

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES
REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #107, ROCK HILL PUBLIC SCHOOLS
ON JULY 30, 2024
DATE OF REPORT: AUGUST 30, 2024

This report is in response to a complaint filed with the Kansas State Department of Education against USD #107 Rock Hill Public Schools on behalf of ----- by his mother ----- . In the remainder of the report, ----- will be referred to as “the student.” ----- is the Student’s mother and in the remainder of the report she will be referred to as “the complainant,” “the parent,” or as “the mother.”

The complaint is against USD #107 Rock Hill Public Schools. In the remainder of the report, USD #107 will be referred to as “the district.” The Beloit Special Education Cooperative provides special education services to the district. In the remainder of the report the Beloit Special Education Cooperative will be referred to as the “cooperative” or the “coop.” The district accessed an attorney during the investigation and in the report, Ms. Tammy Somogye will be referred to as the “district attorney.”

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 July 30, 2024 and the 30-day timeline ended on August 30, 2024.

Evidence Reviewed

During the investigation, the Complaint Investigator Dr. Donna Wickham reviewed all evidence and documentation, which was provided by both the District and the Parent. All evidence submitted was reviewed, but some evidence was not specific to the issues of investigation or older than twelve months. The evidence listed below was used in consideration of the investigation.

Additionally, the Investigator contacted the District via the district attorney and Parent several times by phone and email to clarify evidence. The Investigator spoke with the mother by phone on August 2 and August 19, 2024 and by email on several occasions to clarify specific points. The investigator interviewed the student on August 19, 2024 with the mother present. The Investigator interacted with the District by email to clarify evidence and a phone interview was conducted on August 19, 2024 with Christie Gerdes, Special Education Director, Beloit Special Education Cooperative, Amy McDill, Special Education Teacher along with Tammy Somogye the

District's Attorney. The following documentation and information were used in consideration of the issues:

- • Weekly email blast to high school teachers from principal dated August 27, 2023 at 8:26 a.m.; September 24, 2023 at 11:17 a.m.; October 8, 2023 at 8:33 a.m.; October 15, 2023 at 9:28 a.m.; October 29, 2023 at 10:08 a.m.; November 5, 2023 at 7:46 a.m.; November 12, 2023 at 7:27 a.m. January 14, 2024 at 10:22 a.m.; January 18, 2024 at 10:02 a.m.; February 4, 2024 at 9:13 a.m.; February 18, 2024 at 9:20 a.m.; March 17, 2024 at 12:33 p.m.; April 7, 2024 at 9:04 a.m.; April 8, 2024 at 5:56 a.m.
- • Student's pediatrician's letter dated December 12, 2023
- • Email from principal to PE teacher, business teacher, art teacher, social studies teacher and English teacher dated January 5, 2024 at 7:43 a.m.
- • Letter from district attorney to parent dated October 16, 2023 in response to parent September 29, 2023 request to superintendent and special education director
- • Email from special education teacher to special education director dated January 9, 2024 at 7:14 a.m.
- • Prior Written Notice dated January 24, 2024
- • Letter from mother to superintendent dated January 24, 2024
- • Email from superintendent to mother dated January 29, 2024 at 4:55 p.m. including attached letter dated January 29, 2024
- • Letter from district attorney to parent dated January 31, 2024
- • Email from art teacher to special education teacher dated March 21, 2024 at 11:45 a.m.
- • Email from English teacher to special education teacher dated March 25, 2024 at 10:38 a.m.
- • Email from special education teacher to principal, speech and language pathologist, school psychologist, interrelated teacher, Beloit, English teacher, and social studies teacher dated March 25, 2024 at 1:22 p.m.
- • Emails from business teacher to special education teacher dated March 26, 2024 at 11:04 a.m.
- • Notice of Meeting dated March 26, 2024, signed by parent April 9, 2024, documenting parent rights were provided
- • Prior Written Notice dated April 8, 2024; parent provided consent April 9, 2024
- • Email exchange between parent and special education director dated April 8, 2024 between 12:25 p.m. and 3:16 p.m.
- • Individualized Education Plan dated April 9, 2024
- • Staffing Summary/Team Report, dated April 9, 2024
- • Parent concerns written document dated April 9, 2024
- • Prior Written Notice for Evaluation or Reevaluation and Request for Consent, dated April 18, 2024

- • Letter from special education director to parent dated April 19, 2024 in response to parent concerns dated April 9, 2024
- • 24FC107-001 investigation report, dated June 18, 2024
- • District response received August 14, 2024
- • Email from mother to investigator dated August 19, 2024 at 3:14 p.m.
- • Email from mother to investigator dated August 20, 2024 at 7:32 a.m.
- • Email from district's attorney to investigator dated August 20, 2024 at 12:08 p.m.
- • Email exchange between the investigator and district's attorney dated August 20, 2024 between 2:25 p.m. and 10:48 p.m.
- • Email exchange between the investigator and parent August 21, 2024 between 9:38 a.m. and 10:08 a.m.
- • Email exchange between the investigator and district's attorney dated between August 21, 2024 at 9:40 a.m. and August 22, 2024 at 11:43 a.m.
- • Kansas Educator Code of Conduct
- • United States Department of Education Office of Special Education and Rehabilitative Services Personnel Qualifications under Part B of the Individuals with Disabilities Education Act (IDEA), dated October 4, 2022
- • Partially redacted three page excel spreadsheet (undated) of transition survey with headings of last and first name of student, grade, five things of interest and any notes for the 6-12 school counselor to consider provided to parent through a KORA request. Twenty-five 8th graders, fifteen 9th graders, 22 10th graders, nineteen 11th graders (including student) and fifteen 12th graders not redacted
- • Student schedule
- • Teacher License for Amy Michelle McDill, expires February 13, 2024
- • Teacher License for Dusti Renee Herz, expires June 30, 2024, June 30, 2026

Background Information

The student was a junior during the 2023-2024 school year where he was eligible for special education and related services under the category of Autism and Other Health Impaired because of a medical diagnosis of ADHD. He had an additional medical diagnosis that required an accommodation but was not considered for eligibility. During the 2023-2024 school year the Student had two IEPs in effect. The student received special education and related services for speech language and psychological services.

This complaint addresses the student's transition plan, implementing a student accommodation, inappropriate release of personally identifiable information, appropriate teacher certification, appropriate use of paraeducators, and procedural practices associated with Notice of Meetings, Prior Written Notices, planning meetings and school attorney role in IEP preparation, and IEP present levels.

Issues Investigated

Eleven issues were investigated and are listed below.

1. Did USD #107 provide the parent a Prior Written Notice either agreeing to or refusing to conduct a transition evaluation when requested during the 2023-2024 school year?
2. Did USD #107 include transition goals for the student in the April 9, 2024 IEP based on current transition evaluation?
3. Did the USD #107 share Personally Identifiable Information (PII) about the student and other students with the staff and the parent during the 2023-2024 school year?
4. Did the special education teacher(s) at the student's high school in USD #107 hold current and appropriate Kansas certifications during the 23-24 school year?
5. Did USD #107 use paras in the role of teachers during the 23-24 school year at the student's high school?
6. Did USD #107 use paras to teach the student life skill goals included in the student's IEP during the 23-24 school year?
7. Did USD #107 provide a NOM for the 4/9/2024 annual IEP meeting to the parent, incorrectly listing the parent as an outside member of the IEP team?
8. Did the student's IEP team hold staffing meetings and collect feedback from the district's attorney prior to holding the April 9, 2024 IEP meeting with the entire IEP team?
9. Did USD #107 provide the student his IEP accommodation paper to take notes during his April 9, 2024 IEP meeting?
10. Did the student's draft IEP dated April 9, 2024 contain incorrect information about the student's present levels and the student receiving para help?
11. Did USD #107 provide the parent a PWN reporting IEP team decisions for the April 9, 2024 IEP annual meeting to the family prior to the annual IEP meeting?

Issue One

Did USD #107 provide the parent a Prior Written Notice either agreeing to or refusing to conduct a transition evaluation when requested during the 2023-2024 school year?

Applicable Law

According to Federal regulations at 34 C.F.R. §300.503 (a)(1) and 34 C.F.R. §300.503 (a)(2), and Kansas state statutes at K.S.A. §72-3430(b)(2) prior written notice must be given to the parents of a child with a disability a reasonable time before the public agency (1) proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

Analysis: Findings of Fact

The Parent alleged that she requested that the student have a new transition evaluation done during the April 9, 2024 IEP. She stated that this request was denied by the director of special education because the parent had agreed to refer the student to vocational rehabilitation, and they would evaluate the student. The parent stated that the vocational rehabilitation evaluation was not timely for the IEP planning for the April 9, 2024 annual IEP.

The District responded that the district had completed transition evaluation the previous school year as part of the three-year reevaluation for the student and they felt they had enough information to develop the IEP with the updated assessment. Further, the student was being referred to vocational rehabilitation services and another comprehensive evaluation would be conducted as part of that.

The staffing summary/team report dated April 9, 2024 does not record any discussion or decision about the transition plan, evaluation, or assessment.

A document submitted by the parent on April 9, 2024 titled, "Parent Concerns" records, "I would like another transition evaluation done with a hands-on skills assessment. [Student] can tell you how to do different skills, but he has never actually physically done them."

The director of special education stated during the August 19, 2024 interview with the investigator that the transition coordinator for the Coop had completed a comprehensive transition evaluation the previous school year as part of the three-year reevaluation.

The mother stated during the August 19, 2024 interview that when she asked for a transition evaluation, she was told the district would not do another one because a thorough evaluation will be conducted as a part of the student's referral to vocational rehabilitation services.

In a letter from the special education director to the parent on April 19, 2024 in response to the parent's April 9, 2024 document it states, "[Student] was referred to Voc Rehab during the meeting and the parent signed the release of information form at that time. Voc Rehab is in the process of scheduling a time to meet with [Student] and parents to discuss a functional vocational assessment.

The prior written notice for evaluation or reevaluation and request for consent, dated April 18, 2024 documents that the cooperative refuses to conduct a reevaluation, with the explanation, "The parent has requested a re-evaluation of [Student's] transition skills with a hands-on assessment. The cooperative completed a re-evaluation on 03/27/2023 which included a transition assessment with parent, teacher, and student interviews. The assessment also included Life Centered Career Education Knowledge & Performance Battery and the Enderle-Severson Transition Rating Scale. These results were included in the reevaluation at that time. At the IEP meeting on 4/9/24, the parent signed a release between the Cooperative and Voc Rehab. Voc Rehab is in contact with both the transition coordinator for [cooperative] and the

parents. Voc Rehab will be scheduling a time for a functional vocational assessment to be completed with [student].”

Conclusion

It is found that the parent made a request for a transition reevaluation on April 9, 2024 in the form of a written request. On April 19, 2024, the district rejected the request through a prior written notice. Based on the foregoing, *it is not substantiated* that USD #107 failed to provide the parent a Prior Written Notice either agreeing to or refusing to conduct a transition evaluation when requested during the 2023-2024 school year.

Issue Two

Did USD #107 include transition goals for the student in the April 9, 2024 IEP based on current transition evaluation?

Applicable Law

Federal regulations at 34 C.F.R. §300.320(b)(1) and Kansas state statutes at K.S.A. §72-3429(c)(8)(A) state that the IEP for each exceptional child shall include, beginning at age 14, and updated annually thereafter: (A) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and where appropriate, independent living skills.

Analysis: Findings of Fact

The Parent alleged during her discussion with the investigator that the district used transition evaluation from the previous year to develop the transition plan for the student during the April 9, 2024 IEP. She stated that because the student would be evaluated as part of his referral to vocational rehabilitation, as explained to her by the special education director it was not necessary to evaluate him. She stated however, that the student had accomplished many things and learned more about what he wanted to do post school since his last IEP and a current evaluation was necessary to develop an appropriate IEP that includes current and appropriate postsecondary goals.

The District responded that as noted in the student’s April 9, 2024 IEP the student was given a transition assessment on February 5, 2024 and that assessment was used to develop the goals and activities of the transition plan.

The findings of Issue One are incorporated herein by reference.

The IEP dated April 9, 2024 documents the date of the Enderle-Severson Transition Rating Scale (TRS 1.0) as February 5, 2024 and records the following informal assessments scores as Employment: 62%; Recreation/Leisure: 100%; Home Living: 71%; Community Participation; 50%, Post-Secondary Education: 56%.

The Enderle-Severson Transition Rating Scale findings from the February 5, 2024 administration reported the following needs:

Area	Skills
Employment	<ul style="list-style-type: none"> ● Hygiene and grooming skills ● Job seeking skills ● Experience completing a job application ● Job interviewing skills ● Career research ● Create a resume ● Community-based work experience
Home Living	<ul style="list-style-type: none"> ● Develop an understanding of government/civics and how to register to vote ● Develop an understanding of concepts related to physical, emotional, and relational awareness ● Basic banking skills ● Experience in making medical/dental appointments ● Money management skills such as budgeting, paying bills on time, and taxes ● Basic parenting skills ● Experience planning & cooking a balanced meal
Community Participation	<ul style="list-style-type: none"> ● housing ● options for large purchases (credit cards & loans) ● insurance
Post-Secondary Education	<ul style="list-style-type: none"> ● Identify post-secondary options Identify higher education support services ● Prepare for and take ACT, Accuplacer, or other college entrance exam ● Apply for post-secondary education ● Apply for financial assistance to access post-secondary training
Recreation	<ul style="list-style-type: none"> ● No needs identified

The IEP records transition services in the areas of life skills for the remainder of the 2023-2024 school year and speech/language skills for the remainder of the 2023-2024 school year, continuing into the 2024-2025 school year. The speech goal which includes benchmarks for initiating communicative interactions, conversational turn-taking, identifying and understanding non-verbal social communication, identifying breakdown, in communications and making appropriate adjustments, and learning and applying strategies for resolving conflicts with peers and adults, will support the student's post-secondary goals, as these types of communication skills are necessary for students who plan to attend a community or technical college and/or

work as a law enforcement dispatcher. The life skill goal, taught during the life skills class covered the needs identified in the IEP.

During the August 19, 2024 interview with the investigator the special education teacher described that the focus of life skills was writing checks and checking accounts as well as guided towards being a senior and what life would be after that. The textbook and curriculum used have sections designed to address the student's needs. The special education teacher stated that the plan was to focus on post-secondary education (along with his senior classmates) and application of living skills during the senior year.

The mother stated during the August 19, 2024 interview that she thought the February 5, 2024 assessment and findings were not an accurate view of what he could do because they only asked him to self-rate his ability to do the skills rather than asking him to do anything hands-on. She stated that he was very knowledgeable about how to do many adult life skills but would struggle with actually performing the skills.

Conclusion

It is found that the needs assessment conducted to develop the April 9, 2024 IEP was current and that the goals and activities were derived from the assessment. It is acknowledged that the life skills were simulated and not hands-on, but it was not specified in the IEP that the activities would be taught or practiced in the community (or applied environment). It is further acknowledged that the student, parent, and district agree that hands-on instruction and practice in the community or natural environment in which the skill will be performed will be important for the student. Therefore, *it is not substantiated* that USD #107 failed to include transition goals for the student in the April 9, 2024 IEP based on current transition evaluation.

Issue Three

Did the USD #107 share Personally Identifiable Information (PII) about the student and other students with the staff and the parent during the 2023-2024 school year?

Applicable Law

Federal regulations at 34 C.F.R. §§300.610 through 300.626 identify the confidentiality requirements that apply to children under Part B of the IDEA. They protect the personally identifiable information (PII) in education records collected, maintained, or used under Part B of the IDEA. 34 C.F.R §300.32 define PII as information that contains: the name of the child, the child's parent, or other family member; the address of the child; a personal identifier, such as the child's social security number or student number; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

Under 34 CFR § 300.622(a) of the IDEA Part B regulations, parental consent must be obtained before PII is disclosed to parties, other than officials of participating agencies. Under IDEA Part

B and pursuant to the FERPA regulations at 34 CFR § 99.31(a)(1), prior written consent is not required to disclose PII from student education records to school officials, including teachers, within the educational agency or institution, whom the agency or institution has determined to have legitimate educational interests. 34 CFR § 99.31(a)(1)(i)(A).

The Kansas Open Records Act (KORA) is a state law that requires public agencies, including school districts, to make their records available to the public upon request. This means that parents and students can request access to documents, emails, and other records held by the school district.

Analysis: Findings of Fact

The Parent alleged that a letter from the student's pediatrician containing a medical diagnosis, direction for classroom staff and the pediatrician's name and practice that was submitted to the principal was distributed to the student's teachers, rather than kept private with the information shared at a meeting. The parent alleged that the staff did not need to know where the student goes to the doctor. The parent additionally alleged that the principal sends a weekly email to all high school staff with the names and dates of students with upcoming IEP meetings. Finally, the parent alleged that information she received through a Kansas Open Records Act request disclosed information about other students at the high school.

The District responded that the principal shared the letter concerning the student's diagnosis with five of the student's teachers during the second semester of the 2023-2024 school year. Additionally, the district responded that the principal began sending weekly emails to staff each Sunday in response to staff climate survey results indicating a desire for more timely and complete information on events for planning purposes – including collaboration between general and special education staff. The principal includes IEP meetings because they are a regular part of school activities. The date that an IEP meeting is held is not personally identifiable information. Finally, the district responded that KORA requests do not require the district to redact the information.

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

Distribution of student's pediatrician letter to school staff.

Documentation demonstrated that the principal distributed the pediatrician's letter dated December 12, 2023 in an email to the PE teacher, business teacher, art teacher, social studies teacher, and English teacher on January 5, 2024 at 7:43 a.m. with the following direction, "Please see the attached doctor's note for [Student]. If you have to leave the room and there is not another adult in there, bring him to the office to sit and wait. This does not say anything about locker rooms or bathrooms or passing periods or anything like that. Please let me know if you have any questions."

The director of special education stated during the August 19, 2024 interview with the investigator that the principal shared the letter after teachers had asked for clarification about what to look after they had heard that he was not to be left unattended. The district's attorney expressed that they invited the mother to an IEP meeting after this information (letter) was given to the school and she did not accept.

The April 9, 2024 Staffing Summary/Team Report recorded, "Clarification of Health PLEP – can be left alone in a classroom without an adult up to 5 min. Staff will check on him if he has left the room (e.g. bathroom, locker) & hasn't returned within 10 min."

The director of special education stated during the August 19, 2024 interview with the investigator that the parent was invited to talk with the staff about the pediatrician letter, but she declined.

Weekly emails from principal to school staff and superintendent containing names of students with upcoming IEPs.

The parent and district provided emails from the principal to the high school teachers and superintendent dated August 27, 2023 at 8:26 a.m.; September 24, 2023 at 11:17 a.m.; October 8, 2023 at 8:33 a.m.; October 15, 2023 at 9:28 a.m.; October 29, 2023 at 10:08 a.m.; November 5, 2023 at 7:46 a.m.; November 12, 2023 at 7:27 a.m. January 14, 2024 at 10:22 a.m.; January 18, 2024 at 10:02 a.m.; February 4, 2024 at 9:13 a.m.; February 18, 2024 at 9:20 a.m.; March 17, 2024 at 12:33 p.m.; April 7, 2024 at 9:04 a.m.; April 8, 2024 at 5:56 a.m. containing the names of students with his or her IEP date, time or location.

The district's attorney stated during the August 19, 2024 interview with the investigator that the principal started the weekly emails in response to a staff climate survey. He decided to include IEP meetings because they are part of school activities and propose staff planning.

The district response stated, "Nevertheless, to resolve any potential concern about identifying students in these weekly emails, [principal] has been instructed that if he is going to include an IEP meeting in these weekly emails, he is to list the IEP meeting without including the student's name or initials and/or to identify the staff members who need to attend the meeting. This is in place now and going forward."

Incomplete redaction of names and student grades of high school students as part of KORA request made by parent.

The parent provided an undated three page excel spreadsheet with the first page redacting identifying information and the last two pages unredacted. The final two pages showed the last and first name of student, grade, five things of interest and any notes for the 6-12 school counselor to consider of twenty-five 8th graders, fifteen 9th graders, 22 10th graders, nineteen 11th graders (including student) and fifteen 12th graders.

The district's attorney stated that they may have missed redacting everything, but they are not required to redact KORA documentation but did so (for most/not all) documents because they thought it was a good idea to do so. She stated it was not an IDEA issue.

Conclusion

There were three specific incidences alleged regarding sharing PII and are addressed separately in the conclusion. The first case regards the principal sharing a letter containing the name of the student's pediatrician and pediatrician's practice to the student's teachers regarding a medical diagnosis and medical advice while the student was at school. It is found that the principal correctly distributed the information to school personnel who had a need to have this information. While the parent objected to the principal sharing the name of the pediatrician and location of the practice, *this is not covered as PII*.

The second instance addressed the principal sharing the names of student (PII) who are eligible for special education, that they have an IEP planned and the date of the meeting with all school staff at the high school and superintendent.

IDEA regulations, at 34 C.F.R. 300.622(a) require parent consent before PII is disclosed to parties, other than officials of participating agencies, unless the disclosure is authorized by the Family Education Rights and Privacy Act (FERPA). FERPA permits disclosure of PII to school officials who the agency has determined to have legitimate educational interests (34 C.F.R. 99.31(a)(1)(i)(A)). A school official has a legitimate educational interest if the school official needs to review an education record in order to fulfill his or her professional responsibility (See, Letter to Anonymous, 22 FAB 42 (FPCO 2018)). Thus, under FERPA and IDEA regulations, each school official who receives an education record must have a need to review that education record in order to fulfill his or her professional responsibility. When a school official is given an education record that includes the PII of students for which the official has no professional responsibility, a violation of both FERPA and the IDEA has occurred.

There is one exception. IDEA regulations 34 C.F.R. 300.622(b)(1) adds that parent consent is not needed when PII is released to school officials for the purpose of meeting the requirements of the IDEA. However, that does not mean PII can be given to all school officials when only one needs the information for the purpose of meeting the requirements of the IDEA. This regulation means that the release of information may be made to school officials who need the information for the purpose of meeting the requirements of the IDEA. When PII is released to school officials who do not need that information to fulfill his or her professional responsibility or to otherwise meet the requirements of the IDEA, a violation of both FERPA and IDEA results.

Therefore, it is concluded that the principal's sharing the names of students (PII) who are 1) eligible for special education, 2) have an IEP meeting planned, and 3) the date of the IEP meeting, with all school staff at the high school, without consideration of whether staff needs

that information to fulfill his or her professional responsibility or to otherwise meet the requirements of the IDEA, *a violation of the IDEA has occurred.*

Finally, the third instance addressed the district providing an excel spreadsheet containing the first and last names and grades of high school students, partially redacted with the parent through a Kansas Open Records Act (KORA) request. The district admitted this error. While this is concerning, and the district should examine their redaction practices *it does not fall under the IDEA in this case* for two reasons. There is no indication that the student's information was disclosed to people other than the parents. The list does not indicate a student's special education status.

Based on the foregoing, *it is substantiated* that USD #107 incorrectly shared Personally Identifiable Information (PII) about the student and other students with the staff during the 2023-2024 school year. *It is not substantiated* that USD #104 incorrectly shared PII with the parents.

Issue Four

Did the special education teacher(s) at the student's high school in USD #107 hold current and appropriate Kansas certifications during the 23-24 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.156(c)(i) states that each public school special education teacher who teaches in a secondary school have obtained full state certification as a special education teacher and holds a license to teach in the state as a special education teacher.

Analysis: Findings of Fact

While the initial complaint alleged that it was rumored that teachers hired for the 2024-2025 were not certified teachers, during discussion with the complaint investigator the complaint was clarified that the parent alleged that the teachers who provided the student special education services were not appropriately or currently certified.

The District responded that during the 2023-2024 school year the student's special education teacher is the special education teacher assigned to the high school. Another teacher in the district co-teaches with the student's special education teacher and holds a Kansas emergency substitute license.

The findings of Issues One through Three are incorporated herein by reference.

The district's website lists the student's special education teacher as the only special education teacher for the high school. Another staff is listed as a 6-12 Special Education Paraprofessional/Teacher.

According to the KSDE teacher licensure lookup, the special education teacher is listed as a 6-12 Special Education Teacher on the district website and holds professional certificates for Elementary –(K-9); Gifted (K-12); Special Education Interrelated (K-12); Special Education English Language Arts and Math (PreK-12). Her teacher license expiration is February 13, 2027. The 6-12 Special Education Paraprofessional/ Teacher holds an Emergency Substitute Teacher PreK-12 license which expires June 30, 2026.

During the interview with the district on August 19, 2024 the special education teacher stated that she was the student's teacher and stated she was a co-teacher who delivered instruction but did not function as the student's teacher.

An email from the district's attorney dated August 20, 2024 at 10:41 p.m. reported that the 6-12 special education paraprofessional/teacher has an associate's degree and is working toward her Bachelor of Arts in Education. At 10:48 p.m. the district attorney further explained, "[6-12 special education paraprofessional/teacher] primarily functions as/performs the duties of a special education para, as she works toward obtaining her Bachelor of Arts in Education. The [6-12 special education paraprofessional/teacher] is not a special education teacher and is not in charge of a caseload, IEPs, documentation, lesson plan development, etc. When [special education teacher] is absent, [6-12 special education paraprofessional/teacher] fills in as a substitute, since she is licensed by KSDE as an emergency substitute."

The April 9, 2024 IEP shows that the special education teacher signed the IEP, and the special education paraprofessional/teacher did not.

Conclusion

Based on the foregoing, *it is not substantiated* that the district failed to employ currently and appropriately certified teachers for the student during the 23-24 school year.

Issue Five

Did USD #107 use paras in the role of teachers during the 23-24 school year at the student's high school?

Applicable Law

Federal regulations at 34 C.F.R. §300.207 and state regulations at K.A.R. 91-40-1(kkk)(2), (3) state that each school district must ensure that all personnel necessary to carry out the requirements of IDEA are appropriately and adequately prepared and trained. All special education personnel, as appropriate, shall have the content knowledge and skills to serve children with exceptionalities. This includes special education teachers, related services personnel and paraeducators.

According to the KSDE Kansas Special Education Process Handbook, "The State of Kansas has no statewide requirements for employment as a paraeducator or paraprofessional in a school;

however, state, and federal funding for certain positions may have requirements pertaining to those positions. Individual local education agencies (LEAs) may set requirements for employment. Paraeducators (paras) cannot be given responsibility for designing or be the primary person in charge of delivering classroom content." It should be noted that in order to receive state reimbursement for part of the cost of employing a paraeducator, the paraeducator must be a high school graduate or have a GED certificate, and complete an orientation session (Special Reimbursement Guide).

Analysis: Findings of Fact

The Parent alleged that one of the special education professionals is listed as a 6-12 special education paraprofessional/teacher but has no teaching qualifications or education and is an emergency substitute.

The District responded that it licenses personnel who deliver instruction to special education students. Paraprofessionals work with the special education students to practice and reinforce content taught by special education teachers.

According to the district website staff directory this staff is listed as a 6-12 special education paraprofessional/teacher. An email from the district's attorney dated August 20, 2024 at 10:48 p.m. asserted the, "[6-12 special education paraprofessional/teacher] primarily functions as/performs the duties of a special education para, as she works toward obtaining her Bachelor of Arts in Education. The [6-12 special education paraprofessional/teacher] is not a special education teacher and is not in charge of a caseload, IEPs, documentation, lesson plan development, etc. When [special education teacher] is absent, [6-12 special education paraprofessional/teacher] fills in as a substitute, since she is licensed by KSDE as an emergency substitute."

The special education teacher stated during the August 19, 2024 interview with the investigator that when her students are attending general education classes the paraprofessionals monitor the students to assist with understanding the lessons; to assist with reading and/or writing for students who need this accommodation or take notes. In the resource room paraprofessionals often reteach or review content or assist with homework or reading tests to students. The special education teacher stated that she collects all data collection for IEP goals. She states she meets with the paraprofessionals before and/or after school and relies on the paraprofessional's reports of the student's behavior in general education classes as she does not have regularly scheduled times to observe the students in their general education classrooms.

The student stated during his interview with the investigator on August 19, 2024 that when in the resource room the special education teacher taught him about half of the time and in the remaining times paraprofessionals taught him. He said there was not a consistent

paraprofessional with him. He described that he used textbooks and worked on worksheets during this time.

Conclusion

According to the Kansas paraprofessionals cannot be given responsibility for designing or be the primary person in charge of delivering classroom content. It is found that in this situation that the paraprofessionals or any one paraprofessional was not the primary person in charge of designing or delivering classroom content. Based on the foregoing, *it is not substantiated* that USD #107 used paras in the role of teachers during the 23-24 school year at the student's high school.

Issue Six

Did USD #107 use paras to teach the student life skill goals included in the student's IEP during the 23-24 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.207 and state regulations at K.A.R. §91-40-1(kkk)(2), (3) state that each school district must ensure that all personnel necessary to carry out the requirements of IDEA are appropriately and adequately prepared and trained. All special education personnel, as appropriate, shall have the content knowledge and skills to serve children with exceptionalities. This includes special education teachers, related services personnel and paraeducators.

According to the KSDE Kansas Special Education Process Handbook, "The State of Kansas has no statewide requirements for employment as a paraeducator or paraprofessional in a school; however, state and federal funding for certain positions may have requirements pertaining to those positions. Individual local education agencies (LEAs) may set requirements for employment. Paraeducators (paras) cannot be given responsibility for designing or be the primary person in charge of delivering classroom content."

Analysis: Findings of Fact

The Parent alleged that the student received at least 50% of his life skills class instruction from a para. Further, most of the time this was when the student was learning new content.

The District responded that the special education teacher delivered the student's life skills instruction. On rare occasions, when the special education teacher was absent the emergency substitute delivered instruction. There were also times that the emergency substitute teacher supervised the student's independent work during the portion of the day he was in the resource room for life skills instruction.

The findings of Issues One through Five are incorporated herein by reference.

The special education teacher stated during the August 19, 2024 interview with the investigator that life skills were taught in the resource room where she provides special education services. She stated that during the 2023-2024 school year that life skills were taught individually and were primarily simulated instruction. The special education teacher stated that she used the curriculum, You're On Your Own for the life skills. You're On Your Own is a comprehensive consumer education curriculum out of Tennessee developed to simulate living in the real world after high school. She stated she is the student's case manager and prepares the student's special education services. She stated that when she was absent the emergency substitute taught the life skills.

The special education teacher stated during the August 19, 2024 interview that she meets with the paraprofessionals before and after school to go over the lessons, review data findings and discuss student progress or changes. She stated that paraprofessionals go through student IEPs at the beginning of the year to become familiar with the student's accommodations and goals.

The student stated during an interview with the investigator on August 19, 2024 that at least four paraprofessionals had taught the activities in the life skills class about half of the time and the special education teacher taught him alone about half of the time. . He verified the class was in the resource room and used a textbook and worksheets. He stated it did not prepare him for life because he was not actually doing these things, but rather learning information about them.

Conclusion

It is found that paraprofessional did deliver life skills instruction to the student. Although the district and student differ on the amount of time in Kansas it is permissible for paraprofessionals to deliver instruction as long as these staff have been appropriately and adequately prepared and trained (34 C.F.R. §300.207; K.A.R. §91-40-1(kkk)(2). Based on the interviews with the district staff the paraprofessionals participated in training on their roles, the individual student IEPs and how to deliver instruction prior to the start of the school year. Further, the paraprofessionals meet regularly with the special education teacher to debrief and problem solve on student progress and instruction. Therefore, *it is concluded that the district is in compliance* with 34 C.F.R. §300.207 and K.A.R. §91-40-1(kkk)(2) in using paraprofessionals to deliver the life skills instruction to the student.

Issue Seven

Did USD #107 provide a NOM for the 4/9/2024 annual IEP meeting to the parent, incorrectly listing the parent as an outside member of the IEP team?

Applicable Law

According to C.F.R. §300.322(a) and K.A.R. 91-40-17(a) parents must be members of the IEP team and are equal partners, playing an active role in providing critical information about their child's abilities, interests, performance, and history. They are involved in the decision-making process throughout the development of the IEP. Therefore, each public agency must take steps to ensure that one or both parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate.

According to C.F.R. 300.501(b)(2) parents are to be provided notice of meetings related to eligibility, evaluation, reevaluation, IEP development, provision of a free appropriate public education (FAPE) for their child and educational placement decisions, to ensure that they have the opportunity to participate in the meetings.

Analysis: Findings of Fact

The Parent alleged that the Notice of Meeting for the IEP meeting occurring on April 9, 2024 “has the parent listed as an outside agency not a team member. That is how most of the staff treat the parents.”

The District responded that a copy of the Notice of Meeting for the April 9, 2024 IEP meeting identified the mother and father as legal educational decision makers on page 1. No agencies or people from outside agencies are included in the Notice of Meeting.

The findings of Issues One through Six are incorporated herein by reference.

The Notice of Meeting dated March 26, 2024 prepared and distributed to the parents for the April 9, 2024 IEP meeting did not include a section for outside agency persons, nor list any persons or roles representing outside agencies. Each parent was indicated next to LEDM (Legal Education Decision Maker).

Conclusion

It is found that the parents are indicated as the legal education decision makers for the students. Based on the foregoing, it is not substantiated that USD #107 provided a NOM for the 4/9/2024 annual IEP meeting to the parent, incorrectly listing the parent as an outside member of the IEP team.

Issue Eight

Did the student’s IEP team hold staffing meetings and collect feedback from the district’s attorney prior to holding the April 9, 2024 IEP meeting with the entire IEP team?

Applicable Law

Federal regulations at 34 C.F.R. §300.501(b)(3) state that a meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting

also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

Analysis: Findings of Fact

The Parent alleged that “it is also a known fact in the [district] that there is a staffing before any special education meeting. The Elementary principal told one of her parents that they must get their “story” straight or make sure everyone was on the same page. I have also seen that in emails from past meetings, when [student] was in 10th grade.” Further, in a response to a question to the special education director, “it was clear these answers were provided to her by her attorney.”

The District responded that staffing meetings to prepare for IEP meetings and obtaining legal advice are not prohibited by the IDEA.

The findings of Issues One through Seven are incorporated herein by reference.

The special education director stated in the interview with the investigator on August 9, 2024 that there is not a formal procedure or practice of preemptively alerting the district’s attorney and inviting him/her to participate in a meeting. The only time they would involve the district’s attorney is when a parent files a due process or a formal complaint. She stated that the purpose in this instance would be to be doubly sure that they were doing what was needed with procedure. The district attorney then stated that the parent had previously submitted a variety of complaints to KSDE and threatened to sue so in that instance it is in the district’s best interest to reach out to the attorney.

The special education teacher described that in preparation for the student’s IEP she followed the district practice and the practice she follows of emailing the student’s teachers and related services in advance to collect information and generally gather dates to be offered to the parents to meet the IEP. She stated that because the student was transition age the transition coordinator at the coop was involved in collecting assessment information and that the student participated in preparing and reviewing the draft of the IEP. She stated that the notice of meeting is sent once a date is determined and a draft of the IEP is sent. Right before the meeting date she prints out copies of the draft IEP and a copy of the prior written notice in anticipation of signatures. She stated that she did not have a meeting with school staff prior to the April 9, 2024 IEP meeting and does not have meetings with school staff to prepare or discuss a student’s IEP. Instead, she said she regularly relies on emails to gather information. She stated she would not rule out an in-person meeting with school staff, if necessary, but the logistics of scheduling the meeting would be very challenging. She stated she is more likely to talk with a single person if she needs clarification.

Emails from the special education teacher and the student’s teachers between March 21 – 25, 2024 document that the special education teacher asked for input about the student’s

behavior and performance in their respective classes and suggested dates for the student's IEP meeting.

Documentation shows that the notice of meeting was sent to the parent on March 26, 2024.

Conclusion

It is found that the district has a regular practice for preparing and drafting the student's annual IEP and the special education teacher described it and followed it. It is further found that the district has regular practices for what triggers the district to contact the district attorney, and the director of special education described why she reached out to the district attorney, and it was compatible with the district practices. Based on the foregoing, it is not substantiated that USD #107 held student's IEP team staffing meetings and collected feedback from the district's attorney prior to holding the April 9, 2024 IEP meeting with the entire IEP team.

Issue Nine

Did USD #107 provide the student his IEP accommodation paper to take notes during his April 9, 2024 IEP meeting?

Applicable Law

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. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Analysis: Findings of Fact

The Parent alleged the student was not provided paper during his IEP meeting in spite of his asking and a need to accommodate his remembering by writing things down on paper to better remember.

The District responded that the IEP in place for the student at the time of the April 9, 2024 meeting did not require the provision of paper for him to take notes during the IEP meeting.

The findings of Issues One through Eight are incorporated herein by reference.

The IEPs dated April 19, 2023 and April 9, 2024 did not include an accommodation for providing paper to the student for notetaking.

The special education teacher stated that the student was provided a draft paper copy of the IEP so he could follow-along and that pens were available for him to take notes. She stated she did not hear the student ask for paper nor was aware that the student wanted paper. She

stated that the student appeared comfortable during the IEP meeting and participated by providing preferences and input.

The mother stated during the interview with the investigator on August 19, 2024 that the student was not initially in the meeting due to his preference to not attend. She stated that she asked the student to come into the meeting to provide information about paraprofessional use. She and the student who joined the interview stated that they shared a draft copy of the IEP.

Conclusion

It is clear that the parent and district disagree as to whether the student had access to paper and writing instruments during the IEP. The IDEA at 34 C.F.R. §300.323(c)(2) require school districts ensure that the special education and supplementary aids and services be available not later than 10 school days after parental consent is granted, but this accommodation was not included in either IEP. Therefore, the district had no IDEA obligation to provide paper and writing instruments to the student during the IEP and it is not substantiated that USD #107 failed to provide the student his IEP accommodation paper to take notes during his April 9, 2024 IEP meeting.

Issue Ten

Did the student's draft IEP dated April 9, 2024 contain incorrect information about the student's present levels and the student receiving para help?

Applicable Law

Federal regulations at 34 C.F.R. §300.320(a)(1) define the individualized education program as including a statement of the child's present levels of academic achievement and functional performance.

Federal regulations at 34 C.F.R. §300.618-300.621 describe amendment of records at parent's request. They state that 1) a parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information; 2) the agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request; and if the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under §300.619. §300.619 through §300.621 describes the opportunity, procedures, and results of a hearing.

Analysis: Findings of Fact

The Parent alleged that the IEP was not marked "Draft," and contained false information about the student's having help, wanting to use notes and para support written in the present levels. She indicated two statements in the IEP she received were incorrect, "[Student] has developed confidence in his abilities and typically completes his assignments in the general education classroom setting without special education services such as para, when one is provided. He is completing the same assignments in the same manner as his peers." in the Student Strengths section and "[Student] did not want to use notes or have help on 3 History tests and received scores of 81%, 94%, and 76% and was very proud of himself for his accomplishments." in the Staff Concerns section of the present levels. Further, she stated that the information about him receiving para support was incorrectly written as discovered in the previous child complaint 24FC107-001.

The District responded that the IEP document provided to the parent prior to, or at the IEP meeting was a draft and not having it marked as "draft" was an oversight. The district stated that it was stated during the meeting that it was a draft. They further stated that present levels in the student's April 9, 2024 IEP are accurate and do not include these statements.

The findings of Issues One through Nine and 24FC107-001 are incorporated herein by reference.

The special education teacher stated during her August 19, 2024 interview with the investigator that she got the information about the present levels from her daily experience as the student's special education teacher, from other teachers and from discussion with the student. She stated that she and the student went over every section of the IEP prior to the meeting for completeness and accuracy.

The history teacher responded to the special education teacher's request for present level information to prepare the IEP on March 21, 2024 at 11:21 a.m. "The student is cooperative and polite. The student attends to the lesson and has thoughtful comments."

The IEP dated April 9, 2024 provided by the parent and district as evidence contains the following statement in the Student Strengths section of the PLEP - "[Student] has developed confidence in his abilities and typically completes his assignments in the general education classroom setting without special education services such as para, when one is provided. He is completing the same assignments in the same manner as his peers."

The child complaint 24FC107-001 was completed June 18, 2024 and substantiated that USD #107 failed to implement the student's IEP during the 2023-2024 school year by discontinuing paraeducator support and committed a procedural error in not meeting and/or amending the IEP.

The IEP dated April 9, 2024 provided by the parent as evidence contained the following statement in the Staff Concerns section of the PLEP - "[Student] did not want to use notes or have help on 3 History tests and received scores of 81%, 94%, and 76% and was very proud of

himself for his accomplishments." In the Staff Concerns section of the present levels section of the IEP." This statement is not contained in the final IEP dated April 9, 2024 provided by the district and implemented.

Conclusion

Complaints alleging that information in education records is inaccurate or misleading is subject to the amendment process described in 34 C.F.R. 300.618-300.621, not this complaint process. Therefore, while the parent provided instances of discrepancies in the document versions the parent needs to follow the procedures described in 34 C.F.R. 300.618-300.621 to reconcile any concerns of incorrect information. Therefore, *this issue was not investigated.*

Issue Eleven

Did USD #107 provide the parent a PWN reporting IEP team decisions for the April 9, 2024 IEP annual meeting to the family prior to the annual IEP meeting?

Applicable Law

According to Federal regulations at 34 C.F.R. §300.503 (a)(1) and 34 C.F.R. §300.503 (a)(2), and Kansas state statutes at K.S.A. §72-3430(b)(2) prior written notice must be given to the parents of a child with a disability a reasonable time before the public agency (1) proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

Analysis: Findings of Fact

The Parent alleged that a prior written notice dated April 8, 2024 was printed on April 9, 2024 at 7:22 a.m. prior to the IEP meeting at 8:30. It was not provided five days before the meeting and the district has never provided a prior written notice before a meeting; it is always provided at the end for a signature. Further, the prior written notice was already filled in with the IEP decisions prior to the meeting.

The District responded that the prior written notice dated April 9, 2024 outlined IEP changes that school staff planned to propose, in anticipation of consensus, but in no way intended it was the decisions prior to the meeting. The preparation of the document is to avoid using signed consent via email or hand delivery if consensus with the draft is achieved, but it is district practice to discard the prepared prior written notice and make changes to reflect any decisions made during the meeting.

The findings of Issues One through Ten are incorporated herein by reference.

The mother stated during the interview with the investigator on August 19, 2024 that the prior written notice was dated April 8, 2024 and it was presented to her during the meeting.

The prior written notice for identification, special education and related services, educational placement, change in services, change in placement, and/or request for content for the IEP meeting on April 9, 2024 is dated April 8, 2024. The prior written notice proposes both a material change in services and a substantial change in placement. It reports that "The team, including [student], feel that the proposed services are most appropriate to meet the student's needs."

The proposed decisions included in the prior written notice include,

The team is proposing that [student's] service time in the resource room setting change after the 2023-2024 school year. For the 2024-2025 school year, the team proposes that [student] only receive direct instruction for a Study Skills call for 45 minutes, 5 days a week. He will participate in the general education math class and an elective class of his choice. The team is also proposing the dismissal of special education support services in general education for English and Science. This is being proposed because [student] has found that he would rather depend on the general education teacher for help or choose to go to the resource room for special education services if needed. [Student] will receive 20 minutes, every other week, for psychology services and 25 minutes weekly for speech/language.

The mother stated to the investigator in a phone conversation on August 2, 2024 that the prior written notice served as the agenda during the April 9, 2024 IEP meeting, causing the mother to not be prepared for the decisions that were being made. She stated this practice diminished her ability to participate in discussing her student's IEP and give input as to decisions, as the document portrayed them as completed. She stated that she prepared and distributed a document listing her concerns at the meeting.

The parent sent an email to the district on April 5, 2024 at 9:53 stating, "I receive the draft IEP. [Student] and I looked through the draft IEP and discussed the changes [special education teacher] wants to make. [Student] is not Happy about the changes, he said 'They didn't listen to anything I said Wednesday!' Please, allow extra time for the IEP meeting because it's going to be a long one. I understand that it is a draft, but to a parent it appears that the Changes have already been decided."

The special education teacher stated during the interview with the investigator on August 19, 2024 that it would have been prepared prior to the meeting and that it would be reviewed at the meeting and altered as needed.

The staffing summary/team report noted the following decisions, the use of headphones/listening to music is up to the teacher and will be kept as a special education accommodation; the Health PLEP will be clarified to state that the student can be left alone in a classroom without an adult up to 5 minutes and staff will check on him if he leaves the room to go to bathroom or locker after ten minutes; notes will be provided for general education classes, note taking instruction will occur during life skills or study skills classes, life skills will

focus on application and will be incorporated into speech, a visual clock or option of vision 360 application will be added to the IEP. While the staffing summary/team report documented the parent document, it is recorded that, "parent concerns provided in writing - did not want to review further during meeting."

An email from the district's attorney to the investigator on August 22, 2024 at 11:43 a.m. was sent in response to the investigator asking how the prepared prior written notice was discussed at the IEP meeting. "Per [special education teacher], the Prior Written Notice was discussed at the IEP meeting. The team reviewed, discussed, and made changes to the draft IEP. At the conclusion of that discussion, [special education teacher] led (sic) the parent and the team through the Prior Written Notice, which she identified as a 'shortened version of the IEP.' She reviewed each section of the Prior Written Notice and asked [mother] and the other IEP team members if there were any concerns. No concerns were identified and [mother] signed consent for the changes to the IEP."

Documentation shows that the parent signed the April 9, 2024 prior written notice on April 9, 2024.

The student's IEP shows that the decisions contained in the April 9, 2024 prior written notice and staffing summary/team report were incorporated into the IEP.

Conclusion

It is found that the PWN provided at the IEP meeting reported decisions that were discussed and further required parental consent. Consent from the parent was acquired at the conclusion of the IEP meeting. The staffing summary/team report documented two additional decisions were made during the meeting, 1) teaching notetaking during life-skills class or study skills classes and 2) teaching application of the life-skills. These two instructional decisions impact the provision of FAPE to the child and should have been documented in a prior written notice. Therefore, *it is substantiated* that USD #107 failed to provide the parent a PWN reporting these two IEP team decisions resulting from the April 9, 2024 IEP annual meeting.

Summary of Conclusions/Corrective Action

ISSUE ONE: A violation of 34 C.F.R. §300.503 (a)(1) and 34 C.F.R. §300.503 (a)(2) was not found, based on the facts above. Corrective action is not required.

ISSUE TWO: A violation of 34 C.F.R. §300.320(b)(1) was not found, based on the facts above. Corrective action is not required.

ISSUE THREE: A violation of 34 C.F.R. §§ 300.622(a) and 99.31(a)(1) was found, based on the facts above. It is acknowledged that the district has taken steps to no longer disclose the student's PII in weekly emails to all school staff.

1. Corrective action is required as follows:

- a. CORRECTIVE ACTION:
 - i. By September 30, 2024, USD #107 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal regulations at 34 C.F.R. §§ 300.622(a) and 99.31(a)(1).
 - ii. **Date due:** September 30, 2024
- b. CORRECTIVE ACTION:
 - i. Compile a list of students whose PII was disclosed during the 2023-2024 school year in the weekly emails to all school staff and write letter to the parents/legal guardians of each student stating the dates the student's PII was disclosed and explaining the remedy the district has taken to ensure that the student's PII is not disclosed going forward. Provide evidence to SETS to demonstrate this action has been completed.
 - ii. **Date due:** October 30, 2024.

ISSUE FOUR: A violation of 34 C.F.R. §300.156(c)(i) was not found, based on the facts above. Corrective action is not required.

ISSUE FIVE: A violation of 34 C.F.R. §300.207 was not found, based on the facts above. Corrective action is not required.

ISSUE SIX: A violation of 34 C.F.R. §300.207 was not found, based on the facts above. Corrective action is not required.

ISSUE SEVEN: A violation of C.F.R. §300.322(a) was not found, based on the facts above. Corrective action is not required.

ISSUE EIGHT: A violation of 34 C.F.R. §300.501(b)(3) was not found, based on the facts above. Corrective action is not required.

ISSUE NINE: A violation of 34 C.F.R. §300.323(c)(2) was not found, based on the facts above. Corrective action is not required.

ISSUE TEN: A violation of 34 C.F.R. §300.320(a)(1) was not found, based on the facts above. Corrective action is not required.

ISSUE ELEVEN: A violation of 34 C.F.R. §300.503 (a)(1) and 34 C.F.R. §300.503 (a)(2) was found, based on the facts above. It is acknowledged that the student is no longer attending school and receiving special education and related services in the district.

1. Corrective action is required as follows:
 - a. CORRECTIVE ACTION:
 - i. By September 30, 2024, USD #107 shall write a prior written notice documenting the two April 9, 2024 IEP team decisions 1) teaching notetaking during life-skills class or study skills classes and 2) teaching application of the life-skills and provide to the parent and add to the student record that is sent to the receiving school.

- ii. **Date due:** September 30, 2024
- b. CORRECTIVE ACTION:
 - i. By September 30, 2024, USD #107 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal regulations and state statutes at 34 C.F.R. §300.503 (a)(1) and 34 C.F.R. §300.503 (a)(2) and K.S.A. §72-3430(b)(2).
 - ii. **Date due:** September 30, 2024
- c. CORRECTIVE ACTION:
 - i. USD #107 shall review and revise, as needed the annual IEP procedures/practices for preparing the draft PWN, guidance for when the draft PWN needs revision, distinguishing when the PWN needs to have signed consent and when the PWN is written to document a decision. The results of the review and possible revision shall be provided to SETS.
 - ii. **Date due:** October 15, 2024
- d. CORRECTIVE ACTION:
 - i. USD #107 shall conduct training with high school special education teachers on the requirements and contents of a prior written notice associated with the annual IEP meeting. The training shall contain information on including all IEP team decisions in the PWN, not just those requiring parent consent. The training PowerPoints and/or materials along with the sign in sheet for participants shall be provided to SETS.
 - ii. **Date due:** October 15, 2024

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)