

SAKANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #453
ON NOVEMBER 29, 2023

DATE OF REPORT JANUARY 8, 2024

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” and ----- will be referred to as “the complainant”, “the mother”, or “the parent”.

The complaint is against USD #453 (Leavenworth Public Schools). In the remainder of the report, this public agency may also be referred to as “the district”, “the local education agency (LEA)”, or “the school”.

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal from the date on which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE received the complaint on November 29, 2023 and the deadline to make a final determination regarding compliance will be January 28, 2024.

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 issues:

1. Individualized Education Program (IEP) dated April 25, 2023
2. IEP dated September 21, 2023
3. IEP Teacher Packet for the student
4. Prior Written Notice (PWN) for Identification, Initial Services, Placement, Change in Services/Placement dated September 21, 2023 and signed by the parent
5. Guidance Office Log for the 2023-24 school year
6. Learning Lab Log for the 2023-24 school year
7. USD #453 Response to the Allegations dated December 12, 2023
8. BIP Documentation form [Teacher Checklist]
9. BIP Fidelity Checks and anecdotal observations dated August 23, September 6, October 31, November 9, November 13, November 27, and November 28, 2023
10. The 2023-24 School Year PowerSchool Attendance Record for the student

11. The student's class schedules before and after the schedule change on November 29, 2023
12. Paraprofessional Schedule for 2023-24 school year
13. Special Education Teacher Schedule for 2023-24 school year
14. Telephone interview with the following USD #453 staff on December 15, 2023: Cathy Redelberger, Director of Special Education; Rebekah Varvel, Assistant Director of Special Education; Stephanie Ferney, Board Certified Behavior Analyst; Mike Wilson, Guidance Counselor; Kelsey Stimatze, Assistant Principal; and Shawn Miller, School Psychologist
15. Telephone interviews with the parent on December 4 and 18, 2023
16. Response to written questions from Dr. Redelberger dated January 4, 2024
17. Email dated August 18, 2023 at 10:45 AM written by Mr. Longberg to general education teachers: Mary Riccio, Jerald Gross, Elizabeth Woodman, Amanda Drinkard, Julie Heinking, Sarah Padilla, Jennifer Smith; and special education teacher, Robin Kraus
18. Emails between a variety of general education teachers, special education teachers, support staff, and administrators regarding implementation of the student's IEP dated between August 18, 2023 and November 27, 2023
19. Staff Directory for USD 453 on the district's website
20. Communication Log dated between November 21, 2017 and October 18, 2023
21. Office Referrals dated between November 9, 2015 and October 4, 2023
22. The 2023-24 District Calendar for USD #453
23. Suspension Letters dated September 18, September 26, October 16, October 25, and December 15, 2023 which document a total of nine days of out-of-school suspension

Background Information

The student is currently enrolled in the seventh grade in USD #453 and attends Richard Warren Middle School. According to the September 21, 2023 Prior Written Notice for Identification, Initial Services, Placement, Change in Services/Placement signed by the parent, the most recent reevaluation for special education and related services was conducted on that same date. The team determined the student continued to be eligible under the exceptionality category of Emotional Disturbance with a secondary eligibility found under the exceptionality category of Other Health Impaired due to a medical diagnosis of Attention Deficit Hyperactivity Disorder. The student's IEP was reviewed and revised on September 21, 2023 with the parent in attendance.

Issues Investigated

Based on the written complaint and an interview with the parent, five issues were identified and investigated.

Issue One

USD #453, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically the behavior intervention plan (BIP) for providing a "safe space" for the student to de-escalate during the 2023-24 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.

Analysis: Findings of Fact

The parent believes USD #453 has not implemented the student's BIP during the 2023-24 school year by not providing him with a "safe space" when he becomes overwhelmed and starts to act out in the classroom as required by his IEP. This has resulted in multiple office referrals for disciplinary action.

Two IEPs were in effect during the 2023-24 school year. The first IEP was dated April 25, 2023 and included a BIP. This BIP does not reference a "safe space" but states, *"Option to work in alternate location if too overwhelmed in the gen ed classroom."* This BIP includes a "Reactive Plan" which outlines the staff response to when the student becomes argumentative or becomes physically aggressive by utilizing an alternate location within the classroom prior to moving to an alternate location outside of the general education classroom.

The most current IEP was developed on September 21, 2023 and includes a behavior intervention plan (BIP). And again, the BIP does not reference a "safe space" but states, *"Allow the student to use alternate locations away from the classroom to reset himself emotionally if he starts to escalate. (Counselor's office)". Ensure that he understands that taking a break is not a punishment, but a chance to re-regulate himself. May ask for a Break (Break Cards).*

The BIP also includes a "Reactive Plan" with specific steps to follow when the student chooses to not use an alternate location away from the classroom to reset himself emotionally when he is displaying escalated behavior in the classroom. These steps include:

- Provide quiet, direct feedback on what he is saying or how he is saying it
- If he continues problem behavior, give the nonverbal signal and then come back to class. (Tap on his desk)
- Staff walks away for 1 min unless behavior is disruptive to classroom
- If he does not stop behavior or escalates behavior, ask him if he can go on his own or if he needs someone to walk him.
- Wait 15 seconds, and if he does not either leave classroom or de-escalate on own, call for office assistance.

- After de-escalation, listen to and document his account of what happened.
- If appropriate for the situation, hold a restorative circle or similar intervention to begin repairing the relationships between all parties

USD #453 provided copies of anecdotal notes and BIP Fidelity Check rating forms completed by Renee Collins, Behavior Technician, on two dates and in two different classroom settings. A rating of “1” meant the observation did not reflect the BIP component; a rating of “2” meant the observation reflected some of the BIP components; and a rating of “3” meant the observation reflected all of the BIP components. The rating forms included the following requirement from the student’s BIP:

Allow the student to use alternate locations away from the classroom to reset himself emotionally if he starts to escalate. (Counselor’s office). Ensure that he understands that taking a break is not a punishment but a chance to re-regulate himself. May ask for a Break (Break Cards).

This requirement was rated a “3” on November 27, 2023 in the Social Studies class. It was noted that the student requested to take a break and the teacher responded by contacting the counselor’s office and then allowing the student to go to the counselor’s office.

However, this requirement was rated a “1” on November 28, 2023 in the Math class. It was noted that the student never asked to take a break to go to the counselor’s office and the teacher never offered a break as an option to reset himself emotionally. The anecdotal notes showed the student was becoming dysregulated and escalating his behavior beginning at 8:39 AM and he was offered the classroom accommodation to work in an alternate setting at 9:11 AM with administration being called to escort the student from the classroom at 9:13 AM.

Conclusion

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.

In this case, the September 21, 2023 IEP includes a BIP which requires that the student be allowed to use alternate locations away from the classroom to reset himself emotionally if he starts to escalate. (Counselor’s office) and to ensure that he understands that taking a break is not a punishment but a chance to re-regulate himself. He may request a break to reset himself emotionally by using break cards or school staff may request that he take a break per the Reactive Plan.

Documentation provided by the district based on an anecdotal observation and the BIP Fidelity Check conducted on November 28, 2023 in the Math class showed this BIP component was not implemented as written. The teacher never offered the student to take a break as an option to reset himself emotionally when the student became dysregulated and began to escalate his behavior; instead, the teacher offered the student the opportunity to work in an

alternate setting. The anecdotal notes showed the student was becoming dysregulated and escalating his behavior beginning at 8:39 AM. He was offered the classroom accommodation to work in an alternate setting at 9:11 AM with administration being called to escort the student from the classroom at 9:13 AM.

Based on the foregoing, USD #453 *did not comply* with the federal regulations to implement the student's IEP as written, specifically the BIP, as required on November 28, 2023.

Issue Two

USD #453, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically the behavior intervention plan (BIP) for providing triage with a trusted adult on September 19, 2023 and October 24, 2023.

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.

Analysis: Findings of Fact

Again, the parent is concerned that the multiple office referrals for discipline are the result of USD #453 not implementing the student's BIP as written. She believes that if the student had been allowed to triage with a trusted / preferred adult on September 19, 2023 and again on October 24, 2023, the disciplinary incidents could have been prevented.

The findings in Issue One are incorporated herein by reference.

The BIP in the April 25, 2023 IEP requires, *"When possible, pair the student with adults he has relationships with."* This IEP also includes an accommodation which requires, *"The student will receive triage with a trusted/preferred staff member every school morning and after unstructured classes (such as specials, lunch, and recess)"*.

The BIP in the September 21, 2023 IEP requires, *"Check-in/Check-out for each class period and brief reminder of his options if he is struggling as well as review of classroom expectations."* This IEP also includes an accommodation which requires, *"The student will receive triage with a trusted/preferred staff member every school morning."*

It is noted that the parent's allegations were related to the student not receiving triage with a trusted adult on two specific dates. While the parent believed this requirement was included in the student's BIP, it is actually required by an IEP accommodation; regardless, the IDEA requires the IEP to be implemented as written. Please note that this investigation will focus on the implementation of the IEP accommodation on the two dates specifically referred to by the

parent in her original complaint rather than the implementation of the Check-In/Check-out for each class required by the BIP.

It is noted that the student transferred from the intermediate school setting to the middle school setting at the beginning of the 2023-24 school year and that the student's schedule was changed on several occasions during the first semester. The student's classes and general education teachers are as follows:

- Pride Time (Jason Longberg)
- Language Arts 7 (Jennifer Smith)
- Math 7 (Julie Heinking – before November 29, 2023 / Kyle Becher – after November 29, 2023)
- Science 7 (Elizabeth Woodman)
- Beginning Art (Sarah Padilla)
- Computer Tech (Michele Edwards)
- Social Studies 7 (Jerald Gross / Lillyanna Webster)
- Career Exploration (Amanda Drinkard)

USD #453 reported the student has an opportunity to triage each morning during PRIDE, which is first hour. USD #453 noted, *"Sometimes he triages with Mr. Longberg, his PRIDE teacher, and sometimes he triages with Ms. Stimatze, his assistant principal. On September 19, 2023, the student was tardy to school, so he missed his triage time. Multiple adults, including Mr. Longberg and the student's mother (via phone) ended up triaging with the student after he arrived at school in order to get him on the right track for the day. On October 24, 2023, the student had an unexcused absence for first hour and again missed his triage time"*.

The student's PowerSchool Attendance Record for the 2023-24 school year confirms the student was not in attendance during his first period PRIDE class on Tuesday, September 19, 2023 and on Tuesday, October 24, 2023.

Conclusion

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.

In this case, both the April 25, 2023 and September 21, 2023 IEPs include a requirement for triage each morning with a trusted adult. Interviews and documentation found that USD #453 had a procedure and practice for providing triage with a trusted adult each morning during the first hour PRIDE class. This triage was not provided during first hour on September 19, 2023 and again on October 24, 2023 due to the student being absent from school on those dates and unavailable to participate in the triage.

On September 19, 2023, the student's IEP dated April 25, 2023 was in effect and that IEP also required triage after unstructured classes. While USD #453 did not describe a specific procedure for providing triage with a trusted adult after unstructured classes, the district did describe how multiple adults, including Mr. Longberg and the student's mother, triaged with the student to "get him back on the right track" on September 19, 2023.

Based on the foregoing, a finding is made that USD #453 *is in compliance* with the IDEA requirement to implement the student's IEP as written because the lack of services on the two specific dates was due to the absence of the student rather than any failure on the part of the district.

Issue Three

USD #453, 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 paraprofessional support during the 2023-24 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.

Analysis: Findings of Fact

The parent stated that she believes the student requires access to a paraprofessional at all times throughout his school day to provide supervision and support for the implementation of the student's IEP and BIP. USD #453 reported the IEP does not require paraprofessional support for the student but instead requires the student to receive special education instructional support for but only during the general education math class.

The findings of Issues One are incorporated herein by reference.

Both the IEP dated April 25, 2023 and the IEP dated September 21, 2023 IEP require direct special education instructional support in the general education classroom for 90 minutes two days per week and for 44 minutes for one day per week. A rationale and additional service details are included on the services summary in both IEPs and states, "*The student would benefit from behavioral support in Math*".

Dr. Redelberger explained that the instructional support can be provided by any special education staff person, teacher or paraprofessional in the general education classroom setting. It is noted that the student's IEP does not include any needed supports to assist the student to meet his daily personal needs such as toileting, feeding, dressing, etc.

Interviews with LEA staff found instructional support for the student's behavior was originally provided in the seventh grade math class through a co-teaching model. The student was

transferred to another seventh grade math class taught by a different general education teacher with instructional support provided by a paraprofessional on November 29, 2023.

In addition, USD #453 provided copies of the student's classroom schedule showing the student was assigned to the seventh grade math class co-taught by general education teacher, Julie Heinking, and special education teacher, Robin Krause until November 28, 2023.

Beginning on November 29, 2023, the student was transferred to the seventh grade math class taught by general education teacher, Kyle Becher. The paraprofessional schedule for Gloria Montes documents that she is currently assigned to provide support to the student during Mr. Becher's seventh grade math class.

Conclusion

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.

In this case, both of the student's IEPs in effect during the 2023-24 school year require special education instructional support for 90 minutes two days per week and for 44 minutes for one day per week and clarify that this support should be provided for behavior in the general education Math classroom setting. Interviews and documentation found that USD #453 has practices in place for providing this instructional support required by the IEP during the student's assigned seventh grade math class during the 2023-24 school year. Prior to November 29, 2023, this instructional support was provided using a co-teaching model by a special education teacher. Following that date, the instructional support was provided by the assignment of a paraprofessional to the student's math class.

Based on the foregoing, a finding is made that USD #453 *is in compliance* with the IDEA requirement to implement the student's IEP as written.

Issue Four

USD #453, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically the accommodations related to and addressing the student being easily overwhelmed during the 2023-24 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.

Analysis: Findings of Fact

The parent again reported she is concerned with the number of times the student has had office referrals during the 2023-24 school year. She believes this is because the district is failing to implement his IEP, specifically proactively providing accommodations when the student becomes overwhelmed in the classroom setting.

The findings of Issue One are incorporated herein by reference.

The student's IEPs dated April 25, 2023 and September 21, 2023 both include the following accommodations related to the student being overwhelmed in the classroom setting:

- The student will be able to ask for a break when he is feeling overwhelmed and/or hungry
- Work in an alternate location (ie. learning lab) if needed during lengthy or difficult assignments or assessments

The district stated,

The student has utilized these accommodations throughout this school year in a robust manner. Towards the beginning of the year, the student primarily relied on the learning lab as an alternate space to take a break or work. He has also independently gone to the office ("white room") and the ISS [In School Suspension] room on multiple occasions when that was seemingly his preferred location. For the last several weeks, he has frequently used the guidance office as his alternative work and break space. At times, the student has been offered alternative locations within his classroom to complete his work. The student is not hesitant to take a break if he feels like he needs it. He often initiates going to an alternate location. On the occasions when he does not, staff prompt him to take a break. When staff prompt him to take a break or go to an alternate location, he commonly refuses it. If there was any occasion that the student did not take a break or utilize an alternative location to work, it was not due to the fact that the accommodation was not available to him or that he was unaware of how to utilize it.

Interviews with school staff noted that the student frequently requests to take breaks when he is feeling overwhelmed; however, when a break or alternate location to work is offered by a school staff member, he often refuses and the Reactive Plan in the BIP is then implemented.

The district provided copies of sign-in logs from the Learning Lab and the Counselor's Office showing the student took breaks and worked in these alternate locations on ten separate occasions between August 21, 2023 and September 19, 2023.

Conclusion

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.

In this case, the student's IEPs in effect during the 2023-24 school year include accommodations to allow the student to take breaks when he is feeling overwhelmed and to work in an alternate location on assignments when he is overwhelmed. Interviews and documentation found that USD #453 has practices in place for providing these accommodations to the student.

Based on the foregoing, a finding is made that USD #453 *is in compliance* with the IDEA requirement to implement the student's IEP as written.

Issue Five

USD #453, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to inform the general education teachers of their responsibilities for implementing the student's IEP during the 2023-24 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.323(d)(2) requires school districts to ensure that each general education teacher, special education teacher, related services provider, and any other service provider is informed of their responsibilities for implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the child's IEP.

Analysis: Findings of Fact

The parent believes the student's general education teachers are not consistently implementing the student's IEP because they are unaware of the requirements of the BIP as well as the accommodations required by his IEP.

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

USD #453 reported it has procedures in place to notify each general education teacher of a particular student's IEP and their responsibility for its implementation. Documentation showed the first day of the 2023-24 school year for the student was August 15, 2023.

The district reported the school psychologist, Shawn Miller, personally reached out to all of his teachers to see what additional information or guidance could be provided in order to support the student at the beginning of the school year. The Communication Log included the following entry regarding this contact:

Miller – On 8/17/23 I sought feedback from teachers about how the student was doing in his classes. Feedback showed that he was struggling a little bit in most classes. I forwarded these emails to Dr. Jokerst [Special Education Coordinator], Stephanie Ferney [Board Certified Behavior Analyst], and Jason Longberg [Special Education Teacher] on 8/18 to see if they could provide teachers with any additional information about how to best support the student.

In addition, interviews and documentation showed that the Board Certified Behavior Analyst, Ms. Ferney, and her team conducted multiple ongoing BIP fidelity checks in the classrooms and met with the student's classroom teachers beginning on August 23, 2023. In addition all of the student's classroom teachers were provided with a chart for implementing the student's BIP with fidelity.

The district also noted that all of the student's teachers were invited to the September 21, 2023 IEP; however, the IEP Participant section of that IEP only documents that Ms. Woodman, the science teacher, and Mr. Longberg, the special education teacher, attended the IEP team meeting.

On August 18, 2023, Mr. Longberg emailed a copy of the IEP Teacher Packet to all of the general education teachers listed on the student's class schedule with the exception of Michele Edwards, the long-term substitute teacher for the Computer Tech class. This IEP Teacher Packet included the classroom accommodations, the BIP, and the required special education services. It was noted that several subsequent emails between staff regarding the student's IEP included Ms. Edwards in the correspondence so that she was aware of updates and changes in the student's IEP.

It is noted that USD #453 changed the general education Math 7 teacher assignment from Ms. Heinking to Mr. Becher beginning on November 29, 2023. During the interview, school staff reported that the Mr. Becher was provided with information about the student's IEP; however, no documentation was provided to show Mr. Becher received a copy of the IEP Teacher Packet or reviewed the students' IEP. There was also no documentation showing that Ms. Moneses, the paraprofessional assigned to provide instructional support in the Math 7 class, was provided with any information regarding the student's IEP upon the change in his class schedule.

Conclusion

Federal regulations at 34 C.F.R. 300.323(d)(2) requires school districts to ensure that each general education teacher, special education teacher, related services provider, and any other service provider is informed of their responsibilities for implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the child's IEP.

In this case, interviews and documentation confirm that most of the student's general education teachers were aware of the student's IEP. However, there is no documentation to confirm when the long-term substitute teacher and the new general education math teacher were provided with information regarding their responsibilities for implementing the student's IEP. In addition, there is no documentation to show the paraprofessional responsible for providing instructional support for behavior during the newly assigned Math 7 class was provided with this information.

In addition, documentation showed that the student was “struggling a little bit in most classes” on August 17, 2023 and that a copy of the IEP Teacher Packet was not provided to the student’s teachers until August 18, 2023 despite the fact that the first day of the 2023-24 school year was August 15, 2023.

Based on the foregoing, a finding is made that USD #453 *is not in compliance* with the IDEA requirement to ensure that all USD #453 staff responsible for implementing the student’s IEP were informed and aware of their responsibilities during the 2023-24 school year.

Summary of Conclusions/Corrective Action

1. **ISSUE ONE:** A violation of Federal regulations at 34 C.F.R. 300.323(c)(2) which 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 is found. In this case, a BIP Fidelity Check on November 28, 2023 in the Math class found the student was not allowed to use alternate locations away from the classroom to reset himself emotionally when he started to escalate. (Counselor’s office) and the steps in the Reaction Plan were not followed as required by the BIP.
 - a. **CORRECTIVE ACTION:**
 - i. USD #453 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will ensure that special education and related services are made available in accordance with the student’s IEP.
 1. No later than February 15, 2024
 - ii. USD #453 shall provide training to the student’s general education math teacher, the paraprofessional who provides instructional support, the school counselor, and building administrators regarding the implementation requirements of the student’s BIP. USD #453 shall conduct at least weekly BIP Fidelity Checks earning ratings of 3 for implementation of the BIP through the end of the third quarter and provide copies of this documentation to SETS.
 1. No later than March 31, 2024
2. **ISSUE TWO:** It appears USD #453 complied with the federal regulations which require the LEA to implement the student’s IEP as written, specifically in regards to providing triage with a trusted adult during the 2023-24 school year; therefore no violation is substantiated.
3. **ISSUE THREE:** It appears USD #453 complied with the federal regulations which require the LEA to implement the student’s IEP as written, specifically in regards to providing instructional support in the student’s math class during the 2023-24 school year; therefore no violation is substantiated.
4. **ISSUE FOUR:** It appears USD #453 complied with the federal regulations which require the LEA to implement the student’s IEP as written, specifically in regards to providing

accommodations for taking breaks and working in alternate locations when the student is feeling overwhelmed during the 2023-24 school year; therefore no violation is substantiated.

5. **ISSUE FIVE:** USD #453 is found to be in violation of federal regulations at 34 C.F.R. 300.323(d)(2) which requires school districts to ensure that each general education teacher, special education teacher, related services provider, and any other service provider is informed of their responsibilities for implementing the student's IEP as well as the specific accommodations, modifications, and supports that must be provided to the student.

a. CORRECTIVE ACTION:

- i. USD #453 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will ensure that each general education teacher, special education teacher, related services provider, and any other service provider is informed of their responsibilities for implementing the student's IEP as well as the specific accommodations, modifications, and supports that must be provided to the student.
 1. No later than February 15, 2024
- ii. USD #453 shall provide documentation to SETS that all of the staff responsible for implementing the student's IEP during second semester including, but not limited to Mr. Becher and Ms. Monses, have been provided with this information.
 1. No later than February 1, 2024
- iii. USD #453 shall review procedures, and practices related to notifying all school district staff members of their responsibilities for implementing student IEPs. Based on that review, USD #453 shall develop a procedure to consistently share this information with appropriate school district staff in a timely manner and document that the information has been shared. USD #453 will provide SETS with a copy of the updated procedure as well as documentation this information has been shared with special education case managers and school psychologists throughout the school district.
 1. No later than February 15, 2024

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)