

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512
ON SEPTEMBER 17, 2024

DATE OF REPORT: OCTOBER 16, 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 # 512, Shawnee Mission Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #512.

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 September 17, 2024, and the 30-day timeline ended on October 17, 2024.

Investigation of Complaint

Tania Tong, the Complaint Investigator, interviewed the Parent by video call on October 8, 2024. The following District staff were interviewed on October 10, 2024: the Special Education Director and the Science Teacher.

The Complaint Investigator also reviewed emails from the Parent and the District between March 31, 2023 and September 23, 2024.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the District. Although additional documentation was provided and reviewed, the following relevant materials were used as the basis of the findings and conclusions of the investigation:

Parent Materials

1. Email, re: follow up from 12/14/23 meetings, 12/20/23-01/23/24
2. Email, re: team meeting for [Student], 08/23-10/27/23
3. Email, re: outstanding requests - [student], 11/26-12/03/23
4. Email, re: [Student] - environmental ed, 12/04-12/13/23
5. Email, re: IEE request, 10/12-12/19/23
6. Email, re: upcoming meeting, 01/26/24

7. Email, re: 2/29/24 follow up, 03/01-03/07/24
8. Email, re: follow up on questions, 04/25-04/26/24
9. Email, re: follow up, 04/10-05/16/24
10. Email, re: eoy updates, 05/20-05/24/24
11. Email, re: [Student] - sped records request (5), 05/28/24
12. IEP Attendance and Delivery Acknowledgement, 01/29, 02/13, 02/27, 03/29, 04/05 no year
13. PWN, 04/no day/24
14. Notice of Meeting, 01/11/24
15. IEP, 04/25/24
16. PWN, 04/05/24
17. IEP, 05/14/24
18. PWN, 04/05/24
19. PWN, 05/14/24
20. PWN, 10/09/23
21. IEE, 12/20/23
22. IEP Meeting Transcript, 09/19/24 PWN, 04/05/24
23. IEP, 05/14/24
24. PWN, 04/05/24
25. PWN, 05/14/24
26. PWN, 10/09/23
27. IEE, 12/20/23
28. IEP Meeting Transcript, 09/19/24d
29. Parent Interview on October 8, 2024

District Materials

1. IEE Responsive Action Documentation, no date
2. IEE Letter, 10/11/23
3. PWN, 05/22/24
4. Email, re: pre-annual IEP meeting request, 01/04/24
5. Email, re: IEE report, 01/04/24
6. Proposed PWN, 03/01/24
7. Email, re: welcome back [with meeting notes], 09/17- 09/23/24
8. District Interview on October 10, 2024

Background Information

This investigation involved a twelfth grade student enrolled in the District.. The Student is currently receiving services as a child with a Specific Learning Disability per the Individuals with Disabilities Education Act (IDEA).

Issue One

USD #512, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the Parent with access to educational records after repeated requests by the Parent for specific details regarding the dyslexia consultant hired by the district to support [the Student], including meeting notes, consultation goals, and actions taken. K.A.R. 91-40-50.

Positions of the Parties

The Parent alleged that despite repeated requests for specific information about the District's Dyslexia Consultant and their support for the Student, the Special Education Coordinator and Team "consistently failed" to provide this information, therefore "violating" the Parent's rights to be fully informed about the services and support provided to their child. The Parent further alleged that "On January 18, 2024, I requested that [the Chief of Special Education] provide details on where [the Student's] records were being stored. Despite this formal request, [the Chief of Special Education] did not provide the requested information."

The District rebutted that they provided copies of the Student's special education records multiple times at the Parent's request, including an electronic submission of special education records on May 28, 2024. The District asserted that they provided information about the dyslexia consultation in accordance with how it is listed as a support on the Individualized Education Program (IEP); dyslexia consultation occurred between staff members, so there are no educational records concerning this information. However, information and updates were provided verbally to the Parent at various IEP and in-person meetings.

Findings of the Investigation

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

1. On October 6, 2023, an email was sent from the Parent to the School Psychologist asking for the latest information from the dyslexia consultant. The School Psychologist replied via email on October 10, 2023 indicating that they were going to meet with the Dyslexia Consultant and update the Parent afterward. The School Psychologist also indicated that check-ins with the Consultant occurred one time each semester.
2. On November 26, 2023, an email was sent from the Parent to the District Team indicating that they had not yet received any updates about the Dyslexia Consultant and requested to attend any future meetings with the Consultant. More emails were

sent between the District Team and the Parent on December 1, 2023. The School Psychologist clarified that the Dyslexia Consultant was contracted to work with the District to consult with teachers and answer questions about reading strategies and instruction, and their role did not include working with individual students or families.

3. On December 3, 2023, the Parent emailed the School Psychologist and indicated discrepancies in the information they had been given about the dyslexia consultant. They had been told they could look up contact information for the Consultant and contact them, but then they were told the Consultant's role did not include working with families directly.
4. On December 11, 2023, emails were exchanged between the Chief of Special Education and Parent verifying agenda items for an upcoming meeting. These items included the Parent's request for the Dyslexia Consultant to attend the meeting. The Chief of Special Education replied that the Dyslexia Consultant would not attend the upcoming meeting, but any information regarding consultation could be provided by the Case Manager during the meeting.
5. On December 20, 2023 and January 3, 2024, emails were sent between the District and Parent outlining notes from the December 14, 2023 meeting during which the Parent's concerns regarding the Student's records and Dyslexia Consultant information were discussed. The Parent clarified that they wanted specific details about what the Dyslexia Consultant was doing with, or for the Student, including who the Consultant met with, for how long, goals for the meeting, meeting notes, findings, conclusions, action items, service recommendations, and any other relevant information.
6. A January 17, 2024 email from the Chief of Special Education to the Parent verified adding agenda items for the January 19, 2024 IEP meeting to include discussing the utilization of the Dyslexia Consultant as a resource.
7. Via email on April 12, 2024 to the Chief of Special Education, the Parent requested the removal of the dyslexia consultation from the Student's IEP stating that it was not benefitting the Student or the IEP Team. The Chief of Special Education replied April 17, 2024 that the dyslexia consultation would be removed per the Parent's request. The Parent replied April 20, 2024 that they were requesting the removal because they never received details about the services provided and it should be noted in parental concerns as such.
8. On May 28, 2024 the Special Education Department sent five batched emails to the Parent containing special education records as requested by the Parent.

Applicable Regulations and Conclusions

According to 34 C.F.R. 300.613 and K.A.R. 91-40-50, Parents of a child with a disability have the right to inspect and review all of their child's education records related to identification, evaluation, educational placement, and the provision of a Free Appropriate Public Education (FAPE). An education record means those records that are directly related to a student and

maintained by an educational agency. According to FERPA regulation 34 C.F.R.99.3, the term “education record” does not include records that are kept in the sole possession of the maker. The Parent requested records about consultation activities noted in the IEP between the District and the Dyslexia Consultant. When the Parent did not receive this information, they requested to attend consultation meetings between the District and the Dyslexia Consultant or to have the Dyslexia Consultant attend IEP meetings. The Parent asserted that the reasons for the requested information and attendance at these meetings was due to their desire for detailed information about the basis for educational services being provided, or decisions being made for the Student. District records indicated that utilization of the Dyslexia Consultant was an IEP meeting topic multiple times. The Parent requested the dyslexia consultation be removed from the IEP due to the District not providing information about the content of the consultation.

On May 28, 2024, the District provided the Parent with special education records and notified them that student records are housed in two online databases. The District also noted that as a designated support for school personnel, consultation by a dyslexia consultant occurred one time per semester as per the IEP, but there were no educational records specific to dyslexia consultation to provide to the Parent.

Based on the foregoing, according to IDEA and Kansas special education regulations *it is not substantiated* that the District failed to provide the Parent with access to educational records.

Issue Two

USD #512, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), denied the Parent’s request for counseling services to address the safety and emotional needs of the Student. The Parent’s concerns were not addressed in the IEP or the IEP process. Further, the paraprofessionals working with the Student have not received adequate training to support the Student. K.S.A. 72-3429(1)(3)(4); K.A.R. 91-40-18(b); K.S.A. 72-3429(c)(4).

Positions of the Parties

The Parent alleged that the Student had experienced bullying at school and they requested for the School to introduce the Student to the School Counselor so they would have a safe place to go when issues arose. The Parent alleged the School

“disregarded” their request and stated the Student had ‘organically met the counselor.’ The Parent stated that this response “failed to address the severity of the situation and left the Student without proper emotional support during a critical time.”

The Parent further alleged that “[f]or a significant part of the 2023-2024 school year, the IEP team refused to include our documented parental concerns in the main body of [the

Student's] IEP. Instead, they relegated these concerns to attachments, making them harder to locate and diminishing their importance in the decision-making process." The Parent further stated, "although our parental concerns have now been reinstated in [the Student's] IEP after a year of escalation, this delay has caused significant harm to [the Student's] educational progress. The issue took an entire year to resolve and demonstrates a pattern of neglect in addressing parental concerns."

Finally, the Parent alleged that the District only offered to re-train paraprofessionals after four years of raised concerns and "significant pressure" from the Parent. Furthermore, the Parent stated that their request for a paraprofessional to attend an IEP meeting was denied and the lack of support hindered the Student's progress and "[t]he reactive nature of these actions has caused ongoing delays in providing appropriate services for [the Student]."

The District responded that they fully complied with requirements in developing an IEP for the Student. The District also stated that the Parent "informed the team that the Student was engaged in a romantic relationship not approved by Parents.

... and [d]uring this discussion, there was no request by Parents or evidence the Student demonstrated a need for counseling services to address the safety and emotional needs of the Student." The District acknowledged the Parent requested for the Student to be introduced to their assigned counselor to help with the relationship the Parents did not approve of, but the team explained to the Parent that this was the role of the social worker instead. The District stated that following this request, the School ensured that the Student knew who their assigned social worker was and the "Student was re-introduced to the social worker on November 14, 2023, and then again in January 2024. At no time did [the] Parent request counseling services be included in the Student's IEP. Rather, this was an informal inquiry by [the] Parent about how the Student could be supported if necessary."

The District further asserted that all students at the School have access to a social worker and do not need services listed on an IEP to access the support.

Furthermore, they noted that in an IEP meeting on March 29, 2024, there was a discussion about the Student's behavior and according to IEP documents, "the IEP team including Parents indicated that the Student's behavior did not impede the learning of [themselves] or others. ... [T]here was not a need for accommodations, a goal, or a behavior intervention plan." In regards to paraprofessional training, the District responded that all staff at the School were trained in implementation of accommodations and modifications and provided a schedule of multiple trainings that occurred from August 11, 2023 through April 26, 2024. The District also stated that following an IEP meeting in December 2023 where the Parent shared concerns about paraprofessional training, a refresher training about the Student's services was provided to paraprofessionals in January 2024.

Findings of the Investigation

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

1. During interviews, the Parent stated there has been “back and forth” over the years about parental concerns being included as an attachment to IEPs instead of included within the document. The Parent questioned if someone would actually receive all the IEP information, including these attachments, when requesting records, so they wanted that information included within the IEP document. The Parent acknowledged that the District did start putting their parental concerns back in the parental input section of the IEP rather than as an attachment.
2. A PWN dated October 9, 2023, indicated that the Student had access to the “Student Services Center” and could see their “Counselor or the School Social Worker.” It also indicated that paraeducators were given each student’s IEP for the students they work with. They met with case managers to review student needs, and were instructed to work specifically with students who have IEPs, but were available to assist all the students in a class. It was noted that the Parent asked if teachers were trained on the nuances of student personality and behavior. The Associate Principal replied that paraeducators and teachers were having ongoing one-to-one conversations about how to work with the Student and problem-solve with team members. District and building-level training was also explained.
3. On October 15, 2023, via email to the Chief of Special Education, the Parent specified that they wanted the School to proactively introduce the Student to any counselors available at the School so the Student would know who to go to if needed. They did not want the Student to have to seek out counseling services on their own. The Parent further stated that the Student had demonstrated social and emotional changes over the previous two weeks that they alleged were a direct result of the Student’s frustration with curriculum and services being provided. The Parent also noted that these behavior changes were new and had not been demonstrated or noted throughout any previous IEPs. The IEP dated May 14, 2024 indicated behavior was not an area of concern.
4. From December 20, 2023 through January 3, 2024, emails were exchanged between the District Team and Parent with follow-up items from a December 14, 2023 meeting. The Chief of Special Education stated that paraeducators who were supporting the Student’s classes would be re- trained on accommodations and modifications in January 2024. They indicated they had been told in a meeting on October 6, 2023 that paraeducators received training for each student on a one-to-one basis, but the Parent said the Student was not receiving support in the classroom. The Parent alleged they had requested on December 4, 2023 to have paraeducator attendance at a meeting but were denied and re-training was only offered by the District when the Parent further pressed their concerns.

Further, the Parent asked what training plan was being proposed, would the training be

repeated after the next IEP was written, what the plan was for new paraeducators, if the Parent or Parent's advocate could attend the training, and what the solution would be if the Student had concerns with the support they were receiving from the paraeducators. The Chief of Special Education replied January 17, 2024 that paraeducator training would be specific to the Student's current IEP accommodations and modifications, a re-training would occur at the conclusion of any changes to the IEP, and if the Student had difficulties with paraeducator support received, they could report to the Case Manager, General Education Teacher, or the Associate Principal. The Chief of Special Education also stated that paraeducators new to the school would receive an overview of IEP information for any student they support.

5. On September 17, 2024, the Parent emailed notes to the Chief of Special Education about the September 10, 2024 meeting. It was noted that the Case Manager had met with all teachers and paraprofessionals before the start of classes to review the Student's IEP. Ongoing communication and regular check-in meetings with specific teachers was also noted. It was mentioned that the Student reported that work modifications helped them feel less overwhelmed. Further, it was noted that there was inconsistent paraprofessional presence in American Government class and that per the School IEP Team, no paraprofessional support was needed in special education settings (Math, Strategic ELA, Strategies for Success).
6. During interviews, the Parent stated there has been inconsistent training for paraprofessionals regarding the content of the Student's IEP, including accommodations and modifications. The Parent also indicated inconsistency in staffing paraprofessional positions within the School or paraprofessionals not showing up in classes where the Student expects to receive support. The Parent stated that at every meeting they have now, they check-in to understand what documents are being provided to paraprofessionals.
7. During interviews, the Chief of Special Education stated that all staff, certified and classified, received a required District overview of accommodations, modifications, and requirements and then spend time with their special education case managers to review specific details of assigned students with IEPs.

The Chief of Special Education noted that in response to the Parent's concerns about paraeducator training and support in the science class, the IEP Team changed from providing paraeducator support to providing a certified special education teacher to support the Student in the class.

Applicable Regulations and Conclusions

According to the IDEA and Kansas State regulations, exceptional children must have an IEP at the start of each school year. The IEP team is responsible for developing and modifying the IEP, including addressing special factors like behavior, language needs, visual or hearing impairments, and the need for assistive technology. Changes to the IEP can be made through written agreements or team meetings, and the IEP should be reviewed and revised at least annually. K.S.A. 72-3439; K.A.R. 91-40-16

If the IEP team determines that a child requires specific supports like behavioral interventions, accommodations, assistive technology, or program modifications to receive FAPE, those supports must be included in the child's IEP. K.S.A. 72-3429(d)(4); K.A.R. 91-40-18(b);

A statement is required to outline the special education-related services, supplementary aids, and program modifications or supports that will be provided to the child. These services and supports are intended to help the child make progress toward their goals and enable the child to participate in the general education curriculum with their peers. K.S.A. 72-3429(4)

Paraprofessionals and assistants who are appropriately trained and supervised may be used to assist in the provision of special education and related services to children with disabilities. C.F.R. 300.156(b); K.A.R. 91-40-16(4)(5)

The Parent requested that the School directly introduce the Student to the school counselors. The District asserted that they informed the Parent and the Student of the accessibility of social workers to all students whenever needed. Further, that at no time, was it discussed during an IEP meeting that the Student demonstrated a need for behavioral support or counseling services. The District records confirmed this.

The Parent alleged that their parental concerns were not being documented within the IEP document and they were concerned this information wouldn't be available to professionals who requested and/or viewed the Student's records. The Parent acknowledged that this eventually was resolved.

The Parent alleged that the Student was receiving inconsistent support in the classroom and requested specific details about paraeducator training. The District provided a schedule of multiple required and informal trainings or meetings designated for paraprofessionals regarding accommodations, modifications, and working with specific students. Further, the District asserted that they responded each time they were notified about the Parent's concerns by involving paraeducators and IEP Team members in reviewing, updating, adding, or adjusting supports for the Student. District records documented paraprofessional trainings, meetings where support for the Student was discussed, and any related IEP changes.

Based on the foregoing, according to IDEA and Kansas special education regulations it *is not substantiated* that the District denied the Parent's request for counseling services to address the safety and emotional needs of the Student. It is further not substantiated that the Parent's concerns were not addressed in the IEP or the IEP process, or that the paraprofessionals working with the Student had not received adequate training to support the Student.

Issue Three

USD #512, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to remove a District staff member from the IEP Team when the Parent requested it. K.S.A. 72-3404(4).

Positions of the Parties

The Parent alleged that the Student's IEP was "mismanaged" continuously by the Special Education Coordinator and that "[d]espite ongoing efforts to resolve these issues, [the Special Education Coordinator's] repeated failures have significantly delayed [the Student's] educational progress and have led to serious concerns about [their] ability to fulfill [their] responsibilities." The Parent cited the other issues investigated in this report as part of the reason for the request for removal of the Special Education Coordinator from the IEP team.

The District responded that the Parent made requests for the Special Education Coordinator to be removed from the team, but "[t]he expressed basis for this request is that the Parent does not like working with the staff member, disagrees with statements that the staff member has made at meetings, and disagrees with the summaries of meetings that the staff member partnered in preparing." The District added, "Please note that, while [the] Parent has voiced their dissatisfaction with this staff member, through direct observations and interviews of IEP team members, there were no findings that this staff member had engaged in any negative or unprofessional interactions with [the] Parents." The District further asserted that there are no IDEA, state or federal regulations requiring a school district to remove required IEP team members at a parent's request or because a parent does not like, or agree with, team members. The District stated that the Special Education Coordinator was serving a required role of district representative for the IEP team and that the Parent had "never, either in email correspondence or in this second child complaint, made an allegation that the staff member who serves as the District representative is not sufficiently qualified or knowledgeable."

Finally, the District stated that there were multiple attempts, including by the Associate Superintendent of Leadership and Learning, to resolve the Parent's concerns about this issue, but they were unsuccessful and the Parent continued to demand the removal of the team member. "There is no qualification or knowledge deficiency that would justify removing the staff member from the IEP team, and so the staff member has not been removed."

Findings of the Investigation

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

1. On December 6, 2023, the Parent emailed the Chief of Special Education requesting the removal of the District Special Education Coordinator from the IEP Team and cease their involvement in the Student's education. The Parent stated, "We have not seen a

level of professionalism or competence from ... them when taking [the Student's] data, history and needs into consideration for [their] IEP." The Chief of Special Education replied that the Special Education Coordinator supported the School and would continue serving on the IEP Team. The Chief of Special Education further stated personnel matters would be addressed by them should they occur.

2. On April 12, 2024, the Parent emailed the Chief of Special Education requesting that a new special education coordinator be assigned to the Student. The Parent stated, "We have provided you data over multiple occasions why we believe [the Special Education Coordinator's] behavior, attitude, and lack of understanding of [the Student's] longitudinal data have created a severe impact on [the Student's] success, IEP teams [sic] ability to develop proper goals, and overall progress. This is my 3rd request for this since October. If you are denying it, we would like to have written details as to why." On April 17, 2024, the Chief of Special Education replied, "As previously explained, I am unable to accommodate requests to assign or not assign a specific special education staff member to a student based on parent preference. [The Special Education Coordinator] is the secondary coordinator, and [the School] is currently one of [their] assigned buildings."

Applicable Regulations and Conclusions

According to 34 C.F.R. 300.321-322 and K.S.A. 72-3404(u)(4), the IEP team must include a school representative or designee who is directly involved in providing educational services and who is qualified to provide, or supervise the provision of, special education services, and is knowledgeable about the general curriculum and the agency's available resources.

The Parent requested removal of the Special Education Coordinator from the IEP Team due to alleged continuous "mismanagement" of the Student's IEP that they believe significantly delayed the Student's educational progress. The District asserted that the basis for the Parent's request was due to the Parent's dissatisfaction with the staff member, rather than negative or unprofessional behavior on the part of the staff member. The District further asserted that the Special Education Coordinator fulfilled a legally required role on the IEP Team and that there was no evidence suggesting a deficiency in qualification or knowledge that justified removal from the IEP Team.

Federal regulations, at 34 C.F.R. 300.156 require that qualification standards for special education staff be set by each state. The judicial authorities that have considered this issue have uniformly agreed that as long as personnel meet qualification standards established by state law, determinations as to which personnel will provide services to a child with a disability is left to state and local educational authorities. For example, in *Slama by Slama v. Independent Sch. Dist. No. 2580*, 39 IDELR 3 (D. Minn. 2003), this federal district court said, "School districts have the sole discretion to assign staff. In addition the district is not required to replace personnel with someone with equal or better qualifications. The services of any appropriately trained person is sufficient."

Based on the foregoing, according to IDEA and Kansas special education regulations it *is not substantiated* that the District failed to implement the requirements for IEP Team members.

Issue Four

USD #512, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement accommodations and modifications for the Student during their science class. K.A.R. 91-40-16(b)(3).

Positions of the Parties

The Parent alleged that the Special Education Coordinator, “failed to ensure that the accommodations and modifications outlined in [the Student’s] IEP are implemented correctly. This includes core subjects like science, where [the Student] has not received the necessary support from teachers and paraprofessionals. These failures have prevented [the Student] from making meaningful academic progress.”

The District responded that they “ensured that the Student’s IEP was in effect and implemented at the beginning of the school year.” They further stated that they implemented a process ensuring all general education teachers were informed about IEPs and received mandatory training regarding accommodations and modifications. The District asserted that each of the Student’s general education teachers received a copy of the IEP at the beginning of the year and as changes were made to the IEP. Teachers were allowed to ask any clarifying questions regarding accommodations and modifications. The District provided a schedule of multiple trainings that occurred from August 11, 2023 through February 5, 2024, including for the Science Teacher specifically. Additionally, following receipt of the Parent’s concerns, the Associate Principal met with the Case Manager and the Science Teacher in December 2023 and January 2024 to review accommodations.

Findings of the Investigation

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

1. On November 29, 2023, the Parent emailed the Associate Principal indicating an immediate need to get modifications updated for the Student’s science class. They mentioned the Student was working in seminar and with the Case Manager to complete assignments, but hadn’t been able to keep up.
2. On December 4, 2023, the Parent emailed the Chief of Special Education requesting to address modifications being delivered to the Student in their Science class. They stated that the Case Manager and Student had been working together to get caught up and manage the classwork, but that all work that was being turned in late was only receiving 50% of the credit.

According to the Parent, the Student believed even if they turned in all the work, they

wouldn't receive a passing grade. Concerns were also raised about a number of required outside volunteer hours counting toward the grade. The Parent requested a phone call with the Chief of Special Education, the Case Manager, and the Classroom Teacher to review modifications, consider a waiver of volunteer hours, and determine that work assignments be given 100% credit.

3. On December 6, 2023, emails were exchanged between the District Team and Parent. The Chief of Special Education stated that the Case Manager had access to the Canvas course and could modify assignments, the outside volunteer hours would not impact the Student's ability to pass the class, and that the Case Manager, the Science Teacher, and the Administrator would review grades in comparison to IEP modifications and accommodations. The Chief of Special Education further stated that the Associate Principal would meet with the Classroom Teacher to review the Student's IEP and ensure understanding of the accommodations and how to implement them.
4. On January 3, 2024, the Parent emailed the Chief of Special Education noting feedback given at a December 14, 2023 meeting regarding modifications and accommodations. They stated that implementation was more of a concern than how these were documented on the IEP.
5. The IEP amended April 25, 2024 contained "The Accommodations/Modifications/Supplementary Aids and Services" listed as:
 - a. "State/District/Classroom Assessments:"
 - i. "Alternate, small group setting";
 - ii. "Frequent breaks";
 - iii. "Read aloud instructions and content";
 - iv. "Extended time by 2x the regularly allotted time";
 - v. "Calculator";
 - b. "Modify classroom assessments and assignments in length and complexity to the priority standards";
 - c. "[The Student] will complete the assignments relating to the key concepts/priority standards of a unit prior to taking the summative assessment";
 - d. "Shorten [the Student's] assignments by 50% and then chunk them into small manageable parts to demonstrate mastery of key concepts/priority standards";
 - e. "Due to working memory challenges, allow [the Student] to use a teacher-approved 'cue card' or an index card during assignments, quizzes, or test";
 - f. "Instruction:"
 - i. "Frequent monitoring/checks for understanding";
 - ii. "Explain written directions verbally. If more than 2 steps, repeat instructions and ask student what the first step will be";
 - iii. "Scaffold explicit instruction to teach missing skills";

- iv. "Teach use of calculator when needed";
- v. "Repeat instructions if more than 2 steps";
- vi. "Provide visual aids such as flow charts, diagrams, and other graphic organizers for main idea and details. Model use of aids";
- vii. "Provide guided class notes or a copy of completed notes";
- viii. "Read aloud instructions and assignments; provide audio versions of if [sic] a novel";
- ix. "Provide frequent breaks";
- x. "Pre-teach key vocabulary (look it up; use in a sentence; provide similar words)";
- xi. "Use of a checklist for legibility and mechanics";
- g. "Instruction:"
 - i. "Provide [the Student] with additional processing time when directions are given, a question is asked in class, or if [the Student] is asked to start an activity (up to 2 minutes). After necessary processing time is given, check in with [the Student] to allow [them] to advocate if further clarification is needed";
- h. "Assignments:"
 - i. "Extended time by 2x the originally allotted time";
 - ii. "Modified assignments and projects in length and complexity to practice priority standards";
 - iii. "Allow [the Student] to use oral responses (which could be submitting an audio or video file) as an alternative to written work or a visual of the assignment";
 - iv. "Prompt use of speech to text tool on [their] Macbook (Google or Mac tool both work well for [them]) on written assignments. Use microphone when dictating (inline mic built into earbuds works well)";
 - v. "Explain written directions verbally. If more than 2 steps, repeat instructions";
 - vi. "Use grammar and spell check on written work";
- i. "Attention to task:"
 - i. "Seating near peer model or teacher, away from distraction";
- j. "Communication:"
 - i. "If [the Student] produces a grammatically incorrect sentence either verbally or written, model the correct production back to [them]"; and
 - ii. "If [the Student] is not understood, prompt [them] to repeat [themselves], speak louder, and slow down. Provide a direct model of multisyllabic words if necessary."
- k. Supports for School Personnel were listed:

- i. "Consultation with Dyslexia Consultant, 1x semester, online or phone"; and
 - ii. "Assistive Technology Specialist will train [the Student's] team on assistive technology when new technology or new staff are added."
6. A PWN dated April 5, 2024 showed documentation of:
 - a. Review of special education and related services based on meetings from January 29, 2024, February 13, 2024, February 27, 2024, March 29, 2024, and April 5, 2024;
 - b. "Material change in services (Parental Consent Required)";
 - c. Proposal to add the following accommodations and modifications to the Student's IEP;
 - i. "Accommodations proposed on 12/19/23 via a [PWN]: Shorten [the Student's] assignments by 50% and then chunk them into small manageable parts to demonstrate mastery of key concepts/priority standards";
 - ii. "[The Student] will complete the assignments relating to the key concepts/priority standards of a unit prior to taking the summative assessment";
 - iii. "Accommodations proposed at the annual review of [the Student's] IEP (1/29/24): Due to working memory challenges, allow [the Student] to use a teacher-approved 'cue card' or an index card during assignments, quizzes or tests"; and
 - iv. "Accommodations proposed at 4/5/24 annual review meeting: Provide [the Student] with additional processing time when directions are given, a question is asked in class, or if [the Student] is asked to start an activity (up to 2 minutes). After necessary processing time is given, check in with [the Student] to allow [them] to advocate if further clarification is needed."
 - d. Explanation of why the actions were proposed;
 - i. For December 19, 2023 accommodations: "[The Student's] team, including Parent, met to discuss concerns regarding volume of work, pacing and timing of summative classroom assessments. The proposed accommodations/modifications are a result of that discussion. [The School] team is proposing these accommodations/modifications due to demonstrated need";
 - ii. For the January 29, 2024 accommodation: "Findings of an Independent Educational Evaluation [IEE] indicate significant delays in working memory and processing speed. The IEE evaluation team recommended that [Student] utilize a 'cue card' to assist with working memory concerns. The [School] team has reviewed this recommendation and agrees";

- iii. For the April 5, 2024 accommodation: “Due to slower processing skills, the team is proposing that [the Student] be provided with additional processing time following classroom directions”; and
 - e. Parent signature and date of April 25, 2024.
 7. An additional PWN dated April 5, 2024 showed documentation of:
 - a. Review of special education and related services and appropriate educational placement based on meetings from January 29, 2024, February 13, 2024, February 27, 2024, March 29, 2024, and April 5, 2024;
 - b. “Material change in services (Parental Consent Required)”;
 - c. “Substantial change in placement (Parental Consent Required)”;
 - d. Proposal to add Study Skills “(50 minutes, 1 time a week and 90 minutes, 2 times a week in Special Education Setting) starting 8/13/2024.” This was explained as, “An [IEE] recommends that [the Student] be provided the opportunity for organizational check-ins and assistance with learning and utilizing strategies to support organization and time management. Data collected by the school team indicates that [the Student] demonstrates the need for specially designed instruction in the area of executive functioning skills. Study Skills curriculum addresses these executive functioning skills and would provide the appropriate environment for [the Student] to learn organization and time management strategies”;
 - e. Proposal to remove in-class Science support starting May 29, 2024 due to the Student meeting science credit requirements at the end of junior year. A note was added that if the Student enrolled in a science class during senior year, support could be added back to the IEP;
 - f. Proposal to remove in-class Social Studies support starting December 21, 2024 due to the class being only a semester long; and
 - g. Parent signature and date of May 14, 2024.
 8. On April 25, 2024, emails were exchanged between the District Team and the Parent regarding parental consent and the implementation of accommodations. The Associate Principal acknowledged there were accommodations proposed at an IEP meeting on April 5, 2024. A PWN dated April 10, 2024 was sent to the Parent requesting signature, and the consent was signed and returned April 25, 2024. Therefore, the accommodations on the IEP would be implemented beginning April 25, 2024. The Associate Principal also acknowledged that the Parent requested the “shortening of assignments by 50% be retroactively applied to the start of the 2nd semester,” but stated that would go into effect beginning from the date of the signed PWN, April 25, 2024.

The Associate Principal also stated that teachers would be informed of the modifications and accommodations and updated on expectations for the remainder of the school year. The Parent replied that the accommodation for reducing assignments by 50% was originally proposed and included on a PWN dated December 19, 2023 and

alleged there were five IEP meetings held to perform a review of the draft before having the final meeting and that the Student should not be impacted by this. The Parent also asked for more information regarding the decision that it could not be retroactive.

The Associate Principal replied, "The District cannot implement accommodations until parental consent is granted, and the IDEA and Kansas law do not provide for retroactive application of parental consent. Implementation starts after the parental consent is provided. To the extent that you are asking about 'who decided that it cannot be retroactive,' this is not a matter of an administrative decisions/discretion, but rather a matter of the requirements concerning parental consent to accommodations."

9. The IEP amended May 14, 2024, included a note stating that science support in general education would end on May 29, 2024 per a PWN signed by the Parent. A PWN dated for April 2024 (no day) also noted that the Student did not enroll in a science class for their senior year.
10. On May 19, 2024, the Parent emailed the Associate Principal suggesting a detailed plan for the last week of school that included a list of needed assignments, who would be assisting the Student with them, what final exam study materials would be provided, and what accommodations the Student could expect for each exam.
11. On May 20, 2024 via email, the Associate Principal explained that a list of missing science assignments represented priority standard work and needed to be completed, but were not. They further stated that accommodations and modifications had been in place and that time after-school had been given to work on them. The Associate Principal explained that a plan for early final exams had been developed between the Student and their teachers and was signed off by the Parent, the Student, and the Associate Principal. They also explained that locations and staff members to deliver the exams according to IEP accommodations had been identified and that the exams would be modified according to the IEP.
12. In a May 20, 2024 email reply to the Associate Principal, the Parent stated that they had done an audit of all Science assignments and found no consistency in what had been modified.
13. During interviews, the Science Teacher was asked to describe how science assignments were modified for the student. They explained, "I followed the IEP modifications and accommodations in conjunction with the case manager and my cooperating teacher as well." When asked about each specific accommodation or modification listed on the Student's IEP, the Science Teacher confirmed for each that it was either implemented as written, the Student chose not to use the support, or the support was not applicable to the class assignments. They could not recall a time when an accommodation or modification was not provided to the Student in their classroom.

When asked how a student or parent would know if an assignment had been modified, the Science Teacher replied that it would have been noted in the Canvas platform. "I always had a regular assignment and then I had a modified assignment, and that was always communicated with the cooperating teacher, the case manager, the student, and if the parent ever asked, I would always volunteer that information."

When asked about receiving required trainings for the Student or for students with special needs, the Science Teacher confirmed they attended a District required meeting about that topic and then various meetings throughout the year. They confirmed meeting weekly with the Case Manager or other professionals specifically about the Student.

Applicable Regulations and Conclusions

According to 34 C.F.R. 300.320(a)(4) and K.A.R. 91-40-16(b)(3), the IEP must outline the specific services, aids, and program modifications that will enable the child to progress toward their goals, participate in the general education curriculum and extracurricular activities, and be educated alongside other children with and without disabilities. It also must list the projected start date, frequency, location, and duration of the services and modifications.

The Parent alleged the District failed to ensure correct implementation of the Student's IEP accommodations and modifications, particularly in their science class. Some of their primary concerns included the volume of work in the science class and modification of assignments. The Parent believed that the accommodation of "shortening assignments by 50%" should have been retroactively applied, but the District stated that as legally required, they began implementation on the date that parental consent was given. The Parent indicated that implementation of modifications and accommodations was more of a concern to them than how they were documented on the IEP.

The District asserted that they fulfilled all requirements in ensuring the Student's IEP was in effect and implemented as written and that all teachers received mandatory training regarding accommodations and modifications. The District also asserted that they responded to the Parent's specific concerns by holding meetings, reviewing the IEP and making necessary updates or adjustments.

Regarding IEP accommodations and modifications for the Student, the District records indicate IEP documentation of necessary supports, a staff training schedule, ongoing communication between the Parent and District staff, multiple meetings about the Student, including with the Science Teacher, and related IEP changes as determined by the IEP Team. The District further asserted that the Student completed the Science class requirements with the IEP Team's support.

Based on the foregoing, according to IDEA and Kansas special education regulations it *is not substantiated* that the District failed to implement accommodations and modifications for the Student during their science class.

Issue Five

USD #512, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide an accurate PWN to the Parent and did not provide a PWN regarding the Parent's request for a neutral third-party note taker. K.S.A. 72-3430; K.S.A. 72-3432; K.A.R. 91-40-26.

Positions of the Parties

The Parent alleged that the PWNs provided by the School “have consistently included biased and inaccurate information that do not reflect the discussions during the IEP meetings. Our requests for neutral third-party note-taker were ignored, further undermining our trust in the process and hindering our ability to advocate for [the Student] effectively.”

The District responded that the Parent’s allegation “does not concern any circumstance in which the District would be required to issue a PWN. With regard to this allegation, the District did not propose or refuse to take action with regard to the Student’s educational plan. [The] Parent requested that the District cover the expense of a third[-]party notetaker selected by [the] Parent to take notes at IEP team meetings. This request did not relate in any way to the Student’s disabilities or accommodations or to the Student’s IEP. Further, there is no requirement in the IDEA, or in state or federal regulations, which requires a school district to meet a Parent’s request for a third-party notetaker at IEP meetings.” Additionally, the District asserted there was no requirement per the State Process Handbook for them to issue a PWN in regard to this request.

Finally, the District stated that the Parent took notes during the IEP meetings using an artificial intelligence (AI) platform and requested for those notes to be included in the Student’s special education records, which the District honored each time these notes were received. The District also noted that they were originally attaching the Parent notes to the end of the Student’s IEP due to length and as an attempt to reduce confusion within the IEP document, but when the Parent requested their notes be included within the IEP rather than attached to the end, the District honored this request by placing the Parent’s notes in the ‘Parental Input’ section of the IEP. The District communicated this change to the Parent via email on January 17, 2024. Additionally, the District noted that they and the Parent were audio recording each IEP meeting and these recordings would have been made available to the Parent if requested.

Findings of the Investigation

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

1. During interviews, the Parent stated, “I’m not saying there’s any inaccuracy of the timing or delivery of PWNs. I am talking specifically to the notes that are being now included in a PWN document.” The Parent further explained that they were asking

- for their version of the notes to be added to the District's version of the notes, so that anyone reading them would understand the Parent point of view. The Parent asserted that their versions of the notes were more "comprehensive" and included next steps. The District confirmed that since receiving notice that the Parent requested their AI version of notes to be included in the IEP, the notes were dated when received from the Parent and then copied and pasted directly into the parent portion of the IEP. Additionally, if the Parent believed there were submissions missing from the Student's record and provided dates of these materials, the Chief of Special Education stated they would work with the records clerks to ensure accuracy.
2. A PWN dated October 9, 2023 showed that no changes were being proposed or refused, but that the document contained notes taken during an IEP meeting on October 6, 2023. On October 10, 2023, the School Psychologist emailed the Parent including an attachment of this PWN and stated that its purpose was not to propose or refuse any changes, but to serve as notes documentation from the October 6, 2023 meeting.
 3. On October 15, 2023, the Parent emailed the Chief of Special Education a list of notes they wanted added to the PWN regarding the October 6, 2023 meeting. These notes included topics of the Parent's primary concerns and complaints, occupational therapy, speech therapy, communication with teachers, careers class, counseling services, and general IEP meeting communication. The PWN dated October 9, 2023 references these topics from the meeting, but does not include the Parent's notes verbatim.
 4. On November 26, 2023, the Parent emailed the District Team stating they did not receive a reply to have their notes regarding the October 6, 2023 meeting added to the PWN and requested an updated PWN from that date to include their notes as outlined in their document attached to the email.
 5. On December 1, 2023, the School Psychologist replied via email to the Parent, "Your request on 10/15/2023 to have your parent concerns added was received and your notes were added to [the Student's] educational record. The PWN document is used to capture what is discussed; it documents the proposals and refusals of actions from the school team from the IEP meeting. The PWN is not appropriate for documentation of parent concerns but attaching your concerns to [their] educational record is the appropriate action, which the school team has done." The Parent replied, "You state the PWN is not the appropriate documentation for Parent Concerns. Our request was to add our meeting notes in addition to the meeting notes you added to the PWN. We never framed it as parental concerns."
 6. On December 20, 2023, the Chief of Special Education emailed the Parent and included PWN attachments stating that one was to serve as meeting notes. The Parent replied to the Chief of Special Education via email January 3, 2024 alleging, "The notes provided on the PWN were very biased and did not accurately reflect what was said during our meeting. This is now the second time this has

- happened. The first time [the School Psychologist] added biased notes to the PWN, we requested our notes be added in addition to accurately represent what was covered at that meeting. That request was denied. We have since asked to record the meetings as a source of truth. Going forward we are now requesting that a 3rd party attend the meetings to serve as the non-biased note-taker for future PWNs.”
7. On March 2, 2024, the Parent emailed the Deputy Superintendent requesting a meeting to discuss concerns and alleged inaccuracies on a “proposed” PWN dated March 1, 2024. In this same email, the Parent clarified they did not agree with what the Team had proposed on the PWN in regards to providing outside services based on the IEE recommendations via telehealth rather than in-person. The Parent emailed the Chief of Special Education on March 6, 2024 and outlined their concerns and stated their disagreement with the proposal. The District’s records indicated IEP meetings on March 29, 2024, April 5, 2024, and May 14, 2024 to continue discussing concerns and proposals for the IEP. Additionally, a PWN dated May 22, 2024 and signed by the Parent May 23, 2024 outlined the proposed actions from March 1, 2024 and the updated actions the Team agreed to May 2024.
 8. On April 12, 2024 and April 20, 2024, the Parent emailed the District about their concerns that the PWNs were not accurate or inclusive of the Parent input.
 9. A PWN dated May 14, 2024, indicated that no IEP changes were being proposed or refused and the document contained notes from annual IEP review meetings of January 29, 2024, February 13, 2024, February 27, 2024, March 29, 2024, April 5, 2024, and May 14, 2024.
 10. An email on May 21, 2024 from the Chief of Special Education to the Parent included an attached PWN with updated notes and items requiring parental consent on a separate PWN. Additionally, it was indicated that the notes provided by the Parent on May 14, 2024 were added to the parent portion of the IEP. The amended IEP dated May 14, 2024 shows inclusion of the Parent’s notes received via email on the same date and those also received on February 12, 2024.
 11. During interviews, the Chief of Special Education explained that their PWN procedure is “multifaceted.” Sometimes there would be more than one PWN for a meeting based on the number of action proposals or refusals, requests for parental consent, or the volume of information. Based on recent legal guidance, the District began using PWNs to “outline meeting notes, to outline all of the components that are covered, even if the action isn’t required” They stated that each PWN and its purpose was explained to the Parent and that the Parent was told that their notes could be added to the Student’s record either by way of attachment to the IEP or in the parental concerns/input section of the IEP document itself.

Applicable Regulations and Conclusions

The parents of a child with a disability must receive prior written notice before any proposed or refused changes regarding their child's identification, evaluation, educational placement, or a FAPE. The notice must clearly describe the action, the reasons behind it, other options

considered, reasons those options were rejected, any supporting documentation, and available procedural safeguards. 34 C.F.R. 300.503; K.S.A. 72-3430(b)(2); K.S.A. 72-3432; K.A.R. 91-40-26

Additionally, in Kansas, school districts must obtain written parental consent before making a change of 25% or more of a special education service. K.S.A. 72-3430(b)(6).

The Parent specified that their concern was that the notes being documented in PWNs only showed the District's perspective and did not fully capture the contents of the IEP meetings. They wanted their notes to be added to the District's notes so that the Parent's perspective was also documented and they believed their notes were more comprehensive. The District explained they utilized PWNs for multiple purposes and recently began documenting meeting notes on PWNs separate from any other proposals or refusals of action. The District acknowledged that their prior practice was to attach the Parent's notes to the end of the IEP, but upon request for the notes to be added within the IEP document instead, the District began documenting the Parent's notes, once received, within the parental input portion of the IEP. The District explained to the Parent that this was the process for including their notes in the Student's record instead of adding them to the PWNs. The Parent and District did not agree on this.

The District's records indicated multiple interactions between the Parent and the District about this subject. The District's records also indicated that the Parent's notes that were received in February and April 2024, were added to the parental input section of the IEP. The District's records indicated that the Parent's notes were not added to the PWNs with the District's notes.

The Parent also alleged that the District did not respond to their request for a third-party notetaker to help ensure accurate and nonbiased notes. The District asserted that there is no legal or procedural requirement for them to meet the Parent's request for a third-party notetaker. They also asserted that this was not a circumstance that required a PWN, because it wasn't related to a proposal or refusal of action regarding the Student's IEP.

The Investigator agrees with the district analysis. A PWN is required when the District makes a proposal, or refuses a proposal, to make changes to any matter related to identification, evaluation, placement, or the provision of FAPE. The use of a PWN for any other purpose is at the discretion of the District and is not regulated by law.

Based on the foregoing, according to IDEA and Kansas special education regulations it *is not substantiated* that the District failed to meet the PWN requirements.

Issue Six

USD #512, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to review the results of an IEE and revise the IEP, as appropriate, in a timely manner. K.S.A. 72-3429(f)(2)(B).

Positions of the Parties

The Parent alleged that “[w]hile the team ultimately acted on the Independent Educational Evaluation (IEE) data, it took the entire year to accomplish, and the process was not conducted as a team effort. This further hindered [the Student’s] ability to maximize [their] education during that year. The delay in acting on the IEE findings resulted in a significant loss of time and educational opportunity for [the Student], which should have been addressed much sooner.”

The District responded that they “fully complied” with all regulations regarding timely review and revision of the Student’s IEP to address the results of the IEE.

The District reported they were alerted by the Parent on December 29, 2023 that the report was finished. The District was closed for winter break from December 21, 2023 through January 3, 2024. The District stated that they received the IEE report on January 4, 2024. The District contacted the Parent via phone on January 3, 2024 and January 7, 2024 to schedule a time to review the IEE and to schedule an IEP meeting. An IEP meeting was scheduled for January 29, 2024. The Parent requested a pre-meeting to only include some members of the IEP Team in order to review the IEE prior to the IEP meeting due to the Parent’s concern that one scheduled meeting would not be enough time to review the IEE and review and revise the annual IEP. Members of the team honored this request and met with the Parent to review the IEE on January 19, 2024.

The District further explained that they “met multiple times to review the IEE and to develop an updated IEP. The District developed and provided a crosswalk of information connecting the IEE to the draft IEP developed by the District.” Additionally, the District asserted that they “proposed additional supplemental services for the Student” in response to the Parent’s concerns about the Student’s progress. The District noted they also “offered to provide the Student private tutoring during the school day. The Parent rejected this request (the original offering was March 1, 2024). The District agreed to contract services to provide tutoring during the summer for the [S]tudent. [The] Parent consented to this on May 23, 2024.”

Findings of the Investigation

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

1. On October 11, 2023, the Chief of Special Education sent a letter to the Parent notifying them of receipt of their request for an IEE and agreement for the District to cover the cost up to a designated amount. It was also noted that the results would be considered

- by the District once received and that “[U]nless notified to further discuss an extension, the IEE results need to be received by the school district by Friday February 23, 2024.”
2. On December 11, 2023, the Parent emailed the Chief of Special Education asking what out-of-school options or resources could be brought into the School based on the IEE report. The Chief of Special Education emailed the Parent and their advocate stating, “This will be an IEP team decision based on data obtained from the IEE at [the Outside Agency]. This could look like independent services being contracted through outside agencies who have a specialty in deficit areas identified within the IEE. For your reference, I have pulled the excerpt of the process for an IEE as it is outlined in the [Kansas] process handbook and embedded below. The team will meet and follow requirements outlined below.”
 3. The IEE report dated December 20, 2023 contained a section called “Recommendations,” and it included subsections titled: “Medication Reevaluation,” “General Considerations for the School,” “Instruction & Learning Strategies,” “Accommodations & Supports,” “Academic Skill Building,” “Reading Interventions & Strategies,” “Writing Interventions & Strategies,” “Math Interventions & Strategies,” “Home Interventions for Academics,” “Improving Productivity,” “Structure and Routine,” “Visual Cues and Reminders,” “Heath and Nutrition,” “Regular Exercise,” and “Social and Emotional Support.”
 4. The Parent emailed the Chief of Special Education on January 3, 2024, proposing a meeting to review the IEE prior to the annual IEP. The Parent said they would like the meeting to include the Parent, the Chief of Special Education, the Case Manager, and the Parent’s Advocate.
 5. On January 4, 2024, a psychologist from the agency that conducted the IEE emailed the IEE report to the Chief of Special Education and the School Psychologist and noted that the Parent had also received a copy.
 6. On January 11, 2024, an IEP meeting was scheduled for January 29, 2024 to review the results of the evaluation and develop the annual IEP.
 7. On January 18, 2024, the Parent confirmed via email to the Deputy Superintendent and Chief of Special Education that they were meeting with the Case Manager on January 19, 2024 to review the IEE prior to the IEP meeting scheduled for January 29, 2024. They also noted that it was not an IEP meeting, and that the Chief of Special Education’s attendance, along with anyone else, was optional.
 8. On January 19, 2024, the Parent emailed the Chief of Special Education stating that they had been informed that only the Case Manager and School Psychologist planned to attend the meeting to review the IEE later that day, but they also wanted the Chief of Special Education to participate in the meeting. The Chief of Special Education confirmed they would not attend the meeting due to other commitments. The Parent said they would send a meeting link anyway so the Chief of Special Education could attend remotely because they thought it was important for them to attend. The Parent also requested additional time for the IEP meeting on January 29, 2024 in order to thoroughly review the IEE and IEP.

9. During interviews, the Parent stated, "When we requested to come back together and review [the IEE] as a team, the [Chief of Special Education] and team refused to." The Parent said that after multiple phone calls and emails, they showed up to the School to review the IEE and only two people from the IEP Team joined them in doing so. The Parent stated that they asked the Team members for feedback about the report, but the Team "refused to speak about it." The Parent stated that further discussions occurred in IEP meetings making sure goals and other IEP areas were "correlating correctly."
10. On January 22, 2024, the Parent emailed the Chief of Special Education an attached recording of the IEE review meeting and asked that all appropriate team members read the IEE and listen to the recording prior to the annual IEP meeting.
11. On January 26, 2024, the Chief of Special Education emailed the Parent confirming a meeting on January 29, 2024 to draft an IEP and discuss recommendations from the IEE. They indicated the Team had prepared a "crosswalk document" linking the IEE and draft IEP and attached the document to the email. A PWN dated April 2024 contained notes from the January 29, 2024 meeting indicating this discussion had occurred.
12. On January 29, 2024, February 13, 2024, February 27, 2024, March 29, 2024, and April 5, 2024, IEP meetings occurred to continue reviewing the IEE and to continue reviewing and revising the annual IEP.
13. The IEP dated April 5, 2024 and amended April 25, 2024 contained an "IEE Synopsis" under the "Student's Current Level of Performance" section that listed diagnoses from the IEE report and explained some of the evaluation findings.
14. A PWN dated May 14, 2024 referenced a "crosswalk document" linking the IEP and the IEE. The document listed the recommendations from the IEE, how the District addressed those recommendations in the Student's current IEP, and IEP proposals. The sections covered include: "Instruction & Learning Strategies," "Accommodations & Supports," "Reading Interventions & Strategies," "Writing Interventions & Support," and "Math Interventions & Strategies."
15. During interviews, the Parent stated that the District's "crosswalk" document was created after an escalated Parent complaint. The Parent stated that they told the District they wanted to know how the IEE was being utilized and explained that the document was not collaborative, but "dictated," and that it included outdated information that was not in the actual IEE.
16. A PWN dated May 22, 2024 showed documentation of:
 - a. "Material Change in Services (Parental Consent Required)";
 - b. A May 23, 2024 updated proposal: "Parent requested the district determine if the proposed services outlined below (and included in a PWN dated 3/1/24) could be provided in person. Services will be able to be provided in person 1 time per week for 6 weeks (June-August). Services will be 45minutes per session. No sessions will occur the week of July 8th due to the office being closed. ... The services will target the language deficits identified in the IEE received from [Outside Agency]."

"[The School] is proposing [the Student] receive supplemental services to provide specific instruction targeting [their] language deficits. These services would be delivered via telehealth from a licensed provider with expertise in language disorders for 6-8 weeks (beginning March 5, 2024) based on the student's response to the specially designed instruction. [The District] staff will attend sessions that occur ranging from 1 time per week for up to 45 minutes to 3 times per week for up to 45 minutes per session. The outside provider and [the District] staff will provide parents with an update every two weeks regarding the areas targeted during the service as well as the student response";

- c. An explanation of: "The IEP team is proposing [the Student] access private services from a licensed provider with expertise in language disorders. This specific instruction will target [the Student's] identified needs in the area of Application-Based Learning as identified in the IEE from [Outside Agency]. Regular communication with the parent providing updates and sharing the specific components being targeted and the student response is proposed to allow the parent to be fully informed regarding the supplemental services occurring"; and
- d. Parent signature and date of May 23, 2024.

Applicable Regulations and Conclusions

The school must review the child's IEP at least annually to assess progress toward goals. Revisions should address any lack of progress, reevaluation results, new information from parents, anticipated needs, or other relevant matters. Schools are required to review the information from the IEE, if it meets the agency's criteria, to make decisions regarding the provision of FAPE to the child. 34 C.F.R. 300.324(b), 34 C.F.R 503(c)(1), and K.S.A. 72-3429(f)(2)(B)

On October 11 2023, the District agreed to pay for an IEE. On December 9, 2024 the Parent notified the District that the IEE was complete and a report was forthcoming. Following the District's winter break closure, on January 4, 2024, the District received the IEE report. The District contacted the Parent on January 3, 2024 and January 7, 2024 to schedule a meeting to review the annual IEP. The IEP meeting was scheduled for January 29, 2024.

The Parent requested a pre-meeting to review the IEE prior to the scheduled IEP meeting. It was held January 19, 2024 between the Parent and select IEP Team members. It was noted by the Parent that this meeting was not an IEP meeting and that attendance of certain staff members was optional.

On January 22, 2024, the Parent sent the District a copy of the recording of the IEE review meeting and requested other IEP Team members review it. Following this meeting, the Parent alleged that school staff "refused" to participate in discussion about the IEE or give feedback.

On January 26, 2024, the District confirmed that the IEE recommendations would be a topic of discussion at the January 29, 2024 IEP meeting and that the District had created a crosswalk document linking the IEE and the IEP. The Parent claimed the IEE crosswalk was not a collaborative effort and contained outdated information.

Six IEP meetings were held from January 29, 2024 through May 14, 2024 to continue reviewing the IEE and revising the annual IEP. Finalized District records from April 2024 and May 2024 document multiple discussions about, and references to, the IEE and related updates to the IEP. Additionally, the Parent and District agreed to outside tutoring sessions based on IEE recommendations at the District's expense. The Parent acknowledged that the District "ultimately acted on the IEE data," but alleged that it took "an entire year to accomplish."

Based on the foregoing, according to IDEA and Kansas special education regulations it *is not substantiated* that the district failed to review the results of an IEE and revise the IEP, as appropriate, in a timely manner.

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)