

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #329
ON FEBRUARY 17, 2025

DATE OF REPORT: MARCH 20, 2025

This report is in response to a complaint ----- filed with our office, on behalf of their child, ----
---. For the remainder of this report ----- will be referred to as “the student.” ----- will be
referred to as “the parent.”

Investigation of Complaint

K.A.R. § 91-40-5(c)(5) requires that the complaint investigation include “[a] discussion with the complainant during which additional information may be gathered and specific allegations of noncompliance identified, verified, and recorded.” Laura Jurgensen, complaint investigator, held this discussion with the parent via phone call on February 25, gathering additional information and verifying the specific allegations to be investigated. Laura Jurgensen provided a draft of the specific allegations to be investigated to the parent via email on February 24 that could then be discussed during the February 25 phone call. The parent did not dispute how the complaint investigator framed the issues to be investigated. The parent also provided documentation for the complaint investigator to consider as part of the investigation and the parent and complaint investigator exchanged multiple emails. The district provided the complaint investigator with a response to the issues the complaint investigator identified, as well as documentation and data the complaint investigator requested, and the complaint investigator exchanged multiple emails with the district superintendent and special education director. The complaint investigator and student’s first grade teacher and private school principal also exchanged multiple emails.

In completing this investigation, the complaint investigator reviewed the following:

- District’s Response to the Complaint, Feb. 27, 2025.
- Statement from USD 329 Board Clerk Regarding Parent’s Feb. 14, 2025, Request, Feb. 27, 2025.
- Log of Student’s Special Education Services, Jan. 30–Feb. 21, 2025.
- Parent’s Complaint, Feb. 16, 2025. (Kansas State Department of Education (KSDE) receipt occurred upon opening the complaint on Feb. 17, 2025.)
- Text Message Exchange Between District Superintendent and Parent Regarding Copy of Student’s Individualized Education Program (IEP), Feb. 14, 2025.

- Email Exchange Between Parent and Special Education Director Regarding Location of Student's Special Education Services, Feb. 13–14, 2025.
- Feb. 11, 2025, IEP Team Meeting Notes.
- Email Exchange Between Parent and Special Education Director Setting Up IEP Team Meeting to Discuss Services Location Change, Feb. 3–10, 2025.
- Email from Parent to Special Education Director Requesting IEP Team Meeting to Discuss Services Location Change, Feb. 3, 2025.
- Student's Dec. 19, 2024, IEP with a Jan. 30, 2025, Printed Date.
- Email Exchange Between Special Education Teacher and Parent Regarding Parent Request for Dec. 19, 2024, IEP, Jan. 29–30, 2025.
- Email from Special Education Director to Parent Following Up on Phone Call to Discuss Location of Services, Jan. 28, 2025.
- Call Log with Notes from Phone Call Between Special Education Director and Parent to Discuss Location of Services, Jan. 28, 2025.
- Email Exchange Between Special Education Director and Private School Principal Setting Up Phone Call, Jan. 24–25, 2024.
- Email Exchange Between Special Education Director and Private School General Education Teacher Regarding Transportation for Special Education Services, Jan. 17–21, 2025.
- Email Exchange Between Student's General Education Teacher and Special Education Teacher, Jan. 9, 14, 16, 17, 21, 2025.
- Student's Dec. 19, 2024, IEP.
- IEP Team Meeting Notes, Dec. 19, 2024.
- Statement Signed by the Parent That The District Provided Him With a Copy of the IEP, Dec. 19, 2024.

Background Information

This complaint focuses on a student in the first grade during the 2024–25 school year. (Student's Dec. 19, 2024, IEP.) The student attends a private school located within the district boundaries and lives within the district boundaries. (Email Exchange Between Special Education Director and Private School General Education Teacher Regarding Transportation for Special Education Services, Jan. 17–21, 2025.) The student was determined eligible for special education services on December 19, 2024, and this concern focuses on the initial provision of services the IEP Team developed at the December 19, 2024, IEP Team meeting. (Student's Dec. 19, 2024, IEP.)

Issues

In the written complaint and the complaint investigator's discussion with the complainant, the parent alleges seven issues upon which this investigation will focus:

Issue One: Whether the district consulted with the parent or guardian of the student and with officials of the private, nonprofit elementary or school in determining the site for the provision of special education services for the student. K.S.A. § 72-3462.

Issue Two: Whether the district provided the special education services articulated in the December 19, 2024, individualized education program to the student? K.S.A. § 72- 3462.

Issue Three: Whether the student experienced a substantial change in placement, which would require the district to obtain parental consent before taking that action. K.A.R. § 91-40-1(sss); K.A.R. § 91-40-27(a)(3).

Issue Four: Whether the district ensured that the student's IEP included a statement of measurable annual goals, including academic and functional goals designed to meet the student's needs that result from the student's disability, to enable the student to be involved in and make progress in the general education curriculum; and meet each of the student's other educational needs that results from the student's disability. K.S.A. § 72-3429(c)(2).

Issue Five: Whether the district ensured that the student's IEP included a statement of the special education services, based on peer-reviewed research to the extent practicable, that will be provided for the student to advance appropriately toward attaining the annual goals and to be involved in and make progress in the general education curriculum in accordance with the student's present levels of academic achievement and functional performance. K.S.A. § 72-3429(c)(4).

Issue Six: Whether the district gave the parent a copy of the student's current IEP. K.A.R. § 91-40-18(d).

Issue Seven: Whether the district allowed the parent an opportunity to inspect and review all the student's education records. K.A.R. § 91-40-25(a).

Issue One

Consultation on the Site for Services

Applicable Law

Kansas statute adds to federal requirements regarding special education services for students attending a private school. In Kansas:

[e]very school district shall provide special education services for exceptional children who reside in the school district and attend a private, nonprofit elementary or secondary school, whether such school is located within or outside the school district, upon request of a parent or guardian of any such child for the provision of such services. Special education services which are provided under this section for exceptional children who attend a private, nonprofit elementary or secondary school which is located in the school district may be provided in the

private, nonprofit elementary or secondary school or in the public schools of the school district. The site for the provision of special education services under this section for an exceptional child shall be determined by the school district in consultation with the parent or guardian of the child and with officials of the private, nonprofit elementary or secondary school.

K.S.A. § 72-3462. A private, nonprofit elementary or secondary school “means an organization which regularly offers education at the elementary or secondary level, which is exempt from federal income taxation under section 501 of the federal internal revenue code of 1954, as amended, which conforms to the civil rights act of 1964, and attendance at which satisfies any compulsory school attendance laws of this state.” K.S.A. § 72-3461.

Analysis: Findings of Fact

The student attends a private school, which meets the definition in K.S.A. § 72-3461, that is located within the district boundaries. Additionally, the student lives within the district boundaries. (Email Exchange Between Special Education Director and Private School General Education Teacher Regarding Transportation for Special Education Services, Jan. 17–21, 2025.) The district’s response indicates the site for the student’s special education services was not discussed at the December 19, 2024, IEP Team meeting and IEP Team meeting notes do not record a discussion of the site for services. (District’s Response to the Complaint, Feb. 27, 2025; IEP Team Meeting Notes, Dec. 19, 2024.) The student’s IEP indicates the “setting” for special education services will be “G – Special Ed Classroom In Regular Ed Class Building.” (Student’s Dec. 19, 2024, IEP.) This setting reference indicates how the district will report the setting for the student’s services to KSDE. (2024-2025 School Year, KSDE Special Education Individual Student Data, Report Preparation Instructions and Data Dictionary, Guidelines for IDEA, Part B and Gifted Reporting of Special Education Data.) This data reporting to KSDE is required, but this setting is not required to be included in a student’s IEP. What must be included in the student’s IEP is the location of the student’s special education services. K.S.A. § 72-3429(c)(7). In this student’s IEP, the district appears to be using the “setting” to indicate the location of the services.

In the district’s response, the district confuses the requirement in K.S.A. § 72-3462 to consult “with the parent or guardian of the child and with officials of the private, nonprofit elementary or secondary school” with the private school consultation requirement in K.A.R. § 91-40-42a to “engage in timely and meaningful consultation with representatives of private schools located in the school district and representatives of parents of children with disabilities enrolled in those private schools before making determinations regarding” the consultation process, child find, and spending the proportionate share of federal funds providing special education services to children with IEPs in private school, providing evidence that it has met both requirements. K.A.R. § 91-40-42a is a Kansas regulation implementing a federal requirement for children whose parents voluntarily enrolled in private school and is not at issue in this complaint. At issue in this complaint is whether the district consulted with the parent and

official of the private school regarding the site for services for the student at the focus of this complaint, under K.S.A. § 72-3462.

The district initially provided the student's services by transporting the student from the private school to the public elementary school and providing the services in a special education classroom. (Email Exchange Between Special Education Director and Private School General Education Teacher Regarding Transportation for Special Education Services, Jan. 17–21, 2025.) The student's IEP does not include transportation. (Student's Dec. 19, 2024, IEP.) On January 24 and 25, the special education director exchanged emails with the private school principal, setting up a phone call to discuss the student's services (Email Exchange Between Special Education Director and Private School Principal Setting Up Phone Call, Jan. 24–25, 2024.) On January 28, the special education director called the private school principal and indicates the result of this call was the private school principal "agree[ing] to services being provided at St. John's Lutheran and to assign a staff member to support the student by keeping [the student] engaged, on task, and ensuring they had the appropriate materials during direct services." (District's Response to the Complaint, Feb. 27, 2025.) The private school principal characterized this phone call as a "discussion." (Email from Private School Principal to Complaint Investigator, Mar. 11, 2025.)

On January 28, the special education director called the parent to discuss the location of the student's services. (Complaint Investigator Interview with Parent, Feb. 25, 2025; Call Log with Notes from Phone Call Between Special Education Director and Parent to Discuss Location of Services, Jan. 28, 2025.) The parent perceived this phone call as "informing" him that the site for services was changing from a special education classroom in the public elementary school to the student's general education classroom via a virtual meeting with the special education teacher. (Complaint Investigator Interview with Parent, Feb. 25, 2025.) The district characterizes this call, in its call log with notes on the phone conversation, as a call "to consult" and in the district's response to this complaint as a "consultative conversation." (District's Response to the Complaint, Feb. 27, 2025; Call Log with Notes from Phone Call Between Special Education Director and Parent to Discuss Location of Services, Jan. 28, 2025.)

The requirement here is for the district to "consult" and then to "determine" the site for services. The district provided evidence that it consulted with the private school principal regarding the site for the student's services. The district's position is that it consulted with the parent regarding the site for the student's services and the parent's position is that the district informed him of the site for the student's services. When parties to a complaint disagree, the investigator must consider the evidence provided and determine whether a legal requirement has been violated. In addition to each party's position, the district provides notes from the special education director's phone call with the parent and a follow-up email from the special education director to the parent, private school principal, district superintendent, and special education teacher. (Call Log with Notes from Phone Call Between Special Education Director and Parent to Discuss Location of Services, Jan. 28, 2025; Email from Special Education Director to Parent Following Up on Phone Call to Discuss Location of Services, Jan. 28, 2025.) It

would have been most helpful for the special education director's January 28 email to the parent to describe the nature of the January 28 phone call on the site for services, but the email simply indicates the director is "following up on [the] phone conversation." (Email from Special Education Director to Parent Following Up on Phone Call to Discuss Location of Services, Jan. 28, 2025.) The special education director and parent continue to exchange emails on this topic, but neither describes the nature of the January 28 phone call. (Email Exchange Between Parent and Special Education Director Regarding Location of Student's Special Education Services, Feb. 13-14, 2025.) The parent does not provide any information on the nature of the January 28 phone call outside of the complaint and the interview with the complaint investigator.

Conclusion

This complaint investigator finds the district's call log of the January 28 phone call between the special education director and parent to be credible and absent additional information, it appears that the district met its requirement to consult with the parent and private school officials regarding the site for services and then made a decision. Therefore, this investigation concludes that the district *did not violate* its obligation to consult with the parent of the student and with officials of the private, nonprofit elementary school before determining the site for the provision of special education services for the student under K.S.A. § 72-3462.

Issue Two

Provision of Special Education Services

Applicable Law

In Kansas, "[e]very school district shall provide special education services for exceptional children who reside in the school district and attend a private, nonprofit elementary or secondary school, whether such school is located within or outside the school district, upon request of a parent or guardian of any such child for the provision of such services." K.S.A. § 72-3462. The statement of special education services in a child's IEP must include, "the projected date for the beginning of the services ... and the anticipated frequency, location, and duration of those services " K.S.A. § 72-3429(c)(7).

Analysis: Findings of Fact

The facts for Issue Two are closely intertwined with the facts from Issue One and those facts are incorporated here by reference. The parent asserts in his complaint that the district has not provided the student's special education services in accordance with the student's IEP as the student's IEP requires the special education services to be provided in a special education classroom. (Parent's Complaint, Feb. 17, 2025.) The district asserts that it has not made any changes to the provision of special education services in the student's IEP as the student continues to receive special education services outside a regular education classroom as the student is removed from the general education environment to receive special education services even though the student does not actually leave the general education classroom.

(District's Response to the Complaint, Feb. 27, 2025.) The district's response indicates the "statement of special education services is in the service line within the IEP." (District's Response to the Complaint, Feb. 27, 2025.) This table duplicates the header row of this chart and the row of this chart at issue in this complaint investigation:

Service	Setting	Minutes	Days	Frequency	Start Date	End Date
SE - Special Education Services	G – Special Ed Classroom in Regular Ed Class Building	20	4	Every week	12/19/2024	12/18/2025

(Student's Dec. 19, 2024, IEP.) The student's IEP indicates that the "setting" of the special education services is "Special Ed Classroom In Regular Ed Class Building." (Student's Dec. 19, 2024, IEP.) Again, what must be included in the student's IEP is the location of the student's special education services and in this student's IEP, the district appears to be using the "setting" to indicate the location of the services. (K.S.A. § 72- 3429(c)(7).)

The parent asserts that the parent did not know that the district interpreted "Special Ed Classroom" to mean both the special education classroom at the public elementary school where the district initially provided the student with services and the student's regular first grade classroom at the private school. (Complaint Investigator Interview with Parent, Feb. 25, 2025.) The district argues in its response that a "special education classroom can include a designated area within the general education classroom where a licensed special education teacher delivers individualized or small group instruction either in person or virtually." (District's Response to the Complaint, Feb. 27, 2025.) The problem with how the district's response interprets the location of the student's special education services on the student's IEP is that the district confuses the concept of placement with the concept of location. The United States Department of Education's Office of Special Education Programs (OSEP) refers to " 'location' as the physical surrounding, such as the classroom, in which a child with a disability receives special education and related services" and " 'placement' as points along the continuum of placement options available for a child with a disability." (Letter to Trigg, U.S. Dep't of Educ. Office of Special Educ. Programs (Nov. 30, 2007), available at <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/letters/2007-4/trigg113007lre4q2007.pdf>.)

The district's response that a special education classroom can be a designated area within the general education classroom is a placement concept, as the district describes how the student's removal from general education peers during the student's special education services moves the student along the continuum of placement options, transforming the part of the student's first grade classroom where they are receiving special education services into a special education classroom. The requirement to include within each IEP the location of special education services is instead focused on the location of the student's services or "the physical surrounding" where the student receives special education services. For this student, the district initially provided special education services in "the physical surrounding" of a special education classroom at the public elementary school. The district then changed the location, or "the physical surrounding" where the student received special education services, to the

student's regular first grade classroom in the private school. Because the two locations (physical surroundings) where the district provided special education services were not the same, the district was required to amend the student's IEP to change the location of the student's special education services either through an IEP Team meeting or by asking the parent if they would agree to amend the IEP outside of an IEP Team meeting and following relevant requirements to amend.

Regarding the provision of services, the district's response includes information on whether the district has provided special education services from the start date of services indicated in the student's IEP (12/19/2024) through February 21, 2025. The student's IEP indicates that he would receive special education services four days per week. (Student's Dec. 19, 2024, IEP.) The December 19, 2024, IEP Team meeting notes do not provide information on the days of the week that services would occur. (IEP Team Meeting Notes, Dec. 19, 2024.) The district's response indicates that the private school principal requested services occur Monday, Tuesday, Thursday, and Friday. (District's Response to the Complaint, Feb. 27, 2025.) Despite the IEP Team listing a service start date of December 19, the district did not provide services that day or on December 20 as the St. John's Lutheran principal indicated the student was unavailable due to Christmas celebrations. (Email from St. John's Lutheran Principal to Complaint Investigator, Mar. 11, 2025.) From December 23 through January 8 the district had winter break and inclement weather. (District's Response to the Complaint, Feb. 27, 2025.) The first email the district provided that shows an attempt to schedule services is from January 9 and the student's first grade teacher indicates this is the first time the district contacted her to arrange services. (Email from Student's First Grade Teacher to Complaint Investigator, Mar. 11, 2025; Email from Special Education Teacher to St. John Lutheran's Staff, Jan. 9, 2025.) The district did not provide services on January 10 due to inclement weather and January 17 and 20 as the district did not have school. (District's Response to the Complaint, Feb. 27, 2025.) From January 22 through February 21, 2025, the district's information indicates services were provided. (District's Response to the Complaint, Feb. 27, 2025.) The district does not provide information that it provided special education services to the student on three school days the student appears to have been available: December 19 and January 13 and 14.

It is important to note that this issue arose because the district's IEP web-based tool placed a chart used for data reporting to KSDE within the student's IEP. Data reporting to KSDE is not intended to be included within student IEPs. Data reporting to KSDE is not intended to and does not meet the district's obligation to ensure each student's IEP includes the projected date for the beginning of special education services, and the anticipated frequency, location, and duration for special education services. As illustrated here, the data reporting to KSDE that the district included in the student's IEP provides the "setting" and not location, as IEPs require. KSDE uses setting codes to report data to the United States Department of Education about the placement (points along the continuum of placement options available for a child with a disability) where a student receives special education services. The district's location change of the student's special education services would not change the setting code the district used to report the student's services to KSDE as setting codes report placement information, not

location information. Additionally, the “Start Date” of special education services included within the table used for KSDE reporting is used to represent the start date of that particular IEP going into effect, which could be a different date than the IEP Team intended to begin certain special education services, related services, accommodations, modifications, and supports for school personnel. This further illustrates why data reporting information does not belong in student IEPs.

Conclusion

The student’s IEP states the “setting” of the student’s services is “Special Ed Classroom” and does not provide a “location” for the student’s services, in violation of K.S.A. § 72- 3429(c)(7). Despite the student’s IEP not providing a location for special education services, the district was able to show it provided most days of special education services to this student with three days unaccounted for in the evidence the district submitted. Based on a lack of evidence that it provided services to the student on December 19 and January 13 and 14 the district *is in violation* of K.S.A. § 72-3462.

Issue Three

Substantial Change in Placement

Applicable Law

K.A.R. § 91-40-1(sss) indicates that a substantial change in placement “means the movement of an exceptional child, for more than 25 percent of the child’s school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.” K.A.R. § 91-40-27(a)(3) requires that “each agency shall obtain parental consent before . . . making a substantial change in the placement of, an exceptional child”

Analysis: Findings of Fact

The parent asserts in the complaint that the district was required to obtain his consent before changing the location of the student’s services. (Parent’s Complaint, Feb. 17, 2025.) The district responds that the student’s placement did not change at all and, therefore, the district was not required to obtain the parent’s consent as a substantial change in placement did not occur. (District’s Response to the Complaint, Feb. 27, 2025.) As established in Issue Two, a change of placement did not occur with this student, including a substantial change of placement.

Although parent consent was not required, this investigation must also consider whether written prior notice was required under K.S.A. § 72-3430(b)(2). This statute requires “written prior notice in accordance with K.S.A. 72-3432, and amendments thereto, whenever an agency: (A) Proposes to initiate or change; or (B) refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.” This change did not concern identification or evaluation and, as established in Issue Two and in the previous paragraph, this change did not constitute a

change in the educational placement of the student. The question is whether this change involved the provision of a free appropriate public education to the student. KSDE's guidance on prior written notice indicates that the provision of a free appropriate public education, within the context of this statute, means the same thing as the "provision of special education and related services." (Kan. State Dep't of Educ., Kansas Special Education Process Handbook 6 (2025).) The change with this student involved the location of the provision of special education services. As indicated in Issue Two, the district's response provides that its position is that when the provision of the student's special education services moved from a special education classroom at the public elementary school to the student's first grade classroom at the private school, the "setting" stated in the student's IEP did not change. (District's Response to the Complaint, Feb. 27, 2025.) As the district did not believe any change had occurred, the district did not provide the parent with a Prior Written Notice.

Conclusion

Because a substantial change of placement did not occur with this student, the district did not violate K.A.R. § 91-40-27(a)(3). However, as established in Issue Two, because the two locations where the district provided special education services were not the same, the district was required to amend the student's IEP to change the location of the student's special education services. This change impacted the provision of special education services (free appropriate public education) to the student and required the district to provide the parent with a Prior Written Notice. As the district did not do this, it *is in violation* of K.S.A. § 72-3430(b)(2).

Issue Four

Measurable Annual Goals

Applicable Law

K.S.A. § 72-3429(c)(2) require that the "IEP for each exceptional child shall include . . . a statement of measurable annual goals, including academic and functional goals designed to . . . [m]eet the child's needs that result from the child's disability . . . , to enable the child to be involved in and make progress in the general education . . . curriculum; and meet each of the child's other educational needs that result from the child's disability"

Analysis: Findings of Fact

The parent asserts in the complaint that the district has not designed appropriate goals to meet all the student's needs that result from the student's disability. (Parent's Complaint, Feb. 17, 2025.) Specifically, the parent indicates that the student's goal is "hard to understand" and the student's evaluation results merit goals in "several areas . . . including writing." (Parent's Complaint, Feb. 17, 2025.) The district's response indicates that the student's evaluation indicated the student's needs are related to reading, which led to the team designing a goal to build the student's reading skills. (District's Response to the Complaint, Feb. 27, 2025.)

The student's IEP includes one goal, in the area of reading, that states "By the end of this IEP in December 2025, when shown a list of 20 blend-vowel, digraph-vowel, vowel- blend, and vowel-digraph combinations, [the student] will give the correct sound of the blend/digraph and vowel with 70% accuracy (14 of 20 correct) when given over 4 consecutive weeks." (Student's Dec. 19, 2024, IEP.) To meet the requirements of the statute, the goal must be measurable, academic or functional, meet the need's resulting from the student's disability, and enable the student to be involved in and make progress in the general education curriculum. (K.S.A. § 72-3429(c)(2).) To be measurable, the goal must indicate how the IEP Team will know if the student has accomplished the goal, which is indicated by "with 70% accuracy (14 of 20 correct) when given over 4 consecutive weeks" and aligns with the data provided as the student's baseline "[the student] gave the correct sound of the blend/digraph and vowel with 40% accuracy." (Student's Dec. 19, 2024, IEP.) This goal is a reading goal, which is academic. (Student's Dec. 19, 2024, IEP.) The student's evaluation and IEP provides assessment results and staff information that indicate the student needs assistance with correctly identifying letter sounds. (Student's Dec. 19, 2024, IEP; Student's Dec. 19, 2024, Evaluation.) The student's IEP provides the first grade reading standards with which the student's goal is aligned, showing the IEP Team's intent to enable the student to be involved in and make progress in the general education curriculum. (Student's Dec. 19, 2024, IEP.)

KSDE guidance provides:

'[f]our critical components of a well-written goal' as (1) 'timeframe . . . usually specified in the number of weeks or a certain date for completion;'

(2) 'conditions [that] specify the manner in which progress toward the goal is measured;' (3) *"behavior [that] clearly identifies the performance . . . being monitored;'* and (4) *'criterion [that] identifies how much, how often, or to what standards the behavior must occur . . . to demonstrate that the goal has been reached.'*

(Kan. State Dep't of Educ., Kansas Special Education Process Handbook 77 (2025).) Applying these components to the student's goal, the timeframe is indicated through "by the end of this IEP in December 2025," the conditions are "when shown a list of 20 blend-vowel, digraph-vowel, vowel-blend, and vowel-digraph combinations," the behavior is "give the correct sound of the blend/digraph and vowel," and the criterion are "70% accuracy (14 of 20 correct)." (Student's Dec. 19, 2024, IEP.)

In reviewing the student's evaluation, the student participated in FastBridge testing and scored in the 16th percentile in reading, 5th percentile in English, and 42nd percentile in Math. (Student's Dec. 19, 2024, Evaluation.) The student also participated in the Woodcock-Johnson IV Tests of Cognitive Abilities and scored below average in comprehension-knowledge, fluid reasoning, oral vocabulary, numbers reversed, letter- pattern matching, long-term retrieval, and visual-auditory learning. (Student's Dec. 19, 2024, Evaluation.) The student scored significantly below average in cognitive processing speed and pair cancellation. (Student's Dec. 19, 2024, Evaluation.) The student also participated in the Woodcock-Johnson IV Tests of

Achievement and scored below average in word attack and significantly below average in reading, letter- word identification, passage comprehension, and basic reading skills. (Student's Dec. 19, 2024, Evaluation.) The student's IEP includes that the student participated in the Phonological Awareness Screening Test and scored between 0 and 50% on Syllable Levels and Phoneme Levels. (Student's Dec. 19, 2024, IEP.) The student's IEP additionally indicates that the student participated in the Quick Phonics Screener and scored 50% or less on vowel consonant and consonant vowel consonant nonsense words and common beginning- and ending-consonant digraphs nonsense words. (Student's Dec. 19, 2024, IEP.)

The district's response indicates that the student's goal "is specific to building reading skills as per [the student's] performance on the Quick Phonics Screener." (District's Response to the Complaint, Feb. 27, 2025.) There is no information within the student's evaluation, IEP, IEP Team meeting notes, or district response about why the student's IEP Team determined that out of all the student's evaluation data, the student only needed one goal based on the student's "performance on the Quick Phonics Screener." The student's evaluation indicates the student is not achieving adequately for their age to meet state-approved, grade-level standards when provided with appropriate instruction and learning experiences for the student's age and grade level in basic reading skills, reading fluency skills, and reading comprehension. (Student's Dec. 19, 2024, Evaluation.) The student's evaluation indicates the student is achieving adequately for their age to meet state-approved, grade-level standards when provided with appropriate instruction and learning experiences for the student's age and grade level in written expression and the student's IEP indicates that the student does not have needs in writing that require special education or related services. (Student's Dec. 19, 2024, IEP; Student's Dec. 19, 2024, Evaluation.)

Conclusion

The student's current reading goal meets legal requirements and KSDE guidance for measurable annual goals. However, the district has not ensured the student's IEP includes measurable annual goals designed to meet the student's needs that result from the student's disability and to enable the student to be involved in and make progress in the general education curriculum in the areas of reading fluency skills and reading comprehension *in violation* of K.S.A. § 72-3429(c)(2).

Issue Five

Statement of Special Education Services

Applicable Law

K.S.A. § 72-3429(c)(4) requires "[t]he IEP for each exceptional child shall include . . . a statement of the special education . . . services . . . , based on peer-reviewed research to the extent practicable, and services to be provided to the child, . . . [t]o advance appropriately toward attaining the annual goals [and] to be involved in and make progress in the general education curriculum in accordance with" the student's present levels of academic achievement and

functional performance.” Kansas special education regulations go on to further define special education as:

specially designed instruction . . . to meet the unique needs of a child with a disability . . . adapting, as appropriate to the needs of [the] child . . . , the content, methodology, or delivery of instruction [t]o address the unique needs of the child that result from the child’s disability and to ensure

access of the child to the general curriculum, so that the child can meet the educational standards within the [district].

(K.A.R. § 91-40-1(III).)

Analysis: Findings of Fact

The parent’s complaint indicates that the student’s goal is of an “insufficient” frequency and duration to meet the needs resulting from the student’s disability. (Parent’s Complaint, Feb. 17, 2025.) The district’s response maintains that the student’s special education services “are providing the student with FAPE [free appropriate public education] and the student is making progress in the curriculum.” (District’s Response to the Complaint, Feb. 27, 2025.)

The district’s response indicates the “statement of special education services is in the service line within the IEP.” (District’s Response to the Complaint, Feb. 27, 2025.) This table duplicates the header row of this chart and the row of this chart at issue in this complaint investigation:

Service	Setting	Minutes	Days	Frequency	Start Date	End Date
SE - Special Education Services	G – Special Ed Classroom in Regular Ed Class Building	20	4	Every week	12/19/2024	12/18/2025

(Student’s Dec. 19, 2024, IEP.)

The student’s IEP only references the special education services the student will receive in the chart reproduced above. There is no other statement that describes these special education services. The district uses the web-based tool WebKIDSS to create student’s IEPs. (Email from Special Education Director to Complaint Investigator, Mar. 18, 2025.) The district’s response indicates that how these services were determined was to consider the student’s “PLAAFPs for reading and the cognitive/intelligence, and Impact of Exceptionality statements.” (District’s Response to the Complaint, Feb. 27, 2025.) The IEP Team meeting notes indicate that the district proposed the number of days per week “due to many weeks throughout the year being only four days long” allowing for “flexibility and less missed opportunities.” (IEP Team Meeting Notes, Dec. 19, 2024.) The district’s response indicates that the “school, district, and cooperative make the determination of how services are provided[; t]he licensed special

education provider has the authority and autonomy to make these decisions[, and t]he fully licensed special education teacher is using a research, evidence-based intervention curriculum to provide services specific to the student's skill deficits." (District's Response to the Complaint, Feb. 27, 2025.)

The chart in the student's IEP does not contain the results of the IEP Team's discussion and decision and simply states "Special Education Services." The district's response provides information to show alignment between the special education services provided and the statute, but the statute requires this information to be in the IEP, within the statement that explains the services that will be provided to enable the student to advance appropriately toward attaining the student's annual goals, to be involved in and make progress in the general education curriculum, to participate in extracurricular and other nonacademic activities, and to be educated and participate with other children with disabilities. From the term "Special Education Services" it is not possible to determine whether these services are based on peer-reviewed research, to the extent practicable, or the Kansas regulatory definition of specially designed instruction. A previous KSDE state complaint decision included language from a Colorado Department of Education state complaint decision that explains that the statement of special education services translates into practice as a "service delivery statement" and that it must be "must be sufficiently detailed for parents to understand what specific services and supports the school district is offering to provide." (Report of Complaint Filed Against Unified Sch. Dist. #458 (SEA KS 2024), <https://www.ksde.gov/Portals/0/SES/legal/decisions/24FC.pdf#page=649>, Adams 12 Five Star Schs., 75 IDELR 86 (SEA CO 2019)). In the comments to the regulations implementing IDEA, OSEP provides guidance on the requirements applicable to the statement of special education services in a child's IEP that is applicable to the vagueness we see in the location of this student's statement of special education services. (Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed. Reg., 46,540, 46,667 (Aug. 14, 2006).) In responding to a recommendation about the term "duration" OSEP commented:

What is required is that the IEP include information about the amount of services that will be provided to the child, so that the level of the agency's commitment of resources will be clear to parents and other IEP Team members. The amount of time to be committed to each of the various services to be provided must be appropriate to the specific service, and clearly stated in the IEP in a manner that can be understood by all involved in the development and implementation of the IEP.

(Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed. Reg., 46,540, 46,667 (Aug. 14, 2006).) Despite OSEP responding to a recommendation about duration of a service, the regulation cited is clearly focused on clarity for all involved with the child and should be applied when drafting a statement of special education services.

The district's response indicates the duration and frequency of the student's special education services is appropriate as "the student is making progress in the curriculum." (District's

Response to the Complaint, Feb. 27, 2025.) Because the student just began special education services in January, there is insufficient information to show whether the current frequency and duration of the services is appropriate. The special education director indicated in an email to the complaint investigator that the first progress report since the student began services will be available soon. (Email from Special Education Director to Complaint Investigator, Mar. 10, 2025.) As soon as the district has information on the student's progress, the district would then have an obligation to act should the student not be making appropriate progress toward meeting the student's goal.

Conclusion

The chart to indicate the special education services the student is to receive does not meet the special education legal requirement for the IEP to include a statement of special education services, based on peer-reviewed research to the extent practicable, that will be provided to enable the student to advance appropriately toward attaining the student's annual goals, to be involved in and make progress in the general education curriculum, to participate in extracurricular and other nonacademic activities, and to be educated and participate with other children with disabilities and nondisabled children. As indicated in previous issues, this chart is likely appropriate to report special education data to KSDE, but does not include the clarity required for the team supporting the student, including the parents, to understand the special education services that the district will provide to enable the student to advance appropriately toward attaining the student's annual goals, to be involved in and make progress in the general education curriculum, to participate in extracurricular and other nonacademic activities, and to be educated and participate with other children with disabilities and nondisabled children. Districts must meet KSDE's data reporting requirements but that does not require including this chart within a student's IEP. Based on the foregoing, this investigation concludes that the district *violated its obligation* to ensure that the student's IEP include a statement of special education services as K.S.A. § 72-3429(c)(4) requires.

Issue Six

Copy of IEP

Applicable Law

K.A.R. § 91-40-18(d) requires that [e]ach agency shall give the parent a copy of the child's IEP at no cost to the parent."

Analysis: Findings of Fact

The parent's complaint indicates the district never provided him with a copy of the student's IEP. (Parent's Complaint, Feb. 17, 2025.) In the complaint investigator's interview with the parent, the parent stated that the district brought a draft IEP to the student's December IEP Team meeting and that he was provided a copy of the draft. (Complaint Investigator Interview with Parent, Feb. 25, 2025.) The parent also stated that the special education teacher took notes on the draft IEP at the meeting and that the special education teacher indicated she

would incorporate the notes into the IEP, creating a final version, and provide it to the parent, which the parent maintains he has never received. (Complaint Investigator Interview with Parent, Feb. 25, 2025.)

The district's response also indicates that it provided the parent with a copy of the draft IEP at the December IEP Team meeting and the parent signed a document indicating he had received a copy of the IEP. (District's Response to the Complaint, Feb. 27, 2025; Student's Dec. 19, 2024, IEP.) The district also provided an email request from the parent to the special education teacher requesting a copy of the IEP and the special education teacher's response, providing a copy of the IEP. (Email Exchange Between Special Education Teacher and Parent Regarding Parent Request for Dec. 19, 2024, IEP, Jan. 29–30, 2025.) When the complaint investigator requested that the parent provide the draft copy of the IEP he received at the December IEP Team meeting, the parent provided the investigator with the copy the special education teacher sent on January 30. (Email from Parent to Complaint Investigator, Feb. 25, 2025.)

Conclusion

The parent indicated that the district never provided him with a final copy of the IEP, but when the complaint investigator requested that the parent provide the draft copy of the IEP, the parent provided the investigator with an IEP with a print date of January 30, 2025, the date the special education teacher sent the IEP to the parent. (Student's Dec. 19, 2024, IEP with a Jan. 30, 2025, Printed Date.) This, along with the evidence the district provided, shows that the district met its obligation to provide the parent with a copy of the IEP and *did not violate* K.A.R. § 91-40-18(d).

The district should be cautious about its practice of documenting that it met this obligation by providing a parent with a draft copy of the IEP, which it did at the December IEP Team meeting by having the parent sign that he received a copy of the IEP, but the district, at that point, had only provided a draft copy of the IEP. The district should establish and follow a procedure to document only when a parent is provided a final copy of an IEP, not a draft copy of the IEP. In this situation, the district is found not to violate the relevant Kansas regulation because it had evidence it provided a final copy of the IEP to the parent in January, when the parent requested it. If the parent had not made this request, the district would not have been able to show it met this requirement based on providing the parent with a draft copy of the IEP at the December IEP Team meeting.

Issue Seven

Inspect and Review Education Records

Applicable Law

K.A.R. § 91-40-25(a) requires "[e]ach agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records . . . concerning their child with respect

to the following: The identification, evaluation, or education placement of the child; and the provision of FAPE to the child.”

Analysis: Findings of Fact

In the complaint the parent indicates that he “went to the . . . District Office on 2/14/2025” to “view everything in my child’s file” and was told the district “did not have a copy of the [student’s] file.” (Parent’s Complaint, Feb. 17, 2025.) The district’s response indicates that the February 14, 2025, visit from the parent did not include a request to inspect and review the student’s education records, but was a request for a copy of the student’s IEP. (District’s Response to the Complaint, Feb. 27, 2025.) The district provided a statement from the board clerk that interacted with the parent on February 14, 2025, and she indicated that the parent “visited the district office . . . requesting a hard copy of [the student’s] IEP.” (Statement from USD 329 Board Clerk Regarding Parent’s Feb. 14, 2025, Request, Feb. 27, 2025.) The district maintains it has not received a request from the parent to inspect and review the student’s education records. (District’s Response to the Complaint, Feb. 27, 2025.) When asked, the parent was unable to provide the complaint investigator with any documentation of his request to inspect and review the student’s education record, outside of the statements within the complaint. (Email Exchange Between Complaint Investigator and Parent, Mar. 10, 14, and 17, 2025.)

Conclusion

There is not sufficient evidence to show that the parent made a request to inspect and review the student’s education record, therefore the district *did not violate* K.A.R. § 91- 40-25(a).

Summary of Conclusions and Corrective Action

Issue One

This investigation found no violations and there is no corrective action.

Issue Two

The district violated K.S.A. § 72-3429(c)(7) and K.S.A. § 72-3462, based on the findings of fact listed above. Corrective action is required, as follows:

1. Within 10 calendar days of the date of this report, the district must submit a written statement to KSDE Special Education and Title Services (SETS) that it will comply with:
 - a. State legal requirements at K.S.A. § 72-3429(c)(7) which requires the IEP for each exceptional child to include the anticipated location of special education services; and
 - b. State legal requirements at K.S.A. § 72-3462 which requires the district to provide special education services for exceptional children who reside in the school district and attend a private, nonprofit elementary or secondary

school, whether such school is located within or outside the school district, upon the request of a parent or guardian of any such child for the provision of such services.

- a. Within ten calendar days of the date of this report, the district must contact its WebKIDSS representative and inform them that the district's web-based IEP tool must include a prompt to require IEP Teams to provide a location of special education services. The district may provide a redacted version of this report to WebKIDSS as part of its request to add this prompt. The district should also consider removing the table used for KSDE data reporting from student IEPs.
 - b. Within one school day of completing this portion of the corrective action, the district must confirm to SETS that it completed this portion of the corrective action.
 - c. The district must obtain a date from its WebKIDSS representative in writing as to when this prompt will be added to the district's web-based IEP tool and the district must provide this information to SETS within one business day of receiving it.
 - d. Once WebKIDSS adds the prompt to the district's web-based IEP tool, SETS must submit this IEP page to SETS within one business day for its review and approval.
 - e. Within two calendar weeks of the date of this report, provide SETS with a progress report on the student's goal since beginning special education services and the student's general progress report for the second and third quarters of the 2024–25 school year.
 - f. SETS will then review and determine whether compensatory services are required and, if so, the amount of compensatory services required. If SETS requires compensatory services, within two calendar weeks of receiving notice from SETS of the amount of compensatory services required, the district must submit to SETS a proposed plan for compensatory services that includes any compensatory services required due to Issue Four, 3. Corrective Action that the district presented to the parent and evidence of whether the parent accepted all, some, or none of the proposed compensatory services.
 - g. If SETS requires compensatory services and the parent accepts all or some of the proposed compensatory services, SETS will establish a due date based on the plan by which the district must submit a log of the services provided and documentation explaining any services not provided.
2. Within two calendar weeks of this report the student's IEP Team must add a location of special education services to the student's IEP that meets special education legal

requirements either using the IEP amendment process described in K.S.A. 72-3429(b)(4) or in an IEP Team meeting.

3. Due Dates:
 - h. March 31, 2025: 1. and 2.a.;
 - i. April 2, 2025: 3.a. and 4.;
 - j. Within one school day of contacting its WebKIDSS representative: 2.b.;
 - k. Within one business day of receiving the date of when the prompt will be added: 2.c.;
 - l. Within one business day of receiving the prompt: 2.d.;
 - m. Within two calendar weeks of receiving notice from SETS of the amount of compensatory services required: 3.b.; and
 - n. If SETS requires compensatory services and the parent accepts all or some of the proposed compensatory services, SETS will establish a due date: 3.c.

Issue Three

The district violated K.S.A. § 72-3430(b)(2), based on the findings of fact listed above. Corrective action is required, as follows:

1. Within 10 calendar days of the date of this report, the district must submit a written statement to SETS that it will comply with:
 - a. State legal requirements at K.S.A. § 72-3430(b)(2) which requires prior written notice in accordance with K.S.A. § 72-3432 whenever a district proposes to initiate or change or refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education (special education and related services) to the child
 - a. Within two calendar weeks of this report the district must draft a proposed amendment to its prior written notice policy and/or procedure to provide descriptive instructions to district staff to understand all circumstances in which a prior written notice must be provided and send the draft to SETS. The district must inform SETS whether the draft is a procedure and/or policy and whether it will require board approval to be finalized. SETS will then review and determine whether to approve the draft policy or procedure.
 - b. Within two calendar weeks of receiving notice from SETS that the draft policy or procedure is approved, provide the final policy or procedure, evidence of board adoption if the district adopted a policy, evidence of communication to relevant district staff of the final policy or procedure, and district staff roles provided the communication of the final policy or procedure. If the policy or procedure requires board approval, SETS will consider changing the due date to accommodate the board meeting schedule.

1. Due Dates:
 - a. March 31, 2025: 1.;
 - b. April 2, 2025: 2.a.; and
 - c. Within two calendar weeks of receiving notice from SETS that the draft policy or procedure is approved: 2.b.

Issue Four

The district violated K.S.A. § 72-3429(c)(2), based on the findings of fact listed above. Corrective action is required, as follows:

2. Within 10 calendar days of the date of this report, the district must submit a written statement to SETS that it will comply with:
 - a. State legal requirements at K.S.A. § 72-3429(c)(2) which requires the IEP for each exceptional child to include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability, to enable the child to be involved in and make progress in the general education curriculum and meet each of the child's other educational needs that result from the child's disability.
3. Within two calendar weeks of this report the student's IEP Team must add to the student's IEP a statement of measurable annual goals, including academic and functional goals designed to meet the student's needs that result from the student's disability, to enable the student to be involved in and make progress in the general education curriculum and meet each of the student's other educational needs that result from the student's disability. At a minimum, this must include goals for each area which the student's evaluation indicates the student is not achieving adequately for their age to meet state-approved, grade-level standards when provided with appropriate instruction and learning experiences for the student's age and grade level: (1) basic reading skills, (2) reading fluency skills, and (3) reading comprehension. The IEP Team may add goals either using the IEP amendment process described in K.S.A. 72-3429(b)(4) or in an IEP Team meeting.
 - a. 4.
 - a. SETS will review the student's general progress report for the second and third quarters of the 2024–25 school year and determine whether compensatory services are required due to the student's missing goals and, if so, the amount of compensatory services required. If SETS requires compensatory services, within two calendar weeks of receiving notice from SETS of the amount of compensatory services required, the district must submit to SETS a proposed plan for compensatory services that includes any compensatory services required due to Corrective Action for Issue Two, 3.b., that the district presented to the parent and evidence of whether the parent accepted all, some, or none of the proposed compensatory services.

- b. If SETS requires compensatory services and the parent accepts all or some of the proposed compensatory services, SETS will establish a due date based on the plan by which the district must submit a log of the services provided and documentation explaining any services not provided.
4. Due Dates:
 - a. March 31, 2025: 1.;
 - b. April 2, 2025: 2.;
 - c. Within two calendar weeks of receiving notice from SETS of the amount of compensatory services required: 3.a.; and
 - d. If SETS requires compensatory services and the parent accepts all or some of the proposed compensatory services, SETS will establish a due date: 3.b.

Issue Five

The district violated K.S.A. § 72-3429(c)(4), based on the findings of fact listed above. Corrective action is required, as follows:

1. Within 10 calendar days of the date of this report, the district must submit a written statement to SETS that it will comply with:
 - a. State legal requirements at K.S.A. § 72-3429(c)(4) which require the IEP for each exceptional child to include a statement of the special education services, based on peer-reviewed research to the extent practicable, that will be provided for the child to advance appropriately toward attaining the annual goals, to be involved in and make progress in the general education curriculum in accordance with the student's present levels of academic achievement and functional performance and to participate in extracurricular and other nonacademic activities, and to be educated and participate with other exceptional and nonexceptional children in the activities described in this paragraph.
2. Within two calendar weeks of this report the student's IEP Team must add to the student's IEP a statement of the special education services, based on peer-reviewed research to the extent practicable, that will be provided for the student to advance appropriately toward attaining the annual goals, to be involved in and make progress in the general education curriculum in accordance with the student's present levels of academic achievement and functional performance and to participate in extracurricular and other nonacademic activities, and to be educated and participate with other exceptional and nonexceptional children in the activities described in this paragraph. The IEP Team may add this either using the IEP amendment process described in K.S.A. 72-3429(b)(4) or in an IEP Team meeting.
 1. 3.

- a. Within ten calendar days of the date of this report, the district must contact its WebKIDSS representative and inform them that the district's web-based IEP tool must include a prompt to require IEP Teams to provide a statement of special education services. The district may provide a redacted version of this report to WebKIDSS as part of its request to add this prompt. The district should also consider removing the table used for KSDE data reporting from student IEPs.
 - b. Within one school day of completing this portion of the corrective action, the district must confirm to SETS that it completed this portion of the corrective action.
 - c. The district must obtain a date from its WebKIDSS representative in writing as to when this prompt will be added to the district's web-based IEP tool and the district must provide this information to SETS within one business day of receiving it.
 - d. Once WebKIDSS adds the prompt to the district's web-based IEP tool, SETS must submit this IEP page to SETS within one business day for its review and approval.
3. Due Dates:
 - a. March 31, 2025: 1. and 3.a.;
 - b. April 2, 2025: 2.;
 - c. Within one school day of contacting its WebKIDSS representative: 3.b.;
 - d. Within one business day of receiving the date of when the prompt will be added: 3.c.; and
 - e. Within one business day of receiving the prompt: 3.d.

Issue Six

This investigation found no violations and there is no corrective action.

Issue Seven

This investigation found no violations and there is no corrective action.

Laura N. Jurgensen

Laura N. Jurgensen

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. 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)