

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES  
REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #500 KANSAS CITY KANSAS PUBLIC SCHOOLS  
ON JUNE 14, 2024  
DATE OF REPORT JULY 15, 2024

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

The complaint is against USD #500 In the remainder of the report, USD #500 will be referred to as “the district”, “the local education agency (LEA)”, or “the school”.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on June 14, 2024 and the 30-day timeline ends on July 15, 2024.

### **Evidence Reviewed**

During the investigation, the Complaint Investigator, Gwen Beegle, reviewed all evidence and documentation, which was provided by both the district and the complainant(s). The following documentation and information were used in consideration of the issue(s). Interviews with the parent were held on June 18 and July 11, 2024. Interviews with the following staff were held as follows: Dana Nelson and Bridget King on July 8, 2024, and Krista Knight on July 10, 2024. Cassie Sandowsky, private BCBA, was interviewed on July 9, 2024.

The parent provided:

1. Three undated movies of the student provided by the parent
2. Autism Spectrum Disorder Evaluation dated June 24, 2021 by Autism, Behavior and Psychological Services
3. Emergency Safety Intervention documentation form dated August 23, 2023
4. I Ready Personalized Instruction Summary in Reading with entries dated 10/16/23 through 02/08/24
5. Wyandotte County Developmental Disabilities Organization Letter from Rhonda Cruz dated October 18, 2023
6. Email from Travis Morlang (Special Educator-Greenbush Academy Coordinator) to the parent dated February 10, 2024 at 8:23 a.m.

7. Draft IEP for the student dated February 10, 2024
8. Text exchange between the parent and Lori Cooper (Principal, ME Pearson Elementary) beginning February 19, 2024 at 10:35 a.m. and ending on March 17, 2024 at 3:44 p.m.
9. Text exchange between the parent and Jennifer Stephens (School Psychologist) beginning February 23, 2024 at 8:31 a.m. and ending April 1 at 10:49 a.m.
10. Text exchange between the parent and Tracy Martin beginning February 23 at 10:35 and ending February 28 at 10:23 a.m.
11. Text exchange between the parent and Tracy Martin beginning February 29 at 10:04 and ending March 1, 2024 at 9:37 a.m.
12. Text exchange between the parent and Tracy Martin beginning March 6 at 10:39 a.m. and ending March 7 at 10:29 a.m.
13. Email from the parent to Dr. Jakyta Lawrie (Wyandotte Comprehensive Special Education Cooperative Executive Director) dated March 14, 2024 at 9:16 a.m.
14. Email from the parent to Dana Nelson (Wyandotte Comprehensive Special Education Cooperative Assistant Director) dated March 14, 2024 at 9:17 a.m.
15. Email from the parent to Krista Knight (Wyandotte Comprehensive Special Education Cooperative Coordinator) dated March 19, 2024 at 10:35 a.m.
16. Personal Notes of March 29, 2024 IEP Meeting by Cassie Sandowsky (BCBA)
17. Report entitled "Recommended Supports, Strategies and Modifications for [the Student]" dated April 1, 2024 by Cassie Sandowsky \* also submitted by district
18. IEP amendment dated April 24, 2024
19. Text exchange between the parent and Jennifer Stephens beginning on May 8, 2024 at 1:11 p.m. and ending on May 11, 2024 at 10:59 a.m.
20. Text exchange between the parent and Lori Cooper beginning May 7 at 10:40 and ending on May 10 at 11:25 a.m.
21. IXL Questions Log dated May 13, 2024
22. Greenbush Virtual Academy Spring 2024 Grade Report
23. Email from Cassi Sandowsky (Sandowsky Autism Services) to the parent dated April 18, 2024 at 9:53 a.m., subsequently forwarded by the parent to Jennifer Stephens on May 1, 2024 at 9:53 a.m.
24. Email from the parent to Jennifer Stephens, Lori Cooper and Krista Knight dated May 16, 2024 at 11:56 a.m.
25. Email from Alicia Baranczuk (Greenbush Academy Teacher) to the parent dated May 21, 2024 at 9:09 a.m. and subsequently forwarded by the parent to Frieda Tresvan (Parent Advocate) at 11:13 a.m. and Frieda Tresvan's reply at 11:43 a.m.
26. Email from Travis Morlang to the parent dated May 21, 2024 at 1:31 p.m.

27. Email from the parent to Krista Knight dated May 30, 2024 at 12:11 p.m. and Krista Knight's reply to the parent, Dana Nelson, Lori Cooper and Frieda Tresvan dated May 30, 2024 at 2:45 p.m.
28. Email from Frieda Tresvan to Brenda Tantow (Special Education Coordinator) dated May 31, 2024 at 11:26 a.m. Brenda Tantow's reply dated June 3, 2024 at 3:51 p.m., the parent's reply to Brenda Tantow at 7:24 p.m., and Brenda Tantow's reply to the parent at 7:46 p.m. of the same day
29. Email from parent to Krista Knight, Dana Nelson, Lori Cooper, Cassie Sandowsky and Frieda Tresvan dated May 31, 2024 at 12:52 p.m.
30. Email from parent to Krista Knight, Dana Nelson, Lori Cooper, and Frieda Tresvan dated June 12, 2024 at 8:00 a.m. with attached videos
31. Email from Krista Knight to the parent, Dana Nelson, Lori Cooper, Frieda Tresvan and Jakyta Lawrie dated June 12, 2024 at 11:54 a.m.

Documents from District

32. Notice of meeting portion, signed by parent on February 1, 2023
33. Portion of Prior Written Notice (PWN) signed by parent giving consent dated February 17, 2023
34. IEP dated February 17, 2023
35. IEP meeting notes dated February 17, 2023
36. Student attendance, 2023-24
37. Contact log for the student, 2023-24
38. General education contact log for the student, 2023-24
39. Principal Request for Virtual Learning dated October 9, 2023
40. Progress Notes on February 17, 2023 IEP goals
41. Notice of Meeting dated February 6, 2024 for a meeting on February 13, 2024 signed by the parent on February 6, 2024 and waiving right to 10-day notice
42. IEP Meeting Notes and Summary dated February 6, 2024 and February 13, 2024
43. Prior Written Notice - Evaluation dated February 9, 2023 and signed by the parent giving consent on February 13, 2023
44. Prior Written Notice dated February 13, 2024 for additions or changes to special education service signed by the parent giving consent on the same date
45. Student IEP dated February 13, 2024
46. Email from Bridge King to Travis Morlang dated March 21, 2024 at 1:44 p.m. and the reply at 3:37 p.m., forwarded to Krista Knight at 4:05 p.m.
47. IEP Meeting notes dated March 29, 2024
48. IEP Meeting notes dated May 22, 2024
49. The student's evaluation report dated May 22, 2024

50. Prior Written Notice - Evaluation dated May 21, 2024, provided to the parent via email on May 30, 2024 and unsigned by parent
51. The district's response to the allegations dated July 1, 2024, including timeline of events

### **Background Information**

The student is a nine year old child who was identified for special education services as a child with developmental disabilities when he was three years old. The student has been medically diagnosed with autism, and he qualifies for speech language services. His IEP dated February 17, 2023 required full time special education in special education settings with regular education physical education and speech language therapy 20 minutes 3 times a week. The IEP noted that the student was generally happy to attend school, needed continual adult proximity and guidance due to distractibility and movement, and had social emotional needs: "He will protest loudly when he is upset. He struggles to control his emotions during the school day and benefits from working in a one-on-one or small group environment."

He has always attended school in #USD 500, and in August, 2023 the student began refusing to enter the school building, affecting his attendance. Upon receipt of a truancy letter and in consultation with the school principal in late September, the parent requested a change to his school of residence and virtual schooling in October, 2023. The parent accessed community behavioral and autism services to address the student's refusal to attend school or board the school bus beginning in October, 2023.

### **Issues Investigated**

1. **ISSUE ONE:** The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to plan and conduct a comprehensive evaluation within timelines, specifically completing the triennial evaluation on time. (p. 6)
2. **ISSUE TWO:** The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to conduct a comprehensive evaluation using a variety of tools and strategies, and by conducting an evaluation sufficiently comprehensive to identify all the special education and related services needs of the child (p. 8)
3. **ISSUE THREE:** The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to call an IEP meeting to address the student's behavioral needs and lack of progress (p.13)
4. **ISSUE FOUR:** The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide prior notice and obtain parental consent before a substantial change in placement and material change in services. (p. 17)

5. **ISSUE FIVE:** The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to properly develop an appropriate IEP to meet the student's needs (p. 20)
6. **ISSUE SIX:** The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP to provide needed services (p. 25)
7. **ISSUE SEVEN:** The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide highly qualified staff to implement the student's IEP (p. 27)

### **Issue One**

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to plan and conduct a comprehensive evaluation within timelines, specifically completing the triennial evaluation on time.

### **Applicable Law**

According to 34 C.F.R. 300.301(c) and K.A.R. 91-40-8(f) the initial evaluation is to be completed within the 60-school-day timeline. The 60-school-day timeline begins when the agency receives written parent consent to conduct the initial evaluation and ends with the implementation of services.

According to 34 C.F.R. 300.303(b)(2) and K.S.A. 72-3428(h)(2)(B) the reevaluation process must occur once every three years or more often if needed. Parental consent is required prior to conducting any reevaluation, except that consent need not be obtained if the agency can demonstrate that it took reasonable measures to obtain such consent and the parents failed to respond (K.S.A. 72-3428(j)).

### **Analysis: Findings of Fact**

The parent alleged that the student's reevaluation, which was due December, 2023, was not completed on time. The parent alleged that she offered to have the district come to her home to complete the evaluation because the child was refusing to attend school in person.

The district responded that the student's triennial was due 12/16/2023 and that the parent did not respond to two attempts to acquire consent for the reevaluation dated 10/13/23 and 12/8/23. The district stated that the parent provided consent on February 13, 2024 in response to a third request, after the triennial date had passed.

The district stated, "The student is considered DD and requires an evaluation by 10 years old. The LEA acknowledges that after we did not receive consent back from the parent after the first two attempts, we should have followed our internal processes and sent a letter home to the parent explaining that her non-response would be considered consent and we should

have moved forward with the evaluation. However, with the student attending virtually and not getting a response from the parent, the school psych decided to continue the attempts with hopes the parent would respond and unfortunately that consent was not granted by the parent until February 13, 2024.”

The district responded that “Training will be provided to the psychological services team at the start of the school year, reviewing our internal process for addressing triennials that are due and what to do when parents are not responsive to the request.”

The following findings are based upon a review of documentation and interviews with the parent and staff in USD #500.

The district and the parent agree that the triennial evaluation was not completed on time.

The PWNE provided by the district was dated October 13, 2023; December 8, 2023; and February 9, 2024. The district reported and documentation showed that the parent provided consent for the evaluation on February 13, 2024 and that the draft evaluation report was completed by the district on May 22, 2024 when an evaluation team meeting was held.

### **Conclusion**

Based on the foregoing, *it is substantiated* that USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to plan and conduct a comprehensive evaluation within timelines, specifically completing the triennial evaluation on time.

### **Issue Two**

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to conduct a comprehensive evaluation using a variety of tools and strategies, and by conducting an evaluation sufficiently comprehensive to identify all the special education and related services needs of the child

### **Applicable Law**

According to 34 C.F.R. 300.303(b)(2) and K.S.A. 72-3428(h)(2)(B) and (i), the reevaluation process must occur once every three years or more often, if needed, to determine: (1) If the child continues to be a child with an exceptionality; (2) whether the child continues to need special education and related services; (3) the educational needs of the child; (4) the present levels of academic achievement and functional performance (related developmental needs) of the child; (5) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. To accomplish the reevaluation, the IEP team and other qualified professionals are to review

existing evaluation data, including evaluations and information provided by the parents, current classroom-based assessments and observations, and teacher and related service provider observations (K.S.A.72-3428(i)(1)) and (2) on the basis of that review and input from the parents, identify what additional data if any are needed.

Federal statutes and regulations at 34 CFR 300.304(c)(4) requires that the child be assessed in all areas related to the suspected disability, and 34 CFR 300.304(c)(6) and (7) require that the evaluation be sufficiently comprehensive to identify all the child's special education and related services needs and that tools and strategies provide relevant information to directly assist in determining the educational needs of the child are used. According to K.A.R. 91-40-9 evaluation procedures must ensure that each evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs. As such, they shall include a variety of assessment tools and strategies to gather relevant functional and developmental information about the child, including information provided by the parent, information related to enabling the child to progress in the general curriculum and what the content of the child's IEP should be.

### **Analysis: Findings of Fact**

The parent alleged that the evaluation was not a complete and comprehensive evaluation of the student's needs and disability. The parent alleged that one home visit was held in which the evaluator observed the child playing a computer game and with other objects. The parent alleged that she had provided information to the district from the ABA specialist that she contacted when the student began refusing to attend school.

The district responded that "the LEA provided the parent with PWN on 2/9/24, that outlined the areas that would be evaluated and the parent consented to those areas on 2/13/24. The evaluation was completed based on what was consented for on the PWN. The parent was provided a copy of the evaluation draft prior to the meeting and once the team met to review the evaluation the parent was not happy with the evaluation results and requested for more different types of assessments for different reasons. Parent did not sign the evaluation that was completed, which we understand she was not required to, but we did issue another PWN with the additional assessments in which the team outlines specifically what those would be and why. (PT, OT, FBA, Standardized Academic, Assistive Technology) on 5/21/24 in which the parent chose not to provide consent for the new PWN in which she requested. The LEA believes they conducted a comprehensive evaluation to determine the needs of the students and once the parent voiced she wanted more assessments, we provided another PWN to do more assessments. Parent refused to sign the PWN."

The findings of Issue One are incorporated herein by reference. The following findings are based upon a review of documentation and interviews with the parent and staff in USD #500.

The district provided prior written notice for evaluation (PWNE), signed by the parent consenting to the evaluation dated February 13, 2024. The PWNE stated that the following areas would be evaluated with both new and existing data: health- motor ability, vision, hearing, social emotional skills - behavioral status, general intelligence, academic performance, and other "observations, interviews." Communication would be assessed on existing data only. IEP meeting notes dated February 13, 2024 stated that the reevaluation, specifically the disability change to autism, was discussed at the IEP meeting.

The parent provided a report dated April 1, 2024 entitled "Recommended Supports, Strategies and Recommendations for [the Student]" authored by the privately contracted Board Certified Behavior Analyst (BCBA). The parent and the BCBA reported that this information was shared with the district on March 29, 2024 at an IEP meeting and documents showed that the district had a copy of the report dated April 1, 2024.

According to the reevaluation report dated May 22, 2024, the purpose of the evaluation was twofold, to determine continued eligibility as required each three years and, because the student was turning nine years old, to determine an alternate qualifying disability category to the current one of developmental disability, which may only be used to age ten. The reevaluation report found that the student's primary disability was autism and his secondary disability was speech language disorder, resulting in his need for special education and related services. Evaluation conference participants listed were the parent, general education teacher, special education teacher, two speech language pathologists, principal, special education coordinator, special education director, and school psychologist.

The evaluation dated May 22, 2024 stated that the following sources of data were used in the report: record review for health-physical-motor-sensory; record review, observation, interview and tests for social emotional; record review and tests for cognitive; record review, observation and tests for academic; observations in the community (his home); and review of existing data for communication. The two tests given and used for the report were the Developmental Profile 4 (DP-4) (a rating scale that assesses a student's developmental skills in a variety of domains, completed by the mother) and Autism Spectrum Rating Scale (ASRS) stating that its purpose was "to quantify observations of a child that are associated with Autism Spectrum Disorder. Used in combination with other information, results from the ASRS can help determine the likelihood that a child has symptoms associated with Autism Spectrum Disorder." The mother filled out the parent ASRS rating scale.

No new data were collected for the health, physical, motor, sensory portion of the evaluation. New data were collected for the speech language evaluation. Sources for the speech language portion of the reevaluation were parent checklist and intake form, and Clinical Evaluation of Language Fundamentals-5: Pragmatic Profile (noted as "pending" with parent but without a teacher's participation), direct observation data from the student's participation in online



therapy sessions; additionally, it recommended a full assistive technology reevaluation to determine if his current device met his needs.

In the report, although the February 13, 2023 IEP student performance report was quoted, no academic or classroom direct observation data were included from the student's in person classroom attendance or virtual special education sessions. When asked in interviews, district administrators could not affirm that virtual school observations were a source for the report. Additionally, no information from the parent provided BCBA report dated April 1, 2024 was referenced, nor was the report noted as a data source. The reevaluation stated that the student had a diagnosis of autism, with no further citation of the parent provided medical reports given.

The district reported that the school psychologist sent a draft of the report prior to the scheduled evaluation-IEP team meeting on May 22, 2024. The district reported that the parent, unsatisfied with the draft reevaluation report, requested additional data in the student's evaluation. In response, the school psychologist offered to conduct additional testing prior to the scheduled meeting and the parent did not confirm the testing date proposed, according to the district. The district reported that, on May 22, 2024 at the IEP meeting, the parent stated that she did not want to confirm the student's eligibility due to the incomplete evaluation report.

In response to the parent's request for additional evaluation data (IEP meeting notes dated May 22, 2024; interview with the special education coordinator), the district provided a PWNE dated May 30, 2024 which stated that the purpose of the data collection was to determine continued eligibility, present levels of academic achievement and related developmental needs, continued need for special education, additional additions or modifications to the special education and related services needed to enable the student to meet IEP goals and participate and make progress in general education curriculum. In this PWNE, the district proposed specific assessments, for occupational and physical therapy, functional behavior assessment, assistive technology, standardized academic achievement assessments and data collection on the student's school entry at the beginning of the 2024-25 school year. "An extension of the consent, dated 2/13/24 is proposed in order to collect additional data as requested by the team in order to have a more comprehensive reevaluation. Additional data will include: motor assessments (physical and occupational therapy evaluations), functional behavior assessment, and achievement assessments." The PWN also stated "To conclude the re-evaluation with the current data collected (and not seek an extension) was considered, but rejected, as [the mother] has requested the additional data and after review, the IEP team concurs that additional data in the areas outlined above are required in order to complete a comprehensive reevaluation."

The district and the parent agree that the parent refused consent on this PWNE dated May 30, 2024. Emails between the parent and district personnel surrounding this PWNE described it

as a PWN for an extension for the evaluation. The parent stated, in an email dated June 5, 2024, that she had provided consent in February and the district had consent to conduct the relevant assessments for a comprehensive assessment as of that time and that she disagreed with an extension. When asked in an interview, the parent had an additional concern of how the additional assessments were to be conducted.

### **Conclusion**

In this case, the re-evaluation was delayed (Issue One). At the time the student was assessed, he was a virtual student with a markedly altered school attendance environment and format. The February 17, 2024 IEP was cited in the evaluation report, with no additional academic testing, (virtual) classroom observations or documented virtual school special education provider information, as required by K.S.A. 72-3428 (i) in a re-evaluation. The information provided by the parent, specifically the April 1, 2024 BCBA report, was not cited as a source for the evaluation. It is noted that the speech-language portion of the report included performance data from recent therapy sessions.

The draft evaluation report was reviewed on May 22, 2024 by the IEP and evaluation team. The evaluation was not accepted as complete by the IEP team as stated in the subsequent PWN provide by the district to collect additional data requested by the parent and on the student's entry into the school building at the start of the 2024-25 school year. The PWNE was not signed by the parent giving permission to collect the additional data, and at this point, the evaluation remains incomplete and without data determined necessary by the district and the parent in order to complete the student's eligibility determination and to develop the student's IEP.

It is found that the district did not complete a reevaluation sufficiently comprehensive to identify the student's special education and related service needs and to provide adequate information for the IEP. It is noted that the district offered to conduct the additional testing when the IEP team determined additional testing was needed at the evaluation team conference.

Based on the foregoing, it is substantiated that USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to conduct a comprehensive evaluation using a variety of tools and strategies, and by conducting an evaluation sufficiently comprehensive to identify all the special education and related services needs of the child.

### **Issue Three**

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to call an IEP meeting to address the student's behavioral needs and lack of progress

## **Applicable Law**

Federal regulations at 34 C.F.R. 300.324(b) and state regulations at K.S.A.72-3429(f) require that an IEP team meeting must be held at least annually to review and revise the IEP, if appropriate, to determine whether annual goals are being met, to address any lack of expected progress towards IEP goals, to consider the results of any reevaluation and/or information provided by the parent, or to discuss the child's anticipated needs, or other matters.

Federal regulations, at 300.324(a)(2)(i), require IEP teams to consider the use of positive behavioral intervention and support, and other strategies to address the behavior of a student whose behavior impedes the child's learning or the learning of others. The Kansas Special Education Process Handbook in Chapter 4, Section E.1.e., states that the focus of behavioral interventions and supports in the IEP is prevention of the behavior, not just provision for consequences subsequent to the behavior. The positive behavioral interventions and support could be implemented through the IEP annual goals, program modifications, or a behavioral intervention plan (BIP). If a BIP is developed by the IEP team, it becomes part of the IEP.

## **Analysis: Findings of Fact**

The parent alleged that when the child started to refuse to attend school, the district did not hold an IEP meeting; rather, the district sent a truancy letter to the parent. The parent alleged that she went to the school to object to the truancy letter and to tell the district why the child was not attending school. The parent alleged that, because she feared the district's pursuit of truancy allegations, she asked that the student be considered a virtual student. The parent alleged that the district did not call an IEP meeting despite being informed of the child's behavior of refusing to get on the bus or out of the car when the parent drove him to school.

The district responded that: "The students' school of attendance was West Park, in the autism program. The student attended school the first week and did not come to school after that. According to attendance records, the parent was calling the student in sick and there were a few times the student was marked unexcused. The school followed their attendance process and reported the student truant. The teacher and school was communicating with the parent and was trying to offer support and at times the parent was responsive and not responsive. The student had an active IEP that was not due until 2/26/24, and it was held 2/13/24. It was not a situation where the student was attending every day and had behaviors and not making progress on goals, the student was not attending school and then the parent elected for the student to go to the district virtual school."

The findings of Issue One and Issue Two are incorporated herein by reference. The following findings are based upon a review of documentation and interviews with the parent and staff in USD #500.

The student's IEP dated February 17, 2023 stated that the student had needs in the following areas: speech, language, reading, math, social emotional-behavior with no needs in functional skills. Special considerations included the need for assistive technology and behavioral needs for a visual schedule, for reminding to follow schedule and directions, and to develop a token system. The IEP goals were (1) to read pre-primer words, (2) add and subtract math facts, (3) communicate with intent, (4) answer questions and learn words, and (5) follow two step directions. The student was placed full time in special education with participation in regular physical education. The following services were included the following special education services in special education settings: science-social studies (30 minutes, 4 days a week), specials (50 minutes, 4 days a week, and 25 minutes 1 day a week), early math (75 minutes, 4 days a week), early reading (90 minutes, 4 days a week), speech-language services (20 minutes, 3 days a week), early reading sight words (60 minutes, 1 day a week), and special transportation. The IEP required staff training via consultation in PECS, first then boards and visual prompts. The student qualified for ESY. Accommodations listed were: access to AAC, adaptive seating, adult proximity and support, accept and prompt to expand answers, multisensory learning of vocabulary, extended time for written responses, frequent breaks, fidget seating, wait time, multiple assessment accommodations, visuals to enhance explanations, simple directions, special transportation, positive reinforcers, visual supports, and visuals such as first then boards, schedules and visual timers.

Progress reports for the first two quarters after the February 17, 2023 IEP were put in place showed adequate progress toward the IEP goals.

The parent and the district agree that the student was absent from school beginning on or about August 23, 2023. The parent provided a Emergency Safety Intervention Document form dated August 23, 2023 from a parking lot incident when the child refused to come into the building and ran away back to the parent at school drop-off.

Special and general education contact logs provided by the district showed the following interactions with school personnel. The parent contacted the school on September 9, 2023 regarding the difficulty getting the student to school. A special education coordinator contacted the parent September 11, 2023 with information. The special education teacher contacted the parent regarding strategies to assist the parent to get the child to school on the following dates: September 19, September 20, September 22, and September 25, 2023. A home visit by the special education teacher was scheduled for September 27, 2023. The parent reported that the home visit was useful and she wanted them to continue.

The parent received a truancy letter and visited the school September 25, 2023, and the principal developed an attendance plan with the parent that included having additional staff to assist in getting the student into the school on September 29, 2023. The principal and parent, on October 5, 2023, arranged a meeting for the following Monday, October 9, 2023 to discuss the attendance plan. On October 9, 2023, the special education coordinator arranged to meet

the parent the following day at the transfer of attendance school to determine if the child would enter that school building.

The principal requested virtual learning on October 9, 2023, giving emotional safety and unique circumstances as the rationale. The request stated: "The student has been extremely combative when attempting to get him to school. Mom has tried multiple avenues to get him here but he is non-verbal and he is refusing to even get in the car to come to school at this point. She would like to try virtual school to get him at least a little bit of educational contact." The request was signed by the parent.

The parent did not request an IEP meeting, according to the district.

According to the parent and the BCBA, the parent contacted the community agency in October, 2023 to initiate services that were privately funded by the parent's insurance company. The insurance company approved a behavior support plan that would get the child into the school building. According to the parent and the BCBA, the plan was successful and the parent and the BCBA shared responsibility for transporting the child to school and by Thanksgiving, the student was walking into the building and participating in activities. According to the BCBA, it was clear the district wasn't ready for him but individual substitute teachers provided worksheets and materials for the BCBA to use while at the school. By February, 2024 at the time of the IEP meeting, the student had gradually increased his time in the classroom to 60-90 minutes.

According to interviews with the district, the student was considered to be a virtual student as of the October, 2023 principal request for virtual learning signed by the parent.

### **Conclusion**

In this case, the parent did not request an IEP meeting, but instead requested and was granted virtual schooling due to the inability to get the child to school. The district reported that the child was making progress in his placement prior to the unilateral action by the parent and evidence showed that the district was making attempts to assist the parent and the student to attend school during the first month of the student's emergent school refusal. The district is not required to have an IEP meeting in this case, as the request for virtual schooling is considered a unilateral parental action rather than an action taken by an IEP team.

Based on the foregoing, *it is not substantiated* that USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to call an IEP meeting to address the student's behavioral needs and lack of progress.

### **Issue Four**

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide prior notice and

obtain parental consent before a substantial change in placement and material change in services.

### **Applicable Law**

Federal regulations at 34 CFR § 300.503(a)(2) specify that a Prior Written Notice is to be provided to parents for certain proposed special education actions.

According to federal regulations at 34 CFR § 300.503(a)(2) and K.S.A 72-3430(b)(2) a procedural safeguard afforded to parents is the Prior Written Notice for certain proposed special education actions. The Prior Written Notice documents a description of the action proposed or refused by the district. It is required when the district proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or provision of FAPE to a child. This requirement is triggered regardless of whether it is the school or the parent who is initiating the request.

State regulations at K.A.R. 91-40-27(a)(3) require school districts to obtain parent consent before making a material change in services or a substantial change in placement. "Material change in services" is defined at K.A.R. 91-40-1(mm) as an increase or decrease of 25% or more of the frequency or duration of a special education service, related service, or supplementary aid or service specified in the child's IEP. "Substantial change in placement" is defined at K.A.R. 91-40-1(sss) as the movement of an exceptional child for more than 25% of the child's school day from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

### **Analysis: Findings of Fact**

The parent alleged that the district did not provide prior written notice or the opportunity for her to give consent when changing the student's IEP to make him a virtual student, despite the changes in services and placement associated with virtual schooling.

The district responded that, "the LEA had a current IEP in the beginning of the 23-24 school year and the placement was outside regular classrooms more than 60% of the time. That IEP was maintained until the parent elected to enroll the student in virtual school, with the understanding that once the student returns to brick and mortar, those services would remain in place." Further the district responded that the parent provided consent to the February 17, 2023 IEP services and the IEP team met again at the time of the annual IEP February 13, 2024 to reflect what the parent agreed to with the LEA for the student while attending virtual school. "The LEA denies failing to provide prior notice and obtain parental consent before a substantial change in placement and material change in services."

The findings of Issue One, Issue Two, and Issue Three are incorporated herein by reference. The following findings are based upon a review of documentation and interviews with the parent and staff in USD #500.

The district and the parent agree that parental consent was given for the IEP services dated February 17, 2023. The district and the parent agree that virtual schooling was initiated following the principal's request signed by the parent on October 9, 2024. The district and the parent agree that if the child had attended brick and mortar schooling, the February 17, 2023 IEP was the IEP in place until the February 13, 2024 IEP was written. The district and the parent agree that no PWN was given when the student began virtual schooling.

### **Conclusion**

In this case, the parent acted unilaterally by placing the student in virtual schooling; the district did not change its offer of FAPE and the February 17, 2023 IEP remained the IEP of record. Therefore, a substantial change of placement and material change of services did not occur, and parental consent under K.A.R. 91-40-27(a)(3) was not required. However, the district was obligated to provide prior written notice to the parent when the parent took the unilateral action of virtual school placement without an IEP meeting. Had the district taken such action, the parent would have been fully informed that the district's current offer of FAPE differed from special education offered by the virtual school and therefore had the opportunity to consider the implications of virtual school placement as opposed to requesting an IEP meeting to revise the student's IEP (Issue Three).

Based on the foregoing, *it is substantiated* that USD#500 failed to provide prior notice at the initiation of the virtual schooling, and *it is not substantiated* that USD#500 failed to obtain parental consent before a substantial change in placement and material change in services.

### **Issue Five**

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to properly develop an appropriate IEP to meet the student's needs

### **Applicable Law**

The development of the IEP begins with the evaluation. Federal statutes and regulations at 34 CFR 300.304(c)(4) requires that the child be assessed in all areas related to the suspected disability, and 34 CFR 300.304(c)(6) and (7) require that the evaluation be sufficiently comprehensive to identify all the child's special education and related services needs and that tools and strategies provide relevant information to directly assist in determining the educational needs of the child are used.

Federal statutes and regulations at 34 CFR 300.324(a) require that in developing the child's IEP, the IEP team shall consider the following: the strengths of the child, the concerns of the parents, the results of the child's evaluation, the academic and functional needs of the child, the use of positive behavior interventions and supports if the child's behavior impedes learning, the need for braille or the impact of limited English proficiency, the child's

communication needs, and the need for assistive technology. Federal regulations at 34 CFR 300.327 and state regulations at K.S.A. 91-40-25(a)(1) and (2) require that the district allow the parents to participate in any meeting with respect to the identification, evaluation, or educational placement of the child, and that the agency take steps to ensure that the parents are present and afford the opportunity to participate in each meeting concerning their child

### **Analysis: Findings of Fact**

The parent alleged that the IEP failed to address the student's needs as a student with autism who was refusing to attend school. The parent alleged that she had to go to an outside agency to find someone "who would help me." The parent alleged that the district's proposals did not address the student's core problem of school refusal despite being informed of it many times, including when the virtual schooling was initiated, in communication with the district, and at IEP meetings.

The district responded that "Based on the student attending school, brick and mortar and when the parent elected to send student virtual, the IEP team developed an IEP appropriate to meet the needs of the student and the parent was able to meaningfully participate in those meetings."

The findings of Issue One, Issue Two, Issue Three and Issue Four are incorporated herein by reference. The following findings are based upon a review of documentation and interviews with the parent and staff in USD #500.

According to the parent and the BCBA provider, the student was entering the school building and participating in activities in the classroom by Thanksgiving.

The student's annual IEP dated February 13, 2024 stated that the student was "enrolled in Greenbush Virtual Academy which is a parentally placed option. He receives special education services virtually through Kansas City Kansas Public Schools.

[The student] is also currently attending in person at his assigned elementary school part time to work on transitioning to in person learning full time. He has been spending about an hour each day in the school building."

The February 13, 2024 IEP goals (in brief) included (1) read 100 pre-primer words, (2) add and subtract single and double digit numbers, (3) initiate communication or respond with intention, (4) answer WH/How questions, and (5) participate in activity using a First/Then visual or verbal prompt. The IEP included these services: transportation when the student returns to full time in school attendance, speech-language services (20 minutes, 3 times a week), and special education for reading and math (20 minutes, 2 times a week). Accommodations were similar to those provided by the previous IEP, with the additions of: (a) "Adapt and modify weight of course components and/or course tests. While in Greenbush Virtual Academy course load is reduced by 25%, (b) Adapt teaching materials to correspond to student skill level while



attending Greenbush Virtual Academy. [Student] is working 2 grade levels below current grade level curriculum." The IEP stated that the student is eligible for Extended School year. The IEP did not include a behavior goal or a behavior intervention plan.

Following the February 13, 2024 IEP meeting, according to the district administrator interviews, the district administrations became aware that the BCBA private service provider was supporting the student in the school building, and that the February 13, 2024 IEP did not provide for in school services at the same time as it recorded the student's partial day school attendance. The school principal, in a text exchange beginning February 19, 2024, informed the parent that the BCBA private service provider could no longer be with the child in the building. According to the district response and interview, the special education coordinator contacted the IEP team on March 14, 2024 stating a meeting was needed to discuss the student's services because the BCBA could not be in the building and the IEP did not reflect any in-class services. The parent reported and provided an email documenting that she alerted the special education coordinator that the removal of the BCBA services resulted in the student again refusing to enter the school building.

The parent requested an IEP meeting in a text to the principal dated March 15, 2024 and an IEP meeting was held on March 29, 2024. The parent texted that the accommodations and strategies shared with the team at the February 13, 2024 IEP team meeting should now be included in the IEP, given that the BCBA support was no longer in place. According to the district and the parent, at the March 29, 2024 meeting, the BCBA recommended strategies were discussed and the written report dated April 1, 2024 was subsequently shared with the district.

An IEP amendment meeting was scheduled and held on April 24, 2024. The IEP amendment stated, "It is proposed that [the student] receive special education services at ME Pearson for the minutes listed below. [The student] will continue to receive special education services through the Greenbush virtual academy while he works towards attending a full day at ME Pearson." New services listed were special education in a special education setting for the following: 320 minutes 3 days weekly, 340 minutes 1 day weekly, 245 minutes 1 day weekly and 25 minutes 1 day weekly, with special education in a general education setting 50 minutes 4 days weekly. In addition, speech language 20 minutes 3 days a week, virtual speech language 20 minutes 3 days a week and virtual special education 20 minutes 2 days a week and special education transportation were included.

The associated PWN dated April 24, 2024 stated that: "increasing [the student] to a full day attendance at ME Pearson, implementing accommodations and modifications to his day, and receiving special education ESY services were proposed so [the student] could continue to make educational progress." This PWN dated April 24, 2024 was unsigned by the parent and the district and the parent agreed that the parent did not consent to the proposed changes. When asked in an interview, the parent indicated that the proposed modifications lacked the

clarity and specific successful strategies as provided by the BCBA along with a concern about how the one to one support would be provided.

An IEP amendment dated May 28, 2024 signed by the parent on May 30, 2024 giving consent describes the student's ESY services (in person) and the accommodations and modifications to include on the student's IEP.

A PWN dated May 28, 2024 provided by the district stated that the district was proposing ESY services and listed accommodations "for the purpose of accessing his special education evaluation and the educational environment to assist in data collecting to ensure the team is able to determine the appropriate eligibility, program placement, services, and supports needed to access, benefit, and participate in the educational program." Other factors related to the proposal were "concerns with attendance directly connected to the suspected need for identification and specially designed instruction." ESY services proposed were: 3 days of special education services in the special education setting for 180 minutes daily; 1 day of special education services in the special education setting for 165 minutes; 1 day of speech language services in the special education setting for 15 minutes; 4 days of special education transportation services for 20 minutes daily with a monitor.

Accommodations proposed were: "Access to a break card; Access to fidgets; Alternate seating (i.e., wobble cushion, etc); Course load reduced by 25% while in GVA; Adapt teaching materials to skill level while in GVA; Adult proximity; Alternate tasks between preferred and non-preferred; Concrete reinforcement to include non-contingent reinforcement; Increased wait time up to ten minutes; Individualized daily schedule / mini schedule of 3-4 tasks/activities; Modified curriculum within STEPS program; Movement/Leisure breaks embedded within schedule and when requested; Multimodal communication support- access to AAC (e.g., picture icons, sentence strips, iPad, etc) for communication; Multi-modal instruction based on the structured teaching model to include group activities, direct instruction, independent work, self-directed choice, iPad/technology; Offer choices as appropriate; Provide and model opportunities for turn-taking; Review of daily schedule; Review of reminders and expectations / boundaries; Use of first then verbiage and visuals; Matrix of Adult Support for duration of school day." The PWN noted that it was emailed to the parent on May 29, 2024 and the parent signed giving consent on May 30, 2024.

The parent and the district agree that the transportation service Everdriven provided by the district has been successful at getting the student to attend the ESY program.

## **Conclusion**

In this case, the parent alleged that the district's proposals did not address the effects of the student's disability, in particular the issues surrounding his school refusal. As noted in Issue One the district failed to conduct the triennial evaluation, due in December 2023, on time, and in Issue Two, the district failed to conduct a comprehensive evaluation needed to identify all

the special education and related services needed. The district asserts correctly that the parent unilaterally placed the child in the virtual school in October 2023, and the subsequent series of meetings (February 13, March 29, and April 24, 2024 IEP meetings) indicate that the IEP team addressed the proposed brick and mortar school program as the student's intended special education program and placement. However, the lack of a timely, complete, comprehensive evaluation (due December 16, 2023) addressing the student's problems associated with school attendance and the failure to have an IEP meeting associated with a complete evaluation impeded the proper development of an IEP at the point the student was entering the school with BCBA support. When the BCBA support was precluded by school personnel, the problem behavior reemerged, prior to the district's later attempts to amend the February 13, 2024 virtual IEP to articulate needed school based IEP services.

Based on the foregoing, *it is substantiated* that USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to properly develop an appropriate IEP to meet the student's needs.

### **Issue Six**

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP to provide needed services

### **Applicable Law**

Federal/State statutes and regulations at 34 CFR 300.39 defines special education as specially designed instruction at no cost to the parent to meet the unique needs of a child with a disability. Further 34 CFR 300.320(a)(4) requires that the IEP include "a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child: (i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum. . . and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children. "

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

### **Analysis: Findings of Fact**

The parent alleged that the district was not providing IEP services during the period of time that the student was in the virtual school. The parent alleged that despite the partial success of the ABA treatment being provided by the in-home provider the school prevented the

provider from entering the building and that as a result of the district not providing the same or similar services, the student stopped attending school following the removal of the ABA treatment in March, 2024.

The district responded that “Based on the student attending school, brick and mortar and when the parent elected to send student virtual, the IEP team developed an IEP appropriate to meet the needs of the student and the parent was able to meaningfully participate in those meetings. When the parent was experiencing problems at home getting the student to school, the school provided contact and resources for the parent and followed the district attendance procedures.

The findings of Issue One, Issue Two, Issue Three, Issue Four and Issue Five are incorporated herein by reference. The following findings are based upon a review of documentation and interviews with the parent and staff in USD #500.

As stated in Issue Five, the student’s annual IEP dated February 13, 2024 stated that the student was “enrolled in Greenbush Virtual Academy which is a parentally placed option. He receives special education services virtually through Kansas City Kansas Public Schools. [The student] is also currently attending in person at his assigned elementary school part time to work on transitioning to in person learning full time. He has been spending about an hour each day in the school building.”

The district reported in its response and in interviews that the virtual school services including virtual speech language services were in place by November 1, 2023 and continued through the end of the school year. An email dated March 21, 2024 gives a teacher’s report on participation; progress reports show adequate progress on IEP goals for the fourth quarter and assessment reports provided by the parent show participation. ESY services were provided in person, and included transportation by the district (Everdriven). The parent reported successful use of the district provided transportation.

The IEP dated February 17, 2023 required staff support as “Teacher consultation (Training for staff on consistent use of PECS book, First/Then boards and other visual prompts)” to occur one time every four weeks. No data were provided to document that the staff at the student’s first school had this training prior to the beginning of the school year. The special education contact log showed that the special education teacher used a visual morning routine chart with the parent and child prior to the September 27, 2023 home visit.

## **Conclusion**

A lack of clarity for the school staff, outside agency and the parent surrounded this student’s educational and behavioral program. However, only two IEPs were in place during this period, the February 17, 2023 IEP that was implemented prior to the virtual schooling request and the February 13, IEP that provided for virtual school with eligibility for ESY. The parent signed a PWN for in person ESY services, which the student attended. On the secondary matter of the

staff support - teacher consultation for PECs book, first-then board and visual prompts in place when the student attended in person school, evidence was incomplete.

Based on the foregoing, *it is not substantiated* that USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP to provide needed services.

### **Issue Seven**

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide highly qualified staff to implement the student's IEP

### **Applicable Law**

Federal regulations at 34 C.F.R. 300.156(a) require public agencies to ensure that children with disabilities are provided special education and related services by appropriately and adequately prepared and trained personnel who have the content knowledge and skills to serve children with disabilities.

Federal regulations at 34 C.F.R. 300.156(c) require that each special education teacher providing special education services has obtained full State certification as a special education teacher (including certification obtained through an alternate route to certification as a special educator), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, and holds at least a bachelor's degree.

### **Analysis: Findings of Fact**

The parent alleged that the district did not provide adequately trained staff to implement the student's IEP. The district responded: "All district staff that would have been the student's teacher in brick and mortar and virtually held appropriate credentials. The student started off at West Park, then the parent moved which changed the home school location to ME Pearson and then the student was attending Greenbush Virtual."

The district reported and record review through the KSDE Kansas Educator License Lookup confirmed that the teachers for the student listed had current Kansas Educator Licenses, as follows (teacher's initials only)

Teacher	Endorsement(s)
West Park STEPS Teacher - A.G.	- LAL High Incidence Special Education Prek-12
GVA SPED Case Manager/Teacher - T.M.	- Elementary K-9 - English for Speakers of Other Languages PreK-12 - Intellectual Disability K-9

Teacher	Endorsement(s)
M E Pearson STEPS Teacher - D.S.	- Elementary Education K-6 - High Incidence Special Education K-6
M E Pearson STEPS Teacher - J.E.	- Severely Multiply Handicapped K-12

The speech language pathologist listed on the student’s virtual IEP and evaluation had current speech language Speech Language Pathology Licenses, confirmed through the KDHE Health Occupations Credentialing Verification of Licenses website.

### **Conclusion**

Based on the foregoing, *it is not substantiated* that USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide highly qualified staff to implement the student’s IEP.

### **Summary of Conclusions/Corrective Action**

1. ISSUE ONE: A violation of 34 C.F.R. 300.303(b)(2) and K.S.A. 72-3428(h)(2)(B) was found, based on the failure to complete the triennial evaluation when due. Corrective action is required (as follows):
  - a. CORRECTIVE ACTION:
    - i. By August 13, 2024, USD #500 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal and state regulations at 34 C.F.R. 300.303(b)(2) and K.S.A. 72-3428(h)(2)(B) which require that the district conduct reevaluations within three years.
    - ii. By September 3, 2024, USD #500 shall review and improve, if needed, its policies and procedures on ensuring timely reevaluations with attention to tracking students with disabilities in virtual as well as traditional school programs and disseminate key points to relevant district staff, such as special education coordinators and school psychologists. The district shall provide a copy of the policies and procedures to KSDE, along with a copy of the review, any improvements, key points disseminated and list of persons to whom the information was provided.
    - iii. Date due: August 13, 2024 and September 3, 2024
  
2. ISSUE TWO: A violation of 34 C.F.R. 300.304(c)(6) and (7) and K.S.A. 72-3428 (i) was found based on the evidence listed above. Corrective action is required (as follows):
  - a. CORRECTIVE ACTION:
    - i. By August 13, 2024, USD #500 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal and state regulations at 34 C.F.R. 300.304(c)(6) and (7) and K.S.A. 72-3428 (i) which require that the district conduct evaluations sufficiently

comprehensive to identify all the child's special education and related services needs and that tools and strategies provide relevant information to directly assist in determining the educational needs of the child are used.

- ii. By September 3, 2024 and prior to the beginning of the 2024-25 school year, the district shall schedule an evaluation team meeting with the parent to conclude the student's triennial evaluation. Using evaluation needs previously determined by the evaluation team, the district shall include any additional information gathered during the student's ESY program, information provided by the parent, and new or existing testing. The district shall provide PWNE to the parent specifying the new testing and the parent shall have 7 days to give or withhold consent, at which point the district can either schedule the new testing or complete the evaluation with the data available to the IEP team at that time. This corrective action does not preclude additional evaluations, such as the full assistive technology evaluation recommended by the May 22, 2024 evaluation report or an FBA conducted at the school of residence referenced in the May 21, 2024 PWNE being conducted following the beginning of the school year, if appropriate. The district shall provide documentation of the completed evaluation, PWNE, and IEP-Evaluation team meeting to SETS as evidence of its completion by September 1, 2024.
  - iii. Date due: August 13, 2024 and September 3, 2024
3. ISSUE THREE: A violation of 34 CFR § 300.503(a)(2) and K.S.A 72-3430(b)(2) was not found, based on the placement of the child by the parent in virtual school. Corrective action is not required.
  4. ISSUE FOUR: A violation of 4 CFR § 300.503(a)(2) and K.S.A 72-3430(b)(2) was found based on the district's failure to provide PWN when the student was placed in virtual school by the parent. Corrective action is required (as follows):
    - a. CORRECTIVE ACTION:
      - i. By August 13, 2024, USD #500 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal and state regulations at 4 CFR § 300.503(a)(2) and K.S.A 72-3430(b)(2) which require that PWN is given to parents upon certain proposed special education action.
      - ii. By August 13, 2024 the district shall provide PWN to the parent regarding the current offer of FAPE to the student, which clearly specifies the student's current placement and services. The district shall discuss with the parent, in concert with corrective action 2(a)(ii) or 5(a)(ii), the possible placements of the child to include options that address the child's behavior that affects school attendance, and ensure that the parent knows how to remove the child from virtual schooling, if relevant. The district will submit documentation to SETS of completion by September 3, 2024.
    - iii. Date due: August 13, 2024 and September 3, 2024

5. ISSUE FIVE: A violation of 34 CFR 300.324(a) was found, based on the facts listed above. Corrective action is required (as follows):
  - a. CORRECTIVE ACTION:
    - i. By August 13, 2024, USD #500 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal regulations at 34 CFR 300.324(a) which require various factors be considered when developing the IEP, including the child's evaluation and the concerns of the parent.
    - ii. By September 3, 2024 and before the beginning of the 2024-25 school year, the district will conduct an IEP team meeting to develop the IEP, including direct discussion of the factors listed in 34 CFR 300.324(a) and their implications for the child's IEP goals, special education and related services, and placement. The district will submit documentation to SETS of completion by September 3, 2024.
    - iii. Date due: August 13, 2024 and September 3, 2024
6. ISSUE SIX: A violation of 34 CFR 300.320(a)(4) was not found, based on the facts listed above. Corrective action is not required (as follows):
7. ISSUE SEVEN: A violation of 34 C.F.R. 300.156(c) was not found, based on [facts]. Corrective action is not required (as follows):



## **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](mailto: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)