

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #500
ON FEBRUARY 13, 2024

DATE OF REPORT MARCH 14, 2024

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ----- by his parent, ----- . In the remainder of the report ----- will be referred to as “the student” and ----- may be referred to as “the complainant”, “the parent”, or “the mother”. Also note that ----- will be referred to as “the student’s grandmother” in the report.

The complaint is against USD #500 (Kansas City Kansas Public Schools). In the remainder of the report, this responsible public agency may be referred to as “the district”, “the local education agency (LEA)”, or “the school”.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on February 13, 2024 and the 30-day timeline to investigate the allegations ends on March 14, 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. Physical Form dated August 16, 2019 completed by Rhonda Herschel, Nurse Practitioner at Pediatric Specialists in Colorado Springs, Colorado
2. Medical Visit Summary dated March 30, 2023 from the University of Kansas Health System showing diagnoses of Attention Deficit Hyperactivity Disorder (ADHD) and Tics (Tourette’s syndrome)
3. Sign-in Sheet for parent meetings held on August 14, 2023
4. Handwritten notes of August 14, 2023 parent meeting written by Thomas Yeo, General Education Teacher
5. BrightChat Parent Contact Log dated between August 16, 2023 and January 17, 2023
6. Student Attendance Record dated between August 22, 2023 and February 27, 2024
7. Parent Contact Log dated between September 15, 2023 and February 16, 2024
8. Personalized Learning Plan (PLP) Meeting Notes and Progress Reports dated September 26, 2023; October 25, 2023; December 5, 2023; January 30, 2024; and February 27, 2024

9. Sign-in Sheet for Parent/Teacher Conference meetings held on October 26, 2023
10. Screenshot of message to the parent dated January 24, 2024 written by Rachel Ledbetter, Licensed Master's Level Psychologist at Enso Therapy Group
11. Emails dated between January 29, 2024 at 10:59 AM and February 2, 2024 at 11:00 AM between the parent and Sara Richards, Behavioral Health Social Worker, regarding scheduling a meeting
12. Enso Therapy Group Psychological Evaluation Report dated February 7, 2024 written by Ms. Ledbetter
13. Formal Complaint Request Form signed by the complainant on February 11, 2024
14. Sign-in Sheet for parent meetings held on February 16, 2024
15. Handwritten notes of February 16, 2024 parent meeting written by JaKyta Lawrie, Executive Director , Wyandotte Comprehensive Special Education Cooperative
16. Letter to the complainant dated February 16, 2024 acknowledging the parent referral written by Dr. Lawrie
17. Email dated February 21, 2024 at 12:12 PM written by Melissa Hunter-Boyce, Principal of Stony Point South Elementary School sharing contact information for the student with the assigned school psychologist
18. Response to the Allegations dated March 5, 2024, written by Dr. Lawrie
19. Prior Written Notice (PWN) for Evaluation or Reevaluation and Request for Consent dated March 6, 2024 (unsigned)
20. Interview with Dr. Hunter-Boyce on March 6, 2024
21. Interview with the complainant on March 6, 2024
22. Interview with the student's grandmother with parent consent on March 8, 2024
23. USD #500 District Calendar for the 2023-24 school year

Background Information

The student is a nine-year old male currently enrolled in the fourth grade in USD #500. He attends his neighborhood school, Stony Point South Elementary School. Previously, the student was enrolled for the first, second, and third grades in USD #500 through the Greenbush Academy, a virtual school.

The parent reports the student was identified as having a disability and received speech therapy as a preschool student in Colorado. He was initially enrolled as a kindergarten student in Colorado but the mother chose to homeschool after the first month of school after the student eloped from the school building and was lost for a period of time. She noted that family subsequently moved to Kansas and that he was enrolled in the virtual school program in USD #500. The mother acknowledged that the student has never had an IEP while residing in Kansas.

Issues Investigated

Based on the written complaint and an interview with the complainant, one issue was identified and investigated.

Issue One

USD #500, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to appropriately respond to the parent's request for an initial evaluation of the student in August 2023.

Position of the Parent

The mother reported the student was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) and Tourette's syndrome when he was enrolled at Stony Point South Elementary School at the beginning of the 2023-24 school year. She indicated that she and the grandmother met with the building principal, the school social worker, and the fourth grade teacher prior to school starting and shared these diagnoses and her concerns with him starting in-person classes. The parent requested the student be evaluated for special education at that meeting but was told the district would like to get to know the student and try classroom accommodations for eight weeks before testing the student.

The parent reported that she never heard back from the district regarding the evaluation and the outcome. At the beginning of second semester, the fourth grade teacher shared the student was not completing school work and would be given incomplete grades if the situation did not change. The parent met with school staff on February 16, 2024 and learned that the special education evaluation had never been completed and she again made a request for an initial special education evaluation. As of March 12, 2024, the parent reported that she had received no additional contact with the district.

Position of the District

The district acknowledged that the student enrolled in the fourth grade at Stony Point South Elementary School at the beginning of the school year without an IEP and that they met with family prior to school starting to discuss parent concerns for their student. Melissa Hunter-Boyce, Principal of Stony Point South Elementary School, indicated the parent did initially request a special education evaluation for the student. However, because the student had not been in an in-person learning environment for more than three school years, the parent agreed to wait a month to allow the student to acclimate to the school routine and expectations and then to decide if special education testing was appropriate. The parent also shared the student was being evaluated for Autism in September and the results of that evaluation would be shared with the school.

The student participated in the Student Improvement Team (SIT) process during the first month of school and adjusted to fourth grade well. At the end of September, the SIT team recommended continuing interventions and monitoring success. At the end of October, the student was continuing to be successful and the SIT team again recommended continuing with the current interventions in the classroom. During second quarter, the student began to be chronically absent and had two minor scuffles incidents with another student who was annoying him; however data reviewed by the SIT team showed he was continuing to make academic progress and interventions with the counseling department were started. In January, his grades in the classroom began to fall because of missing work and the parent was contacted by the fourth grade teacher.

The team and the parent met on February 16, 2024 to discuss the concerns. The parent made another request for an initial special education evaluation and the school staff were in agreement that a disability was suspected. The student has been referred for an initial special education evaluation following district procedures and the district is waiting to receive parent consent in order to proceed with the proposed evaluation to date.

Applicable Law

Federal regulations at 34 C.F.R. 300.301(a) require school districts to conduct a full and individual initial evaluation in accordance with 34 C.F.R. 300.304 through 34 C.F.R. 300.306 to determine if the student is a student with a disability under the IDEA and to determine if the student is in need of special education and related services. In Kansas, this determination must be made no later than 60 school days from the date the parent provides written consent for an evaluation.

Federal regulations at 34 C.F.R. 300.301(b) allows either the parents of the student or the school district to initiate a request for an initial evaluation to determine if the child is a child with a disability and in need of special education and related services. This request may be made verbally or in writing.

Federal regulations at 34 C.F.R. 300.304(a) requires that school districts provide parents with prior written notice that describes any evaluation procedures the school district proposes or refuses to conduct within a reasonable timeframe. In Kansas, a reasonable timeframe for an LEA to respond to a parent request for an initial special education evaluation is considered 15 school days unless there are unusual circumstances.

Federal regulations at 34 C.F.R. 300.300(a) require school district to obtain parent consent prior to conducting any proposed initial special education evaluation.

Analysis: Findings of Fact

The handwritten notes kept by the fourth grade teacher from the initial meeting with the parent and grandmother on August 14, 2023 include descriptions of parent concerns and

refer to the scheduled Autism testing but does not document any discussion regarding a special education evaluation. There is no written documentation of the parent's request for an initial special education evaluation and the parent acknowledged that the request for the special education evaluation was only made verbally during the meeting on August 14, 2023.

The building principal also acknowledged that the parent did make a verbal referral for a special education evaluation during the meeting; however, the testing was not pursued immediately in order to allow the student to respond to general education interventions (GEI) in the classroom since he had not been in-person at school for more than three school years. The parent acknowledged she was in agreement to allow for these interventions prior to proceeding directly to testing in order to allow the student to acclimate to in-person learning. However, both the mother and the grandmother stated that they believed that the evaluation would take place after the GEI had been completed but no one from the district had ever contacted them regarding the school's evaluation or the results so they assumed the evaluation was still in progress.

Documentation shows a Personalized Learning Plan (PLP) was developed for the student to address concerns regarding work completion and math skills. Meeting Notes and Progress Reports show this plan was reviewed by the Student Improvement Team (SIT) five times during the 2023-24 school year.

The first meeting was held on September 26, 2023 and USD #500 stated,

The team reviewed data and student work from the last four weeks. Data shows that work completion is still a concern and Math is not the student's favorite subject. FastBridge testing does not show any SPED concerns for ELA or Math at this time. The recommendation is for the classroom teacher to continue with interventions in small group targeted support for Math and continue with positive incentives and reinforcements. Other than being a little socially awkward, the student's behavior was not outside the normal behavior of a 4th grader and presented no behavior concerns at this time.

The PLP was reviewed again on October 25, 2023 and it was noted that the student was having more difficulty completing math assignments. He continued to need small group targeted instruction in the area of math; however, his reading skills fell within the average range for his grade level based on the FastBridge Assessment scores.

Documentation and interviews showed the parent attended the Parent/Teacher Conference for the student on October 26, 2023. The fourth grade teacher shared the current FastBridge data, updated the parent on the student's progress in class and the SIT process. The parent requested that incomplete school work be sent home each day so it could be completed at home.

At the December 5, 2023 PLP review meeting, the student was described as continuing to struggle with completing work and not wanting to be challenged. However, he is successful when he does complete the school work.

The Parent Contact Log documents that the fourth grade teacher left a phone message for the parent on January 17, 2024 about the student still not doing his work. The parent replied to Mr. Yeo via BrightChat asking for more details about when this behavior was happening. Mr. Yeo responded,

... from the beginning of the day until dismissal he refused to follow the lesson, work with his peers, or complete any assignments. When asked to work he responds with "I'm not going to do that."

Interviews and documentation found the parent requested to meet with the building principal, the school social worker, and the fourth grade teacher to discuss these concerns. Multiple emails and phone calls were made between the parent and school staff in order to schedule and then re-schedule a team meeting between January 29 and February 14, 2024 with a conference finally being scheduled for February 16, 2024.

Notes from the January 30, 2024 PLP review meeting indicate the student's defiance is "becoming more pronounced." It was noted that he "outwardly refuses to work with groups or participate in lessons as well as independent work". The SIT team hypothesized this was because of the multiple snow days during the month of January impacting daily attendance and forcing changes in classroom/school routines. It was recommended to increase the positive praise and continue academic interventions.

The conference was held on February 16, 2024 with the parent, grandmother, building principal and the fourth grade teacher in attendance. Lack of communication between school and home was the first topic discussed. Mr. Yeo indicated he had made multiple attempts to contact the parent during the school year but had not been successful and the parent reported the same thing. The mother shared that BrightChat was not working, she had not signed up for Class Dojo messaging, and she was unable to access the online grade card in Parent Portal. The parent and school agreed that both were trying to communicate all school year and yet neither was getting a response from the other so both thought the other was not responding. Both the parent and Dr. Hunter-Boyce reported the parent was assisted in accessing each of these school communication platforms following the meeting.

Next, the team discussed the parent's request for a special education evaluation that was made back in August. The parent and school staff both acknowledged that the request was made but that testing was not pursued at that time to allow for GEI to be attempted first. School staff reported the student responded well to the GEI overall but concerns were still noted in work completion so a referral to the SIT team was made and a PLP was developed for the student as part of the GEI process. Ongoing data collection and progress monitoring

indicated to the SIT team that a special education referral was not necessary at this time. School staff indicated that Mr. Yeo had attempted to keep the parent updated as the student's progress in school but the communication glitch between the parent and Mr. Yeo had interfered with the sharing of this information.

The parent shared that the student had been diagnosed with Level 1 Autism by Rachel Ledbetter, Licensed Master's Level Psychologist at Enso Therapy Group, and provided the district with a copy of the evaluation report. The parent again verbally requested the student be evaluated for special education services. USD #500 provided a letter to the parent dated February 16, 2024 acknowledging the referral and describing the special education evaluation process.

At the February 27, 2024 PLP meeting, the SIT Team meeting notes reflect the student being absent for 16% of school days during the 2023-24 school year which has resulted in the student missing instruction in critical content which makes work more difficult. It was noted that he continues to need small group or individualized instruction in the area of math.

USD #500 provided the parents with prior written (PWN) requesting consent for an initial special education evaluation on March 6, 2024. The PWN included an explanation of why the action was proposed stating,

The LEA proposes to accept the parent's request for an initial SPED Evaluation received on 2/16/24. The Wyandotte Comprehensive Special Education Cooperative is proposing the evaluation as result of reviewing the independent evaluation report dated on 2.7.24 (evaluation dates: 9.26.23 and 9.28.23) by Enso Group LLC and the possible impact that this may having on the student's ability to access the educational curriculum and make progress within the educational environment. The outside independent evaluation demonstrated elevated scores within the CARS, Vineland and BASC assessments.

To date, the LEA is waiting to receive written consent prior to proceeding with the proposed special education evaluation of the student.

Conclusion

According to federal regulations at 34 C.F.R. 300.301(b), a request for an initial special education evaluation to determine if the child is a child with a disability and in need of special education and related services may be made by either the parents of the student or the school district. The IDEA does not require this request to be in writing.

The Parent's Guide to Special Education in Kansas states:

General Education Interventions (GEI) are used to help any child who shows academic or behavior concerns. GEI are used to help school staff understand what the child needs to be successful in the general education setting. The data collected during GEI is also used by

school staff to decide which children should be referred for an initial evaluation for special education.

With the parent request for an evaluation, the school will likely provide some information about the GEI process to the parent. Information about GEI process is to be informative. The information should explain what GEI is and how it is used. The parent has a right to participate in the GEI process. The parent could withdraw the request for an evaluation to allow for the GEI process to continue. This is a parent choice. A parent can request that the initial evaluation be conducted without waiting for the GEI process to finish.

Federal regulations at 34 C.F.R. 300.304(a) requires that parents are provided with prior written notice within a reasonable timeframe that describes any evaluation procedures the school district proposes or refuses to conduct. In Kansas, a reasonable timeframe for an LEA to respond to a parent request for an initial special education evaluation is considered 15 school days unless there are unusual circumstances.

In this case, the parent verbally made a request for a special education evaluation for the student on August 14, 2023. The district proposed that the student participate in the GEI process since he had not been attendance in an in-person school setting for more than three school years and the parent agreed. However, there is no documentation to show that the parent ever withdrew her request for the initial evaluation to determine eligibility after August 14, 2023. Interviews with the parent and grandmother found that both believed that the special education evaluation was still in process. There is also no documentation to show the district provided the parent with appropriate PWN refusing to conduct the initial special education evaluation on or before September 6, 2023, which was 15 school days from the date of the parent's verbal request for an evaluation.

Instead, documentation and interview found the parent made a second verbal request for an initial special education evaluation on February 16, 2024. At that time the district provided the parent with PWN proposing an evaluation and requesting consent on March 6, 2024, which is 12 school days from the date of the parent request. At this time, the district cannot proceed with the evaluation process until the parent provides written consent as required by 34 C.F.R. 300.300(a). If and when that consent is obtained, USD #500 shall have 60 school days to complete the evaluation and determine eligibility as required by the 34 C.F.R. 300.301(a) and the Kansas Department of Education.

Based upon the foregoing, a violation of federal regulations at 34 C.F.R. 300.304(a) *is substantiated*. While the district did respond appropriately to the parent's request for a special education evaluation on February 16, 2024, there is evidence to support a finding that USD #500 failed to respond appropriately to the parent's original request for a special education evaluation on August 14, 2023 in a timely manner.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of federal regulations at 34 C.F.R. 300.304(a) is substantiated because USD #500 failed to respond appropriately to the parent's original request for a special education evaluation on August 14, 2023 in a timely manner. Corrective action is required as follows:
 - a. CORRECTIVE ACTION:
 - i. USD #500 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will ensure that parents are provided with prior written notice that describes any evaluation procedures the school district proposes or refuses to conduct within a reasonable timeframe as required by that Federal regulations at 34 C.F.R. 300.304(a).
 1. No later than April 4, 2024
 - ii. USD #500 shall complete the initial evaluation of the student, determine eligibility, and provide the parent with appropriate prior written notice regarding eligibility within 60 school-days of the date the parent provides written consent for the evaluation. If the student is found eligible for special education and related services, the district will develop an IEP to provide the student with a free appropriate public education (FAPE). USD #500 will offer compensatory services to the parent to offset the delay between December 6, 2023, which is 60 school days from the original date the parent could have provided written consent and actual date of the eligibility determination meeting. USD #500 will provide SETS with documentation of whether the parent accepted all, part, or none of the offered compensatory services.
 1. No later than August 15, 2024
 - iii. USD #500 will provide training to all staff in the special education evaluation process including, but not limited to, school counselors, school psychologists, school administrators, and special education teachers regarding the requirements related to providing parents with PWN. USD #500 will provide SETS with a copy of the sign-in sheet documenting who received this training as well as the name and credentials of the person who provided the training. In addition, USD #500 will provide SETS with any handouts and/or a copy of the presentation.
 1. No later than May 31, 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)