

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #348
ON FEBRUARY 14, 2025

DATE OF REPORT: MARCH 28, 2025

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

The complaint is against USD #348 (Baldwin City Public Schools) who contracts with the East Central Kansas Cooperative in Education (Interlocal #614) to provide special education services to students enrolled in the school district. In the remainder of the report, both of these responsible public agencies may also be referred to as “the district”, “the local education agency (LEA)”, or “the school”. Individually, they will be referred to by “USD #348” and “the Interlocal #614” respectively.

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on February 14, 2025 and assigned the case for investigation on February 17, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator, Nancy Thomas, reviewed all the documentation provided by both the complainant and the LEA.

Interviews were conducted with both parties. The parent was interviewed by telephone on February 25 and March 10, 2025.

A telephone interview was held on March 10, 2025 with the following school district staff:

- Derek Bland, Principal
- Bench Curry, Assistant Principal
- Randi Dalton, Gifted Teacher
- Ryan Cox, 6th Grade Math Teacher
- Kelly Evans, 6th Grade Reading Teacher
- Sarah Johnson, 6th Grade Language Arts Teacher
- Chad Scoby, 7th Grade Math Teacher

- Patty Flory Evans, 7th Grade Language Arts Teacher
- Lee Hanson, Director of Special Education for Interlocal #619
- Sara Hoepner, Assistant Director of Special Education for Interlocal #619
- Mark Dodge, Superintendent for USD #348

Both the parent and the LEA provided multiple documents for review and consideration during the investigation. All of this documentation was reviewed and considered by the investigator. The following written documentation was viewed as most relevant and primarily used in consideration of the issues:

1. Email dated August 21, 2023 written to parents of students in the Extended Services program by Patricia Lenning, 2023-24 Gifted Teacher
2. Individual Education Program (IEP) dated January 31, 2024
3. Email dated May 9, 2024 written by the 2023-24 Gifted Teacher to the parent
4. Email exchange dated May 14, 2024 between the parent and the 2023-24 Gifted Teacher
5. IEP Goal Progress Report dated May 16, 2024
6. Email exchange dated August 20, 2024 between the parent and the 2024-25 Gifted Teacher
7. Meeting Invitation for Pre-IEP Team Meeting dated August 21, 2024
8. Email exchange dated August 27, 2024 between the parent and the 2024-25 Gifted Teacher
9. Email dated August 27, 2024 written to the 7th grade Math Teacher by the 2024-25 Gifted Teacher
10. IEP Goal Progress Report dated October 8, 2024
11. IEP dated October 22, 2024
12. Staffing Report dated October 22, 2024 written by school staff
13. IEP Team Meeting Notes dated October 22, 2024 written by the parent
14. Email exchange dated November 12 and 13, 2024 between the parent, the Gifted Teacher, and the Assistant Director of Special Education
15. Prior Written Notice (PWN) for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent dated November 13, 2024
16. IEP Goal Progress Report dated January 17, 2025
17. Email dated January 21, 2025 written to the parent by the Gifted Teacher
18. Email dated February 25, 2025 written by the 2024-25 Gifted Teacher to the parent
19. Email dated February 26, 2025 written by the parent to the 2024-25 Gifted Teacher
20. Email dated February 28, 2025 written by the parent to the Investigator
21. District Response to the Allegations dated March 7, 2025
22. Statement of Math Materials and Summer Study dated March 12, 2025
23. Schedule of Gifted Services Minutes during the 2024-25 School Year written by the 2024-25 Gifted Teacher
24. Grades and Fast Bridge scores for 6th and 7th grades

25. 6th grade English Language Arts (ELA) Rubric sample (unscored)
26. 7th grade ELA Rubric sample (unscored)
27. USD #348 School Board Policy KN: Complaints
28. USD #348 School Calendar for 2023-24
29. USD #348 School Calendar for 2024-25
30. Written Statement from Chad Scoby, 7th grade Math Teacher
31. Written Statement from Patti Flory-Evans, 7th grade ELA Teacher
32. Written Statement from Ryan Cox, 6th grade Math Teacher
33. Written Statement from Sarah Johnson, 6th grade ELA Teacher
34. Written Statement from Kelly Evans, 6th grade Reading Teacher

Background Information

The student is a 13-year-old girl who is currently enrolled in the 7th grade at Baldwin Junior High School (BJHS) in USD #348 for the 2024-25 school year. It is noted that she also attended BJHS for 6th grade.

The student was initially evaluated for special education services during the fifth grade in USD #348. On February 3, 2023, the multidisciplinary team determined she was eligible for special education and related services due to meeting the eligibility criteria for the exceptionality category of Gifted. The IEP team then developed an initial IEP and the student has continuously received special education services to the present time.

Issues Investigated

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

According to Chapter 1, Section H of the Kansas Special Education Process Handbook, special education services are not compulsory for children who are gifted. Therefore, parents of gifted children may choose to accept whatever special education services are proposed by the IEP team. Schools are required to provide the services specified in an IEP once the parent gives consent as required by Kansas state statutes and regulations. As such, the parents and children who are gifted have the same rights as parents and children with disabilities with certain exceptions. It is noted that none of the exceptions apply to the issues being investigated in this particular case.

Issue One

USD #348, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to respond appropriately to the parent's request for an IEP team meeting in August 2024.

Applicable Law

Kansas statutes at K.S.A. 72-3429(f) require public agencies to ensure that each child's IEP is reviewed 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 information about the child provided to, or by, the parents.

Kansas statutes at K.S.A. 72-3429(b)(4) allows the public agency and the parent of a child with a disability to agree to make changes to a child's IEP after the annual IEP Team meeting for a school year, if the parent of a child with a disability and the public agency agree not to convene an IEP Team meeting for the purposes of making those changes, and instead develop a written document to amend or modify the child's current IEP.

Kansas statutes at K.S.A. 72-3430 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.

Positions of the Parties

The parent alleged that the LEA failed to respond to her request for an IEP team meeting at the beginning of the 2024-25 school year. The mother reported requesting an IEP team meeting shortly after school started in August; however, an IEP team meeting was not held until after the end of the first quarter in October 2024.

The district acknowledged that the parent requested an IEP team meeting in August 2024 but reported that the parent agreed to a "pre-IEP" meeting with the Gifted Teacher to discuss her concerns. The district stated:

Following this [the pre-IEP meeting] there was email correspondence between the Gifted Teacher, Principal, and parent planning the procedure for the student to participate in pre-testing as discussed in the pre-meeting. Next additional emails document the parent's agreement to amendments to the service time without an IEP team meeting. Additionally, the parent agreed that she preferred to wait until after her daughter had completed the math pre-tests before having an IEP team meeting. Upon completion, the IEP team meeting was scheduled for October 22nd due to the length of time it took for the student to complete all pre-tests.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

Documentation shows the parent requested an IEP team meeting to discuss the student's educational program for 7th grade in an email written to the Gifted Teacher on August 20, 2024.

Emails between the Gifted Teacher and the parent dated August 21, 2024 document that a "pre-IEP meeting" was offered and the parent accepted this meeting. The meeting was scheduled and held according to both the parent and the Gifted Teacher. Both parties reported that a plan to conduct pre-tests for math was developed at the meeting and a regular schedule would be developed for the special education instruction to be provided in the 7th grade.

An email dated August 27, 2024 from the Gifted Teacher to the parent stated:

I met with the student today for pull-out and we talked about her interests and possibilities for EL [Enhanced Learning] time . . . She would like to be in Period 3 EL pull-out. This is during robotics. I emailed her teacher and created a recurring ehall pass for every Tuesday during period 3. Class periods are 49 minutes long. Her IEP currently states 30 minutes, 2 times a week. Would you be fine if I created an amendment for 49 minutes once a week and then added the rest of the minutes together as a one time a quarter or something similar? That way she would only miss one class period a week but would also have an opportunity to do something a bit longer such as a Friday field trip or group project day to make up the remaining minutes. Alternatively, we could just reduce her minutes to 49 minutes once a week . . . If we agree to either of these changes in anticipated service minutes, we could do an amendment without a meeting now and then we can hold an IEP meeting to put a math plan in place. Would you prefer to wait for an IEP meeting?

The parent responded via email to the Gifted Teacher the same day indicating that she was "fine with an amendment for 49 min once a week and then add the rest of the minutes together for once a quarter. And fine with just waiting to have an IEP meeting for the math plan".

A copy of the 2024-25 School Calendar shows each quarter consists of nine weeks.

The district provided a copy of an IEP dated January 31, 2024 requiring 30 minutes of special education extended learning services twice a week starting January 31, 2024 and ending January 30, 2025. However, there was no written documentation to amend this IEP showing the change in the services described in the August 27, 2024 email and agreed to by the parent.

Conclusion

The IDEA allows for two responses when a parent requests an IEP team meeting: 1) Reconvene the IEP team to discuss the information shared by or with the parent, or 2) the LEA and the parent agree to amend the IEP without conducting an IEP team meeting and a written document describing the changes agreed upon is created to amend or modify the IEP.

In this case, interviews and documentation found that the parent did request an IEP team meeting on August 20, 2024 via an email to the Gifted Teacher. The Gifted Teacher responded by offering a “pre-IEP meeting” to discuss the parent concerns and the parent participated in this meeting on August 23, 2024. On August 27, 2024, the parent agreed to wait to conduct an IEP Team Meeting to discuss the math plan.

It also appears that the parent and the Gifted Teacher agreed to amend the student’s IEP services without conducting an IEP Team Meeting in response to the parent’s request for a meeting to discuss concerns on August 20, 2024

Based on the email dated August 27, 2024 between the parent and the Gifted Teacher, there was a mutual agreement to change the delivery of the special education services from 30 minutes twice a week as described in the January 31, 2024 IEP to 49 minutes one time per week with the remaining 11 minutes per week for the nine weeks in a quarter being combined and provided once each quarter for a total of 99 minutes per quarter.

Based upon the way the services were described as being provided, the student was continuing to receive a total of 540 minutes per quarter of special education services [30 minutes x 2 times per week x 9 weeks in a quarter = 540 minutes equals 49 minutes x 9 week in a quarter + 11 minutes per week x 9 weeks for a combined 99 minutes once per quarter = 540 minutes]. It is noted that while the total amount of services being provided was not changed, this change did affect the frequency the services were to be provided for the student, and, therefore, a prior written notice (PWN) for a change in services should have been provided to the parent. For this reason, the LEA is found to be out of compliance for not providing the parent with appropriate PWN following the August 27, 2024 mutual agreement to amend the IEP.

In addition, the LEA was required to develop a written document to amend the student’s IEP and none was created. Based on the foregoing, the LEA is also found to be ***OUT compliance*** with the requirement to appropriately respond to the parent’s request for an IEP team meeting in August 2024 when it agreed to amend the student’s IEP without conducting an IEP Team Meeting on August 27, 2024 by failing to develop a written document to amend the student’s IEP showing the agreed upon changes.

Issue Two

USD #348, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP dated January 31, 2024, specifically the accommodations and special education services, between February 14, 2024 through October 21, 2024.

Applicable Law

State regulations at K.A.R. 91-40-16(b)(3) require school districts to have an IEP in place at the beginning of each school year for every child with a disability within its jurisdiction. In addition, state regulations at K.A.R. 91-40-16(b)(2) require school districts to ensure that as soon as possible following the development of an IEP, special education and related services are made available to the child in accordance with that child's IEP.

Positions of the Parties

The parent alleged that the general education teachers failed to challenge the student in math and reading/language arts classes by not providing the accommodations required by the IEP during both 6th and 7th grade. The parent reported she complained multiple times that the accommodations in the general education math and reading/language arts classes were not being provided and questioned whether the student was receiving the required special education extended learning instruction as required by the IEP during 7th grade but none of these issues was ever resolved. The parent believes the disparity between the 98-100% scores on the student's grade cards and her Fastbridge and Kansas Assessment Program (KAP) state assessment scores indicated that the IEP was not being implemented as written.

The district reported the accommodations on the IEP as well as the special education services were provided as required by the January 31, 2024 IEP during the second semester of 6th grade and the first semester of 7th grade.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

The findings of Issue One are incorporated herein by reference.

The January 31, 2024 IEP was in effect between February 14, 2024 and October 21, 2024. This IEP required 30 minutes twice per week of special education instruction for extended learning. This IEP was amended on August 27, 2024 to provide 49 minutes once per week with 99 minutes provided one time each quarter through an agreement made between the parent and the 2024-25 Gifted Teacher.

An email dated August 21, 2023 written by Patricia Lenning, the 2023-24 Gifted Teacher, documents that special education extended learning services were scheduled to be provided for 30 minutes on Tuesdays and Thursdays each week during the 2023-24 school year. It is noted that Ms. Lenning is no longer employed by the LEA. The parent and district agree that these services were provided during the 6th grade.

The Schedule of Gifted Services Minutes during the 2024-25 School Year written by the 2024-25 Gifted Teacher documents that the special education extended learning services were scheduled to be provided during one 48-minute class period on Tuesdays with an additional 108 minutes provided each quarter. The 2024-25 Gifted Teacher noted:

This schedule was created to align with the Junior High Bell Schedule and meant she only missed one elective class a week regularly. Her mother was informed in person that the remaining time would be made up so that all of her service minutes would be met.

It is noted this schedule does not match the times agreed upon by both parties on August 27, 2024; however, again, the total amount of services is 540 minutes per quarter.

Based upon the school calendar and the schedule of special education extended learning services during the first quarter, the student received the weekly services during the 7th period of the school day on Tuesdays when she was in attendance and received an additional 330 minutes of extended learning through a field trip experience to the Heartland Literature Festival in Topeka, Kansas on October 2, 2024.

The January 31, 2023 IEP included four accommodations to be provided in the general education setting. However, the parent only expressed concerns regarding the provision of the three accommodations required in the math and reading/language arts classes so these are the only ones addressed in this investigation.

The first accommodation required pre-testing for math tests to allow the student to demonstrate mastery and the to provide extension as appropriate on a weekly or bi-weekly basis. The 6th grade Math Teacher stated:

In January 2024, Mrs. Lenning, the Gifted Teacher at the time, approached me to discuss the possibility of accelerating Rue in math, allowing her to advance to high school Algebra I. Based on my observations of her performance up to that point, I did not believe this would be in her best interest. After discussion, we reached an agreement to pre-assess the student before each unit throughout the second semester. If she scored 90% or higher on the pre-assessment, she would engage in a project or a more challenging activity instead of completing the unit's standard coursework . . . At the end of the school year, we planned to evaluate the student's overall progress to determine if she could potentially skip a grade level or more in mathematics. Before each new unit, I provided the post-assessment to Mrs. Lenning, who administered it to the student as a pre-assessment. This approach allowed us to gauge the student's understanding of the material. Either Mrs. Lenning or I would grade the assessment and discuss the next steps. This process was followed for Units 8, 9, and 10 during the second semester. Each time, the student's pre-assessment scores fell within the 60-70% range, which we determined was not high enough to warrant acceleration. As a result, she continued following the class curriculum, participating in regular coursework. Occasionally, she attempted "challenge problems" when they were included in assignments. Upon completing the final exam, the student improved her score to the 90-100% range, which was consistent with other mathematically proficient students in my class . . . Throughout the semester in question, Mrs.

Lenning and I maintained ongoing communication, primarily in face-to-face discussions, as our classrooms were located next to each other.

The parent indicated she spoke to the 2023-24 Gifted Teacher regarding her concerns that the pre-testing was not being conducted. The Gifted Teacher then checked with the 6th grade Math Teacher who said the student hadn't passed any of the pre-tests. The parent reported that she and the Gifted Teacher were never provided with any data to support this assertion. The parent also stated, "The student was not aware that she had ever taken even one chapter pre-test, let alone one for each chapter that semester".

The 7th grade Math Teacher stated:

The student is currently enrolled in Foundations of Algebra, which is the advanced math placement class for 7th grade students. The student has a very strong foundation in general math concepts and her ability to use rational thinking when problem solving is above average. The student scored in the top one percent on both the Fall (243) and Winter (245) Fastbridge testing opportunities and her classroom performance is consistently in the 90-100% range. She is a copious note taker and always demonstrates using the necessary steps/formulas when needed. The curriculum within the Foundations class has provided an adequate challenge for the Student and her success is definitely a product of hard work.

An email dated August 27, 2024 written to the 7th grade Math Teacher by the 2024-25 Gifted Teacher indicates the student is to be pre-tested by taking the end-of-year test for Foundations of Algebra and the end-of-year test for Pre-Algebra in order to "get an idea of which skills she has already mastered and which skills she still needs to learn". The email indicates these tests can be administered in either the special education or general education setting and "Ideally she would take both no later than mid-week next week". The Math Teacher responded in an email dated the same day indicating "I don't have a preference for when you test the student. Let me know and I'll send her as needed". Interviews with both the parent and school staff found this pre-testing of the 7th grade math curriculum was not completed until mid-October and triggered the October 22, 2024 IEP Team Meeting to review and revise the IEP.

The second and third accommodations related to the student's reading and language arts classes. The second accommodation requires that when the student is given a writing assignment, the student "will be allowed to write more in depth or go beyond the rubric and/or chose a more advanced presentation method" in the general education setting "as needed" and noted the student "may require additional time to complete writing assignments". The third accommodation states that "When asked to read a novel of her choice, the student will be allowed to read a higher level book of her choice" on an "as needed" basis.

The 6th grade Language Arts Teacher stated:

The student's writing goal states that accommodations are to be provided "as needed." However, in practice, most conversations about accommodations revolved around offering extensions, which were generally left up to student choice or by her EL [Gifted] teacher. The

student was always encouraged to write more than the expectation or in general. To add, the majority of assignments were ones she had never done before, this being her first class directed towards writing, speaking, listening, and critical thinking skills.

The 6th grade Reading Teacher reported that the student was permitted to select any book she desired for all reading assignments and completed a reading log for grading purposes. In addition, the student participated in two novel studies conducted in class and, while she was given the opportunity to read a different book as were the other gifted students, the student chose to read the classroom novel.

The 7th grade Language Arts Teacher reported the student chose the books that the whole class read for assignments. In addition, she provided copies of three grading rubrics and stated:

I use rubrics for formal paper assignments. My first paper is at a higher level for all students and part of the assignment is to be concise. The student is on the advanced level in Amplify [an online curriculum with a personalized learning path]. Assignments with worksheets will not have rubrics. I teach how to use higher level verbs through paper analysis.

Conclusion

In this case, interviews and documentation support a finding that the special education services for extended learning were provided during the time period between February 14, 2024 and October 21, 2024 as required by the student's IEP. Both parties acknowledged the required services were provided during the second semester of the 2023-24 school year and there is evidence the student received the required total of 540 minutes of special education extended learning service during the first semester of the 2024-25 school year.

However, interviews and documentation also show that the accommodations were not provided as required by the IEP. It appears that the math accommodation was provided during the second semester of 6th grade based on the detailed description from the 6th grade Math Teacher even though the student did not remember completing any assignment titled a "pre-test". However, during the first semester of the 7th grade, it appears that the pre-tests for math were designed as end-of-course tests or comprehensive course exams. The plain language of the accommodation calls for a frequency of "weekly or bi-weekly" which would not be the frequency these types of tests/exams would be given to students following the curriculum in the general education math class.

In regard to the writing and reading accommodations, the frequency was described "as needed". During the second semester of the 6th grade, it appears that these accommodations were provided to the student "as needed" as determined by the 6th grade Reading and Language Arts Teachers based on their detailed descriptions. Evidence shows the 7th grade Language Arts Teacher also determined and provided accommodations "as needed".

Based on the foregoing, the district is found to be *OUT compliance* in regards to implementing the student's IEP, specifically by not providing the math accommodation as required by the January 31, 2024 IEP during the first semester of the 2024-25 school year.

Issue Three

USD #348, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP dated October 22, 2024, specifically the accommodations, goals, and services, between October 22, 2024 and the current date.

Applicable Law

State regulations at K.A.R. 91-40-16(b)(2) requires school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Kansas statutes at K.S.A. 72-3430 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. "Material change in services" is defined at K.A.R. 91-40-1(mm) as an increase or decrease of 25% or more of the frequency or duration of a special education service, related service, or supplementary aid or service specified in the child's IEP. "Substantial change in placement" is defined at K.A.R. 91-40-1(sss) as the movement of an exceptional child for more than 25% 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.

Positions of the Parties

The parent believes the LEA is failing to implement the student's most recent IEP developed on October 22, 2024. She indicated the student is not receiving the required special education extended learning instruction to address the IEP goals. In addition, the accommodations for reading and writing are still not being provided appropriately in the 7th grade language arts class.

The LEA again reported that the special education services are being provided to address the IEP goals as evidenced by the fact the student is making progress towards meeting all of them at this time. In addition, the accommodations are being provided in the language arts class as required by the IEP.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

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

An IEP Team Meeting was held on October 22, 2024 with the parent in attendance. IEP team meeting notes kept by the parent and the LEA staff show the IEP team reviewed state and

district assessments, progress towards the previous IEP's goals, and current information shared by both the parent and the student's teachers. Both sets of notes reflect updates to the IEP goals and accommodations. It is noted that the accommodation for math was removed and replaced with an accommodation to allow the student to take placement tests for language arts, science, and math to determine class assignment in 8th grade for the 2025-26 school year.

A prior written notice (PWN) dated November 13, 2024 was provided to the parent describing the proposed action as "Changed gifted pull-out minutes to 30 minutes one time a week; Changed her goals; and Updated her accommodations". The PWN explained these proposed changes were needed to reflect her current needs and schedule and were based on the Fastbridge and KAP scores, a review of grades, as well as input from the parent, student, and teachers. The PWN requested consent for a material change in services and a substantial change of placement and the parent signed the PWN electronically granting consent for the proposed changes on November 13, 2024.

During the parent interview and in an email dated February 28, 2025 written to the Investigator, the parent reported that she requested a copy of the October 22, 2024 IEP on November 11, 2024 because she had not yet received a copy. On November 13, 2024, she was provided with a copy of the IEP and PWN and was asked to sign and return the PWN, which she did on that same date.

When asked about her written consent for the material change of services and the substantial change of placement described in the PWN, the parent stated:

I am now very confused about this time change situation...I just re-read the PWN that they sent on Nov 13 for the IEP held on Oct 22. It states that her minutes were changed to 30 minutes to "fit her needs and her MS schedule." This was not discussed at the IEP meeting and the middle school class periods are 49 minutes long which is why we did the amendment in August to change her minutes to 49 minutes. So I apparently missed that on the PWN that they sent post-meeting? But it was not discussed at the meeting nor was I ever asked about it - as you could probably tell since I thought she was still getting the same # of minutes. I don't have any idea why that change was made.

IEP goal progress reports for the second quarter of the 2024-25 school year indicate the student is making progress towards both IEP goals.

The reading accommodation in the October 22, 2024 IEP requires that the student be allowed to read a higher level book of her choice when asked to read a novel of her choice for a novel study assignment.

The parent reported the 7th grade Language Arts Teacher failed to provide the reading accommodation in January 2025 when she assigned the student to study "junior level Shakespeare independently" and that her grades would be based on "writing papers" over the

reading. The parent indicated the student was not given any choice in this novel study and she met with the school social worker and the Principal to resolve the situation.

The 7th grade Language Arts Teacher stated, "I tried to give her a higher level book to read because I thought it was desired by her mom. This was not welcomed".

Conclusion

In this case, the 7th grade Language Arts Teacher clearly misunderstood the IEP accommodation by assigning a novel study instead of allowing the student to make a choice to read a higher level book of her choice for the assignment.

In regard to the provision of the special education extended learning services, it is clear that the parent and the LEA have very different understandings of the amount of services that were to be provided to the student in the October 22, 2024 IEP. This is complicated by the fact that the IEP notes kept by both parties are mute to any discussion about changes in services and placement.

It is further complicated by the fact that a copy of the IEP and the PWN proposing the material change of services and the substantial change of placement was provided 22 days following the IEP Team Meeting, and then only provided as a result of a parent request for a copy of the IEP. The parent acknowledged that she signed the PWN but indicated that she did not fully review the copy of the IEP or the PWN because she thought the services remained the same as the August 27, 2024 amendment and the changes to the goals and the accommodations discussed at the October 22, 2024 IEP Team Meeting had started immediately following the meeting.

Based on Interviews and documentation, there is evidence to support a finding that the LEA is ***OUT of compliance*** for both implementing the October 22, 2024 IEP, specifically the reading accommodation, as well as for not providing appropriate PWN to the parent following the October 22, 2024 IEP Team Meeting.

It is noted that because of the noncompliance with the requirements of PWN, the Investigator is unable to make a determination in regard to implementation of the IEP because it is unclear what services were supposed to be provided based on the discrepancy between the parent's strong belief the services were to remain the same as the August 27, 2024 IEP amendment and the PWN provided to the parent 22 days following the IEP Team Meeting.

Summary of Conclusions/Corrective Action

ISSUE ONE: Interviews and documentation support a finding that the district did not appropriately respond to the parent's request for an IEP team meeting in August 2024 when it agreed to amend the student's IEP without conducting an IEP Team Meeting on August 27, 2024 by failing to develop a written document amending the IEP showing the agreed upon changes. In addition, the agreed upon amendment changed the frequency the IEP services were to be provided to the student and the LEA failed to provide the parent with the

appropriate PWN. Based on the foregoing, the district is determined to be OUT of compliance for both of these requirements.

CORRECTIVE ACTION:

1. The LEA will provide training to the Gifted Teacher regarding the IEP amendment process and required documentation required to be created and provided to the parent no later than June 30, 2024. The LEA will provide KSDE with the date of the training, the name of the trainer, and a copy of any handouts or presentation materials no later than one week following the date of the actual training.
2. No individual corrective action is required as documentation and interviews found the parent was in agreement with the changes agreed upon and the student's IEP was subsequently reviewed and revised again on October 22, 2024. Note that allegations of special education services being provided at the beginning of the school year are addressed in Issue Two.

ISSUE TWO: Interviews and documentation support a finding that the district did not provide the accommodation for pre-testing the student on a weekly or bi-weekly basis to determine mastery of math concepts and to provide extension as appropriate. Based on the foregoing, the district is found to be OUT compliance in regards to implementing the student's IEP as written during the between August 15 and October 21, 2024 and corrective action is required.

CORRECTIVE ACTION:

3. The LEA will provide training to the 7th and 8th grade general education teachers assigned to the student regarding the requirements to implement the IEP as written as well as training for how to implement accommodations in the general education setting. This training will occur no later than the first day of the 2025-s6 school year. The LEA will provide KSDE with the date of the training, the name of the trainer, a sign-in sheet signed by the participants showing the names and positions of each attendee, as well as copies of any handouts or presentation materials no later than one week following the date of the actual training.
4. Because of the noncompliance, the student was not provided with potential opportunities for extended learning opportunities in the area of math. The LEA will confer with the parent to identify at least two opportunities to participate in an extended learning opportunity in the area of math during the summer of 2025 at district expense no later than April 30, 2025. The parent may choose to accept one or none of these opportunities. The LEA will notify KSDE of the parent's decision no later than 10 days from the date of the decision. If an extended learning opportunity is accepted by the parent, the LEA will provide documentation of payment for the program to the KSDE no later than August 1, 2025.

ISSUE THREE: Interviews and documentation support a finding that the district did not implement the student's IEP in January 2025, specifically by not providing the reading

accommodation required by the October 22, 2024 IEP. In addition, interviews and documentation support a finding that the LEA did not provide the parent with appropriate PWN following the October 22, 2024 IEP team which has resulted in multiple misunderstandings between the two parties as to what services are actually required to be provided to the student between October 22, 2024 through October 21, 2025. Based on the foregoing, the district is determined to be OUT of compliance with the requirements of the IDEA for these issues and corrective action is required.

CORRECTIVE ACTION:

5. Corrective action #3 will address the training that must be provided to the 7th grade Language Arts Teacher in regard to providing the accommodations required by the IEP.
6. The LEA will provide training to the Gifted Teacher regarding the appropriate provision of PWN and the required documentation no later than June 30, 2024. The LEA will provide KSDE with the date of the training, the name of the trainer, and a copy of any handouts or presentation materials no later than one week following the date of the actual training.
7. Because the noncompliance with the PWN caused the misunderstanding in regard to the required minutes of special education extended learning to be provided to the student, it is unclear whether the student was denied potential extended learning opportunities in reading and writing following the October 22, 2024 IEP Team Meeting. The LEA will confer with the parent to identify at least two opportunities to participate in an extended learning opportunity in the area of language arts during the summer of 2025 at district expense no later than April 30, 2025. The parent may choose to accept one or none of these opportunities. The LEA will notify KSDE of the parent's decision no later than 10 days from the date of the decision. If an extended learning opportunity is accepted by the parent, the LEA will provide documentation of payment for the program to the KSDE no later than August 1, 2025.
8. The LEA will reconvene the student's IEP Team no later than 20 days from the date of this report to discuss and determine the amount of special education extended learning services required to be provided in order to provide the student with a free appropriate public education (FAPE). At the end of the meeting, the LEA will describe the actions proposed or refused and explain the parent's rights in regard to consent contained in the Procedural Safeguards document. The LEA will provide the parent with appropriate PWN no later than two days following the date of the IEP Team Meeting. The LEA will provide KSDE with copies of the IEP Team Meeting notes and a copy of the PWN as documentation for correction of the noncompliance.

Nancy Thomas

Nancy Thomas, M.Ed., 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)