

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #501  
ON JANUARY 15, 2025

DATE OF REPORT: FEBRUARY 14, 2025

This report is in response to a complaint filed with our office on behalf of a student, -----, by their parents, ----- . 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 # 501, Topeka Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #501.

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 January 15, 2025, and the 30-day timeline ended on February 14, 2025.

### **Allegations**

The following five issues will be investigated:

**ISSUE ONE:** Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to schedule an IEP meeting at a mutually agreeable time. K.A.R. 91-40-17(a-c)(e), K.A.R. 91-40-21, K.A.R. 91-40-25; 34 CFR §§ 300.328, 300.322(a-d), 300.501(b)(c).

**ISSUE TWO:** Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the Student’s IEP, including accommodations, after[-]school support and providing the Parent with IEP progress reports. K.A.R. 91-40-16(b)(3); 34 C.F.R. § 300.323.

**ISSUE THREE:** Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to convene an IEP meeting requested by the Parent to consider their concerns for the Student’s needs. K.S.A. 72-3429(f); 34 C.F.R. § 300.324.

**ISSUE FOUR:** Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to develop an IEP for the Student that met their behavioral needs. K.A.R. 91-40-18(b); 34 C.F.R. § 300.320.

**ISSUE FIVE:** Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to offer the Student an alternate school arrangement [placement] and the Parent an opportunity to participate in decision[-]making regarding the School the Student would attend. K.A.R. 91-40-21(c)(1) ; 34 CFR § 300.116.

## **Investigation of Complaint**

Tania Tong, the Complaint Investigator, interviewed the Parent by video call on February 5, 2025. District Staff were interviewed on February 7, 2025.

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:

### **Parent Materials:**

1. Complaint, 01/15/25
2. Message Screenshot, 01/13/25
3. Gradebook Screenshot, 12/18/24-12/20/24
4. Message Screenshots, no date
5. Parent's Rights and Notice of Meeting Forms Screenshots, 01/13/25
6. Notice of Meeting, 01/13/25
7. Message Screenshots, no date
8. Gradebook Screenshots, 10/15/24-12/20/24
9. Email Screenshot, no date
10. Email, re: [Student], no date
11. Email, re: [School] and transfer information, no date
12. Email, re: [Student], 11/05/24
13. Email, re: [Student], 11/15/24
14. Email, re: [Student], 12/18/24
15. Email, re: today's assignment in math, no date
16. Email, re: [Parent], 11/08/24
17. Email, re: request, 11/07/24
18. Email, re: school, 11/06/24
19. Email, re: conversation, 09/26/24
20. Call Log Screenshot, 01/13 no year
21. Email, re: [Student], 11/15/24
22. Email, re: [Student], 12/12/24

### **District Materials:**

1. Complaint Response, 01/29/25
2. Individualized Education Program (IEP), 01/30/24
3. Evaluation Report, 01/30/24
4. IEP Progress Report, 01/08/24
5. IEP Progress Report, 01/06/25
6. Contact Log, 09/25/24-01/13/25
7. Email, re: [Student], 09/24/24
8. Email, re: [Student]... - SEL [Social Emotional Learning] needs ..., 09/25/24
9. Email, re: [Student], 09/25/24
10. Letter from Special Education Teacher, 10/23/24
11. Email, re: [Student], 10/23/24-01/16/25
12. Email, re: [Student], 10/28/24
13. Attendance Profile, 2024-2025 school year
14. Email, re: [Student], 10/02/24-01/13/25
15. Email, re: [Student] today, 11/22/24
16. Email, re: missing work after help session ..., 12/04/24
17. Email, re: [Student's] question, 12/06/24
18. Email, re: [Student] absences, 12/11/24
19. Email, re: parent complaint ..., 12/16/24-01/13/25
20. Email, re: meeting, 01/13/25
21. Letter of Concerns from Parent, no date
22. Synergy Contact Logs, various dates
23. Email, re: parent complaint, 11/06/24-01/15/25
24. Letter from Virtual School Special Education Consulting Teacher, no date

### **Findings of the Investigation**

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

1. The Student is 13 years old, in the eighth grade, and attends a District middle school that is not the Student's resident middle school. (D1)
2. The Student is eligible for special education services under the exceptionality of Other Health Impairment. (D1)
3. According to an Evaluation Report dated January 30, 2024, the Evaluation team conducted a re-evaluation to determine if the Student continued to need special education services. The Student had a diagnosis of Other Specified Disruptive, Impulse-Control, and Conduct Disorder and Attention Deficit/Hyperactivity Disorder. The Student "struggles with social situations, (at times), [the Student] can become physically

aggressive when angered or triggered, [the Student] has done better with using [their] coping skills at home and school.” (D32)

Classroom Observations indicated the Student was observed by the School Psychologist on January 26, 2024. The Student finished their work and asked if they could play games. The teacher told the Student “no” and handed out a paper that the Student was to read and answer questions. The Student immediately started to read the assignment. The Student sat at a table by themselves in a class of seven students. The Student worked quietly for the full 15-minute observation.

No standardized norm-referenced assessments were conducted. The Parent reported, “[The Student] has grown a lot during this last year, [the Student] has always had a struggle with school and homework. [The Parent] has seen a significant improvement. ... [The Student] does not know who [they] can trust anymore. [The Parent] would also like to focus on trauma symptoms. The SW [social worker] will focus on tools and strategies to help, but can not due [sic] therapy for trauma in a school setting.” (D34)

*“Based on observations, teacher input, record review, Parent input, and behavioral assessments, [the Student] continues to qualify under the descriptive category of Other Health Impairment. [The Student] continues to show ADHD-like symptoms (distraction, unfocused, inattention, etc.) which is adversely affecting [the Student’s] education[.] [The Student] is struggling to retain information as [the Student] is constantly unfocused.” The Evaluation team “recommends continuing [the Student] under the descriptive category of Other Health Impairment and continuing specially designed instruction with the Social Worker and Special Education Teacher.” (D33)*

4. Relevant items from the IEP dated January 30, 2024 indicated the following:
  - a. The re-evaluation for the Student was due on January 29, 2027.
  - b. The Student’s Current Academic Achievement and Functional Performance included:
    - i. Student strengths: The Student had a relative strength in reading. The Student was especially strong in language, craft, and structure of both fiction and non-fiction text. The Student was strong across most areas in math. The Student interacted with others and worked in groups if required.
    - ii. Parent Input: The Parent wanted to make sure the School is not just focusing on Attention Deficit Hyperactivity Disorder (ADHD) but also focusing on the trauma.
  - c. The Student performed at grade level in reading, writing, and math and did not exhibit needs in those areas. It was noted that in the area of geometry, the Student needed “to work on it as they progressed through the math curriculum.” The Student was described as struggling with social skills in the

classroom. The Student withdrew, ignored others, and was not working in groups.

- d. The Student was given the [District] Public Schools Social Emotional Skills Assessment (TPS SESA). The assessment had five domains. The Student scored:
  - i. "Behavior with adults-78%, and 48% for special education students with social work."
  - ii. "Behavior with peers-76% for a general education, and 48% for a special education student with social work."
  - iii. "Emotional regulation -80% for a general education student, and 40% for a special education student with social work."
  - iv. "Engagement -80% for a general education student, and 42% for a special education student with social work."
  - v. "Social skills-80% for a general education student, and 42% for a special education student with social work."
  - vi. "Overall Average- 80% for a general education student and 46% for a special education student with social work." (D16-D17)
  - vii. "The Student's behavior impedes their learning, that of others, and the Student's ability to access the general curriculum." (D18)
- e. The Student's social-emotional goal was, "By the end of the IEP year, [w]hen interacting with peers, [the Student] will demonstrate age-appropriate interaction skills and understanding of social rules (eye contact, sharing, courtesy, taking turns, listening to others) as evidenced by a 28% on the Social Skills domain of the [District] Public Schools Social Emotional Skills Assessment." The Service Provider is the Social Worker assisted by the Special Education Teacher. The following objectives were listed:
  - i. Objective 1: "By the end of the IEP year, [w]hen interacting with peers, [the Student] will demonstrate age-appropriate interaction skills and understanding of social rules (eye contact, sharing, courtesy, taking turns, listening to others) as evidenced by a 22% on the Social Skills domain of the [District] Public Schools Social Emotional Skills Assessment, by March 25, 2024."
  - ii. Objective 2: "By the end of the IEP year, [w]hen interacting with peers, [the Student] will demonstrate age-appropriate interaction skills and understanding of social rules (eye contact, sharing, courtesy, taking turns, listening to others) as evidenced by a 24% on the Social Skills domain of the [District] Public Schools Social Emotional Skills Assessment, by April 23, 2024."
  - iii. Objective 3: "By the end of the IEP year, [w]hen interacting with peers, [the Student] will demonstrate age-appropriate interaction skills and understanding of social rules (eye contact, sharing, courtesy, taking turns, listening to others) as evidenced by a 26% on the Social Skills

domain of the [District] Public Schools Social Emotional Skills Assessment, by October 14, 2024."

- iv. Objective 4: "By the end of the IEP year, [w]hen interacting with peers, [the Student] will demonstrate age-appropriate interaction skills and understanding of social rules (eye contact, sharing, courtesy, taking turns, listening to others) as evidenced by a 28% on the Social Skills domain of the [District] Public Schools Social Emotional Skills Assessment, by January 6, 2025." (D20)
- f. The Statement of Special Education/Related Services indicated:
  - i. Special education services would be provided by the Special Education Teacher with direct service in the general education setting for 90 minutes five times a week, beginning on January 30, 2024 and ending on January 29, 2025.
  - ii. Social Work Services would be provided by the Social Worker with direct services in the special education setting for 20 minutes, 1 time, every fourth week beginning on January 30, 2024 and ending on January 29, 2025. (D21)
- g. The following Supplementary Aids and Services would be provided (Accommodations and Modifications) during all core and elective classes with a start date of January 30, 2024 with no end date noted:
  - i. "Speech to text (when available and/or when requested), for lengthy writing tasks that exceed two paragraphs, [the Student] may utilize, when it is available, the speech to text feature in order to complete the written text, for the length of the written assignment."
  - ii. "Separate, quiet, individual setting (when requested) [during] those times that [the Student] is distracted from noises or things that [their] peers are doing that prohibit [them] from completing an assignment or assessment, for the duration of the assignment or assessment."
  - iii. "Extended time, [the Student] may need additional time to complete an assignment or assessment because time in class isn't enough time. [The Student] may utilize additional time to complete work when [they] has [sic] been responsible for the time that [the Student] was given originally, 1.5 times the allotted time." (D22)
- h. Least Restrictive Environment (LRE) indicated, "[The Student] attends [their] local public school, where [the Student] is in the general education classroom. [The Student] will receive special education inclusion (in class) support, and [they] will have time in a special education setting for time with the Social Worker. ... [The Student] will not participate in the general education curriculum for 20 minutes, one day every 4 weeks when [they] are pulled out to receive one one-on-one Social Work services." (D24)

5. According to meeting notes dated January 30, 2024, the Parent agreed with the goals, the accommodations, and the modifications. (D28)
6. The Special Education Instructor described the Student's academic skills and behaviors in an interview. They indicated that the Student had strong math scores and average reading scores. They shared that the Student was capable of independent work. However, the Student exhibited task avoidance behaviors, which sometimes required encouragement to complete assignments. The Special Education Instructor shared that last year they noticed work refusal behaviors and the Student withdrawing, and noted that those behaviors, "seemed a lot more intense this year." Additionally, the Special Education Instructor noticed that this year, "[The Student] was not arriving on time. [The Student] was showing up very late. [The Student] [would] miss half the class, or sometimes [The Student] [would] miss all of the class. I do remember there were days where [the Student] would show up and [they] would not want to go to math class in the morning because it had already started and it has started so long ago that [the Student] was like, 'I can't go.'" (Special Education Instructor Interview, P5, 10:29; 14:33)
7. The Parent described that regarding the Student's accommodations, "I know that we had made it where [the Student] would be able to stay after school once or twice a week to get caught up in the beginning. And it worked for the first quarter. And once we got [the Student] caught up, then it kind of eased up. No more staying after school. But then the second quarter, when I had attempted to try and get [the Student] to stay after school to catch up on assignments and everything, they were always too busy and never wanted to make time for getting [the Student] caught up." The Parent shared that, regarding the IEP meeting the Student's behavioral needs, "I know [the Student] has stated that [the Student] feels like [they] hover and do the work for [the Student]. [The Student] says they give [the Student] the answers, so [the Student] doesn't learn it right." (Parent Interview, P5, 18:37)
8. An email exchange between the Special Education Instructor and the District Public Schools Social Worker on September 24, 2024 noted Parent concerns that needed to be addressed, "[The Student] has a failing grade in Math. [The Parent] said [the Student] has expressed frustration that [the Student] does not understand. [The Student] is trying to catch up on missing work. [The Special Education Instructor], who is [the Student's] PI? Is this something that they can help with? [The Student's] also now failing ELA." The Special Education Instructor emailed the 8th Grade Special Education Teacher in response to the email exchange. The 8th Grade Special Education Teacher indicated the Student's low grade in math was due to attendance. (D49-D50)
9. On September 25, 2024, an email exchange between the Special Education Instructor and the 8th Grade Special Education Teacher stated, "[The Student] has a lot of math homework and I know [the Student] has several missing assignments in other classes, too. [The District Public Schools Social Worker] and I are wondering if we can come up with a plan for [the Student] to have some of [their] assignments either excused or reduced to ½ or less (depending on the content area), so the [the Student] feels that it is doable to get through this situation." (D53)

10. On September 25, 2024, the 8th Grade Special Education Teacher emailed the Special Education Instructor, "Can we have a meeting regarding [the Student]? And I would like to invite [Classroom Teacher 1 and Classroom Teacher 2] because it seems like there is a MISCOMMUNICATION concerning accommodations/modifications provided in the classrooms." (D54) In an interview, the 8th Grade Special Education Teacher said they noticed that the Student was frequently late, missing all or parts of classes. They requested a meeting "to clarify that with the gen[eral] ed[ucation] teachers, that the Student has an extended time when it comes to assignments and tests." The 8th Grade Special Education Teacher was not aware of any instances where this accommodation was incorrectly implemented. The 8th Grade Teacher also described that when they check the Student's grades, they remind teachers of the Student's accommodations and modifications on their IEP. (8th Grade Special Education Teacher Interview, P3, 07:35; P5-P6, 14:59)
11. On September 25, 2024, the Principal emailed the Special Education Instructor and the Assistant Principal, "Please let me know the outcome of the meeting with [the Student's Parent]. I am seriously considering revoking [the Student] transfer due to attendance concerns." The Assistant Principal responded, "[The Student] will go into [the behavior, social, and academic room] BASR 2nd and 8th hour to work on math and ELA. [The Parent] was supportive. We can revisit the week before [the] quarter and revoke then if [the Student] doesn't shape up." (D61)
12. The Parent emailed the District on September 26, 2024 to request the names and email addresses of the individuals involved in the Student's daily schedule. The Parent questioned the decision to refrain from sending late work home, which was intended to alleviate some of the Parent's responsibilities. The Student had expressed frustration regarding the inability to bring work home for completion. The Parent believed that staying after school once or twice a week would help the Student manage their workload more effectively. (P60)
13. According to a Synergy Contact Log, on October 8, 2024, the 8th Grade Special Education Teacher contacted the Parent concerning the Student's attendance and stated the Student's math work was posted on Google Classroom. (D173) The 8th Grade Special Education Teacher shared in an interview they did not understand the Parent's comment about the Student not being allowed to bring work home because all of the materials for the class were in Google Classroom, and if there were copies provided, they wrote the Student's name on them to provide them at a later time. (8th Grade Special Education Teacher Interview, P4, 11:54)
14. On October 23, 2024, the 8th Grade Special Education Teacher suggested to the Parent "the idea of virtual schooling." The Parent mentioned that the Student had expressed interest in online education, "Since I have limited knowledge about the [D]istrict's virtual school, I accompanied [the Parent] to the principal's office to explore this option further. ... However [the Parent] noted that gaining approval for virtual schooling might be challenging, [the Foster Care Support Program] may deny [the Parent's request]." The Principal stated during conferences that the Parent requested to move the Student



to virtual learning because the family was going through a lot. Feedback from the teachers was that the Student was highly distracted at school. (D81,D86) (8th Grade Special Education Teacher Interview, P3, 09:08)

15. During an email exchange on October 28, 2024 between a staff member and the Principal, "[The Student's] Parent showed up this morning wanting to talk to someone. ... [The Parent] was telling me that [the Foster Care Support Program] is not on board with [the Student] doing virtual and said [the Parent] wants help from [the] school to advocate for virtual school. [The Parent kept saying this wasn't [their] idea and [the 8th Grade Special Education Teacher] was the one who brought up virtual." (D89; Parent Interview, P1, 02:24)
16. The District Virtual School Special Education Consulting Teacher called the Parent three times between October 28, 2024 and November 5, 2024 regarding the Student's referral to the District Virtual School. The phone conversations included the following:
  - a. Call #1: Established the Parent was concerned about the Student's attendance, and when discussing the concerns with the Student's Case Manager, the Parent was told about the District Virtual School. A discussion occurred regarding special education services and how the Student could access those services. When asked if the Parent would like to enroll the Student, the Parent replied that they would have to discuss the change of schools with the Foster Care Support Program.
  - b. Call #2: A follow-up with the Parent about enrollment occurred. The Parent shared that the Foster Care Support Program was "being difficult and was not in favor of [the Student's] changing schools. [The Parent] was going to speak to the guardian ad litem." The District Virtual School Special Education Consulting Teacher agreed to call the Parent back on Friday.
  - c. Call #3: In a follow-up conversation with the Parent about how the conversation with the guardian ad litem went, the Parent stated that they were told the Student needed to remain at the Current Middle School. The Parent shared that they were evicted from their home and staying at the hotel across from the Current Middle School. The Parent was waiting one week to get into a new place. The District Virtual School Special Education Consulting Teacher let the Parent know the Student's name would be removed from the transfer list. (D293)
17. On November 5, 2024, the Parent emailed the 8th Grade Special Education Teacher, "I have the CASA worker asking me to see when [the Student] is due for [their] next IEP meeting [sic] can I get some clarification on this please." (P37) The 8th Grade Special Education Teacher replied, "[The Student's] IEP is due [at] the end of January 2025." (P38)
18. On November 6, 2024, the McKinney-Vento (Homeless) Coordinator emailed the Parent to let the Parent know, "Under the McKinney-Vento Act, [the Student] has the option to remain at [their] school of origin, [the Current Middle School], or to attend the school assigned to [their] residential area." (P54)

19. On November 6, 2024, the Parent emailed the District, "I did not decline transportation[.] I would like to set the record on that as I have been fighting for help getting [the Student] transportation since these other issues became a concern[.] I did say I was concerned about [the Student] refusing to go because [they have] stated [they] wouldn't ride the bus which would lead to more difficulties." (P56) The Parent confirmed in an interview that the Student refused to ride the bus. (Parent Interview, P4, 14:09)
20. The District emailed the Parent on November 8, 2024 to let the Parent know that their request for a transfer to another school, not the resident middle school, was denied. (P49) The Parent emailed the District, "I am writing to formally appeal the decision regarding [the Student's] school placement. While I understand that transfers are currently per case, I would like to emphasize that placing [the Student] at [the Home Middle School] would not be in [their] best interest, and I have serious concerns about the potential challenges [the Student] would face there. Currently, I transport my other child to school and [the Third Middle School] is on the way, which is why I feel this would be a better option for both of my children, rather than placing [the Student] at [the Home Middle School], where I am aware of numerous issues that could arise." (P53)
21. When asked about their understanding of special education placement and school location, the Parent shared, "I don't know what the difference is, honestly. I know with [the Student's] specific behavioral needs, [the Student's] not hard. ... [The Student] can adapt pretty much anywhere. [The Student] probably could even adapt to [the Home School]. It's just with everything else going on in our lives, I was trying to make it easier. And so I was trying to do [the Third School] because [the Student's] already got a friend there. I felt the transition would be easier. It would be easier to get [the Student] to go to school." (Parent Interview, P9, 37:06)
22. In an interview, the Parent shared that the Student experienced "... a lot of anxiety around the [Current School], and it's not just [the Student]. I have anxiety around [the Current School] too. I don't even [like] calling to let them know [the Student's] not going to be there because there's a tone of prejudice." (Parent Interview, P2, 07:26)
23. On November 15, 2024, the 8th Grade Special Education Teacher emailed the Parent that students were working on their missing assignments in class. "However, [the Student] said [they] left [their] [C]hromebook at home. I gave [the Student] my school laptop just so [the Student] could work on some of it. Also, [the Student] has assignments that were supposed to be turned in yesterday (extended time already)." (P66)
24. On November 22, 2024, the Parent emailed the 8th Grade Special Education Teacher and the Special Education Instructor, "In retrospect, I tried to get [the Student] into a different school as requested and with the school suggesting that [the Student] was better off there that became impossible so if I would have had the school's support in moving [the Student] as we felt would be more beneficial as well as the guardian ad litem of our case felt would be more beneficial then we might be seeing a little more

progress [sic] something is bothering [the Student]. ... This has been one of the issues that I have brought up a couple of times is the lack of communication does not help in me helping [the Student] if I don't know there's issues. ... I had stressed assistance for getting [the Student] more reliable transportation because now we are running into the issue of a bus situation." (D115-D116)

25. The Career and Life Planning Teacher emailed the Parent on December 4, 2024, "I wanted to make you aware of an opportunity I am offering to get help to make up missing work in Career and Life Planning. Anyone that needs help completing their work would be able to stay after school tomorrow (Thursday) from 2:45-3:30, and I will have my room open to offer that help. ... Of course, I am available to help students during class time as well." (D123)
26. In an email exchange between the 8th Grade Special Education Teacher and the Special Education Instructor on December 6, 2024, an alternative breakfast location was discussed, "[The Student] is asking me this morning as to what [the Student] can do if [they] come in on time? [The Student] doesn't want to eat breakfast/stay in the cafeteria with all [the] other students. I am not sure if BASR room is an option." The Special Education Instructor replied, "BASR opens up at 7:30 and [the Student's] on the guest list." (D127)
27. On December 11, 2025, the counselors and Principal were notified that the Student was absent "4 or 5 days." The Principal indicated that if the Student was not at school today, "I will make a phone call home and home visit if needed." (D129)
28. The 8th Grade Special Education Teacher emailed the Parent on December 12, 2024, "[The Student] has several assignments in IXL that remain incomplete, despite having full access to it. ... The other option I am thinking is to pull [the Student] out of [their] electives today so that [the Student] can do some of those missing assignments in Math. However, the drawback to this is that [the Student] will miss elective classes that are high school credits as well." (P67)

The Parent responded, "[The Student] is more than capable of achieving excellent grades when given the right tools and support. Unfortunately, I feel that these supports are not being offered at the level they should be, and I am concerned about the long-term impact on [the Student's] education. I have requested that [the Student] be allowed to bring [their] late work home to complete it, but this request was initially refused in person ... I have also been informed that the [P]rincipal believes it would be in [the Student's] best interest to remain at [the Current School]." The Parent indicated that they thought that recommendation was contradictory since the staff suggested virtual schooling for the Student. (P68)

29. In an email exchange on December 16, 2024, the Communication Specialist from the Third Middle School in the District indicated the Parent wanted to "see what could be done to grant [the Student] a transfer to [the Third Middle School]. [The Parent] stated that [the Student] started at the [Current Middle School] while [the Student] was in foster care, and since [the Student] was doing okay, [the Parent] kept [the Student]

there this year while [the Parent] worked on getting housing. ... Early in the school year, no one told [the Parent] that [the Student] was failing classes, [the Parent's] after[-]school care person told [the Parent] that." (D131)

The Current Middle School Principal replied, "There is far more to this story than what [the Parent] is sharing. ... I am in daily conversation with [the Student's] case manager from [the Foster Care Support Program] as well. [The Parent] tells each person a different story. [The Parent] asked to transfer [the Student] to virtual, so I provided the paperwork. [The Foster Care Support Program] became involved at that time and stated it was not in [the Student's] best interest. [The Student] will go several days without coming to school and when [the Student] does, [the Student] has doctor notes from multiple doctor's offices in a week. We have followed protocol with filing truancy and that is what has upset [the Parent] as [the Parent] is ordered by [the Foster Care Support Program] to have [the Student] at school." (D131)

30. In an interview, the Principal indicated that they wrote a letter to the Agency "stating that the Parent had requested ... [the Virtual School], but that we believe that [the Student] needed to attend in person, that we were concerned with [the Student's] number of absences. And academically, we felt like being in person, [the Student] would receive the best supports, the special education piece, and then just overall, instructionally, would be better than if [the Student] were doing it behind a computer with a self-guided independent program." The Principal indicated that the Agency had the educational decision-making power and determined that the virtual setting was not appropriate for the Student. (Principal Interview, P4, 10:07)
31. The Parent shared they had requested a meeting with the School, "I had request[ed], so when I pulled [the Student] from the School, I want to say, two days after I had called and asked for a meeting with [the Current School], and instead I was told about [the Student's] truancy. ... instead of offering a meeting." (Parent Interview, P7, 27:11)
32. The Parent shared in an interview that the Home School does not "... communicate with me. They communicate with the agency. I'm the Parent. I don't know when [the Student's] grades are bad, but the State does." (Parent Interview, P3, 09:10)
33. The Lead Principal for the District emailed the Student's current Principal on December 16, 2024, "Please reach out to the Parent and set up a meeting. [The Student] is not required to attend virtual. I feel like [the Parent's] choices are [to] remain at [the Current Middle School] where the Student is currently enrolled or attend [the Home Middle School]." (D132)
34. According to an email exchange between the Principal and the Parent without a date, the Principal stated, "I understand you do not feel [the Current Middle School] is a good fit for [the Student]. I am sorry you feel that way and want you to know the teachers and staff have worked very hard for [the Student]. ... When it comes down to [the Student's] grades and missing work, [the Student's] attendance has greatly affected those areas. The District has stated they would grant [the Student] a transfer to [their Home Middle School] if you do not want [the Current Middle School]. [The Third Middle

School] is not an option." (P18)

The Parent stated, "I am writing to follow up regarding [the Student's] schooling and the ongoing efforts to transfer [the Student] out of [the Current Middle School], as I understand this process has encountered significant delays. ... there is an urgent need to address [the Student's] educational and behavioral needs in accordance with [the Student's] IEP. As you know, I have been advocating for an alternative to [the Home Middle School], as [the Student] has made it clear that [they] would refuse to attend, which I fear would lead to ongoing issues. ... I have raised these concerns in multiple communications but have not yet seen a viable solution that considers [the Student's] behavioral needs." (P22)

35. On December 18, 2024, the Parent emailed the 8th Grade Special Education Teacher, "I just wanted to reach out about [the Student's] IEP and let you know I'm not sure about scheduling until I hear back from the people I have been talking to over the week." The 8th Grade Special Education Teacher responded, "Okay. [The Student's] IEP is not due till 01/29/2025." (D107, P42)
36. According to a grade book update with a date range of December 18, 2024 through December 20, 2024, the Student scores were listed:
  - a. Math 8, F.
  - b. Science 8, F.
  - c. FACS 8, C and D.
  - d. Phys Ed 6, A.
  - e. Language Arts 8, D. (P2-P3, P17)
37. According to an email from the 8th Grade Special Education Teacher (no date) to the Parent, the Student was given an extra 30 minutes to complete a math assignment but only finished 1 out of 4 problems. Additionally, the student still had several math assignments missing. (P44)
38. In an interview, the Parent shared that the Current Middle School is not meeting the Student's needs because "... they're not communicating with me to let me know that [the Student's] not getting things turned in. [The Student's] grades aren't sufficient. ... I've asked for [the Student] to stay after school, but they don't have time, and they don't make any accommodations or any other suggestions of other times [the Student] could stay after school to make up school work, and they're letting [the Student] fall behind and it feels more so that they can paint a portrait of me." (Parent Interview, P3, 11:16)

The Parent shared, "I know that I've had my worker, my Current Worker, tell me that [the Current School] has reached out to [the Current Worker] to let [the Current Worker] know when [the Student] wasn't there. And, I'm like ... they have yet to contact me. Obviously, I knew [the Student] wasn't there, but what if I had dropped [the Student] off and then [the Student] skipped? What if that was a thing? Nobody contacts me." (Parent Interview, P4, 13:05)

39. The Parent shared in an interview that their impression was that the Parent had to initiate communication with the Current School. When asked about the communication they received from teachers about the Student's progress, the Parent shared that only one teacher reached out to the Parent regarding a high school credit course, "And [the Student] was behind on a couple assignments and [the Teacher] asked if [the Student] could stay after. And I was like, 'Of course.' That was the only time I've had a teacher specifically reach out to me." (Parent Interview, P4, 15:23)
40. The January 6, 2025 IEP Progress Report described the Student's progress toward meeting their goals on several different reporting dates.
- a. On March 25, 2024, the Student met their social-emotional objective.
  - b. On May 23, 2024, the Student met their social-emotional objective.
  - c. On October 15, 2024, the Student met their social-emotional objective.
  - d. On January 6, 2025, "Progress has been made towards the goal, but the goal may not be met by the annual IEP. Goal, Instructional strategies and student supports may need to be reviewed." (D41)
    - i. The Student had a baseline average of 20% on the social skills assessment.
    - ii. The short-term objective related to the goal indicated, "By the end of the IEP year, [w]hen interacting with peers, [the Student] will demonstrate age-appropriate interaction skills and understanding of social rules (eye contact, sharing, courtesy, taking turns, listening to others) as evidenced by a 28% on the Social Skills domain of the [District] Public Schools Social Emotional Skills Assessment."
    - iii. The Student scored 27% in the social skills domain. "[The Student] is close to meeting [their] goal. [The Student's] comfort level with some staff has clearly improved but this is not generalizing to all staff and peers. [The Student] is introverted and that is just part of [their] personality. The Teacher's biggest concern is attendance." (D44)
41. A Notice of Meeting dated January 13, 2025 indicated a meeting to develop, review, or revise the IEP had been scheduled. The meeting was scheduled for January 28, 2025. A social worker was invited to the meeting. (P11-P12) According to a telephone message, the 8th Grade Special Education Teacher left a message which stated there was an attempt to schedule an IEP meeting and the District was told to wait. (P62)
42. On January 13, 2025, the District Communication Specialist emailed the Homeless Coordinator and the Principal, "[The Parent] was back ... [The Parent] said [they] hadn't heard anything back from [the School] previous from right before the break. [The Parent] stated [they] received contact from [the 8th Grade Special Education Teacher] to set up the IEP meeting. [The Parent] said on the phone [the Parent] requested a couple of days before the time and date of the IEP not to be set as [the Parent] wants to have someone attend with [the Parent]. [The Parent] doesn't trust the school. Within an hour, [the 8th Grade Special Education Teacher] scheduled the meeting. [The

Parent] responded with an email telling [the 8th Grade Special Education Teacher] how disrespectful it was to schedule a meeting when [the Parent] asked to wait. ... [The Parent] feels like [their] rights to decisions for [their] children are being taken away.” (D134, P2, Parent Interview, P8, 30:48)

The current Principal responded, “My SPED teacher reached out on December 18 that they needed to get a date set. [The Parent] wasn’t sure so my teacher went ahead and penciled in Jan.10. Obviously that did not happen so my teacher called [the Parent] back this morning proposing [the meeting].” (D134, D209)

43. In an interview, the Parent shared, “I have been a part of every IEP meeting when they’re in foster care, [and] when they’re not in foster care. I’ve been in every IEP meeting.” Regarding the scheduling of the IEP meeting in December/January, the Parent shared they had previously requested an advocate to help navigate a situation due to past tensions. After a three-week communication gap due to winter break and weather, they were ready to schedule a meeting but wanted to reconnect with people they’d already consulted on the matter. According to the Parent, they indicated they would communicate with the school within a day or two to schedule, but the meeting was scheduled immediately “before I even made it out of the house for the day.” The Parent indicated that “... because they went and scheduled the appointment that goes against my rights and my consent.” The Parent indicated they “... pulled [the Student] from school, and I was trying to get [the Student] transferred out of there because of that.” (Parent Interview, P5, 20:36)
44. In an interview, the 8th Grade Special Education Teacher shared that they attempted to schedule the Student’s IEP meeting multiple times. Their first attempt, in December, involved an email and phone call to the Parent. The Parent stated they were seeking an advocate and could not commit to the proposed date. According to the 8th Grade Special Education Teacher, subsequent attempts to contact the Parent after winter break, including calls after a snow day, were also unsuccessful. The Parent had not found an advocate. The 8th Grade Special Education Teacher explained the IEP deadline and the 14-day notice requirement. Finally, after consulting with the Special Education Instructor, the 8th Grade Special Education Teacher scheduled the IEP meeting for January 28th, the day before the IEP was due. (8th Grade Special Education Teacher Interview, P1-P2, 02:43)
45. Communication Log entries included the following:
  - a. The District contacted the Parent on September 25, 2024 by phone and in person regarding missing assignments, attendance, and tardies.
  - b. The District emailed the Parent regarding the Student’s absences on October 2, 2024 and October 3, 2024, and called the Parent on October 18, 2024.
  - c. The Parent requested supervision for the Student due to a late pick-up on October 11, 2024.
  - d. The Parent asked about the IEP due date in an email on November 5, 2024.

- e. The Parent requested after-school supervision for the Student on November 15, 2024, and November 20, 2024.
  - f. The District proposed an IEP meeting schedule by email on December 17, 2024 and December 18, 2024.
  - g. On January 13, 2025, the District emailed and called the Parent regarding a proposed IEP meeting date. (D47-D48)
46. According to a Synergy Contact Log, on January 13, 2025, the 8th Grade Special Education Teacher contacted the Parent for an IEP meeting date. The Parent was still undecided due to the “request to transfer [the Student] to another middle school.” (D171, D173 ) In an email exchange between the Principal, the Special Education Instructor, and the 8th Grade Special Education Teacher, dated January 13, 2025, the Special Education Instructor stated, “I was hoping the last email that I sent would cover it; I can respond to [the Parent] letting [the Parent] know that we are obligated to schedule a meeting 10 or more days before, as previously stated, but that we can always change the date with the 10 day waiver if [the Parent] would like to move to a different day.” The Principal responded, “That is exactly what you should do-Continue documenting your attempts to schedule the meeting and pick a date and time. If [the Parent] does not attend, services will revert back to [the] current IEP.” (D109)
47. On January 13, 2025, the Principal emailed the Parent, “We will take the meeting off of that date since it doesn’t work with your schedule. We look forward to talking with you about a date and a time that works for you and [the Student’s] school team. ... We are obligated by law to schedule a meeting 10 days before the IEP is due, and as you noted, we can definitely create a Notice of Meeting to waive those 10 days, if necessary, we just have to show the state that we are following the law on our end. We will do our best to have the meeting on a day/time that works best for you. Reach out by phone or email when you are able to and we will go from there.” (D143, P13)
48. According to a Synergy Contact Log, on January 22, 2025 and January 23, 2025, the District contacted the Parent to follow up, confirm the agenda, and confirm that the Guardian Ad Litum and a Foster Care Support Program representative would be attending via Google Meet. (D163-D165)
49. In an undated, Parent-created document, the Parent noted a concern about scheduling an IEP meeting against their wishes. In the document, the Parent expressed their discomfort with talking to anyone from the Current Middle School the Student attends and felt the School staff was staging their emails to the Parent. (D152)
50. An undated email indicated the Parent emailed the District, “The focus should be on finding constructive solutions that will help [the Student] move forward, rather than continuing to focus on punitive measures that do not address the root of the problem. I kindly request that a constructive and timely solution be provided, or that we schedule a meeting as soon as possible to address these concerns diligently. It is important that we work together to find a resolution that allows [the Student] to get back into school and continue [their] education in a supportive and effective environment. A prompt



response and action on this matter would be greatly appreciated, so we can move forward and ensure [the Student's] success." (P7)

51. According to a 2024-2025 Period Student Attendance Profile, the Student was absent:

- a. "Unexcused absences -10 times."
- b. "Left early absences - 5 times."
- c. "Late arrival absences - 32 times."
- d. "Unexcused absences - 9 times."
- e. "Excused absences - 135 times." (D93-D94)

52. The Parent shared in an interview that the Student's reasons for not wanting to attend school were primarily related to the Student's anxiety, "You can tell there's a lot of anxiousness about it at this point. I don't know if it's because of how the school and me [sic] are together, or if there's something going on." (Parent Interview, P4, 16:18)

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

### **Issue One**

Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to schedule an IEP meeting at a mutually agreeable time. K.A.R. 91-40-17(a)(b1)(b4)(c)(e), K.A.R. 91-40-21, K.A.R. 91-40-25; 34 CFR §§ 300.328, 300.322(a-d), 300.501(b)(c).

According to K.A.R. 91-40-17(a)(b1)(b)(4)(c), each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP meeting or are afforded the opportunity to participate. These steps shall include the following: scheduling each meeting at a mutually agreed-upon time and place and informing the parents of the information specified in subsection (b) of this regulation, and except as otherwise provided in K.A.R. 91-40-37, providing written notice, in conformance with subsection (b) of this regulation, to the parents of any IEP team meeting at least 10 days in advance of the meeting. The notice shall indicate the purpose, time, and location of the IEP team meeting and the titles or positions of the persons who will attend on behalf of the agency. Parents have the right to invite individuals to the IEP team meeting whom they believe to have knowledge or special expertise about their child. If neither parent of an exceptional child can be physically present for an IEP team meeting for the child, the agency shall attempt other measures to ensure parental participation, including individual or conference telephone calls.

K.A.R. 91-40-17(e) An agency may conduct an IEP team meeting without parental participation if the agency, despite repeated attempts, has been unable to contact the parents to convince the parents that they should participate. If an agency conducts an IEP team meeting without parental participation, the agency shall have a record of the attempts that the agency made to

contact the parents to provide them notice of the meeting and to secure the parents' participation. The record shall include at least two of the following: detailed records of telephone calls made or attempted, including the date, time, and person making the calls and the results of the calls; detailed records of visits made to the parent's home or homes, including the date, time, and person making the visit and the results of the visit. Also required are copies of correspondence sent to the parents and any responses received, as well as detailed records of any other method attempted to contact the parents and the results of that attempt.

The Parent alleged that the District scheduled an IEP meeting even though the Parent requested time to invite an additional IEP team member who knew the Student.

According to the District, the Current Middle School staff scheduled an IEP meeting at a mutually agreeable time.

The core issue was the lack of mutual agreement between the Parent and the District regarding the IEP meeting time. While the District communicated with the Parent, the Parent explicitly stated they needed time to consult with others before scheduling and asked the District to wait. The District's subsequent scheduling of the meeting contradicts the requirement for a mutually agreeable time. The District's argument that they needed to schedule the meeting due to the impending IEP deadline does not justify overriding the Parent's request to wait. The law prioritizes parental participation and mutual agreement. While deadlines are important, they shouldn't impact the Parent's right to participate meaningfully in the process. The District's documentation does not demonstrate sufficient attempts to collaborate with the Parent on scheduling after the Parent requested time to consult with others.

Rescheduling the meeting on January 13, 2025, after the initial problematic scheduling was an attempt by the District to rectify the scheduling situation. The Principal's email indicated a willingness to reschedule, but it does not, on its own, demonstrate the repeated attempts to contact the Parent specifically about scheduling that is required by the regulations. The District still needed to show they made genuine efforts to find a mutually agreeable time after the parent expressed their need to consult with others.

The statutes and regulations are also silent on whether parents and districts may agree to extend an annual IEP review, as these parties did. However, the courts that have considered this question, have ruled that when meeting the requirement for an annual IEP review date would interfere with the right of a parent to meaningfully participate in the decision making process, the better choice for the district is to give preference to the parent's right to participate. For example, in *Doug C. V. State of Hawaii*, 61 IDELR 91 (9 th Cir. 2013), the United States Circuit Court of Appeals addressed a situation where a district held an IEP meeting without the parents in order to meet the annual review requirement. The court said, "The more difficult question is what a public agency must do when confronted with the difficult situation

of being unable to meet two distinct procedural requirements of the IDEA, in this case parental participation and timely annual review of the IEP. The court added, “the Supreme Court and this court have both repeatedly stressed the vital importance of parental participation in the IEP creation process. We have further held that delays in meeting IEP deadlines do not deny a student a FAPE where they do not deprive a student of any educational benefit. See *A.M. v. Monrovia*, 627 F.3d 773,779 (9th Cir. 2010).

Based on the foregoing, according to IDEA and Kansas special education regulations, it *is substantiated* that the District failed to schedule an IEP meeting at a mutually agreeable time. (RELATED FACTS: 37, 43-52)

*NOTE: When school officials are confronted with this “difficult situation “ of meeting both the annual IEP review requirement and the parent participation requirement, they may attempt to meet both requirements by offering (and requesting agreement) to schedule an IEP meeting that meets the annual review requirement and also agrees, in writing, to promptly schedule another full or supplemental IEP meeting at a later date upon request of the parent.*

## **Issue Two**

Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the Student’s IEP, including accommodations, after[-]school support and providing the Parent with IEP progress reports. K.A.R. 91-40-16(b)(3); 34 C.F.R. § 300.323.

According to K.A.R. 91-40-16 (b)(3), except as otherwise provided in subsection (c), each agency shall ensure that the following condition is met: an IEP is in effect for each exceptional child at the beginning of each school year.

The Parent alleged that the District created a plan with the Parent for after-school support to help the Student, but the plan was not followed.

The District asserted that the Current Middle School staff had implemented the Student’s IEP, including “accommodations, after[-]school support, and provided the parent with IEP progress reports.” (D4)

The District implemented the IEP as written. Accommodations were available to the Student, and the School made efforts to address the Parent’s concerns. While after-school support was not a specific IEP requirement, the School explored other options and provided additional help. Communication home regarding the Student’s grades and attendance, as well as an IEP Progress Reports from the 2023-25 school years indicated the School was fulfilling its reporting obligations.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to implement the Student’s IEP, including accommodations

and after[-]school support, and providing the Parent with IEP progress reports. (RELATED FACTS: 1-13, 23, 25, 28, 38-42, 47, 53, 54)

### **Issue Three**

Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to convene an IEP meeting requested by the Parent to consider their concerns for the Student's needs. K.S.A. 72-3429(f); 34 C.F.R. § 300.324.

According to K.S.A.72-3429(f), each agency shall ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved. The IEP team may revise the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum. Where appropriate, the IEP team should include the results of any reevaluation conducted under this section, information about the child provided by the parents, the child's anticipated needs, or other matters.

The Parent alleged that the District did not respond to the Parent's request to set up a meeting to discuss support for the Student's poor academic performance.

The District explained that the Current Middle School "attempted to convene an IEP meeting requested by the Parent to consider concerns for the [S]tudent's needs." (D6)

It is the obligation of the District to review and revise a Student's IEP periodically to address a lack of expected progress toward the annual goals and in the general education curriculum and should consider information about the child provided by the parents, the child's anticipated needs, or other matters. While the Parent didn't overtly communicate, "Please schedule an IEP meeting to address my Student's needs," the information communicated to the school by the Parent and the School's internal communications around the Student's behaviors, grades in math and ELA, along with the Student's attendance clearly indicated a need for a review and revision of the Student's IEP prior to the January 2025 annual review deadline.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is substantiated* that the District failed to convene an IEP meeting to review and revise the Student's IEP to address their unique needs. (RELATED FACTS: 6, 8-13, 15, 17, 33)

### **Issue Four**

Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to develop an IEP for the Student that met their behavioral needs. K.A.R. 91-40-18(b); 34 C.F.R. § 300.320.

According to K.A.R. 91-40-1,8(b), if, as a result of its consideration of the special factors described in K.S.A. 72-3429(c) and amendments thereto, an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive FAPE, the IEP team shall include those items in the child's IEP.

The Parent alleged that the district did not implement behavioral support to increase the Student's attendance at school.

The District asserted that the Current Middle School staff "were implementing an IEP for the Student that met [their] behavioral needs." (D7)

Despite implementing the January 2024 IEP, the District failed to convene an IEP meeting to address the Student's evolving needs. This failure occurred even after the Parent provided information regarding the Student's academic, behavioral, and attendance challenges during the 2024-25 school year, and the District itself documented an increase in the intensity of the Student's behaviors.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is substantiated* that the District failed to develop an IEP for the Student that met their behavioral needs. (RELATED FACTS: 6, 8-13, 15, 17, 33)

### **Issue Five**

**Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to offer the Student an alternate school arrangement [placement] and the Parent an opportunity to participate in decision-making regarding the School the Student would attend. K.A.R. 91-40-21(c)(1) ; 34 CFR § 300.116.**

According to K.A.R. 91-40-21(c)(1), in determining the educational placement of a child with a disability, each agency shall ensure that the placement decision meets the following requirements:

- a. The decision shall be made by a group of persons, including the parent and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options.
- b. The decision shall be made in conformity with the requirement of providing services in the LRE.

The Parent alleged that the District failed to include them in the discussion of alternative school placement options and the District did not offer options.

The District responded that the Current Middle School Staff "offered the Student an alternate school arrangement [placement] and the Parent had an opportunity to participate in decision[-]making regarding the School the Student would attend." (D8)

There are three prongs in this allegation: Educational Placement/Least Restrictive Environment, School Location, and Parent Participation.

1. The educational placement and Least Restrictive Environment (LRE) of the Student was determined in the January 2024 IEP meeting to be the general educational classroom with inclusion support, with periodic pull-out time with the Social Worker. The location was a local public school.
2. The Parent wanted to discuss an alternative location where the Student could receive services. They pursued virtual school and the school transfer process.
3. The virtual schooling option was denied by an outside agency, and the Transfer request was denied by the District. However, the District offered the Student two location options: the school of origin or the Current School.

While the Parent's understanding of the nuances between educational placement and LRE and school location may have been unclear, the District's decision-making process lacked the required collaboration. Given the Parent's expressed concerns regarding the Student's academic and behavioral progress, the District should have proactively convened an IEP meeting. This meeting would have provided an opportunity to review and, if necessary, revise the Student's IEP, including a discussion of potential adjustments to their educational placement and LRE. This meeting would have also allowed the District to clarify the distinction between placement/LRE and school location, ensuring the Parent had a clear understanding of these concepts.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is substantiated* that the District failed to offer the Parent an opportunity to collaboratively participate in decision-making regarding the Student's educational placement/LRE.

### **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 areas:

- A. Federal regulations at 34 CFR §§ 300.328, 300.322(a-d), 300.501(b)(c) and K.A.R. 91-40-17(a)(b1)(b4)(c)(e), K.A.R. 91-40-21, K.A.R. 91-40-25) specify the each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP meeting or are afforded the opportunity to participate.

In this case, the District failed to schedule an IEP meeting at a mutually agreeable time that allowed for the Parent to meaningfully participate.

- B. Federal regulations at 34 C.F.R. § 300.324 and K.S.A. 72-3429(f) specify the District's obligation to convene an IEP meeting to review and where appropriate, revise, a student's IEP due to lack of expected progress or information about the child provided by the parents.

In this case, the District failed to convene an IEP meeting requested by the Parent to consider their concerns for the Student and to review and revise the Student's IEP to address their unique needs.

- C. Federal regulations at 34 C.F.R. § 300.320 and K.A.R. 91-40-18(b) specify when an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive FAPE, the IEP team shall include those items in the child's IEP.

In this case, the District failed to develop an IEP for the Student that met their behavioral needs.

- D. Federal regulations at 34 CFR § 300.116 and K.A.R. 91-40-21(c)(1) specify each agency shall ensure that placement decisions shall be made by a group of persons, including the parent and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options.

In this case, the District failed to offer the Parent an opportunity to collaboratively participate in decision-making regarding the Student's educational placement/LRE.

Based on the foregoing, USD # 501 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #501 shall convene an IEP meeting to review the IEP, including information from the Parent. As appropriate, the IEP team shall revise the IEP and consider any appropriate special education placements that allows the District to implement special education and related services, as described in the Student's IEP and affords the Student a FAPE. The District shall submit a copy of the IEP, IEP amendments, meeting notes, and prior written notices to to Special Education and Title Services (SETS).
2. Within 15 calendar days of the date of this report, USD #501 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:
  - a. 34 CFR §§ 300.328, 300.322(a-d), 300.501(b)(c) shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP meeting or are afforded the opportunity to participate.
  - b. 34 C.F.R. § 300.324 district's obligation to convene an IEP meeting to review and where appropriate, revise, a student's IEP due to lack of expected progress or information about the child provided by the parents.
  - c. 34 C.F.R. § 300.320 when an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive FAPE, the IEP team shall include those items in the child's IEP.

- d. 34 CFR § 300.116 each agency shall ensure that placement decisions shall be made by a group of persons, including the parent and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options.
- 3. Further, by March 14, 2025, USD #501 will submit a written statement of assurance to Special Education and Title Services (SETS) that the District's practices and procedures for the following have been reviewed and revised to align with federal and state requirements:
  - a. IEP meetings and parent participation,
  - b. IEP review and revisions,
  - c. Content of IEP, and
  - d. Special education placement determination.

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.gov](mailto:formalcomplaints@ksde.gov). 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)