

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES
REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #229, BLUE VALLEY PUBLIC SCHOOLS
ON FEBRUARY 27, 2025
DATE OF REPORT: MARCH 27, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #229 Blue Valley Schools on behalf of -----, by his father, ----- . In the remainder of the report, ----- will be referred to as “the student.” ----- is the student’s father and in the remainder of the report he will be referred to as “the complainant,” or “the father.”

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 student attends Indian Valley Elementary and in the remainder of the report will be referred to as “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 27, 2025 and the 30-day timeline ended on March 27, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator Dr. Donna Wickham reviewed all documentation provided by the district and the parent. The following was used in consideration of the issues:

- Evaluation Report dated April 4, 2023
- Individualized Education Program dated April 17, 2024
- IEP Team meeting minutes dated April 17, 2024
- Prior Written Notice for Identification Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated April 17, 2024
- Email from speech and language therapist to principal, special education administrator, assistant superintendent of special education, long term special education substitute, father, special education consultant, and special education teacher/case manager, dated September 11, 2024 at 3:35 p.m.
- IEP meeting notes dated September 5, 2024
- Prior Written Notice for Identification Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated September 11, 2024
- Notice of Meeting dated November 15, 2024
- District response dated March 6, 2025
- Social Worker Parent Consent form

The Investigator first spoke with the father by phone on March 3, 2025 and again on March 21, 2025. The Investigator spoke with the district special education director by phone on March 4 and 5, 2025 to clarify the issues and discuss requested evidence. The investigator interviewed the principal, school psychologist, special education administrator, student's case manager, speech and language therapist, and general education teacher on March 13, 2025 by video conference.

Background Information

The student is a ten-year-old fourth grader and is eligible for special education and related services under the category of Speech / Language Disabilities according to the most current re-evaluation dated April 20, 2023. The Current Classroom Based Assessment and Performance in the General Curriculum describes the student's Social Skills/Peer interaction: "At the beginning of the year, [student] struggled with peer relationships and telling the truth about what happened between [student] and [student's] peers. However, [student] has made great improvements and [student's] peer relationships have greatly improved. [Student] enjoys being with [student's] friends and [student's] friends enjoy being with [student]." Attention issues/Behavioral concerns were not reported. The Social Work Evaluation Summary indicated the student had strengths with prosocial skills, emotionality, hyperactivity, and peer relationships. Further, the student would benefit from continued general education lessons and practice with peers focusing on conflict resolution, but the student does not show a need for specialized instruction in social work.

The IEP dated April 17, 2024 lists 4 annual goals and includes 20 minutes of direct speech and language services in the special education classroom 2 days every week, 30 minutes of direct special education services in the special education classroom 5 days every week and 60 minutes of direct special education services in the general education classroom 5 days every week. The IEP lists that in addition to instruction targeting reading and writing goals, instruction will include guided and repeated practice, reteaching, and immediate feedback on decoding single and multi-syllabic words, encoding/spelling skills, high-frequency words, and syllable types. The student's IEP includes one accommodation, take test in a quiet, non-competitive setting.

Issues Investigated

ISSUE ONE: Did the district discuss and respond to the father's request for a school-based special education evaluation to investigate behaviors resulting from not expressing feelings and emotions due to a speech and language disability during the 2024-2025 annual IEP meeting?

ISSUE TWO: Did the district discuss and respond to the father's request for mental health aid services for anxiety and oppositional defiant behavior due to the student's speech and language disability during the annual 2024-2025 IEP meeting?

Issue One

Did the district discuss and respond to the father's request for a school-based special education evaluation to investigate behaviors resulting from not expressing feelings and emotions due to a speech and language disability during the 2024-2025 annual IEP meeting?

Applicable Law

Federal regulations at 34 C.F.R. 300.503(a)(2) states that prior written notice needs to be provided to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

Analysis: Findings of Fact

The Father alleged that the student's behavior was changing at school, showing anxious and oppositional-defiant behaviors because the student could not express fears, embarrassment with other peers and could not speak up consistently. This has resulted in decreasing the student's development. The father stated that he asked for evaluation at the September 5, 2024 IEP meeting and the school psychologist denied this request.

The district responded that two IEP meetings occurred during the fall, September 5, 2024 and November 15, 2024. "The September 5th IEP meeting was requested to review his [student's] progress. However, during the meeting, [Father] requested a Motivational Interview with an outside evaluator. The district responded with a PWN declining the request, as it was not necessary to determine needs and additional support needed for [student] to make progress. At no time did [parent] state that his [student's] perceived behavior difficulties were because of [student's] speech and language disability, nor did the IEP team believe that [student] required additional special education services for behavior to make progress on [student's] IEP goals and general education curriculum."

The director of special education stated in a phone interview with the investigator on March 5, 2025 that the parent did not ask for special education evaluation for the student's behavior or inability to express feelings but instead requested an outside evaluator to complete a motivational interview not related to special education services.

The student's IEP's present levels of performance, meeting notes, and PWN from the April 17, 2024 annual IEP meeting do not indicate behavioral concerns or concerns with expressing feelings. Instead, it is recorded in the April 17, 2024 IEP that the student's father would like his child to be able to speak in normal conversations and normal settings, to be able to join two phrases in a sentence and be capable of having a conversation with kids the age of his child.

The September 5, 2024 IEP meeting notes record Father's statement that, "[Student] is having trouble with the process they are going through as a family. We need to consider interview of

[Student] in navigating this process.” to which the principal responded that the school is not seeing issues at school.

The PWN issued on September 11, 2024 following the September 5, 2024 IEP meeting stated, “While the school team considered the need for an outside provider to complete a motivational interview for [student], it was determined that this was not necessary to determine needs and additional supports for [student].” The rationale for rejecting the parent request was, “they have all the resources to support [student’s] progress towards [student’s] special education goals and needs with the staff and tools available at [student’s] home school, [name of school].” The PWN describes that progress monitoring, parent input and collaboration with the student’s IEP team members including the general education teacher was used to make the decision.

The principal stated during the interview on March 13, 2025 that the student’s school team does not see reason to conduct additional special education evaluation related to the parent’s concerns about behavior or social emotional needs as these behaviors are not seen at school or during school activities. Participants on the district call additionally stated that the parent has not requested special education evaluation regarding these concerns.

The student’s speech/language therapist stated during the March 13, 2024 interview that the student’s goals and SPL services are not directed to expressing feelings and emotions although the student may practice relating feelings and emotions while practicing the goals during SPL services.

Conclusion

The issue investigated was in response to a parent request for an evaluation that was denied by the district with a prior written notice. IDEA regulations are clear that the district must consider a parent’s request for an evaluation (or any other action) and then issue a prior written notice documenting and explaining the decision.

The district issued a PWN on September 11, 2024 in response to the September 5, 2024 IEP meeting in which the request was made. The prior written notice and district interviews document that the request for the evaluation was not related to special education services or concerns, but instead to a transition happening with the student’s home life. It is found that the district considered whether the parent’s request and followed all of the procedures for denying a parent request for a specific evaluation. The PWN dated September 11, 2024 documents the decision and follows procedural steps for denying the request as specified in 34 C.F.R. 300.503(a)(2).

Therefore, it is found that the district is *IN compliance* and followed proper procedure in responding to a parent request with a prior written notice.

Issue Two

Did the district discuss and respond to the father's request for mental health aid services for anxiety and oppositional defiant behavior due to the student's speech and language disability during the annual 2024-2025 IEP meeting?

Applicable Law

Federal regulations at 34 C.F.R. 300.503(a)(2) states that prior written notice needs to be provided to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference. The parent alleged in the complaint that his child was denied access to mental health aid services in an IEP meeting after his child was showing a change in behavior. The child's father stated that the student "couldn't express [student's] fears, embarrassment needs with other peers and had an anxious, oppositional defiant behavior and couldn't speak up consistently."

The district responded that throughout the fall of 2024 they had shared with the parent that the student was not exhibiting any behaviors out of the norm of a typical fourth grader experiencing a temporary home life transition and that this was not due to the student's disability. They further stated that the district could provide mental health services for the student with parent consent. Later, the parent reiterated in an email to the director of special education that the student needed mental health services, but they were not an IEP issue. At the November 14, 2024 IEP meeting the parent again requested mental health services for his student and again the director of special education described the social work support provided to any student in the district during periods of transition. The district reported that a family member signed consent to this general education support in January 2025.

The April 17, 2024 IEP, meeting notes, nor PWN indicate behavioral concerns or mental health services.

The IEP meeting minutes dated September 5, 2024 recorded that the father stated, "[Student] is having trouble with the process they are going through as a family. We need to consider interview of [student] in navigating this process. It is hard for [student] to not be seeing dad for almost 4 months. Don't want counselor or LMSW working with [student]. [Father] wants someone outside of [school] to work with [student]." The director of special education offered to help with district resources for a therapist, but the father declined.

An email from the parent to the district on October 16, 2024 at 3:04 p.m. reported that while the parent had concerns about his child's classroom behavior, the parent was "not talking about [student's] IEP". This led the special education director to direct the parent to general education resources, such as the student's general education teacher.

During the March 13, 2025 investigator's interview with the IEP team members they recalled that the father stated during the November 15, 2024 IEP meeting that a court appointed evaluation had been conducted in relation to an issue outside of school and based on the results of that the father was wanting the school psychologist to work with the student about the home life transition. During that meeting the IEP team reiterated that the father was wanting services offered by general education, not special education services. They further shared that a social worker would provide the services rather than the school psychologist and referred to a memo describing district services for students in transition outside of school.

In a memo shared with all parents regarding services, "The [District] employs masters-level social workers, as well as partners with [local hospital] to provide additional masters-level social workers within [District] Schools. These social workers work in collaboration with the school counselors and school psychologists to provide large and small group instruction, as well as individual services." This memo outlines the general responsibilities for each, school counselors, school social workers and school psychologists in the 1) prevention and responding to a crisis and 2) collaboration as part of school team. The memo further states, "The school team may offer ongoing support to any child or family to meet needs beyond academic learning following a referral by parents, teachers, school counselor, psychologist, principal, or self-referral. We would like to provide an opportunity for your child to benefit from the supports of the social workers if needed. With the exception of health and safety emergencies that require immediate interventions, signed parent consent is required to receive ongoing services." Both the principal on March 13, 2025 and the director of special education on March 5, 2025 reported that this service was offered to the parent at the IEP meeting in November and consent was signed by the mother in January, 2025.

Conclusion

In this case the parent and district acknowledge that the parent requested mental health services for his child during the November 15, 2024 IEP. However, an email from the father to the director of special education in October demonstrates that the district and parent recognized that the father's request for mental health services during the meeting was not an IEP issue, but instead a concerned father requesting support for his child during a meeting with school staff. In the meeting minutes and interview with the parent, district staff and director of special education it became clear that all parties were discussing a general education service rather than a parent request for a special education service. The special education regulation is directed to a district providing a PWN in response to parent request for a special education service, rather than a general education service discussed during an IEP meeting.

Based on the documentation and interviews with the parent and the district is found that is *IN compliance* with IDEA regulations.

Summary of Conclusions/Corrective Action

ISSUE ONE: A violation of 34 C.F.R. 300.503(a) was not found, based on the facts above. Corrective action is not required.

ISSUE TWO: A violation of 34 C.F.R. 300.503(a) was not found, based on the facts 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. 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)