

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #274  
ON NOVEMBER 5, 2024

DATE OF REPORT: DECEMBER 3, 2024

This report is in response to a complaint filed with our office on behalf of two students, ----- and ----- by their parent, ----- . In the remainder of the report, the students will be referred to as “Student 1, Student 2 or the Students” and the parent as “the Parent.”

The Complaint is against USD # 274 Oakley Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #274.

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 November 5, 2024, and the 30-day timeline ended on December 5, 2024.

## **Allegations**

The following issue will be investigated:

### **Issue One**

USD #274, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to educate the two Students in the least restrictive environment, including extra-curricular activities since the beginning of the 2024-25 school year. K.A.R. 91-40-1.

## **Investigation of Complaint**

Tania Tong, the Complaint Investigator, interviewed the Parent by telephone on November 15, 2024. The following District staff were interviewed on November 25, 2024: the football coach, the Principal, two paraprofessionals, and the Special Education Teacher.

The Complaint Investigator also reviewed emails from the Parent and the District between October 7, 2024 and October 30, 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 materials were used as the basis of the findings and conclusions of the investigation:

**From the Parent:**

1. Complaint Letter, 10/07/24
2. Email, re: locker room supervision, 10/08-10/30/24

**From the District:**

1. Letter from Staff, 10/30/24
2. Letter from Staff, 10/29/24
3. Letter from Staff, 10/29/24
4. Letter from Staff, 10/29/24
5. Letter from Staff, 10/29/24
6. Hand Written Note from Staff, 10/29-10/30/24
7. Complaint, 10/07/24
8. Staff Time Sheet, 08/05-10/31/24
9. Staff Time Sheet, 08/05-10/31/24
10. Email, re: locker room supervision for [students], 10/08-10/30/24

**Student 1 Materials:**

1. Prior Written Notice (PWN), 02/08/24, 03/08/24
2. PWN, 04/10/24, 04/17/24
3. Team Meeting Record, 03/19/24
4. IEP and Progress Reports, 02/07/24, 03/19/24, 05/16/24, 10/28/24
5. Email, re: [student's] 2024 annual and progress reports, 10/29/24

**Student 2 Materials:**

1. Team Meeting Record, 04/17/24
2. IEP and Progress Reports, 10/04/23, 10/18/23, 12/19/23, 03/19/24
3. IEP and Progress Reports, 04/16/24, 05/16/24, 10/28/24

**Background Information**

This investigation involved two students in grade 10 enrolled at Oakley High School in USD #274. The Students are eligible for special education services under the category of Autism Spectrum Disorder. The Students are receiving special education or related services as children with a disability per the Individuals with Disabilities Education Act (IDEA). On October 29, 2024, the Parent observed all coaches on the football field with a few students. The remainder of the team was in the locker room after practice. The Parent observed no coaches

or male adults supervising the locker room. The Students have female paraprofessionals. The Parents have asked that a football coach be present as a safety protocol for their non-verbal Students. The Parents alleged the School offered exclusion rather than 1:1 support for their Students.

### **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. Student 1 and Student 2 are students at a high school in the District who experience Autism Spectrum Disorder. The Parent described the students as "primarily non-verbal and non-communicative." (P1)

Student 1: (Connor Dinkel)

2. An IEP Special Education and Related Services record dated February 8, 2024, indicated, "Record:8 extra curricular activities-fb, bb, track, & games:"
  - a. "Frequency is 5 days a week during practices and while [the Student] is preparing to play and playing in games or participating in track."
  - b. "Duration is 150 minutes for the duration of practice, or preparing/playing in game or participating in track."
  - c. "Start date, 02/08/2024 and end date, 02/07/2025." (S1,176)
3. According to a Prior Written Notice For Identification, Special Education and Related Services, Educational Placement, Change in Services, Change In Placement, and/or Request for Consent (PWN) dated February 8, 2024, the IEP team met to review "The appropriate educational placement to provide special education and related services identified in the student's Individualized Educational Program (IEP)." A description of the action proposed was, "[Student 1] will receive special education support for extracurricular activities for 150 minutes/5 days a week for 34 instructional weeks."
  - a. "Extra curricular activities will require one-on-one special service support in order to meet requirements for student success for most activities. Activities include: concerts, sports practices, as well as participation in games."
  - b. "Parents agree that no 1-on-1 support is needed for away games. Special education support staff will be present." (S1,1-S1,3)
  - c. "Parents agree that no 1-on-1 support is needed for away & home games," which was a change indicated on the February 8, 2024 IEP. (S1, 96)
4. A Team Meeting Record dated March 19, 2024, indicated the Parents wanted to keep paraprofessional support of one paraprofessional at away sporting events, and the Parents wanted 1:1 paraprofessional supervision at sporting practices. (S1, 33)
5. According to a PWN dated April 10, 2024, the Parents agreed that no 1:1 support was needed for Student 1 during away games. Special education support staff would be present. (S1,9) An explanation of why the action proposed was, "[Student

1's] multiple disabilities, including Autism and Speech/Language, adversely impacts [Student 1's] educational performance in the areas of academics, communication, social skills, adaptive behavior skills and sensory skills. The educational concerns for [Student 1] include [their] ability to understand spoken language and use spoken language to communicate [their] wants and needs, appropriately communicate and interact with adults and peers, ability to communicate in verbal and written forms and maintain appropriate cognitive and academic skills." (S1,10)

Student 2: (Quinn Dinkel)

6. According to an amended IEP impact of exceptionality on progress in general education curriculum, dated October 2, 2023, "[Student 2] will participate in community-based activities with special education support as follows: Extra curricular activities will require one-on-one special service support in order to meet requirements for student success. (FAPE, IDEA). Activities include: concerts, field trips, sports practices and activities, as well as participation in games. (Not 1-on-1 for the first two away games to be reevaluated to see needs.)" (S2,54)
7. According to an IEP Accommodation and Modification section, amended on October 2, 2023, "[Student 2] will participate in the general education PE daily and in extracurricular activities such as sports (football, basketball, wrestling and track)." (S2,62) Special Education and Related Services indicated:
  - a. "Service Setting, special education extracurricular, after school ff, bb, track."
  - b. "Minutes-150 minutes a week."
  - c. "Start date-8/23/2023 and end date, 5/17/2024."
  - d. "Frequency - every week." (S2,64)
8. An IEP Supplementary Aids Services and Supports for School Personnel with an amended date of October 4, 2024, indicated:
  - a. "[Student 2] will have special education support personnel throughout [their] school to assist with academic, communication and social skills. [Student 2] will also have special education support while [they participate] in school activities like band practice, football practice and basketball practice."
  - b. "Special education support during [Student 2's] school day will be throughout [their] school day. It is important to note that during lunch, bathroom breaks, changing clothes for activities, and passing periods, and bus trips and away games, [Student 2] does not need a one-on-one support."
  - c. "Location-throughout the day including all classes, during school activities like band, football, track practices and weight training."
  - d. "[Student 2] will have special education support available for the duration of this IEP."
  - e. "The start date - 10/02/2023 and end date - 05/21/2024." (S2,68)

9. A Draft IEP dated April 17, 2024, regarding the identificational impact of exceptionality on educational progress, Student 2 needed, "Extra curricular activities will require one-on-one special service support in order to meet requirements for student success for most activities. Activities include: concerts, some sports practices, as well as participation in games." (S2, 86)
10. According to a Team Meeting Record dated April 17, 2024, the Parent noted the following student strengths: "[The Student] likes to vacuum out the van and clean windows. ... is very meticulous. ... liked the activities around food service but not necessarily working with the food." (S2,7)
11. A Team Meeting Record dated April 17, 2024, stated, "[Student 2] will receive special education support for extra curricular activities for 150 minutes/5 days a week for 34 instructional weeks:"
  - a. "Extra curricular activities will require special service support in order to meet requirements for student success for most activities. Activities include: concerts, sports practices, as well as participation in games."
  - b. "Parents agree that no 1-on-1 support is needed for away games. A special education support staff will be present to away games." (S2,5)
  - c. "Record 9: extracurricular activities - fb,bb, track practices and games/practices. The setting is in the gyms, tracks, football fields in school settings starting 04/17/2024 and ending 04/16/2025." (S2,110)
12. On October 7, 2024, the Parent wrote to the School Board to share their concerns about photos and video that were taken in the locker room of Student 1 and Student 2 and may have been distributed to other students. (D12-D13,P1)
13. On October 8, 2024, and October 9, 2024, the Parent and the Superintendent exchanged emails regarding a meeting they had on October 8, 2024. The Parent wrote, "To recap our meeting this afternoon, we wanted to clarify that [the Superintendent] has allocated [Coach 1] as the competent individual responsible for [the] supervision of both [Student 1] and [Student 2] while in the locker room for the duration of the fall sport [sic] season." (D4, P8) The Superintendent confirmed on October 9, 2024 that "... [Coach 1] will be in the locker room for the remainder of the season to supervise all of the athletes." (D4, P7)
14. According to a Timesheet Week Detail form, Paraprofessional 1 and Paraprofessional 2 were both 1:1 assistants for Student 1 and Student 2 during football practice from 10/28/24 through 10/31/24. (D90, D103)
15. In a written statement dated October 29, 2024, Paraprofessional 2 stated, "After the October 29th football practice, I walked back with [Student 1 and Student 2] to the locker room from the football field. While [Student 1 and Student 2] entered the locker room, I stood outside right by the end of the concession stand where I could hear in the locker room. Many of the football players that entered the locker room left quickly after practice without showering ... [Coach 1] did enter the locker room after practice when [Student 1 and Student 2] were in the locker room." (D7)

16. In a written statement dated October 29, 2024, the Principal indicated that they had received an email from the Parent regarding paraprofessional supervision in the locker room on October 29, 2024 after football practice. The Principal watched video footage of the incident. The Principal stated the following:
  - a. "5:51 pm [sic] All football players and coaches were on the East [sic] side of the football field in a large huddle."
  - b. "5:56 pm [sic] A large group of football players entered the locker room, and other players were still on the field for extra conditioning. [Student 1 and Student 2] were among the large group entering the locker room. Paraprofessionals can be seen by the concessions [sic] stand waiting on [Student 1 and Student 2] to leave the locker room."
  - c. "5:57 pm [sic] [Coach 1] enters the locker room. This is less than 2 minutes after [Student 1 and Student 2] enter."
  - d. "5:58 pm [sic] [The Parent] is shown on camera driving [their] pick up and parking in the senior parking lot."
  - e. "Paraprofessionals stated that [the Parent] was parked behind the guest stadium during most of the practice on 10/29/24." (D8)
17. Coach 2 indicated, "On Tuesday, 10/29/24, practice had finished and the coaches were standing around talking about how practice went. I was conditioning other athletes by running for discipline due to school issues. Once conditioning started, [Coach 1] headed to the locker room to supervise [Student 1 and Student 2]. Basically there was a 30 sec [sic] to a minute that transpired from when the kids left to go to the locker room and when [Coach 1] went into the locker room." (D9)
18. According to the Special Education Teacher regarding emails between the District and the Parent pertaining to the October 29, 2024 football practice event, "No where [sic] in the IEP does it state, like [the Parent] is referring to in the correspondence on 10/30/2024 about 1:1 paraprofessional support in the locker room. From part of the 10/30/2024 email from [the Parent], 'The IEP states that [Student 1 and Student 2] receive 1:1 paraprofessional support for practice. This also includes the locker room.' Two female paraprofessionals were right outside the locker room." (D11)
19. On October 30, 2024, the Parent emailed the Principal, "I was able to observe the end of practice last night (10/29/24) and noticed that all coaches [Coaches 1-5] remained on the field while most of the players went to the locker room and dressed. Could you provide me with the name of the adult who supervised the locker room after practice? I would also like to request the archival of footage from the camera stationed on the south side by the west entry of [a Teacher's] classroom for the time period dating 10/29/2024 between the times of 5:40 pm and 6:30pm [sic]. I understand, due to privacy, that I may not be able to view the footage, but [I] would like to have proof of the identity and when the adult supervisor went into the locker room. If there is another way to confirm this request I would greatly appreciate that information as well." (D2, P4)

20. On October 30, 2024, the Principal emailed the Parent, "From watching the cameras, I see [Student 1] and [Student 2] are both at the beginning of the line when entering the locker room. Both paraprofessionals were right outside the locker room when they entered. [Coach 1] started students running for after-practice conditioning. [Coach 1] followed the players to the locker room as soon as [Coach 2] started conditioning. When [Coach 1] arrived at the locker room, all of the athletes, including [Student 1] and [Student 2], were still in their practice uniforms." We do not allow parents to watch video footage of students, as it would also show other students on video, which, as you know, is a privacy issue."

"We came up with some ideas that may alleviate this in the future. Most days, all the football boys meet in the weight room to group and watch the film before going to the football practice field. 1) We can have [Student 1] and [Student 2] get dressed in the bathroom/locker room on the East side of the weight room before practice.

Paraprofessionals can be outside in the weight room when they are dressing. Changing in the weight room would be the new routine, before practice and after practice. 2) We can have [Student 1] and [Student 2] get dressed for practice in the locker by the stadium first before other students get in the locker room. Then, after practice, they can also get changed before other students are in the locker room. 3) If you have another option in mind, please let us know so we can consider it."

(D3,P3) The Parent responded the same day, indicating a disagreement with the proposed solutions, "We do not agree that the simplest solution is to exclude [Student 1] and [Student 2] from the team activities as it is presented. The whole point of inclusion is the opportunity to safely participate in every aspect of the team activities. When we met with [Teacher 2] and [the Superintendent] the directive later confirmed by email stated that a coach would be in the locker room to supervise the athletes while dressing. The IEP states that [Student 1] and [Student 2] receive 1:1 paraprofessional support for practices. This also includes the locker room. We understand that female paraprofessionals are not allowed in the male locker room, but that does not relinquish responsibility to facilitate the provision set forth in the IEP's. All that we ask is that the promise kept of a coach, which there are 5 on the football team, supervises the locker room while athletes are in there respectively." (P5)

21. On October 30, 2024, Paraprofessional 1 indicated that they walked directly behind Student 1 and Student 2 while they walked into the locker room after practice on October 29, 2024. Paraprofessional 1 stated, "I stood with [Paraprofessional 2] by the end of the concession stand where I could see into the locker room hallway and hear the football boys. [Coach 1] did go into the locker room after talking with some football players on the field within a short amount of time. The remaining coaches stayed on the field." (D6)
22. On [October] 30, 2024, Coach 1 wrote a statement in which Coach 1 received an email from the Parent which stated that the Parent had observed practice and at the end of the practice, the Parent had observed that none of the coaches "beat athletes to the locker room to be in there while changing. However [,] I walked in

- about 2 minutes after athletes to be present while they all changed & [sic] grabbed belongings. I wasn't the first in due to punishing students for low grades and being disruptive in class. My staff didn't go to the lockerroom [sic] as they were discussing plans for practice and leave [sic] for our trip to Blue Rapids for our playoff game." (D10)
23. Coach 1 is a physical education teacher and football coach at the School, and said the Students were on the football team. (Coach 1 Interview, P1, 00:39)
  24. Coach 1 explained the Students had paraprofessionals with them at football practice to help them dress and offer support. Coach 1 said the paraprofessionals had been with the Students since they started high school football practice, and that each Student had their own paraprofessional. (Coach Interview, P1, 01:11) Coach 1 said this was the Students second year playing football. (Coach 1 Interview, P1, 01:55)
  25. Coach 1 explained they never had to help the Students "dress down" and that the Students had always dressed themselves. (Coach 1 Interview, P1, 01:59) Coach 1 said, "And I had their IEP with them before they were freshmen. I asked their parents if they needed help, getting, dressed, showered, anything like that. And [the Parent] told me they did not, they could do all of that themselves." (Coach 1 Interview, P2, 02:20)
  26. Coach 1 stated since the paraprofessionals were females, they could not go into the locker room, and said, "So if they needed any help, they would come outside once dressed and they would help them from there." (Coach 1 Interview, P2, 03:11) When asked if there was ever a need for adult supervision for the Students in the locker room, Coach 1 said, "Not to my understanding." (Coach 1 Interview, P2, 03:26) Coach 1 indicated that a couple of days prior to October 29, 2024, School administration told them that there always needed to be a coach that was in the locker room and they would be the one that went in with the Students. (Coach 1 Interview, P2-3, 03:41) Coach 1 said they were instructed by their principal and superintendent to do this. (Coach 1 Interview, P3, 04:28)
  27. Coach 1 explained they had a conversation with the administration because allegedly photos had been taken of the Students in the locker room. Coach 1 stated that nothing had been found, but they had to be in the locker room from then on. (Coach 1 Interview, P3, 04:34) Coach 1 said neither of the Parents approached them about the Students needing supervision in the locker room prior to their conversation with the School administration. (Coach 1 Interview, P3, 05:01)
  28. Coach 1 described the events of October 29, 2024, and explained that before releasing practice, they spoke to some of the students about their grades and had others do extra conditioning. Coach 1 stated the students who did not stay after walked to the locker room, and Coach 1 followed them shortly after. Coach 1 stated they perceived about 1-3 minutes passed between the students walking to the locker room and Coach 1 following them. (Coach 1 Interview, P4, 05:49)
  29. Coach 1 said they walked into the locker room and the students were changing clothes, and the Students had changed. Coach 1 said the Students exited the locker



- room, Coach 1 waited for the rest of the kids to leave, then Coach 1 locked the door and left. (Coach 1 Interview, 4, 07:37) Coach 1 indicated they went into the locker room and supervised the Students on October 28, 2024 also. Coach 1 said, "I walked in right after I got done talking to the kids. I followed all the kids in and kids changed. We walked out. Same thing." (Coach 1 Interview, P4, 07:53)
30. Coach 1 said, "So [the Parent] didn't tell me anything. The only thing I see is an email that is sent to my staff to my administration and to me saying that [the Parent] observed that no ... coach walked in after. And I clearly walked in afterwards." (Coach 1 Interview, P5, 08:31)
31. The Principal explained that prior to October 29, 2024, their understanding was that the Students had one-on-one paraprofessional support with them during football practice and in the classroom. (Principal Interview, P1, 01:17)
32. When asked about their understanding as to the level of support the Students are to receive in the restrooms or locker rooms, the Principal said, "So their support is not on [sic] locker rooms or restrooms is not written in. ... during the school day [the Parent] has always been adamant that they go to the bathrooms by themselves, that they don't have a paraprofessional following them back and forth to the bath restrooms during class time. And so as far as locker room supervision, it's not written in the IEP." (Principal Interview, P1, 02:00)
33. When asked about how long it took Coach 1 to enter the locker room on October 29, 2024, the Principal described what they saw on a School surveillance video, "... but what you can tell is a large group's going in and then less than two minutes you can see [Coach 1] going in. ... But it's pretty obvious it was less than two minutes. When [Coach 1] did get in there, according to [Coach 1], ... no one had really even started changing yet. They were just getting to their area ... where they keep their bags and stuff." (Principal Interview, P2, 02:49)
34. Regarding what may have precipitated the request for more adult supervision in the locker room, the Principal explained the situation stemmed from an incident reported by the Parent, who claimed there was inappropriate behavior in the locker rooms, possibly involving photos of the Students being circulated. According to the Principal, no evidence of sexual misconduct or photos was found, and the matter was reported to the police, with the School cooperating fully. (Principal Interview, P2, 03:29)
35. Paraprofessional 2 stated they are a paraprofessional at the School and have worked with the Students for five months. (Paraprofessional 2 Interview, P1, 00:41) Paraprofessional 2 explained they helped the Students with their schoolwork, and participated with them in track and football practices. (Paraprofessional 2 Interview, P1, 01:00) Paraprofessional 2 believed they started participating in the football practices with the Students on August 16th. (Paraprofessional 2 Interview, P1, 01:25)
36. Paraprofessional 2 explained their instructions to help the Students during football practice was to make sure they were taken care of and help with any needs, such as going to the bathroom. (Paraprofessional 2 Interview, P1, 01:34) When asked if

- there was any discussion about how or if the Students needed to be supervised in the locker room, Paraprofessional 2 said, "... since I'm a female I didn't feel like it was right to go into a locker room full of boys. I stood right outside the locker room. I could hear everything that was going on." (Paraprofessional 2 Interview, P1-2, 01:58) Paraprofessional 2 did not recall a plan that someone had to be in the locker room to supervise the Students. (Paraprofessional 2 Interview, P2, 02:25)
37. Paraprofessional 2 said, "[The Parent] had told us last year that ... the paraprofessionals, they got their stuff ready for 'em, but [the Parent] said this year they were doing great, that they didn't need to have help in the locker room." (Paraprofessional 2 Interview, P2, 03:03) Paraprofessional 2 stated this conversation with the Parent took place in the beginning of September. (Paraprofessional 2 Interview, P2, 03:50)
  38. Paraprofessional 2 indicated they were supervising the Students during football practice on October 29, 2024. (Paraprofessional 2 Interview, P3, 04:15) Paraprofessional 2 said they remain on the sidelines while the Students practice, and after practice is dismissed, the Students are ready to leave and usually the first in the locker room. (Paraprofessional 2 Interview, P3, 04:33) Paraprofessional 2 explained that on October 29, 2024, the Students entered the locker room and their teammates followed. Paraprofessional 2 stated it was only about a minute where the Students were in the locker room with their teammates before Coach 1 entered the locker room. (Paraprofessional 2 Interview, P3, 6:10)
  39. Paraprofessional 2 said they saw Coach 1 run to the locker room, but perceived they were running because they are "always running." (Paraprofessional 2 Interview, P4, 06:36) Paraprofessional 2 confirmed they saw Coach 1 enter the locker room on October 29, 2024 and that the Students were only without Coach 1 for about a minute. (Paraprofessional 2 Interview, P4, 07:13) Paraprofessional 2 believed the Students were in the locker room for about five minutes before exiting on October 29, 2024. (Paraprofessional 2 Interview, P4-5, 08:06)
  40. Paraprofessional 2 stated they heard the students and coach talking in the locker room. Paraprofessional 2 said nothing transpired in the locker room that concerned them. (Paraprofessional 2 Interview, P5, 08:59)
  41. Paraprofessional 1 stated they are a special education paraprofessional with the School and had been working with the Students since the beginning of April 2024. (Paraprofessional 1 Interview, P1, 00:44)
  42. Paraprofessional 1 said their duties were to make sure the Students complete their academic work and offer general support. (Paraprofessional 1 Interview, P1, 01:13) Paraprofessional 1 confirmed they supervised the Students during football practice. (Paraprofessional 1 Interview, P1, 01:34) Paraprofessional 1 explained their duties were to meet the Students' needs while they are at football practice, and they started offering support during football practice around September 2024. (Paraprofessional 1 Interview, P1-2, 01:45)
  43. In regards to providing support during football practice, Paraprofessional 1 said they were told to help the Students stay focused and stay on task. (Paraprofessional

- 1 Interview, P2, 02:27) Paraprofessional 1 said, "... but as a, as a woman ... we're not allowed to be in the, I felt like we're not allowed to go in the locker rooms while, especially with the rest of the team being in there." (Paraprofessional 1 Interview, P2, 02:45)
44. Paraprofessional 1 initially said they were not told by anyone not to enter the locker rooms. (Paraprofessional 1 Interview, P2, 03:17) Paraprofessional 1 did not recall when they were notified that there needed to be adult supervision in the locker room for the Students. (Paraprofessional 1 Interview, P2-3, 03:21) Paraprofessional 1 eventually stated they recalled either the Principal or the Students' special education teacher telling them they could not go into the locker room. (Paraprofessional 1 Interview, P3-4, 03:58)
45. According to Paraprofessional 1, on October 29, 2024, they were with Paraprofessional 2, followed the Students to the locker room, and then waited by the concession stand. (Paraprofessional 1 Interview, P4, 05:53) Paraprofessional 1 said they heard the football team talking inside the locker room. Paraprofessional 1 explained the locker room door was open but they could not see inside. (Paraprofessional 1 Interview, P5, 06:51) Paraprofessional 1 said they did not recall having football practice on October 30, 2024.
46. Paraprofessional 1 said they waited outside the locker room for about 5-10 minutes on October 29, 2024. (Paraprofessional 1 Interview, P5, 07:54) Paraprofessional 1 perceived it took Coach 1 about 3-4 minutes to enter the locker room after the Students had entered. (Paraprofessional 1 Interview, P5-6, 08:17)
47. The Students' Special Education Teacher indicated this was their second year working with the Students. (Special Education Teacher Interview, P1, 00:58) The Special Education Teacher described the Students as non-verbal, well-behaved, and eager to learn. (Special Education Teacher Interview, P1, 01:21)
48. The Special Education Teacher explained that the Students could get dressed by themselves, use their talkers, get to their lockers and classes on their own, and use the restroom by themselves. They said the Students did not require one-on-one support in various activities, such as art class and when working on community projects. (Special Education Teacher Interview, P2, 02:42)
49. The Special Education Teacher said, "Locker room was never discussed. That is not in the IEP." (Special Education Teacher Interview, P2, 04:21) The Special Education Teacher believed the Parent may have requested one-on-one paraprofessional support in the locker room after a specific incident occurred. (Special Education Teacher Interview, P2-3, 04:39) The Special Education Teacher said, "Evidently there was some allegations that [the Students] ... had a picture taken of them in the bathroom. There has been no evidence of this picture. I didn't find out until ... October 7th had I even heard of the incident. And because of that we went and had a ... meeting with the superintendent and I, and the coach, and we decided that the coach can go in there ... to supervise ... but it was not part of the IEP meeting or anything like that." (Special Education Teacher Interview, P3, 05:19) The Special Education Teacher said having one-on-one adult support in the locker room was

- not discussed prior to October 7th or 8th and was not in the IEP. (Special Education Teacher Interview, P3, 06:19)
50. The Special Education Teacher explained they addressed the special education services in Student 1's IEP by having paraprofessionals with them at football practice, and these paraprofessionals stood outside the bathroom door, which stays open. They stated there had not been a discussion about the paraprofessionals going into the locker room. (Special Education Teacher Interview, P4-5, 09:13)
51. The Special Education Teacher said, "... the time that they were not supervised, it sounds like ... a minimal time, like 20 seconds, 30 seconds ... and that's just from walking from the football field into the locker room. And those paraprofessional pairs [sic] were right there. So I don't feel like they were unsupervised in the bathroom, per se, because all the kids were leaving for parent-teacher conferences." (Special Education Teacher Interview, P5, 10:26) The Special Education Teacher indicated the IEP had since been revised, stating a new provision that when there is a team in the bathroom, an adult male will be in the bathroom also. (Special Education Teacher Interview, P5-6, 12:15)

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

**ISSUE ONE:** USD #274, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to educate the two Students in the least restrictive environment, including extra-curricular activities since the beginning of the 2024-25 school year. K.A.R. 91-40-1.

According to 34 CFR 300.320 and K.A.R. 91-40-1, each agency shall ensure that the children with disabilities served by the agency are educated in the least restrictive environment (LRE). The least restrictive environment means the educational placement in which, to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, including extra-curricular activities. Children with disabilities are to be removed from the general education environment only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services or modifications cannot be achieved satisfactorily.

**Parent Position:** The Parent alleged that on October 29, 2024, the Parent observed all coaches on the football field with a few football players while the remainder of the team went to the locker room after practice. The Parent alleged they did not observe any coach or male adult enter the locker room for supervision. The Students have female paraprofessionals and the Parents had asked that a football coach be present as a safety protocol for their non-verbal Students. The Parents asked the School to review the process, and the School proposed dressing in their own locker room or at a different time than everybody else. The Parent alleged the School offered exclusion rather than the 1:1 support.

**District Position:** The District disputes the claims made in the Complaint. The District stated upon the knowledge of the less than 2-minute coach entry into the locker room,

after the District reviewed video footage of the football locker room entry by Student 1 and Student 2, the District was not in violation of the Complaint.

### **Conclusion**

The IEP in effect for Student 1 on October 29, 2024 did not specify that adult support was required in the locker room. Student 2's IEP in effect on October 29, 2024, specifically noted that Student 2 did not require adult support in the locker room. The District's records and investigative interviews reflect that adult support in the restroom had not been the expectation of the Parent until October 27, 2024, at which time the Parent made the request for adult support to be provided in the restroom. The District agreed to this support and an adult started going into the locker room within 1-2 minutes after practice starting on October 28, 2024, and including October 29, 2024.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to educate the two Students in the least restrictive environment.

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)