

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #268  
ON NOVEMBER 25, 2024

DATE OF REPORT: DECEMBER 25, 2024

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

The Complaint is against USD #268, Cheney Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #268.

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 25, 2024, and the 30-day timeline ended on December 25, 2024.

### **Allegations**

The following issue will be investigated:

**ISSUE ONE:** Whether USD #268, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement 600 minutes of paraprofessional support in the Student’s English Language Arts Class and 180 minutes of social work support as described in the Student’s IEP K.A.R. 91-40-16(b)(3).

### **Investigation of Complaint**

Tania Tong, the Complaint Investigator, interviewed the Parent via video conference on December 11, 2024.

In completing this investigation, the following items were provided by the District, but were not reviewed due to the District not contesting the allegation.

1. Individualized Education Program (IEP) DRAFT dated November 5, 2024
2. IEP dated December 6, 2023
3. [Student] Compensatory Services in Reading dated November 14 through December 3, no year
4. Letter to Parents dated November 11, 2024
5. Letter to Parents with signature dated November 11, 2024
6. IEP dated April 4, 2024

7. Notice of Special Education Meeting dated March 21, 2024
8. Prior Written Notice (PWN) dated April 4, 2024
9. Letter to Parents with notes dated November 8, 2024
10. Timeline of Events dated October 18 through November 16, 2024
11. Progress Report dated November 11, 2024
12. District Response dated December 2, 2024
13. Schedule, no date
14. [Student] Compensatory Social Work Services dated November 12 through December 5, 2024
15. Email, re: para assistance dated October 14, 2024
16. Email, re: updated progress report dated November 11, 2024
17. Email, re: follow up email dated October 22, 2024
18. Email, re: compensatory services letter dated November 8, 2024
19. Email, re: follow up dated October 25 through November 10, 2024
20. Email, re: compensatory services letter dated November 8 through November 16, 2024
21. Email, re: follow up email dated October 22, 2024
22. Email, re: middle school schedule dated October 22, 2024
23. Email, re: website message dated October 18, 2024
24. Email, re: website message dated October 22, 2024

### **Background Information**

This investigation involved a sixth grade student who is on the autism spectrum, and has dyslexia and ADHD. The Student is enrolled at a middle school in Cheney Public Schools USD #268.

### **Findings of the Investigation**

The following findings are based on a review of documentation and interviews with the Parent.

1. The Parent stated the Student is in sixth grade at a middle school in the District, and receives educational accommodations. (Parent Interview, P1, 00:55)
2. The Parent indicated they first learned that special education services were not being provided to the Student at parent-teacher conferences in October 2024. The Parent explained that during a conversation with the English Language Arts (ELA) teacher, the teacher commented that if the paraprofessional was present in the class for the entire time, then maybe the Student could get extra help. The Parent identified this as a problem because they know the Student's Individualized

Education Program (IEP) requires full paraprofessional coverage for English Language Arts and other classes.

3. The Parent stated the Student requires support because they frequently have questions, require repeated instruction and to have things broken down, and intervention with comprehension. The Parent said the Student is on the autism spectrum, and has dyslexia and ADHD.
4. When asked by the Investigator about any impacts from the lack of paraprofessional support in English Language Arts class, the Parent said, "[The Student] has failed every single AR or accelerated reader book tests that they have to take on their library books. [The Student has] failed every single test except the one that I read with [them] at home. [The Student] is not at a place where [they] can be independent with [their] reading. And so the para [sic] was actually not there for the silent reading time. And so that has been a direct impact."
5. The Parent stated they emailed the special education teacher and principal about the lack of paraprofessional support after learning about it at the parent-teacher conference. The Parent explained the special education teacher replied and indicated there was a paraprofessional shortage and they were working to serve the students at their time of greatest need. The Parent disagreed with this statement because it was not what was stated in the Student's IEP. The Parent then met with the principal and during that conversation, said it was their understanding that the shortage and hiring of paraprofessionals was the responsibility of the COOP.
6. After their meeting with the principal, the Parent stated they spoke with the COOP director, who said they were not aware of a shortage of minutes for paraprofessionals. The Parent indicated they received conflicting information from the school and the director of the COOP as to whose responsibility it was to hire paraprofessionals. The Parent said, "At that point, the superintendent had some time to look into it and did confirm with me that it is the school's responsibility. [The Superintendent] explained to me what that process looks like with the [COOP] support. ... And [the Superintendent] is also the one who had the data about how many minutes were missing in ELA and specifically why they were missing because ... it was due to a decision that was made by a special education teacher because [they] wanted [the Student] to be more independent."
7. The Parent stated they disagreed with the decision to remove the paraprofessional from the English Language Arts class, and that it went against the Student's IEP. The Parent indicated they were made aware of this decision by the Superintendent after they had brought up their concerns to the Superintendent.
8. The Parent indicated the School failed to provide 180 minutes of social work support. The Parent explained the Superintendent took steps to address the issues with the paraprofessional support, get the minutes covered, and put the Parent in contact with COOP assistant directors to address concerns the Parent had regarding a Study Skills class. The Parent stated the assistant COOP director

informed them that during their investigations into the Student's IEP, it was discovered that there were also missing social work minutes. The Parent indicated they learned that the Student was only being provided one session of social work per week rather than the two, which was what was written in the IEP.

9. The Parent explained the School offered to provide the Student with the missing minutes with compensatory services, and the Parent accepted this offer. The Parent said that a resolution is in process.
10. According to the Parent, "The reason that the social worker said that only one session was being provided instead of two is because [they] misread the IEP. ... we've got one special education teacher making a decision ... to go against the IEP with ELA, and then we've got one misreading the IEP. ... And we've got people making decisions that are wrong and making mistakes and, and both are not acceptable."
11. The Parent said, "I appreciate the co-op [sic] and the district offering compensatory services. ... [The Student] was owed those minutes and [they need] to be ... delivered those minutes. They need to be made up."
12. The District did not contest the allegation. Once the District realized they were out of compliance with the IEP, they offered compensatory services to the Student for the minutes and sessions that had been missed.

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

### **Issue One**

Whether USD #268, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement 600 minutes of paraprofessional support in the Student's English Language Arts Class and 180 minutes of social work support as described in the Student's IEP K.A.R. 91-40-16(b)(3).

According to 34 CFR §300.323 and K.A.R. 91-40-16(b)(3), an IEP must be in effect for each exceptional child at the beginning of each school year.

The Parent alleged the Student's teacher did not follow the IEP when the Student did not receive paraprofessional support for their English Language Arts class. A special education teacher indicated to the Parent this was due to a paraprofessional shortage. The Parent alleged the Student only received social work support once per week, when the IEP required it to be twice per week.

The District acknowledged in the District Response that 600 minutes of paraprofessional support in the Student's English Language Arts class and 140 minutes of social work support was not provided as described in the Student's IEP. The superintendent emailed the Parent on October 25, 2024 stating the Student was not provided special education services for 24 class

periods. The Superintendent also stated in their email that the District would agree to compensatory services which would be discussed at an upcoming IEP meeting. The COOP also agreed to provide compensatory services for the Student.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is substantiated* that the District failed to offer support services as outlined in the Student's IEP.

### **Corrective Action**

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

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

In this case, the evidence supports the finding that USD #268 did not provide 600 minutes of paraprofessional support in the Student's English Language Arts class and 140 minutes of social work support as described in the Student's IEP.

Based on the foregoing, USD #268 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #268 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 CFR §300.323 and K.A.R. 91-40-16(b)(3), an IEP must be in effect for each exceptional child at the beginning of each school year.
2. By February 15, 2025, USD #268 shall submit written verification that District staff responsible for implementing IEPs or supervising the implementation of special education and related services received training on requirements at 34 CFR §300.323 and K.A.R. 91-40-16(b)(3), an IEP must be in effect for each exceptional child at the beginning of each school year.
3. Within 15 calendar days, USD #268 will offer compensatory services to make up for 600 minutes of paraprofessional support in the student's English Language Arts class and 140 minutes of social work support. To the extent that the offer of compensatory services is less than 600 minutes of paraprofessional support in the student's English Language Arts class and 140 minutes of social work support, the parent must agree in writing to the lesser amount.
4. Further, within 15 calendar days USD #268 will submit to Special Education and Title Services (SETS) a detailed accounting of the compensatory services to be provided and the anticipated completion dates, along with a copy of any written statement of agreement from the Parent to the amount of compensatory services.
5. Within 10 calendar days of completing the compensatory services specified above, USD #268 shall submit written notice to Special Education and Title Services (SETS) that the

compensatory services have been completed. USD #268 shall send a copy of that notice to the Parent.

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)