

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #202
ON AUGUST 13, 2024

DATE OF REPORT: SEPTEMBER 11, 2024

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

The Complaint is against USD #202 Turner Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #202.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the school district. In this case, the KSDE initially received the complaint on August 13, 2024, and the 30-day timeline ended on September 12, 2024.

Investigation of Complaint

The Complaint Investigator, Tania Tong, interviewed District staff on September 3, 2024. The Parent did not respond to a request for an interview.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the District. The Parent did not respond to requests for materials. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Complaint Response, 08/15/24
2. Comprehensive Special Education Cooperative Evaluation/Eligibility Report, 04/09/24
3. Early Childhood Speech-Language Evaluation Results, 04/09/24
4. Eligibility Determination, 04/09/24
5. Individualized Education Program (IEP), 04/09/24
6. PWN, 04/09/24
7. PWN, 08/13/24
8. Notice of Meeting, 08/13/24
9. Notice of Meeting, 08/13/24
10. Conference Form, 08/13/14
11. School Calendar, 2023-24 school year

12. School Calendar, 2024-25 school year

13. Contact Log, 08/13-08/14/24

Background Information

This investigation involved a 4-year-old preschool Student enrolled at an elementary school in the District in their morning inclusive preschool classroom. The Student receives special education as a child with a disability under the Individuals with Disabilities Education Act (IDEA). The Student was enrolled and screened for the four-year-old At-Risk Preschool Program on June 18, 2024. After the Student's initial screening, the Parent informed the School District that the Student had an IEP from the Student's Previous District. Upon reviewing the current IEP, dated April 9, 2024, it was noted that the Student did not demonstrate a need for special transportation. Therefore, transportation services were not required as a related service in the IEP. The Student was assigned a general education bus before school started.

Positions of the Parties

The Parent alleged that on August 13, 2024, the Student's IEP failed to be implemented at the beginning of the school year when specialized transportation was not provided to the Student on the first day of school. The Student was enrolled and screened for the four-year-old At-Risk Preschool Program on June 18, 2024. After the Student's initial screening, the Parent informed the School District that the Student had an IEP from the Student's Previous District. On the morning of August 13, 2024, the Parent contacted the Transportation Department, expressing concern that the special education bus did not arrive to pick up the Student. The Transportation Department confirmed the Student was not routed on special transportation and explained that several buses were delayed due to it being the first full day of school. The Transportation Department offered to send a bus for the Student, but the Parent declined transportation, choosing to transport the Student on their own.

The District acknowledged that the Student was enrolled and screened for the four-year-old At-Risk Preschool Program on June 18, 2024. After the initial screening, the Parent informed the District that the Student had an IEP from their Previous District. The District received records from the Previous District and shared them with the service providers on July 29, 2024. Upon reviewing the IEP dated April 9, 2024, it was noted that the Student did not demonstrate a need for special transportation. Therefore, transportation services were not required as a related service in the IEP. The Student was routed on a general education bus. The Elementary Special Education Coordinator noted that a consent to evaluate for transportation as a related service and sensory needs was signed on April 9, 2024, the day of the Student's eligibility in the Previous District. When reviewing both District calendars the District was within the 60 school day timeline for evaluation with 26 days remaining. The District continues to evaluate the need for special transportation as a related service by collecting data through September 3, 2024.

Findings of the Investigation

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

1. The Student is four years old and attends the At-Risk Preschool Program at an elementary school.
2. The Student is eligible for special education under developmental delay and a receptive/expressive language disorder.
3. The Student's strengths are, "[The Student] is kind and quiet. ... [The Student] is compliant to teacher directions when [they] want to be. ... [The Student] enjoys playing with [their] siblings. ... [The Student] enjoys playing with preferred peers and interacting with preferred adults. [The Student] loves anything crafty ... and playing outside on the playground."
4. A Special Education Action dated April 9, 2024 indicated the Previous District proposed to conduct a reevaluation to consider "[W]hether any additions or modifications to the special education and related services are needed to enable your child to meet the measurable annual goals set out in the IEP of your child and to participate, as appropriate, in the general education curriculum."

A Prior Written Notice from the Previous District dated April 9, 2024, indicated that the Student was eligible for special education services. The proposed action indicated, "[The Student] meets criteria for special education services and is demonstrating a need for specialized instruction. Speech and language services in the general education setting is proposed to work on social-communication skills within [the] preschool setting."

5. On April 9, 2024, an IEP meeting was held for the Student in the Previous District. Parent concerns included, "[The Student] will point to or get items if [the Student] is not understood. ... [The Parent] mentioned [the Student] does demonstrate anxiety at home and are not sure how to support them." (D32) According to the IEP, Transportation Services indicated, "The [S]tudent does not require transportation as a related service."
6. According to the Director of Special Services, the Student was enrolled and screened for the At-Risk PreSchool Program on June 18, 2024. After the initial screening, the Parent informed the District that the Student had an IEP from their previous District. The records from the Previous District were shared with the current District's service providers on July 29, 2024.
7. The Student was "[E]nrolled in the School's morning inclusive preschool classroom as a Student with a disability, with a start date of August 13, 2024. Upon reviewing the current IEP, dated April 9, 2024, it was noted that [the Student] did not demonstrate a need for special transportation. Therefore, transportation services were not required as a related service in the IEP. Prior to school starting, [the Student] was routed on a general education bus, as all students in [the District] receive free transportation from their homes regardless of [sic] from school."

8. According to the Director of Special Services, "On the morning of August 13, 2024, [the Parent] contacted the transportation department, expressing concern that the special education bus did not arrive to pick up [the Student]. The transportation department confirmed that [the Student] was not routed on special transportation and explained that several buses were delayed due to it being the first full day of school. Transportation offered to send a bus for [the Student], but [the Parent] declined transportation, choosing instead to transport [the Student] on [their] own."
9. According to a Contact Log dated August 13, 2024, the Parent contacted the Director of Special Education, "I am writing to formally lodge a [C]omplaint against the transportation department of [the District]. My [Student] has an [IEP] that explicitly states that [they require] specialized transportation. However, on [their] first day of school, there was no bus available for [the Student], and we were told that we would have to transport [the Student] ourselves, with no reimbursement for our expenses or compensation for the time we would miss from work. I have previously dealt with the head of transportation, and I can attest to the fact that [they lack] basic customer service skills and does not seem to care about the needs of students."

The Transportation Department indicated, "A bus was offered to come and pick [the Student] up. [The Parent] was abrasive and threatening. [The Parent] also would not allow any type of response from [the Transportation Workers]. ... [A Transportation Worker] then terminated the call due [to the Parent's] intimidating threats and scare tactics."

According to the Elementary Special Education Coordinator, on August 13, 2024, "Transportation called to offer to send a bus to pick [the Student] up, but [the Parent] refused to consider [sic]. I explained special transportation is not included on [the Student's] IEP or noted in [their] eval. [The Parent] said the school system amended the IEP to include [sic]. I explained we have nothing to indicate that the IEP was amended but there is a signed consent to evaluate for transportation that was signed on the same date as the initial eligibility meeting. [The Parent] said transportation should already be on it. I explained that [the Previous District] did not complete the evaluation before the end of the school year and that we are happy to pick up where [the Previous District] left off. I explained that we are still within the 60-school-day timeline for evaluation. The IEP clearly states it was not a need at the time of eligibility. I do not understand why they obtained consent, but we will consider [the Parent's] request for special transportation and respond through [Prior Written Notice] PWN. ... Considering the [Previous District] school year calendar and [the District] school year calendar, we are within the 60-school-day timeline, as today marks day 34."

10. "[The Parent] contacted the Special Services Office and spoke with [the Elementary Special Education Coordinator] regarding [the Parent's] transportation concerns. [The Elementary Special Education Coordinator] explained that special transportation was not included on [the Student's] current IEP. [The Elementary Special Education Coordinator] did note that a consent to evaluate for transportation as a related service and sensory need was signed on April 9, 2024, the day of [the Student's] initial eligibility

meeting in [their] previous District. Additionally, conference notes from the eligibility meeting indicated that a follow-up meeting was scheduled for April 26, 2024, to review data and determine the need for transportation as a related service.”

11. On August 13, 2024, the Elementary Special Education Coordinator indicated, “However, during our meeting with [the Parent] today, [the Parent] reported that no [Team Meeting] occurred to determine the need for special transportation.”
12. On August 13, 2024, a Notice of Meeting was sent to the Parent due to the Parent “requesting a meeting to consider special transportation as a related service. The Parent agreed to waive their right to a ten-day notice, according to the District. The Director of Special Services indicated, “[The Parent] was provided Procedural Safeguards and signed the Notice of Meeting. During the meeting, [the Parent] reported that no [T]eam [M]eeting had occurred in the previous [D]istrict on April 26, 2024. [The Parent] was provided the opportunity to share [their] concerns regarding [their] request for [the Student] to receive special transportation. [The Parent] stated [they] would like [the Student] to ride the special education bus because [the Student’s] older [sibling] receives special transportation, and it would be a comfort to [the Student]. Due to the lack of data from [the Previous District] showing a need for special transportation, [the District] denied [the Parent’s] request through Prior Written Notice.” The Notice of Meeting indicated, “The IEP [T]eam will review information related to the evaluation for special transportation and consider [the Parent’s] request for special transportation.”

“The [T]eam is continuing to evaluate the need for special transportation as a related service by collecting data through September 3, 2024. The [P]arent verbally agreed to meet on September 4, 2024, to review the data and determine the need for special transportation. [The District] will still be within the 60 school day timeline.”

13. A PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated August 13, 2024, indicated, “The [LEA] refuses to initiate or change the identification, educational placement, or provision of special education and related services as explained [The District] considered the request by [the Parent] to add special transportation as a related service to [the Student’s] current special education services. [The District] is declining to add transportation as a related service at this time. General transportation has been offered and will continue to be offered for [the Student].”
14. The Parent was given the following documents on August 13, 2024, at the meeting to discuss Parent concerns:
 - a. “Procedural Safeguards”;
 - b. “Signed Notice of Meeting”;
 - c. “Signed Conference Notes”;
 - d. “Prior Written Notice responding to [P]arent request for special transportation”;
 - and
 - e. “Notice of Meeting for September 4, 2024.”

15. According to a Conference Form dated August 13, 2024, the Parent shared that it took a while to get the Student assessed at the Previous District. The Parent shared that they wanted special transportation to be provided and extended time to eat because the Student is a slow eater. The Parent indicated the Student did not have transportation at the Previous School last year because of an age requirement. The Parent would like the Student to ride the bus with the older sibling to help the Student get to school. The Parent feels the sibling would provide comfort to the Student due to the Student's anxiety.
16. According to the Previous District's 2023-24 School Calendar and the current District's 2024-25 Calendar, the District was within the 60-day timeline for assessment completion with 26 days remaining at the time of the file review.
17. The Complaint was filed on August 13, 2024.
18. According to the Director of Special Services, the School spoke with the Student's family when they came in for their at-risk screening over the summer. They stated that because the Student was in general education, any transportation information would have gone through the transportation department. "So whenever parents enroll, we ask them to enroll and ride. ... I think it's called Ride 360. It's an online app that shares all of the transportation information and then they send that information out to parents."
19. The Special Services Coordinator said, "And I can tell you that the day that [the Student] came in for a [sic] preschool screening, I did not know that [they] had an IEP until right before [sic] parent left. [The Parent] said [the Student] went through the screening process for our at-risk preschool, and [the Parent] said ... '... just so you know, [the Student] has an IEP.' And I said, 'oh ... [they] did not have one the previous year before.' And [the Parent] said, 'yes, they wrote an IEP for [the Student] ... ' ... And I said, '... I haven't gotten any information.' [The Parent] said, 'well, I can send it to you.'

The Special Services Coordinator recalled the Student came in on June 18, 2024 for their screening, and confirmed the Student had never previously attended the District before.

20. According to the Director of Special Services, since the Student was not assigned to specialized transportation under their IEP, the School had no direct contact with the Parent about special transportation. They stated the process for the Student's transportation was the same as that for general education students, following standard procedures before the school year began.

The Special Services Coordinator said, "Nothing was said to me about transportation. Only that there was an IEP."

21. According to the Director of Special Services, "[The Parent] did speak with transportation and they offered to send a bus back around to get [the Student]. And [the Parent] ended that phone conversation and brought [the Student] to school [themselves]. But ... transportation was offered to come back and get [the Student] that day, and [the Parent] refused it."
22. The Director of Special Services said, "And I have not had any contact with [the Parent] at all until the morning that [they] had sent me the email that [they] had filed the complaint and then met [them] for the first time that afternoon in person." The Director

of Special Services stated that when the Complaint was filed, the Special Services Coordinator spoke with the Parent several times that morning.

23. The Special Services Coordinator said, "It was the first day for our preschoolers. And as soon as I got into the office, I had notifications that [the Parent] was upset about transportation. ... I pulled the child's file ... it clearly said in the IEP that transportation was not a need for this child at the time. The evaluation report did not indicate that there was a need for this child. When I spoke with [the Parent], [they] said that they had amended the IEP ... and added transportation. And I said, '... I don't see anything that shows that they amended the IEP regarding transportation.' [The Parent] said, 'well, I can send you the form.' So [the Parent] sent me a consent to evaluate that was actually signed on the date of the IEP meeting."
24. The Special Services Coordinator explained that when addressing concerns raised by the Parent, they proposed a meeting to discuss what would be most appropriate for the Student. They informed the Parent that a notice of meeting was required but offered to meet sooner if they were willing to waive their 10-day notice right, allowing the team to address the Parent's concerns and decide on next steps.
25. The Special Services Coordinator stated the Parent agreed to meet, but stated they were bringing an attorney with them. The Special Services Coordinator said they met with the Parent that day. The Special Services Coordinator stated that during the meeting they listened to the Parent's concerns and clarified that no special transportation had been added to the IEP. They reviewed conference notes from the Previous District, which indicated a meeting was supposed to take place on April 26, 2024 to review special transportation data. The Special Services Coordinator stated the Parent explained to them that the April 26th meeting was canceled because the Parent informed the Previous District that the Student was transferring to this School, which they believed would handle it. According to the Special Services Coordinator, the current School's team is in the process of collecting data to assess the need for special transportation.
26. The Special Services Coordinator stated in the interim, the Student has rode general transportation to and from school.

According to the Special Services Coordinator, daily data has been collected on the Student's bus rides. They explained there was one incident where the Student had a disagreement with another child, but the bus driver separated their seats, resolving the issue. The Special Services Coordinator stated that reports from teachers and the bus driver have been positive, noting that the Student had excellent rides and no issues boarding or riding the bus.

Applicable Regulations and Conclusions

According to 34 C.F.R. 300.323(a),(c) and K.A.R. 91-40-16(3), each school district must make Free Appropriate Public Education (FAPE) available to all eligible children beginning on their third birthday, and continuing until a reevaluation indicates the child is no longer eligible and

the parents consent to termination of services. For children with disabilities, age 3 through 5, an Individualized Family Services Plan (IFSP) may serve as the Individualized Education Program (IEP) of the child if the school and parents agree. An IEP must be developed within 30 calendar days of a determination that the child needs special education and related services and must be implemented within 10 school days after written parent consent is granted for the services in the IEP or IFSP unless reasonable justification for a delay can be shown. In addition, the school is required to ensure that an IEP or IFSP is in effect at the beginning of each school year for each child with an exceptionality.

The Student was eligible for special education as a child with a disability per the Individuals with Disabilities Education Act (IDEA). After the Student's initial screening on June 18, 2024, the Parent informed the District that the Student had an IEP from the Student's Previous District. The District received records from the Previous District and shared them with the service providers on July 29, 2024. Upon reviewing the IEP from April 9, 2024, it was noted that the Student did not demonstrate a need for special transportation. The Student was assigned a general education bus before school started, a free service for all students in the District.

According to the Director of Special Services, the process for the Student's transportation was the same as that for general education students, following standard procedures before the school year began.

According to the Director of Special Services, the Parent contacted the transportation department on the morning of August 13, 2024 and expressed concern that the special education bus did not arrive to pick up the Student. Transportation offered to send a bus to pick up the Student, but the Parent declined and chose to transport the Student on their own.

The Special Services Coordinator stated they listened to the Parent's concerns during a meeting held on August 13, 2024 and clarified that no special transportation had been added to the IEP. They reviewed conference notes from the Student's Previous District, which indicated a meeting was supposed to take place on April 26, 2024 to review special transportation data. The Special Services Coordinator stated the Parent explained to them that the April 26th meeting was canceled because the Parent informed the Previous District that the Student was transferring to this School, which the Parent believed would handle the services.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is unsubstantiated* that the District failed to implement the Student's IEP. The IEP did not state the Student required transportation services at the time of eligibility. While an evaluation to consider transportation services was part of the IEP, a meeting between the Parent and the Student's Previous District to discuss the matter never took place, and the IEP was never amended.

Complaint Investigator

Tania Tong, Licensed Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.org. The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

K.A.R. 91-40-51(f) Appeals.

(1) Any agency or complainant may appeal any of the findings or conclusions of a compliance report prepared by the special education section of the department by filing a written notice of appeal with the state commissioner of education. Each notice shall be filed within 10 days from the date of the report. Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect.

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

- (A) The issuance of an accreditation deficiency advisement;
- (B) the withholding of state or federal funds otherwise available to the agency;
- (C) the award of monetary reimbursement to the complainant; or
- (D) any combination of the actions specified in paragraph (f)(2)