

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES  
REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #459, BUCKLIN PUBLIC SCHOOLS  
ON JANUARY 10, 2025  
DATE OF REPORT: FEBRUARY 3, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #459 (Bucklin Public Schools) on behalf of ----- by his mother ----- . In the remainder of the report, ----- will be referred to as “the student”, ----- will be referred to as “the parent”, “the mother” or “the complainant”.

The complaint is against USD #459 (Bucklin Public Schools). In the remainder of the report, USD #459 will be referred to as “the district.” The Southwest Kansas Area Cooperative District (SKACD #613) provides special education support for the district and will be referred to as “the cooperative” in the remainder of the report. The student currently attends the fifth grade at Bucklin Elementary School which will be referred to as the “elementary school” in the remainder of the report. In the remainder of this report, school and district staff will be referred to as follows:

- Trina Schmidt, Executive Director at the cooperative
- Jason Wright, Deputy Director at the cooperative
- Lori Lindeman, Interrelated (IR) teacher, the student’s classroom teacher at the elementary school
- Jessical Ralston, Principal at the elementary school
- Janae Powell, Speech Language Pathologist (SLP) at the cooperative
- Lynn Simpson, Certified Occupational Therapy Assistant (COTA) at the cooperative
- Megan Carson, Occupational Therapist (OT) at the cooperative
- Lee Stickle, TASN Director and team member on the TASN-Autism and Tertiary Behavior Supports (ATBS) team
- Krysten Clay, Licensed Professional Counselor (LPC), member of the Emotional Support Team (EST) at the cooperative
- Jennifer Eitel, Mixed Abilities coach at the cooperative
- Saundra Unruh, Instructional coach at the cooperative

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 January 10, 2025.

## **Evidence Reviewed**

USD #459 made the following staff available for interviews on January 24 and 27, 2025 as part of this investigation.

- Executive Director at the cooperative
- Deputy Director at the cooperative
- IR teacher at the elementary school
- SLP at the cooperative
- COTA at the cooperative
- OT at the cooperative

During the investigation, the Complaint Investigator, Nikki Crawford, reviewed all evidence and documentation provided by the district and the mother. Additionally, the complaint investigator contacted the district, elementary school principal and mother on January 13, 14, 17, 21, 22, 24, 26, 27 and 28, 2025 by phone and email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and district. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Progress Report legend, no date
2. Student's most current daily schedule including annotation from IR teacher, no date
3. Record of consultation and email supports provided by the mixed abilities coach to the IR teacher provided by the dated June 2024 through December 2025
4. Log of meetings and consultations provided by the school psychologist to support the student and his team dated August 12, 2024 through January 22, 2025
5. Student attendance record dated August 15, 2024 - January 10, 2025
6. Log of LPC services related to EST support dated August 17, 2024 through January 16, 2025
7. Medicaid Service Log Report of SLP services dated August 19, 2024 through January 17, 2025
8. Medicaid Service Log Report of OT services dated August 21, 2024 through January 15, 2025
9. Record of supports provided by the instructional coach to the IR teacher dated August 23, 2024 through January 17, 2025
10. Email from TASN director reflecting day-long consultation with IEP team on September 12, 2024 and follow-up meeting with the principal and IR teacher on October 23, 2024
11. Most recent IEP dated September 17, 2024
12. Prior Written Notice (PWN) dated September 17, 2024
13. Walk-Through Observation record with IR completed by cooperative's deputy director dated November 12, 2024

14. Progress report including progress data for October 15, 2024 and December 13, 2024, filed December 17, 2024
15. Phone call between the mother and investigator on January 13, 2025
16. Phone call between the cooperative executive director and investigator on January 13, 2025
17. Email exchange between the mother and investigator on January 14, 2025
18. District response to the complaint dated January 15, 2025
19. Phone call between the cooperative executive director and investigator on January 17, 2025
20. Email exchange between the cooperative deputy director and investigator on January 24, 2025
21. Email exchanges between the SLT and investigator on January 24 and January 26, 2025
22. Email exchanges between the cooperative executive director and investigator dated January 24 and January 27, 2025
23. Email exchanges between the IR teacher and investigator on January 26 and January 27, 2025.
24. Email exchange between the COTA and investigator on January 27, 2025
25. Phone call between the COTA and investigator on January 27, 2025
26. Phone call between the OT and investigator on January 27, 2025

### **Background Information**

The subject of this complaint is an 11 year old young man enrolled in the 5th grade at the elementary school during the 2024-2025 school year. He lives at home with his family including five siblings. The student was diagnosed with high functioning autism at 18 months. He attended preschool in the current district with typically developing peers for three years prior to starting kindergarten. The student uses a communication device and also types with a keyboard as his primary means of communication.

According to the most recent reevaluation conducted March 19, 2024, the student's primary qualifying exceptionality is autism and secondarily, communication, he also qualifies for academic support in the general education setting, Occupational Therapy and Speech/Language Therapy. Additionally, the student has an Individualized Healthcare Plan for a seizure disorder and asthma. Although not included as an IEP goal the following is noted as a need in his September 17, 2024 IEP, "Due to concerns with safety, [student] needs adult supervision. He will often elope from the classroom and needs prompting to return to the appropriate setting".

### **Issues Investigated**

Based on the written complaint and an interview with the complainant, two issues were identified and investigated.

#### **Issue One**

**Did the district follow the student's IEP specific to minutes of educational services during the 2024-2025 school year?**

### **Applicable Law**

Federal regulations at 34 C.F.R. §300.323(c)(2) requires 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.

### **Parent Position**

The parent reported in the January 10, 2025 complaint and the January 13, 2025 phone call that her son is not receiving the number of minutes of special education services as stated in his IEP, she shared, "his minutes hardly ever get met."

### **District Position**

The district stated in the January 15, 2025 response, "We assert that [student's] services have been provided consistently all school year. We acknowledge that there have been infrequent disruptions to scheduling which result in deviations from the daily route. However, [student] continued to have his services provided in the appropriate setting."

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

The following finding of facts is based upon a review of the documentation noted previously and interviews with both parties.

1. The September 17, 2024 IEP states that the student is to receive 214 minutes of instruction in the resource room per day, five days per week for English/Language Arts (ELA), math and daily living skills.
2. The student's schedule reflects 215 minutes of special education services each day related to ELA, Math and Daily Living Skills.
3. The IR teacher who is responsible for instruction commented in an email, "I basically just work off of the schedule each day. It fluctuates depending on his day. (if he is feeling well, gets enough sleep, etc). However, all his schedule is followed for meeting the minutes in the Special Ed class and regular ed class."
4. Walk-Through Observation record of the IR teacher, dated November 12, 2024 reflected that the "Student completed about eight minutes of academic work during the 30 minute observation". It is noted that during the observation there was a fire drill.
5. The September 17, 2024 IEP states that the student is to receive speech therapy twice per week for 30 minutes and OT once per week for 20 minutes.

6. The Medicaid Service Log Report reflects that the student received speech therapy twice per week for 30 minutes when the student was in attendance, all but three sessions when the provider was absent between August 19, 2024 and January 17, 2025. Missed minutes have been delivered through extended sessions during the 20 week period as reflected in the log.
7. The Medicaid Service Log Report reflects that the student received OT once per week when the student was in attendance for all but 4 sessions when the provider was absent between August 21, 2024 and January 15, 2025. Missed minutes have been delivered through extended sessions during the 20 week period as reflected in the log.

### **Conclusion**

The LEA is responsible to ensure minutes of services noted in the IEP are delivered. In this case, the IR teacher reports that the 214 minutes per day she is responsible to provide including ELA, Math and Daily Living Skills are delivered through following the student's daily schedule, although there is no documentation available to support her statement as she is not required to keep a log of activities related to each student in her classroom. The district shared an observation record that reflected the student was academically engaged for 8 out of 30 minutes during the observation, although there was a fire drill during the observation. The district shared the Medicaid Service Log Reports for both OT and SLP providers who are responsible for two or the four IEP goals. These records and provider interviews reflect that although there were missed sessions due to provider absences, the minutes of services stated in the student's IEP are more than accounted for through extended therapy sessions.

Based on the foregoing, USD #459 did follow the student's IEP minutes of educational services during the 2024-2025 school year and is *IN compliance* with IDEA regulations.

### **Issue Two**

Did the district address lack of academic progress on IEP goals during the 2024-2025 school year?

### **Applicable Law**

Federal regulations at 34 C.F.R. §300.324(b) mandates that the IEP team must review the IEP periodically, but not less than annually, to ensure that it is effective in addressing the student's needs. If the IEP is not working, the team is required to revise it to address: 1) any lack of expected progress toward the annual goals; 2) the results of any reevaluation; 3) information about the child provided to, or by, the parents; and 4) the child's anticipated needs.

### **Parent Position**

The parent reported that her son is not making expected progress on his IEP goals in the 2024-2025 school year. In the parent interview the mother stated, "We have backtracked instead of moving forward. It seems like he gets more testing than educating".

## **District Position**

The district stated in the January 15, 2025 response, "We find no fault in the IEP's team's ability to provide an opportunity for [student] to make progress in light of his circumstances.". The district more specifically stated, "According to [student's] December 2024 progress report, he made improvement, maintained his performance or experienced slight regression on each associated benchmarks measurement. While individual benchmarks may not have met their targets, his overall progress is always measured toward the underlying goals. Therefore, even when a slight regression is reported, this does not indicate that the overall goal is expected to be unmet or that a sufficient education is not being provided. His service providers all indicated that he has demonstrated sufficient progress to meet the goal's objective within the timeframe identified."

## **Analysis: Findings of Fact**

The following finding of facts is based upon a review of the documentation and interviews with both parties. The findings of Issue One are incorporated herein by reference.

1. IEP meeting dates that fall within the investigation period include; March 19, May 14, and September 17, 2024.
2. The district response states, "On August 28, 2024, [mother] requested an IEP meeting to discuss her son and to ensure that the new staff understood his IEP. As a result, an IEP team meeting was held on September 17, 2024 to address the parent's concerns. This meeting also included staff from the TASN-ATBS team." An email from the TASN director confirms her attendance as a member of the TASN-ATBS team as well as a follow-up consultation with the IR teacher and elementary school principal on October 23, 2024.
3. According to the student's most recent IEP dated September 17, 2024 there are four goals: visual motor skills, communication, math and reading.
4. According to the student's most recent progress report:
  - a. Progress reported for goal #1 visual motor skills, reflects a slight regression on October 11, 2024 as well as a slight regression on December 13, 2024. It is noted that although "slight regression" was entered for the December 13, 2024 progress status, progress is mentioned in the Progress Report Comments, "He has sat in a chair and wrote his name which is an improvement."
  - b. Progress reported on goal #2 communication, reflects a slight improvement of on October 15, 2024 and December 15, 2024.
  - c. Progress reported on goal #3 math, reflects a maintenance of performance on October 15, 2024.
  - d. Progress reported on goal #4 reading, reflects a maintenance of performance on October 15, 2024.
5. The district response states, "The [cooperative] Autism team and Emotional Support Team have observed and met with the special education staff on a regular basis this

past semester to help support his special education programming to ensure that [student] is making progress." It is noted that the EST was utilized by the classroom teacher due to behavioral challenges the student experienced which interfered with instruction as shared in interviews with school and cooperative staff.

- a. The cooperative website shares, "The Emotional Support Team (EST) at [cooperative] provides a school-based team of mental health professionals to assist students (and teachers) in methods to better manage emotions. We provide direct mental health services to students with exceptionalities and we provide on-site training for their teachers and parents."
  - b. Dates of EST support provided by the Licensed Professional Counselor (LPC) includes, in person support, email or phone consultation on the following dates: August 27, September 3, 10, 13, 24, 25, October 2, 8, 15, 29, November 5, 8, 12, 20, 26, December 3, 4, 10, 11, 2024 and January 7, 16, and 21, 2025.
6. In the interview with the cooperative's executive director she stated that the, "IR teacher actually started working with [student] over the summer since she was a new teacher to him and mom was concerned about how he would respond".
7. The IR teacher shared in an email that she met with the student whenever he was in attendance over the summer but that he attended only, "5-6 times of the 15 days...". She also shared, "There were multiple times that I would drive to the school to meet with [student], but he and his mother did not attend ESY. I was ready to provide him services, but he was absent...". She also shared in the interview, "I think he is doing really well, since Christmas he has done especially well. He and I are really starting to bond and work well together. He is catching on really fast, but there are days when he doesn't want to. He's come a long way since the summer."
8. The school psychologist provided a log which included 16 consultations from August 12, 2024 through January 22, 2025 in person, by email or phone to support the student's transition to new teaching staff and as well as address behavioral support for elopement behaviors. These consultations included activities such as team meetings with the parents, working on the student's daily schedule with the IR teacher, and offering strategies for behavioral and academic support.
9. The district response shares, "[the cooperative] has a Mixed Abilities coach who has worked with the IR teacher to ensure that instructional practices are aligned with his IEP goals to ensure academic progress." The documented support shared by the mixed abilities coach primarily includes in person consultation along with emails 8 times in the first semester of the 2024-2025 school year beginning in June 2024. The mixed abilities coach shared, "I was there in person assessing and training for the curriculum."
10. Lastly, the district response states, "[the cooperative] has an instructional coach assigned to [elementary school] which has also been assisting on a weekly basis with instructional practices to ensure that [student] is getting appropriate instruction and has materials and lessons that are aligned with his IEP goals." The instructional coach shared a record of support provided to the IR teacher dated August 23, 2024 through

January 17, 2025. This record reflects 11 instances of in person contact, 47 phone calls, 22 texts and 5 emails.

11. In the interview with the Certified Occupational Therapy Assistant (COTA) she stated that although the student is not making progress as measured by his IEP benchmark, the student is able to sit in a chair and write his name and that paraprofessionals report that the student is writing more during class and they share these examples with the COTA. She stated, "I feel like he is progressing but it may not be captured by the benchmark he is working on." The COTA also shared that the student has had many changes this fall including a new IR teacher and new paraprofessionals which may be impacting progress.

### **Conclusion**

IDEA requires that the IEP team must review the IEP periodically, but not less than annually, to ensure that it is effective in addressing the student's needs.

In this case, the IEP team met on March 19, May 14, and September 17, 2024 to address the student's needs. While the student's lacks of progress particularly in goal #1 is noted, the evidence of progress is also noted.

Additionally, the district has made good faith efforts to support this student including; IR teacher availability prior to the beginning of the 2024-2025 school year, the TASN director's engagement, instructional coach support, mixed abilities coach support and the EST support.

Based on the foregoing, USD #459 is addressing academic progress and is found to be *IN compliance* with IDEA regulations.

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

1. **ISSUE ONE:** A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) was not found based on evidence that the student's IEP minutes of educational services during the 2024-2025 school year were delivered. Corrective action is not required.
2. **ISSUE TWO:** A violation of 34 C.F.R. §300.324(b) was not found based on the regular review and provision of multiple supports to address academic progress. 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)