

**KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES**

**REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #382
ON SEPTEMBER 7, 2023**

DATE OF REPORT OCTOBER 7, 2023

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ----- by his mother, ----- . In the remainder of the report ----- will be referred to as "the student." ----- will be referred to as "the complainant", "the mother", or "the parent".

The complaint is against USD #382 (Pratt Public Schools) which contracts with the South Central Kansas Special Education Cooperative (SCKSEC) to provide special education and related services to students with disabilities. In the remainder of the report, these two responsible public agencies will be referred to as "the district", "the local education agency (LEA)", or "the school".

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on September 7, 2023 and the 30-day timeline ends on October 7, 2023.

Evidence Reviewed

During the investigation, the Complaint Investigator, Nancy Thomas, reviewed all evidence and documentation, which was provided by both the district and the complainant. The following documentation and information were used in consideration of the issue(s):

1. Formal Complaint Request Form signed by the complainant on August 27, 2023
2. Response to the Allegations dated September 17, 2023 written by Dr. Meagan Etheridge, Director of SCKSEC
3. Response to the Allegations dated September 25, 2023 written by Dr. Etheridge
4. Psycho-Educational Reevaluation Report dated March 1, 2021
5. Individualized Education Program (IEP) for the student dated March 1, 2021
6. Manifestation Determination Review dated April 6, 2021
7. Manifestation Determination Review (MDR) Meeting Notes dated April 6, 2021
8. IEP dated March 1, 2021 and amended on April 6, 2021
9. Prior Written Notice (PWN) for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and Request for Consent April 6, 2021 and signed by the parent on that same date

10. Developmental Evaluation completed by Wesley Pediatric Specialists on July 7, 2021
11. PWN dated August 24, 2021
12. IEP for the student dated February 23, 2022
13. PWN dated February 24, 2022
14. IEP for the student dated February 23, 2022 and amended on May 11, 2022
15. PWN dated May 11, 2022
16. IEP for the student dated December 9, 2022
17. PWN dated December 9, 2022
18. IEP Goal Progress Reports for the 2022-23 school year
19. Notes from Monthly Check-in Meetings dated between September 21, 2021 and April 12, 2023
20. IEP Team Meeting Notes dated August 8, 2023 recorded by school staff
21. PWN dated August 8, 2023
22. Notes from the parent meeting held on September 14, 2023 to discuss the child complaint concerns
23. Interview with Kayla Jones, the student's former special education teacher, on September 26, 2023
24. Interview with the complainant on September 28, 2023
25. Interview with Dr. Etheridge and Tony Helfrinch, Superintendent of USD #382, on September 29, 2023
26. Written response to Interview questions dated October 4, 2023 written by Dr. Etheridge

Background Information

The student is currently enrolled in the fourth grade in USD #382. He attends the Haskins Learning Center, a behavior day school, and receives special education and related services. The student was most recently reevaluated on March 1, 2021 and was found eligible for these services under the exceptionality category of Autism. It is noted that the student is currently being reevaluated with additional assessments.

The student began receiving early childhood special education services at age three in USD #382. He continued to receive special education services including paraeducator support when he transitioned to kindergarten at Southwest Elementary School during the 2019-20 school year. At the end of the first grade, the student was placed in a 45 day interim alternative educational setting (IAES) at Haskins Learning Center as a result of physical aggression towards a staff member.

On August 24, 2021, the district provided the parent with PWN to change the student's placement to the separate day school for the second grade and the parent signed consent for this change in services and placement. Both the parent and district staff reported that transitions back to Southwest Elementary School were attempted but these have not been

successful so the student primarily attended Haskins Learning Center during the second, third, and fourth grades where he has received specialized instruction, speech therapy, paraeducator support, counseling, occupational therapy and autism support services.

Issues Investigated

1. **ISSUE ONE:** USD #382, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide extended school year (ESY) services to the student during the past 12 months.
2. **ISSUE TWO:** USD #382, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to review and revise the student's IEP in response to bullying during the past 12 months.
3. **ISSUE THREE:** USD #382, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate disciplinary procedures during the past 12 months.
4. **ISSUE FOUR:** USD #382, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide ABA therapy and one-to-one paraprofessional support to the student during the past 12 months.
5. **ISSUE FIVE:** USD #382, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by not providing homework on Fridays during the 23-24 school year.

Issue One

USD #382, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide extended school year (ESY) services to the student during the past 12 months.

Applicable Law

Federal regulations at 34 C.F.R. 300.106 requires that each public agency must ensure that extended school year services (ESY) are available as necessary to provide a free appropriate public education (FAPE). ESY services must be provided only if the student's IEP determines, on an individual basis, that the services are necessary for the provision of FAPE to the child. ESY services cannot be limited to particular categories of disability or limit the type, amount, or duration of those services. ESY services must be provided to the student beyond the normal school year of the public agency, in accordance with the student's IEP, and at no cost to the parents of the student.

Johnson v. Independent School District No. 4 of Bixby, 921 F.2d 1022 (10th Cir. 1990) directs schools districts to first consider "whether the benefits accrued to the child during the regular school year will be significantly jeopardized if [the child] is not provided an educational program during the summer months. . . . The analysis of whether the child's level of

achievement would be jeopardized by a summer break in his or her structured educational programming should proceed by applying not only retrospective data, such as past regression and rate of recoupment, but also should include predictive data, based on the opinion of professionals in consultation with the child's parents as well as circumstantial considerations of the child's individual situation at home and in his or her neighborhood and community." Kansas is within the 10th Circuit and is bound by the decisions of the 10th Circuit Court of Appeals.

In Chapter 5, Section F: Extended School Year / Day Services, the Kansas Special Education Process Handbook states that IEP teams cannot just stop after a regression-recoupment analysis. IEP teams must also consider:

1. The degree of impairment,
2. The degree of regression suffered by the child,
3. The recovery time from this regression,
4. The ability of the child's parents to provide the educational structure at home,
5. The child's rate of progress,
6. The child's behavioral and physical problems,
7. The availability of alternative resources,
8. The ability of the child to interact with [nondisabled] children,
9. The areas of the child's curriculum which need continuous attention,
10. The child's vocational needs, and
11. Whether the requested services are extraordinary for the child's condition, as opposed to an integral part of a program for those with the child's condition.

Federal regulations at 34 C.F.R. 300.503(a) requires school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

Analysis: Findings of Fact

The parent alleges that USD #382 failed to consider the provision of extended school year services to the student during the summer of 2023. She indicated that she has requested ESY services on multiple occasions and the district has always refused to provide these services because the student does not show regression over periods when special education and related services are not provided.

The district acknowledged that the student has never been eligible for ESY services during his school career because IEP goal data shows the student does not show significant regression / recoupment of skills during school breaks when special education and related services are not provided.

Dr. Etheridge reported that the team reviewed regression/recoupment data at the annual IEP team meeting held on December 9, 2022 to consider the need for ESY services. She indicated

that the team, including the parent, agreed that the student does not show significant regression and require significant time to recoup learning loss over periods of school breaks and does not need ESY services.

The December 9, 2022 IEP documents that ESY services were discussed at the IEP team meeting and a determination was made that there were no predictive or circumstantial factors considered by the IEP team that would indicate a need for ESY services. The PWN dated December 9, 2022 does not address ESY services. Dr. Etheridge indicated that was because the parent and the team were in agreement that ESY services were not necessary to provide FAPE to the student.

The parent acknowledged that ESY services were discussed at this IEP team meeting but indicated she was not in agreement. Kayla Jones, the student's third grade special education teacher at Haskins Learning Center, reported that she spoke to the school psychologist, Todd Blackwell, and Haskins school principal, Laurie Harwood, regarding the need to reconsider ESY services for the student. However, she was told by Mr. Blackwell that the student's data did not show any concerns with significant regression/recoupment of skills. Ms. Jones stated that she spoke to the parent in April 2023 about the possibility of conducting another IEP team meeting to discuss ESY services but the parent did not request such a meeting be held.

Another IEP team meeting was held on August 8, 2023 to review and revise the student's IEP, if necessary, prior to the start of fourth grade during the 2023-24 school year. At that meeting, the parent questioned why the student was not provided with ESY services even though he is behind his peers academically. The PWN dated August 8, 2023 states, "Extended School Year services was not an option due to lack of data showing that he qualifies for this service".

Conclusion

Based on the foregoing, it is not substantiated that USD #382 failed to provide extended school year (ESY) services to the student during the past 12 months because interviews and documentation show the student's IEP team discussed and considered ESY services for the student at the December 9, 2022 and August 8, 2023 IEP team meetings based on both regression/recoupment data and a determination that "there were no predictive or circumstantial factors considered by the IEP team that would indicate a need for ESY services".

USD #382 provided PWN following both IEP team meetings and the PWN dated August 8, 2023 specifically addresses ESY services. However, ESY services were not addressed in the December 9, 2022 PWN because district staff were under the impression that the parent was in agreement with the determination that the student was not eligible for such services. IDEA requires that parents be provided with PWN prior to the refusal of services necessary for the provision of FAPE.

Based on the foregoing, a finding of noncompliance *is substantiated* against USD #382 for failing to provide the parent with appropriate PWN refusing to provide ESY services during the

2022-23 school year. Failure to provide this notice resulted in the parent being unaware of her due process rights if she was in disagreement with the district's offer of FAPE.

Issue Two

USD #382, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to review and revise the student's IEP in response to bullying during the past 12 months.

Applicable Law

The IDEA does not define bullying so no findings will be made in regards to whether the student was bullied or was not bullied during the past twelve months.

However, the federal regulations implementing the IDEA at 34 C.F.R. 300.324(b)(1) require school districts to review the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved and to revise, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation, information about the student provided to or by the parents; the student's anticipate needs; or any other matters.

Any acts of bullying which were impacting the student's progress towards his IEP goals would certainly be a reason for the IEP team to meet again to review the student's IEP and to revise, if necessary.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference.

The parent reported that she believes that the student was bullied in the special education classroom at Haskins Learning Center during the past 12 months. She indicated that she had spoken to the special education teacher on multiple occasions regarding inappropriate behavior in the school setting and believed these instances were as a result of some type of bullying from the student's peers.

The student's third grade special education teacher, Kayla Jones, reported there were six students assigned to her classroom during the 2022 school year. Between October and February, the student was targeted by one particular peer and, in these situations, the plan was to move the student to another special education classroom within Haskins Learning Center for safety reasons. Dr. Etheridge, the Director of the SCKSEC, stated that this was considered a temporary change in the student's classroom assignment but that all special education and related services continued to be provided as required by the student's IEP.

Ms. Jones also reported that between February and May another peer refused to play with the student and repeatedly told him that they could not be friends. She indicated this hurt the student's feelings and caused him to become dysregulated and display inappropriate

behaviors. The plan was for the student to move to the sensory room in order to use strategies and tools to become regulated and rejoin the class. Dr. Etheridge noted the student has goals on his IEP for behavior and a Behavior Intervention Plan to address behavior in the school setting which include use of strategies and sensory tools.

The IEP in effect beginning on September 7, 2022 was dated February 23, 2022 and amended on May 11, 2022. This IEP included five goals related to reading, speech, math, and two behavioral goals as noted below:

When given individual and/or small group instruction with the Social Worker in regards to self-awareness and self-regulation, the student will accurately identify his body state and appropriate regulation strategies in 3 out of 4 opportunities given, by the end of the IEP year.

By the end of the IEP year, the student will be able to advocate for himself when he is overwhelmed, by asking for a break 80% of the time on 4 out of 5 trials.

The current IEP is dated December 9, 2022 and includes six goals related to reading, math, and speech as well as the following behavioral goal:

By the end of the IEP year, when frustrated, the student will communicate his needs prior to escalation 90% of the time in three out of four trials.

Both IEPs in effect during the 2022-23 school year also included three accommodations/modifications related to behavior management. First, the student may have access to sensory tools as needed; second, the student is allowed to leave the classroom in order to de-escalate; and third, the student will be assigned to a separate, quiet location so that the student will know where to go in any crisis situation.

IEP goal progress reports for the 2022-23 school year show the student made progress towards meeting the majority of his academic and social / behavioral goals during most reporting periods.

Documentation shows the student's team from Haskins Learning Center and Southwest Elementary School met about once a month to review the student's progress beginning with his placement at the Haskins Learning Center on April 6, 2021. Notes from these meetings held during the 2022-23 school year reflect the student generally being successful in this placement.

Conclusion

Based on the foregoing, it is *not substantiated* that USD #382 failed to review and revise the IEP, as necessary, in response to lack of progress towards his IEP goals caused by reports of bullying during the 2022-23 school year.

Issue Three

USD #382, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate disciplinary procedures during the past 12 months.

Applicable Law

The IDEA at 34 C.F.R. 300.530 allows school officials to discipline students with disabilities for violations of the student code of conduct and requires that specific procedures are followed whenever a student with a disability is subject to a disciplinary change of placement.

Federal regulations implementing the IDEA at 34 C.F.R. 300.536 states that a removal of more than 10 consecutive school days or a removal of more than 10 cumulative school days when a pattern of behavior exists constitutes a disciplinary change of placement. School staff make the determination if a pattern of behavior exists.

Federal and state regulations implementing the IDEA at 34 C.F.R. 300.153(c) and K.A.R. 91-40-51(b)(1) provide the Kansas Department of Education (KSDE) with the jurisdiction to investigate allegations of noncompliance with special education laws that occurred not more than one year from the date the complaint is received by KSDE.

Federal regulations at 34 C.F.R. 300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE (free appropriate public education) to a child who has or is suspected of having a disability. State regulations at K.A.R. 91-40-27(a)(3) require school districts to obtain parent consent before making a material change in services or a substantial change in placement. "Material change in services" is defined at K.A.R. 91-40-1(mm) as an increase or decrease of 25% or more of the frequency or duration of a special education service, related service, or supplementary aid or service specified in the child's IEP. "Substantial change in placement" is defined at K.A.R. 91-40-1(sss) as the movement of an exceptional child for more than 25% of the child's school day from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

Analysis: Findings of Fact

The parent acknowledged and the district confirmed that the student had not been removed from his current placement at Haskins Learning Center for violations of the student code of conduct during the past 12 months.

The parent's disciplinary concern stems from the student being removed from his first grade classroom to Haskins Learning Center at the end of the 2020-21 school year due to physical aggression. The parent is upset that the student has remained at the Haskins Learning Center

for almost three school years because of this disciplinary incident even though he was only supposed to be placed there for 45 school days.

USD #382 acknowledged the student displayed physical aggression towards a school staff member in April 2021 and was placed at the Haskins Learning Center as an interim alternative educational setting for 45 school days following a manifestation determination review (MDR) meeting held on April 6, 2021. The parent was provided with prior written notice of the 45 day interim alternative educational placement and provided written consent on April 6, 2021.

The parent was again provided with a PWN and gave written consent for a significant change of placement and material change in services on August 24, 2021. The PWN proposed the following action:

Due to the student's need of a more restrictive setting, the team considered returning the student to his general education school; however, it was decided to re-evaluate in 30 days. The 45th day of his placement is 09/01/21 and there will be a meeting on 10/12/2021 to re-evaluate with data collected by the resource teacher.

Dr. Etheridge reported the IEP team reviewed the classroom behavioral data and the July 7, 2021 developmental evaluation from Wesley Pediatric Specialists and determined that continued placement in the separate day school setting was the most appropriate for the students at that time. However, Dr. Etheridge acknowledged that no documentation of that review and determination by the IEP team could be located and was not provided.

An IEP team meeting was held on February 23, 2022 with the parent in attendance. A PWN was provided to the parent on February 24, 2022 proposing that the student begin to transition back to Southwest Elementary School from Haskins Learning Center. Documentation reflects that the parent provided written consent for this significant change of placement on March 3, 2022.

Another IEP team meeting was held on May 11, 2022 to review and revise the February 23, 2022 IEP with the parent in attendance. USD #382 provided the parent with PWN proposing to end the transition back to the general education setting and to return to the Haskins Learning Center for educational services. The PWN stated the reason for this action was "Removal of his transition to Southwest was proposed due to dysregulation. The team agreed that pausing his transition would be best for his success". The parent provided written consent for this significant change of placement on May 12, 2022.

Conclusion

In this case, it appears that USD #382 met with parents multiple times regarding the end of the 45 day interim alternative educational placement on September 1, 2021. The district proposed and the parent consented to a reevaluation based on continued services being provided at the Haskins Learning Center on August 24, 2021. This reevaluation was to be reviewed and a

determination of services and placement was to occur by October 12, 2021; however, USD #382 was unable to locate any documentation of the meeting being held.

The IEP team, including the parent, met on February 23, 2022 to review and revise the student's IEP to start transitioning him back to the general education setting. The parent provided written consent to begin a transition back to Southwest Elementary School on March 3, 2022. The February 23, 2022 IEP was amended on May 11, 2022 to end the transition and the parent gave written consent for this significant change of placement on May 12, 2022.

While the district failed to obtain written consent for continued placement at Haskins Learning Center in October 2021, this noncompliance occurred more than 12 months beyond the filing of the September 7, 2023 complaint with the KSDE.

However, subsequent PWNs proposing significant change of placements both transitioning the student back to Southwest Elementary School and then ending that transition were provided to the parent. Documentation shows the parent provided written consent for each of these proposed actions. Based on the foregoing, it is *not substantiated* that the district failed to obtain parent consent for the student's significant change of placements following the end of the 45 day interim alternative educational placement.

Issue Four

USD #382, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide ABA therapy and one-to-one paraprofessional support to the student during the past 12 months.

Applicable Law

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

Federal and state regulations implementing the IDEA at 34 C.F.R. 300.153(c) and K.A.R. 91-40-51(b)(1) provide the Kansas Department of Education (KSDE) with the jurisdiction to investigate allegations of noncompliance with special education laws that occurred not more than one year from the date the complaint is received by KSDE.

Analysis: Findings of Fact

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

The parent reported that she requested the student receive applied behavioral analysis (ABA) therapy and even offered to privately pay for a 1-1 paraprofessional to work with the student at the IEP team meeting held in February 2022. She indicated the district refused to provide the ABA therapy and would not allow a privately paid paraprofessional to accompany the student to school for additional support. In this case, the alleged noncompliance occurred

more than 12 months before September 7, 2023 and will therefore not be investigated as there is no jurisdiction provided under the IDEA for such an investigation.

The IEPs in effect during the 2022-23 school dated February 23, 2022 and amended on May 11, 2022 as well as the and December 9, 2022 do not include ABA therapy. Both of these IEPs include "attendant care" during the lunch period but no other paraprofessional or paraeducator minutes are required. USD #382 staff confirmed the student receives extra support during the lunch period.

The IEP team meeting notes from the past 12 months dated December 9, 2022 and August 8, 2023 do not reflect the parent requesting nor the IEP team discussing ABA therapy or a privately paid paraprofessional.

Conclusion

Based on the foregoing, it is *not substantiated* that USD #382 failed to implement the student's IEP, specifically regarding the provision of ABA therapy and a 1-1 paraprofessional as these services are not required by the two IEPs which have been in effect during the past 12 months.

Issue Five

USD #382, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by not providing homework on Fridays during the 23-24 school year.

Applicable Law

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

Federal regulations at 34 C.F.R. 300.324(b)(1) require school districts to review a student's IEP periodically, but at least annually to determine whether the annual goals for the student are being achieved and revise the IEP, if appropriate, in order to address any lack of expected progress toward those annual goals, the results of any reevaluation, any information about the child provided to, or by the parents, the child's anticipated needs, or other matters. In addition, federal regulations at 34 C.F.R. 300.324(a)(4), states that in making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.

In addition, federal regulations implementing the IDEA at 34 C.F.R. 300.503(a) requires school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, or educational placement of the child

or the provision of FAPE to a child who has or is suspected of having a disability. In Kansas, 15 school days is considered a “reasonable amount of time” by the Department of Education.

Analysis: Findings of Fact

The parent reported the district went to a four-day school week during the 2023-24 school year and that no special education and related services are provided to any students on Fridays. The parent indicated that she is concerned that the student will fall even further behind academically with no school on Fridays so she requested the district provide homework for the student to complete on Fridays.

The district acknowledged that the 2023-24 school calendar for USD #382 uses a four-day school week model with no specialized instruction or related services being provided on Fridays each week. The director of the SCKSEC, Dr. Eldridge indicated the parent made the request for homework during the August 8, 2023 IEP team meeting because the student is reading three grade levels below his peers.

The PWN dated August 8, 2023 states that multiple concerns were discussed at the IEP meeting but that no changes were made to the student’s IEP. The PWN states that the mother wants learning materials to use on days when school is not in session due to the 4-day school week and that the student’s teacher will provide access to some learning materials.

The additional Friday work was discussed and clarified at the September 14, 2023 parent meeting which was held to discuss the child complaint filed by the parent. The notes from that meeting reflect that the parent “hated” the new schooling model and that she was again requesting additional work on Fridays to help him get him caught up. The district again agreed to send work home and agreed to grade that work / provide feedback when it was returned to school.

The mother acknowledged that USD #382 has been providing additional work that the student can complete on Fridays.

Conclusion

Based on the foregoing, it is *not substantiated* that USD #382 failed to implement federal regulations at 34 C.F.R. 300.300.323(c)(2) because the student’s IEP did not include a requirement regarding the provision of homework on Fridays during the 2023-24 school year.

Summary of Conclusions/Corrective Action

1. **ISSUE ONE:** A violation of federal regulations at 34 C.F.R. 300.503(a) was found, based on the fact that USD #382 failed to provide the parent with prior written notice a reasonable time before they refused to change the provision of FAPE to the student by not providing ESY services following the December 9, 2022 IEP team meeting. Failure to provide this notice resulted in the parent being unaware of her due process rights if she was in disagreement with the district's offer of FAPE. Corrective action is required as follows:
 - a. CORRECTIVE ACTION:
 - i. USD #382 and the SCKSEC shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will provide appropriate prior written notice each time it refuses to change the provision of FAPE to a student.
 1. No later than November 7, 2023
 - ii. The SCKSEC will provide training to all special education staff and administrators at Haskins Learning Center regarding the requirement to provide PWN to parents whenever services are considered or refused that makes changes to the provision of FAPE. At a minimum, this training must include a review of the requirements related to PWN and provide these staff with instructions for completing the PWN documentation. USD #382 will provide documentation to SETS of the name and position of the SCKSEC staff member who conducted the training, the date and content of the training as well as a sign-in sheet signed by all individuals who attended the training.
 1. No later than December 1, 2023
2. **ISSUE TWO:** A violation of 34 C.F.R. 300.324(b)(1) was not found based on the fact that despite reports of bullying by peers at Haskins Learning Center, the student made progress towards his IEP goals during the 2022-23 school year. USD #382 did not have a reason to suspect the alleged bullying behavior was keeping the student from receiving FAPE so was not required to reconvene the IEP team in order to review, and revise the IEP, if necessary, to address the allegations of bullying. Based on the foregoing, no Corrective Action is required
3. **ISSUE THREE:** A violation of 34 C.F.R. 300.530 was not found for failing to follow appropriate disciplinary procedures during the past 12 months as no disciplinary actions have been imposed during that time frame. In addition, a violation of 34 C.F.R. 300.503(a) and K.A.R. 91-40-27(a)(3) was not substantiated for failing to provide PWN and obtain consent for the student's continued placement at Haskins Learning Center because documentation shows the parent provided written consent for this placement on May 12, 2022. Based on the foregoing, no corrective action is required. However, it

is suggested that the district review its procedures and practices for maintaining student records.

4. **ISSUE FOUR**: A violation of federal regulations at 34 C.F.R. 300.300.323(c)(2) is not substantiated because the student's IEPs in effect during the past 12 months do not require the student to be provided with ABA therapy or a 1-1 paraprofessional. Based on the foregoing, no corrective action is required.
5. **ISSUE FIVE**: A violation of federal regulations at 34 C.F.R. 300.300.323(c)(2) is not substantiated because the student's IEPs in effect during the 2023-24 school does not require the student to be provided with homework on Fridays when school is not in session. Documentation reflects that the IEP team considered the parents request at the August 8, , 2023 IEP team meeting and provided the parent with appropriate PWN refusing to make changes to the student's current IEP. Based on the foregoing, no corrective action is required.

Investigator

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

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

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

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

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

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

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

- (A) The issuance of an accreditation deficiency advisement;
- (B) the withholding of state or federal funds otherwise available to the agency;
- (C) the award of monetary reimbursement to the complainant; or
- (D) any combination of the actions specified in paragraph (f)(2)