

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #501  
ON OCTOBER 16, 2024

DATE OF REPORT: NOVEMBER 15, 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 #501, Topeka Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #501.

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 October 16, 2024, and the 30-day timeline ended on November 15, 2024.

### **Investigation of Complaint**

Tania Tong, the Complaint Investigator, interviewed the Parent by video call on November 4, 2024. The following District staff were interviewed on November 4, 2024: Special Education Director, Principal, Case Manager, Special Education Consulting Teacher, and Math Teacher.

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 materials were used as the basis of the findings and conclusions of the investigation:

1. Individualized Education Program (IEP), dated September 18, 2023
2. IEP At a Glance from the September 18, 2023 IEP
3. IEP, dated September 16, 2024
4. Student Grade Book Snapshot, no date
5. Email from Math Teacher to Special Education Consulting Teacher, dated October 11, 2024, at 11:06 a.m.
6. Email from Case Manager to the Parent, dated October 16, 2024 at 12:09 p.m.
7. Email from the Parent to the Case Manager, dated October 15, 2024, at 5:11 p.m.

8. Acknowledgment of Special Education Services, Accommodations, and Modifications, unsigned, no date
9. Case Review Meeting Notes, dated October 24, 2024
10. Math Teacher's Written Responses to Interview Questions, no date
11. Prior Written Notice, dated November 1, 2024

## **Background Information**

This investigation involved an eighth-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).

## **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. The September 18, 2023 Individualized Education Program (IEP), active at the beginning of the 2024-25 school year, indicated the following:
  - a. "[The Student's] reading abilities are below [their] typical developing peers, special education services and accommodations are recommended... ."
  - b. "[The Student's] parents are concerned that [they] are not receiving the proper services or accommodations to provide [them] with the ability to be successful. [They have] been struggling and feeling overwhelmed in specific classes where the environment is chaotic or loud."
  - c. Goals in math, reading, and written language.
  - d. "Special Education Services" provided by "Case Manager" with "[d]irect services in [the] general education setting, 120 minutes 5 times per week" for September 18, 2023 through May 23, 2024 and August 8, 2024 through September 17, 2024.
  - e. The following accommodations to begin September 18, 2023 within the location of the general education classroom:
    - i. "Text read aloud via human or electronic reader, for all testing and assessments, for the length of the test or assessment."
    - ii. "Clarification of directions, whenever oral directions are given. [The Student] will be given initial directions with all students, and then asked for understanding. If [they do] not understand, directions will be restated for [them] individually until content is understood."

- iii. "Extended time to complete assessments, for all testing and assessments, for the length of the test or assessment."
    - iv. "Quiet setting, for all testing and assessments, for the length of the test or assessment."
    - v. "Access to fidgets, whenever [they are] asked to work at [their] desk, for the length of time that [they are] asked to work at [their] desk."
  - f. "School Setting: [The Student] will fully participate in the general education curriculum during the school day except for 120 minutes daily for five days a week, where [the Student] will receive indirect services for ELA (30min), math (30 min), science (30 min), and social studies (30 min)."
2. A September 18, 2023 "IEP at a Glance" listed the Student's demographic information, IEP review date, case manager, primary disability, classroom accommodations and modifications, goals, and service time. A "[d]escription of Specially Designed Instruction and Related Service" explained, "[the Student] needs to have directions clarified so that [they] can begin [their] work in a timely manner and have assessments read to [them] so that [their] reading deficit does not impede [their] ability to understand what is being asked."
3. Pertinent staff attended these District trainings from July 22, 2024 through October 14, 2024:
  - a. District professional development (PD) on special education
    - i. Principal, Assistant Principal, Special Education Consulting Teacher
  - b. Special education [Consulting Teacher] "CT" PD
  - c. School-based PD on " Tier 1" staff expectations
    - i. Principal, Assistant Principal, Special Education Consulting Teacher, Case Manager, Math Teacher, Paraprofessional
  - d. School-based PD on certified expectations
    - i. Principal, Assistant Principal, Special Education Consulting Teacher, Case Manager, Math Teacher
  - e. School-based PD on classified expectations
    - i. Paraprofessional
  - f. Emergency safety intervention
    - i. Principal, Assistant Principal, Special Education Consulting Teacher, Case Manager

- g. School-based PD on “ Tier 1 Behavior and Reactive Plan”
    - i. Principal, Case Manager, Math Teacher
  - h. School-based PD on tiered instruction and tier 2 and 3 interventions for academics and behavior
    - i. Principal, Case Manager
  - i. School-based PD on small group instruction
    - i. Principal, Case Manager
  - j. School-based PD on student behavior and tier 1 staff expectations “to include a few slides regarding [special education] (Continuum, MDR, Data Collection, Suspensions)”
    - i. Principal, Assistant Principal, Special Education Consulting Teacher, Case Manager, Math Teacher, Paraprofessional
4. During interviews with the Complaint Investigator, the Principal confirmed the staff training was all “laid out in an effort to build capacity of [the] special education department.” The trainings were intended to make implementing accommodations and modifications “as impactful as possible.” The Special Education Consulting Teacher confirmed they led teachers through pre-service training about accessing IEPs and who to contact with questions. However, they provided no other direct training or consultation to staff or paraprofessionals working with the Student except by providing the Math Teacher with a copy of the Student's IEP information on October 16, 2024.

The Case Manager confirmed that the Paraprofessional assigned to the Student's classes for the 2024-25 school year was the same as last year and they met at the beginning of the year to discuss the Student's IEP information and needs.

5. During interviews, the Principal also explained that teachers access special education information through Synergy, the student information system, or from the case manager or consulting special education teacher. Long-term substitutes have access to Synergy for this information, but short-term substitutes do not and typically receive special education notes from the absent teacher. The Case Manager also stated that they will inform long-term substitutes about specific IEP information for students in their classes but cannot for short-term substitutes.

The Principal and Case Manager further stated that the Student did not experience a long-term substitute but multiple instances of a “daily substitute as needed” in their math class. The Principal also noted that the same paraprofessional was assigned to three of the Student's classes and was familiar with the Student's accommodations. As of November 4, 2024, the math teacher had reportedly missed twenty-five of the

Student's math classes, and the same substitute covered all but two of those days. The Paraprofessional was also absent on four of those twenty-five days.

6. A September 16, 2024 IEP indicated the following:
  - a. "[The Student] is a hard worker in [their] math and reading classes. [The Student] always tries [their] best and asks for help when [they] need it. [The Student's] math and reading teachers both state that [the Student] can work at grade level with support or reassurance. [The Student] is sometimes slower at completing more difficult work in reading and math. When [the Student] is asked to complete reading assignments, [the Student] sometimes misses some components and needs to work with an adult 1:1 to understand the concept and redo [their] work which [they] do without complaint."
  - b. "[The Parent] has not stated any concerns this year with [the Student's] academic progress."
  - c. Goals in math and reading.
  - d. Special education and related services for September 16, 2024 through May 22, 2025 listed as follows:
    - i. "Special Education Services" provided by the "Case Manager" as "Direct Services in Special Education setting" for "10 minutes 1 time every week. Weekly check[-]in for up to 10 minutes with the case manager or consulting teacher to check on grades and an email will be sent to [the Parent] once a week."
    - ii. "Special Education Services" provided by the "Case Manager" as "Direct Service in [the] general education setting" for "30 minutes daily for three days a week for [subject] that is taught by a general education teacher with assistance from a special education paraprofessional with support through accommodations." This was listed for science and social science.
    - iii. "Special Education Services" provided by the "Case Manager" as "Direct Service in [the] general education setting" for "30 minutes daily for five days a week for [subject] that is taught by a general education teacher with assistance from a special education paraprofessional with support through accommodations." This was listed for math and English language arts.
  - e. Accommodations and modifications beginning September 16, 2024 listed as:
    - i. "Text read aloud via human or electronic reader, for all testing and assessments, for the length of the test or assessment."

- ii. "Separate quiet setting, for all testing and assessments. [The Student] will receive a time extension of the next day to complete the assessments if not completed on time."
  - iii. "Clarification of directions, whenever oral directions are given. [The Student] will be given initial directions with all students, and then asked for understanding. If [they do] not understand, directions will be restated for [them] individually until content is understood."
  - iv. "Extended time to complete assignments, for all testing and assessments. [The Student] will receive a time extension of the next day to complete assessments if not completed on time."
  - v. "Access to fidgets, whenever [they are] asked to work at [their] desk, for the length of time that [they are] asked to work at [their] desk."
7. During interviews with the Complaint Investigator, the Case Manager explained that the Student receives IEP services via paraprofessional support within their core general education classes but prefers to avoid being identified as needing support. Hence, the Paraprofessional keeps a distance and interacts with the Student when they ask for help. The Special Education Director corroborated this and added that based on attendance logs, they know the Paraprofessional has been present in the Student's classes and is aware of their accommodations and modifications. However, because of the Student's hesitancy to "draw attention to [themselves] and the Paraprofessional not being more insistent, they couldn't say the School had been "maximizing what [the Student] needed to have that help."
8. During an interview with the Complaint Investigator, the Parent stated that during the September 16, 2024 IEP meeting, they expressed concerns about the Student's experience in math class because the Student was telling the Parent they did not understand the material. The Parent said they asked the IEP Team what resources were available to help. The Case Manager then asked for time to find available resource options and reconnect with the Parent. During interviews with the Complaint Investigator, the Case Manager and Principal confirmed these statements. The Parent stated that until filing this complaint, they received no follow-up about math resources or a copy of the IEP to sign.
9. A 2024-2025 "Middle School Grade Report" indicated the Student's grades for the first quarter as follows:
  - a. Language Arts: C
  - b. Math: C
  - c. Science: B

d. US History: F

During interviews with the Complaint Investigator, the Case Manager and the Special Education Consulting Teacher mentioned that the Student's math grade had been changed (to C) sometime some time after the Parent raised concerns about the math grade and the Math Teacher received a copy of the IEP At a Glance

10. An October 11, 2024 email from the Math Teacher to the Special Education Consulting Teacher stated, "Apparently, [the Student] has an IEP according to the list attendance. However, I cannot get to [their] accommodations from that list and [they] are not pictured in [the] Synergy seating chart for me to click on. Who is [their] PI so I can get this info? I have not been following [the] IEP since I cannot access it and didn't realize [the Student] was SPED [sic]."

During interviews with the Complaint Investigator, the Principal and Special Education Consulting Teacher confirmed the statement made by the Math Teacher that due to student information system issues, the Student's IEP had not been implemented in the math class for the 2024-25 school year until they received a copy of the IEP information and accommodations on October 16, 2024.

11. In a written statement, the Math Teacher reported that they began implementing the IEP once they received a copy of the "IEP At a Glance," wrote this information into their sub plans, and reviewed it with the Paraprofessional.
12. An October 15, 2024 email from the Parent to the Case Manager stated the Parent's concern with the Student's math grade. The Parent also said the Student had told them several times they didn't understand the material being taught in class and that the Case Manager had not gotten back to the Parent with different resources or tools the Student could utilize to improve their grade as discussed at the September 16, 2024 IEP meeting. The Parent also stated they had shared their concerns with the Student's teacher and did not like the teacher's response. The Parent said, "I am highly concerned [the Student's] IEP is not being followed accordingly. ... There is a disconnect somewhere here and I would like to get this resolved before taking any action necessary to make sure [the Student's] IEP is being followed ... ."

The Parent also said they still had not received the newest IEP to sign.

13. In an October 16, 2024 email, the Case Manager notified the Parent about recently discovered issues and proposed a call to discuss solutions. During an interview with the Complaint Investigator, the Case Manager clarified that these issues were with the student information system, which had hindered the implementation of the Student's IEP in math class.

The Case Manager and the Parent agreed they had spoken via phone later that same day about options for the Student to receive more help in math. They disagreed on the content of that conversation, and both stated no solutions had been decided.

14. During an interview with the Complaint Investigator, the Parent stated they believed the Student was not receiving the designated IEP support in any of their core classes, especially in math and history. The Parent also did not believe that the accommodation of reading instructions to the Student and ensuring they understood was being implemented.
15. On October 16, 2024, the Parent filed this complaint.
16. On October 24, 2024, the Special Education Director facilitated a "Case Review" meeting via Zoom. It included the Parent, Principal, Case Manager, Social Studies Teacher, Special Education Consulting Teacher, and Lead Consulting Teacher. It was noted that the meeting was in response to the Parent's concerns regarding the IEP and their belief that the Student was not receiving services in the general education setting.
17. A Prior Written Notice (PWN) dated November 1, 2024 documented proposals from the October 24, 2024 meeting. These included:
  - a. The District "offered tutoring services virtually outside of [the Student's] IEP for 20 minutes two times per week" for backfilling, frontloading, and receiving assistance with current work. "The use of tutoring will be reviewed throughout the school year to determine if [the Student] continues to need extra help."
  - b. The Student "will have general education intervention in reading and math as determined by the general education teacher in collaboration with [the] IEP case manager."
  - c. "[The Student] will have services of 10 minutes weekly for check-ins with the case manager or consulting teacher and then email [the Parent] of progress or of work that needs [to be] done."
  - d. "Teachers and paras to sign off that they have read and understand [the Student's] services, accommodations and modifications they are responsible for providing to [the Student]."
  - e. "[The Student] will have special education support in the general education setting. This support could result in [the Student] feeling self-conscious and refusing services. The team has discussed ways to provide accommodations that will help [the Student] be more comfortable asking for and/or accepting assistance."



## **Positions of the Parties, Applicable Regulations, and Conclusions**

### **Issue One**

USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the Student's IEP since the beginning of the 2024-25 school year. K.A.R. 91-40-16(b)(3-4).

According to 34 CFR §300.323(a) and K.A.R. 91-40-16(b)(3-4), an IEP must be in effect for each exceptional child at the beginning of each school year and be accessible to each teacher and provider who is responsible for its implementation.

The Parent alleged that the District did not implement the Student's IEP from the beginning of the 2024-25 school year. The Parent claimed that the Student was failing math and history, did not understand the presented material, and was not receiving the accommodation of having things read aloud and ensuring the Student's understanding. The Parent also questioned the Paraprofessional support being provided in the classroom. They began contacting the School staff for an explanation. They alleged that the Case Manager "verbally expressed" that they were unsure how to implement the IEP with long-term substitutes who have "no training" and asked the Parent for solutions.

The District responded that the "building level staff at [the] School have implemented the Student's IEP since the beginning of the 2024-25 school year" and "[t]he [S]tudent's required special education support has been and is being provided for 30 minutes in each of [their] core academic classes." The District claimed discrepancies in the reported conversation between the Parent and the Case Manager. The District acknowledged that the Math Teacher reported on October 11, 2024 that they could not view the Student's IEP on their computer. The District claimed the Special Education Consulting Teacher made corrections for the Math Teacher on October 15 or 16, 2024.

### **Analysis & Conclusion**

The Student had two IEPs in effect for the 2024-25 school year. The September 18, 2023 IEP documented special education services and accommodations for the Student due to reading abilities below their peers and related parental concerns.

The IEP outlined goals in math, reading, and written language, provided 120 minutes of direct services in the general education setting five times per week divided evenly between four core subjects, and included accommodations such as text read aloud, clarification of directions, extended time, a quiet setting for assessments, and access to fidgets.

The September 16, 2024 IEP outlined goals in math and reading, direct service in the special education setting for 10 minutes one time per week, and direct service in the general education setting with a paraprofessional for 30 minutes three times per week for science and social science and 30 minutes five times per week for math and reading. No parental concerns

were noted, and accommodations were similar to the previous IEP. The Parent stated that they did express concerns at this IEP meeting, particularly about the Student's experience in math class, and asked for available resources to help. No solutions were determined at that time. A month later, the Parent's concerns persisted and remained unresolved at the time of the complaint. School staff corroborated these statements.

School and District staff also acknowledged that although a paraprofessional had been present in the Student's classes to provide IEP services, the support may have been limited due to the Student's desire to avoid attention and the Paraprofessional's passive approach. This has led to concerns about the effectiveness of the support and discussions to improve it. On October 11, 2024, it was discovered that due to technical issues with the student information system, the Student's IEP was not implemented in their math class until October 16, 2024. The Parent and all interviewed School and District staff acknowledged this.

Due to ongoing concerns about the Student's declining math grades, the Student's persistent reports of not understanding the material or feeling unable to ask for help, and a perceived lack of adequate response from the school staff to address these issues, the Parent believed the Student's IEP was not being implemented and filed this complaint.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is substantiated* that the District failed to implement the Student's IEP from the beginning of the 2024-25 school year in the Student's math class.

## **Issue Two**

**USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to inform each teacher and provider of their specific responsibilities to implement the Student's IEP. K.A.R. 91-40-16(b)(5).**

According to 34 CFR §300.323(d) and K.A.R. 91-40-16(b)(5), Regardless of whether a person attends the IEP meeting, every teacher and service provider responsible for carrying out the IEP must be informed about their specific responsibilities. This includes understanding the accommodations, modifications, and support that must be provided according to the IEP.

The Parent alleged that some of the Student's teachers were unaware of the IEP until October 16, 2024, ten weeks after school started.

The District responded that each teacher and special education provider was informed of their specific responsibilities for implementing the IEP. A new student information system was implemented in the District in July 2024. The District claimed that the Student's IEP was accessible to regular education and special education teachers and other team members responsible for implementing the IEP.

The District also claimed that the Special Education Consulting Teacher provided preservice training for the 2024-25 school year to show teachers how to independently access each student's IEP and print "IEPs At a Glance" for their use.

## **Analysis & Conclusion**

The Special Education Consulting Teacher confirmed that teachers were shown how to access IEP information via the new student information system at the beginning of the year. The Case Manager confirmed informing paraprofessionals assigned to the Student's classes of the Student's service times and accommodations.

According to interview information, while long-term substitutes can access student IEP information through the student information system or the Case Manager, short-term substitutes rely on the absent teacher's notes. Despite the frequent absences of the Math Teacher, the District reported that the Student primarily had the same substitute teacher. However, that substitute was not considered long-term with access to the student information system. The Math Teacher confirmed they were unaware of the Student's IEP and did not add the Student's IEP information to their substitute plans/notes until October 16, 2024.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is substantiated* that the District failed to inform each teacher and provider of their specific responsibilities to implement the Student's IEP. District records and interview information indicates that IEP information is accessible to School staff and related generalized training is provided. However, according to interview information, due to the Math Teacher's inability to access IEP information, their frequent substitute, who did not have long-term access, was also unaware of the IEP information until October 16, 2024.

### **Issue Three**

**USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to ensure that all personnel necessary to carry out the requirements of IDEA for the Student are appropriately and adequately prepared and trained. 34 C.F.R. §300.156 and 34.C.F.R. §300.207; K.A.R. 91-40-43(e).**

According to 34 C.F.R. §§300.156 and 300.207, each school district must ensure that all personnel necessary to carry out the IDEA requirements are appropriately and adequately prepared and trained. All special education personnel, as appropriate, shall have the content knowledge and skills to serve children with exceptionalities. This includes special education teachers, related services personnel, and paraeducators.

The Parent asserted that school staff should have been proactively trained to recognize and address the Student's needs based on their IEP, rather than relying primarily on the Student to request assistance. Furthermore, the Parent emphasized the need for substitute teachers to be knowledgeable about IEPs and equipped to implement them effectively, ensuring continuity of support even in the teacher's absence.

The District responded that the School staff had been "appropriately and adequately prepared and trained to provide special education services to students."

## **Analysis & Conclusion**

District records indicated adequate, valid licensure for all teachers working with the Student. The District also provided ten trainings between July 22, 2024 and October 14, 2024 to build general capacity amongst certified and classified staff regarding

delivering special education services, accommodations, and modifications. No other direct consultation or training specifically related to this Student was reported.

According to interview information, to support the Student's learning during frequent absences of their math teacher, the School staff assigned a paraprofessional already familiar with the Student and their IEP to three of their four core classes.

Based on the foregoing, according to the IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to ensure that all personnel necessary to carry out the IDEA requirements for the Student are appropriately and adequately prepared and trained. District records and interview information indicate that the District meets federal requirements for personnel qualifications.

### **Issue Four**

USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the Student with a free appropriate public education (FAPE). K.A.R. 91-40-1(z).

According to 34 CFR §300.17 and K.A.R. 91-40-1(z), a "free appropriate public education" and "FAPE" means special education and related services that meet the following criteria:

- a. Are provided at public expense, under public supervision and direction, and without charge;
- b. Meet the standards of the state board;
- c. Include an appropriate preschool, elementary, or secondary school education; and
- d. Are provided in conformity with an individualized education program.

The Parent alleged that the Student was being denied an appropriate education as defined by their IEP, citing the Student's lack of comprehension, declining grades, and inconsistent implementation of IEP services and accommodations. Despite raising these concerns with various school staff members, the Parent felt their complaints were not adequately addressed, leaving them with the impression that the School was either not equipped to support the Student or expected the Student to initiate requests for assistance. While acknowledging the District's recent offer of new resources, the Parent wanted assurance that these resources would be consistently implemented and effectively address the Student's needs.

The District responded that all teachers received notification and training on accessing IEP information through the new student information system, with additional support offered by the Special Education Consulting Teacher.

Acknowledging the intermittent absences of the Student's Math Teacher, the District explained that the Student was intentionally scheduled with a familiar paraprofessional across multiple classes to ensure continuity of learning and support. The District also noted that the Case Manager had discussed alternative support options with the Parent to address concerns about the Student's workload and collaboration with the Paraprofessional.

### **Analysis & Conclusion**

District records and interview information indicated that the Student was enrolled in an appropriate public education program, and there was no evidence of cost to the Parent. However, District records and interview information indicated that the Student's education was not provided in conformity with the IEP for the Student's

math class prior to October 16, 2024. The IEP also indicated direct special education services by paraprofessionals in the general education setting for the Student's four core classes. Interview information indicated a reliance on the Student asking for help instead of receiving it directly and consistently, which may have minimized the effectiveness of the support.

Following the filing of this complaint, School and District staff scheduled a meeting with the Parent to review the IEP, discuss concerns, and generate actionable solutions. A PWN from this meeting indicated proposals for the IEP that included District-sponsored virtual tutoring outside of school hours, general education intervention for reading and math, weekly check-ins with Special Education staff followed by home communication, and a requirement for teachers and paraprofessionals to sign a statement indicating that they read and understood the Student's IEP services, accommodations, and modifications.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is substantiated* that the District failed to provide the Student with FAPE. District records and interview information indicate the Student did not receive education in conformity with the IEP in their math class from the beginning of the school year until October 16, 2024. Although the Student's grade was changed from an F to a C, it is unclear if this change was due to the Parent's concerns about the grade or if the Student actually met the standards needed to achieve the grade. The Student also received an F in History. It should also be noted that during this investigation, clerical errors and discrepancies in the IEP document were noticed that may impact the interpretation or implementation of required services. Furthermore, the interview information indicated the IEP Team's acknowledgment of concerns regarding the effectiveness and consistency of the IEP services provided by the Paraprofessional.

## **Corrective Action**

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following areas:

- A. Federal regulations 34 CFR §300.323(a) and K.A.R. 91-40-16(b)(3-4) specify that an IEP must be in effect for each exceptional child at the beginning of each school year.

In this case, the evidence supports the finding that USD #501 did not implement that Student's IEP during the Student's math class from the beginning of the 2024-25 school year through October 16, 2024.

- B. Federal regulations 34 CFR §300.323(d) and K.A.R. 91-40-16(b)(5) specify that every teacher and service provider responsible for carrying out the IEP must be informed about their specific responsibilities. This includes understanding the accommodations, modifications, and support that must be provided according to the IEP.

In this case, the evidence supports the finding that USD #501 did not inform the Student's Math Teacher sufficiently about how to access the Student's IEP, which resulted in the teacher not understanding their role in implementing the Student's IEP.

- C. Federal regulations 34 CFR §300.17 and K.A.R. 91-40-1(z) specify that districts must provide a FAPE to the Student.

In this case, the evidence supports the finding that USD #501 did not provide the Student with a FAPE when it failed to provide special education services in conformity with the Student's IEP.

Based on the foregoing, USD #501 is directed to take the following actions:

1. Within 10 calendar days of the date of this report, USD #501 shall submit to Special Education and Title Services (SETS), documentation of the corrective actions developed on October 24, 2024. The documentation shall address how the proposals in the (PWN) dated November 1, 2024, appropriately address the issues related to implementing the Student's IEP in math class and developing a system for informing staff implementing IEPs in the District of their responsibilities.
2. Further, within 15 calendar days of the date of this report, USD #501 will convene an IEP meeting to determine how to implement schedule up to 30 hours of compensatory services to be delivered within the current school year. One calendar year. The Parent may accept all, a portion of, or none of the offered compensatory services, by notifying the district in writing within 15 school days of the date the offer is delivered to the parents. The District shall provide copies of the amended IEP and a schedule of when the compensatory services will be provided to SETS.

3. Within 90 calendar days of the date of this report, USD #501 shall develop and implement a written procedure to ensure that the requirements of 34 C.F.R.300.323(d) are met by (1) making IEPs accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; (2) informing each teacher and provider described above of his or her specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.
4. Within 80 calendar days of the date of this report, USD #501 shall submit a copy of the procedure developed in accordance with corrective action 3 (above) to SETS.
5. Within 15 calendar days of this report, provide to SETS a written statement of assurance that the district will comply with: (a) 34 CFR §300.323(d) and K.A.R. 91-40-16(b)(5), requiring that every teacher and service provider responsible for carrying out the IEP must be informed about their specific responsibilities, including the accommodations, modifications, and support that must be provided according to the IEP; (b) 34 C.F.R. §§300.156 and 300.207, requiring that each school district must ensure that all personnel necessary to carry out the IDEA requirements are appropriately and adequately prepared and trained. All special education personnel, as appropriate, shall have the content knowledge and skills to serve children with exceptionalities. This includes special education teachers, related services personnel, and paraeducators; and (c) 34 CFR §300.323(a) and K.A.R. 91-40-16(b)(3-4), requiring that an IEP must be in effect for each exceptional child at the beginning of each school year.

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](mailto:formalcomplaints@ksde.org) The notice of appeal must be delivered within 10 calendar days from the date of this report.

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

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

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

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

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

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