

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #500
ON

DATE OF REPORT:

500 ON JULY 12, 2024.

DATE OF REPORT: AUGUST 15, 2024.

This report is in response to a complaint ----- filed with our office, on behalf of their child, -----.
For the remainder of this report ----- will be referred to as “the student.” ----- will be referred
to as “the parent.”

Investigation of Complaint

K.A.R. § 91-40-5(c)(5) requires that the complaint investigation include “[a] discussion with the complainant during which additional information may be gathered and specific allegations of noncompliance identified, verified, and recorded.” Laura Jurgensen, complaint investigator, held this discussion with the parent through a phone call with a translator on July 24, gathering additional information and verifying the specific allegations to be investigated. Laura Jurgensen provided the specific allegation to be investigated to the parent (in Spanish) and the district (in English) via email on July 24. The parent did not dispute how the complaint investigator framed the issue to be investigated. The parent and investigator also exchanged multiple emails in Spanish. The district special education director provided the investigator with a response to the issue the investigator identified, as well as all documentation and data the investigator requested.

In completing this investigation, the complaint investigator reviewed the following:

- Kan. State Bd. of Educ. License for Student’s Teacher, Nov. 6, 2022–Nov. 6, 2027.
- District’s Updated Response to the Complaint, Aug. 9, 2024.
- Student 2023–24 Attendance Summary, Aug. 9, 2024.
- District’s Response to the Complaint, Aug. 6, 2024.
- Parent’s Complaint, Jul. 12, 2024.
- Student’s DRDP Assessment Instrument, May 22, 2024.
- Lesson Plans for Student’s Classroom, Feb.–May 2024.
- Student Evaluation/Eligibility Report, Mar. 7, 2024.
- Student Evaluation/Eligibility Meeting Notes, Mar. 7, 2024.

- Student's Desired Results Developmental Profile (DRDP) Assessment Instrument, Mar. 6, 2024.
- Child Find/Parent Referral Process, last updated Feb. 26, 2023.
- Kan. City Kan. Pub. Sch. Bd. Policies, Child Find, Identification, and Eligibility, last updated Aug. 28, 2018.

Background Information

This complaint focuses on a student in early childhood during the time period covered by the complaint investigation. In December 2023 this parent filed a complaint asserting that the district was not meeting child find requirements with her child. The district agreed to evaluate the child and the parent withdrew the complaint. On July 12, the parent filed the present complaint, which is identical to the December 2023 complaint. When the district questioned the complaint, Kansas State Department of Education (KSDE) staff informed the district that the complaint investigator would clarify the allegation and that nothing prevented the district from reaching out to the parent to clarify the concern and see if there was anything the district could do to resolve it. (Email from KSDE Staff to District, Jul. 19, 2024.)

Issues

Through the complaint investigator's discussion with the complainant, the parent alleges one issue upon which this investigation will focus:

Issue: Child Find

Did USD 500 follow child find requirements with this student? 34 C.F.R. § 300.111(a)(1)(i); K.A.R. §§ 91-40-7(a), (c)(1), (2).

Applicable Law

The regulations implementing the Individuals with Disabilities Education Act (IDEA) require that each state, "must have in effect policies and procedures to ensure that . . . [a]ll children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated." 34 C.F.R. § 300.111(a)(1)(i). Kansas fulfills this responsibility through K.A.R. § 91-40-7, which requires each local board of education to "adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction " K.A.R. § 91-40-7(a). A local board may refer a child who is enrolled in public school for an evaluation if one of the following conditions is met:

- (1) School personnel have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child.

- (2) School personnel have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met:
- (A) The child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel.
 - (B) The child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction.
 - (C) The assessment results were provided to the child's parent or parents.
 - (D) The assessment results indicate that an evaluation is appropriate.

K.A.R. § 91-40-7(c)(1), (2).

Analysis: Findings of Fact

The parent maintains that the decision not to find the child eligible in the March evaluation was incorrect. (Complaint Investigator and Parent Phone Call, July 24, 2024.) A review of the evaluation report and the meeting notes from the evaluation/eligibility meeting shows that the parent signed to indicate her agreement of the evaluation report and the meeting notes do not provide any information regarding the parent's disagreement. (Student Evaluation/Eligibility Report, Mar. 7, 2024; Student Evaluation/Eligibility Meeting Notes, Mar. 7, 2024.) This complaint investigator explained to the parent that if the parent disagrees with the evaluation, the parent may request that the district provide an independent education evaluation. (Complaint Investigator and Parent Phone Call, July 24, 2024.) The parent did not indicate that the evaluation was inappropriate in any way, only her disagreement with the evaluation's conclusion. (Complaint Investigator and Parent Phone Call, July 24, 2024.) The parent asserts that the student did not make progress for the remainder of the school year, which she believes should have led the district to evaluate the student again and find him eligible for special education. (Complaint Investigator and Parent Phone Call, July 24, 2024.) Therefore, this investigation focused on whether the district fulfilled its child find obligations to this student following the March 7 evaluation and decision not to find the child eligible for special education.

The complaint investigator requested information and documentation from the parent to support her concern that the student did not make progress following the March 7 evaluation that should have led the district to evaluate the student. (Emails from Complaint Investigator to Parent, July 24, Aug. 6 and 7, 2024.) The parent indicated she had no documentation to provide and did not provide any anecdotal information to support her concern. (Email from Parent to Complaint Investigator, Aug. 6, 2024.)

The district provided a great deal of information to support that it met the requirements of K.A.R. § 91-40-7(a) and K.A.R. § 91-40-7(c)(1), (2). First, to show that it meets the requirement in K.A.R. § 91-40-7(a) to "adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction," the district provided its

written child find policies and procedures. (Kan. City Kan. Pub. Sch. Bd. Policies, Child Find, Identification, and Eligibility, last updated Aug. 28, 2018.) Second, to show that it met the requirements of K.A.R. § 91-40-7(c)(1), to consider an evaluation if the district has “data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child” the district provided the data upon which it based its decision that general education interventions and strategies continued to be appropriate to address the child’s needs. The March 7 initial evaluation contained a great deal of data and information that led the student’s evaluation and eligibility team, including the parent, to conclude that the child was not eligible for special education. (Student Evaluation/Eligibility Report, Mar. 7, 2024.) The district did not have access to any information that would have indicated the data and information relied on in this evaluation was no longer relevant or had changed in the just over two months of the school year following the evaluation. (District’s Updated Response to the Complaint, Aug. 9, 2024.) Additionally, the student participated in the district’s general education progress assessment with his peers on March 6 and May 22, 2024, and that assessment indicated he was performing at the level just below kindergarten performance, as expected for a student in the spring before his kindergarten year. (Student’s DRDP Assessment Instruments, Mar. 6 and May 22, 2024.) The district also provided informal data from the student’s teacher and information on the child’s consistent school attendance to further support the district’s conclusion that, “the student continued to make progress in the general education setting and there were no concerns raised by the parent or the school that would trigger the district to complete a second evaluation.” (District’s Updated Response to the Complaint, Aug. 9, 2024.)

To support that it met the requirements of K.A.R. § 91-40-7(c)(2) in not referring the child for a second evaluation, the district provided several items. To show that the district provided the child with “appropriate instruction in regular education settings,” the district provided lesson plans from the child’s teacher, grounded in the district’s early childhood curriculum, from the time of the evaluation through the end of the school year. (K.A.R. § 91-40-7(c)(2)(A); Lesson Plans for Student’s Classroom, Feb.–May 2024.) These lesson plans are detailed and provide alignment in each subject to the district’s early childhood curriculum. (Lesson Plans for Student’s Classroom, Feb.–May 2024.) The district also provided information to show that the district delivered instruction to the student through “qualified personnel” by providing a copy of the license for the student’s teacher, which the complaint investigator independently verified through KSDE’s Educator License Lookup. (K.A.R. § 91-40-7(c)(2)(A); Kan. State Bd. of Educ. License for Student’s Teacher, Nov. 6, 2022–Nov. 6, 2027; <https://appspublic.ksde.org/TLL/SearchLicense.aspx>.) Additionally, the district provided the previously referenced general assessments for this student to show that the district “repeatedly assessed” “[t]he child’s academic achievement . . . at reasonable intervals that reflected formal assessment of the student’s progress during instruction.” (K.A.R. § 91-40-7(c)(2)(B); Student’s DRDP Assessment Instruments, Mar. 6 and May 22, 2024.) The student’s

general education assessments support the district's conclusion that the, "student demonstrated knowledge and results [that] were in the last tier in preparation for Kindergarten. [The student's] data, outside of English Development [the student's first language is Spanish], never fell in the responding or exploring levels, all of his scores fell in the building [level] meaning that the student understood how something works and not just exploring or responding with senses." (Student's DRDP Assessment Instruments, Mar. 6 and May 22, 2024.) Reviewing this student's general education assessments shows that this student was progressing appropriately to be ready for kindergarten. (Student's DRDP Assessment Instruments, Mar. 6 and May 22, 2024.) The district indicated that it met the requirements of (K.A.R. § 91-40-7(c)(2)(C) to provide the referenced assessment results to the child's parent by sending the results "home with students at the end of each quarter in their take home folders. The principal reports that the student's portfolio of work was also sent home to the parent at the end of the year." (District's Updated Response to the Complaint, Aug. 9, 2024.) All this information led the district to conclude that a second evaluation would be inappropriate. (District's Updated Response to the Complaint, Aug. 9, 2024.)

Conclusion

The district was able to provide clear information to show that it met its child find obligations by having written child find policies and procedures. The district was able to provide a great deal of clear information to show that the child continued to make progress in the just over two months of the school year following the student's evaluation and that evaluating the student again would not have been appropriate. Neither the parent nor the district could point to any information that would provide justification for the parent's assertion that the district should have evaluated the child again between the child's first evaluation and the end of the 2023–24 school year.

Therefore, this investigation concludes that USD 500 met its obligation to follow child find requirements with this student under 34 C.F.R. § 300.111(a)(1)(i) and K.A.R. §§ 91- 40-7(a), (c)(1), (2). As there is *no violation*, no corrective action is needed.

Investigator

Laura N. Jurgensen

Laura N. Jurgensen 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)