

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #413
ON NOVEMBER 11, 2024

DATE OF REPORT: DECEMBER 26, 2024

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ----- by ----- and ----- . ----- is the child's parent and ----- lives with the family.

In the remainder of the report, ----- will be referred to as the "student". ----- will be referred to as the "complainant" and ----- will be referred to as the "father" while both ----- and ----- will be referred to as "the parents".

The complaint is against USD #413 (Chanute Public Schools) who contracts with the ANW Special Education Interlocal to provide special education services to students enrolled in the school district. In the remainder of the report, both of these responsible public agencies may also be referred to as "the district", "the local education agency (LEA)", or "the school".

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on November 11, 2024. The 60-day appeal deadline is January 10, 2025

Evidence Reviewed

During the investigation, the Complaint Investigator, Nancy Thomas, reviewed all the documentation provided by both the complainant and the district.

The complainant and the father were interviewed by telephone on November 19, 2024 as part of this investigation. In addition, the complainant and the investigator spoke by telephone on November 18 and 21, 2024 as well as December 3, 4, 6, 9, 10, 13, 16, and 18, 2024 to clarify issues/concerns and to gather additional information.

Korenne Wolken, Director for the ANW Special Education Interlocal and the investigator spoke by telephone on November 21, 2024 as well as December 5, 10, 16, and 19, 2024 regarding the allegations.

The following written documentation was used in consideration of the issue:

1. IEP Goal Progress Reports for 2nd, 3rd and 4th quarters of the 2023-24 school year and the 1st quarter 2024-25 school year
2. Team Meeting Notes dated February 14, 2024 referencing the Dyslexia Evaluation completed by Pittsburg State University

3. Individualized Education Program (IEP) dated March 29, 2024
4. Evaluation / Eligibility Report dated March 30, 2024
5. Evaluation / Eligibility Report dated November 18, 2024
6. IEP dated November 18, 2024
7. IEP Team Meeting Notes dated November 18, 2024
8. Prior Written Notice (PWN) dated November 18, 2024 requesting consent for a material change in special education services
9. Response to the Allegations dated December 10, 2024 written by Ms. Wolken
10. Amended IEP dated December 11, 2024 containing revisions requested by the parents
11. PWN dated December 11, 2024 requesting consent for a material change in special education services
12. Daily Student Schedule based on the December 11, 2024 IEP
13. Email dated December 11, 2024 at 5:22 PM written by Ms. Wolken to the complainant regarding the revisions requested by the parents
14. Email dated December 11, 2024 at 9:28 PM written by Ms. Wolken to the parents with attachments including a student schedule as well as the IEP and PWN dated that same date
15. Letter dated December 16, 2024 written by Ms. Wolken to the parents regarding miscommunication

Background Information

The student is a 10-year-old young man who is currently enrolled in the fourth grade at Chanute Elementary School in USD #413. Interviews and records show the student received early intervention services and was initially identified for early childhood special education services at age three under the exceptionality category of Developmental Delay. He has received special education and related services through an IEP since that time. The parent reports and the district staff acknowledged the student also has a diagnosis of Dyslexia from Pittsburg State University.

It is noted that eligibility for the exceptionality category of Development Delay ends at age 10 so a reevaluation with additional assessment was conducted during the 2024-25 school year. As a result of that reevaluation, USD #413 determined that the student continued to be eligible for special education and related services under the exceptionality category of Intellectual Disability on November 18, 2024.

Issues Investigated

Based on the written complaint, two issues were identified and investigated.

Issue One

USD #413, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parents with IEP goal progress reports during the past 12 months which negatively impacted their opportunity to participate meaningfully in the IEP team meetings.

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(3)(ii) require school districts to provide parents with periodic reports on the progress a child is making toward meeting the annual IEP goals such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards.

Analysis: Findings of Fact

The following finding of facts is based on interviews and record review:

The student's IEPs in effect during the past 12 months include a statement regarding Progress Report Distribution which indicates these will be provided to parents at the same time as progress is reported for the general education peers. According to USD #413 staff, this progress is reported quarterly through grade reports and parent conferences.

The parents initially reported that they were not provided with progress reports on the student's IEP goals during the last 12 months. However, the parents later acknowledged that they did receive these reports and had copies of each one in their possession.

The district provided copies of the IEP Goal Progress Reports retrieved from the IEP system which included the date that each was provided to parents as well as the manner in which they were delivered. USD #413 staff also reported that the student's parents attended the 2024 fall parent teacher conference and have visited with staff on multiple occasions to discuss the student's progress during the 2024-25 school year.

The district reported and the parents acknowledged that the district specifically responded to this allegation in the child complaint as follows:

Superintendent Matt Koester and Special Education Director Korenne Wolken met with parents on December 3, 2024 to discuss their complaint. At this time, the parents provided verification that they had received copies of the progress reports during the last 12 months. They were very organized and had each progress report in a manilla folder that indicated the date they received them and the teacher who sent it to them. Mr. Koester and Mrs. Wolken reviewed the progress reports with the parents in an effort to provide clarification on how to read them. The parents expressed frustration that there were items such as "common core standards" and "baselines" indicated on the progress report and shared that they "contained a bunch of gibberish." Mr. Koester and Mrs. Wolken spent over 1 hour walking the parents through how to interpret a progress report.

Conclusion

Federal regulations require school districts to provide parents with periodic reports of student progress towards the annual IEP goals. In this case, both the parent and the district acknowledge that the IEP goal progress reports were provided as required. Based on the foregoing, the district is found to be ***IN COMPLIANCE*** with the requirements of the IDEA.

It is noted that the district identified miscommunication as the underlying issue which resulted in this allegation and subsequently met with the parents to address their concerns and provide information on how to understand and interpret the IEP Goal Progress Reports in the future.

Issue Two

USD #413, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide a free appropriate public education (FAPE) to the student during the past 12 months, specifically by failing to provide the educational support required for the student's learning disability of dyslexia.

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(4) require school districts to include a statement of the special education and related services and supplementary aids and services to be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum and participate in extracurricular and other nonacademic activities; and 3) be educated and participate with other children with disabilities and nondisabled children.

Analysis: Findings of Fact

Again, the following finding of facts is based on interviews and record review:

Meeting notes document that the parents shared a Pittsburg State University evaluation diagnosing with the student Dyslexia with the staff in USD #413 on February 14, 2024. The parents expressed concerns that the IEP was not addressing the student's difficulties with basic reading skills and reading comprehension. They indicated they were confused as to when the student actually received his specialized reading instruction.

The IEP team met on March 29, 2024 to review and revise the student's IEP. The IEP documented the parents' concerns for increasing the student's reading decoding skills and the request for "help with dyslexia concerns". This IEP included two reading goals - one to increase reading decoding skills and another to increase reading comprehension skills. The IEP required 150 minutes per week of specially designed reading instruction in the special education resource classroom setting and 300 minutes per week of specially designed functional academic reading and math instruction in the special education functional skills classroom setting in order for the student to make progress towards achieving these two

goals. IEP goal progress reports indicate the student was making adequate progress towards these goals at the end of the 2023-24 school year.

USD #413 initiated a reevaluation at the beginning of the 2024-25 school year as the student would be turning age 10 and no longer be eligible for special education under the eligibility category of Developmental Delay. The parents reported they were informally told by the school psychologist that the student would now qualify under the eligibility category of intellectual disability and not Dyslexia prior to the eligibility determination meeting scheduled for November 18, 2024. The IEP team met on November 18, 2024 and proposed a change in eligibility from Developmental Delay to Intellectual Disability with delays in reading, writing, and math.

The IEP team also met on this same date to review and revise the student's IEP in light of the proposed change in eligibility for special education and the results of the additional assessments. This IEP noted the parents continue to be concerned with the student's reading deficits and whether the proper interventions were being provided to address these deficits. In addition, the parents "expressed concerns with staff using jargon that is not descriptive enough for understanding".

The November 18, 2024 IEP proposed by USD #413 continued to include a reading decoding goal and a reading comprehension goal. Specially designed instruction in reading was continued at 150 minutes per week in the special education resource classroom and changed to include 200 minutes per week of functional reading instruction in the functional skills classroom along with 150 minutes per week of special education reading instruction and support in the general education classroom. However, the parents disagreed with the proposed change in eligibility and the proposed IEP and refused to provide consent when provided with appropriate prior written notice by USD #413.

During telephone calls with the parents, the investigator encouraged them to clarify their specific concerns and requests and to share these with the LEA staff. Throughout the investigation window, the parents, the LEA staff and the investigator communicated frequently regarding these concerns and parent recommendations related to eligibility, the IEP goals, additional special education services necessary for the student to achieve the IEP goals, and the addition of several accommodations/modifications which would need to be provided so the student could more effectively access the general education curriculum.

On December 11, 2024, USD #413 amended the proposed November 18, 2024 IEP to include all of the parent requests and provided the parents with an appropriate prior written notice explaining the change in eligibility and the material change in services. In addition, the district provided the parent with a proposed schedule showing when the specialized reading instruction would be provided to the student. On December 16, 2024, USD #413 again communicated with the parents expressing their desire to continue to work together to provide the student with a free appropriate public education.

Conclusion

Federal regulations require that districts include a statement of the special education and related services and supplementary aids and services to be provided to enable the child to 1) advance appropriately toward attaining the annual goals; 2) be involved in and make progress in the general education curriculum and participate in extracurricular and other nonacademic activities; and 3) be educated and participate with other children with disabilities and nondisabled children.

In this case, the parents shared an outside evaluation with the district which identified the student with dyslexia in February 2024. The IEP team met on March 29, 2024 to review and revise the IEP and included goals to address the reading concerns shared by the parents. This IEP required specially designed instruction in the area of reading to enable the student to make progress towards achieving these IEP goals and subsequent IEP goal progress reports showed the student was making progress.

The IEP team met again on November 18, 2024 and again reviewed and revised the student's IEP based on the most recent reevaluation with assessment which identified the student under the exceptionality category of intellectual disability with delays in reading, writing, and math. The parents refused to provide consent for a material change in services at that time but subsequently worked with the LEA staff to amend the proposed November 18, 2024 IEP on December 11, 2024 to include goals, services, as well as accommodations/modifications to provide the student with FAPE in light of the identified intellectual disability with delays in reading, writing, and math.

Based on the foregoing, USD #413 is found to be *IN COMPLIANCE* with the requirement to develop an IEP to provide a free appropriate public education (FAPE) to the student during the past 12 months, specifically by addressing the educational support required for the student's learning disability of dyslexia.

Summary of Conclusions/Corrective Action

1. **ISSUE ONE:** A violation of federal regulations at 34 C.F.R. 300.320(a)(3)(ii) was not found because the parents did receive copies of IEP Goal Progress Reports for the student during the past 12 months. It is noted that the LEA provided an explanation of these reports when it learned the parents did not fully understand the information provided.
2. **ISSUE TWO:** A violation of federal regulations at 34 C.F.R. 300.320(a)(4) was not found because the district did include IEP goals, specially designed instruction, and accommodations/modifications to address the parents' concerns related to reading skills and dyslexia when the student's IEP was reviewed and revised on March 29, 2024. In addition, the district reviewed and revised the IEP again on November 18 and again on December 11, 2024 to address the parents' concerns regarding reading as well as new information resulting from a reevaluation of the student. It is noted the district also provided the parent with a copy of the proposed schedule showing when all

specialized instruction in reading would be provided to the student as the parents had expressed concerns that all services were not being provided.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

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

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

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

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

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

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

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