

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES  
REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #512, SHAWNEE MISSION PUBLIC SCHOOLS  
ON NOVEMBER 26, 2024  
DATE OF REPORT: DECEMBER 21, 2024

This report is in response to a complaint filed with the Kansas State Department of Education against USD #512 Shawnee Mission Public Schools on behalf of ----- by his mother, ----- In the remainder of the report, ----- will be referred to as "the student." ----- is the student's mother and in the remainder of the report she will be referred to as "the complainant," "the parent," or "the mother."

The complaint is against USD #512 Shawnee Mission Public Schools. In the remainder of the report, USD #512 will be referred to as "the district." The student attends Tomahawk Elementary. In the remainder of the report this school will be referred to as "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 26, 2024 and the 30-day timeline ended on December 26, 2024.

### **Evidence Reviewed**

During the investigation, the Complaint Investigator Dr. Donna Wickham reviewed all documentation provided by the district and the parent. The following was used in consideration of the issues:

- Notice of Meeting dated May 3, 2024
- Prior Written Notice for Identification Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent, dated May 15, 2024
- Individual Education Program dated December 11, 2023 and amended May 28, 2024
- Progress Report with report dates of January 4, 2024; March 20, 2024; May 29, 2024; and October 15, 2024
- Timeline Narrative from November 21, 2024 from 10:56 a.m. through approximately 1:00 p.m.
- Parent Notification Letter – Emergency Safety Intervention dated November 21, 2024
- District response dated December 16, 2024

The Investigator first spoke with the mother by phone on December 3, 2024 and then emailed with the mother on several occasions to clarify specific points. The investigator called but was unable to speak with the father. The investigator called and spoke with a family friend,

Stephanie Beattie on December 21, 2024. The Investigator interacted with the district by email to clarify evidence. The district declined to participate in an interview with the investigator.

## **Background Information**

The student is an eleven-year-old sixth grader and was eligible for special education and related services under the category of Other Health Impaired based on the most current reevaluation dated December 11, 2023. He additionally has a medical diagnosis of ADHD and epilepsy. At the time of the complaint the student had an IEP developed on December 11, 2023 and amended May 28, 2024 to include three goals, one in reading, math and behavior. It is marked that the student has behaviors that impede his learning or the learning of others. These needs are met by accommodations and goals. The behavior goal uses a rubric to improve behavior in four areas: following directions, having a safe body, activity completion and listening. The IEP lists specially designed instruction in a special education setting 60 minutes daily for reading and math goals and 15 minutes daily for behavior goal and OT consultation 20 minutes monthly. The student's accommodations include: positive, concrete reinforcement for positive behavior and best effort; shorten assignments to demonstrate mastery; directions presented in multiple formats-written, verbal, etc.; Math resources including but not limited to hundreds charts, multiplication chart, etc.; provide "CLOZE" or fill-in-the-blank notes; when possible, provide redirection in quiet, individual manner; frequent and structured sensory breaks to help with focus and attention; separate setting and frequent breaks for assessments; visuals of test-taking strategies and positive self-talk; copies of stories or text read aloud for the purpose of highlighting and note taking; let student know about schedule changes in advance; access to fidgets, opportunities to stand, flexible seating options, visual schedule; independent activities available during downtime; seating near the board; option of speech to text and text prediction for written assignments; read aloud for all state and district assessments. No staff supports were written into the IEP.

## **Issues Investigated**

The child complaint submitted by the mother referred to a November 22, 2024 incident. It was later verified that the date of the incident was November 21, 2024. All evidence and issues were updated to refer to the correct date of November 21, 2024 in the report.

**ISSUE ONE:** Did the district follow the student's IEP when addressing a school conflict occurring on November 21, 2024?

**ISSUE TWO:** Did the district follow IDEA procedures in regard to parental contact regarding the school incident on November 21, 2024?

### **Issue One**

Did the district follow the student's IEP when addressing a school conflict occurring on November 21, 2024?

## **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. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

## **Analysis: Findings of Fact**

The Parent alleged that the staff accused the student of lying about a peer conflict and sent the student to the office. During that exchange, the police were called when the student stated he wanted to die and was handcuffed. As a result of this the parent stated she does not feel it is safe for her student to attend the school.

The timeline of the incident provided by the district confirmed that a teacher approached the student asking about an incident, "10:56- Witness reports (6th grade teacher, 5th grade teacher, and [Student]) share 6th grade teacher and [Student] were asked to speak with 5th grade teacher. 6th grade teacher and [Student] come inside from recess and meet with 5th grade teacher. She asks [Student] if [Student] told one of [the] students [Student] "[description of incident]. [Student] denied the statement. 5th grade teacher brings the accuser into the hallway to speak with [Student]. The accuser sticks with [the] story. 5th grade teacher asks if anyone heard it. The accuser names two people. One heard something but could not remember what it was. The other confirmed the accuser's story. 5th grade teacher makes a statement about how [the] student has never lied to [teacher]."

The family friend reported during an interview with the investigator on December 21, 2024 that in addition to being a friend of the family [they] work at the school as an instructional aide and meet with the student at the end of each school day to do a "checkout" . The family friend is also known in the school, along with the social worker to be a person that the student can go when frustrated or needs a quiet place. The family friend reported that [they] were not aware of the incident at the time it was occurring and was not contacted about the situation to be a resource to the student. The family friend reported that they met with the principal after the incident to reiterate a desire to be available to the student.

The IEP dated December 11, 2023 and amended May 28, 2024 is marked that student has behaviors that impede learning or the learning of others and the needs are met by accommodations and goals. The IEP includes a behavior goal to teach appropriate behavior for following directions, having a safe body, activity completion and listening with 15 minutes of special designed instruction provided daily in the special education setting. The student had accommodations for 1) positive, concrete reinforcement for positive behavior and best effort; and 2) when possible, provide redirection in quiet, individual manner.

In the present levels of performance section of the student's December 11, 2023 and amended May 28, 2024 IEP, the teacher and social worker rated, the student's Social

Participation on The Sensory Processing Measure – 2nd Edition (SPM-2) as “Never” for “handles frustration without outbursts or aggressive behavior.”

The district described in their response dated December 16, 2024 that the student was significantly dysregulated and trying to harm self by banging head against the wall or climbing the railing in the stairwell and attempting to jump over the railing triggering Emergency Safety Interventions (ESI). When emergency personnel arrived, the student kicked a law enforcement officer and was handcuffed according to the district timeline. The district reported that since the student did not have a behavior intervention plan (BIP), nor emergency procedures in the IEP the district administrators followed their district procedures and contacted law enforcement to keep the student safe when the emergency situation was occurring.

The timeline of the incident provided by the district documented that the parents and district staff debriefed about the event and discussed strategies to prevent incidents from happening again at approximately 1:00 p.m. on the same day of the incident. Additionally, according to the student’s mother the IEP team met afterward and made changes to the student’s IEP accommodations.

According to the district and parent the student returned to school and was not given a suspension.

### **Conclusion**

Federal regulations at 34 C.F.R. §300.323(c)(2) and state regulations at K.A.R. §91-40-16(b)(2) require a district to implement the IEP in a timely fashion. While the student’s IEP documented the student had behaviors that impeded the student or other’s learning, and the student had goals and accommodations related to behavior these services did not address emergency procedures. Since the IEP did not include any services or provisions related to emergency procedures when the student was attempting and/or threatening self-harm the district did not have any IEP implementation obligations in this situation.

Therefore, it is found that since the student’s IEP did not include emergency procedures for the district to implement when responding to the student’s behavior, it *is not substantiated* that the district failed to implement the student’s IEP in regard to the November 21, 2024 incident.

### **Issue Two**

Did the district follow IDEA procedures in regard to parental contact regarding the school incident on November 21, 2024?

### **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. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are

implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

### **Analysis: Findings of Fact**

The findings of Issue One are incorporated herein by reference. The parent alleged in the complaint that the parent was not contacted about the incident in a timely manner and the student was not allowed to contact the parent during the incident.

The timeline of the incident provided by the district reported that at, "11:04- [Student] paces around the office and is picking up phones, saying [Student] wants to call [Student's] mom. Building Administrator says let's call from my office. [Student] exits the office from the nurse's office."

The IEP dated December 11, 2023 and amended May 28, 2024 does not include any reference to contacting a parent during a crisis. The timeline narrative for the day of the event provided by the district documented the mother was called using speaker phone to allow the student to speak to the mother at 11:06 a.m., 11:09 a.m., 11:13 a.m., 11:25 a.m., 11:27 a.m., 11:36 a.m., and 11:48 a.m. The timeline further documented that the district placed phone calls to the father at 11:18 a.m., 11:22 a.m. and 11:26 a.m.. At 11:27 a.m. the district called all emergency contacts by phone and emailed both parents, At 11:49 a.m. the father was reached via text and at 12:10 p.m. the family friend called back. A phone log provided by the district verified the times listed on the timeline.

### **Conclusion**

IDEA regulations do not address fundamental rights or timelines for contacting parents or student's request to call a parent. However, procedures for parent and student contact may be addressed by the IEP team if needed and included in the student's IEP. In this case the student's IEP did not include any statement that the family should be contacted in the event of a behavioral incident, nor that the student should be allowed to contact a family member in the event of a behavioral incident.

Since the IEP did not address contacting the family in the case of a behavioral incident IDEA regulations do not address the November 21, 2024 incident.

While not addressed by IDEA nor the student's IEP it is noted that the district documented attempts to reach both parents and persons listed on the emergency phone list within two minutes of the student asking to call his mother.

Based on a review of the student's IEP and review of IDEA regulations, it is found that USD #512 *met their obligation and followed IDEA procedures* in regard to parental contact regarding the school incident on November 21, 2024.

## **Summary of Conclusions/Corrective Action**

**ISSUE ONE:** A violation of 34 C.F.R. §300. 323(c)(2) K.A.R. §91-40-16(b)(2) was not found, based on the facts above. Corrective action is not required.

**ISSUE TWO:** A violation of 34 C.F.R. §300.323(c)(2) K.A.R. §91-40-16(b)(2) was not found, based on the 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](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)