

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #261

ON MARCH 29, 2024

DATE OF REPORT APRIL 29, 2024

This report is in response to a complaint filed with our office on behalf of a student, -----, by their parent, -----. In the remainder of the report, the student will be referred to as “the Student” and the parent as “the Parent.”

The Complaint is against USD # 261, Haysville Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #261.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the school district. In this case, the KSDE initially received the complaint on March 29, 2024, and the 30-day timeline ended on April 28, 2024.

Investigation of Complaint

Tania Tong, the Complaint Investigator, interviewed the Parent by video on April 22, 2024. The following District staff were interviewed on April 19, 2024:

1. School Psychologist
2. Director of Special Services
3. Special Education Teacher (Case Manager)
4. Reading Intervention Teacher
5. Building Principal
6. Speech Pathologist
7. Assistant Principal

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

Parent:

1. Kansas State Department of Education Complaint Response, 03/29/24
2. Formal Complaint Request Form, 03/27/24
3. Email, re: transportation and more, 02/29-03/01/24

4. Email, re: [Student], 10/16/23-11/01/23
5. Email, re: [Student] IEP, 02/27-02/28/24
6. Email, re: formal request, 03/05-03/28/24
7. Email, re: IEP, 12/12/23-02/21/24
8. Individualized Education Plan, 12/07/23
9. Email, re: [Student], 09/20-09/25/23
10. Staffing Summary, 09/27/-12/01/23
11. Email, re: [Student] distance from HMS, 11/01-11/02/23
12. Email, re: [Student], 10/10/23
13. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 08/29-08/31/23
14. Email, re: [Student]e, 03/19-03/21/24
15. Email, re: [Student] IEP, 02/21/24
16. Email, re: IEP/PWN, 11/27-12/05/23
17. PWN/RFC, 09/27
18. Email, re: need a copy, 02/28/24
19. Reevaluation/Continuing Eligibility Team Report, 09/27/23

District:

1. Records Release, 04/03/24
2. Teacher Letter, 04/05/24
3. Email, re: bussing, 08/16/23
4. Email, re: [Student], 10/10/23
5. Dates of Attendance, 03/27/24
6. Historical Grades, 03/27/24
7. Email, re: [Student], 10/16/23
8. Email, re: [Student], 10/17/23
9. Email, re: [Student], 10/17/23
10. Email, re: [Student], 10/18/23
11. Email, re: [Student], 10/18/23
12. Email, re: fwd: [Student], 10/18/23
13. Email, re: [Student], 10/31/23
14. Email, re: [Student] distance from HMS, 11/02/23
15. Email, re: [Student] IEP, 11/16-11/17/23
16. Email, re: IEP/PWN, 12/05/23
17. Email, re: IEP, 02/21/24
18. Email, re: [Student] IEP, 02/21/24

19. Email, re: need a copy, 02/28/24
20. Email, re: transportation and more, 02/29-03/01/24
21. Email, re: [Student], 03/19/24
22. Email, re: re: formal request, 03/27/24
23. Email, re: re: formal request, 03/28/24
24. Email, re: re: formal request, 03/28/24
25. IEP, 12/07/23
26. Consent to Communicate And Send Files Electronically, 9/27/23
27. Email, re: [Student] general intelligence, 09/26/23
28. Email, re: [Student] reading, 09/21/23
29. Email, re: fwd: [Student], 10/10/23
30. Speech Attendance Log 2023-2024
31. Staffing Summary, 11/01/23
32. PWN/RFC, 11/01-12/12/23,
33. Initial and Re-evaluation Cover Sheet, 09/27/23
34. PWN, 08/29-08/31/23
35. 10 Day Notice of Meeting, 08/29/23-08/31/23
36. Staffing Summary, 09/27/23
37. PWN, 09/27/23-10/10/23
38. Reevaluation/Continuing Eligibility Team Report, 9/27/23
39. School Psychologist Report, 9/12-9/19/23
40. Formal Complaint Response, 4/9/24
41. Email, re: re: assignments, 02/22/24
42. Email, re: re: document shared with you: "Notes - [Student] Meeting", 11/17-11/28/23
43. Email, re: re: [Student] schedule change, 11/01-11/03/23
44. Email, re: re: [Student] IEP meeting 9/27, 09/25/23
45. Progress Report, 04/09/24
46. Progress Report, 04/09/24

Background Information

This investigation involved a 7th grade student enrolled at Haysville Middle School in USD #261. The Student is currently receiving special education or related services as a child with a specific learning disability per the Individuals with Disabilities Education Act (IDEA). Beginning in November 2023 they began receiving Tier III support for speech. They have been screened at yearly intervals for speech/language delays since August 2020 and has been observed for behavioral issues at community day cares prior to entering kindergarten. They were receiving speech therapy prior to kindergarten and the parent reported that their speech was not

improving and impacting their behavior. In November 2023, their parents had their speech evaluated at Private Speech Clinic. The child lives at home with their parents.

Issue One

USD #261, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to include transportation as a related service after multiple requests from the Parent. Further, the Parent alleged that these decisions were based on general education standards rather than the Student's unique needs. The Parent also alleged that the District failed to provide the Individualized Education Plan (IEP) documents in a timely manner after IEP meetings.

Positions of the Parties

The Parent alleged that on August 15, 2023, they met the Student's IEP Case Manager at the Middle School's Open House and formally requested transportation services for the Student. According to the Parent, the request was denied, and the District failed to provide any Prior Written Notice (PWN) regarding the denial of transportation services. The Parent indicated that they made additional transportation requests in August 2023, at the IEP meeting in September 2023, and it was discussed again in November 2023.

The Parent alleged that the District exhibited a pattern of failing to provide IEP documents promptly. After an IEP meeting, a draft IEP was promised for review, but the Parent had to wait 14 days and send a follow-up email before receiving it. Similarly, there was a 26-day delay between another IEP meeting and the provision of an IEP and PWN.

The District acknowledged the Parent briefly spoke with the Special Education Teacher (Case Manager) regarding transportation on August 15, 2023 during Open House. The Special Education Teacher spoke to the School Psychologist on August 16, 2023, indicating the Parent inquired about special transportation. On August 29, 2023, the School Psychologist followed up with the Parent regarding the special transportation request as well as to schedule the annual IEP and reevaluation meeting. The Parent indicated to the School Psychologist that the request for special transportation was due to Parent disabilities. The Parent agreed to wait to discuss special transportation at the September 27, 2023 IEP meeting.

During the annual IEP meeting held on September 27, 2023, the Parent requested transportation again. They shared their house was 2.5 miles away based upon the three different paths mapped online. The LEA Representative (Assistant Principal) indicated that they would have to speak with the Transportation Director to gather information on how the transportation department calculated the mileage when determining if a Student was eligible for transportation. On March 1, 2024 the District offered general transportation to the Student and specialized transportation to the Student once the Parent presents the District with a

medical statement about the Parent's medical concerns that prevent them from transporting the Student to school.

Findings of the Investigation

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

1. On August 16, 2023, the Case Manager emailed the Parent, "I talked with [the School Psychologist]. [They] said [the Student] would need to show a need for special bussing by having a severe disability or being unable to be on a regular bus. [They will] call you today."
2. On September 21, 2023, the Parent requested a copy of the Student's IEP from the previous year. The School Psychologist sent the Parent a copy of the previous year's IEP the following day.
3. A PWN dated September 27, 2023, indicated the Parent `` requested special transportation services; the [S]chool rejected this request due to there not being a need for this service." The District attempted to obtain a signature from the Parent on September 27, 2023, September 29, 2023, and October 10, 2023.
4. On October 10, 2023, the Case Manager emailed the Parent a draft IEP from the October 10, 2023, IEP meeting. The Case Manager also emailed the PWN explaining the Student's services. The Case Manager let the Parent know they were allowed to review it. The Case Manager stated, "The PWN requires a signature before we can close out the IEP for this reevaluation year. The page labeled 261 PWN is the form we need to have signed and returned to the [S]chool."
5. On October 18, 2023, the Parent emailed the Principal, "I wanted to make you aware that [the Student] will not be returning to [the School] until the intimidation tactics and threats made by the school psychologist cease and I can be assured that [the Student] will be able to get [their] educational needs met and that [their] IEP has not been closed and [their] special education services have not been discontinued."
6. On November 1, 2023, a PWN indicated special education and related services, appropriate educational placement, and changes to modifications on the IEP were considered. The Student will "continue to receive special education services in the general education setting for Math, ELA, Science, and Social Studies." The PWN also rejected the Parent's request for special transportation due to the Student not needing this service, and the District would look into transportation options. The PWN was completed correctly and included the required elements.
7. On November 27, 2023, an email from the Director of Special Education to the Parent indicated, "I am attaching the IEP and the Prior Written Notice completed from the 11/1/2023 meeting. The PWN is dated as it was delivered on 11/17/2023 as I intended on getting it sent to you once I heard back from the case manager, but we were unable to connect before Thanksgiving break. Once you are able to review the IEP accommodation we were working on (which is record 3 under the accommodation

page). I will update the mailed date to send through HelloSign once you are able to review the last part of the IEP we discussed during the meeting. If you have any concerns/questions with how the accommodation is described, please let me know. Thank you for reviewing this wording to see that it describes our discussion and the needed accommodation.”

8. On December 7, 2023, an IEP indicated that the Parent would be sent one copy of the IEP in their native language or another mode of communication. The Notice of Destruction of Special Education Records stated, “Special education records for each student with an exceptionality are maintained by the [S]chool [D]istrict until no longer needed to provide educational services to the student.”
9. On December 12, 2023, the Parent emailed the Director of Special Education, stating, “I am not likely to get the IEP reviewed and signed before Christmas break. ... [I] [s]till would like a better understanding of the transportation situation as well before signing. The map shows it’s more than 2.5 miles so I’m struggling to see why it’s not on [their] IEP.” The Director of Special Services responded to the Parent stating, “The only thing that changed in the IEP from our meeting was the single accommodation we discussed to find the best wording.”
10. On December 12, 2023, the Director of Special Education emailed the Parent stating, “At this point with the attempts to obtain a signature, we have now had to complete the IEP for reporting purposes. We can reschedule a meeting to discuss transportation needs based upon [their] not receiving FAPE if [the Student] cannot make it to [S]chool to receive [their] services. I know when I visited with the transportation department, it was mentioned that [the] calculation of the miles is a straight line, it is not based upon the roads to the location. I believe that is why it wouldn’t meet the 2.5 miles, unfortunately.”
11. On December 12, 2023, the Director of Special Services emailed the Parents indicating, “We have to submit the reporting data to KSDE so that is what we have done based upon [their] last IEP. We can hold another meeting to discuss any further changes based upon what we discussed during the 11/1/23 meeting and the updated accommodation that was sent to you through email. We can also visit about your request for transportation services again during this meeting.”
12. On February 21, 2024, the Parent emailed the Director of Special Services stating, “I need a copy of the IEP that is currently being used to meet [the Student’s] IEP needs.”
13. On February 29, 2024, an email from the Parent to the Director of Special Services indicated, “First I wanted to let you know that I am looking forward to your follow[-] up on my request for the signed PWN or consent to remove services. I am requesting that future communication be in emails so there are no misunderstandings.”
14. During an interview with the Complaint Investigator, the Special Education Teacher indicated when the Parent requested special transportation, the Special Education Teacher consulted the School Psychologist for guidance due to their limited experience. The School Psychologist then contacted the Parent regarding the transportation. The Special Education Teacher was unsure if it was standard practice for the School

Psychologist to issue PWN's within the District, as they assumed the Case Manager typically handles that responsibility.

15. During an interview with the Complaint Investigator the Special Education Teacher was asked if they had provided the Parent with a copy of the IEP at the conclusion of the IEP meeting. The Special Education Teacher stated, "[The Parent] would've left with a draft copy." When asked what was the expectation around when a final copy would be provided the Special Education Teacher replied, "I usually do it after it has been completed. So once we get the signed documents back, like the [P]rior [W]ritten [N]otice and just make sure [the Parent] is okay with everything and I've submitted it, then I send them a copy of the final IEP."
16. During an interview with the Complaint Investigator the Special Education Teacher indicated that the School Psychologist and the Special Education Teacher initially contacted the Parent to gather documentation for a reevaluation. When they didn't receive a response, the Special Education Teacher was unable to finalize the reevaluation or confirm the Parent's agreement with the proposed changes. During the IEP meeting, the Special Education Teacher did not sense any disagreements from the Parent regarding the termination of speech services and special education support for math. While the Special Education Teacher doesn't explicitly recall discussing special transportation at the end of the meeting, they believe there were no objections raised at that time.
17. During an interview with the Complaint Investigator, the Special Education Teacher stated the Student had never received special transportation according to Web Kids. When asked what their understanding of the reasons for the Parents' request for specialized transportation was, "The Spouse has Parkinson's, so [they have] a difficult time like getting [the Student] to and from school, [the Parent's] got other health conditions that sometimes can affect [their] ability to drive. ... The health issues between the [P]arents is what is sparking the special transportation request." The Special Education Teacher shared that they were made aware of the transportation request the night of Open House, on August 15, 2023. The Student had no disability reasons that would require special transportation.
18. During an interview with the Complaint Investigator, the Special Education Teacher indicated the Parent inquired if they had missed a copy of their Student's IEP that needed their signature. The Special Education Teacher explained that the Parent had taken the PWN home to review and sign. It was noted that once the signed notice was returned, the IEP process could be finalized. In a forwarded email to the School Psychologist, the Special Education Teacher expressed some concern about the situation, finding the Parent's questions odd since the Parent was aware that they had the documents at home.
19. The Parent was interviewed by the Complaint Investigator. The Parent shared that they were not provide IEP documents in a timely manner because the initial IEP documents took from September 27, 2023 to October 10, 2023 for a copy to be given to the Parent. The second meeting that, "we had with the [S]chool to redo the IEP and address

transportation happened in November.” The Parent indicated they didn’t receive “a copy of that one until ... I believe it was November 27th when I requested that copy because I had not seen it. ... So from November 1st to November 27th, I still had not gotten the IEP and the [PWN], which was sent on the 27th. Now, that [PWN], the information on there was not accurate because [they] showed that [they] had sent it to me on the 17th, which [they] didn’t. And then did confirm that also in [their] email to me saying that [they] would amend and correct that.”

20. During an interview with the Complaint Investigator regarding the unsigned PWN the Parent shared, “Like I said, my understanding when I got that documentation on the 10th was that they were going to give me some time to look it over review it, talk to [the Spouse] about it, and if we agreed, sign the PWN.”

Applicable Regulations and Conclusions

According to 34 C.F.R. 300.320, K.S.A. 72-3429(c)(4), and K.A.R. 91-40-18(d), Kansas has specific requirements for Individualized Education Programs (IEPs) to ensure they comprehensively support students with exceptionalities. IEPs must clearly outline the special education services, related services, supplementary aids (including research-based accommodations when possible), and program modifications the child will receive. They must also detail how the school will support staff in assisting the student.

IEPs must be transparent regarding service delivery. They must specify the start date, frequency, location, and duration of each service. The amount of time dedicated to each service should be clearly stated. Additionally, each Parent must be provided a final copy of the IEP at no cost to the Parent.

The Parent made multiple requests for transportation during 2023-24 school year. On September 27, 2023, the District provided the Parent with a PWN rejecting the Parent request for special transportation services due to there “not being a need for this service.” An Additional PWN was provided to the Parent about the rejection of the Parent’s request for special transportation on November 1, 2023. After the two IEP meetings the District provided the Parent with copies of the Student’s IEP at no cost to the Parent within nine and 16 school days of the IEP meetings.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the Student required special transportation that the District failed to provide the Student or failed to provide the Parent with paperwork in a timely manner.

Issue Two

USD #261, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the Parent with Prior Written Notices in a timely or legally correct manner when denying the Parent's requests for transportation services for the Student.

Positions of the Parties

The Parent alleged that the School District exhibited a pattern of non-compliance related to Prior Written Notices. After a meeting on November 1, 2023, the District took 26 days to provide a PWN regarding transportation services. The Parent claimed that this PWN was legally deficient, as it failed to explain the reasons for the denial, explore other transportation options, or cite the data used to make the decision. The Parent also alleged that the School District implemented an IEP for the Student without obtaining a signed Prior Written Notice.

The District responded that the School Psychologist emailed the Parent letting the Parent know that the need for special transportation would need to be determined and they would follow up with the Parent. During the annual IEP meeting on September 27, 2023, the Parent requested transportation again. The Team discussed transportation and at that time, there was no documentation of need for special transportation. The Prior Written Notice to the Parent refusing special transportation was provided on September 27, 2023 after the annual IEP meeting. It was again provided to the Parent by mail on September 29, 2023 and by email on October 10, 2023. The IEP was provided to the Parent on October 10, 2023 through email from the Special Education Teacher. During a conversation with the School Psychologist by phone, the Parent requested the weekend to review the IEP. During the IEP meeting on November 1, 2023, the Parent requested transportation. On March 1, 2024 the District offered transportation to the Parent.

Findings of the Investigation

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

1. A PWN dated September 27, 2023, indicated that the Student's primary exceptionality was "LD-Specific Learning Disability." Changes in services indicated a change in placement indicating that the Student will continue to receive "special education services in the general education setting for Math, ELA, Science, and Social Studies. Special education services in the special education setting for Math will end on 10/12/2023 (at the end of the 9 weeks). The following accommodations were added to the IEP: separate setting for assessments, additional time for assessments, access to study guide during tests, frequent reminders of due dates for assignments and tests." The PWN was completed correctly and included the required elements.

2. On October 10, 2023, the Case Manager emailed the Parent, "You took the Prior Written Notice with you to read over and sign it after you read it. We do need it because asap because [sic] [the Student's] IEP is out of compliance now. We can't close out the new IEP without having the signed PWN on file. If you have it, can you sign it and send it back tomorrow? If you don't, I will have [the School Psychologist] print another and I can send it home with [the Student]. Once we get that back, I can get the new IEP closed out and get you the official copy of it."
3. According to a Complaint Document the Director of Special Services indicated to the Parent, "During the meeting on 11/1/2023, you agreed to [the Student] no longer receiving SL services and removing the math lab special education services. You had also requested special transportation during this meeting. A PWN was sent multiple times with notice of the agreed removal of services and the rejection of transportation services as a need had not been documented at the time. Although you responded to email indicating that you didn't have time to review the sent documents, you did not indicate that you were not in agreement with the removal of the SL services or Math Lab services. You did indicate that you were still unsure of the transportation situation and that you would not sign the documents until transportation was worked out. I responded to your email stating that we should reconvene a meeting after the new year to discuss transportation."
4. On November 2, 2023, the Parent emailed the Director of Special Services indicating, "I do need to look into transportation. I have a medical issue that causes blurred vision and temporary blindness and we are now facing Parkinson's with [the Spouse]." The Director of Special Services responded, "Thank you for providing this information. I will talk with [the Transportation Provider] to find out how they determine distance from a house to the school building."
5. On November 16, 2023, the Case Manager emailed the Director of Special Services, "The IEP is still open and [the Student] is being pulled for speech services but I thought the plan was to pull [the Student] from speech since [they are] doing well."
6. On December 5, 2023, the Director of Special Services sent an email to the Parent indicating, "I just wanted to reach out again regarding the IEP and Prior Written Notice I sent to you on 11/27/2023. Do you have any questions or can I go ahead and email it to you for signature?"
7. During an interview with the Complaint Investigator, the Parent shared that after the September 27, 2023 IEP meeting, the Parent expected the School to finalize the IEP document and send it to them for review. By October 10, 2023, they hadn't received it and inquired about the status. The Parent indicated the PWN was given to them to sign, but they maintained they never received the full IEP for review. According to the Parent the School seemed to be pressuring them to sign the PWN without seeing the finalized IEP, which the Parent was not comfortable doing. Finally, on October 10, 2023 they received a copy of the proposed new IEP. The Parent shared that there were different accommodations for the Student, "in terms of some extra time to work on assignments,

things like that." The Parent shared that they asked about missing assignments, checks for understanding, and whether there were comprehension issues.

Applicable Regulations and Conclusions

According to K.A.R. 91-40-26, when a district takes action (or refuses to take action) regarding an exceptional child, the notice provided to parents must be clear and comprehensive. It must explain why alternative options were rejected and outline other relevant factors influencing the decision. Importantly, notices must be written in everyday language and provided in the parent's native language or preferred communication style whenever possible. If the parent's primary language isn't written, the district must orally translate the notice, ensure understanding, and keep records of these steps. The district must provide a copy of procedural safeguards (parents' rights) once a year, along with specific triggers like initial referrals, complaints, disciplinary actions, or upon the parent's request. Finally, should the parent ask, or a due process complaint be filed, the district must inform the parent about free or low-cost legal resources in the area.

The District provided the Parent with PWN that included the required elements and provided the notices to the Parent within 9-16 school days after the IEP meetings.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the district failed to provide the Parent with legally complaint PWNs in a timely manner.

Issue Three

USD #261 removed speech-language and math services from the Student's IEP without the Parent's consent or proper notification in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA).

Positions of the Parties

The Parent alleged that the District wrongfully removed the Student's speech and additional math services from the Student's IEP without obtaining the legally required written consent from the Parent.

The District responded that after the September 27, 2023 IEP meeting where removal of speech-language services and math lab (resource) services were recommended to be discontinued, the PWN was provided on the following days, September 27, 2023, by mail on September 29, 2023, and by mail October 10, 2023. The Special Education Teacher emailed the Parent providing them a code to access the IEP and the PWN. The IEP was provided to the Parent on October 10, 2023. During the second IEP meeting held on November 1, 2023, another discussion of removal of speech/language services as well as removal of the math lab (resource) services was held. During the meeting the Parent agreed to the Student no longer

receiving speech-language services as well as removal from math lab. The District offered compensatory services on February 28, 2024.

Findings of the Investigation

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

1. On September 12, 2023, a School Psychologist Report indicated the Student's "cognitive deficit in Auditory Processing is strongly linked to [their] achievement deficit in reading. [Their] cognitive deficit in Visual Processing is strongly linked to [their] achievement deficit in math." According to the Woodcock-Johnson IV Achievement Test, the Student scored in the low average range, at the 18th percentile in Broad Mathematics. The Student's Math Calculation score was at the 17th percentile, and the Math Problem Solving Score was at the 11th percentile.
2. On September 21, 2023, the Case Manager sent an email to the School Psychologist which indicated that the Language Arts Teacher suggested the Student be moved from their Tier 3 class to a Tier 2 class for reading.
3. On September 25, 2023 the Case Manager emailed the Assistant Principal, "This is [the Student's] reevaluation year. After [the School Psychologist] completed [their] general intelligence and discussion with me and some other teachers, we decided that it's time to reduce [the Student's] services. We are proposing that [the Student] is removed from my resource math class but will stay in Tier 3. Hopefully next year, [they] will be able to move up to Tier 2. We are also moving [the Student] from Tier 3 reading to Tier 2 reading. [The Speech Therapist] is also dismissing [the Student] from speech. [The School Psychologist] called [the Parent] and [they weren't] too happy about the math issue. I'm also not sure if [they are] aware that [the Student] is being dismissed from speech yet. We really need to have backing from you because it's important for [the Student's] education to be pushed out. [The School Psychologist] and I both feel like we are holding [them] back at this point which is not [the Student's] LRE.
4. On September 27, 2023 a Speech Attendance Log indicated, "Exited 9-27-23 [Parent] refused to sign paperwork so had to continue service beginning 10/17 [Parent] signed N/C to exit week of Nov - 6- 10th."
5. On September 27, 2023, the initial and re-evaluation cover sheet indicated the exceptionality changed to the "Primary Exceptionality was LD-Specific Learning Disability."
6. On October 10, 2023, according to the Formal Complaint Response, "The IEP was provided to the Parent with an [sic] code to access the IEP and the Prior Written Notice through the IEP system. ... During the IEP meeting, the Parent indicated they agreed with discontinuing speech-language and math lab services since the Student no longer met eligibility or a need for services. Therefore, [Speech] services were discontinued from September 28, 2023 until October 17, 2023 until the [P]arent indicated they were not signing the Prior Written Notice for the proposed changes during the September

27, 2023, IEP meeting. Math lab (resource) services were not discontinued as the team had proposed to make the changes on October 16, 2023 at the start of the 9-weeks."

7. On October 16, 2023, a Staffing Summary indicated, "Multiple communication attempts were made to ask [the Student's Parent] to make a decision on the change in services. [The Student's Parent] told the [S]chool [P]sychologist that [they were] not going to sign anything. The prior exceptionalities, services, and accommodations will continue because [P]arents refuse to make any changes. Speech/language impairment will continue to be listed as the secondary exceptionality. [The Student] will receive special education support in the general education classroom for ELA, math, science, and social studies. [The Student] will also receive support in the special education setting for 40 minutes for math. [The Student] will also receive Speech/Language Therapy for 20 minutes, once a week. No changes will be made to [the Student's] accommodations."
8. On October 17, 2023, the Director of Special Education stated, "I have visited with the [S]chool [P]sychologist. Essentially, after the reevaluation was completed a recommendation of dismissal of SL services and a change in services for math was recommended."
9. On October 17, 2023, the Principal sent an email to the Parent indicating, "I understand that yesterday you received a phone call from [the School Psychologist] regarding the IEP paperwork you elected to take home to read through, at the conclusion of the meeting on September 27th. Were you able to get your questions answered from this conversation? If not, do we need to schedule a meeting so those questions can be answered?"
10. On October 18, 2023, the Director of Special Education emailed the Principal indicating, "I would modify this sentence-With the IEP, to finalize those services, paperwork will need [to be] completed and signed regardless of what those services look like, to state something like, 'As a team, we will need to complete the IEP and required documents to finalize the IEP.' I do not feel it would be beneficial to try to explain in an email whether or not parental consent would be required based upon the proposal of services. It can be confusing and if we indicate we may not need consent, it may create automatic frustration. I think this can be explained during the meeting and I would be happy to be part of that meeting."
11. On October 18, 2023, the Principal emailed the Parent indicating, "I apologize, as my intention was to never give you the impression that anything was being pushed under the rug. I just want to provide you the opportunity to sit down with me and connect regarding your concerns and discuss your thoughts on the proposed services. [The Student] can return to school at any time and receive the services [they] started the school year with, but I think it would be helpful to meet in person so that we can hear and accurately address your concerns, both with the proposed special education services and with school personnel."
The Parent responded, "I absolutely want to address the IEP. But what I won't do is allow you to act like what [the School Psychologist] did, didn't happen and that it was in any way acceptable."

12. On October 18, 2023, the Director of Special Services sent an email to the Parent indicating, "I wanted to send a quick follow-up email in regards to the discussion that has been occurring over email. [The Principal] and I have visited and do feel that if we could set up a time in person to discuss the concerns and devise a plan moving forward, then we will be able to ensure we get [the Student's] services in place and address the personnel situation as well. We are looking forward to getting a meeting scheduled as soon as possible. [The Student] can return to school with the assurance that educational needs will be met based upon the services [they have] been receiving on [their] last IEP. These services would remain in place until consent is provided (if consent is required) for any change in services."
13. On November 1, 2023 the Assistant Principal emailed the Case Manager, "At [the Student's] IEP there was discussion that based on [the Student's] test scores there is no longer a need for two math classes. We are ready to make the schedule change and would like to start on this Monday. [Case Manager], can you please provide your input for [the Teacher] as to what math class [the Student] needs to be removed from and what class was discussed [that the Student] would go into."
14. On November 3, 2023, the Case Manager responded to the Assistant Principal, "I feel [their Parent] would be okay if we presented to [them] that we should put [the Student] in Life [S]kills for the remainder of the semester but then [the Student] can start Leadworthy in January. We told [the Parent] if we started Leadworthy at the start of the quarter, [they] would have missed half the class. [The Parent] seemed okay with that option during the meeting. We never promised [them] anything during the meeting. We told [them] that we would have to talk with [the Teacher] to find out what worked best with [their] schedule for whichever class [the Student] would be in for 2nd quarter."
15. On November 3, 2023 the Assistant Principal emailed the Principal, "These two classes are not the classes [the Parent] was under the impression [the Student] would be moved into. Who do you feel should call [the Parent]. [sic] This change should be happening by Monday."
16. On November 17, 2023 the Director of Special Education sent an email to the Case Manager indicating, "I edited the accommodation to where I think it will make [the Parent] feel we are addressing [their] concern and also should be manageable accommodation. It is the 'reference material...' accommodation. Will you let me know if it makes sense? I am going to send the IEP an updated PWN to the [P]arent once I hear from you."
17. On November 28, 2023, the Director of Special Services emailed the Case Manager, "Thank you for looking over the accommodation and the changes. I emailed the documents to [the Parents] last night and asked them to look at the accommodation that was updated since our meeting. I let them know once I heard from them I would send the documents through hello sign to obtain consent on the PWN. I will keep you posted."
18. On December 1, 2023, a Staffing Summary indicated that "Due to [the Student's] progress in speech and improvement in formal language testing, it is recommended

that [the Student] be exited/dismissed from speech-language services at this time. Currently, [they are] receiving A's and B's in most of [their] classes, with the exception of one D due to a missing assignment."

19. The IEP dated December 7, 2023, indicated in the area of expressive and receptive language, "[The Student's] articulation, voice and fluency were observed and assessed informally throughout the testing session. All are within normal limits and intelligibility in conversation is 100%. Oral mechanism is appropriate for speech sounds and there are no concerns." Test scores on the OWLS-II indicated:
 - a. Listening Comprehension Scale for receptive language-85 standard score, average range;
 - b. Oral Expression Scale for expressive language-88 standard score, average range; and
 - c. Oral Composite for overall oral language score -85 standard score, average range.
20. The IEP dated December 7, 2023, indicated the IEP Distribution process stated the Parent would be sent one copy of the IEP in their native language.
21. On December 7, 2023, an IEP meeting indicated the "Student's cognitive abilities were assessed using the Woodcock-Johnson-IV Tests of Cognitive Abilities ... General Intellectual Abilities score exceed those of approximately 8% of children [their] age (SS-79)." The test was given during the reevaluation process for this IEP. The IEP indicated the Student did not have any special communication needs.

The School Psychologist sent an email on September 26, 2023, which indicated, "[The Student] has strengths in Comprehension-Knowledge, Fluid Reasoning, Short-term Working Memory, Long-term Retrieval, and Processing Speed. [The Student] has deficits in Auditory Processing and Visual Processing. [The Student's] cognitive deficit in Visual Processing is strongly linked to [their] achievement deficit in math." The Student qualified for Special Education because of a Specific Learning Disability.

In the area of math, the IEP indicated the Student loves to go to math class and enjoys it. The Student is "fluent in [their] multiplication facts 1-12. [They use their] resources if [they] get stuck. ... [The Student] took an automaticity assessment on FastBridge and [the Student] scored a 33 which placed [them] in the 20th percentile. This is considered to be low average as math automatically is a relative strength for [them]."

The math goal was, "By 9/26/2024 when given math problems encompassing order of operations, integers, rational numbers, expressions, or equations, [the Student] will use a variety of mathematical strategies to correctly solve the problems with 90% accuracy or higher as measured by teacher data collection or classroom assignments or quizzes."

Parent Concerns/Considerations indicated, "[The Parent] was concerned with the accommodations that [the Student] was receiving. [They] had some suggestions which we added to the list. [They were] worried that [the Student] needed a centralized area

to find [their] work that needed to be completed. This was addressed during the IEP meeting. We discussed [a] change in placement for [the Student] that needed to happen due to [the Student's] excelling in [their] classes."

22. Special Education/Related Services on the IEP dated December 7, 2023, indicated:

- a. Special Education Services in the General Education Setting, for Core Math, 5 days a week, starting September 27, 2023, through the remainder of the IEP year.
- b. Special Education Services in the Special Education Setting, for Math Lab, 5 days a week, starting September 27, 2023, through November 1, 2023.
- c. Accommodations included:
 - i. Checks for understanding, each day in class session in the general education math class during the entire class period, starting September 27, 2023, and ending September 26, 2024.
 - ii. "[The Student's] cognitive testing shows that [they have] deficits in Visual Processing. This will necessitate that [they have] frequent check[s] for understandings in the math class for success."
 - iii. Chunk directions each day when class is in session, during all core and elective classes, for the duration of the class period, starting September 27, 2023, through September 26, 2024.
 - iv. "[The Student] has a deficit in auditory process[ing] which will necessitate for [the Student] to have directions chunked."
 - v. The Student will reference page/location of material content related to the assignment questions, each day class is in session when given an assignment with information containing more than two pages for the duration of the assignments starting November 1, 2023, and ending September 26, 2024.
 - vi. The Student will use visuals and manipulatives each day in math class, when in session for the duration of the class period, starting September 27, 2023, through September 26, 2024.
 - vii. "[The Student] has a math deficit as well as visual processing deficits. In order to maintain success in math class, [the Student] will need access to math visuals or math manipulatives."
- d. Under Supplementary Aids and Services the IEP indicated the Student did not require special needs transportation this school year or next year.
- e. The Parent signed a Consent to Communicate and Send Files Electronically which indicated the Parent agreed to "give permission and consent to send confidential information concerning the provision of prior notice, notice of meetings, and other special education services or special education-related, personally-identifiable information regarding [the Student]."

23. On February 21, 2024, the Case Manager emailed the Director of Special Services indicating, “[The Parent] didn’t respond after I sent [them] the last email telling [them] that this is the copy of the IEP that you and [the Parent] agreed on during your meeting. My only guess is [their] concern over [the Student’s] math grade. [The Student] is currently failing my class but prior to last week, [they] spent nearly every day in the counseling office or nurses office as well as 5 absences this quarter in my class.”
24. On February 21, 2024, the Case Manager emailed the Parent a copy of the IEP the Parent had requested.
25. On February 22, 2024 the Case Manager sent an email to the Parent, “I allow my students to make up any missing work until a week before grades are due which will be March 1st. [The Student] has turned in one of the missing assignments and was almost done with another as of 7th hour today!”
26. On February 28, 2024, the Parent emailed the Director of Special Services and requested a copy of the signed written consent to remove the Student from speech and math services.
27. On March 1, 2024, the Director of Special Services emailed the Parent stating, “In response to your request for the signed PWN for consent to remove services, as you are fully aware, we do not have a signed consent form. We have held several meetings and attempted to obtain written consent on the PWN, but never received a written response on the PWN from you. ... [T]he Kansas Sped Process HB, indicates the following: ‘Additionally, informed parental consent is not required to make a material change in services if the school can document that;
 - a. It made reasonable efforts to obtain such consent;
 - b. The child’s parent has failed to respond; or
 - c. If the change is made under the discipline provisions.’”
28. A timeline of procedures indicated:
 - a. During a meeting on November 1, 2023, the Parent agreed to the Student no longer receiving speech and language services and removing the math lab special education services. Transportation services were requested by the Parent. A PWN was sent multiple times with notice of the agreed removal of services and the rejection of the transportation services as a need had not been documented. The Parent shared the online road maps from the Parent’s house to the School showed 2.5 miles or more.
 - b. On February 21, 2024, the Parent indicated they needed a copy of the IEP currently being used with the Student. The Parent indicated they did not feel the District was supporting the Student.
 - c. On February 28, 2024, the Parent requested a copy of the signed consent to remove speech and math services. The Parent again shared their health concerns that were impacting their ability to transport the Student to school. During a phone conversation, the Director of Special Services asked the Parent

for written documentation from a physician indicating the health concerns that impacted the ability to transport the Student to the School.

29. On March 1, 2024, the Director of Special Services emailed the Parent that the Team discussed options for transportation. The Team wanted to consider transportation on a bus to the School. "We thought this option would give [the Student] the opportunity to ride the bus with non-identified peers and still receive the transportation services that are needed. The general transportation would be [the Student's] least restrictive placement."
30. On March 19, 2024, the Principal emailed the Parent information the Parent requested as follows:
 - a. Speech:
 - i. 9/27/2023 - Initial meeting -exited speech services, which was discussed in the meeting.
 - ii. 10/17/2023 - Started seeing the Student again for speech.
 - iii. 11/6/2023 - Exited speech services.
 - b. Math:
 - i. 11/6/2023- Exited from resource double block math. The student was enrolled in "Leadworthy as an elective."
31. A Progress Report dated April 9, 2024 indicated the Student was currently at 84% for the goal, "When given math problems encompassing order of operations, integers, rational numbers, expressions, or equations [the Student] will use a variety of mathematical strategies to correctly solve the problems with 90% accuracy or higher as measured by teacher data collection or classroom assignments or quizzes."
32. A Progress Report dated April 9, 2024 indicated the Student was currently able to "produce at 4 or more sentences on a given topic with at least 80% accuracy." The Student met the goal.
33. During an interview with the Complaint Investigator, the Vice Principal stated, "[The Parent] ha[d] asked that [the Student] not have the double math anymore, which was with the math, the same math teacher. And we verbally agreed that we would move [the Student] into that class, into the [L]eadworthy class." The Vice Principal indicated that the Parent asked for a change in schedule.
34. During an interview with the Complaint Investigator, the Vice Principal shared that the Student started the change in math schedule in October and had ended at the semester break in December. The Vice Principal indicated after the semester break the elective classes changed.
35. During an interview with the Complaint Investigator the Speech Pathologist indicated the Student had a history of receiving speech therapy for expressive and receptive language concerns. In sixth grade, their progress was "remarkable," suggesting the Student might soon exit the program. During their seventh-grade re-evaluation, formal testing, including the OWLS II, indicated average scores for listening comprehension and oral expression. The Student also maintained strong academic grades. Based on

these results, in consultation with the Student's Parent, it was agreed the Student would be exited from speech therapy services.

36. The Speech Pathologist shared during an interview with the Complaint Investigator that the Parent initially agreed to exit the Student from speech therapy services during the September 27, 2023, IEP meeting. After, the IEP process began, and the Speech Pathologist left the meeting as they were no longer involved. It was later discovered that the Parent had not officially signed the exit paperwork. Attempts to get the signature afterward failed. This led to some miscommunication, as the Speech Pathologist resumed services starting October 17, 2023, under the belief the Student had not exited. Eventually, it was confirmed the Student did indeed exit services after 4 weeks of speech therapy instruction.
37. During an interview with the Complaint Investigator when asked if there were any speech therapy sessions that the Student missed because of the miscommunication, the Speech Pathologist replied the Student, "would only miss the week of, um, October 2nd through the [6th] and the [9th] through the 12th. So those were the only two weeks that [the Student] would've missed while they were trying to obtain the signature."
38. During an interview with the Complaint Investigator, the Principal described the other math class as a higher level than the resource math class the Student had previously attended. This change was made because the Student's performance indicated they were working above the level of their peers in the resource class. The move also freed up a period in their schedule, allowing the Student to take an elective course focused on character development and life skills. The Student moved from two math classes to one math class. The Principal believed the math class provided support for the Student.
39. During an interview with the Complaint Investigator, the Special Education Teacher didn't recall any disagreements arising during the IEP meeting. The Special Education Teacher believed there was an understanding that the Student wouldn't require speech, special education math services, or specialized transportation. While the Special Education Teacher couldn't specifically remember the transportation aspect being discussed, they were confident about the other two services being agreed upon. This IEP meeting occurred in September of 2023.
40. During an interview with the Complaint Investigator, the Director of Special Services explained the different tiered ELA class levels as Tier 3 and Tier 2 ELA classes both provided extra support for struggling readers. Tier 3 classes involved smaller groups of students, proceeding at a slower pace than Tier 2. They also focused on core standards, rather than aiming to cover all the standards covered in a typical (Tier 1) class. Students in Tier 3 might include both general and special education students.
41. During an interview with the Complaint Investigator, the School Psychologist indicated during the three-year reevaluation and IEP meeting, it was determined that the Student continued to qualify for special education services under their learning disability exceptionality. The team agreed to remove speech services. After discussing test scores, teacher reports, and current grades, the School Psychologist made their case

for reducing the Student's math resource services. However, the Parent requested more time to consider this change. The School Psychologist prepared a PWN outlining the proposed changes and sent it home with the Parent for their review and decision. They also sent a refusal for the special transportation request, as it did not align with the Student's specific needs due to their disability. In October, the School Psychologist followed up as they had not yet received a response, likely because the original PWN indicated the service change for math resources would initiate on October 16, 2024.

42. The School Psychologist indicated during an interview with the Complaint Investigator that the Parent agreed to discontinue speech services but needed more time to consider reducing the Student's math resource services. There was no clear indication of disagreement with this change, only a request for additional time to make the decision. Regarding the denial of special transportation, the School Psychologist reiterated that it couldn't be provided due to its focus on the Parent's disability rather than the Student's. While the Parent's exact response to this isn't recalled, the School Psychologist was clear in conveying the decision to deny the request.
43. When the Parent was interviewed by the Complaint Investigator. The Parent shared that during an IEP meeting in September [2023], the Parent and the school team discussed potential changes to the Student's IEP, including adjustments to math, speech, and transportation requests. According to the Parent discussions were ongoing, and the Parent left the meeting without signing anything. The Parent requested that the School send them a copy of the updated information typed into the IEP (as it was being worked on live during the meeting), so the Parent could carefully review it before making decisions about services and potential changes.
44. During an interview with the Complaint Investigator, the Parent shared that their understanding was that, "the Student's old IEP would remain in place until we got a copy of the new IEP and looked it over and if we agreed to it, we signed the PWN and that would then implement the new IEP. That IEP could not be put in place until we had signed a [P]rior [W]ritten [N]otice." When asked by the Complaint Investigator if the Parent was in agreement to the changes to the speech and language services, the Parent replied, "I think I wanted to talk it over with [the Spouse] and just let them know what they were saying about it and, as a family, to sit down and see if that was what was best for the Student. ... but if that's what they recommended and there was justification there, that would've been fine. I just, like I said, needed time to look it over. And then you've seen where it went from there." When asked about math, the Parent replied, "The same."

Applicable Regulations and Conclusions

According to K.A.R. 91-40-27(a)(3)(f), the District is generally required to obtain parental consent before conducting initial evaluations, reevaluations, significantly altering services, or substantially changing the placement of an exceptional child. Exceptions exist for changes stemming from graduation, exceeding the age of eligibility, or disciplinary procedures (K.A.R. 91-40-33 through 91-40-38). If a parent withholds consent, the district has the option, but not

the obligation, to pursue the evaluation or change through due process or mediation procedures to challenge the parent's decision.

The Student's reevaluation results and present level of performance indicated that changes to the Student's IEP were warranted. The IEP Team discussed this at the September 27, 2023 IEP meeting and determined that speech language would be discontinued and math services would be reduced. There was no indication at the meeting that the Parent disagreed with these changes. The District made multiple attempts to obtain the Parent's signature on the PWN that detailed these changes. After realizing that the Parent was not going to sign the PWN, the District resumed speech services and the math services had not yet been adjusted.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District improperly removed speech-language and math services from the Student's IEP without the Parent's consent or proper notification.

Issue Four

USD #261 implemented an IEP that was not approved by the Parent in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA).

Positions of the Parties

The Parent alleged that the District implemented the Student's IEP despite the lack of a signed PWN. The Parent requested a copy of the current IEP in use and was given an unsigned draft. According to the Parent, when they reiterated the need for the current, in-use IEP, the IEP Case Manager confirmed that the School was using the unsigned draft.

The District responded that after the September 17, 2023 IEP meeting where removal of speech-language services and math lab were recommended to be discontinued, the Parent was provided with the PWN in person, on September 27, 2023 by mail on September 29, 2023 and by email on October 10, 2023. The IEP was provided to the Parent on October 10, 2023 through email from the Special Education Teacher. During the IEP meeting on October 10, 2023, the Parent agreed to discontinue speech-language services and math lab services since the Student no longer met eligibility or a need for services. Therefore the speech-language services were discontinued from September 28, 2023 until October 17, 2023 when the Parent indicated they were not signing the PWN for the changes proposed during the September 17, 2023 IEP meeting. Math lab services were not discontinued. A PWN was sent multiple times regarding the removal of services. Several attempts were made, several meetings occurred, and communications were given to the Parent to obtain a signed PWN. The District offered compensatory services on February 28, 2024.

Findings of the Investigation

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

1. The Complaint Investigator interviewed the Principal. The Complaint Investigator asked about an email exchange that happened between the Parent and the Principal where the Parent made a statement that it was their intention to "get the School District broom out and sweep it all under the rug." The Principal shared during an email exchange, the Parent accused the School District of intending to "sweep everything under the rug" regarding an incident. The Parent felt that school staff were intimidating their Student and engaging in unprofessional behavior towards them. While the specific details of a conversation between the Parent and the School Psychologist remain unclear, it seems the Parent's concerns stemmed from issues related to obtaining signed paperwork.
2. During an interview with the Complaint Investigator the Director of Special Services indicated during the November 1st meeting, concerns were raised regarding specific accommodations and goal-setting within the IEP. The team collaborated with the Parent to revise the wording of both the accommodation and the goal. To ensure clarity and feasibility of implementation, the revised wording was then reviewed with the Case Manager.
3. During an interview with the Complaint Investigator, the Parent indicated that they did receive a copy of the IEP that was added to at the follow-up meeting on November 1, 2023.

Applicable Regulations and Conclusions

According to K.A.R. 91-40-16(2) the district has 10 school days to start services after receiving written parental consent unless they can show a reasonable cause for delay.

The District implemented that changes that had been made at the IEP meetings within 10 days of the IEP meetings in which the decisions had made made. The District made multiple attempts to obtain the Parent's signature on the PWNs that detailed the changes to the Student's special education services.

Based on the foregoing, according to IDEA and Kansas special education regulations, it *is not substantiated* that the district failed to implement the Student's IEP within required timelines or that the District implemented an IEP following the proper procedures to obtain the Parent's consent.

Issue Five

USD #261 denied the Parent's request for copies of the Student's special education records on March 28, 2024 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA).

Positions of the Parties

The Parent alleged that during a visit to the District office, the Parent was allowed to review the Student's educational records but was denied copies despite requesting them at the beginning of the meeting. According to the Parent, the Director of Special Education, initially indicated that the Director needed to seek approval before providing copies and later refused the request entirely. In the Parent's view, this implied that the District provided copies at their discretion.

The District responded that on March 5, 2024, the Parent made a formal request to review the Student's special education records. On March 6, 2024, the Director of Special Services responded to the Parent request. On March 25, 2024 the Director of Special Services emailed the Parent informing them the special education records would be available to review in the special education office on March 28, 2024 and asked if the Parent would like for the special education department to work with the building for the other educational records. The Parent indicated that they would need access to all educational records. On March 28, 2024, the Director of Special Services emailed the Parent stating they were able to speak to the Superintendent and the District would copy the requested educational records at no charge.

Findings of the Investigation

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

1. On March 5, 2024, the Parent sent an email to the Director of Special Services, "This is a formal request to review [the Student's] educational records. Please let me know when that can be arranged."
2. On March 27, 2024, the Director of Special Services sent an email to the Parent letting the Parent know where they could pick up records for their Student.
3. On March 28, 2024, the Director of Special Services emailed the Parent, "We will copy the requested educational records at no charge. You will be able to pick the documents up from the office ... on Wednesday, April 3, 2024. Please let me know if that day works for you. If not, we can schedule for another day that works for your schedule."
4. On March 28, 2024, the Parent emailed the Director of Special Services stating, "I appreciate your recap of our conversation this morning, no matter how incomplete. I assume it was just an oversight on your part when you forgot to mention that you didn't have to provide me with copies of my child's education records."

5. On April 3, 2024, a signed Records Release Request indicated the Parent picked up a copy of the Student's Special Education records.
6. During an interview with the Complaint Investigator, the Special Education Teacher recalled that the Parent did not directly request all educational records. The only request the Parent made was for a copy of the Student's IEP. The Special Education Teacher provided a copy of the IEP on February 21st [2024] after the Parent forwarded a request from the School's Reading Teacher.
7. During an interview with the Complaint Investigator, the Director of Special Services indicated that they had provided access to the records as they understood that to be the legal requirement. However, due to the cost of producing copies, they sought guidance from the Superintendent to inquire about charging parents. The Superintendent clarified that the District should provide copies of educational records at no cost to the Parent.
8. During an interview by the Complaint Investigator, the Parent shared that they made a records request to obtain information about their Student's IEP. There was confusion about which version of the IEP had been submitted to KSDE. According to the Parent, the School District may have either prematurely closed the Student's existing IEP or implemented a new IEP without obtaining the necessary parental signature on a PWN. The Parent was trying to clarify what data was sent to KSDE and whether the District was using the correct, legally binding version of the Student's IEP.
9. During an interview with the Complaint Investigator, the Parent stated, "I did make a formal request for that. I went and sat down and looked over the record at the meeting. I asked if I could take a couple of screenshots while I was at that meeting. I asked [the Director of Special Services] if I could have copies, and [they] told me [they] would have to talk to [their] supervisor to find out if they could do that. And I said, 'Well, it's our right by law to have copies of those.'" The Parent indicated that they did receive the records request.

Applicable Regulations and Conclusions

According to K.A.R. 91-40-25(a) parents of exceptional children have the fundamental right to access and review all their child's educational records. This includes records related to how the child is identified for services, evaluated, placed within the school setting, and how their Free Appropriate Public Education (FAPE) is provided.

Based on the foregoing, according to IDEA and Kansas special education regulations, it *is not substantiated* that the District denied the Parent's request for copies of the Student's special education records

Issue Six

USD #261 denied the Student a free appropriate public education (FAPE) when the Student missed school because special education transportation services were not provided. Further, the Complaint alleges that the Student was denied a FAPE when the District stopped providing speech-language and math services to the Student, and the Student was removed from all classes for two days to complete progress monitoring in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA).

Positions of the Parties

The Parent alleged that repeatedly denying the Student transportation impacted the Student's ability to access their education. The Parent alleged that speech and language services may have been removed from the Student's IEP without proper parental consent or a PWN which impacted the Student's access to their education. Additionally, the Student was pulled from classes for two days and assigned a substantial amount of work, demonstrating a last-minute rush to gather data for the IEP.

The District responded that the Parent requested transportation during Open House on August 15, 2023. The Parent indicated to the School Psychologist that the request for special transportation was due to Parent disabilities, at which point the School Psychologist indicated they would follow up with someone to gather more information as special transportation considerations were typically requested and needs determined if it was related to the Student's disability. The Parent requested transportation again at the IEP meeting held on September 27, 2023. On September 29, 2023 the LEA Representative (Assistant Principal) reached out to see if there were any options regarding transportation. The Transportation Director indicated the Student was not eligible for transportation because of the distance requirement from home to the School. During a phone conversation with the Director of Special Services, the Parent was asked to provide written documentation from a physician indicating the health concerns that impacted the Parent's ability to transport the Student. In reviewing the attendance logs, the Student has missed September 25 and September 26 for vacation. The Student missed October 12, 16, 17, and 18, 2023. The Student had two additional excused absences on October 26, 2023, and January 19, 2024. The District offered transportation on March 1, 2024. The District offered compensatory services on February 28, 2024.

Findings of the Investigation

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

1. According to the Formal Complaint Response, on September 29, 2023, "the LEA [R]epresentative ([A]ssistant [P]rincipal) during the annual IEP meeting reached out to

the Transportation Director as well as the Support/Homeless Services Coordinator & Foster Care Liason to see if there were any options regarding transportation. The Support/Homeless Services Coordinator & Foster Care Liason responded stating the family must qualify for services through McKinney Vento or Foster Care to be eligible for transportation for the Student. Other transportation suggestions such as the Haysville Hustle (public transportation) or a bicycle was suggested."

2. According to the Formal Complaint Response, on September 29, 2023, "Conversations were also held with the [T]ransportation [D]irector that indicated the Student is not eligible for transportation because of the distance requirement from the [S]chool building to their home. The LEA [R]epresentative (Assistant Principal) shared this information with the Parent."
3. On October 16, 2023, the Parent emailed the Principal, "I wanted to make you aware that [the Student] will not be returning to [the School] until the intimidation tactics and threats made by the [S]chool [P]sychologist cease and I can be assured that [the Student's] educational needs will be met and that [their] IEP has not been closed and [their] special education services have not been discontinued."
4. On October 17, 2023, the Principal emailed the Director of Special Services, "I have visited with the [S]chool [P]sychologist. Essentially, after the reevaluation was completed a recommendation of dismissal of SL services and a change in services for math was recommended. [The Parent] was not in agreement with the change in services and has indicated [they do] not want to sign any documents. I have reached out to [the School Psychologist] and we will visit regarding the communication to [the Parent]."
5. On October 17, 2023, the Parents emailed the Principal indicating, "Can you provide me with a time frame in which you plan to have resolved? [The Student] would like to return to school. I want to make sure that this issue is resolved so wr [sic] can make that happen for [them]."
6. On October 17, 2023, the Principal emailed the Other Parent, "I appreciate your flexibility in giving me the time to make this happen. In review of the information provided to me from the IEP team members here within the [S]chool, the recommendation for Speech Language dismissal was presented, as well as, changing services to the Math portion of [their] IEP. As I understand it, the change was presented based on the reevaluation data, [their] Fastbridge data, and the teacher input. When looking deeper into this recommendation it was presented that [the Student] will still receive special education support services in [their] IEP through inclusion rather than in the resource Math room."
7. On November 1, 2023, a Staffing Summary indicated the Parents had concerns about the School Psychologist and a Teacher on staff. "[The Student] came home with a stack of papers. [The Student] said, 'I don't know what I did.' [The Teacher] told me I had to do all of these and it had to be turned in on a specific day. ... [The Student] indicated [the Teacher] was not happy with IEP [sic] and the IEP needed to be done differently." The Teacher denied those statements,, but felt like there were statements in the IEP that

reflected that thinking. The Parent felt the delivery of the re-evaluation information was "rushed and didn't make sense."

"The [T]eam updated the IEP to reflect changes in the wording in the reading goal for clarification, math PLAFFP, and accommodations /modifications. All the additional wording was the help with understanding. The [T]eam agreed [sic] with the removal of SL as a secondary exceptionality and the removal of SL services. The [T]eam was in agreement with the change in math lab class to Leadworthy since [they] no longer need the additional special education math class."

8. According to the Formal Complaint Response, on December 12, 2023 communication occurred between the Parent and the Director of Special Services. The Parent indicated they would like a better understanding of the transportation situation before signing consent indicating the online maps show more than 2.5 miles, so they are struggling to see why it is not on the Student's IEP. The Director of Special Services reiterated that transportation for all students is calculated through a system the transportation department uses which often reflects a straight line rather than what the online maps show. It was also suggested by the Director of Special Services to set up a meeting after the winter break to discuss the [P]arental concern that without special transportation the Student would not receive FAPE. At the time, the Director of Special Services did not see the Student not receiving FAPE as the Student was in attendance and receiving special education services.
9. According to the Formal Complaint Response, on March 1, 2024 the Director of Special Services tried to call the Parent to follow up regarding their discussion with the KSDE regarding transportation, but received the Parent's voicemail. The Director of Special Services followed up with an email communication, "[T]hey spoke with the Kansas State Department of Education and they indicated it is not an unreasonable request to ask for documentation indicating the Parent's health concerns impacting their ability to transport the Student."
10. On March 1, 2024, the District offered transportation and was continuing to offer transportation through general transportation. "Special Transportation was offered on March 1, 2024 and is continuing to be offered and would be included within the Student's Individualized Education Plan with the documentation indicating the inability of parental transportation due to worsening medical conditions."
11. On April 5, 2024, a teacher responded to the Parent's allegation of waiting "until the last minute to collect data for [their] part of the IEP. ... No data came to me from the previous year, so I followed up with 2 other [T]eachers to confirm. [The Student] would need to do 5-4th grade passages, 5-5th grade passages, and 5-6th grade passages. ... This was brought to my attention as what needed to be completed until the IEP update request came to me before the meeting (upwards of 2 weeks ahead of time). ... Due to being distracted, [the Student] was moved into the library to work on the work in hopes that [they'd] focus to get the work done." The Teacher indicated the Student was pulled out of class for assessments during their class period and not for full days.

12. During the 2023-2024 school year, attendance records indicated the Student was absent 10 percent of the time from October 16, 2023, through April 19, 2024.
13. During the 2023-2024 school year, the Student's grades for the Quarter 4 were:
 - a. Band 7-A;
 - b. Guided Study-P;
 - c. Language Arts 7-B;
 - d. Leadworthy II-A;
 - e. Math 7 Essentials-B;
 - f. Reading 7 Concepts-B; and
 - g. Science 7-B.
14. During an interview with the Complaint Investigator, the Principal was asked what forms of transportation were accessible to the Student. The Principal shared the Student was initially transported to and from school exclusively by their Parent. During the first IEP meeting, a transportation request was made. The Parent supported their request with documentation from Google Maps outlining different potential routes, likely to address the District's two and a half mile transportation guideline. The Parent proposed three routes that exceeded the 2.5-mile range, but the exact distances weren't verified. Based on discussions, the routes likely fell somewhere between slightly exceeding 2.5 miles up to around 3 miles in length.
15. During an interview with the Complaint Investigator, the Principal shared the District's practice for determining a student's eligibility for transportation likely involves identifying an existing bus route that either already passes through the student's neighborhood or could easily.
16. The Reading Intervention Teacher shared during an interview with the Complaint Investigator that to collect progress on the Student's reading comprehension, they found grade-level fiction and nonfiction passages on ReadWorks. The Reading Intervention Teacher printed these passages, along with comprehension questions, and asked the Student to complete them during class time. Occasionally, the Student also worked on these assignments during a school-wide guided study period.
17. During an interview with the Complaint Investigator, the Reading Intervention Teacher shared that the Student primarily missed opportunities to complete the reading assignments during their class time. However, there were one or two instances where the Student also missed a guided study period at the end of the day with the Guided Study Teacher to work on the assignments. Aside from the Reading Intervention Teacher's class and the occasional guided study period, the Student did not miss any other class time to work on the progress measures.
18. During an interview with the Complaint Investigator, the Director of Special Services indicated during prior meetings, including the November 1st [2023] meeting, both Parents indicated health concerns that could worsen over time and impact their ability to transport the Student. No formal medical documentation outlining these concerns was provided. The Parent submitted maps detailing the distance from their home to

the general education route, but these distances were not verified by the District's official transportation data system. It was confirmed that the District does not typically make exceptions allowing students who are slightly beyond the qualifying distance to access general education transportation routes.

19. During an interview with the Complaint Investigator, the School Psychologist indicated they were in the process of setting up a three-year reevaluation for the Student when the Special Education Teacher informed them that the Parent had requested special transportation. The School Psychologist included this request in their planning when they later scheduled the reevaluation meeting with the Parent. During the meeting, they discussed the testing involved in the reevaluation and sought clarification about the special transportation request, as this was a new type of request for the School Psychologist.
20. During an interview with the Complaint Investigator, the School Psychologist shared after the initial meeting, they learned that the Parent also had a disability that would progressively limit their ability to provide transportation. The School Psychologist was unsure how to handle this request, as it focused on the Parent's disability rather than the Student's. They consulted with the Assistant Director of Special Education, to clarify how to proceed. Following this conversation, the School Psychologist understood that special transportation would not be provided and would need to submit a refusal as the request was not based on the Student's exceptionality. The Student did not have a need for special transportation based on the Student's own learning disability.
21. During an interview by the Complaint Investigator, when asked what days did the Student miss school due to lack of having transportation, the Parent stated, "I don't have the exact dates, but I know that there were somewhere between five and seven days at least this, between August of last year and to current," (Parent, P1, 00:54) The Parent shared that both Parents "have medical issues that sometimes preclude us from being able to drive." (Parent, P1, 01:23) When asked if the Parent had provided anything in writing about the medical conditions to the District, the Parent replied, "I have not at this point because nothing was requested of me. It wasn't until the last probably six days that anything was even requested. Before that, there were all kinds of reasons that they had for not providing transportation. But I will tell you, when I communicated the need for transportation, I did communicate to them why." (Parent, P1, 01:40)
22. The Parent shared during an interview with the Complaint Investigator that after the September 27, 2023 IEP meeting, the School Psychologist repeatedly pressured the Parent to sign the PWN. The Parent explained their busy schedule with special needs children and their spouse's health condition, indicating that the Parent needed more time for review. The School Psychologist became impatient despite their attempts to communicate. On October 16, 2023, the School Psychologist called and questioned the Student about their school absence while the Parent was briefly outside. Upon taking the call, the Parent was again asked about the IEP and PWN, and the Parent reiterated that they hoped to finish their review by the end of that week. (Parent, P6, 16:49)

23. During an interview with the Complaint Investigator, the Parent shared at that point in time, the School Psychologist told the Parent that they could not wait any longer and that since the Parent was not cooperating with the School Psychologist, they were going to close the Student's IEP and the Student would no longer have special education services. **(Parent, P6-P7, 18:26)**
24. During an interview with the Complaint Investigator, the Parent was asked what disability-related reasons they thought the Student had that required transportation, the Parent replied, " I'm not sure. ... I know [they] have a diagnosis of ADHD. [The Student] has anxiety. [They have] some depression going on, those kind of things." The Parent shared that the anxiety would be "an extreme issue for [them] getting to School on [their] own." **(Parent, P7, 19:22)**
25. During an interview with the Complaint Investigator, the Parent shared that the Student had been "sexually assaulted about a year and a half ago, two years ago maybe, and [they don't] go out alone." The Parent shared that this caused extreme anxiety and the School was aware of it. The Parent shared that the School had a copy of the Protection From Abuse Order that was filed against the perpetrator. The Parent shared the sexual assault resulted in the Student's disabilities of depression and anxiety. **(Parent, P8, 20:26)**
26. During an interview with the Complaint Investigator, the Parent shared before the September IEP meeting, the Student was removed from their classes for two days and given a substantial stack of work to complete, for progress monitoring purposes. This occurred after a teacher reportedly called the Student's IEP "stupid," causing them significant distress. The Parent learned about the situation when the Student came home upset with the large packet of assignments. According to the Parent, the Student was instructed to work on them independently in another teacher's room. The Parent intervened and told the Student to focus on regular schoolwork. **(Parent, P11, 28:01)**

Applicable Regulations and Conclusions

According to K.A.R. 91-40-1(z), every child with an exceptionality is entitled to receive a FAPE. Parent rights are intended to ensure that children receive a FAPE. A FAPE is defined as "special education and related services that are provided at public expense, under public supervision and direction, and without charge, meet the standards of the state board, include an appropriate preschool, elementary, or secondary school education, and are provided in conformity with an individualized education program.

There is no verifiable evidence that the Student missed school due to a lack of transportation. The records provided show that the Student missed four days of school when the Parent elected to have the Student not attend school when they were upset with the School Psychologist. Further, the District was not required to provide the Student with special transportation. The Student's performance records indicated they were passing their classes, making progress toward their IEP goals, and no longer required speech services or the same

amount and type of math services. There is no evidence that the Student's completion of progress monitoring assessments unreasonably excluded the Student from their classes.

Based on the foregoing, according to IDEA and Kansas special education regulations *it is not substantiated* that the district failed to provide the Student with a FAPE.

Investigator

Tania Tong, Licensed 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)