

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES
REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #230 SPRING HILL PUBLIC SCHOOLS
ON NOVEMBER 5, 2024

DATE OF REPORT: DECEMBER 5, 2024

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ----- by her parent ----- . In the remainder of the report, ----- will be referred to as “the student.” ----- will be referred to as “the complainant” or “the parent.”

The complaint is against USD 230, Spring Hill Public Schools. In the remainder of the report, USD 230 will be referred to as “the district”, “the local education agency (LEA)”, or “the school”.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on November 5, 2024, and the 30-day timeline ends on December 5, 2024

Evidence Reviewed

During the investigation, the Complaint Investigator, Gwen Beegle, reviewed all evidence and documentation, which was provided by both the district and the complainant(s). The parent was interviewed to clarify the issues of the complaint on November 15, 2024. The district provided the following staff for interviews, which were held on November 25, 2024: Ashley Marrs (Life Skills Teacher and Case Manager), Laurie Brueckner (Spring Hill High School Nurse), Kyle Kost (Spring Hill High School Assistant Principal), Kim Hanson (School Psychologist), and Cindy Dziadosz (Special Education Director). Emails with follow up questions and document requests were exchanged with the district from November 15, 2024, to December 2, 2024.

Additional documentation was provided by the district and reviewed by the complaint investigator. The following documentation and information were used in consideration of the issue(s).

Provided by the parent:

1. IEP for the student dated February 8, 2023
2. PWN dated February 8, 2023, Initial Services, Placement, Change in Services/Placement and Request for Consent with a material change in services and substantial change in placement due to a shortened school day, signed by the parent giving consent on the same date.
3. Text exchange between mother and unknown party, dated September 24, 2024, at 8:29 p.m. and October 23, 2024 at 11:44 a.m.

4. Email chain between the parent, the school nurse, and the special education teacher beginning October 25, 2024, at 2:00 p.m. and ending on October 25, 2024, at 3:26 p.m.

Provided by the district:

5. Food Allergy and Anaphylaxis Emergency Care Plan, signed by the physician on January 9, 2023
6. Individual Health Care Plan for the student for allergies and asthma dated January 27, 2023
7. Medical Statement to Request School Meal Modification, signed by family nurse practitioner on February 13, 2023
8. Medication Administration Record, 2023-24
9. Kansas Asthma Action plan, signed by the physician on January 8, 2024
10. IEP for the student dated January 25, 2024, and IEP signature page for the same
11. Meeting Notes dated January 25, 2024
12. Positive Behavior Intervention and Supports for the student dated January 25, 2024
13. Prior Written Notice to change special education services with a material change in services dated January 25, 2024, provided to the parent on January 25, 2024, and signed with consent by parent on February 2, 2024
14. IEP Meeting Notes dated April 30, 2024
15. Prior Written Notice to review evaluation and make changes to the IEP dated April 24, 2024, provided to the parent on the same date and unsigned by parent
16. Individual Health Care Plan for the student for allergies dated August 9, 2024
17. Prior Written Notice to change services and placement with a material change in services and substantial change in placement dated August 13, 2024, provided to the parent on the same date, signed by the parent giving consent on August 20, 2024.
18. IEP Amendment dated August 14, 2024, signed by the parent on August 21, 2024, with consent for the IEP Amendment and requesting an IEP meeting
19. Kansas Asthma Action Plan, signed by the physician on August 20, 2024
20. Medication Administration Record, 2024-25
21. Email from the school nurse to the parent dated August 19, 2024, at 8:37 a.m. and the parent's reply at 8:59 a.m.
22. Food Allergy and Anaphylaxis Emergency Care Plan, signed by the physician on August 20, 2024
23. Email from the school nurse to the parent dated September 9, 2024, at 2:31 p.m.
24. Email from the parent to the school nurse dated September 12, 2024, at 8:33 a.m. and the nurse's reply at 8:47 a.m.
25. Email from the teacher to the parent dated September 24, 2024, at 10:24 a.m.

26. Documentation of Student Behavior with entries dated September 25, 2024, October 3, 2024, October 8, 2024, October 23, 2024, November 4, 2024, November 5, 2024, and November 12, 2024 (2 entries).
27. Email from Lisa Howell (Families Together Education Advocate Coordinator) to the teacher and the parent dated October 4, 2024, at 11:30 a.m. and the teacher's reply the same day at 2:02 p.m.
28. Email from the assistant principal to Lisa Howell dated October 4, 2024, at 2:11 p.m. and her reply the same day at 2:55 p.m.
29. Email from the teacher to the parent dated October 10, 2024, at 9:35 a.m.
30. Email exchange between the teacher and the parent beginning October 21, 2024, at 9:03 a.m. and ending October 23, 2024, at 3:04 p.m.
31. Email from the nurse to the parent and the teacher dated October 24, 2024, at 2:00 p.m., and the parent's reply on October 25, 2024, at 3:26 p.m.
32. Email from the teacher to the parent dated October 28, 2024, at 11:24 a.m. and the parent's reply to the teacher and the nurse dated October 29, 2024, at 9:06 a.m.
33. IEP Amendment dated October 28, 2024
34. Prior written notice to change services dated October 28, 2024, and provided to the parent on October 28, 2024 with consent given by the parent signed on November 1, 2024 at 7:02 a.m.
35. Email exchange between the nurse, the teacher and the parent beginning on October 29, 2024, at 3:03 p.m. and ending at 4:05 p.m.
36. Doctor's order photocopy printed November 14, 2024, at 12:49 p.m.
37. Email chain beginning with an email from the parent to the school nurse dated November 14, 2024 at 1:53 p.m., the school nurse's reply to the parent and the teacher dated November 14, 2024 at 3:35 p.m., email exchange between the teacher and nurse dated November 14, 2024 at 3:37 and 3:38 p.m., email from the parent to the nurse dated November 14, 2024 at 3:41 p.m., and ending with email exchange between the school nurse and the teacher dated November 14, 2024 at 3:42 and 3:43 p.m.
38. Individual Health Care Plan (asthma) for the student dated November 18, 2024
39. Email from school nurse to parent dated November 19, 2024, at 8:52 a.m.,
40. Student Schedule and Support, dated November 18, 2024
41. Middle School Nurses Manual, undated excerpt
42. High School Nurses Manual, undated excerpt
43. Emergency Safety Intervention Documentation Form and Letter to Parent dated October 3, 2024
44. [Student Name] Notes with entries from January, 2021, to November 20, 2024
45. District response to the complaint

Background Information

The student is 14 years of age and attends the high school in USD 230, primarily receiving her education in life skills with attendance in special classes and physical education in a general education setting with special education support. The student was previously identified as a student with emotional disturbance and other health impairment and currently is served as a student with intellectual disability as primary. The parent identified the following additional health conditions: asthma, food allergies, trauma, and bipolar disorder. According to the parent, the student was placed in a Psychiatric Residential Treatment Facility (PRTF) during part of the 2023-24 school year, and she was not retained in middle school over the objection of the parent.

Issues Investigated

- **ISSUE ONE:** Did the district update the student's health considerations and follow the IEP's provisions accordingly during the 2024-25 school year?
- **ISSUE TWO:** Did the district consider the student's need for special education or related services during extracurricular activities in the IEP?
- **ISSUE THREE:** Did the district follow the student's placement in general and special education during the 2024-25 school year, specifically by not removing the student from the school settings in her schedule?

Issue One

Did the district update the student's health considerations and follow the IEP's provisions accordingly during the 2024-25 school year?

Applicable Law

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Federal regulations at 34 C.F.R. 300.618 state: "(a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information. (b) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. (c) If the agency decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under Sec. 300.619."

Analysis: Findings of Fact

The parent alleged that she had regularly provided health care reports to the district, but the district failed to update the student's IEP and the student's health plan. The parent alleged that the district unduly restricted the student's movements and participation in school settings and activities such as snacks, resulting in behavioral problems. The parent alleged that the student was not given snacks like other students and made to sit by herself in the second hour. The parent alleged that the student reported to the physician that the school was not providing access to the inhaler as required by the IEP.

The district replied that the parent had not provided or communicated (a) "consistently accurate information to the school and IEP team," (b) "updated documentation of medical diagnosis to the school and IEP team," (c) "updated documentation of medications for the child, as there have been many changes over the course of time" or (d) consent signature for "Interagency Release Forms to support open communication between various agencies that serve the child." The district replied that "Despite these challenges, USD 230 and its staff have worked hard to accommodate and support [the student] to make adequate progress and also provide meaningful participation for the parent in the IEP process."

Two IEPs were in place during the 12-month period preceding the date of the complaint. First, the IEP dated February 8, 2023 included the following special education services: (a) special education support in general education settings for special classes and PE for 135 minutes 5 days a week; (b) special education support in general education settings for transitions for 25 minutes a day 5 days a week; (c) special education in special education settings for math/ELA for 90 minutes 5 days a week; (d) special education in special education settings for MTSS time for 25 minutes 5 days a week; (e) special education in special education settings for lunch for 30 minutes 5 days a week; and (f) special education in special education settings for life skills instruction for 45 minutes 5 days a week. One related service was required: indirect occupational therapy for 15 minutes every 9 weeks. Accommodations listed on this IEP were: guided notes, technology alternatives to fully handwritten assignments, writing tools, allow frequent breaks, Alternate/quiet/separate setting, read aloud to self, read aloud to student, repeated/restated directions, shortened assignments, use of manipulatives, number line or fact sheet, dictation or scribe, graphic organizers or outlines, and reinforcement system.

The student's IEP team including the parent met on January 25, 2024, for the annual IEP meeting. The IEP dated January 25, 2024 included the following special education and related services through the end of the student's middle school year (2023-24) (a) special education support in general education settings for special classes and PE for 135 minutes 5 days a week; (b) special education support in general education settings for transitions for 40 minutes a day 5 days a week; (c) special education in special education settings for math/ELA for 90 minutes 5 days a week; (d) special education in special education settings for lunch for 30 minutes 5 days a week; (e) special education in special education setting for science, 45 minutes 5 days a week, (f) special education in special education setting for social studies, 45 minutes 5 days a week, and (g) special education in special education settings for MTSS time for 25 minutes 5 days a

week, with indirect OT services one time for 15 minutes each 9 week period. The parent signed the PWN giving consent for the IEP services on February 4, 2024.

The IEP dated January 25, 2024, also included services for the following 2024-25 school year. Special education and related services were similar in nature and included: (a) special education direct services in the regular setting for special classes and PE for 200 minutes 5 days a week; (b) special education direct services in the general education setting for in general education settings for transitions for 30 minutes a day 5 days a week; (c) special education in special education settings for math for 50 minutes 5 days a week; (d) special education in regular education setting for lunch for 30 minutes 5 days a week; (e) special education in regular education setting for social studies 50 minutes 5 days a week, (f) special education in regular education setting for advisory for 20 minutes 5 days a week, and (g) special education in special education setting for reading, 50 minutes 5 days a week, with continued indirect OT services one time for 15 minutes each 9 week period.

The IEP dated January 25, 2024, was amended as follows, based on IEP amendments and PWNs provided. On April 30, the IEP team met at a high school transition team meeting to align the minutes in the IEP to the current high school schedule, with no new services being added or current services being removed. On August 14, 2024, a PWN amended the IEP to adjust minutes and some services; it stated, "Increasing service minutes from 150 to 200 minutes per day of instructional support in electives, Separating English and Math and making each 50 minutes per day. Changing lunch support from direct to instructional support. No Science. Changing advisory from direct to instructional support. Changing Social studies from direct to instructional support. These changes will be in effect throughout the school year to reflect the high school schedule." The PWN dated August 14, 2024, was signed by the parent giving consent on August 20, 2024. On October 29, 2024, the IEP was amended to update the general health section, at the parent's request.

Health care and the IEPs

The IEP dated February 8, 2023 included the following present level of performance (general health) : "[The student] has healthcare plans on file in the nurse's office for mood disorder, food allergies, and asthma. [The student] often elopes and struggles with mental health concerns. She needs a paraprofessional with her at all times."

In an email to the investigator dated December 2, 2024, the district reported that, "In regards to the Individual Health Care Plans created by the school nurses, these are not updated at the same time as the IEP unless there is a need or new information that the parent has shared or is willing to share." Health care plans and physician's orders in the nurse's office at the time of the IEP dated February 8, 2023 were: Food Allergy and Anaphylaxis Emergency Care Plan, signed by the physician on January 9, 2023 and Individual Health Care Plans for the student for both allergies and asthma dated January 27, 2023. The student's medication record for the 2023-24 school year showed zero administration of medications.

The Medical Statement to Request School Meal Modification dated February 13, 2023, for the student was put into place and implemented, according to interviews with school staff. This document directed a meal modification to omit tree nuts, peanuts and peanut butter and for a "heart healthy diet." According to interviews with the school nurse and special education director, the policy is that this document is updated when the parent provides new information, and this is the current documentation of meal modification. Interviews said cafeteria food would be heart healthy and that no further restrictions regarding the meals were made for cafeteria food. This is considered the current meal requirement by the school.

In the "general health" section, the IEP dated January 25, 2024, stated: "[The student] has a peanut/tree nut, shellfish, and tomato allergy, ADD, emotional/mood concerns. bipolar mood disorder other. Asthma -Inhaler is in Nurse's office. Epi-Pen in nurse office. [The student] is suicidal and is a runner. [The student] needs a para near at all times. No added sugar diet/diabetic diet." The IEP dated January 25, 2024, addressed the student's behavior with a goal to "identify expected and unexpected behaviors in self" rather than a BIP. According to the parent, the student was temporarily placed in a PRTF during the 2023-24 school year.

Kansas Asthma Action plan, signed by the physician on January 8, 2024, was in the nurse's office at this time. The student's individual health care plan dated August 9, 2024, for allergies to peanuts, all tree nuts, shellfish, and tomatoes described symptoms and interventions. According to the special education director, the Food allergy plan dated August 9, 2024, was in place on January 25, 2024; "the date would have changed with the new medical orders on August 9, 2024, because it is the same calendar year" (email dated December 2, 2024, to the investigator). The director further reported: "The same would have been true for the Asthma plan currently dated 11/18/24 - It would have had a prior 2024 date - the date would then be changed when new information/orders was updated in this calendar year."

According to an interview with the school nurse and special education director, the physician orders that direct medication associated with student health care plans are updated at the beginning of each school year for the period of that year or at the time when a need to use medication emerges. At the outset of the 2024-25 school year, physician's orders given to the school and in place with the school nurse were: (a) Kansas Asthma Action Plan, signed by the physician on August 20, 2024, and (b) Food Allergy and Anaphylaxis Emergency Care Plan, signed by the physician on August 20, 2024. The student's medication record for the 2024-25 school year showed zero administration of medications.

The district reported that the staff were made aware of student health care plans and emergency information in the district's "Skyward Student Information system. The district reported that in this case, the Skyward would also state that the student has an IEP. It is an expectation that teachers review each student's health care plan yearly, and the school nurse alerts staff to any changes or updates provided by the parents. Teachers also use the Skyward system gradebook and attendance. Students' names are in red text if they have emergency plans.

As noted above, the IEP dated January 25, 2024, was updated on October 28, 2024 at the parent's request to alter the information on the present levels of performance, general health section. The PWN dated October 28, 2024 stated: "The team proposes updating the general health section of present levels to reflect the current medical and health standing of [the student]. The general health section will be updated as follows: [the student] has several health concerns, including allergies to peanuts, tree nuts, shellfish, and tomatoes, as well as Attention Deficit Disorder (ADD) and bipolar mood disorder. She also has asthma, with her inhaler and Epi-Pen located in the nurse's office for emergency use. The following was taken off the IEP as a request from [the parent], who stated that the records were outdated and were from years past. [The school nurse] found the records that displayed the outdated information were from 2017 and found newer orders from 2023 that did not reflect the 2017 orders. There have not been records from 2024 given to the school nurse this year. The following was also taken off per [parental] request: She is suicidal and is a runner. She needs a para near at all times. No added sugar diet/diabetic diet."

Student Behavior

The IEPs for the student for the past 12 months do not include behavioral intervention plans. The IEP dated February 8, 2023, included a goal on self-regulation, and the IEP dated January 25, 2024 included a goal on social skills to identify expected and unexpected behaviors in herself and in scenarios.

The student's teacher, in an interview, stated that she was very aware of the student's food allergies and asthma, including the availability of the plans in the nurse's office, the location of the inhaler, and the specific foods identified as severe allergens. The teacher stated that the exchange of food among students caused her to contact the parent. In an email with the parent dated October 10, 2024, the teacher clarified the type and timing snacks that the student could have in the life skills classroom. In an email exchange with the parent dated October 21, 2024 to October 23, 2024, the teacher asked the parent to talk with the student about allowable food, as the students sometimes trade or barter for food and the teacher was concerned that the food may have nuts or other allergens. In the email exchanged, the teacher asked for the parent's input and stated that the student had become increasingly focused on food at school.

The behavior notes for the 2024-25 school year provided by the school showed that the student had an incident of "bossy" behavior in the lunchroom on September 25, 2024. The student also had an Emergency Safety Intervention (ESI) on October 3, 2024, which began during the afternoon snack in the life skills classroom, during which the student left the classroom, went to the office and began exhibiting self-harm behavior, for which she was briefly restrained. An email to the parent dated October 4, 2024, showed that the administrator called the parent on that day to provide transportation separately from another student involved in the incident, and the parent arrived to take the student home 6 minutes before the regular dismissal time.

Conclusion

In this case, the student's IEP did not include any related services for nursing. Instead, the IEP referred to individual health records maintained by the school nurse and disseminated to staff in the typical ways for students without disabilities. These health records were regularly updated and showed no lapse during the school year. The life skills teacher in an interview was knowledgeable about the student's health requirements and the teacher had email exchanges with the parent to clarify dietary restrictions and to inform the parent about the student's food related behavior. The district demonstrated that it had systems available to disseminate health and IEP information to staff who interacted daily with the student information system.

The parent had the right per 34 C.F.R. 300.618 to ask for records to be corrected, and the district complied with the IEP amendment and PWN dated October 28, 2024 which updated the health section of the IEP at the parent's request.

Based on the foregoing, *it is not substantiated* that USD #230 failed to update health records in violation of the provisions of IDEA.

Issue Two

Did the district consider the student's need for special education or related services during extracurricular activities in the IEP?

Applicable Law

According to K.A.R. 91-40-3 (ancillary FAPE requirements) "(a) Each agency shall ensure that children with disabilities have available to them the same variety of educational programs and services that are available to nondisabled children served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education. (b) (1) Each agency shall provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities, including the provision of supplementary aids and services as determined to be necessary by the child's IEP team."

According to the Kansas Special Education Procedural Handbook, "The IEP team must determine whether the child requires supplementary aids and services, that are appropriate and necessary, to afford the child an equal opportunity for participation in nonacademic and extracurricular services and activities. These are nonacademic and extracurricular activities that are school sponsored during the regular school year. Nonacademic and extracurricular services may include counseling services, athletics, transportation, health services, recreational activities, referrals to agencies that provide assistance to individuals with exceptionalities, and employment of students, including employment by the school (K.A.R. 91-40-3(b)(2); 34 C.F.R. 300.107)."

Analysis: Findings of Fact

The parent alleged that the district did not provide services for the student to attend extracurricular activities such as a football game. The parent alleged that when she allowed the student to attend the football game, the school would not allow her to attend independently, reporting the parent to child protection authorities. The parent alleged that either the child is capable to attend the game or she is in need of support for extracurricular participation.

The district responded that "Over the course of [the student's] time while in USD 230 [the student] has had challenges with self-regulation, managing emotions, attention and elopement. [The student] has been hospitalized for short and long term care (PRTF) multiple times (at least 9) by [the parent]. [The parent] reports these hospitalizations have been for suicidal attempts and aggression." The district further responded: "USD 230 and its employees are mandated reporters required by law to report any suspected or known abuse or neglect of vulnerable populations to authorities." The district further responded: "Parent has not requested changes to the IEP, however, the IEP team has reached out and is always willing to meet to make changes to the IEP.

The findings of Issue One are hereby incorporated by reference.

During the time period of the investigation the parent attended two IEP meetings (February 8, 2023, and January 25, 2024) and provided consent for the PWNs associated with each meeting. According to the IEP meeting notes, the parent (virtual attendance) and the school met on April 30, 2024, for a transition to high school meeting during which the IEP services were amended to match the high school schedule. The district provided PWN to the parent dated April 24, 2024. The IEP was amended without a meeting on August 14, 2024, and the parent signed providing consent for the changes on August 21, 2024.

According to interviews with the teacher and special education director, the teacher notifies students and parents of upcoming events such as the Homecoming game and dance. In an email dated September 24, 2024, the teacher informed the parent that while special education staff would be present at the Homecoming game, their responsibilities were to support other students who were sports participants and that no special education support would be provided to the student for the game. In an email dated October 4, 2024, the teacher informed the parent and an educational advocate that the student did attend the Homecoming dance on September 27, 2024 and that the assistant principal familiar with the student was the contact person for that dance as a school sponsored event. In an interview with the assistant principal, he stated that the student is one of his administratively assigned students.

Conclusion

In this case, the parent alleged that the school district should have provided special education support for the student to attend the Homecoming game in addition to the Homecoming dance. Special education or related services needed for the student to participate in athletics

were not present in the student's IEP, although the parent attended the student's IEP meetings and the IEP was amended at a transition to high school meeting in April, 2024, before the 24-25 school year began in August, 2024, and again to amend the health considerations section in October, 2024. The student attended the school dance which was made available to the student in a manner that allowed the opportunity to participate, as is required by K.A.R. 91-40-3 (b)(1).

Based on the foregoing, *it is not substantiated* that USD 230 failed to consider the student's need for special education or related services during extracurricular activities in violation of the provisions of IDEA.

Issue Three

Did the district follow the student's placement in general and special education during the 2024-25 school year, specifically by not removing the student from the school settings in her schedule?

Applicable Law

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. Federal regulations at 34 C.F.R. 300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE (free appropriate public education) to a child who has or is suspected of having a disability. State regulations at K.A.R. 91-40-27(a)(3) require school districts to obtain parent consent before making a material change in services or a substantial change in placement.

According to guidance by the Office of Special Education Programs, (2022): "Frequent use of short-term disciplinary removals or informal removals of children with disabilities may indicate that the child's IEP does not appropriately address their behavioral needs, which may result in a denial of FAPE."

Analysis: Findings of Fact

The parent alleged that the school was pulling the student out of lunch and that she was isolated from the cafeteria and school functions.

The district responded: "USD 230 denies all allegations in Parent's Request unless specifically admitted herein. To the extent Parent's Request alleges any substantive or procedural violations of the IDEA, USD 230 denies any such allegations, and further denies that any procedural violations, whether alleged or proven, impeded [the student's] right to a free appropriate public education, her parent's right to participate in the decision-making process regarding the provision of a free appropriate education to [the student] or caused deprivation of educational benefits to [the student]."

The findings of Issue One and Issue Two are hereby incorporated by reference.

When asked in an interview if the student was isolated at lunch, the teacher stated that the life skills class went to the lunchroom a few minutes before or after the school passing periods to avoid hall crowding and confusions. The teacher and special education administrator stated that a paraprofessional attended the lunch period with the students. In the interview, the teacher stated that she has witnessed the paraprofessional's interactions with students at lunch and other times and characterized the paraprofessional as gentle in her interactions with the students.

When asked in interviews, the teacher and assistant principal stated that the student had not been removed from any classes or activities. According to the assistant principal, the student had not been suspended or required to leave school early due to disciplinary action. Behavior logs provided by the school do not show any disciplinary action that removed the student from her placement.

As previously noted, on October 3, 2024, an incident that resulted in ESI occurred with the student. According to the ESI report, at about 1:20 p.m., the student and another student had a disagreement about snack time, after which the teacher urged the student to use the calming methods available in the classroom. According to the ESI report, the student left the classroom in search of an administrator and became increasingly disregulated when she reached the office, "screaming, crying, shouting" and trying to hit her head while hitting and kicking staff members. The ESI occurred from 2:10-2:12 p.m., after which she laid on the floor and the parent was called. The parent talked to the student on the phone and came to pick up the student. An interview with the assistant principal and an email dated October 4, 2024 stated that the parent was asked to take the student home to prevent interaction with the other student who took the same school vehicle home. The ESI report and the email stated that the student left with the parent about 5-6 minutes before her regular dismissal time.

Conclusion

In this case, the student followed the schedule as set by the life skills classroom to lunch, avoiding regular passing periods. The student was not removed from the school for disciplinary actions such as suspensions or repeated early removals. Based on the foregoing, *it is not substantiated* that USD 230 failed to follow the student's placement in general and special education during the 2024-25 school year, specifically by not removing the student from the school settings in her schedule, in violation of the provisions of IDEA.

Summary of Conclusions/Corrective Action

1. **ISSUE ONE:** A violation of 34 C.F.R. 300.323(c)(2) and 34 C.F.R. 300.618 was not found based on the facts above, that special education or related services provided by the nurse were not included in the IEP and the parent asked for and the district provided an IEP amendment to correct errors on the student's health information included in the IEP. Corrective action is not required.

2. **ISSUE TWO:** A violation of K.A.R. 91-40-3 and 4 C.F.R. 300.107 was not found, based on the facts above. Corrective action is not required.
3. **ISSUE THREE:** A violation of 34 C.F.R. 300.323(c)(2) and K.A.R. 91-40-27(a)(3) was not found based on facts above. Corrective action is not required.

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)