility meeting on March 2, 2026. Being enrolled in an advanced course does not necessarily mean gifted services were provided to the Student prior to consideration of the Student's eligibility for special education services.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the LEA failed to provide the Student with gifted services prior to conducting an evaluation and developing an IEP for the Student.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

A. Federal regulations at K.A.R. 91-40-8(f) specify the gifted evaluation is to be completed within 60-school-days of the Parent providing consent.
    a. In this case, the evidence supports the finding that USD #353 did not complete the Student's gifted evaluation within 60 school days of the Parent providing consent. Documentation, interviews, and the LEA Response Letter, dated June 5, 2026, support these findings.

B. B. Federal regulations at K.A.R. 91-40-25(a), K.S.A. 72-3430(b)(1), and 34 C.F.R. § 99.10(a)(b)(c)(d) specify that parents have the right to inspect and review the Student's educational records within 45 days of the initial request.

In this case, the evidence supports the finding that USD # 353 did not provide the Parent an opportunity to inspect and review the Student's education records within the 45 day timeline. The Parents requested records on March 6, 2026. The Response Letter, dated June 5, 2026, documentation, and interviews support these findings.

Based on the foregoing, USD #353 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #353 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at K.A.R. 91-40-8(f), K.A.R.91-40-26(a)(b), K.A.R. 91-40-25(a), K.S.A. 72-3430(b)(1), K.S.A. 72-3432(a-e), and 34 C.F.R. § 99.10(a)(b)(c)(d).
2. Further, by August 25, 2026, USD #353 will submit a written statement of assurance to Special Education and Title Services (SETS) that:
    a. The LEA's practices and procedures for initial evaluations, PWN, and access to educational records have been reviewed and revised as appropriate to be responsive and compliant with evaluation procedures of the IDEA and the Kansas Special Education for Exceptional Children Act.
    b. Staff training on the identified deficiencies have been completed.
    c. If the LEA has a tracking system to comply with the timelines for the special education evaluation process, it will provide a written description of that system to SETS.
    d. If LEA does not currently have a tracking system to comply with the timelines for the special education evaluation process, then one will be created, and a written description of that system will be sent to SETS.
    e. The LEA will comply with the FERPA records request by providing access to or sending the educational records to the Parent.
3. The LEA shall provide to Special Education and Title Services (SETS) documentation that all corrective action items have been completed no later than August 25, 2026.

Tania Tong, Licensed Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 353,
Wellington Public Schools: 26FC353-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on May 26, 2026, by _____ on behalf of her son, _____. In the remainder of this decision, Ms. _____ will be referred to as "the parent," and _____ will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education, and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on June 27, 2026. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the parent filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed and it reviewed the original complaint filed by the parent, the Complaint Report, the parent's notice of appeal, and the district's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

No new issues will be decided by the Appeal Committee. The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

In this complaint appeal, the parent asks the Appeal Committee to respond to a number of questions. The committee declines that invitation because that is not a function of an appeal committee under K.A.R. 91-40-51(f)(1). The Appeal Committee's sole function is to determine whether complaint report delivered a correct or incorrect analysis and conclusion.

Discussion of Issues on Appeal

The report identified eight issues. The parent appeals the decisions in Issues Two, Three, Four, Five, Six and Eight.

Issue Two

Whether USD #353, in accordance with state regulations, scheduled a special education meeting at a mutually agreeable meeting time. The Parent further alleged they did not waive the standard 10-day meeting notice period.

The Parent received a notice of IEP Meeting (NOM) on February 12, 2026. The parent objected to the School Psychologist pre-checking the box for, "I consent to waive my right to a 10-day prior written notice of this meeting to develop, review, or revise the IEP for my child." The Parent had indicated that the February 19 date "would work." Later, the parent requested a new meeting date, with a revised NOM, and asked that the 10-day waiver checkbox not be checked. The School Psychologist replied on February 13, 2026 with an updated NOM with the previously agreed upon date of February 19, 2026. The checkbox to waive the 10-day prior written notice of the meeting was not prechecked on this notice.

The investigator concluded that "When the Parent originally agreed to attend the February 19, 2026 IEP, they were waiving the 10-day notice requirement because they agreed to attend the meeting without receiving 10 days' notice."

The parent is correct, in her appeal, that the waiver of a parental right to a ten-day notice of meeting should never be prechecked by school personnel without the assent of the parent. The Appeal Committee notes that no harm resulted from this error. The IEP team did not meet on February 19, 2026. Rather, another NOM, dated February 24, 2026, proposed meeting date of March 2, 2026 and the parent signed the acknowledgement on February 25, 2026, indicating that the parent would attend the March 2 meeting.

When looking at procedural requirements of special education law, the courts have said that a procedural violation is only a violation of law when it "results in the loss of educational opportunity or seriously infringes the parents' opportunity to participate in the IEP formation process." J.W. ex rel. J.E.W v. Fresno Unified Sch. Dist., 626 F.3d 431, 451 52 (9th Cir. 2010). Of course, this standard also applies to a parent's right to participate in the eligibility meeting process as well.

In this instance, it appears that there was a procedural violation but it did not "seriously infringe the parents' opportunity to participate" in the eligibility meeting for her child. The proposed meeting for February 19, 2026 did not occur. The March 2 eligibility meeting was held and the parent participated.

Issue Three

Whether USD #353, in accordance with state regulations, provided timely prior written notice (PWN) for the March 2, 2026 gifted eligibility meeting and whether PWN was compliant as follows:

whether the documentation of delivery was left blank; whether all assessment results, classroom observation data, and teacher input were recorded as a basis for eligibility, when they were referenced in the eligibility meeting; and whether it contained inaccurate information regarding the discussion at the gifted eligibility meeting.

The PWN dated March 2, 2026, stated that the Student was not eligible for special education services and the eligibility section noted that consent was not required. That PWN included the following:

a. The description of the action refused reported that the evaluation "took 99 days to complete" and the Student did not meet exceptionality criteria.
b. The description of data used included "Formal cognitive and achievement assessment, parent input, teacher input." The assessments were "Woodcock-Johnson V Tests of Cognitive Abilities (WJ-V Cog); Woodcock-Johnson V Tests of Achievement (WJ-Ach); Gifted Rating Scales - School Form (GRS-S)."
c. There was no documentation of delivery on the PWN. (Report, Finding 25, p. 16)

The School Psychologist indicated that there was one eligibility meeting but two PWNs. The School Psychologist explained that the Parent did not sign the eligibility report and the PWN which the Parent was required to sign in order to finalize the eligibility determination. Because the School Psychologist had not heard back from the parent there was a second PWN sent 30 days later. The School Psychologist sent a copy of the evaluation report to the Parent. (Report, Finding 41, p. 25).

The School Psychologist indicated that it was not known why the PWN dated March 2, 2026 had the documentation of delivery left blank (Report, Finding 42, p. 25). According to the Assistant Superintendent/Special Education Director, the Parent did not sign the evaluation report nor the PWN, which the Assistant Superintendent/Special Education Director believed were required to finalize the eligibility process." (Report, Finding 49).

On April 23, 2026, the parent requested a copy of that PWN and the evaluation report and both were provided (Report, Finding 29, p. 20).

The Appeal Committee notes that a PWN that was completed at the March 2, 2026 eligibility meeting. Whether the parent received a copy of that PWN at the March 2 meeting is unknown. The Appeal Committee finds that it is unnecessary to determine whether or not the parent left that eligibility meeting with a copy of the PWN because the parent participated at the eligibility meeting, was fully informed of the decision of the evaluation team, and took home a copy of the evaluation report. As indicated in Issue Two, when looking at procedural requirements of special education law, such as providing a PWN, the courts have said that a procedural violation is only a violation of law when it "results in the loss of educational opportunity or seriously infringes the parents' opportunity to participate in the IEP formation process." J.W. ex rel. J.E.W v. Fresno Unified Sch. Dist., 626 F.3d 431, 451 52 (9th Cir. 2010). Here, the failure to provide the parent with a PWN (if that occurred), did not result in a loss of educational opportunity because the student was determined to be ineligible. Nor did it seriously infringe on the parents' opportunity to participate in the decision making process as the parent attended the meeting, participated in the meeting and was provided with a copy of the evaluation report.

As a final comment on this issue, the Committee notes that when an evaluation team determines that a child is not eligible, that decision, and a PWN explaining that decision, does not require parent consent.

Issue Four

Whether USD #353, in accordance with state regulations, evaluated the Student in all areas of suspected exceptionality.

The student was evaluated for the exceptionality of gifted. In this appeal, the parent says that "accelerated math class is where his "suspected exceptionality" is, and that the student was not appropriately evaluated specifically for his math skills. The investigator found that the "PWN for Evaluation or Reevaluation and Request for Consent, dated October 28, 2025, was signed by the Parent on October 30, 2025. The document noted that the consent was for an initial evaluation and the Student would be evaluated for "general cognitive abilities" and "academic or preacademic skills and achievement levels." The document indicated the evaluation was initiated at parent request." (Report, Finding 5, p. 5).

The investigator found that District Assessment data for fall 2025-26 reported the following results for the Student:

a. 94th percentile for knowledge of math facts.
b. 83rd percentile for overall math skills.
c. 91st percentile for knowledge of math standards.
d. 74th percentile for overall reading.
e. 87th percentile for phonemic awareness, phonics, and vocabulary skills.

(Report, Finding 6, p.5).

The investigator concluded that: "Assessment data indicated the LEA gave the Student a variety of assessment tools, and, as required by law, teacher input regarding current classroom performance and parent input were included. The information was relevant and the Student was assessed in all areas indicated in the October 28, 2025 PWN" (Emphasis added). (Report, p. 33).

The parent requested this evaluation and approved the PWN describing the kinds of assessments to be performed. Assessments actually performed included assessments in knowledge of math standards, knowledge of math facts and overall math skills. The Appeal Committee finds that there is sufficient evidence to support the investigator's conclusion on this issue.

Issue Five

Whether USD #353, in accordance with state regulations, provided an evaluation report that included and interpreted "statistically significant" math scores as academic strengths for the Student.

In the conclusion of Issue five the investigator states: "According to the Woodcock-Johnson Test of Achievement, Fourth [Fifth] Edition(WJ-IVAch), the Student scored average in the areas of

Achievement and Brief Reading, High Average in the area of Brief Math, and Superior in the area of Math Calculation Skills, which indicated math score differentiation was reported in each subtest area. An academic summary noted, "[The Student's] overall academic abilities are in the average range. … [The Student] did not demonstrate any personal strengths or weaknesses." **Statewide test scores were not used by the School Psychologist in the report; they typically did not use the statewide test scores for identification** (emphasis added with bold print).

In this appeal, the parent cites K.A.R. 91-40-8(c)(1) and asserts that **"This law literally states that state assessments should be included in the evaluation** (emphasis added).

It is a fine distinction, but this Kansas regulation does not require state assessments to be included in the materials used to conduct an initial special education evaluation. This provision applies only to the initial phase of an evaluation where the team is gathering information to determine what information will be necessary to conduct an evaluation regarding eligibility so that the team can provide a sufficient Prior Written Notice (PWN) to parents of the assessments it will use in the evaluation. At this phase of the evaluation process, an evaluation team may determine that state assessment results are not necessary to determine initial eligibility. That is what happened in the evaluation process for this student.

The cited regulation, K.A.R. 91-40-8(c)(1), is copied below, with emphasis added in bold print to illustrate the limited application of this regulation in the evaluation process:

(c) As a part of an initial evaluation, if appropriate, and as a part of any reevaluation, each agency shall ensure that members of an appropriate IEP team for the child and other qualified professionals, as appropriate, comply with the following requirements:

(1) T**he evaluation team shall review existing evaluation data on the child, including the following information**:

(A) Evaluations and information provided by the parent or parents of the child;

(B) current classroom-based, local, and **state assessments** and classroom-based observations; and

(C) observations by teachers and related services providers.

(2) **On the basis of that review and input from the child's parent or parents, the evaluation team shall identify what additional data, if any, is needed to determine the following matters**:

(A) Whether the child has a particular category of exceptionality or, in the case of a reevaluation of a child, whether the child continues to have such an exceptionality;

(B) what the present levels of academic achievement and educational and related developmental needs of the child are;

(C) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(D) whether, in the case of a reevaluation of the child, any additions or modifications to the special education and related services currently being provided to the child are

needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

Again, this part of Kansas regulations relates to the initial stage of the evaluation when a school district is in the process of developing a PWN for proposing to conduct an evaluation. That initial stage requires a review of already existing evaluation data, specifically including state assessments, to determine what other data might be needed for the PWN. This regulation does not require that state assessments be included in the data that an evaluation team reviews as a part of every special education evaluation, unless so specified in the PWN.

What a team determines to be necessary for a proper evaluation may have subjective elements, such as what particular assessments may be included. The PWN and consent provisions are designed to clarify these elements by specifying in writing what assessments are needed and will be conducted. The evidence supports the conclusion in the complaint report that this student's evaluation report did not lack required content and included, and interpreted, "statistically significant" math scores as academic strengths for the Student.

The complaint report is sustained on this issue.

Issue Six

Whether USD #353, in accordance with state regulations, provided the Parent with an inaccurate evaluation report, including incorrect attendance data, incorrect gender pronouns, conflicting testing dates, incomplete and inconsistent teacher input, unexplained assessment data, and post-meeting report revisions.

In this issue, the parent asserts that there were inaccuracies in the district's evaluation report. The complaint report recognized those shortcomings, stating that, "The LEA acknowledged errors within the context of the evaluation report, including testing dates, gender pronoun usage, and some confusion about attendance data." The report also stated that, "There is no evidence to suggest these errors hindered the evaluation or eligibility process, and the LEA made efforts to make corrections." (Report, p. 36).

Perfection in the content of an evaluation report is not a legal standard in either federal or state law. Neither the regulations cited by the parent, nor any other regulation or statute, requires that a special education evaluation report be free of errors. Such a requirement would likely be nearly impossible to attain on a consistent basis.

Instead, federal regulations at 34 C.F.R. 300.618 through 300.621 provides a procedure that parents may use when they believe that information in the education records collected, maintained, or used for special education purposes is inaccurate or misleading. That process includes a request from the parent that the district amend the information and the right to a hearing when the district refuses to amend the information (See, 34 C.F.R. 300.618 through 300.621. That is the process for challenging the accuracy of special education records. This complaint process is not a proper venue for such allegations.

The complaint report is sustained on this issue.

Issue Eight

Whether USD #353, in accordance with state regulations, provided the Student with gifted services prior to conducting an evaluation and developing an IEP for the Student.

In this issue, the parent alleged that during the eligibility meeting, the Gifted Facilitator/Case Manager verbally stated that the Student was already receiving enrichment equivalent to what a gifted IEP would provide and in doing so the school was providing special education gifted services without completing an evaluation and without adopting an IEP.

The investigator found that "Being enrolled in an advanced course does not necessarily mean gifted services were provided to the Student prior to consideration of the Student's eligibility for special education services." (Report, p. 39). The Appeal Committee agrees with this finding. Adding the Gifted category to the list of special education exceptionalities was never intended to replace the availability of advanced coursework for the general education population. A remark from school personnel that a particular advanced course is "equivalent to what a gifted IEP would provide," does not create the specially designed instruction that defines special education.

Sufficient evidence exists to support the findings and conclusions in the Complaint Report on this issue.

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 22nd day of July, 2026.

Appeal Committee

Melissa Valenza

Brian Dempsey

Mark Ward

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #497, LAWRENCE PUBLIC SCHOOLS
ON JUNE 8, 2026

DATE OF REPORT: JULY 10, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #497 Lawrence Public Schools on behalf of ------- by his father -------. In the remainder of the report, ------- will be referred to as "the student" and ------- as "the father" and ------ as "the mother'.

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" will be used. In this case, the complaint is against USD #497 (Lawrence Public Schools) who provide their own special education services and will be referred to as "the LEA."

For the 2025-2026 school year the student attended kindergarten at Sunset Hills Elementary which will be referred to as "the school" in the remainder of the report. School and LEA staff will be referred to In the remainder of this report as follows:

- Lori, Stithem, Executive Director of Special Education
- Shelia Smith, Director of Special Education
- Anna Grace Davison, Special Education teacher
- Ali Guthmiller, ESY Coordinator
- Jayci Roberson, Director of Elementary Education
- Nikki Naumann, Executive Assistant to the Superintendent
- Howard Diacon, Principal
- Ron May, Director of Human Resources
- Brad Finkeldei, LEA's Attorney
- Ivonne Rivera, Special Education Coordinator

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date on which it was received by KSDE. The KSDE initially received the complaint on June 8, 2026. In this case an extension was requested and granted.

Evidence Reviewed

The LEA made the following staff available for a phone interview on June 11, in-person interview on June 15, July 1, and 6, 2026 as part of this investigation.

- Shelia Smith, Director of Special Education
- Anna Grace Davison, Special Education teacher
- Ali Guthmiller, ESY Coordinator/Special Education Facilitator
- Lori, Stithem, Executive Director of Special Education

During the investigation, the complaint investigator reviewed all evidence and documentation provided by the LEA and the parent. Additionally, the complaint investigator contacted the parent and/or LEA staff on June 10, 11, 15, 24, 29, 30, and July 1, 2 and 6, 2026 by email or phone to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and LEA. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents -

1. Email from the father including the District Court Journal Entry and Temporary Orders dated March 31, 2025, sent September 25, 2025 at 1:27 p.m.
2. Email reply from the director of elementary education to the father acknowledging receipt of the court orders, sent September 25, 2025 at 3:15 p.m.
3. Timeline document provided by the LEA which includes dates, issues and district response to communication with the father spanning from September 25, 2025 to June 16, 2026.
4. Subpoena for documentation presented by the father to the LEA on October 2, 2025.
5. Student's most current IEP dated November 4, 2025.
6. Email exchanges between the father and the director of elementary education related to father's document request on October 20, 2025.
7. Email exchange between the father and the director of elementary education related allegations of bullying on October 21, 2025.
8. Email from the father to the LEA's attorney requesting records on December 23, 2025.
9. Email exchange between the communications director and father related to documents provided by the LEA on January 20, 2026.
10. Email from the father to the director of special education requesting student records on January 29, 2026
11. Reply from director of special education with a link to request records on January 30, 2026.
12. Email exchange between the father and principal related to requested records on February 2, 2026.

13. Email from the director of communications to the director of special education confirming that the father filed a complaint with the LEA related to his child's truancy on April 6, 2026.
14. Email from the director of human resources director to the father providing a report related to the student's truancy on April 24, 2026.
15. Email from the special education coordinator to the father with ESY information sent June 1, 2026.
16. Email from the father to the attorney, requesting student documents on June 1, 2026.
17. Parent Square message sharing ESY information with the father on June 5th, 2026.
18. Email from the father to the attorney, requesting documents on June 8, 2026.
19. LEA response to allegations dated June 24, 2026.
20. Email from special education director that there was no evidence that the father received a copy of the IEP shortly after the IEP meeting, sent June 30, 2026.
21. Email from the director of elementary education clarifying the October 20, 2025 meeting with the father, sent July 1, 2026.
22. Email from the director of special education clarifying the LEAs process for including parents on IEP communications, sent July 2, 2026.
23. In an email the special education director confirmed that there was no evidence that the father received a copy of the IEP shortly after the IEP meeting, June 30, 2026.
24. A phone conversation with the executive director of special education related to the student's Extended School Year (ESY) attendance, July 6, 2026.

Background Information

The student named in this complaint attended kindergarten at a LEA elementary school during the 2025–2026 school year. The student is six years old and lives with the mother. The student's exceptionality that qualifies him for special education services is a developmental delay.

The student's most current IEP is dated November 4, 2025 with no academic needs but includes two social emotional goals focused on self regulation and keeping hands to self and a safe body. The student's Modifications/Accommodations consists of frequent breaks, use of adult proximity, visuals, reminders of rules, soft start at the beginning of the school day and separate setting for lunch.

The student receives:

- Direct special education services in the special education setting 200 minutes, 4x per week for behavior and social emotional learning (SEL) support.
- Special education support in the general education classroom for behavior support, transitions and redirection.

- Direct special education services in the general education setting 150 minutes, 4x per week for behavior and SEL support.
- Direct social work services in the special education setting for 20 minutes, 2x per week.
- Indirect social work services to support general education staff 15 minutes, 1x per week.
- Attendant care 45 minutes, 5 days per week to support lunch, recess and transition support.
- Special education transportation services to and from school 45 minutes, 5x per week.
- The IEP team determined that ESY was not necessary based on the student's current and available data.

Issues Investigated

Based on the written complaints and interview with the complainant, one concern that falls under IDEA and/or Kansas regulations was identified and investigated.

Issue One

Did USD #497 provide requested special educational records to the parent as required under 34 CFR §300.613 during the 2025-2026 school year?

Applicable Law

34 CFR §300.613(a) "Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 or § 300.530 through §300.532, or resolution session pursuant to §300.510, and in no case more than 45 days after the request has been made."

In the course of the investigation the following IDEA citations were also identified and relevant to the father's complaint.

34 CFR §300.501(a)(1)(2) "The parents of a child with a disability must be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child."

34 C.F.R. 300.322(f) "The public agency must give the parent a copy of the child's IEP at no cost to the parent."

34 C.F.R. § 300.106(a)(2) "Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with §§ 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child."

Parent Position

The parent's complaint includes several concerns including the failure of the LEA to provide requested information related to the student's Extended School Year (ESY), to be transparent and to produce subpoenaed evidence (medical records and teacher names) in October 2025. It is noted that this investigation is limited to considering educational records protected by IDEA which include evaluation and assessment results, Individualized Education Programs (IEPs), progress reports and report cards, disciplinary records, attendance records, and special education service documentation.

LEA Position

The district response states, "The district maintains that requested educational records have been provided to the parent." Additionally, "The father began reaching out to various District and school staff in the fall for information about his student. The Director of Elementary Schools, who initially was the primary District contact for the father, reported that the father was provided every educational record he requested, with some records being provided more than once. Due to escalating and continual threats of legal action against the District and individual District staff, communication has primarily been between the District's counsel, and the father.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. The father's legal access to educational records, September 25, 2025:
    a. The Father emailed the District Court Journal Entry and Temporary Orders to the director of elementary education on September 25, 2025 at 1:27 p.m. These orders state, "The mother shall have temporary sole legal and residential custody of the child. Sole legal custody means that the mother has the primary right to decide matters of health and education in the child's best interests. However, the father shall still have access to information about the child, such as school and medical records." presented to the LEA by the father on September 25, 2025. Note, this document includes the father's mailing address.
    b. In an email reply from the director of elementary education to the father, "Thank you for providing the court documentation." September 25, 2025 at 3:15 p.m.
    c. The Timeline document provided by the LEA states that for September 29, 2025 the LEA discussed, "Initial communications regarding custody, educational records, and ESI (Emergency Safety Information)." Additionally, "District documented Safety Tip #54 and, following consultation with legal counsel, confirmed the father's right to receive school-identifying information under the custody order."
2. The father's subpoena requesting records, October 2, 2025:
    a. The father presented a subpoena requesting, "Any and all medical records held in your School District from the age 2 until now, names of child's current and previous

teachers," dated and presented to the LEA on October 2, 2025. This subpoena included the fathers name, address and phone number.

b. According to email communication with the director of elementary education on July 1, 2026, the LEA and father met on October 20, 2025, "The meeting followed several weeks of communications involving custody, records requests, ESI, safety concerns, and requests for educational information. During that meeting, we reviewed his concerns and provided:
   i. Procedural Safeguards
   ii. Emergency Safety Intervention information
   iii. the current IEP
   iv. the most recent evaluation
   v. attendance records
   vi. grade card"

c. In an email from the father to the director of elementary education, "This situation needs to be resolved [sharing of student information] or tomorrow I'm filing with the feds." Sent October 20, 2025 at 3:24 p.m.

d. The director replied, "As I shared with you in our meeting today, I have attached the documents and also have the Executive Assistant printing them for you as we speak." dated October 20, 2025 at 3:36 p.m.

3. Bullying concerns raised by the father on October 21, 2026:
   a. In an email from the father to the director of elementary education, "I expect you to go to my child's school and figure out who is bullying my child before noon." dated October 21, 2025 at 7:28 a.m.
   b. The director replied, "Thank you for meeting with me yesterday to share your concerns regarding your child. I have contacted the principal] to ensure that the school counselor or another trusted adult checks in with the student today to provide support and gather any information they wish to share. At this time, the student may not know me well enough to feel comfortable discussing this directly with me, so I want to make sure they speak with someone they trust. Once I receive an update, I will let you know." dated October 21, 2025 at 9:53 a.m.
   c. The director of elementary education reported in the LEA's timeline of communication with the father that on October 21 and 22, 2025, "the LEA reviewed concerns related to bullying which were not substantiated and continued to provide the student with "proactive supports and identified trusted adults available to the student."
4. The student's annual IEP on November 4, 2025:
   a. In an email the special education director confirmed that there was no evidence that the father received a copy of the IEP shortly after the IEP meeting, June 30, 2026.
   b. When asked why the father did not receive a copy of the November 4, 2025 IEP the special education director clarified in an email, "In this case, the elementary director first added the father as a contact in PowerSchool in November (I believe the 17th-but I

don't have the timeline I provided to you in front of me). So the father would not have been on the meeting notices as he was not listed in power school and special education staff were unaware that a second parent should be on the notice. Once the director added him as a contact, his information will now populate automatically on notices and the IEP."

c. The LEA's June 24, 2026 response states, "A historical audit log from PowerSchool, the District's Student Information System or SIS, shows that the father was first entered into the SIS on November 17th, 2025. Previously, there was no record of the father's contact information."

5. The father's request for communication between the mother and school as well as ESI records, December 23, 2025:
   a. An email from the father to the LEA's attorney the father stated, "All emails sent by his teacher to the student's mother for the past semester, I want to receive any an all communications with my child's school for the past semester, any and all [ESI] information data controlled or otherwise controlled by the LEA. You have until January 20 2026."
   b. In an email from the communications director to the father, "Please visit the Google shared folder below, containing all requested records of your student from the first semester of the 25-26 school year. In addition, a thumb drive containing all of these digital records is available for you to pick-up between normal business hours this week (8:00 a.m. - 4:00 p.m.)..." sent January 20, 2026 at 4:12 p.m.
   c. The father responded, "I will be there to pick up the thumb drive tomorrow, 1-21-2026." on January 20, 2026 at 4:52 p.m.
   d. The director of elementary education shared that the following documents were in the Google shared folder and the thumb drive on January 20, 2026:
      i. semester grade report
      ii. attendance/absence report
      iii. teacher emails
      iv. communications with the school
      v. ESI information controlled by USD 497
6. An additional records request by the father on January 29, 2026.
   a. The father sent an email to the director of special education requesting, "Any and all, including data controlled electronic stored information concerning the student." on January 29, 2026 at 11:50 a.m.
   b. The director of special education replied, "Thanks for your email. Please use the following link to request records." sent January 30, 2026 at 1:23 p.m.
   c. Email from the father to the principal, "If you do not immediately provide me with all the information concerning my child there will be [charges] against your license and criminally with local police." sent February 2, 2026 at 12:01 p.m.

   d. Email response from the principal, "...attached are the progress report and grade card for the student this school year along with their current IEP." on February 2, 2026 at 3:14 p.m.

7. Father's truancy complaint on April 6, 2026.
   a. The father submitted a complaint with the LEA on April 6, 2026 due to his child's attendance issues.
   b. Email from the director of human resources director to the father in response to the father's truancy complaint. "I am writing this email in response to the complaint you filed with the district. Through the complaint form and our conversation you communicated that you felt information regarding your child's education, specifically their attendance had been withheld from you. You also stated that you felt the school should have filed a DCF report for truancy per Kansas Statute 72-3121, due to your child's absences. Regarding the truancy report, please find attached the Report of Unexcused Absences that was filed with DCF. I have also attached the supporting document titled SupportEd Student Referral form that accompanied the report. I have also attached a copy of the Excessive Absences Letter that was sent to you; your student's mother also received a copy of this letter." Sent April 24, 2026.
8. Extended School Year (ESY) concerns raised by the father June 1, 2026.
   a. An email from the special education coordinator to the father with ESY information was sent June 1, 2026 at 3:44 p.m.
   b. Email from the father to the LEA's attorney, "You have til Thursday to give me the iep reports or I will show up at your office with the police. Contact from the school district today proves you're withholding information. I want those iep reports that led my student into summer school." Sent June 1, 2026 at 8:47 p.m.
   c. Parent Square message with ESY details from the LEA to the father was sent again to the father on June 5th, 2026.
   d. Email from the father to the attorney, "I want that IEP information, the student's Medicaid information and all the documents to go along with his ESY that special education teacher has in their control immediately..." Sent June 8, 2026 at 11:11 a.m.
9. It is noted that in the student's current IEP dated November 4, 2025 the team agreed that ESY was not appropriate for the student.
10. In a phone call with the Executive Director of Special Education, they shared that the team agreed that the student should attend ESY and were actively working to amend the student's IEP to reflect this, July 6, 2026.

Conclusion

In this case, the father established himself as a parent on September 25, 2025 by sharing the *District Court Journal Entry and Temporary Orders* with the LEA, and subsequently made a number of requests to review his child's educational documents or to raise issues of concern. IDEA 34 CFR 300.613(a) states, "Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used

by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to 300.507 or 300.530 through 300.532, or resolution session pursuant to 300.510, and in no case more than 45 days after the request has been made." Also, IDEA 34 CFR 300.501(a)(1)(2) states, "The parents of a child with a disability must be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child." Both of these IDEA regulations establish the father's right to review his child's educational records.

The following is a summary of the father's requests and concerns along with the dates these requests were fulfilled by the LEA:

- The father's October 2, 2025 subpoena request for medical documents and teacher names was fulfilled on October 20, 2025.
- The father's concern regarding bullying on October 21, 2025 was addressed by the LEA on October 21 and 22, 2025.
- The father's December 23, 2025 request for communication between the mother and school as well as ESI records request was fulfilled on January 20, 2026.
- The father's January 29, 2026 request for "Any and all, including data controlled electronic stored information concerning the student." was fulfilled on February 2, 2026.
- The father's April 6, 2026 truancy concerns were addressed on April 24, 2026.
- The father's June 1, 2026 request for the IEP and ESY information was fulfilled on June 5, 2026. Note: the ESY information was provided again, but the IEP was not. The current IEP was sent to the father on February 2, 2026.
- The father's June 8, 2026 request for IEP and Medicaid information is still within the 45 day IDEA requirement and thus not appropriate to be investigated at this time.

The LEA provided the requested documents and responded to the father's concerns in a reasonable amount of time, well within the 45 days required by 34 CFR §300.613(a) for each of the father's requests. It is important to note that federal regulations state that an LEA has a responsibility to provide parent access to education records before any meeting regarding an IEP, or any hearing pursuant to due process (300.507) or manifestation determination or change of placement (300.530 through 300.532), or resolution session pursuant to 300.510. However, it is found that the parent's request for records was not in preparation of any of these meeting purposes.

In the course of the investigation an additional relevant IDEA regulation was identified: 34 C.F.R. 300.322(f) "The public agency must give the parent a copy of the child's IEP at no cost to the parent." and 34 C.F.R. 300.106(a)(2) "Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with §§ 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child."

34 C.F.R. 300.322(f) states, "The public agency must give the parent a copy of the child's IEP at no cost to the parent." Although the father established that he was a parent who must be given access to the student's records, via the *District Court Journal Entry and Temporary Orders*, which includes the father's mailing address, on September 25, 2025, the LEA did not share the student's November 4, 2025 IEP with the father until January 20, 2026. The director of special education stated that the father's contact information was not entered into the District's Student Information System until November 17th, 2025. The LEA had the father's contact information as of September 25, 2025 and had an obligation to share the annual IEP with the father well before January 20, 2026.

34 C.F.R. § 300.106(a)(2) states, "Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with §§ 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child." The student's current IEP dated November 4, 2025 indicates that the IEP team did not believe ESY services were appropriate for the student, however the student is currently attending ESY. The executive director of special education clarified that the IEP team had since agreed that the student would benefit from ESY and were in the process of amending the current IEP.

Although the LEA demonstrated that the requested educational documents were provided to the parent within the 45 day timeframe after the request, they failed to provide the father a copy of the student's IEP within a reasonable amount of time after the November 4, 2025 IEP.

Therefore, it is found that the ***LEA is IN compliance*** for 34 CFR §300.613(a) and 34 CFR §300.501(a)(1)(2) but ***OUT of compliance for*** 34 C.F.R. 300.322(f).

Summary of Conclusions/Corrective Action

1. ISSUE ONE: Violations of 34 C.F.R. 300.613(a) and 34 C.F.R.300.501(a)(1)(2) were not found, however a violation of 34 C.F.R. 300.322(f) was found.
2. The LEA shall immediately, within 21 days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at Federal regulations at 34 C.F.R. 300.322(f).
3. Within 40 school days of the issuance of this report, the LEA shall review procedures related to ensuring parents who have a student receiving IDEA support and are not included on the initial student enrollment information are added to the Student Information System in a timely fashion.
4. Within 55 school days of the issuance of this report, the LEA shall submit documentation of procedural reviews 34 C.F.R. 300.322(f) to SETS.

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #253
ON JUNE 16, 2026

DATE OF REPORT: JULY 27, 2026

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ------- by his mother, -------. In the remainder of the report ------- will be referred to as "the student" and ------- will be referred to as the "complainant" or "the parent".

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.

In this case, the complaint is against USD #253 (Emporia Public Schools) which contracts with the Flint Hills Special Education Cooperative (FHSEC) to meet the requirements of the IDEA. Both of these responsible public agencies will be referred to as "the local education agency (LEA)" In the remainder of the report.

In the remainder of the report, the LEA staff will be referred to as follows:

- Stephanie McNemar, Director of Student Services
- Dathan Fischer, Emporia High School (EHS) Principal
- Justin Sargeant, Flint Hills Learning Center (FHLC) Program Coordinator / Summer Credit Recovery Administrator
- Ms. Rios, FHLC Paraprofessional 1
- Ms. Baza, FHLC Paraprofessional 2

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE and the LEA. In this case, June 16, 2026 is considered as the date the complaint was filed.

Evidence Reviewed

The complainant was interviewed by telephone on July 1, 2026 during the investigation process. The LEA provided responses to written clarification questions on July 17 and July 23, 2026.

In completing this investigation, the Investigator reviewed written documentation provided by both the complainant and the LEA. The following materials were used as the basis of the findings and conclusions of the investigation:

1. Evaluation / Eligibility Report dated January 29, 2024
2. Individualized Education Program (IEP) dated October 8, 2025
3. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Changes in Services, Change in Placement, and/or Request for Consent dated October 8, 2025, signed by the parent on October 8, 2025
4. The student's 2025-26 grade card
5. The student's 2025-26 Attendance Record
6. IEP Goal Progress for the 2025-26 school year
7. Freshman 2026 Summer Credit Recovery Information Sheet
8. List of Edgenuity Accommodations
9. Discipline Log dated between December 8, 2021 and April 17, 2025
10. ParentSquare Log dated between June 3 and June 12, 2026 between the parent and the FHLC Program Coordinator / Summer Credit Recovery Administrator
11. 2025-26 School Calendar for USD #253
12. Emporia High School Student Handbook for 2025-26
13. Checklist of Discipline Procedures for Special Education and Section 504
14. Cell Phone Rules for Credit Recovery
15. Description of FERPA Incident on June 12, 2026
16. Email exchange dated June 16, 2026 at 8:51 and 10:52 AM between the parent and the Director of Student Services
17. Email dated June 16, 2026 at 10:38 AM written by the EHS Principal to the parent
18. Email dated June 16, 2026 at 5:08 PM written by the parent to the USD #253 Board of Education members
19. Email dated June 18, 2026 at 8:51 AM written by the Director of Student Services to the parent
20. Incident Timeline and Complaint Narrative dated June 20, 2026 written by the parent
21. Proposed Resolution to the Complaint dated June 26, 2026 written by the Director of Student Services
22. District Acknowledgement dated July 9, 2026 written by the Director of Student Services
23. LEA response to clarification questions dated July 17, 2026 and July 23, 2026 written by the Director of Student Services

It is noted that the mother also made several additional allegations regarding the LEA's noncompliance with the IDEA regulations in the document titled "Incident Timeline and Complaint Narrative". As these new allegations were not related to those currently being

investigated, the parent was advised to consider filing another complaint with the KSDE to address her concerns.

Background Information

The student is 15 years old and was enrolled in the ninth grade at Emporia High School during the 2025-26 school year receiving special education services and support under the primary exceptionality category of Learning Disabled with specific concerns noted in math and organizational skills. The most recent reevaluation was conducted on January 29, 2024 without additional assessment and the most recent IEP was developed on October 8, 2025 with the parent in attendance. The student's October 8, 2025 IEP requires the student to receive 60 minutes of adult support for math in the general education setting on two days per week and 30 minutes of adult support for math in the general education setting on one day per week to address one math goal for increasing algebraic problem-solving from 70% to 85% accuracy in solving one- and two-step equations (including those with fractions).

Issues Investigated

Based on the written complaint, four issues related to the Individuals with Disabilities Act (IDEA) were identified and investigated.

Issue One

USD #253, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed the student's IEP, specifically the accommodations/modifications, during the credit recovery session during the 2025-26 school year.

Applicable Law

Federal regulations at 34 C.F.R. §300.320(a)(4) require the LEA to include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and 3) be educated and participate with other children with disabilities and nondisabled children.

Federal regulations at 34 C.F.R. §300.323(c)(2) require each public agency to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Federal regulations at 34 C.F.R. §300.324(b)(1)(ii) require each public agency to review and revise a student's IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters.

Parent Position

In the letter of complaint, the parent alleged that the LEA provided conditional and incomplete IEP accommodations to the student during the summer credit recovery session. Specifically, the parent reported the staff working with the student unilaterally decided which accommodations should be provided to the student. The complainant noted that the student did not attend the first three days of the credit recovery session because she was unaware that the student was even enrolled as the LEA failed to follow its own enrollment procedures to obtain written parent consent for a student to participate in the credit recovery sessions. Once she became aware of the student's failing grade in the Pre-Algebra B class and the student's enrollment in the credit recovery session, the student attended all sessions in order to earn a passing grade in the course.

The parent believes that the IEP Team should have been reconvened when the student failed to make progress in the general education curriculum as shown by the failing grade in the Pre-Algebra B course. The IEP Team could then discuss whether ESY services were needed or whether reasonable accommodations were needed for the student to participate in the general education credit recovery session.

LEA Position

The LEA acknowledged the enrollment process was not followed when enrolling the student for the summer credit recovery session, specifically by not obtaining a parent signature authorizing the student's attendance and participation. This resulted in the student missing the first three days of the credit recovery session and confusion as to the expectations for student participation and behavior during the session. The LEA also acknowledged that the student's IEP team did not reconvene prior to the student's participation in the summer credit recovery session.

As a result of this situation, the LEA noted that a new one-page procedure document has been created to ensure a parent signature is obtained prior to a student being enrolled in the summer credit recovery session. In addition, the procedure will include communication with the special education department to ensure the necessary accommodations are determined prior to general education summer credit recovery session participation or if extended school year (ESY) services are required to provide a free appropriate public education (FAPE).

The LEA stated that a special education teacher and two paraprofessionals were hired to work during the general education summer credit recovery session during June 2026 in order to

support students. The LEA reported these staff worked together to implement the student's specific accommodations during the summer credit recovery session and noted the student successfully completed the Edgenuity Pre-Algebra B course and earned a passing grade in the class.

Analysis: Findings of Fact

The following findings of fact are based on interviews, clarifications, and a review of documentation.

1. The student's most recent IEP was developed on October 8, 2025 and included the following five accommodations:

Accommodations/Mods/Supp Aids	Frequency	Location	Duration	Rationale
Guided notes	When taking notes in math class	All classes	Duration of the assignment or activity with multistep problems with or without fractions. in math class.	[The student] will be provided to fill in the blank guided notes with missing steps he can complete during instruction.
Multiplication chart and/ or calculator	When solving equations with multiple steps or fractions	Math classes	Duration of the assignment or activity with multistep problems with or without fractions.	The use of multiplication charts and/or a calculator will help [the student] complete his work more independently when solving equations with multiple steps or fractions.
Organizational reminders	Daily	All classroom settings	Last 3 minutes of class period	During the last few minutes of each class period, [the student] will need reminders to organize his materials before leaving class.
Alternative Settings for Tests, Quizzes, and Exams.	Daily	Math classes	Duration of the assignment or activity.	When taking tests, quizzes, and/or exams, [the student] can go to alternative settings (the library, study pod, another classroom, etc) to reduce distractions and not feel rushed.

Accommodations/Mods/Supp Aids	Frequency	Location	Duration	Rationale
Extended Time for all assignments	Daily	All classroom settings	Extended to 1 additional class period.	Due to [the student's] disability, it may take him longer to organize instruction and materials to complete longer assignments. Therefore, it would be beneficial for him to have extended time for lengthy assignments. It is only extended to one additional class period.

2. The student's grade card shows he earned a grade of "D" (66%) in Pre-Algebra A during the first semester and a grade of "F" (59%) in Pre-Algebra B during the second semester.
3. The summer credit recovery session ran between June 2 and June 26, 2026 on Mondays through Fridays. The LEA acknowledged that the student was enrolled in the session without obtaining a parent signature. The student attended a total of 11 days during the session and was absent the first three days of the session and also missed the entire last week of the session due to a theater trip to Indianapolis.
4. During the summer credit recovery session, the student used Edgenuity, a computer-based program, to earn credit for the Pre-Algebra B course. Each lesson in the course allowed a pre-test for mastery of the skill being taught. If passed, the next lesson in the course was presented; if failed, the current computer-based lesson was then completed by the student.
5. The LEA reported that the special education teacher hired for the summer credit recovery session was familiar with the student and his IEP during the regular 2025-26 school year.
6. However, the LEA acknowledged that the student's IEP Team did not meet to discuss the reasonable accommodations which were necessary for equal access to the general education curriculum during the voluntary general education summer credit recovery session nor was the IEP amended by mutual agreements between the parent and the LEA representative.
7. In an email written to the parent on June 16, 2026 at 10:38 AM, the EHS Principal stated, "Regarding your questions about accommodations during Summer Credit Recovery through Edgenuity, guided notes are an approved accommodation within the program. However, because he is participating in Credit Recovery and testing out of portions of the curriculum, guided notes would only be provided if they are needed for sections he is actively completing. He also has access to approved calculation supports,

including a multiplication chart and/or calculator, depending upon the specific accommodation required or requested. Since this is a self-paced program, he is permitted as much time as needed on lessons and assessments. Some accommodations, such as organizational reminders during the last three minutes of class, are not applicable within this setting due to the structure of the program. However, an alternate setting at FHLC is available if needed, and a special education staff member is onsite throughout the program to facilitate IEP accommodations and modifications and provide support as necessary or as requested."

8. The LEA stated in response to clarification questions on July 17, 2026 that "A teacher sat with him each day from 8-2 working through all lessons when pre-tests were not passed and provided goals and instruction. Calculators were available as needed by students. Student was free to test wherever he wanted in order to feel comfortable. He chose to sit either with the teacher or with peers. Student was allowed as much time as he needed to finish his course. The student completed the class within the 11 days he attended which includes the day he was sent home for a cell phone violation". The LEA noted that FHLC Paraprofessional 1 kept a pencil/paper log in a notebook to document the provision of the accommodations according to the teacher; however this was unavailable to be provided as documentation due to the summer break.
9. The LEA developed a written procedure for an application process to be followed for enrollment and participation in future summer credit recovery sessions which requires that "Should a student receive special education services apply, the counseling office will contact the identified student's case manager. The case manager will contact the LEDMs [Legal Education Decision Makers] to schedule an IEP meeting to discuss ESY [Extended School Year]. The team will need to discuss ESY and/or accommodations necessary to participate in EHS Summer Credit Recovery".

Conclusion

The IDEA requires that a student's IEP, including the accommodations, be implemented as written. In this case, documentation shows that all of the accommodations in the student's October 8, 2025 IEP were not provided as required during the summer credit recovery session. The accommodations for extended time for assignments, tests given in alternate settings, use of multiplication charts/calculator, and guided notes for lessons taken in Edgenuity were available and appeared to be provided at student request during the summer credit recovery session. However, the accommodations for organizational reminders was unilaterally determined by the LEA to be "not applicable" as documented in the June 16, 2026 email written by the EHS Principal.

The IDEA also requires that the IEP Team reconvene when a student fails to make expected progress in the general education curriculum. However, a failing grade in a class, by itself, does not automatically require the IEP Team to reconvene. Instead, the IDEA requires that IEPs must be revised whenever available information demonstrates that the current program is not enabling the student to make expected progress in the general education curriculum.

"Expected progress" must be determined individually for each student based on the child's circumstances and through multiple data sources including IEP goal progress, whether the IEP was implemented as written, class grades, attendance, etc.

Chapter 5 - Section F in the Kansas Special Education Process Handbook describes the requirements for determining and providing ESY services and indicates that," if a child with a disability is attending a summer school program for general education purposes such as credit recovery, the school shall consider what reasonable accommodations may be necessary for the child to have an equal opportunity to participate in that general education environment and curriculum". These necessary supports may be provided through a 504 plan or the student's current IEP; however, regardless of the type of individualized plan used to document the accommodations, the parent of the student needs to have the opportunity to participate in the process to determine what appropriate accommodations are needed.

In this case, the student failed the Pre-Algebra B course which made it necessary for the student to recoup the lost credit towards graduation from high school. Because the student was enrolled in the general education summer credit recovery session, the student's IEP Team should have reviewed and revised the student's IEP, as necessary, to determine and document what reasonable accommodations were required for the student to participate in that summer general education classroom setting.

Based on the foregoing, the *LEA is found OUT compliance* with following federal regulations implementing the IDEA at 34 C.F.R. §300.323(c)(2) and §300.324(b)(1)(ii) during the credit recovery session during the 2025-26 school year and corrective action is required.

Issue Two

USD #253, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate disciplinary procedures when resetting the Edgenuity lessons as a disciplinary consequence during the credit recovery session during the 2025-26 school year.

Applicable Law

Under federal regulations at 34 C.F.R. §300.536, a change of placement because of disciplinary removals occurs when a student is removed from the child's current educational placement for more than 10 consecutive school days during a school year or the child has been subjected to a series of removals that constitute a pattern because 1) the series of removals total more than 10 school days in a school year; 2) the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and 3) of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

Under 34 C.F.R. §300.530(e)(1), within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or if the conduct in question was the direct result of the LEA's failure to implement the IEP.

Parent Position

In the letter of complaint, the parent alleged that the district sent the student home from the summer credit recovery session on June 12, 2026 based on an unverified observation. The student's completed coursework for that day was erased and reset with no written policy authorizing that consequence, no documented evidence that academic dishonesty had occurred, and no individualized determination specific to the student. The disciplinary consequence was applied without a manifestation determination review to determine if the violation of the code of conduct was related to the student's disability.

LEA Position

The LEA's response to the allegations noted that the student was removed from the summer credit recovery session for one day and returned the next day. This was the only out-of-school suspension the student received during the 2025-26 school year. As such, none of the special procedures required by the IDEA were required when discipling the student on June 12, 2026. However, as a result of this situation, the LEA will review the practice of erasing and resetting lesson progress as a disciplinary consequence for violations of the code of student conduct during future summer credit recovery sessions.

Analysis: Findings of Fact

The following findings of fact are based on interviews, clarifications, and a review of documentation. Additionally, the findings of Issue One are incorporated herein by reference.

1. The use of cell phones during the summer credit recovery session is prohibited. A practice of having students keep cell phones stored in backpacks during all class periods or turned in to staff at the beginning of each day was established as an expectation and shared during orientation. The LEA reported the student attended the summer credit recovery orientation on May 28, 2026.
2. The student was sent home by the FHLC Program Coordinator / Summer Credit Recovery Administrator on June 12, 2026 for accessing his cell phone while completing a lesson in the Edgenuity program. The incident report stated, "Summer School Staff reported to the [FHLC Program Coordinator] saying they witnessed the student on their phone while they were doing their work. The [FHLC Program Coordinator] told the

Summer School Staff that the student would need to go home, just as we had sent other students home for the same reason. Thus not complying to the Summer School Cell Phone expectations. The student complied and left for the day".

3. The LEA reported that the FHLC Program Coordinator / Summer Credit Recovery Administrator reviewed the questions on page 234 of the Kansas Special Education Process Handbook and the Director of Student Services reviewed the district Special Education / Section 504 Discipline Process form and determine that the student could be sent home for a violation of a code of student conduct on June 12, 2026.
4. The student's Discipline Log documents that student had no disciplinary referrals during the 2025-26 school year.
5. The parent stated, "[Paraprofessional 2] observes [the student] using his phone while working in Edgenuity. The district characterizes this as accessing unapproved assistance. No investigation is conducted. No documentation exists that the content on the phone was reviewed to confirm academic dishonesty occurred. [The FHLC Program Coordinator] removes [the student] from Credit Recovery for one day".
6. The parent then stated, On June 12, 2026, three activities of [the student's] Edgenuity progress were reset after a staff member observed him using his phone. The district's own written account does not establish that academic dishonesty occurred. Phone use is not evidence of accessing unapproved assistance. The district acknowledged in writing that no formal policy exists authorizing the resetting of student progress for academic dishonesty in Edgenuity. The consequence was applied through an unwritten, informal practice applied uniformly to all students. For a student with an IEP, IDEA requires that disciplinary decisions be individualized. The application of a blanket practice without individualized determination raises a substantive concern under IDEA's discipline framework".
7. In an email written to the parent on June 16, 2026 at 10:38 AM, the EHS Principal stated, " Last week, FHLC Paraprofessional 2 personally observed him using his phone to access unapproved assistance while working in the Edgenuity program. Additionally, page 15 of the EHS Student Handbook states that cellular phones may be used for educational purposes only with teacher or administrator approval. Based on the information provided to me, he did not have permission to access his phone while completing work in Edgenuity. In regards to a written policy that authorizes the deletion of student progress, there is not a separate written policy that specifically states student progress will be reset in cases of academic dishonesty within Edgenuity. Rather, resetting work or not giving credit for work completed through unauthorized means is the current practice applied consistently to all courses completed through Edgenuity, both during the regular school year and the Summer Credit Recovery. As a result of this incident, only the three activities completed that day were reset. His entire course progress was not deleted. Additionally, he was provided with the opportunity to redo those activities. This consequence is more lenient than the consequences typically applied during the regular school year for academic dishonesty cases".

8. The parent believes the 10-day calendar threshold should not apply in this particular situation in regards to following the IDEA's required disciplinary procedures. The parent stated, "The district's written response relies entirely on the technical 10-day calendar threshold, stating the one-day removal did not trigger an MDR. The program at issue is not a semester-long course. It is an expedited credit recovery program compressed into weeks. The loss of 7 to 10 percent of total program progress in this context is materially different from a one-day absence in a full semester. No individualized analysis of educational impact was documented. The spirit and purpose of IDEA's discipline provisions require that any consequential action affecting a student's educational program receive individualized review,

Conclusion

The IDEA requires special procedures when a student with a disability is removed from their educational placement in a school year for greater than 10 consecutive days or for greater than 10 cumulative days when a pattern exists. In this case, the student was out-of-school-suspended on June 12, 2026 during the summer credit recovery session and was never out-of-school-suspended during the regular 2025-26 school year. This one-day removal does not meet the IDEA threshold of greater than 10 consecutive days or the10 cumulative days with a pattern in the same school year.

The parent's assertion that a separate analysis for the impact of the disciplinary consequence between the regular school year and the summer / extended school year session was not contemplated by the IDEA. However, even accepting the parent's assertion, the student was suspended for one out of the 19 scheduled days of the summer credit recovery session which resulted in the student missing 5% of the days of instruction as compared to a student being suspended for 11 of the 165 days on the USD #253 2025-26 school calendar which would have result in a total of 6% of days of instruction.

Based on the foregoing, the *LEA is IN compliance* with following federal regulations implementing the IDEA at 34 C.F.R. §300.536 and §300.530(e)(1).

Issue Three

USD #253, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to protect the student's personally identifiable information (PII) during the credit recovery session during the 2025-26 school year, specifically by staff sharing information in a manner that allowed the student's peers to overhear PII.

Applicable Law

Federal regulations at 34 C.F.R. §300.123 require public agencies in the State to protect the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the IDEA. In addition, federal regulations at 34 C.F.R. §300.611 require public agencies

to ensure the confidentiality of any personally identifiable data, information, and records collected or maintained by the public agency is protected under 34 C.F.R. Part 99 which is known as the Family Education Right to Privacy Act (FERPA) .

Federal regulations at 34 C.F.R. §300.32 define personally identifiable information by reference to federal regulation at 34 C.F.R. §99.3. Under these federal regulations, personally identifiable information (PII) includes the following:

1. the name of the child, the child's parent, or another family member;
2. the address of the child;
3. a personal identifier, such as the child's Social Security number, or the child's student number;
4. any other indirect identifier, such as the child's birthdate, place of birth; and
5. a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty, such as disability status, etc..

Parent Position

In the letter of complaint, the parent alleged that summer credit recovery staff members disclosed personally identifiable information about the student in a conversation that the student's peers could overhear on June 12, 2026. One of the student's peers informed the student about this conversation and the student then reported the incident to the parent who then contacted the FHLC Program Coordinator / Summer Credit Recovery Administrator to report the breach in confidentiality. The parent indicated the FHLC Program Coordinator / Summer Credit Recovery Administrator did not believe the parent's allegation because she incorrectly reported the name of the student who had shared the information. However, the parent later learned that the FHLC Program Coordinator / Summer Credit Recovery Administrator did verbally review FERPA requirements with the two summer credit recovery staff members involved. The parent does not believe this to be an adequate response to address the release of the student's PII which caused the student to experience unnecessary embarrassment with his peers. The parent also indicated that the LEA has never responded to her requests for a written account of the incident.

LEA Position

The LEA acknowledged that two summer credit recovery staff did inadvertently share information in the classroom about the student being sent home on June 12, 2026. The LEA reported that the FHLC Program Coordinator / Summer Credit Recovery Administrator, in consultation with the EHS Principal, met with the summer credit recovery staff involved to review the requirements for maintaining confidentiality of PII. As a result of this situation, the LEA indicated plans are to review FERPA requirements with all staff at the beginning of the 2026-27 school year as well as with all new hires during the onboarding process.

Analysis: Findings of Fact

The following findings of fact are based on interviews, clarifications, and a review of documentation. Additionally, the findings of Issues One and Two are incorporated herein by reference.

1. The FHLC Program Coordinator / Summer Credit Recovery Administrator acknowledged receiving a phone call on June 12, 2026 from the student's parent where she alleged that the student's PII in regard to a disciplinary action had been shared in front of the student's peers in the summer credit recovery session. The parent indicated the student had received a text from a peer about overhearing school staff discussing the disciplinary incident involving the cell phone and the student being sent home.
2. The FHLC Program Coordinator / Summer Credit Recovery Administrator reported that he informed the parent during the phone call that he did not personally witness or hear the exchange between the summer credit recovery staff regarding the student being sent home because of the phone incident that day. He then assured the parent he would follow up and speak with summer credit recovery staff.
3. Both the parent and the FHLC Program Coordinator / Summer Credit Recovery Administrator agreed that the parent was upset and stated the situation constituted a FERPA violation during the phone call.
4. The FHLC Program Coordinator / Summer Credit Recovery Administrator asked the parent for the name of the student who had allegedly overheard the conversation and the parent provided the name of a student who was not enrolled in the summer credit recovery session. The FHLC Program Coordinator / Summer Credit Recovery Administrator reported the parent became even more upset when he questioned the parent's allegation based on this information.
5. The parent stated, "Following [the student's] removal, [FHLC Paraprofessional 1] and [Paraprofessional 2] discuss [the student's] disciplinary situation, including personally identifiable information related to his disability and disciplinary matter, in a location where [the student's] peers can hear. [The student's] peers then report this information back to [the student]. When [the parent] raises this concern with [the FHLC Program Coordinator / Summer Credit Recovery Administrator] by phone, he tells her she is lying, based solely on [the parent] having referenced the incorrect last name of the student who reported the incident to [the student]. The call ends without resolution".
6. The FHLC Program Coordinator / Summer Credit Recovery Administrator reported investigating the parent's allegation and learning that the student's primary summer credit recovery teacher was out of the room when the cell phone incident occurred and the student was sent home. Upon returning to the classroom, the primary summer credit recovery teacher noticed the student was missing and asked one of the other summer credit recovery staff where the student went. The other summer credit recovery staff informed the primary summer credit recovery teacher that the student had been sent home for having his cell phone out. This exchange occurred in the

classroom setting where other students were present and completing credit recovery activities.

7. The FHLC Program Coordinator / Summer Credit Recovery Administrator reported that he consulted with the EHS Principal following his investigation and then met with the two involved summer credit recovery staff to review FERPA expectations and reinforce guidelines regarding private and confidential professional conversations.
8. An email dated June 16, 2026 at 10:38 AM written to the parent by the EHS Principal stated, "FERPA VIOLATION BY PARAPROFESSIONAL STAFF: FERPA expectations and further explanation about private/confidential conversations were reviewed with the two staff members by [the FHLC Program Coordinator / Summer Credit Recovery Administrator]".
9. An email dated June 18, 2026 written to the parent by the Director of Student Services stated, "[The EHS Principal] reviewed FERPA expectations and protocols regarding private, confidential conversations with [the FHLC Program Coordinator / Summer Credit Recovery Administrator] and the staff member. To prevent future communication gaps, USD 253 and FHSEC will review the mandatory confidentiality training for all existing staff at the beginning of the school year and continue to integrate this training into the onboarding process for new hires".

Conclusion

The IDEA requires that a student's personally identifiable information be protected and kept confidential by public agencies. In this case, there are different accounts of which summer credit recovery staff were involved in the breach of confidentiality that occurred when PII was verbally shared in a location where other students could overhear as well as who provided the review of FERPA expectation with these staff.

Regardless, the LEA acknowledged that the breach in confidentiality occurred on June 12, 2026 and is therefore found ***OUT of compliance*** with federal regulations at 34 C.F.R. §300.123, §300.611, and §300.32. As such, corrective action is required.

It is noted that the parent's concerns related to staff interactions during this incident should be addressed to the local school board as personnel matters do not fall under the jurisdiction of the IDEA.

Issue Four

USD #253, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to determine the need for extended school year services for the student during the 2025-26 school year when the student was eligible to attend the credit recovery session.

Applicable Law

Federal regulations at 34 C.F.R. 300.106(b) require that the IEP team must consider the need for extended school year services in order to provide a free appropriate public education (FAPE) to each student with a disability.

Parent Position

In the letter of complaint, the parent reported that the student was not eligible for ESY services as documented in the October 8, 2025 IEP. However, the student's eligibility for ESY services was never re-visited when the student failed the Pre-Algebra B course at the end of the second semester. The parent believes the district, without an IEP Team meeting, unilaterally directed the student towards the general education summer credit recovery session as a substitute for any individualized ESY services which may have been required to address his lack of progress as evidenced by his math grade.

LEA Position

The LEA responded that ESY was deemed unnecessary during the October 8, 2025 annual IEP review, and the student made adequate IEP goal progress by May 2026. However, a 59% final grade in Pre-Algebra B required general education summer credit recovery enrollment. The student successfully passed the class and earned the credit on June 18, 2026. However, the LEA acknowledged that the student's IEP Team did not reconvene to determine what accommodations were necessary for the student to participate in the summer credit recovery session or to re-consider the need for ESY services instead of the summer credit recovery session.

As a result of this situation, the LEA has created a new one-page procedure document to ensure communication with the special education department to ensure that the IEP Team for any student who is eligible and enrolled in the summer credit recovery session meets to discuss the need for ESY services as well as whether any reasonable accommodations are required to access the general education summer credit recovery sessions.

Analysis: Findings of Fact

The following findings of fact are based on interviews, clarifications, and a review of documentation. Additionally, the findings of Issues One, Two, and Three are incorporated herein by reference.

1. The October 8, 2025 IEP documents the IEP Team determination that ESY services were not required for the student.
2. The October 8, 2025 IEP includes the following math goal for the student: By the end of the IEP year (October 2026), when given direct instruction and practice in algebraic problem-solving, [the student] will improve from 70% to 85% accuracy in solving one-

and two-step equations (including those with fractions) across three consecutive data collections, as measured by teacher-developed probes.

3. The IEP Goal Progress Report dated December 19, 2025 showed "slight improvement". There were three data probes that showed 48%, 100%, and 87% accuracy which showed a combined 78% accuracy for this goal.
4. IEP Goal Progress Report dated March 10, 2026 showed "slight improvement". There were five data probes that showed 87%, 50%, 100%, 100% and 100% accuracy which showed a combined 87% accuracy for this goal.
5. The IEP Goal Progress report dated May 15, 2026 stated, "Math teacher reported, [sic] No measurement to report on this goal, due [sic] math units covering slope, linear equations and graphing. Progress will be reported on the next grading period. [The student] is still developing integer skills in the unit".
6. The parent reported that, as a result of failing the Algebra B course, the student was eligible and enrolled in the summer credit recovery session. The parent believes that directing a student to a general education credit recovery program as the mechanism for summer academic support does not discharge the district's ESY obligation under the IDEA. The IEP team must confirm, in writing and with individualized analysis, that ESY is not required to provide FAPE to the student.
7. The LEA acknowledged that the student's IEP Team did not meet to consider if ESY services were required in order to provide the student with FAPE after the student failed the Pre-Algebra B course and was eligible and enrolled for the summer credit recovery session.
8. The student successfully completed the Edgenuity Pre-Algebra B course on June 18, 2026 and earned .50 credit towards the 24 credits required for graduation from high school.

Conclusion

The IDEA requires that a student's IEP team must consider the need for extended school year services in order to provide FAPE to the student. Chapter 5 - Section F in the Kansas Special Education Process Handbook states the need for ESY services must be determined on an individual basis. The reason for these services is to ensure the provision of FAPE so that the child can make progress toward the goals specified on the child's IEP and to prevent regression, which would impede such progress.

The factors that must be considered when determining eligibility for ESY services are based on the 10th Circuit Court of Appeals. Johnson v. Independent School District No. 4 of Bixby, 921 F.2d 1022 (10th Cir. 1990). These factors include regression/recoupment data as well as multiple other factors such as the degree of the impairment, the child's rate of progress, etc.

As noted in Issue One, a failing grade in a class does not automatically trigger the requirement for the IEP team to reconvene. However, if a child with a disability is attending a summer school program for general education purposes, such as credit recovery, the school shall

consider what reasonable accommodations/modifications may be necessary for the child to have an equal opportunity to participate in the general education environment and curriculum. These necessary supports can be provided through a 504 plan or the student's IEP.

In this case, the IEP Goal Progress Reports document the student is making progress towards the IEP goals despite failing the Pre-Algebra B course during the second semester. No data was provided by either party suggesting the failing grade would cause the student to experience any significant regression that would impact the student's continued progress towards achieving his annual IEP math goal. Instead, documentation shows the student successfully completed the Edgenuity credit recovery Pre-Algebra B course and recouped the lost .50 credit required for graduation from high school through participation in only 11 of the 19 days of the summer credit recovery session.

Based on the foregoing, it is found that the *LEA is IN compliance* with implementing the IDEA regulations at 34 C.F.R. 300.106(b).

As noted in Issue One, the LEA developed a new written procedure for an application process to be followed for enrollment and participation in future summer credit recovery sessions which requires that "Should a student receive special education services apply, the counseling office will contact the identified student's case manager. The case manager will contact the LEDMs [Legal Education Decision Makers] to schedule an IEP meeting to discuss ESY [Extended School Year]. The team will need to discuss ESY and/or accommodations necessary to participate in EHS Summer Credit Recovery". This new procedure will ensure that any factors suggesting ESY services may be needed to prevent regression are considered for all future students with disabilities enrolling in the summer credit recovery sessions.

Summary of Conclusions/Corrective Action

Issue One: Based on interviews and a review of documentation, violations of IDEA regulations at 34 C.F.R. §300.323(c)(2) and §300.324(b)(1)(ii) were found. As such, the following corrective action is ordered:

1. No later than 15 days from the date of this report, the LEA will provide SETS with an assurance statement that it will comply with IDEA regulations at 34 C.F.R. §300.323(c)(2) for implementing each student's IEP as written and with IDEA regulations at 34 C.F.R. §300.324(b)(1)(ii) which require each public agency to review and revise a student's IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters.
2. It is noted that the LEA has proactively developed a new written procedure and application process for participation in future summer credit recovery sessions which includes a requirement to review and revise, as needed, the IEPs of all students with disabilities who apply for the program. The LEA will provide SETS with documentation

that administrative staff involved with the 2026-27 summer credit recovery session have been made aware of the new written procedure no later than May 15, 2027.

3. In addition, the LEA will provide documentation that the IEPs from at least two students with disabilities who are eligible for the summer credit recovery session have been reviewed and revised, as necessary, prior to participation in the 2026-27 program. This documentation must be provided to SETS no later than May 31, 2027.

Issue Two: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

Issue Three: Based on interviews and a review of documentation, violations of IDEA regulations at 34 C.F.R. §300.123, §300.611, and §300.32 were found. As such, the following corrective action is ordered:

1. The LEA will provide SETS with an assurance statement that it will comply with IDEA regulations at 34 C.F.R. §300.123, §300.611, and §300.32 for protecting the confidentiality of any personally identifiable data, information, and records collected or maintained by the LEA no later than 15 days from the date of this report.
2. It is noted that the LEA has proactively plans to review the mandatory confidentiality training for all existing staff at the beginning of the school year and continue to integrate this training into the onboarding process for new hires. No later than August 31, 2026, the LEA will provide SETS with a copy of these training materials as well as a copy of the sign-in sheet documenting the names and positions of the staff who participated in the training at the beginning of the 2026-27 school year.
3. No later than August 31, 2026, the LEA will provide the parent and SETS with a written statement of the findings of the investigation of the confidentiality breach that occurred on June 12, 2026. At a minimum, the findings must include the name of the staff member who conducted the investigation; the positions of the staff who released the PII; a description of the PII that was released; the number of persons to whom the PII was shared; and a description of the LEA's actions to address the breach of confidentiality.

Issue Four: Based on interviews and a review of documentation, no violation of IDEA regulations was found.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #453, LEAVENWORTH PUBLIC SCHOOLS
ON JUNE 18, 2026

DATE OF REPORT: JULY 29, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #453 Leavenworth Public Schools on behalf of ------- and by -------, an educational liaison at Cornerstones of Care. In the remainder of the report, ------- will be referred to as "the Student" and ------- as "the Complaint." ------- mother and educational decision maker is -------. In the remainder of this report ------- will be referred to as "the Parent" or "the Mother."

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" will be used. In this case, the complaint is against USD #453(Leavenworth Public Schools) who provide their own special education services and will be referred to as "the LEA."

For the 2025-2026 school year the student attended the LEA's high school and later was assigned to the LEA's Support Services program (LSS) to receive special education services while serving a long-term suspension. School and LEA staff will be referred to In the remainder of this report as follows:

- Kathleen Edwards; special education teacher
- Gary Burdette; special education process coordinator
- Brenden Olesen, assistant principal
- Drew House, school psychologist
- Dr. Rebekah Varvel: Interim Superintendent of Learning Services & Director of Special Education
- Dr. Dustin Springer: Principal at LSS

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date on which it was received by KSDE. The KSDE initially received the complaint on June 18, 2026.

Evidence Reviewed

The student's mother was interviewed on July 21, 2026, verifying phone and email address and the complainant was interviewed July 24, 2026. The LEA made the following staff available for a phone interview on July 16, 2026 as part of this investigation.

- Dr. Rebekah Varvel: Interim Superintendent of Learning Services & Director of Special Education
- Liz Seager: Special Education Compliance Coordinator
- Dr. Dustin Springer: Principal at LSS
- Scott Kessler: Principal at Middle School
- James Vanek: Principal at High School

During the investigation, the complaint investigator reviewed all evidence and documentation provided by the LEA and the complainant. The following materials were used as the basis of the findings and conclusions of the investigation:

1. Evaluation Team Report 3-Year Reevaluation dated September 17, 2021.
2. Prior Written Notice for Initial Services, Change in Services/Placement and Request for Consent dated November 10, 2025.
3. Email exchange between special education teacher and special education process coordinator dated between Nov 17, 2025 at 11:35 a.m. and 12:16 p.m. regarding developing the move-in IEP.
4. Email exchange between special education teacher and special education process coordinator dated between December 9, 2025 at 12:54 p.m. and 3:18 p.m. regarding setting up the move-in IEP.
5. Letter to mother dated December 9, 2025 including PWN for substantial change of placement and material change of services and Request for Consent for Special Education Action.
6. IEP dated February 17, 2026
7. Email exchange between special education teacher and school psychologist dated between February 17, 2026 at 3:48 p.m. and February 18, 2026 at 12:25 p.m. regarding moving forward with evaluation/assessment when mother did not attend IEP meeting.
8. Email from special education process coordinator to mother dated March 25, 2026 at 4:49 p.m. regarding date of manifestation determination review.
9. Notice of Meetings dated March 26, 2026 and March 27, 2026 for Manifestation determination meeting.
10. Manifestation determination review packet dated March 27, 2026 and March 30, 2026.
11. Prior Written Notice for Placement and Request for Consent of Special Education Action dated March 30, 2026.
12. Screenshot of attempts in DocHub to obtain parent signature for Manifestation determination meeting and Prior Written Notice for Placement and Request for Consent of Special Education Action.
13. Letter from assistant principal to parent dated March 25, 2026 (corrected year)
14. Email exchange between special education teacher and special education process coordinator dated between April 16, 2026 at 3:21 p.m. and April 17, 2026 at 9:59 a.m.

regarding conducting the special education reevaluation without parent consent to proceed.

15. PWN and IEP Amendment for May 7, 2026 action following long-term suspension.
16. Prior Written Notice for Initial Services, dated May 28, 2026 following disciplinary hearing resulting in expulsion from school. Documents how special education services will be provided.
17. Prior Written Notice for Identification, Initial Services, Placement, Change in Services, Change in Placement, and Request for Consent dated July 12, 2026.
18. Student attendance overview for the 2025-26 school year.
19. Student behavior incident log for the 2025-26 school year.
20. Student behavior log entries for the 2025-26 school year.
21. Screenshot of LEA attempts to secure consent to evaluate.
22. PowerSchool SIS Enrollment History for Student.
23. Timeline of IEPs, Evaluation, Enrollment and Discipline for student for the 2025-26 school year.

Background Information

During 2025-26 the student was enrolled at the LEA's High School as a tenth-grader qualifying for special education services under the primary exceptionality of Learning Disability. The student began attending the high school on November 7, 2025. During the school year, the student received a series of suspensions, and on April 6, 2026 following a disciplinary hearing the student was placed on long-term suspension. A manifestation determination review found that the behavior was not related to the student's disability. The student was offered Special Education services (3 hours per day 5x/week) during the suspension and special education services were assigned to the LSS. On April 22, 2026, the student was placed at a County Juvenile Detention Center and on May 11, 2026 the student re-enrolled at the high school for the remainder of the school year.

Issues Investigated

Based on the written complaint and clarifications with the complainant, nine allegations of violations of the IDEA were made for the student. These nine allegations related to four IDEA issues which were investigated. The results of these investigations are found below.

Issue One

Did the LEA follow IDEA regulations at 34 C.F.R. 300.324(b)(1) when annually updating the Student's Individualized Education Program (IEP)? (Allegation 1)

Applicable Law

Federal regulations at 34 C.F.R.§300.324(b)(1)(i) and Kansas statues at K.S.A. 72-3429(f)(1) require an IEP team to develop, review, and revise the IEP at least once every 12 months meaning the district must hold an annual IEP meeting and adopt a new or revised IEP before the anniversary of the last annual meeting.

According to the Kansas Special Education Process Manual, "When a child with an exceptionality transfers to a new school district in Kansas, with a current IEP in a previous school district in Kansas, the new school district, in consultation with the parents, must provide a free appropriate public education (FAPE) to the child, including services comparable to those described in the child's IEP from the previous school district. Once the new district receives the current IEP the new school district may adopt the child's IEP from the previous school district or develop and implement a new IEP. If the new district develops a new IEP, parent consent is required for any substantial change in placement or any material change in services proposed in the new IEP K.S.A. 72-3430(b)(6)."

Complainant Position

The complainant alleged that the Student's IEP was not updated annually.

LEA Position

The LEA acknowledged in their July 13, 2026 response that the student enrolled in the LEA on November 6, 2025 without a current IEP. Documentation shows that the LEA obtained the most current IEP was from the student's last enrollment in the LEA while the student was an eighth grader. The LEA also requested records from the student's online school. Using this information the LEA developed a move-in IEP offering comparable services on November 7, 2025 based on information available from the student's prior IEP and enrollment in the district. A PWN was provided to the parent on November 10, 2025 noting those services. Shortly after enrollment (accounting for a holiday break and winter break), the district convened an IEP meeting on February 17, 2026.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. The SIS PowerSchool Enrollment history shows that the student enrolled in the LEA on November 7, 2025 as a tenth grader.

2. An email from the special education coordinator to the special education teacher documented, "Per [student's] last eval with [LEA] in 2021, [student] qualifies under SLD for reading comp and math problem-solving. [Student] had direct instruction and instructional support in ELA/Reading as well as instructional support in math and social studies. I know you're going to be gone for a while, so I can go ahead and put together a move-in record based on [student's] 8/15/23 move-in record and [student's] 9/6/22 annual IEP pending receipt of SpEd records."
3. The Prior Written Notice (PWN) dated November 10, 2025 proposed comparable services beginning on November 7, 2025 for the student to receive 47 minutes per day, 5 days per week of specialized instruction in Reading/ELA, 47 minutes per day, 5 days per week of specialized instruction in Math and 18 minutes per day, 5 days per week of specialized instruction in special studies resulting in a Material Change in Services (Parental Consent Required). The IEP goals were continued.
4. The PWN was sent to the parent using DocHub on November 10, 11, 14, 21, 30. The special education coordinator called the mother on November 17, 2025 to ask the mother if she wanted services for the student.
5. On December 9, 2025, a letter was sent to the parent stating that services were being initiated without parent consent due to lack of response. The special education coordinator indicated to the special education teacher in an email on December 9, 2025, "I reached out to [student's] parent via DocHub, phone, and email without success. I sent an Initiating Services w/o Consent Letter with the comparable services PWN earlier this morning. The letter, PWN, and DocHub audit trail are attached to [student's] ST profile."
6. A Notice of Meeting (NOM) dated February 5, 2026 documents that the parent was provided notice of the annual IEP team meeting on February 16, 2026. The PWN dated February 17, 2026 documented that the IEP team met to conduct an annual review and update the annual IEP and recorded the team decisions. The services and goals continued and changes to the IEP did not result in a material change in services or a substantial change in placement. The transition assessment section stated that "no information is available at this time." and the student's IEP goals were written in the transition plan. An explanation was written that, "[Student] has not been available for a transition assessment when the transition coordinator is available at the high school. When [student's] case manager is able to try to find [student] to do an informal assessment, [student] is either absent or suspended." The PWN documents that parental rights were emailed on February 6, 2026 and that the parent was not present at the meeting and the IEP team members were not able to get in touch with the mother during the meeting.
7. The LEA staff stated to the investigator in regard to collecting the transition assessment that, The team attempted to administer the AIR Self-Determination Scale, but the transition coordinator could not complete it despite daily attempts because of the student's absenteeism. As a result the LEA stated that the transition plan was "extremely generic. "Staff reported that when the student was in class, the student

chose to participate in whole-group work. The LEA staff stated that although it was not included in the IEP transition plan it was learned that the student would work in an entry-level position and receive job training for an entry-level position because that was what the team could support with available information.

Conclusion

At the time the student enrolled within the LEA the IEP was out of date and the LEA followed appropriate procedures for a move-in IEP, accepting that the student qualified for special education services as a student with a specific learning disability, developing an IEP offering comparable services while agreeing to update the IEP with current performance and services as documented in the November 10, 2025 PWN. On February 16, 2026, the IEP team met to develop an annual IEP. The PWN dated February 17, 2026 showed that the IEP did not propose material or substantial changes the IEP was adopted as the IEP of record. The PWNs, emails, communication logs and IEP document that the Local Education Agency followed the federal regulation 34 C.F.R.§300.324(b)(1)(i) and Kansas statue K.S.A. 72-3429(f)(1) for the student by reviewing and developing an IEP annually based on a move-in IEP.

However, the current IEP did not include an individualized transition plan based on assessment and the LEA staff described it as "extremely generic." The student's age requires that the student have a transition plan (the IEP dated February 17, 2026 stated that a transition plan was not developed due to the student's absences and suspensions). While the reasons for not developing the transition plan are legitimate, a transition plan must be individualized enough to support measurable postsecondary goals and services. Therefore, , the LEA is out of compliance with federal regulation at 34 C.F.R.§300.324(b) and K.S.A. 72-3429 when transition assessment was not conducted to create a transition plan for a student who is 17 years old.

Therefore, the Local Education Agency is IN of compliance with following federal regulations at 34 C.F.R.§300.324(b)(1)(i) and Kansas statue K.S.A. 72-3429(f)(1) when conducting an annual review of the November 10, 2025 move-in IEP on February 17, 2026, thereby establishing the annual IEP date for the next IEP review date, but the *Local Education Agency is OUT of compliance* with following federal regulations at 34 C.F.R.§300.324(b) by not conducting a transition assessment and fully developing a transition plan for the student and thus, corrective action is required.

Issue Two

Did the LEA follow IDEA regulations at 34 C.F.R. 300.303(b)(2) of behalf of the Student when conducting a reevaluation within timeline? (Allegation 2)

Applicable Law

Under 34 C.F.R. 300.303(b)(2) and K.S.A. 72-3428(h)(2) a must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

Complainant Position

The complainant alleged that the student's most recent reevaluation is dated from September 17, 2021 indicating the Student has not been reevaluated every three years as required by the IDEA

LEA Position

The LEA responded that while it recognizes that the student's reevaluation remains overdue; the LEA has not received signed parental consent to conduct the reevaluation despite multiple attempts. Although the law permits than an LEA may proceed with a reevaluation if it has made reasonable attempts without a response from the parent it does not compel the LEA to do so. The LEA's practice is to require informed parental consent whenever additional formal assessments are needed as part of a reevaluation, which was the case in this situation.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties. The findings of Issue One are incorporated herein by reference.

1. The LEA confirmed that the reevaluation dated September 17, 2021 was conducted while the student was a sixth grader at the LEA's middle school and is the most current evaluation for the student.
2. An email dated December 9, 2025 from the special education coordinator to the special education teacher stated, "[Student's] last re-eval we have a record of dates to 9/17/21, so [student] will need a re-eval as soon as possible. I'm not sure why [student] has a fluency goal when they only qualified [student] under reading comp and math calc. I've left it in [student's] move-in record for the time being."
3. An email from the special education teacher to the school psychologist on February 17, 2026 stated, "Can we please add SEL assessments back into [student's] eval? Based on what assistant principal is telling me [student] needs to be assessed for that and possibly take a social skills class. I will be sending the paperwork home on Wednesday via dochub, snail mail, and with [student] if [student] is here."
4. The IEP dated February 16, 2026 included the following statement, in the section, Summary of the Most Recent Evaluation/Reevaluation Results, There is not a current evaluation for [student]. [Student's] most recent evaluation was completed on 9/21/21.

An evaluation is being requested by the IEP to see where [student] is academically and for SEL concerns."

5. The Prior Written Notice for Evaluation or Reevaluation and Request for Consent dated February 17, 2026 stated in the Special Education Action Proposed section that the team is "proposing to conduct a reevaluation of your child. Information will be collected in the areas checked on the following page that provide relevant information that directly assists the team in determining:
   - Whether your child continues to be a child with an exceptionality and the educational needs of your child;
   - The present levels of academic achievement and related developmental needs of your child:
   - Whether your child continues to need special education and related services; and
   - Whether any additions or modifications to the special education and related services are needed to enable your child to meet the measurable annual goals set out in the IEP of your child and to participate as appropriate in the general education curriculum.
6. The evaluation plan attached to the February 16, 2026 PWN for evaluation consent indicates record review for Health and Motor, Vision, Hearing, Social/Emotional/Behavioral Status, General Intelligence, Academic Performance, Communicative Status, and Transition. New evaluation was requested for Social/ Emotional/Behavioral Status and Academic Performance. The Explanation of Why the Action is Proposed states, "The team is wanting to collect new evaluation for social/emotional as well as academics." They further write in the Options Considered and Why the Options were Rejected section as, "The options considered were not to evaluate. However, the team rejected the idea of not obtaining additional information because it would not be in the student's best educational interest."
7. The screenshot of DocHub shows that the evaluation plan was sent to the parent on March 2, 3, 6 and 13, 2025 with no response from the parent.
8. The LEA stated to the investigator that while they could have proceeded with the evaluation without the parent consent it is not the LEA's common practice and regardless, the review of records should have proceeded in absence of conducting the SEL and academic performance. They stated that between 2011 until 2023 the LEA would not have moved forward and since then there have been fewer than five occasions, not at the high school level.

Conclusion

In this case, email exchanges between the LEA staff and the February 17, 2026 PWN show agreement that the LEA staff asserted that the student needed updated evaluation, leading the investigator to contemplate if the LEA was stating that a FAPE could not be provided to the student without the requested evaluation. The LEA documented that in spite of multiple requests for parent consent by phone and email that request for consent was not received

from the parent. Question D-3 in the Q&A from a 2011 OSEP guidance document addresses this issue stating that

Under 34 CFR § 300.300(c)(2), the public agency need not obtain informed parental consent for the reevaluation if the public agency can demonstrate that it made reasonable efforts to obtain consent for the reevaluation, and the child's parent has failed to respond to the request for consent. This means that a public agency may conduct a reevaluation of a child with a disability without using the consent override procedures if the public agency can demonstrate that it made reasonable efforts to obtain parental consent for the reevaluation, and the child's parent has failed to respond to the request for consent. Section 300.300(d)(5) of the regulations provides that in order to meet the reasonable efforts requirement; the public agency must document its attempts to obtain parental consent using the procedures in 34 CFR § 300.322(d). These procedures include detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, and detailed records of visits made to the parent's home or place of employment and the results of those visits.

In both the LEA's response and interview with the investigator the LEA stated that their practice guided their decision to not move forward with reevaluation without parent consent. Their position is supported by IDEA as they state, "Although the law permissibly indicates that an LEA may proceed with a reevaluation if it has made reasonable attempts without a response from the parent, it does not compel the LEA to do so" (34 C.F.R. § 300.300(c)(1)(iii) and K.A.R. 91-40-27(f)). Further, 34 C.F.R. § 300.300 (b)(3)(2) and K.A.R. 91-40-27(f)(3) states that the "agency shall not be in violation of its obligations for…reevaluations …if the agency declines to pursue an evaluation or reevaluation.

In this case the LEA followed IDEA and Kansas regulation as well as their stated practice in not moving forward with conducting the student's reevaluation which consent was not provided by the parent in spite of attempts.

Based on the foregoing, it is found that the ***LEA is IN compliance*** for implementing federal regulation 34 C.F.R. 300.303(b)(2) and Kansas statute K.S.A. 72-3428(h)(2)3) at least once every 3 years.

Issue Three

Did the LEA follow IDEA regulations at 34 C.F.R. §300.530(e)(1) and 34 C.F.R. §300.536 when conducting a manifestation determination review (MDR) meeting in regard to disciplinary suspensions during the 2025-26 school year? (Allegations 3, 4, 5)

Applicable Law

According to the Kansas Special Education Process Manual, page 193 "When a child with a disability violates a school's code of conduct, that behavior could result in suspension or expulsion. Such removals from school are subject to the disciplinary provisions of special education law." On page 196 the Manual states that "School officials may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement." (34 C.F.R. §300.536)

Federal regulations at 34 C.F.R. §300.530(e)(1) and state statute at K.S.A. 72-3433(d)(2),(e)(1) describe in the instance of behavioral incident(s) as soon as practical, but not later than 10 school days after the date on which the decision is made to change the placement of a child with a disability because of a violation of a student code of conduct, the MDR team, consisting of the LEA, relevant IEP team members, and the parent must review all relevant information in the student's file and determine whether the student's conduct was caused by, or had a direct and substantial relationship to, the child's IDEA-qualifying disability; or the direct result of the LEA's failure to implement the IEP. If either condition is met, the conduct is deemed a manifestation of the disability. Federal courts have emphasized that the MDR inquiry is tied specifically to the student's IDEA-qualifying disability and may not be expanded to consider non-qualifying diagnoses or generalized assumptions about disability categories.

The Kansas Special Education Process Manual further explains on page 211 "A manifestation determination review is only required in two instances: (1) the suspension is for more than 10 consecutive school days (including placement in an interim alternative educational setting for possession of weapons or drugs or for infliction of serious bodily injury); or (2) the suspension is for less than 10 consecutive school days, but constitutes a pattern of removals that result in a change in placement. A pattern of removals that results in a change of placement occurs when all of the following are present: (1) the removals in a school year cumulate to more than 10 school days; (2) each incident of misconduct involves substantially the same behavior; and (3) there are other factors present that indicate a pattern of removals, such as the length of each suspension, the total amount of time the child is suspended and the proximity of the suspensions to one another. Accordingly, short-term suspensions beyond the 11th cumulative

day of suspension may continue to be imposed without a manifestation determination as long as all of the components of a pattern of removals are not present. However, educational services, although in another setting, are required for all suspensions beyond the 11th cumulative day.

Complainant Position

The complainant alleged that a manifestation determination review (MDR) meeting was held during spring 2026 which changed the student's placement relying on an outdated IEP and special education evaluation. In addition, the student's parent was not involved in the MDR, and the student's placement was changed to Third Street Program without parental consent.

LEA Position

According to the LEA response dated July 13, 2026, the team conducted a Manifestation Determination Review (MDR) on March 30, 2026 following two attempts to gain parental participation at the meeting.

The LEA determined an MDR was warranted due to the student receiving a 10-day suspension and being referred for a long-term suspension. The MDR team reviewed the student's disciplinary history, available evaluation information, the student's current IEP, teacher observations, and relevant information provided by staff in determining whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability, or whether the conduct resulted from a failure to implement the IEP.

Although the student's reevaluation was overdue at the time of the MDR, the district does not believe that an overdue reevaluation alone invalidated the MDR process. The MDR was conducted using a current IEP, current teacher observations, and the most current evaluation information available to the team.

In reviewing the behavior at issue along with the information described above, the team determined that the student's behavior was not a manifestation of the student's disability, meaning the student would be disciplined in the same manner as students without exceptionalities. Following an expulsion hearing the student was suspended for one calendar year, consistent with other students without exceptionalities committing this offense.

Although subject to discipline, the student was entitled to receive special education and related services during the suspension that were designed to enable the student to continue to participate in the general education curriculum (although in another setting) and to continue to progress on IEP goals (known as modified FAPE under the law). The determination of the student's services and placement during suspension was made through the IEP and disciplinary process in accordance with IDEA requirements and was not the result of a unilateral change in placement without procedural protections. Notably, parental consent for a disciplinary change of placement and determination of services is not required. The student

was offered services beginning on the 11th day of suspension. The LEA reports that the student frequently did not attend services.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties. The findings of Issues One and Two are incorporated herein by reference.

1. The PowerSchool SIS incident log listed four incidents occurring during the 2025-26 school year. December 10, 2025 a classroom rule violation was listed for use of profanity. On December 19, 2025, a classroom violation for physical aggressing toward another student was documented. This resulted in one day of Out of School Suspension (OSS). On January 7, an incident of inappropriate and vulgar language was recorded. This resulted in one day of OSS. On January 14, 2026, the student received two days of In-school Suspension (ISS). On January 29, 2026, an incident of verbal aggression toward staff was recorded and the student received two days of OSS. Log entries in the PowerSchool SIS recorded three additional behavioral incidents. On February 24, 2026, a classroom violation for inappropriate and vulgar language was recorded. No suspension was recorded. On March 11, 2026, the student received a behavior referral for general disruption and distraction. No suspension was recorded. Finally, on March 25, 2026 a behavioral incident was recorded for smoking/vaping that escalated into threatening staff and security was called. The March 25, 2026 incident led to the ten-day suspension and long-term suspension hearing.
2. The MDR dated March 30, 2026 describes the behavioral incident occurring on March 25, 2026 as a verbal threat to staff members. It states,

   Was caught vaping by a teacher. Teacher asked [student] to hand [staff] vape, and [student] began to comply initially. [Student] then tried to pull vape back. Other staff tried to help out, and [student] began to escalate and make threats to staff and scream profanities to other staff. Continued to escalate on way to office. Once assistant principal ended up with vape, [student] escalated further. [Student] made threats while in office to 'beat up' others and used other profanity. Called mom on cell phone, security explained situation over the phone to mom. Another administrator talked to mom and explained the situation and noted that [student] would be suspended for 10 days. [Student] demanded [student's] phone back, and administrator told parent [administrator] would call her back at a later date. Also talked to grandmother and aunt. [Student] demanded [student's] vape back, administrator informed [student] [administrator] could not legally do so since [student] is a minor. Refused to leave the building when asked. Police were contacted as [student] continued to escalate. When police arrived, [student] began to escalate, but they were able to escort [student] outside. [Student] was kicking window while waiting for pickup. Secretary had to relocate parent in office because disruption was too great to communicate with parent.

3. The March 25, 2026 letter from the assistant superintendent to the parent notifies the mother that the student was issued a ten-day suspension effective March 25, 26- April

8, 2026 for verbal threats to staff members and may return to school property on April 9, 2026 pending long term suspension.

4. The NOM dated March 26, 2026 requested a meeting for March 27, 2026. When the parent did not attend, a second NOM dated March 27, 2026 was send via DocHub for March 30, 2026.
5. The MDR dated March 30, 2026 documented that the parent rights were provided via DocHub. It is written that the following information was considered: 1) A summary of the behavioral incident. 2) IEP information including that the student is eligible for special education under the category of specific learning disability, the student has two reading and two math goals and one coping skills goal, services minutes for the reading and math goals and five academic/testing accommodations and one accommodation related to reward for appropriate social interactions. The IEP does not include an FBA or BIP/ 3) Teacher observations. 4) Documentation of attempted parent contacts in the section for Relevant Parent Information. 5) and additional documentation including that the LEA had attempted to obtain SEL evaluation, but the parent had not provided consent. It was checked that the behavior considered during the MDR was not caused by or have a direct and substantial relationship to the child's disability nor was it a direct result of the school's failure to implement the IEP. The conclusion reached by the MDR team was that the behavior was not a manifestation of the disability and a "disciplinary removal may occur, but the school district must continue to make a free appropriate public education (FAPE) available to the student in a manner when enables the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP." Attachments to the MDR included the meeting signature pages, NOMs of the first and second attempts, PWN, IEP teacher packet, IEP, Evaluation, Evaluation content in DocHub audit, attendance report, grades report and suspension letter.
6. The PWN for Placement dated March 30, 2026 described that the "IEP team met on 3/30/26 (second attempt; first attempt on 3/27/26) in order to conduct a manifestation review. The IEP team determined that the behavior in question is not a manifestation of [student's] exceptionality. The student will attend a separate school facility on the 11th day of disciplinary removal and for any subsequent disciplinary removals. The student will receive 180 minutes per day of special education services while in attendance at the separate school facility. Transportation is not provided. In addition, 10 minutes of consultation services will be provided one time per week. At the end of the disciplinary removal, the student's placement will return to the original IEP placement. The DocHub audit shows that this PWN was emailed to the parent on March 30, 2026.
7. The 2026-27 Student Handbook states that long-term suspension can result from repeated offenses or serious offenses such as violence or harassment. It further indicates that long-term suspension may occur related to vaping incidents. Finally, the handbook states, students are not permitted to engage in verbally abusive behavior such as threats towards school staff or other students. Students will be subject to disciplinary action for verbal and/or physical assault. The staff stated to the investigator

that the handbook does not use a "matrix" or provide the level of detail that would dictate a discipline matched to a specific behavior infraction.

8. The PWN dated May 28, 2026 explaining the student's ESY services outlines that the long-term suspension hearing occurred April 3, 2026 and that the student is expelled until April 3, 2026, but may return in January 2027 with restrictions.

Conclusion

In this case, the LEA conducted the appropriate steps in providing the parent notice for the MDR meeting and provide parent rights; however the parent did not attend the MDR or long-term suspension hearing . The MDR document shows that the IEP/MDR team considered the appropriate information outlined in IDEA regulations when reaching the conclusion that the student's behavior or LEA's lack of providing instruction were not the reason for the behavior incident. The LEA staff explained that the discipline for the behavior was consistent with the discipline provided to a student without an exceptionality. While the student handbook was not detailed enough to verify the discipline it was consistent with the reasoning of the discipline.

Based on the foregoing, it is found that the LEA followed IDEA regulations at 34 C.F.R. §300.530(e)(1) and 34 C.F.R. §300.536 when conducting a manifestation determination review (MDR) meeting on March 27, 2026 in regard to disciplinary suspension and *is IN compliance*.

Issue Four

Did the LEA follow IDEA regulations at 34 C.F.R. §300.323(c)(2) when implementing the Student's IEP during the 2025-2026 school year? (Allegations 6, 7, 8, 9)

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Complainant Position

The complainant alleged that the student has missed educational services at the LSS program due to transportation arriving late at the student's home and/or departing early from the LSS Program and that the district is not implementing the Student's IEP. The complaint also alleged the district changed the student's transportation without consent from district transportation to using an Uber where the student is not supervised. In addition, the student's transportation times were changed without notifying the student's residence and foster care agency.

LEA Position

The LEA response dated July 13, 2026 responded that the student received access to the general education curriculum and educational programming while attending the placement following the MDR. However, the LEA determined that specialized reading instruction identified within the student's IEP was not provided during the period from May 11 through 18, 2026, the final day of the school year. The LEA acknowledges this lapse in implementation of the student's IEP and has offered to make up those services during the 2026-2027 school year.

Regarding transportation, the LEA investigated allegations that staff arranged transportation through Uber and that transportation schedules were modified without notification. The LEA determined that the student was not eligible for Extended School Year services and was not enrolled in general education summer programming on June 8, 2026. District attendance records indicate the student was not present on campus that day. The district found no evidence that district personnel arranged, authorized, or paid for Uber transportation on this date.

Concerns were also raised in the complaint about the student's transportation schedule toward the end of the school year. At one point, the student was placed in foster care in a location over thirty miles outside the district boundaries. Due to the distance, the district privately contract for transportation services. This arrangement resulted in a later arrival for the student, which necessitated a later departure to ensure she received full services.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties. The findings of Issues One through Three are incorporated herein by reference.

1. The complainant and LEA agree that this allegation is in regard to implementation of the student's IEP following the disciplinary change of placement to LSS described in the PWN dated March 30, 2026.
2. The student's special education services were amended March 30, 2026 to include 180 minutes per day of special education services while in attendance at the separate school facility (LSS). Transportation is not provided. In addition, 10 minutes of consultation services will be provided one time per week.
3. The LEA acknowledged in a PWN dated May 12, 2026 that it failed to provide the student specialized instruction in reading while attending LSS in May and would meet with the parent at the beginning of the 2026-27 school year to offer compensatory minutes. The attendance document indicates the student had unexcused absences from April 9 – 17, 2026 and attended the LSS on April 20 – 21, 2026. The student's attendance overview did not record attendance during the month of May.
4. The LEA and complainant agree that the student moved in with an aunt approximately 30 miles away from the LEA on April 2, 2026.

5. The student's placement was temporarily changed from the LEA and LSS for special education services when placed in a Juvenile Detention Center between April 22, 2026 and May 10, 2026. The student was reenrolled in the direct on long-term suspension with special education services at the LSS starting May 11, 2026 through the end of the school year on May 20, 2026.
6. Email exchanges among the Interim Superintendent of Learning Services & Director of Special Education, principal of the LSS, aunt and complainant document that the LEA had not arranged transportation between the LSS and aunt's residence.

Conclusion

In this case, the LEA acknowledged that they are out of compliance in providing reading services during the LSS placement, with no mention of math or indirect consultative service minutes. Attendance records were blank so it was not possible to verify when the student attended the LSS with the exception of April 20 and 21, 2025. Additionally, progress reports were not provided to show if the student was making progress on the goals. Therefore, in absence of supporting documentation it is concluded that the student did not receive the 180 minutes of special education service minutes daily while at LSS, with the exception of April 20 and 21, 2025 and is out of compliance for providing the IEP service minutes.

In regard to the allegations for missed transportation services during the LSS placement it is found that the March 30, 2026 PWN documented that the LEA did not provide transportation services between the home and LSS during that time and is not out of compliance.

Based on the foregoing, the Local Education Agency is out of compliance with following IDEA regulations at 34 C.F.R. §300.323(c)(2) when implementing the Student's IEP during the 2025-2026 school year, following the disciplinary change of placement and corrective action is ordered in regard to providing the IEP reading and math services, but not the transportation services.

Summary of Conclusions/Corrective Action

ISSUE ONE: A violation of 34 C.F.R.§300.324(b) was found. Corrective action is required as follows.

1. Provide assurances to SETS that it will follow 34 C.F.R.§300.324(b) within two weeks following the sixty (60) days at the conclusion of the investigation.
2. Collect transition assessment for the student according to LEA practices for other transition aged students within 30 days of the students returning for the 2026-27 school year.
3. Reconvene the IEP team within two weeks of completing the transition assessment to develop an individualized transition plan for the student. A copy of the transition assessment data, amended IEP and PWN will be provided to SETS within one week of the meeting documenting the discussion and decisions.

ISSUE TWO: A violation of 34 C.F.R. 300.303(b)(2) and K.S.A. 72-3428(h)(2) was not found and therefore corrective action is not required.

ISSUE THREE: A violation of 34 C.F.R. §300.530(e)(1) and 34 C.F.R. §300.536 was not found and therefore corrective action is not required.

ISSUE FOUR: A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) was found. Corrective action is required as follows.

1. Provide assurances to SETS that it will follow 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) within two weeks following the sixty (60) days at the conclusion of the investigation.
    a. Reconvene the IEP team to develop an individualized transition plan for the student the IEP team shall offer a maximum of 1800 minutes of the direct special education services (10 days of 180 minutes of reading and math services) and 100 minutes of consultative services (10 days of 10 minutes) as outlined in the March 30, 2026 PWN as compensatory services for failing to implement the student's IEP on April 20 and 21, 2026 and May 11, 12, 13, 14, 15, 18, 19, 20, 2026 while attending the LSS program during the 2025-26 school year. The LEA shall provide SETS with a copy of the written plan for providing the compensatory services offered and the parents' decision on whether to accept the offer, in whole or in part, no later than 10 days from the date of the IEP team meeting.
    b. It is permissible for the IEP team to accomplish the corrective action associated Issue One and Four at the same meeting.

Donna Wickham, IDEA Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #453, LEAVENWORTH PUBLIC SCHOOLS
ON JUNE 18, 2026

DATE OF REPORT: AUGUST 5, 2026

This report is in response to a systemic complaint filed with the Kansas State Department of Education against USD #453 Leavenworth Public Schools on behalf of seven students who receive services through Cornerstones of Care by Jenine Casson, an educational liaison with the agency. In the remainder of the report, the seven students will be referred to as follows:

_____ = Student A
_____ = Student B
_____ = Student C
_____ = Student D
_____ = Student E
_____ = Student F
_____ = Student G

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term "local education agency (LEA)" will be used. In this case, the complaint is against USD #453 (Leavenworth Public Schools) who provide their own special education services and will be referred to as "the LEA."

For the 2025-2026 school year each qualifying student (Students A, B, and C) attended either the LEA's high school or middle school. In some cases the students were assigned to the LEA's Support Services program (LSS Program) to receive special education services while serving long-term suspensions. The school name and LEA staff will be referred to In the remainder of this report as follows:

- Dr. Rebekah Varvel: Director of Special Education
- Dr. Dustin Springer: Principal at LSS program
- Paige Miller: School Registrar
- Triston Richardson: School Counselor
- James Vanek: High School Principal
- Program that students attend for special education services while on long-term suspension: LSS program

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date on

which it was received by KSDE. The KSDE initially received the complaint on June 18, 2026. The investigator subsequently requested and was granted an extension.

Evidence Reviewed

The complainant was interviewed July 24, 2026. The parent for Student A was interviewed on July 21, 2026. The investigator was unable to reach the parent/ educational decision maker for Students B and C. The investigator called the parent of Student B on July 21, 2026 using the contact number listed on the student's IEP but reached a voicemail that did not indicate the identity. A phone message was not left as the investigator could not confirm the parent's identity and did not want to leave any personally identifying information on the voicemail. The investigator sent a follow-up email to the email address listed on the student's IEP on July 21, 2026, but no response was received. A phone message was left and email sent to the educational decision maker for Student C after obtaining current information from the LEA on July 21, 2026. No response was received. The LEA made the following staff available for a phone interview on July 15, 2026 as part of this investigation.

- Dr. Rebekah Varvel: Interim Superintendent of Learning Services & Director of Special Education
- Liz Seager: Special Education Compliance Coordinator
- Dr. Dustin Springer: Principal at LSS
- Scott Kessler: Principal at Middle School
- James Vanek: Principal at High School

During the investigation, the complaint investigator reviewed all evidence and documentation provided by the LEA and the complainant. The following materials were used as the basis of the findings and conclusions of the investigation:

Student A

1. PowerSchool SIS Enrollment History for Student.
2. Attendance overview for 2025-26 school year.
3. Behavior and Incident Logs for August 28, 2025 through October 21, 2025.
4. Course enrollment for the 2025-26 school year.
5. Corrected tri-annual and reevaluation report dated March 27, 2025 signed by team members on March 27, 2026 and parent on April 7, 2026..
6. Progress Report for May 22, 2025; October 15, 2025; December 19, 2025; March 11, 2026
7. Short-term suspension letter for ten days from Assistant Principal to parent dated August 26, 2025.
8. Notice of Meeting for Manifestation Determination Review dated August 27, 2025 for September 2, 2025 meeting.

9. Notice of Meeting for Manifestation Determination Review dated September 2, 2025 for September 3, 2025 meeting.
10. Screenshot showing Kansas Procedural Safeguards sent to parent via DocHub on September 3, 2025 at 7:30 a.m..
11. Manifestation Determination Review dated September 3, 2025, parent did not attend after two attempts for contact.
12. Prior Written Notice for Placement dated September 3, 2025 along with DocHub screenshot showing it was sent to parent on September 3, 2025 at 12:33 p.m.
13. Short-term suspension letter for ten days from Assistant Principal to parent dated October 21, 2025.
14. Notice of Meeting for Manifestation Determination Review dated October 23, 2025 and October 27, 2025 for October 28, 2025 meeting.
15. Manifestation Determination Review for dated October 28, 2025 with parent attendance.
16. Prior Written Notice for Placement dated October 28, 2025, parent signed consent October 28, 2025.
17. Student's Official Transcript printed February 12, 2026 showing total credits earned as 11:50 and weighted and unweighted GAP as 1.353.
18. Notice of Meeting dated April 2, 2026 for April 8, 2026 IEP meeting.
19. Audit of Notice of Meeting dated April 2, 2026 sent via DocHub on April 2, 3, 6, and 13, 2026.
20. IEP dated April 2, 2026, stamped received April 13, 2026.
21. Prior Written Notice for Change in Services/Placement dated April 2, 2026, consent signed by parent on April 2, 2026.

Student B

1. IEP dated February 27, 2025.
2. Progress reports dated May 22, 2025, October 15, 2025, December 19, 2025
3. Email exchanges between complainant and district staff dated between August 12, 2025 at 1:54 p.m. and August 19, 2025 at 3:36 confirming student was still enrolled in LEA and discussing logistics of transportation.
4. Email from complainant to special education director dated September 19, 2025 at 9:35 a.m. stating, "Placement has been voicing frustrations that [student] is currently going to the day school and is not receiving teaching services at all. [Student] is supposed to be receiving instruction from 9-12 but [student] is not even getting that. According to [student], [student] sits in a room working on [student's] computer for a couple hours with a monitor, not a teacher in there. [Student] is rarely ever there for the full three hours and is not getting any direct services. This has not changed at all as of this date. My biggest concern is that [student] is falling further behind as services go undelivered." The director of special education replied on September 21, 2025 at 10:37

a.m. that "I connected with [principal at LSS] last Friday and developed a plan to support [student]. Our instructional facilitator will collaborate with the [LEA high school staff" on appropriate special education interventions for [student]. Meanwhile, [principal at LSS] will work with student on [student's] Edgenuity (general education) courses."

5. Email from complainant to special education director dated September 22, 2025 at 9:59 a.m. stating, "We would like to see specific details of the plan and what resources and direct services will be made available to [student]. Is [principal at LSS] working directly with [student] for the three hours [student] is to be in the learning center? Are there any direct services from a resource teacher for [student's] lessons? If so, what teacher and are they delivering [student's] transition services at this time? While in our care, it is our responsibility to ensure [student] is on track to meet [student's] IEP goals and graduate with [student's] peers." The director of special education replied at 10:32 pm., "I will check with our instructional coach to get the names of specific interventions being delivered. Usually, reading is either Corrective Reading or Language! For math, we typically use Corrective Math or Essentials for Algebra. I believe [student] worked with our staff this morning. These services are provided by a teacher, substitute, or another trained staff member. [Student's] academic coursework would be available through Edgenuity, so 'student can access it at home or when not participating in the mentioned interventions. Regarding transition services [student] would use Xello to complete ongoing transition activities. The only transition service explicitly noted in the IEP is completing academic activities through [student's] classes"
6. Email from principal to special education director dated September 23, 2025 at 11:31 a.m. discussion the transition of the student from the LEA to another LEA at the conclusion of the long-term suspension, "I did not share this with [contact at transferring LEA]I did wonder if there is a way to reword the IEP if they are going to rewrite it for LSS, because the (sic) it reading to me is that we should be providing 3x the original service minutes)."
7. Email exchange among principal at LSS, school registrar and school counselor dated August 26, 2025 at 8:16 a.m. and September 2, 2025 at 10:03 a.m. stating the student is being marked as absent at the LEA high school and asking for attendance corrections with the school counselor offering solutions.
8. Letter from principal at LSS to whom it may concern dated August 29, 2025 stating student had perfect attendance since August 19, 2025
9. Prior Written Notice for Evaluation or Reevaluation and Request for Consent dated September 10, 2025, consent signed September 16, 2025
10. PowerSchool SIS Incident Details for Student dated September 25, 2025
11. Prior Written Notice for Initial Services, Placement, Change in Services/Placement dated September 29, 2025, consent signed November 22, 2025
12. Notice of Meeting dated September 29, 2025 for November 12, 2025 meeting

13. Evaluation Team Report + 3-Year Reevaluation dated November 5, 2025, agreements signed November 12, 2025
14. IEP dated November 12, 2025
15. Prior Written Notice for Change in Services/Placement, dated November 12, 2025, consent signed November 17, 2025
16. PowerSchool SIS Enrollment History for Student for 2025-26 school year
17. PowerSchool SIS Attendance for Student for 2025-26 school year

Student C

1. PowerSchool SIS Enrollment History for Student
2. PowerSchool SIS Attendance for Student 2025-26 school year
3. PowerSchool SIS Behavior Incidents and Log entries for Student 2025-26 school year
4. Prior Written Notice for Evaluation or Reevaluation and Request for Consent dated October 23, 2025, consent signed October 28, 2025
5. Manifestation Determination Review and accompany packet, dated October 31, 2025
6. Prior Written Notice and Request for Consent for Special Education Action dated October 31, 2025, consent signed October 31, 2025
7. Manifestation Determination Review and accompany packet, dated November 6, 2025
8. Prior Written Notice and Request for Consent for Special Education Action dated November 6, 2025, consent signed November 11, 2025
9. Email exchange between school psychologist and principal at LSS dated between December 1, 2025 at 2:31 p.m. and December 2, 2025 at 3:31 p.m. with the school psychologist inquiring if the student was attending LSS and the principal stating that no paperwork had been received.
10. Email from school psychologist to special education director dated December 3, 2025 at 11:13 a.m. discussing services during long-term suspension while receiving special education evaluation and verifying that the educational decision maker had been reached and wanted the student to attend the LSS program. The email chain verified that the student was to start December 8, 2025
11. Student typed notes about daily performance dated December 9, 2025 through May 19, 2026.
12. Evaluation Team Report+ Initial Evaluation, including Functional Behavior Assessment, dated February 2, 2026
13. IEP dated February 2, 2026
14. Progress Report dated March 11, 2026 and May 22, 2026

Students D, E, F, G

1. PowerSchool SIS Enrollment History

Background Information

This systemic complaint was filed by the educational liaison of an agency that provides services for children with behavioral and mental health needs who are involved in some capacity with the foster care system. The complaint also involved a child complaint that was investigated and reported in a separate complaint report. The complainant alleged that "[LSS program] has become an offload site for students with behavioral concerns. In the last year, our organization has had six students in our care sent over there for long term suspensions. The school is not addressing IEP goals nor is the education students are receiving there substantial enough for them to make progress. The students described below were determined to have been enrolled in the LEA at the LSS program during the 2025-26 school year.

Student A was an eleventh (11th) grader during the 2025-26 school year. The student is eligible as a student with a specific learning disability in reading fluency and math calculation. Initially the student attended the 2025-26 school year at the LEA high school receiving special education services in the general education and special education settings. Following a brief change of services to a juvenile detention center a long-term suspension hearing resulted in a disciplinary change of placement to the LSS program during November 2025. During the second semester of the 2025-26 school year the student moved from the mother's home to foster care located in another school district. The mother retained educational decision making responsibilities for the student.

Student B was an eleventh (11th) grader during the 2025-26 school year. The student was serving a long-term suspension initiated in February 2025 and started the 2025-26 school year on suspension receiving special education services as a student with intellectual disability at the LSS. During the long-term suspension, the student was placed with a foster family residing in another school district. Once the student completed the one-year long-term suspension at the end of February 2026 the student transferred to the other school district. The student's exit date for the LEA was March 2, 2026.

Student C was a seventh (7th) grader at the middle school during the 2025-26 school year. The student had not been identified with an exceptionality at the start of the school year, but the LEA suspected that the student may qualify for special education services and initiated request for a special education with the student's parent with consent provided to commence evaluation on October 28, 2025. Prior to and during the evaluation the student received a series of short-term suspensions that constituted a disciplinary change of placement and two Manifestation Determinations occurred in anticipation that the student may be found eligible for special education services. In November 2025 as a result of a long-term suspension hearing the student was suspended for the remainder of the school year. The student was subsequently determined to be eligible for special education as a student with a specific learning disability in the area of mathematics and the disciplinary placement was determined to be the LSS program. During the winter of the 2025-26 school year the student's

grandparent because the educational decision maker for the student replacing the biological mother and the student moved to live with the grandmother.

Issues Investigated

Based on the written complaint and clarifications with the complainant, three systemic allegations of violations of the IDEA were made for the seven identified students and these were investigated. The results of these investigations are found below.

Issue One

Did the LEA follow IDEA regulations at 34 C.F.R. 300.503(a)(2) when changing the placement of Student A, Student B, Student C, Student D, Student E, Student F, and Student G associated with significant behavior and/or long-term suspensions during the 2025-26 school year?

Applicable Law

34 C.F.R. § 300.503(a)(1)(2) and K.S.A. 72-3432 states that written notice must be given to the parents of a child with a disability a reasonable time before the public agency either proposes to initiate or change the educational placement of the child.

Federal regulations at 34 C.F.R. § 300.536 clarify disciplinary placement as referring situations where a student with a disability is removed from their current educational placement because of behavior that violates a code of student conduct. According to 34 C.F.R. § 300.536(a) a disciplinary removal is considered a change of placement if the student is removed for more than 10 consecutive school days or has a series of removals that total more than 10 school days in a school year and constitute a pattern. Once there is a change of placement, IDEA's additional protections apply.

In the case of a disciplinary change of placement federal regulations at 34 C.F.R. § 300.530(c) states that if the disciplinary change in placement would exceed 10 consecutive school days, and the behavior that was the violation of the school code is determined not to be a manifestation of the child's disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities.

Complainant Position

The complainant alleged that the district has changed the placement of seven students with behavioral concerns to virtual or the [LSS program] without following IDEA procedures.

Local Education Agency Position

The LEA responded in their July 13, 2026 response that four of the seven students (Students D, E, F, and G) were not enrolled in the LEA during the 2025-26 school year. Student B did not

experience a change of placement during the 2025-26 school year as the student was on a long-term suspension that started in February 2025 and consistently provided special education services at the LSS program until transferring out of the district on March 2, 2026. Of the two remaining students, their placement changes were the result of long-term suspensions that were initiated after manifestation determinations that concluded that the student's behaviors were not manifestations of the student's identified disabilities. Specifically, Student A received multiple suspensions during the 2025-2026 school year. A manifestation determination review (MDR) was conducted for each one that constituted a disciplinary change of placement. Specifically, MDRs were conducted on September 3, 2025 for a Building Rule violation and again on October 28, 2025 for possession of THC vape. In both instances the MDR team determined that the behaviors were not a manifestation of disability. The parent/educational decision-maker participated in the October 28, 2025 meeting and decision. A Prior Written Notice dated October 28, 2025 was provided to the parent/educational decision-maker prior to the long-term suspension hearing and the subsequent change of placement for disciplinary removal. Although parental consent is not required for a disciplinary change of placement, the parent/educational decision-maker signed the PWN on October 28, 2025. Student C was not identified as a student with an exceptionality at the start of the 2025-2026 school year, however the district suspected the student may qualify for special education services and commenced an initial evaluation with the guardian signing consent for evaluation on October 28, 2025. During the evaluation, the student received a series of short-term suspensions that the district determined constituted a disciplinary change of placement. Because a pattern was determined to exist, an MDR was held on October 31, 2025. When the student was referred for a long-term suspension, a second MDR was held on November 6, 2025. The MDR team determined the student's behavior was not related to disability, Concurrently, the student was suspended for the rest of the year.

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. The IEP dated February 27, 2025 documents that Student B's educational placement was the LSS program with IEP services due to a year-long suspension occurring prior to the 2025-26 school year. The annual IEP dated November 12, 2025 maintains the placement and services in the February 27, 2025 for the duration of the long-term suspension. The LEA's SIS enrollment history shows that Student B transferred out of the LEA on March 2, 2026, following completion of the long-term suspension.
2. The LEA response dated July 13, 2026 stated that Student D was not enrolled during the 2025-26 school year. The LEA's student information system (SIS) enrollment history shows that Student D was expelled following an expulsion hearing on November 12, 2024 for the remainder of the 2024-25 school year with a written note that the student

was able to return for the 2025-26 school year. The SIS form and district response document that the student's last date of attendance was November 18, 2024.

3. The LEA response dated July 13, 2026 stated that Student E was not enrolled during the 2025-26 school year. The LEA's SIS enrollment history documents that Student E completed 11th grade in the LEA's high school and transferred to another district on August 11, 2025.
4. The LEA response dated July 13, 2026 stated that Student F was not enrolled during the 2025-26 school year. The LEA's SIS enrollment history shows that the parent completed pre-registration for the student to attend the middle school for the 2025-26 school year but then called and said that Student F would not be transferring to the LEA middle school. The record shows that the student was enrolled at another district's virtual school on August 11, 2025 and the student was exited from the LEA's student information system on January 6, 2026. The LEA response dated July 13, 2026 stated that the student's last date of attendance was May 23, 2025 and the transfer to the virtual school in another district was effective August 11, 2025.
5. The LEA response dated July 13, 2026 stated that Student G was not enrolled during the 2025-26 school year. The LEA's SIS enrollment history shows that Student G completed kindergarten in the LEA's elementary school and transferred to another district on August 24, 2020.

The following table presents the LEA's procedures followed associated with changing the placement for Students A and B following disciplinary long-term suspensions during the 2025-26 school year.

	Student A	Student A	Student C	Student C
Date of IEPs in effect	3/27/25	3/27/25 and 4/2/26	None	None
Date of MDR	MDR on 9/3/25	MDR on 10/28/25 (occurring during 11th day)	MDR on 10/31/25	MDR on 11/6/25 (occurring on 11th day)
NOM	8/27 and 9/2	10/23 and 10/27	10/29 for 10/31	11/4 for 11/5 and 11/5 for 11/6
Procedural Safeguards provided to parent	9/3 via DocHub	Via DocHub	Provided with referral for Special Education Evaluation on 10/28	Provided with referral for Special Education Evaluation on 10/28
PWN for disciplinary placement change	9/3, parent didn't attend	PWN for placement dated 10/28 signed by parent on 10/28	10/31, parent present and signed on 10/31	11/6, Parent via phone signed attendance and consent electronically on 11/11

	Student A	Student A	Student C	Student C
Summary of the behavioral incident considered during MDR meeting	Building rule violation	Drugs – possession of vape with THC	Physical aggression toward student	Physical aggression toward student
IEP information – eligibility category, goals, services, accommodations, BIP/FBA behavior goals considered during MDR meeting	Specific learning disability – reading comprehension and math calculation	Specific learning disability – reading comprehension and math calculation	Consent to evaluation 10/28, parent concerns about behavior and academics FBA included in 2/2/26 initial evaluation Specific learning disability - math	Consent to evaluation 10/28, parent concerns about behavior and academics FBA included in 2/2/26 initial evaluation Specific learning disability - math
Teacher observations considered during MDR meeting	2 teachers Applied ELA and Advisory	Additional from Applied ELA and Advisory and ROTC	1 teacher Social Studies	1 additional teacher Physical Education
Relevant Parent Information considered during MDR meeting	Parent did not attend	Yes	Yes	Yes
Additional documentation considered during MDR meeting	none	Yes	Yes	No additional information
Progress Report	Yes – 5/22/25	Yes, 5/22 and 10/15	n/a	n/a
Attendance	Yes 3.5 days absent of 14 days of year.	Yes, 21 days absent out of 49 days of year	Yes	Yes
Grades	Yes	Yes	Yes	Yes
MDR decision caused by or have a direct and substantial relationship to the child's disability	No	No	No	No
MDR decision - direct result of the school's failure to implement the IEP	No	No	No	No

Conclusion

In this case, two students (Student A and Student C) had changes of placement during the 2025-26 school year. In both cases the students committed violations of school code as

described in the LEA's student handbook. The LEA suspended the student for the behavioral violations according to their LEA procedures. At the time the students' days of suspension neared ten (10) the LEA followed IDEA procedures by conducting a manifestation determination to determine whether the behavior was caused by or had a direct and substantial relationship to the child's disability or direct result of the school's failure to implement the IEP. In both cases the Manifestation Determination Review Team determined that the student's behavior was not a manifestation and the LEA applied the same discipline as would be applied to a student without a disability. Following a longer-term suspension for each student the IEP team met to determine services and an educational placement at the LSS program to receive the special education services during the suspension and the student's IEPs were amended to reflect those services at the LSS program.

The LEA correctly asserted that the protections of 34 C.F.R. § 300.503(a)(1)(2) and K.S.A. 72-3432 refer to an IEP team decision for a change of placement and are not applicable in the case of a disciplinary change of placement. Therefore, 34 C.F.R. §300.530(c) and 34 C.F.R. §300.536 more appropriately address this situation that two students (Student A and Student C) were suspended for school code violations and following a Manifestation Determination Review the students were suspended long-term and they were not allowed to received services at the high school (Student A) or middle school (Student C). The IEP team met to change the placement of each student as a result of the suspension to the LSS to receive special education services.

Based on the foregoing, it is found that the *LEA is IN compliance* with implementing 34 C.F.R. §300.530(c) and 34 C.F.R. §300.536 when changing the placement of Student A and Student C associated with significant behavior and/or long-term suspensions during the 2025-26 school year. It is found that this investigation of changing placement did not apply to Students B, D, E, F, and G. It is further found that regulations 34 C.F.R. § 300.503(a)(1)(2) and K.S.A. 72-3432 do that apply in the instance of disciplinary changes of placement in this case. No corrective action is associated with Issue One.

Issue Two

Did the LEA follow IDEA regulations at 34 C.F.R. §300.323(c)(2) when implementing the IEPs for Student A, Student B, Student C, Student D, Student E, Student F, and Student G during the 2025-2026 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are

implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Complainant Position

The complainant alleged that the LEA has not implemented the IEPs of the seven students who receive services through [Complainant's agency] during the 2025-2026 school year.

Local Education Agency Position

The LEA responded that the IEP for Student A was implemented as written at the high school until the disciplinary change of placement and that the revised IEP offering modified FAPE at the LSS program was implemented for the duration of the school year. The LEA responded that that the IEP for Student B was implemented as written and the student was offered modified FAPE through the LSS program during the 2025-26 school year until transferring to another school district on March 2, 2206. The LEA responded that an IEP was first written for Student C on February 2, 2026 while the student was serving a long-term suspension and the IEP was written and implemented offering modified FAPE through the LSS program during the 2025-26 school year. The LEA responded that Students D, E, F, and G were not enrolled in the school district during the 2025-26 school year.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference and therefore the implementation of IEPs for Students D, E, F, and G are not investigated.

The following finding of facts is based upon a review of the documentation and interviews with all parties.

1. The LEA staff reported that the LSS program is "intended for students with an IEP who are on their eleventh day of suspension, are long-term suspended, or are expelled. It is a classroom staffed by a substitute when necessary, although our goal is to have a special education teacher. Last year we had a long-term substitute in that placement." "We run morning and afternoon sessions. Students attend based on their schedule and age. The purpose is to provide special education services first. Students also have access to general education coursework. After their special education services are completed, any remaining time is used for general education work, with the teacher supporting assignments, question and communication with the general education building." The staff clarified to the investigator that the instruction may be individual, computer assisted programs, small group, or class-based, depending on who is in the program at the time. The LEA staff reported to the investigator that there were no student schedules or staff assignment schedules as there was only one teacher so that staff assignment schedules were unnecessary.
2. An email from the Complainant to the Special Education Director on Friday, September 19, 2025 at 9:35 a.m. documented that the Complainant questioned whether Student

B's IEP services were being implemented stating, "Placement [student's residence] has been voicing frustrations that [student] is currently going to the day school and is not receiving teaching services at all. [Student] is supposed to be receiving instruction from 9-12 but [student] is not even getting that. According to [student], [student] sits in a room working on [student's] computer for a couple hours with a monitor, not a teacher in there. [Student] is rarely ever there for the full three hours and is not getting any direct services. This has not changed at all as of this date." The director of special education replied on the following Monday that "I connected with [principal at LSS] last Friday and developed a plan to support [student]. Our instructional facilitator will collaborate with the [LEA high school staff" on appropriate special education interventions for [student]. Meanwhile, [principal at LSS] will work with student on [student's] Edgenuity (general education) courses."

3. An email from complainant to special education director dated September 22, 2025 at 9:59 a.m. again requested additional information about implementing Student B's IEP services stating, "We would like to see specific details of the plan and what resources and direct services will be made available to [student]. Is [principal at LSS] working directly with [student] for the three hours [student] is to be in the learning center? Are there any direct services from a resource teacher for [student's] lessons? If so, what teacher and are they delivering [student's] transition services at this time? While in our care, it is our responsibility to ensure [student] is on track to meet [student's] IEP goals and graduate with [student's] peers." The director of special education replied later that day, "I will check with our instructional coach to get the names of specific interventions being delivered. Usually, reading is either Corrective Reading or Language! For math, we typically use Corrective Math or Essentials for Algebra. [student] worked with our staff this morning. These services are provided by a teacher, substitute, or another trained staff member. [Student's] academic coursework would be available through Edgenuity, so 'student can access it at home or when not participating in the mentioned interventions. Regarding transition services [student] would use Xello to complete ongoing transition activities. The only transition service explicitly noted in the IEP is completing academic activities through [student's] classes"
4. Progress reports were provided for Students A, B, and C to document implementation during the 2025-26 school year. Data, records or logs, student assignments, computer-assisted log ins for Edgenuity, Corrective Reading, Language!, Corrective Math or Essentials for Algebra and/or accommodations use were not provided.
5. The investigator asked LEA staff to clarify the attendance records provided for Students A, B, and C. They indicated that the PowerSchool SIS attendance is being made to be more consistent with recording attendance for students at the LSS program. The attendance records in PowerSchool SIS show Student A alternately marked the student at OSS and LSS while the student was attending the LSS program. The attendance records for Student B and Student C marked the student as LSS when the student was attending the LSS program. It did not record any absences. An email exchange among principal at LSS, school registrar and school counselor dated August 26, 2025 at 8:16

a.m. and September 2, 2025 at 10:03 a.m. documented that there were inaccuracies with Student B's attendance while at the LSS program. As well, Student C was long-term suspended effective November 20, 2025. with special education services at the LLS program effective 2/2/2026. Emails between district staff indicated that the student was confusion about enrollment at the LSS program between December 1 and 3, 2025 and the student began services on December 8, 2025

6. The tables below indicate the IEP services by date and evidence that the special education services were provided for Student's A, B, and C during the time they were enrolled in the LEA and receiving special education services.

Student A

IEP services	Services by date	Evidence that services were provided
Educational Placement	Enrolled in High School receiving special education services in general education and special education until change of placement to LSS program following PWN signed on 10/28 Living in home	Long-term suspended receiving modified FAPE with special education services at the LLS program Moved to foster care spring 2026
IEP in effect	3/27/25	Following suspension and annual 4/2/26
Special education minutes	47 minutes of direct special education service in math and reading 5 days every week in the general education classroom; 24 minutes of direct math and reading special education service in science 5 days every week in the general education classroom; 24 minutes of direct reading special education service in social studies 5 days every week in the general education classroom to work on reading comprehension and math calculation goals. *No evidence provided to determine via scheduled, attendance, progress reports, data, teacher note*	180 minutes of direct special education service in math and reading 5 days every week at the LSS program; 10 minutes of indirect special education service one day every week at the LSS program to work on to work on reading comprehension and math calculation goals. *No evidence provided to determine via scheduled, attendance, progress reports, data, teacher note*
Related services minutes	N/A	N/A

IEP services	Services by date	Evidence that services were provided
Providing accommodations	Assessment/assignments can be read aloud by an adult or text-to-speech, in a quiet area of the classroom or in a quiet alternate setting; Extended time (1.5 that of general education peers); Frequent checks for understanding; Access to a calculator *No evidence provided*	same
FBA/BIP in place	None	None
IEP provided to staff	Yes, via Google drive	Yes, via Google drive
Student progress	Quarter 4 from 2024-25 school year reported May 22, 2025 not sufficient data to evaluate progress on *reading comprehension goal*; Student is averaging 95 correct answers on 10 minute *math calculation* program which is above baseline of 65, but off-track to meet goal. Passing four classes with A's and B's, Failing 3 classes	*Reading:* Quarter 1 - October 15, 2025 reported averaging 87% with 60% set as the goal; December 19, 2025 (Quarter 2) March 11, 2026 (Quarter 3) – no progress data "Student refused to complete reading progress monitoring probes, when offered." "No data submitted from LSS staff regarding [student's] comprehension ability." May 22, 2026 (Quarter 4) no data as IEP met April 2 and not enough data collected to report progress. *Math:* October 15, 2025 (Quarter 1) reported averaging 102 correct answers with a goal of 95 correct answers; December 19, 2025 (Quarter 2) – no progress data March 11, 2026 (Quarter 3) - reported averaging 89 correct answers with a goal of 95 correct answers; (Quarter 4) no data as IEP met April 2 and not enough data collected to report progress.

Student B

IEP services	Services by date	Evidence that services were provided
Educational Placement	Long-term suspended receiving modified FAPE with special education services at the LLS program; In foster care placement	Long-term suspended receiving modified FAPE with special education services at the LLS program; In foster care placement
IEP in effect	2/27/25 updated on 3/10/25 based on long-term suspension	11/12/25
Special education minutes	180 minutes of direct special education service in math and reading 5 days every week at the LSS program; 10 minutes of indirect special education service one day every week at the LSS program to work on math calculation and oral reading fluency. *No evidence provided to determine via scheduled, attendance, progress reports, data, teacher note*	180 minutes of direct special education service in math and reading 5 days every week at the LSS program; 10 minutes of indirect special education service one day every week at the LSS program to work on 4 goals 1) math calculation, 2) oral reading fluency, 3) read and identify job posting, and 4) calculate total costs, make change, and determine budget differences. *No evidence provided to determine via scheduled, attendance, progress reports, data, teacher note*
Related services minutes	N/A	30 minutes of transportation service to and from LSS program 5 days every week *Evidence was emails documenting logistics - provided*

IEP services	Services by date	Evidence that services were provided
Accommodations	Small group instruction; word bank for each writing assignment; Extended time on all classroom assignments, quizzes and tests up to 1.5X; Given a copy of all written notes ahead of time to allow student to follow along when notes are given; Frequent check-in's to ensure student understands the task; Use of a calculator; Use of chunking larger or multi-step assignments or projects *No evidence provided*	Small group instruction; Extended time on all classroom assignments, quizzes and tests up to 1.5X; Given a copy of all written notes ahead of time to allow student to follow along when notes are given; Frequent check-in's to ensure student understands the task; Use of a calculator; Use of chunking larger or multi-step assignments or projects; Student will be allowed to leave 5 minutes early from class to go to next class; Student will be allowed preferential seating to minimize distractions to learning; Reduce assignment/assessment by up to 25% *No evidence provided*
FBA/BIP in place	No	FBA 10/25
IEP provided to staff	Yes, via Google drive	Yes, via Google drive
Student progress	math calculation and reading March 12, 2025 -– not enough data to assess May 22, 2025 – left blank October 15, 2025 – not willing to test	District response indicated that student frequently refused to participate in assessments and assignments.

Student C

IEP services	Services by date Evidence that services were provided
Educational placement	Long-term suspended effective November 20, 2025 receiving modified FAPE with special education services at the LLS program effective 2/2/2026; living with grandmother in winter 2025
IEP in effect	2/2/2026
Special education minutes	50 minutes of direct special education service in math 5 days every week at the LSS program; 10 minutes of indirect special education service one day every week at the LSS program to work on math concepts and applications and math facts automaticity. *No evidence provided to determine via scheduled, attendance, progress reports, data, teacher note*
Related services minutes	N/A

IEP services	Services by date Evidence that services were provided
Accommodations	access to age appropriate math manipulatives and tools including a calculator; shortened assignments (up to 50%) for assignments and assessments completed independently; separate, small group testing; frequent checks for understanding before and during independent work; chunking of large assignments or tasks into smaller sections with check-ins between sections *No evidence provided*
FBA/BIP in place	FBA conducted with initial special education evaluation
IEP provided to staff	Yes, via Google drive
Student progress	math concepts and applications March 11, 2026 – indicated progress May 22, 2026 – indicated progress math facts automaticity March 11, 2026 – estimated at around 55 facts of 70, reported great variability May 22, 2026 – averaged a score of 25 of 70

Conclusion

In this case, the LEA did not provide sufficient evidence to verify that Students A and B received their special education services at the LLS program during the 2025-26 school year. In the case of Student C progress monitoring was available and the student was making progress to conclude that the student was receiving services to make progress. For Students A and B the LEA indicated that there was not enough data collected to determine progress or that the student(s) refused to participate in progress monitoring so the investigator could not reach a conclusion that the IEPs had been implemented using data collection.

The LEA staff reported to the investigator that the students arrived at the program and worked on their IEP goals and when they finished they could work on general education work which is consistent with IDEA. What the LEA was unable to document was if and how the student's specially designed instruction was delivered. There were no student or staff schedules showing when or how the student's services were being implemented during the three hour daily blocks or how the students were working on their IEP goals and when the LSS program staff were collecting progress data on the goals to measure progress and use the data collection to determine if changes to the specially designed instruction was needed. There were no documentation as to what the daily schedule looked like and how the specially designed instruction was created to ensure that the student's special education services were delivered as outlined in the student's IEPs. There were no logs or notes to record accommodation use. While the LEA reported that the LSS program regularly had meetings to discuss program

improvements and included student's in problem-solving the services there were no notes to verify changes made.

The LEA staff reporting that the program was staffed by one teacher and occasionally a paraeducator. An email from the Complainant to the LEA questioning if and/or how the services were provided to Student B and the response indicating that the principal would ensure the services were provided thereafter seemingly indicate that the services were not verifiably implemented.

Finally, the PowerSchool SIS attendance records did not accurately reflect when students attended or were absent to help reach a conclusion that the students may have received their special education services. One email exchange showed staff asking for attendance corrections for a student (Student B). It is noted that in the case of Student C that although there were emails questioning when the student would start attending the LSS program, the student was not receiving special education services in November 2025 so this was not considered by the investigation in determining implementation. The LEA staff stated that the attendance records needed to be updated for students attending the LSS program when the investigator asked clarifying questions to verify the placement of the students using the PowerSchool SIS attendance records.

Based on the foregoing, it is found that the *LEA is OUT of compliance* with IDEA regulation at 34 C.F.R. §300.323(c)(2) when implementing the student's IEPs during the 2025-26 school year and correction action is required.

Issue Three

Did the LEA follow IDEA regulations at 34 C.F.R. §300.324(b)(1)(i)–(ii) during the 2025-26 school year when they did not reconvene an IEP team meetings on behalf of **Student A, Student B, Student C, Student D, Student E, Student F, and Student G** in spite of them not making substantial educational progress?

Applicable Law

Kansas statute and federal regulation specifies several occasions for convening an IEP meeting. 34 C.F.R. §300.324(b)(1)(i)–(ii) and K.S.A 72-3429 states that an IEP meeting should be convened whenever the child's needs change, progress is not as expected, or new information arises.

Complainant Position

The complainant alleged that the LEA has not reconvened the IEPs of the seven students who receive services through Cornerstones of Care of KCK during the 2025-2026 school year in spite of them not making substantial educational progress.

Local Education Agency Position

The LEA responded that for Student A that the student met the math calculation and reading comprehension goal during the 2025-26 school year and later refused to complete the reading progress monitoring probes during suspension which rendered the LEA unable to collect, monitor, and graph data in that area while in the LSS program. The LEA responded that for Student B that while the student received special education services during the long-term suspension the student refused to complete assignments and assessments. Finally, the LEA responded that Student C made adequate progress on the two goals and while the data showed some inconsistent progress, there was progress

Analysis: Findings of Fact

The findings of Issues One and Two are incorporated herein by reference and as such the investigation of this issue does not include Students D, E, F and G.

The following finding of facts is based upon a review of the documentation and interviews with all parties.

No documentation was found where an IEP meetings was requested by a parent or educational decision maker for Students A, B, or C during the 2025-26 school year for any reason.

The LEA staff stated to the investigator that "staff are trained to enter data. When they see four to six weeks of a student not making progress, we expect an intervention change line or phase change line on progress monitoring to show that staff notice a problem and changed something. That does not always require an IEP meeting. If the number of minutes or services do not change, staff may change a strategy, intervention, or group size without changing the IEP. If the student is still not making progress, staff should communicate with the parent and reflect the issue in progress reports. We look at calling an IEP meeting when we need to change services or placement to address lack of progress or significant behaviors." (audio translation of interview).

The LEA staff stated to the investigator that they did not consider calling an IEP due to the students not participating in or refusing progress monitoring.

The table below examines whether the LEA met the guidelines laid out in the Kansas Process Manual when considering if an IEP team meeting may to be convened whenever the child's needs change, progress is not as expected.

	Student A	Student B	Student C
Was IEP reviewed at least once annually	Yes	Yes	Yes
Was there lack of expected progress toward any annual goal during the 2025-26 school year	Goal 1: Quarter 1 – Progress Quarters 2, 3, 4 - no Progress Monitoring Goal 2: Quarter 1 – Progress Quarters 2, 3, 4 - no Progress Monitoring	All Goals: Quarters 1, 2, 3 – student refused Quarter 4 transferred out of District	IEP implemented 2/2/26 Goal 1: Quarters 3 & 4- Progress Goal 2: Quarters 3 & 4- Progress
Was there lack of expected progress in general education curriculum, if appropriate	None reported	None reported	None reported
Did parent request or provide information to trigger an IEP review	No	No	No
In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior	IEP checked No to behavior impedes the child's learning or that of others	IEP checked No to behavior impedes the child's learning or that of others	IEP checked No to behavior impedes the child's learning or that of others

The Progress report for Students A and B shows that there were not enough data collected to make any meaningful decisions about the student's progress for any of the student's goals across quarters. The staff indicated to the investigator that the LSS team had met to discuss how to encourage the student to participate in the progress monitoring for Student B but did not explain what changes were made.

The Progress report for Student C shows that for each of the two goals an adequate number of data points were collected to report progress for each goal. Progress was shown.

Conclusion

If a district cannot show growth on a student's special education goals because the student is uncooperative or refuses to participate in data collection, the district is not excused from its

legal obligations to monitor progress and provide a Free Appropriate Public Education (FAPE). When a student refuses to complete progress monitoring probes or assessments, rendering the district unable to collect and graph sufficient data, the district must treat this absence of data as a sign that the child's progress is not as expected. Under federal regulations (34 C.F.R. § 300.324(b)(1)(i)–(ii)) and Kansas law (K.S.A. 72-3429), an IEP meeting must be convened whenever a child's progress is not as expected or when their needs change. Therefore, instead of treating student non-compliance as a justification for missing data, the district has an obligation to call an IEP team meeting to determine new strategies and interventions to improve the student's compliance with progress monitoring. The IEP team must address the behavioral barriers preventing data collection so that the student's progress can be accurately tracked and their educational needs can be appropriately met.

In this case, Student C had progress as expected across two quarters once the IEP was implemented. For Student A progress was made for one quarter but for the other three quarters insufficient data were collected to determine progress. Student B refused to participate in progress monitoring so progress could not be determined during the 2025-26 school year. The LEA described procedures in place that indicate the IEP team call a meeting for lack of student progress when a change in services or placement are recommended. The procedures indicated that an IEP team meeting need not be called when the school staff need to change the specially designed instruction or pedagogy to address the student's lack of progress. It is noted that there was not enough data collected to determine if the staff the LEA's procedures were used.

Based on the foregoing, the *LEA is OUT of compliance* with implementing 34 C.F.R. §300.324(b)(1)(i)–(ii) and K.S.A 72-3429 by not convening the IEP team for Students A and B when progress was not as expected and corrective action is required for a systemic violation.

Summary of Conclusions/Corrective Action

ISSUE ONE: A violation of 34 C.F.R. §300.323(b)(2) was not found and therefore corrective action is not required.

ISSUE TWO: A violation of 34 C.F.R. §300.323(c)(2) was found and corrective action is required as follows:

1. The LEA shall provide to SETS assurances that it shall follow 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) within two weeks of the completion of this investigation.
2. The LEA shall conduct an internal audit of all students whose placement was the LSS program while serving a long-term suspension during the 2025-26 school year to determine if their IEP direct service minutes can be verified in the following ways 1) by a student schedule assigned to a school staff (small group or individual); 2) teacher schedule showing student is receiving services from the teacher; 3) data collection sheets of IEP goals or progress reporting with adequate data points; service logs

supporting students in general education minutes; 4) log in reports on the computer programs (e.g., Corrective Reading, Language!, Corrective Math, Essentials for Algebra) that provide specially designed instruction; log in reports on Edgenuity with supporting reports showing general education; and/or 5) other staff notes from the school year. The LEA will provide the audit findings to SETS within two weeks of the conclusion of the investigation.

3. Following the audit, the LEA will submit a written plan to SETS for approval detailing how it would deliver compensatory services to every single identified student for the unverified minutes. Within one month after SETS approval the LEA will send contact the educational decision makers to schedule an IEP meeting to offer the compensatory services. For each meeting, the LEA will offer a maximum number of minutes with an action item that the educational decision maker will accept all, part or none of the offered services over a specified time period. Notices of Meetings, IEP amendments, meeting notes and PWNs will be provided to SETS to demonstrate the LEA's offer of compensatory services.

4. Review and revise written procedures for how to document implementation of IEP services (specially designed instruction) for student's assigned to the LSS program during the long-term suspensions. To adequately verify that services, accommodations, and behavior plans are being implemented, the LEA may consider the following types of documentation to guide the review and revision process. 1) Provider Service Logs to document the date, a brief description of the services offered, who provided the service, the duration (or start and end times), notes on progress, and an explanation for any missed minutes; 2) Accommodation and Modification Trackers: to verify which accommodations were provided, the dates and settings, the person responsible, and whether the accommodation was used, refused, or not needed during the program; 3) For students with a Behavior Intervention Plan (BIP) or behavioral goals reliance on daily behavior charts, behavior data sheets, and logs documenting target behaviors, compliant/non-compliant actions, or the structured practice of replacement behaviors; 4) Delivery of specially designed instruction is frequently verified through a combination of progress reports, diagnostic testing data (like i-Ready scores), classroom performance and work samples, and teacher observations; and 5) a combination of school schedules, staff assignments, student attendance records, planning matrices, and skill assessment rubrics to verify service delivery. A copy of the written plan for implementing student IEPs at the LSS program including documenting the implementation shall be provided to SETS within 6 weeks of the end of the investigation.

5. Arrange with non-LEA staff to provide onsite training of the LSS administrator to oversee, monitor, and train the certified staff implementing the IEPs. This training shall occur within one month of SETS reviewing the revisions of Item #4. A copy of the training shall be provided to SETS within one week of the training.

6. Train all certified staff working at the LSS program to implement the student's IEPs and document implementation according to the revised written procedures within one week of the training occurring in #5. A copy of the training materials and participant sign in sheet shall be provided to SETS within one week of the training.

7. Coordinate with SETS during the corrective action period to randomly select 3 students receiving special education services during a long-term suspension by their SSIDs monthly to verify that the LEA is implementing IEPs according to the approved procedures following the training. Additional training is ordered by non-LEA staff if non-implementation is discovered at any time during the period of corrective action.

ISSUE THREE: A violation of 34 C.F.R. §300.324(b)(1)(i)–(ii) and K.S.A 72-3429 was found and corrective action is required as follows:

1. The LEA shall provide to SETS assurances that it shall follow 34 C.F.R. §300.324(b)(1)(i)–(ii) and K.S.A 72-342 within two weeks of the completion of this investigation.

2. Review and revise as needed the progress monitoring procedures to address adequate data to measure student progress and students who refuse to participate in progress monitoring. The review/revision of the written procedures should be provided to SETS within one month of the conclusion of the investigation.

3. The LEA shall arrange with non-LEA staff to provide mandatory training to all licensed and certified special education staff at the LSS program that emphasizes that student compliance issues that prevent data collection must trigger an IEP meeting to address the barrier, rather than excusing the district from monitoring progress at the LSS program within 1 month following the end of the investigation period. Copies of the training agenda and participant sign in sheet shall be provided to SETS within one week of the training.

4. Further the LEA is to arrange with non-LEA staff to provide onsite technical assistance of the progress monitoring procedures revised in #3 to ensure those procedures are implemented and trained onsite with the staff for the duration of the corrective action period.

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512, SHAWNEE MISSION PUBLIC SCHOOLS
ON APRIL 10, 2026

DATE OF REPORT: MAY 8, 2026

This report is in response to a complaint filed with the Kansas State Department of Education against USD #512 (Shawnee Mission Public Schools) on behalf of -------and -------by their mother,-------. In the remainder of the report, -------will be referred to as "student A," -------as "student B," and -------as "the mother" or "the complainant."

The complaint is against USD #512 (Shawnee Mission Public Schools). In the remainder of the report, USD #512 will be referred to as "the Local Education Agency" or "LEA". When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term " local education agency (LEA)" in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student." In this case USD #512 provides their own special education services. Local Education Agency staff will be referred to In the remainder of this report as follows:

- Sherry Dumolien, Associate Superintendent of Special Education
- Emily Demo, Special Education Coordinator for Gifted/Seek program
- Sarah Ingraham, Special Education Secretary

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on April 10, 2026.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent. The investigator interviewed the mother by phone on April 16, 2026 and April 20. Emails were exchanged between the mother and investigator on April 14, 16, 17, and 20. An individual interview was conducted with the Associate Superintendent of Special Education and Special Education Coordinator on April 16, 2026.

Additional documentation was provided in consideration of this investigation and reviewed. The following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. Investigation Report for 26FC512-006 and appeal
2. Investigation Report for 26FC512-007
3. Child Complaint assigned as 26FC512-009
4. Investigation Report for 26FC512-014A
5. Investigation Report for 26FC512-014B
6. IEP for Student B dated February 17, 2026
7. Undated 3 page letter from parent to LEA staff

Emails:

1. Email exchange dated April 13, 2026 between parent and Associate Superintendent of Special Education discussing parent's requested accommodation to communicate via email and LEA's request to meet to come to agreement on educational concerns.
2. Email from the parent to investigator on April 23, 2026 at 3:31 p.m. describing why the WebEx and in-person meetings with security presence is not parent participation given her disability.
3. Undated email regarding student B input forms and meeting data between parent and LEA staff reiterating parent accommodations and desire to participate on behalf of her children.
4. Undated email regarding student A NOM between parent and school psychologist discussing need to meet rather than via email.
5. Undated email from Associate Superintendent of Special Education to parents requesting an IEP meeting for each student.
6. Undated email exchange between Special Education Coordinator and parent requesting a meeting to respond to parent questions and parent responding that a meeting is not required to answer questions.
7. Undated email exchange between parent and Associate Superintendent of Special Education discussing mediation.
8. Undated email exchange between LEA and parents requesting meeting to discuss student B's writing goal and progress report and parent reply that written communication as an accommodation is preferred parent participation.

Background Information

The subjects of this complaint are two siblings attending an elementary school in the LEA. During a November 12, 2025 IEP meeting for one of the children a "verbal escalation incident" occurred resulting in the IEP being discontinued and rescheduled through either virtual/WebEx

conference or in-person with security presence. A child complaint was filed and investigated as 26FC512-006 regarding whether parent participation was denied. The investigator did not find that the LEA denied parent participation and was upheld on appeal. The IEP meeting was rescheduled and offered through WebEx for December 2, 2025 which the parent did not attend. The parent filed a child complaint and the report for 26FC512-007 found that the LEA did not deny parent participation for the child's IEP team meeting. Following the November 12, 2026 meeting the parent has not attended any IEP or evaluation meetings for her children. She has instead requested documents related to her children's education and emailed feedback and input related to her children's special education programs as an accommodation for a disability. Child Complaints 26FC512-014A and B were filed regarding, among other things that the LEA had not provided the parent with educational records to allow her to participate in her children's special education programs. The findings of these investigations were that the LEA had provided the records to the parent as required by IDEA via FERPA. The parent requested mediation for this complaint on April 20, 2026. Ultimately mediation was not agreed upon so the investigation continued.

Issues Investigated

Did the LEA follow IDEA and state regulations by offering parent participation in special education meetings via WebEx or in-person meetings with a security guard present?

Applicable Law

Under federal regulations at 34 C.F.R. § 300.322a each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including 1) notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and 2) scheduling the meeting at a mutually agreed on time and place. 34 C.F.R. § 300.322c outlines other methods to ensure parent participation, stating that if neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including alternatives such as video conferences and conference calls.

34 C.F.R. § 300.322d states that an IEP team meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place.

Parent Position

The parent wrote in her child complaint that she has a documented disability and has repeatedly informed the district that she is unable to participate in in-person with security present or WebEx meetings due to the impact of the disability. Despite that, the LEA has continued to require participation through in-person or virtual meetings and refused to

provide the educational records and decision-making materials that would allow the parent to participate as her requested accommodation. As a result the parent alleged that she is "placed in a position to either attempt to participate in these two formats or forfeit meaningful participation altogether." Additionally, she stated that "when she has disclosed her disability and requested accommodations in real time, the LEA has not adjusted its response and instead continued with the same expectations, resulting in escalation and further barriers to participation. By conditioning access to information and participation in formats not accessible to the mother the LEA is effectively denying her meaningful participation in her child's education."

Local Education Agency Position

The Local Education Agency responded that the issue of parent participation has been the direct or indirect topic of five separate complaints filed by this parent during the 2025-2026 school year. Child complaint 26FC512-006 (in regard to the November 12, 2025 IEP meeting) and later 26FC512-007 (in regard to the December 2, 2025 meeting) concluded that the LEA had afforded the parent participation during IEP and evaluation meetings on behalf of her children. Child complaint 26FC512-009 was initially assigned for investigation until the KSDE declined to investigate when it determined that the parent participation allegation was for the same timeframe as 26FC512-007. Child complaints 26FC512-014 A and B investigated parent participation indirectly as it related to the parent's stated accommodation to receive educational records ahead of time to prepare and email input and questions to the student's team members. The parent's allegations in these two investigations focused on not receiving the educational documents in a timely manner to participate in the children's educational programs. In both cases the findings concluded that the educational records were provided within timeline to allow the parent to participate in educational decision making and the documents requested did not constitute an educational records and were working documents.

The LEA states that instead of attending IEP and evaluation meetings through virtual/WebEx or in-person with security presence (a result of an incident during the November 12, 2025 IEP meeting) the parent has moved to providing input and feedback about each child's special education program through email. The LEA stated they value the parent's participation and will continue to invite the parent to IEP and evaluation meetings on behalf of both children offering both of these two formats as previous investigations have confirmed they are providing the parent the means for participation.

Analysis: Findings of Fact

1. The final report for complaint 26FC512-006 dated December 22, 2025 investigated whether the parent was afforded an opportunity to participate in a November 12, 2025 IEP meeting. The report described that this meeting "escalated rapidly into a verbal confrontation" and the meeting was ultimately ended. The investigator summarized the investigation as follows: "While the Parent alleged they were denied meaningful

participation due to staff interruptions and the early termination of the meeting, the core mandate of K.A.R. 91-40-17 is to afford the opportunity to participate, not to dictate the quality or content of the interactions. The meeting was terminated as a result of the Parent's escalations, not due to the LEA's refusal to afford the Parent the opportunity to participate." The finding was upheld upon appeal.

2. The final report for complaint 26FC512-007 dated January 22, 2026 investigated whether the family were afforded the opportunity to participate, including scheduling each meeting at a mutually agreed-upon time and place specific to the IEP meeting on December 2, 2025. The investigator found that the LEA made attempts to reconvene the November 12, 2025 IEP and finally sent a Notice of Meeting for the December 2, 2025 IEP meeting, offering a neutral facilitator, virtual or central-office meeting options for the December 2, 2025, and inquired about necessary accommodations or alternative dates and times, but the Parent declined to participate virtually and did not attend the IEP. The finding of the investigation was, "The LEA exceeded the 10-day notice requirement for scheduling an IEP meeting and repeatedly solicited the Parent's availability for alternative IEP meeting dates, which the Parent declined to provide. Furthermore, the LEA's transition to a virtual format was a permissible measure to ensure a safe and productive meeting environment following documented safety concerns during the November IEP meeting. The LEA's detailed record of outreach to schedule the December 2, 2025 meeting, including emails, a phone call, and an electronic and printed Notice of Meeting, justified proceeding with the IEP meeting on December 2, 2025 to ensure the Student's educational needs were addressed." Thus the investigator found the LEA in compliance with providing parent participation.
3. The parent filed a complaint, 26FC512-009 on January 6, 2026 which was initially assigned to an investigator but later declined by the KSDE to be investigated as the issue was currently being investigated as part of 26FC512-007.
4. The parent filed a complaint, 26FC512-014 A on April 1, 2026 alleging the she requested copies of all educational records the district intends to review in determining whether to proceed with a gifted evaluation for the student A and that without access to these records in advance the parent cannot participate meaningfully in the evaluation decision process. The investigator found that the LEA did turn over educational records to the parent within timeline.
5. The parent filed complaint 26FC512-014B on April 6, 2026 for student B alleging that she requested educational records for the student on March 30, 2026 in response to questions arising from the progress report. When the student's case manager suggested a meeting to discuss the raised concerns the parent reiterated the request for documentation and emailed responses to the questions. The investigator found that the LEA turned over the documentation required by IDEA and that the additional documentation requested by the parent was not an educational record and that the requested documents are not routinely retained by an LEA.

6. In an undated email from the parent to the LEA the parent wrote,

   I am writing to clearly restate that I have requested, as an accommodation related to my disability, that communication and participation be provided in writing. This accommodation is necessary because the current meeting formats being proposed (in person and WebEx) do not provide a setting in which I can safely and effectively participate. When environments do not account for my disability, they create a barrier to meaningful participation. Despite this, I continue to receive repeated requests to participate in real-time meetings without acknowledgement of or adherence to this accommodation. At this point, this is not simply a miscommunication. Continuing to disregard a disability-related accommodation request raises concerns regarding compliance with Section 504 and ADA requirements for equal access and meaningful participation. To move forward, I am requesting confirmation that: ● Communication regarding [Student A and B's] evaluation and services will be provided in writing, and ● I will be able to participate through written input in place of real-time meetings, unless I indicate otherwise. Please also provide all forms, input requests, and documentation in a format that allows for written response. If the district is declining this accommodations, please provide Prior Written Notice (PWN) outlining the refusal, the reasons for the decision, and the data used to support it.

7. Undated emails and an email dated March 27, 2026 show the parent reiterating that the LEA honor her accommodation for parent participation as requests for records and emailed questions and feedback. The Associate Superintendent of Special Education replied that "based on the volume and repetitive nature of recent correspondence, email is not an effective method for resolving your remaining concerns." An in-person or virtual meeting was requested.
8. In an undated email from the LEA to the parents regarding Student B stated,

   We have received your recent emails, and while the team has been providing responses, we believe it is in the best interest of both students to move these discussions into a formal meeting settings. Under the Individuals with Disabilities Education Act (IDEA) specifically 34 CFR § 300.322, one of our responsibilities is to ensure meaningful parental participation. We feel that the depth of the data and information requested is best shared in a collaborative, real-time environment to ensure you ae "fully informed" members of the IEP team. This allows for immediate clarification and a more comprehensive review of the student's programming than email allows. Accordingly, the school is requesting an IEP meeting for both students. A notice of meeting was sent for one of the students and the team will be sending a notice of meeting for the other student by the end of the day today. Please also indicate if you would prefer to meet virtually or in person at the [location].

9. The parent explained in an email to the investigator on April 23, 2026 why she believes she is not able to fully participate in her children's IEP and evaluation meetings.

   While the district has offered participation via WebEx or in-person meetings with a security presence, these options have not provided me with meaningful access to participate in my children's IEP process. These participation conditions were put in place following the November 12 meeting and appear to be based on how that incident was interpreted. However, the resulting restrictions continue to limit my ability to participate meaningfully in my children's educational planning. Regardless of how that meeting was characterized, the current conditions function as ongoing barriers to access and participation rather than supports. Participation through WebEx limits my ability to engage in real-time discussion, respond to statements as they occur, and effectively advocate for my children. Similarly, requiring a security presence for in-person meetings alters the environment in a way that impacts my ability to fully participate and communicate. In addition to the meeting format, access to educational records has been a significant barrier. I have repeatedly requested documents, data, and information in advance and in writing so that I can prepare for meetings and participate meaningfully. When these records are not provided prior to meetings, I am expected to respond to information I have not had the opportunity to review, which limits my ability to understand, question, and contribute to decision-making. Further, when I request specific records and am told that I have been provided "everything," without clarification as to whether certain records do not exist or are no longer retained, this creates confusion and prevents me from fully understanding the information being used to make decisions. I understand that certain types of educational records may be retained for limited periods of time, depending on the type of record and applicable retention practices. This makes clear communication about what records exist, what does not exist, and why especially important to ensuring transparency and meaningful parent participation. The combination of restricted participation formats and lack of timely access to records has made it difficult for me to engage in real-time discussion, provide informed input, and meaningfully participate in educational planning. Meaningful participation requires access to information and the ability to respond and contribute during the decision-making process. The conditions currently in place have limited that access.

10. The mother stated during interview with the investigator that attending a meeting on behalf of her child at the administration building with security presence activates her disability and reminds her that the LEA only provided consequences to her, not the teacher who was triggering her disability response. She further stated that she will not participate in WebEx meetings because it gives the LEA the "impression" that they did nothing wrong in this situation.
11. The LEA stated to the investigator that they will continue to invite the parent to meetings on behalf of her students. They will continue to provide educational records to the parent per IDEA requirements and provide the parent notice of meeting for required meetings and when the IEP team determines it is necessary to call an IEP team meeting.

Conclusion

It is important to remember that the primary focus of the IDEA is on ensuring a Free Appropriate Public Education for the child with a disability. It is also important to note that schools do bear an obligation to make the special education process accessible to parents, including those with disabilities through its procedural safeguards and participation requirements. As described in the regulations of 34 C.F.R. § 300.322(a) opportunity to participate, includes 1) notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and 2) scheduling the meeting at a mutually agreed on time and place. In this case, the allegations were about the methods for participation, not the logistics of the meetings. 34 C.F.R. § 300.322c addresses methods to ensure parent participation, including alternatives such as video conferences and conference calls as viable. Child complaint 26FC512-007 found that virtual meetings and on-site with safeguards in place were viable alternatives to offer parent participation specific to the rescheduled November 12, 2025 IEP meeting.

34 C.F.R. § 300.322d states that an LEA may proceed to meet an IEP team without a parent in attendance if the LEA is unable to convince the parents that they should attend as long as they keep a record of its attempts to arrange a mutually agreed on time and place. In this case the LEA has documented Notice of Meetings and emails showing their requests for and reasons for requesting meetings.

While schools should provide reasonable accommodations to allow for participation by parents, there exists no legal authority that states that the LEA must agree to anything or everything requested as an accommodation. In this case the parent requested an accommodation for parent participation following the LEA's decision to restrict parent meetings to virtual (WebEx) or in person with security measures. It is further noted that the LEA has consistently offered two options to the parent following the incident on November 12, 2025 as a means for parent participation. That the parent rejects these two methods and prefers another does not result in the LEA denying parent participation but is a parent choice to not accept these options.

In the finding of facts section the parent requested that the LEA needed to provide a Prior Written Notice (PWN) to the parent if the LEA rejected the parent's requested accommodation for parent participation. Although not a formal part of the investigation it is important to note that according to 34 C.F.R. 300.503(a)(1) and (2) and K.S.A. 72-3430 written prior notice applies to parents of exceptional children being notified in writing when the LEA proposes to initiate or refuse to change the identification, evaluation, educational placement or provision of free appropriate public education to the child. There is no LEA obligation to provide PWN when refusing to provide a parent-requested accommodation to exercise participation on behalf of a student. Parent accommodations for participation are appropriately addressed by ADA and Section 504.

It is further noted that the purpose of this investigation was solely to examine if the LEA provided parent participation via these two methods to both children for all special education related meetings, not to reinvestigate decisions made earlier during the 2025-2026 school year. It is thus found that the LEA is meeting the IDEA and Kansas regulations for the parent to participate in her children's IEP and evaluation meetings. Based on the foregoing, the *LEA is found IN compliance*.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 C.F.R. § 300.322 (c) and (d)was not found. Corrective action is not required.

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, I am providing notice to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.gov The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

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

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;
(B) the withholding of state or federal funds otherwise available to the agency;
(C) the award of monetary reimbursement to the complainant; or
(D) any combination of the actions specified in paragraph (f)(2)