

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES  
REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #229 BLUE VALLEY SCHOOLS  
ON FEBRUARY 17, 2025  
DATE OF REPORT: MARCH 14, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ----- by her parents, ----- . In the remainder of the report, ----- will be referred to as “the student.” ----- will be referred to as “the complainant” or “the mother” or “the parent.” ----- will be referred to as “the father.” Together, ----- will be referred to as “the parents” or “the complainants.”

The complaint is against USD #229 Blue Valley Schools. In the remainder of the report, USD #229 will be referred to as “the district”, “the local education agency (LEA)”, or “the school”.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on February 17, 2025, and the 30-day timeline ends on March 19, 2025 or with the publication of this report.

### **Evidence Reviewed**

During the investigation, the Complaint Investigator, Gwen Beegle, reviewed all evidence and documentation, which was provided by both the district and the complainants. The parent was contacted to clarify the issues of the complaint and to provide interview evidence on February 18, 2025. The written complaint alleged broad noncompliance was present in the student’s school, and the investigator asked the parent about their knowledge beyond the experience of their child. When the investigation was initiated, the investigator determined that a systemic inquiry was premature based on the existing evidence. Questions pertaining to district policy and practices were included in the interviews to determine if there was reasonable evidence requiring a systemic inquiry to open during the course of the investigation. Emails were exchanged with the parent through March 12, 2025, to gather additional information or clarification.

The district was contacted on February 19, 2025, and the IDEA issues to be investigated were included in a memo to the LEA dated February 19, 2025 (with a one sentence correction dated February 20, 2025), and the parent’s concerns regarding educational records request was redirected to FERPA complaint options, and a 2022 evaluation request was set aside as preceding the 12-month time period preceding the formal complaint.

The district offered the following persons for interviews: Steven Beeler (IEP Case Manager and IRR Special Education Teacher), Erica McDonald (School Principal), Kristen Leaming (Special Education Administrator), and Mr. Heston (Fourth Grade Teacher). Emails and phone calls were exchanged with the district from February 19, 2025, to March 7, 2025, during which the district provided additional documents and information requested by the investigator.

In addition, the following documentation and information were used in consideration of the issues.

### **Evidence Provided by the Parents:**

1. 2024-25 Special Education Services Contact Log, with entries dated August 19, 2024 through January 24, 2025
2. Student Work Sample: Spelling Test (undated)
3. Reader's Theater Scoring Rubric for the Student
4. Student Test History (Fastbridge Reading, IReady, Acadience Reading Composite, Acadience Maze) with testing probes dated from September 2022, through December 2024
5. KAP Interim Assessment Family Report for the student, Fall 2025
6. Email from IEP Case Manager to Parents dated January 15, 2025, at 2:57 p.m.
7. Email exchange from the mother to special education teacher, 4th grade teacher, elementary counselor, and the father dated January 16, 2025, at 11:48 a.m. through January 21, 2025, at 9:54 a.m.
8. Email from the parent to the special education teacher, 4th grade teacher, elementary counselor, and the father dated January 22, 2025, at 1:47 p.m.
9. Parent Notes from IEP Meeting dated January 24, 2025.
10. Email from the principal to the parents dated January 24, 2025, at 3:03 p.m.
11. Individualized Education Program (IEP) for the student dated April 24, 2024
12. Prior Written Notice (PWN) for changes to the IEP dated April 24, 2024, for a meeting on April 24, 2024, for changes to the IEP unsigned by parents
13. IEP Amendment for the student dated January 24, 2025
14. Prior Written Notice (PWN) dated February 3, 2025, about a meeting held on January 24, 2025, for change in services including a material change in services, a change of placement, and other changes to the IEP requesting parent consent and unsigned by the parent
15. Email (a) from the parent to the special education teacher, the special education administrator, and the father dated February 11, 2025, at 12:52 a.m. and the special education teacher teacher's reply dated February 11, 2025, at 4:15 p.m.
16. Email (b) from the parent to the special education administrator and the special education teacher dated February 11, 2025, at 12:52 a.m.
17. Email from the parent to the special education administrator, special education teacher, school psychologist, and the father dated March 10, 2025, at 3:03 p.m.

### **Evidence provided by the District**

18. Children's Mercy Hospital Hearing and Speech Clinic Academic Language - Reading Evaluation, dated June 22, 2022
19. St. Luke's Hospital Midwest Ear Institute Report for the Student dated June 13, 2023
20. Student IEP dated May 1, 2023
21. IEP Progress Report for the student, with quarterly entries dated May 26, 2023, through April 24, 2024
22. IEP Meeting Notes dated April 24, 2024
23. Student IEP dated April 24, 2024
24. Prior Written Notice (PWN) for changes to the IEP dated April 24, 2024, for a meeting on April 24, 2024, for changes to the IEP unsigned by parents
25. Contact log of special education services provided in special education settings to the student, 2024-25 school year, through March 4, 2025
26. i-Ready Fall Math Diagnostic for the student
27. Conference slides for the student, undated
28. iReady Winter Math Diagnostic dated December 11, 2024
29. IEP Progress Report for the student dated December 20, 2024, reporting quarterly progress dated May 24, 2024, October 11, 2024, and December 20, 2024
30. iReady MyPath score report for the student with entries dated January 17, January 22, and January 24, 2025.
31. [Student Initials] Parent Meeting 1-24-25 (a) (Meeting Notes)
32. [Student Initials] Parent Meeting 1-24-25 (b) (Meeting Notes)
33. Parent document [Student initials] Parent's Concern with Services, January 24, 2025
34. Prior Written Notice (PWN) dated February 3, 2025, about a meeting held on January 24, 2025, for change in services including a material change in services, a change of placement, and other changes to the IEP requesting parent consent and unsigned by the parent
35. Notes from phone call with the parent, special education administrator, and principal dated February 4, 2025, at 1:00 pm.
36. Speech Language Screening Report, undated, for testing and data collection on February 5 and February 21, 2025.
37. Email (a) from the parent to the special education teacher, the special education administrator, and the father dated February 11, 2025, at 12:52 a.m.
38. Email (b) from the parent to the special education teacher, the special education administrator and the father dated February 11, 2025, at 12:52 a.m.
39. Paraprofessional schedules showing classroom assignments when staff were fully present or one or more were absent for the 2024-25 school year.
40. Paraprofessional absence spreadsheet dated August 13, 2024 through March 7, 2025.
41. Prior Written Notice (PWN) dated March 3, 2025, for changes to the IEP discussed at the January 24, 2025, IEP meeting
42. Prior Written Notice (PWN) dated March 4, 2025, for a change to the student's IEP including a material change in services, a change of placement, and other changes to the IEP requesting parent consent and unsigned by parent.

43. Prior Written Notice for Evaluation (PWN-E) to re-evaluate the student, dated March 6, 2025, requesting parent consent and unsigned by parent.
44. Email from the special education administrator to the parents and copied to others in the district dated March 7, 2025, at 4:14 p.m.
45. Parent Response and Amendment Working Document dated March 7, 2025, including communication from the parent on February 11, 2025, and recording parent responses to proposed changes dated February 28, 2025.
46. Proposed IEP Amendment for the student dated March 7, 2025
47. The district's response to the complaint, received February 24, 2025

### **Background Information**

The student attended the fourth grade at an elementary school in USD#229 Blue Valley Schools. The student was evaluated and found eligible for special education as a student with learning disabilities in May 2022, at the end of the student's first grade year. In the summer of 2022, based on the district's special education evaluation's informal note regarding the student's speech language performance, the parent had the student independently evaluated at Children's Mercy Hospital in the summer of 2022, before the student's second grade year. According to the parent, the Children's Mercy Hospital evaluation recommended speech language services; the CMH report was provided to the school district and in September 2022, the parent was informed that the student did not qualify for speech language services based on the district's evaluation. In 2025, when the parent requested a copy of this evaluation, the district disclosed that the decision was based on informal observations and a full speech language evaluation was not conducted.

The student's IEP dated May 1, 2023, and the current IEP dated April 24, 2024, showed that the student received 30 minutes of special education services in the special education setting and 60 minutes of services in the general education setting, with IEP goals in reading and writing along with classroom accommodations to access the general curriculum.

### **Issues Investigated**

1. **ISSUE ONE:** Did USD #229 implement the student's IEP by providing special education services, accommodations or other requirements of the student's IEP? (page 6)
2. **ISSUE TWO:** Did the district meet the IEP team in response to the parent's concern voiced at the October 2024 parent teacher conferences and the student's lack of progress in mathematics with the current IEP? (page 14)
3. **ISSUE THREE:** Did the district provide proper PWN in response to parental requests for accommodations or services? (page 18)

## **Issue One**

Did USD #229 implement the student's IEP by providing special education services, accommodations, or other requirements of the student's IEP?

### **Applicable Law**

Federal/State statutes and regulations at 34 CFR 300.39 define special education as specially designed instruction at no cost to the parent to meet the unique needs of a child with a disability. Further 34 CFR 300.320(a)(4) requires that the IEP include "a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child: (i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum. . . and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children." Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

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

The parents allege in the written complaint that the student's accommodations were not provided during the current 2024-25 school year, including to be ungraded on spelling, to be excused from reading aloud in class, and to have tests in a quiet location. The parents alleged that there was no evidence that the student's special education services provided 60 minutes of support in the general education classroom five times per week, and that the student's general education performance in mathematics had deteriorated after the removal of prior special education support in that area.

The district responded that the student's spelling accommodation had been provided in writing and spelling itself was monitored for standards based curricular grading, and that this was clarified during the January 24, 2025, IEP meeting. The district responded that the student has not been required to read aloud in class but been permitted to do so after volunteering. The district further responded that the teacher had provided two options to meet the student's testing accommodation and that the student was given a choice of which to choose during classroom testing. The district stated that the testing accommodation was discussed at the January 24, 2025, IEP meeting and it was adjusted to the parent's request for only one option for testing. The district provided evidence and rationales further described in findings, below.

### **Findings of Fact**

The following findings are based upon a review of documentation and interviews with the parent and staff in USD #229.

The student's IEP dated May 5, 2023, included two IEP goals, one in reading and one in writing. IEP goal progress reporting showed that both goals were met as of April 24, 2024. The IEP dated May 5, 2023, included 30 minutes of special education services in special education and 60 minutes of special education in general education for five days each week.

The student's IEP dated April 24, 2024 included two goals, one in reading and the other in writing: (1) "By April 2025, when given words with Vowel-R combinations and two short vowel syllable words with common endings, [the student] will read them with 85% accuracy or greater," and (2) By April 2025, when given Vowel-R words and words with common suffixes (ing, ed, er, est), [the student] write them with 85% accuracy. This IEP included 60 minutes of special education direct services in the general education classroom five times per week, and 30 minutes of special education in a special education setting five times each week.

When asked to clarify the meaning of direct special education in the general education classroom, the special education director stated that it is a service setting on the district's IEP software, which reflects, "Our view has been to consider any support listed on the IEP, that is provided to a student as direct SPED support, regardless of who is providing it (as directed by the IEP and/or SPED teacher). . . in the description of specially designed instruction, the services are defined [further]. In this case, it is "(s)he will receive in class support for 60 minutes daily. This support will be utilized to support her goal areas and facilitate her independence within the classroom."

IEP goal progress reports for the student showed that the student made progress on the reading and writing goals of IEP dated April 24, 2024, showing that the student was rated as making progress on each goal, with percentages at 80% and 90% at the December 10, 2024, marking period.

The student's Winter Acadience test scores showed that the student read 113 words correctly, which fell in the 50th percentile; the student's reading accuracy was 98% in the 46th percentile; and the student's retelling passages score of 48 words was in the 75% percentile. The student's Maze assessment fell in the 77th percentile. The Winter Fastbridge test, taken in the resource setting, showed a score of 520, which was in the 64th percentile nationally, and 47th percentile at the district level.

The IEP dated April 24, 2024, provided for instructional and testing accommodations. For testing, the accommodations were (1) to take the test in a quiet, noncompetitive setting ("Testing in a separate setting, away from distractions, will allow [the student] to adequately show what [the student] knows. This will also allow for test items to be read and rephrased, as allowed, to increase [the student's] understanding of the items being assessed") and (2) text to speech directions/test items ("[The student] has difficulty decoding and reading accurately and efficiently"). Instructional accommodations were: "Access to spell check and voice to text for writing assignments, fraction strip, alphabet strip, 100's chart, multiplication chart, student not to be graded on spelling, teacher will read directions, and test items if computer audio not

available for assessments/assignments. [The student] will not be required to read out loud in class."

The special education teacher notified the parents in an email dated January 15, 2025, that one of the student's testing accommodations would no longer be allowable under new KSDE guidelines, requiring an IEP amendment to remove this accommodation. Specifically, the email stated that the new ELA KAP assessment for grades 3-5 "uses the science of reading and integrates a measurement of the ability to read (decoding and fluency) and the ability to understand what is read (reading comprehension) . . . Because of this significant change of what is measured in the new ELA KAP, for the district to be in compliance with Sec. 300.160 of the Individuals with Disabilities Education Act (IDEA), the IEP team needs to consider an amendment [to] your child's IEP to remove the TTS [Text to speech] accommodation for the Questions and Response sections, which is no longer allowable."

On January 16, 2025, the parent sent an email to the district members of the IEP team in which she stated her concerns "noncompliance with current accommodations, proposed additions to [the] plan, and time sensitive submission of the Text to Speech Passages and Graphics Application to [KSDE] by January 31, 2025, in light of KAP's new testing methodology." In the email, the parent asserted that the noncompliance with the student's IEP was in the area of spelling being graded, read aloud participation in class, testing in a quiet noncompetitive situation and the 60 minutes of special education in the general education classroom. In this email, the parent proposed 16 instructional accommodations organized into five categories (reading, spelling, writing, math, and homework) and three testing accommodations for the IEP team to consider, along with placement in special education (to consider services offered by the reading specialist rather than the special education teacher). The special education teacher replied on January 16, 2025, to schedule the IEP meeting on January 24, 2025, and the parent brought a list of requests in writing to the IEP meeting, which were discussed, according to the IEP minutes dated January 24, 2025.

The IEP team met and discussed a proposed IEP amendment on January 24, 2025, which stated that the student's services would change as follows: "[The student] will now receive 60 minutes of special education services in the special education classroom to focus on reading and math goals. [The student] will continue to receive 60 minutes of support in the general education setting during reading, writing, and math to help facilitate accommodations, modifications, and promote independence. [The student] will continue to utilize manipulatives (i.e. hundreds chart, multiplication chart, fraction strips) during math. [The student will] begin receiving math instruction in the special education setting and will no longer utilize the "MyPath" program within iReady." In addition, the IEP team increased the student's accommodations from those in the IEP dated April 24, 2024, which were largely continued with some rewording and to specify detail, to add reduced homework assignments at teacher discretion, using audio along with reading, a quiet environment for reading, extended time for assignments, frequent checks for understanding on multi step assignments, and to provide a copy of notes. The testing accommodations were expanded to include testing in a

noncompetitive situation, text to speech directions and test items, extended time, text to speech math diagnostic, and text to speech classroom accommodations.

The district provided PWN dated February 3, 2025, regarding the IEP amendment dated January 24, 2025. Along with other changes to the IEP, the district modified the student's access to text-to-speech for assignments in the general education classroom, "unless it would invalidate the construct of the assignment or assessment or measure." In the explanation of actions proposed or refused, the PWN stated: "The District proposes to modify the following assessment accommodation: text-to-speech for directions and test items. This modification is proposed to reflect the allowable accommodations on classroom, district, and state testing."

The parents replied in an email dated February 11, 2025, that the district had not accurately recorded their concerns and that their specific requests made in the January 24, 2025, meeting, which they believed were agreed upon in the meeting, had been changed in the PWN's proposed actions. The district prepared a chart of the parent's requests and their responses, and a special education administrator met with the parent on February 28, 2025, to review each request and response, which resulted in a revised IEP amendment dated March 7, 2025, with two associated PWNs. The district and the parent remained in discussion regarding the proposed IEP amendments during the investigation period and the parent did not sign consent to for the proposed IEP amendments with material changes in services, dated January 24, 2025, or March 7, 2025. This is further discussed as part of ISSUE 3.

### **Special Education Services and Paraprofessional Support in General Education Class**

The district reported and a contact log provided by the district showed that the special education in the special education classroom was provided for 30 minutes each day school was in session, except on February 24, 2025. According to the district, the parent was notified, and the district submitted documentation that the 30 minutes were provided by pulling the student from a general education activity time on February 27, 2025, to make up the services. The parent reported in an email to the investigator that she believed there were two days when services were not provided, February 21 and February 24, 2025, and that the student reported to the parent that the teacher had not made up the time on February 27, 2025. The contact log showed that a paraprofessional provided the make-up session rather than the teacher.

To examine classroom special education services, the investigator asked the district to provide the schedule for paraprofessionals assigned to the student's classroom. The district provided the paraprofessional absence schedule and the paraprofessional classroom assignments when one or more paraprofessionals were absent, dated August 13, 2024, through March 7, 2025. Through December 5, 2024, the school was considered fully staffed with four paraprofessionals, providing the student's classroom with 105 minutes of special education support. With three paras present, the classroom had 60 minutes of special education support.

After December 5, 2024, through March 7, 2025, the schedule showed that when the fifth para was added the student's classroom had 120 minutes of paraprofessional support and when four paras were present, the student's classroom had 130 minutes of paraprofessional support. When three paras were present, the student's classroom had 55 minutes of special education support.

**Four para schedule.** From August 13, 2024, through December 5, 2024, the records showed that there were 16 full days and one partial day when 3 paraprofessionals were present. On these 17 days, the student's classroom had 60 minutes of paraprofessional support assigned. In addition, there was 1 partial day when three paras were present, and on this day, no special education support was present in the classroom (November 1, 2024). On three days (September 3, 6, and 9, 2024), there were only 2 paraprofessionals present, and on these days, the student's classroom had no special education paraprofessional support. On the remaining school days, all four paras were present and provided 105 minutes of support to the student's classroom.

**Five para schedule.** After December 5, 2024, through March 7, 2025, the schedule showed that the student's classroom had four (or five) paraprofessionals present for 24 days when one para was absent for a full (or partial) day. On three days, there were three paras present. On two days, there were four paras present, except for 23 minutes on February 21, 2025, and 45 minutes on February 4, 2025, neither of which affected the student's classroom.

In summary, from August 13, 2024, through March 7, 2025, the schedule showed that when paras were absent, the student's classroom had no special education support on 4 days, 60 minutes on 18 days, 55 minutes on 3 days, and 120 or 130 minutes on 30 days. On the remaining days of the school schedule, the student's classroom had 105 minutes of support through December 5, 2024, and 120 minutes after the district added a fifth para to the school's staff.

When asked, the parent reported that she had not been told that staffing shortages caused missed service time for her child, and she replied that she had not been told that by the district. In an interview, the general education teacher stated that when paraprofessional support was absent in the classroom, he adjusted instructional activities (such as not giving a test that would need to be read aloud) and he provided accommodations for the student as they were required by the adjusted instructional schedule. When asked directly if the student missed accommodations due to staff absences, he stated that she received her accommodations in his classroom in this situation.

In an email dated March 6, 2025, to the investigator, the principal explained the school's response to providing special education services in general education classes when special education paraprofessionals were absent: "Our focus is always on making sure the accommodations on the IEP are provided by an adult in the general education classroom. These can be provided by a special education teacher, para, or when necessary, a general education teacher. During the three days where paraprofessional support was not scheduled

[in September], the special education team reviewed student needs with the teacher and made sure those accommodations would be provided during the short time additional coverage wasn't available. This results in the teacher supporting short term the responsibility of accommodations and providing access to the general education curriculum in the classroom in the absence of the para.

Interviews with the general education teacher for the first semester of 2024-25 and the special education teacher found that the district reported that the student's specific accommodations were implemented in the general education classroom. According to these interviews, the student volunteered but was not required to participate in Readers Theater; spelling test corrections of concern to the parent were seen by the district as feedback on spelling development, and spelling errors were not graded as part of writing assignments for the student; and the student had been given a choice to leave the general education classroom or sit with the teacher in a small group as a quiet noncompetitive testing option. The district reported in its response that each of these accommodations were discussed and further clarified at the IEP meeting dated January 24, 2025, to alleviate any misunderstandings and to respond to parental requests.

## Conclusion

In summary, the district provided a contact log that showed that the student received special education services in the special education classroom as required by the IEP dated April 24, 2024. Evidence showed that the district implemented the student's accommodations in the general education classroom, including those of special concern to the parent as expressed in the January 16, 2025, email to the district and at the January 24, 2025, IEP meeting. Further, progress monitoring of the student's IEP goals and related academic testing showed that the student made progress in the areas addressed by the IEP.

Also, the district provided special education staff in the general education classroom to provide special education services to the student. While staff absences affected the amount of special education staff in the classroom, the district had a systematic plan in place to provide prioritized paraprofessional support in the form of the two-, three-, and four- paraprofessional classroom schedules. Further, the district had an articulated policy on how to maintain the student's accommodations and access to the general education curriculum when support was lacking, including accommodations being offered by the general education teacher, who wisely also amended the student's instructional program on days when staffing affected the classroom. The district administrators demonstrated attention to the needs of this student and others when short term staff shortages occurred, and the district added an additional staff person to provide special education services by the end of the first semester. Based on the foregoing, it is found that USD#229 implemented the student's IEP by providing special education services, accommodations or other requirements of the student's IEP and *the district is in compliance*

## **Issue Two**

Did the district meet the IEP team in response to the parent's concern voiced at the October 2024, parent teacher conferences and the student's lack of progress in mathematics with the current IEP?

### **Applicable Law**

Federal/State statutes and regulations at C.F.R. 300.324(b)(1) and KSA 72-3429(f) state that 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; and revises the IEP, as appropriate, to address: Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate; the results of any reevaluation conducted under this section; information about the child provided by the parents; the child's anticipated needs; or (E) other matters. The Kansas Special Education Process Handbook states: "Although the school is responsible for determining when it is necessary to conduct an IEP meeting, the parents of a child with an exceptionality have the right to request an IEP meeting at any time. The child's teacher or other school staff may also propose an IEP meeting at any time they feel the IEP has become inappropriate for the child and revision should be considered (K.S.A. 72-3429(f))."

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

The parents alleged that their concerns about the student's mathematics performance were raised at a parent teacher conference in October 2024, with the classroom and special education teachers. At this time, the parent alleged that the district stated that the school did not provide special education support in mathematics. The parent alleged that the teachers stated that they would monitor the student's progress and performance in mathematics and that they dismissed her concerns. The parent alleged that the student's mathematics performance dropped precipitously from the beginning to the end of the fall, 2024 semester and alleged that the district failed to act and provide support during this period of time.

The district responded that: "While parents shared concerns about math achievement during the general education, October 2024 parent/teacher conference, the data available at that time did not indicate any level of special education intervention, nor did the parents request an IEP meeting." The district further reported that the student's August 21, 2024, IReady scores showed that the student scored at the third grade level at the beginning of the 4th grade year, which is expected performance for a fourth grade student and in the 57th percentile nationally. The district reported that such students are "well- positioned for grade-level instruction, though, differentiation is likely needed in certain domains." The district responded that when the student's December 2024 math scores showed one subdomain at two years below grade level, a general education tier 2 intervention was begun in mid-January 2025, and that the student's need for special education services was discussed at the January 24, 2025, IEP meeting.

### **Findings of Fact**

The findings of Issue One are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the parent and staff in USD #229.

The IEP developed at the end of the student's third grade year, dated April 24, 2024, stated that the student did well in math and listed the following academic achievement tests as evidence: iReady Winter Diagnostic Overall Grade 2; Number & Operations: Early Grade 3; Algebra & Algebraic Thinking: Grade; Measurement & Data: Early Grade 3; Geometry: Grade 2; and Nationally placed at the 52nd percentile. The IEP did not include a goal or services in mathematics. The IEP included math accommodations.

The district reported and the student's Fall iReady Diagnostic Assessment (August 21, 2024) showed that the student scored 450 in the 57th percentile nationally, with math domain scores as follows: Numbers and Operations: 442, grade 3, one grade level below; Algebra and Algebraic Thinking: 435, grade 3, one grade level below; Measurement and Data: 456, grade 3, one grade level below; Geometry: 475, early grade 4, on grade level. In its response, the district reported that the student's test data "did not indicate a need for special education services" at the time of the October 2024, parent teacher conferences, nor did the student qualify for Tier 2 general education interventions based on her test scores.

At the October 2024, parent teacher conference, according to interviews and the district response, the parent raised a concern about the student's mathematics performance. The parent and the district agree that the student's mathematics performance was discussed at the parent teacher conference. The district and the parent agreed that the parent did not ask for an IEP meeting at that time. The parent reported in an interview that the district assured her that the student's mathematics performance would be monitored. According to interviews, the parent believed that the case manager told her that the school did not offer mathematics support, while the district reported that the case manager communicated that the student did not have mathematics support on her IEP at the time. According to the district response, regarding the parent teacher conference in October 2024, the case manager reported: "[The] parents expressed that math was a concern after looking at the Fall iReady Diagnostic score. They did not mention anything specific about math that was a challenge. I believed they wanted to know that she is using manipulatives while completing assignments. We discussed how we will continue to support [the student] through routine checks on work and small group instruction in the classroom. They (parents) did not request an IEP meeting to discuss math concerns. We shared that we will let them know if we see any regression or particularly difficult lessons/concepts."

The district reported and student Winter iReady Diagnostic Assessment (December 11, 2024) scores showed that the student had a decrease in performance to a score of 439 at the 28th percentile, with domain scores of "Numbers and Operations: 442, grade 3, one grade level below (remained the same from fall); Algebra and Algebraic Thinking: 449, grade 3, one grade

level below (increased from fall); Measurement and Data: 456, grade 3, one grade (decreased from fall); Geometry: 421, grade 2, two grade levels below (decreased from fall)." The district reported that based on the geometry score, the student qualified for MyPath, a Tier 2 general education intervention, and began lessons on January 17, 2024, completing 3 lessons at 100% accuracy each.

The district reported and IEP meeting documents dated January 24, 2025, submitted by the parents and the district showed that the parents requested that the student be excluded from MyPath and receive direct special education services in mathematics. At the IEP team meeting dated January 24, 2025, the school team members agreed to this request and the draft IEP dated January 24, 2025, showed a new goal and service in mathematics.

### **Conclusion**

In this case, the parent and the teachers discussed the student's math performance at the October parent teacher conference. At that time, the student's beginning of the year quarterly test scores did not indicate a need for special education or additional general education intervention, nor did the IEP dated April 24, 2024, include a math goal or special education services in math. It is noted that the parent may have anticipated emergent math needs that subsequently became evident on district's quarterly iReady monitoring December 12, 2024. When the student's math scores dropped, the district responded to implement a general education tier 2 intervention by mid-January 2025. An IEP team meeting was held January 24, 2024, and a mathematics goal and special education services were added to the proposed IEP resulting from that meeting.

Based on the foregoing, it is found that the district met its obligation to meet with the IEP team under C.F.R 300.324(b)(1) and *there is no violation*.

### **Issue Three**

Did the district provide proper PWN in response to parental requests for accommodations or services?

### **Applicable Law**

Parents have the right to bring questions, concerns, and recommendations to an IEP meeting for discussion (Federal Register, August 14, 2006, p. 46678; Kansas Special Education Process Handbook, p. 93). In addition, while the IEP team should work toward reaching a consensus, if the team cannot do so, the Local Education Agency (LEA) representative at the meeting has the authority to make a decision and to then provide parents with the appropriate notice and consent for the action, if consent is required.

According to K.S.A 72-3430(b)(2) a procedural safeguard afforded to parents is the Prior Written Notice for certain proposed special education actions. The Prior Written Notice documents a description of the action proposed or refused by the district. It is required when the district proposes to initiate or change, or refuses to initiate or change, the identification,

evaluation, placement, or provision of FAPE to a child. This requirement is triggered regardless of whether it is the school or the parent who is initiating the request.

Federal regulations at 34 C.F.R. 300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE (free appropriate public education) to a child who has or is suspected of having a disability. State regulations at K.A.R. 91-40-27(a)(3) require school districts to obtain parent consent before making a material change in services or a substantial change in placement.

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

The parents alleged that they provided a list of their concerns prior to and in the January 24, 2025, IEP meeting, and that the discussion in the meeting appeared that the school members of the IEP team were in concord with their positions. The parents alleged that following the team meeting they received an IEP amendment and prior written notice that did not align with the discussion in the IEP meeting. Further, in reviewing a previous PWN from April 24, 2024, the parent alleged a discrepancy in what was discussed in the meeting and the subsequent PWN provided by the district.

The district responded that “the schools members of the IEP team provided the PWN February 4, 2025 in good faith based on: our understanding of the parent requests from January 24, 2025; information provided to the parents at the IEP meeting; modifications that were necessary to comply with IDEA Sec 300.160 Participation in assessments; and new requirements of the Kansas Assessment Program (KAP) for Reading that does not allow text to speech to be used on the test section that measures ‘decoding’ (reading) because ‘text to speech’ would invalidate the test.”

The district’s response to the complaint on February 19, 2025, continued that, “After reviewing the PWN, the parents responded with two emails on February 11th “...requesting clarification and possible revisions” to the IEP amendment and PWN. The school team is currently working on responding to the parents' questions and concerns. Given weekends and the days school was not in session due to weather and conferences (February 12, 14, 17, 18, 19, or 20), there was only one school day between the school receiving parents' requests and the filing of 25FC229-003. The team is currently working on a PWN that will provide a written response to all of the requests for clarification and modification included in the two February 11th emails. We plan to complete this response within 10 days that will address all questions/concerns including any that the parent's perceive were not addressed in the original PWN.”

### **Findings of Fact**

The findings of Issue One and Issue Two are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the parent and staff in USD #229.

The parent reported that the conversation in the April 24, 2024, IEP meeting did not include discussion of new IEP goals. The IEP meeting notes dated April 24, 2024, provided by the district as evidence said only this about the discussion: "Parent wanted [the student] to continue to have access to math manipulatives instead of relying on rote memory," and "[the student] has made good progress in 3rd grade and the team celebrated her growth, especially in reading."

The district provided PWN dated April 24, 2024, to make changes to the student's IEP of the same date with this explanation: "Any additions, changes or modifications to the special education and related services or educational placement that are needed to enable your child to meet the measurable annual goals set in the IEP and to participate, as appropriate, in the general curriculum." Changes proposed were for new reading and writing goals, "as [the student] continues to need direct, individualized instruction in both areas." Parental consent was not requested or provided for these changes.

The parent reported that testing accommodations were changed from the student's IEP dated May 1, 2023, to the IEP dated April 24, 2024, and that these changes were omitted from the April 24, 2024, PWN. In both IEPs, the testing accommodations were to take tests in quiet noncompetitive environments and text to speech for directions and test items.

The parent provided a list of concerns prior to the January 24, 2025, IEP meeting that included a concern regarding the student's speech and its deleterious effect on the student's reading performance. She requested a copy of the student's speech and language evaluation that she believed was conducted at her request in 2022.

The parent reported that she was informed by the special education administrator that the speech language evaluation was not completed in 2022. In notes of a phone call on February 4, 2025, between the parent, the principal and the school administrator, the district offered to provide immediate screening, observation and teacher questionnaire conducted by the speech and language pathologist, with the options to proceed immediately to a speech language evaluation or to include speech language as part of the student's upcoming triennial evaluation, due May 10, 2025.

In an email dated February 11, 2025 to the district, the parent stated disagreement with aspects of the PWN dated February 3, 2025, including: the attendance page, the nature of the math goals, inaccuracy of parent concerns recorded with a restatement of their concerns, and specific aspects of the following nine accommodations on the proposed IEP amendment dated January 24, 2025: (a) Text-to-Speech & Keyboard Usage for Writing Assignments, (b) Extended Time for Reading Assignments & Assessments, (c) Quiet Environment for Reading When Audio Versions Are Unavailable, (d) Spell Checker for Written/Typed Work, (e) Pre-Written Notes for Lessons Requiring Board Copying, (f) Grading Based on Content Rather Than Spelling or Form, (g) Frequent Accuracy Checks for Multi-Step Assignments, (h) Parent Discretion to Modify Homework Without Repercussions, and (i) Extended Time for All Tests & Assessments (Testing Page).

The district elaborated in its response, stating: "During the January 24th IEP meeting, parents provided a list of requested changes to the IEP. We were able to agree to some of these verbally during the meeting, but others needed more time to consider the facts and legal requirements. It appears that in some cases, the parents viewed not verbally objecting as agreement with their proposals. We did not feel the need to object to every area of concern as the parents stated in writing that they wanted the response in the form of a PWN."

The special education administrator met with the parent on February 28, 2025, to provide detailed information on accommodation and other aspects of the IEP amendment to address the parent's concerns. On March 7, 2025, the special education administrator sent an email to the parent that attached (a) an IEP amendment dated March 7, 2025 revised in response to February 11 and 28, 2025 parent concerns and input, (b) two Prior Written Notices for the IEP Amendment formatted as requested by the parent (a PWN for the items that do not require consent dated March 3, 2025 and a second PWN for the items that do require consent that indicate the items or parts of items that were accepted and rejected and why, dated March 4, 2025), (c) a Working Document the district team used to respond to parent requests and revised based on ongoing input, including a chart with changes, (d) The PWN-E for evaluation and consent dated March 6, 2025 for [the student's] three-year reevaluation to share a proposed evaluation plan and seek input, and (e) an additional copy of the parent rights document.

The Working Document included the original language of the IEP amendment dated January 24, 2025, the parent concerns from their email dated February 11, 2025, the districts proposed revisions or the district's acceptance/rejection/rationale statement for each concern, and the proposed revisions following the February 28, 2025, meeting including parent input. In addition to the nine accommodations listed above, the Working Document included similar discussions of the student's (revised) math goal, a summary of the other accommodations that did not require further revisions, updated present levels of performance in reading and math requested by the parent, revised reading goals, and the revised statement of parental concerns and how these were addressed by the district.

The revised IEP amendment dated March 7, 2025, summarized the process and changes in this way: "\*After the IEP meeting on 1/24/25 an IEP Amendment was developed and sent on 2/3/25. It included the following changes: -Updated PLAAFP in the area of math -Addition of math services for 30 minutes daily -Addition of math goal -Updated parent concerns and how team is addressing parent concerns -Updated classroom and assessment accommodations. \*After further input from parents on 2/11/25 and 2/28/25 additional changes were made to the IEP Amendment on 3/7/25: -Updated staff members in attendance for 1/24/25 IEP meeting - attendance reflects the presence of team members on 1/24/25 -Additional data in the area of math, reading and spelling in PLAAFP and baseline -Updated parent concerns and how team is addressing parent concerns -Updated classroom and assessment accommodations after input provided by IEP team, including parents -Updated Specially Designed Instruction section after input provided by IEP team, including parents."

As requested by the parent, the district provided two associated PWNs, one requiring parental consent for material changes in services dated March 4, 2025, and one with revisions that did not require consent, dated March 3, 2025. Parental consent was not sought for changes to the IEP based on the IEP team meeting on January 24, 2025, for the following district proposals: to add a math goal, modify current reading and spelling goals, update present levels of functioning, update parental concerns, and to excuse the student from participating in MyPath within the IReady curriculum. The district proposed to reject the parent's request to have special education services provided by a reading specialist in this PWN. The PWN included the rationales for accepting or rejecting changes, other options considered, and evidence used for decision making.

The second PWN dated March 4, 2025, for changes to the IEP sought parental consent for changes to the IEP noting a material change in services. This PWN stated, "The District proposes to revise or expand upon existing accommodations from the IEP dated April 24th, 2024. Each accommodation now indicates the accommodation, rationale, location, frequency, and duration, a new IEP system update, which was not included in the previous IEP. An amendment was sent on February 3rd, 2025. Revisions were made based on parent feedback received on February 11th, 2025, and February 28th, 2025." The district proposed to revise 7 previous accommodations. Similarly, the district proposed to add 8 accommodations based on the same IEP meeting and other communication with the parent. Finally, the district stated: "The District proposes to reject the following accommodation based on further team discussion after the IEP meeting on January 24th, 2025. The team considered parent feedback received on February 11th, 2025, and also discussed this further during a meeting on February 28th, 2025. 1. Reject "Allow access to a spell checker for all written and typed assignments and assessments to support [the student's] spelling needs" 2. Remove "Text-to-Speech directions/test items" for the ELA KAP Assessment." The PWN proposed to increase special education services in the special education classroom from 30 minutes to 60 minutes daily to add math services. The PWN included the rationales for accepting or rejecting changes, other options considered, and evidence used for decision making.

## **Conclusion**

Regarding the PWN provided on April 24, 2024, it is found that the district provided PWN to the parent on a change to the IEP that did not require parental consent. It cannot be determined if these changes were discussed in detail at the meeting based on the evidence available. There is no violation found with this PWN.

In this case, the parent expressed concern that the district's PWN did not agree with the parent's perception of the events of the January 24, 2025, IEP meeting. The district in response reported that further consideration was required for some of the requests made by the parents before the February 3, 2025, PWN was provided.

Following the January 24, 2025, IEP meeting, the district provided PWN dated February 3, 2025, to the parent asking for consent for material changes in services, adding a math goal and 30

minutes of direct special education services in special education, removing the KAP-disallowed test accommodation, and adding or amending accommodations. In response to the email dated February 11, 2025, of parental concerns with the PWN, the district met with the parents February 28, 2025, to review detailed information regarding their concerns with the proposed IEP amendment's contents. The district again revised the IEP amendment now dated March 7, 2025, and provided associated PWNs dated to the parents showing changes that required parental consent and those that did not. The district provided supporting documents clearly showing the IEP process and changes to the parent and the investigation. It is noted that the parent and the district continue to work extensively together toward reaching agreement through the IEP process.

Based on the foregoing, it is found that the district provided proper PWN in response to parental requests for accommodations or services and *there is no violation*.

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

1. **ISSUE ONE:** A violation of 34 C.F.R. 300.323(c)(2) was not found, based on the facts listed above. Corrective action is not required.
2. **ISSUE TWO:** A violation of C.F.R. 300.324(b)(1) and KSA 72-3429(f) was not found, based on facts listed above. Corrective action is not required.
3. **ISSUE THREE:** A violation of 34 C.F.R. 300.503(a) and K.A.R. 91-40-27(a)(3) was not found, based on the facts listed above. Corrective action is not required.

## **Right to Appeal**

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