

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES  
REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #402 AUGUSTA PUBLIC SCHOOLS  
ON MARCH 3, 2025  
DATE OF REPORT: APRIL 2, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #402 (Augusta Public Schools) on behalf of ----- by her parents ----- . In the remainder of the report, ----- will be referred to as “the student”, ----- as “the mother” or “parent”, ----- as the “father” or “parent” and collectively as the “parents” or “complainants”.

The complaint is against USD #402 (Augusta Public Schools). In the remainder of the report, USD #402 will be referred to as “the district”. The district is supported by the USD #638 Butler County Special Education Interlocal which will be referred to as the “interlocal”. The student currently attends the Augusta High School which will be referred to as the “high school” in the remainder of the report. School and district staff will be referred to In the remainder of this report as follows:

- April Hilyard, director
- Denise Walton, assistant director
- Matt Ward, superintendent
- Rick Rivera, principal
- TJ Meyer, assistant principal
- Deana Walls, student’s IEP teacher
- Chelsey Tormey, special education teacher
- Mrs. Richardson, chemistry teacher
- Mrs. Gonzales, 1st semester math teacher
- Mr. Schwinn, 2nd semester math teacher
- Mr. Spellman, history/social studies teacher

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 March 3, 2025.

## **Evidence Reviewed**

USD #402 made the following staff available for interviews on March 25, 2025 as part of this investigation.

- Director
- Principal
- Assistant principal
- IEP teacher
- Special education teacher
- Counselor
- Chemistry teacher
- Career and life planning teacher
- College preparation teacher
- Math teacher for first semester
- Math teacher for second semester

During the investigation, the Complaint Investigator, Nikki Crawford, reviewed all evidence and documentation provided by the district and the parents. Additionally, the complaint investigator contacted the parents, director and student on March 6, 7, 9, 10, 11, 15, 17, 21, 23, 24, 25 and 26, 27, 28, 29 and 31, 2025 by phone and email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and district. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Notice of meeting for March 7, 2024 IEP, dated February 21, 2024
2. Notice of meeting acknowledgement signed February 25, 2024
3. IEP dated March 7, 2024
4. IEP meeting notes dated March 7, 2024
5. Student attendance record for the 2024-2025 school year
6. Student class schedule for the 2024-2025 school year
7. Email exchanges between the mother and IEP teacher scheduling a meeting to discuss accommodations on September 4, 2024.
8. Email exchange between the chemistry teacher and father on September 5, 2024
9. Handout used in training with general education teachers focused on IDEA, including the use of accommodations on October 21, 2024
10. Teacher attendance log for October 21, 2024 staff training related to IDEA
11. Time in service document provided by district reflecting the missed special education services from November 12, 2024 through March 7, 2025
12. Email from father to the math teacher on November 17, 2024
13. Email exchange between math teacher and parents on November 18, 2024
14. Progress report including progress on math and reading goals dated December 18, 2024

15. PWN for Substantial Change in Placement filed February 25, 2025
16. Student's drafted IEP dated March 5, 2025
17. Phone call between the parents and investigator March 6, 2025
18. Phone call between the director and investigator March 6, 2025
19. Phone call between the student and investigator March 7, 2025
20. Email exchange between the mother and director related to the drafted March 5, 2025 IEP on March 11, 2025
21. Email exchange between the mother and investigator clarifying concern over the use of Academic, Clubs and Educational Opportunities (ACE) as a substitution for special education support on March 13, 2025
22. Email exchange between the mother and investigator sharing the student's perspective on ACE on March 14, 2025
23. District response shared on March 14, 2025
24. Email exchange between the mother and investigator clarifying testing accommodations and provision of notes on March 23, 2025
25. Email exchange between director and investigator clarifying February 25, 2025 PWN on March 26, 2025
26. Email exchange between mother and investigator clarifying consent for change in student's schedule impacting paraprofessional support on March 26, 2025
27. Email exchange between mother and investigator clarifying the student's change in schedule on March 26, 2025
28. Phone call with the IEP teacher on March 27, 2025
29. Phone call with the history teacher on March 28, 2025
30. Paraprofessional log for the history class from January 6, 2025 through March 27, 2025 emailed on March 29, 2025
31. Email exchange between the history teacher and investigator on March 31, 2025
32. Email exchange between the math teacher and investigator on March 31, 2025

### **Background Information**

The subject of this complaint is a young woman of 16 enrolled in the 11th grade at the high school during the 2024-2025 school year. She lives at home with her parents and two siblings. The student attended two years of full-time preschool prior to starting kindergarten at a district elementary school. The student's initial evaluation was May 11, 2017 identifying a Learning Disability as the primary exceptionality; her most recent evaluation was conducted on January 16, 2023.

The current IEP is dated March 7, 2024 and states that the student has a math and reading goal and qualifies for special education services in the general education setting for math, social studies and language arts, five days per week, for 45 minutes per day, every other week. The high school utilizes a block schedule which includes a particular class twice a week and then in the next week offers that same class three times, thus offering each class a total of five times in two weeks. There are five accommodations noted including; 1) a quiet, alternate

setting for tests upon the student's request when given grade level test, 2) TTS (text-to-speech)/read aloud during grade level assignments/test when reading aloud to herself is not available or appropriate, 3) additional time to complete assignments/tests when expected to read lengthy text at grade level, 4) provide access to notes when required to take notes, and 5) allowed to read aloud to herself when given grade level assignments/tests. It is noted that the student had an annual IEP meeting during the investigation period on March 5, 2025.

## **Issues Investigated**

Based on the written complaint and an interview with the complainant, two concerns which fall under the same IDEA regulations were identified and investigated.

### **Issue One**

Did USD #402 implement the student's IEP specifically related to (1) the accommodations for testing, Text-to-Speech (TTS)/Read Aloud and (2) paraprofessional support as stated in the IEP?

#### **(1) Accommodations for testing, the Text-to-Speech (TTS)/Read Aloud:**

##### **Applicable Law**

Federal regulations at 34 C.F.R. §300.323(c)(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. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

##### **Parent Position**

The parents stated in their complaint that, "On March 2nd [student] informed us that she had not received a copy of her Chemistry or Math notes since the beginning of the current semester." Additionally, the complaint states that the "[high school] has not provided paraprofessional support in math class since late October and Social Studies since January."

##### **District Position**

In the district response dated March 14, 2025 states that, "[student's] teachers all state that notes were provided by being posted to google classroom or at the end of class when [student] asked for them". Related to the lack of paraprofessional support the district response asserts that, "The IEP indicates "special education services" not "para support"...Starting in January, and per parent request, [student] was moved to a different math teacher. The parents were told that there was no available paraeducator in this class, however, the teacher is a highly qualified math teacher and a certified special education teacher. The parents still

requested the change even knowing this information. Despite this, [student] still received equal to or more time in service for specialized instruction than was noted in her IEP as she had access to [second semester math teacher] instruction both in class and during ACE period (45 minutes daily)."

### **Accommodations**

1. The student's IEP dated March 7, 2024 states that she will receive the following five accommodations; 1) a quiet, alternate setting for tests upon request when given grade level test, 2) TTS/read aloud during grade level assignments/test when read aloud to herself is not available or appropriate, 3) additional time to complete assignments/tests when expected to read lengthy text at grade level, 4) provide access to notes when required to take notes, and 5) allowed to read aloud to herself when given grade level assignments/tests.
2. The parent's complaint states that on August 26, 2024 the student was told that she was responsible to find her own alternate setting for the chemistry test and the read-aloud option was not accessible because the test was online and the auto-reader was disabled.
3. According to the parent's complaint, the mother met with the principal over the phone on August 29, 2024 to talk about her concerns related to the chemistry test and lack of a read-aloud option. As a result of this call a meeting with the student's teachers was scheduled to ensure all of the teachers were aware of the student's accommodations.
4. The meeting took place on Friday, September 6, with the principal, general education teachers and the student's IEP teacher in attendance. The parent's complaint states, "During the meeting, we reviewed [student's] accommodations, and the agreed-upon plan was for [student] to notify her advisor when tests were approaching. If her teachers were unavailable that day, she would seek assistance from the principal. When we expressed concerns about similar issues arising in the future, we were assured that this was an isolated incident and would not happen again. [Student] has been able to arrange for her scheduled tests, but for pop up quizzes is often running around in the morning in order to schedule a room. We also used this meeting to clarify any accommodations in [student's] IEP that the teachers might have questions about. None were raised at the time. However, in the weeks following the meeting, [student] did not receive copies of class notes from her Chemistry, Math, and Social Studies teachers. The Chemistry teacher did allow [student] to take pictures of her notes, but [student] found them unhelpful, as they lacked context after classroom discussions. The Math teacher was not providing anything. The Social Studies teacher uploaded his presentation slides, but they were not structured as comprehensive class notes". There are no notes available for the meeting.
5. The parent complaint states, "On September 24, [mother] met with the superintendent to discuss our ongoing concerns. I suggested providing more training for teachers on the importance of implementing IEP accommodations. He agreed to reach out to [assistant director] to discuss next steps. I followed up with [assistant director] via email on October 8 to seek clarification on [student's] accommodations and discuss possible solutions. When we spoke on October 9, she informed me about an upcoming training she had

arranged after speaking with [superintendent]”. The mother followed up again on October 23, and [assistant director] reported that she had conducted teacher training on October 21, 2024.

6. The district shared the teacher attendance log for October 21, 2024 staff training which confirms the attendance of 42 staff including all but one of the student’s teachers. In the March 25, 2025 staff interviews, the director clarified that actually all staff had attended the training, but one of the student’s teachers had failed to sign the attendance sheet.
7. The October 21, 2024 training handout reflects general information on IDEA, and the IEP process including a paragraph on supplementary aids and services. There was no specific student information included in this training.
8. The parent complaint states, “On November 13, [father] met with [principal] regarding the continued lack of notes in [student’s] classes. During the meeting, [principal] stated that the [first semester math teacher] was doing her best and that he would speak with the teachers again about ensuring accommodations were met. He also requested that [student] begin emailing her teachers, CC’ing both principals, whenever an accommodation listed in her IEP was not provided. Additionally, he planned to speak with [first semester math teacher] about our concerns”.
9. The parent complaint states, “On November 15, [parents] received an email from [first semester math teacher] stated that she was learning a new textbook and was trying to determine how to provide [student] with the corresponding Google Slides. [First semester math teacher] began posting incomplete Google Slides in Google Classroom. These slides were intended for in-class discussions, where students filled in missing information provided by the teacher—information [student] could not access afterward. We discussed where they were in the textbook, and I explained the purpose of [student] receiving class notes. I did not receive a response to my email”.
10. The parent complaint states, “On November 18, [student] emailed [chemistry teacher] requesting a copy of the class notes. On November 20, [chemistry teacher] pulled [student] aside and asked why she had included the principals in her email. [Student] explained that she had been directed to do so. [Chemistry teacher] was the only teacher to begin consistently providing class notes at that time.”
11. The parent complaint states, “On December 11, [student] informed us that her social studies teacher had announced to the class that he would no longer be posting his Google Slides in Google Classroom unless a student had an IEP, in which case the materials would be assigned separately”.
12. The parent complaint states, “On March 2, [student] informed us that she had not received a copy of her Chemistry or Math notes since the beginning of the current semester.”
13. In the staff interview on March 26, 2025 both the chemistry and math teachers were adamant that they had provided notes since the beginning of the second semester; they offered examples of these notes and how the student could have accessed them. These teachers also shared that they are now also sharing the notes with the mother.

14. The district response stated, "When talking to parents, one of the issues is the definition of "notes". The parents do not feel google slides or PowerPoint notes are comprehensive enough to meet the definition of notes. They want the notes to show examples of how to work the problems or examples of how to break down and chunk the new learning material. While those are conversations that took place at the IEP meeting in March 2025, there is no specificity in the accommodation of what has to be included in the notes and teachers still have autonomy to determine what to include in their notes".

### **Conclusion: Accommodations**

The parents have been strong advocates for the student's accommodations in particular the availability of class notes. There are documented conversations with the principal on August 29, 2024 to which the school responded with a staff meeting on September 6, 2024 to clarify with staff the student's testing and other accommodations.

The parents report that some teachers were still inconsistent in their provision of notes in the weeks after the September 6, 2024 meeting. The mother met with the superintendent on September 24, 2024 to discuss the student's accommodations which the district responded to by conducting staff training focused on the IEP process provided by the interlocal on October 21, 2024.

The father met with the principal on November 13, 2024 to discuss the continued lack of notes in one of the student's classes. The district responded by speaking with the teacher who then posted notes, although considered incomplete by the parents. The parents attempted to clarify with the teacher what type of notes would be most helpful but did not receive a response to their email.

On March 2, 2025 the student reported to her parents that she had not received a copy of her chemistry or math notes since the beginning of the semester, an assertion strongly denied by both teachers.

The district response states that the teacher's interpretation of what they are required to provide the student and what the parents and student finds helpful, are not aligned. The response also shares that, "[student's teachers all state that notes were provided by being posted to google classroom or at the end of class when [student] asked for them". The IEP states that the student will have access to notes when the class is required to take notes, but does not specify what is meant by "notes".

Based on the foregoing, it is found that the district provided the student's accommodations through the provision of some type of class notes and were responsive to the parent's concerns. The *district is IN compliance* and no corrective actions are required.

This lack of alignment about what the word "notes" means in this student's IEP should be discussed and clarified at an IEP meeting to prevent further similar disputes. The IEP clarification should address not only what the word "notes" means, but also what "access to" means. In the alternative, the IEP team may choose to revise this provision completely, with parent consent.

## **(2) Paraprofessional support as stated in the IEP?**

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

#### **Paraprofessional support:**

1. The student's IEP dated March 7, 2024 states that she will receive 45 minutes of special education support in the general education setting for math, social studies and language arts. This special education support is to be provided five days per week, for 45 minutes per day, every other week.
2. The parent's complaint reports that the student "has not had a paraprofessional in her classes since late October".
3. The Time in Service document shared by the district on March 11, 2025 states:  
"[student's] IEP indicates 45 minutes each for reading, math and social studies. She received her full minutes in each of these classes until November 12, 2024. After this date, the para assigned to her math class was no longer employed by the Interlocal. [High school] utilizes a block schedule so she would have missed:
  - a. November 12, 2024-December 20, 2024 (math class only):
    - i. 5 days x 45 min. of no support in the general education classroom = 225 minutes missed.
    - ii. 2 days x 45 min. of support with [advisor] to take a test = 0 minutes missed.
4. The district response states, "While the district acknowledges a brief time from November to December of no paraeducator support in the math class, the district feels that other strategies and options were utilized to help support [student] during that time to help her find success in her advanced level classes". However, in the interview with the IEP teacher on March 27, 2025 she reported that there were no efforts made in the first semester to make up the minutes missed in the IEP because they were hoping to quickly hire a paraprofessional for that classroom.
5. The parent's complaint reports that, "In January, her math class was switched to a new teacher because the previous teacher was not meeting her accommodations. This resulted in a schedule change, which also removed her from the class where she had paraprofessional support in Social Studies. We were not notified of these changes in services until we received the annual meeting notice, at which time the IEP teacher also sent home a prior written notice form indicating a proposed change in services".
6. The PWN sent February 25, 2025 indicates a "substantial change in placement" and the description of the action proposed states, "[Student will have 90 minutes of special education services 5 days a week every other week per the [high school] block schedule. This is down from 135 minutes 5 days every other week". The explanation given for this proposed reduction states, "[Student] is losing 45 minutes of service time due to losing a para educator". The parents signed as not giving consent for this change on March 5, 2025. It is noted that the change in special education services occurred at the beginning of the semester on January 6, 2025, thus made prior to issuance of the PWN.



7. In the March 27, 2025 interview with the IEP teacher she shared that the PWN dated February 25, 2025 was sent due to the lack of paraprofessional support in the second semester math class. She went on to explain that the PWN indicated a change in placement rather than a change in service because the student was placed in a math classroom without paraprofessional support in the second semester.
8. In an email with the parents on March 11, 2025 the director shared her perspective on the special education support offered in lieu of paraprofessional support, "The discussion about para support should be clarified. Time in service on an IEP is not defined as "para support". Time in service on an IEP should be for specialized instruction, which, technically, can be provided by anyone certified and/or working under the supervision of a special educator. Sometimes, time in service helps support the accommodations but in [student]'s case, the accommodations are provided by the general education teachers or special education teachers (which is very appropriate). [student] is clearly very bright and is in advanced coursework. I'm curious to know what the paraeducator does in the classroom "live" that helps support her academic progress. The most qualified person to help [student] learn the content is going to be the highly qualified general education teacher and/or the special education teacher. [student] is going to her math teacher during ACE time to get "specialized instruction" from the highly qualified math teacher who is the expert on the content and much more equipped to help [student] breakdown the problem into manageable steps. She would also have the option of going to one of the special education teachers to get specialized instruction during ACE or she could receive that during a resource hour. This would truly allow her to learn the skills needed to break down the material. I mention this only because the time in service was/is a point of concern for you as parents and I want to make sure that we are talking the same language".
9. The parent's complaint states that once they received the PWN filed February 25, 2025 noting a reduction in services, "we asked [student] about the services she had received this year. She reported that she has not had paraprofessional support in her Math or Social Studies classes".
10. During the student's interview on March 7, 2025 she confirmed that she no longer has paraprofessional support in math and social studies, but does in her reading class. Further, she reported that her current social studies course is a history class which "is a lot harder without a para; there is so much reading".
11. The mother shared in an email on March 26, 2025 that the parents were unaware that the changes to the student's schedule at the beginning of the spring semester impacted the paraprofessional support available to the student. She also shared they did not sign any type of consent for this change in how support was offered. She stated, "In all of our discussions about what options [student] would have, no one mentioned that her support would change".
12. The Time in Service document shared by the district on March 11, 2025 states:  
"[student's] IEP indicates 45 minutes each for reading, math and social studies."
  - a. January 6, 2025 – March 7, 2024 (math class only):

- i. [Student]/her parents requested a teacher change at semester. This new teacher [2nd semester Math teacher] does not have a paraeducator assigned to the class, however, he is highly qualified as a math teacher and is a licensed special education teacher. This was a parent/student request, and one made knowing there was no accessibility of a para with this schedule, however, [student] utilizes Academic, Clubs and Educational Opportunities (ACE) time to go to [2nd semester Math teacher] and receive a breakdown of the instruction (specialized instruction).
  - b. There have been 18 A days in the second semester and 2 of those days [student] went to [advisor's] room to take a test.
  - c. Additionally, [student] has visited [2nd semester Math teacher's] room during ACE time 18 times and she was there for the entire 45 minute duration of the ACE period (2nd period).
  - d. [Student] did not miss any other minutes for any other classes.
13. The high school student handbook for 20204-2025 states that "The purpose of ACE is to serve as a remediation, extension and enrichment for the educational programs of [High School]. It will primarily be used for makeup work, tutoring, and homework. Teachers assume the role of a mentor for students in their class. Teachers and students should view ACE as an opportunity to further enhance classroom instructions as well as build a relationship with an adult in the high school. The focus of ACE is to reduce the amount of incomplete work for students to be successful in completing all coursework."
14. In a March 13, 2025 email from the mother, [Student] has gone to her teachers during ACE, but she's using this study hall class in the same way her other non-identified peers are using it. She is going in for extra help on the concept and she also doesn't go into that class [ACE] every day".
15. In a March 14, 2025 email exchange between the mother and investigator the mother shared, "This is the first time they have brought up using ACE as a substitution for the para support". Additionally, the mother stated, "ACE has been helpful for the questions that I can't help her answer, but it hasn't been enough. [Student] said she isn't the only one getting the help and often doesn't get through all of her questions because there are other kids working with the math teacher. There are days when the math teacher isn't available due to club or staff meetings. She also has to use that time for other classes. When she had a para in class she could talk through the problems or would work in small groups to talk about the practice problems. Without that, she does take longer to get through the work. When she gets lost in the lecture, she was able to ask a para to help her get back on track while the teacher is still instructing. [Student] said she felt like she would leave class with a better understanding of the concepts because of the para support".
16. In the district interview on March 25, 2025 the district emphasized that during ACE the student has access to all of her core general education teachers and all three of the special education teachers.

17. The current IEP does not note the use of ACE as a special education support.
18. In the IEP teacher's phone interview on March 27, 2025 she clarified that the student has received the same minutes of ACE regardless of whether she had paraprofessional support, meaning that her minutes of access to ACE do not offset the lost minutes of special education services via paraprofessional support. She also shared that the student is currently getting a D in her math class.
19. In a phone interview March 28, 2025 with the history teacher he shared that there was not a paraprofessional assigned to his room until after the March 7, 2025 he believed as a result of the March 5th 2025 IEP meeting. Prior to March 7, he was in frequent communication with a paraprofessional who helped the student if she requested help and who frequently checked in with the student. He also reported that the student is currently receiving an A and rarely visits him during the ACE period for extra support.
20. The director shared the paraprofessional's log for the student's history class which showed that the student has been in attendance for 16 class periods from January 6, 2025 through March 7, 2025. The paraprofessional was available to the student for 11 of these class periods. Two of the missed days the paraprofessional was unaware that she was to support the student, two days the paraprofessional was ill and one day she was giving a test in a different class.
21. When clarifying with the history teacher in a March 31, 2025 email in regards to the paraprofessional's log of support, he confirmed the dates of available support shared in the paraprofessional's log from January 6 through March 7, 2025.
22. In clarifying with the math teacher in a March 31, 2025 email he shared that he was not asked or provided individualized instruction beyond what he would offer any student.

### **Conclusion: Paraprofessional support:**

There were no minutes of special education services provided from November 12, 2024 to December 20, 2024 due to the loss of a paraprofessional in the student's math class. The district did not offer a replacement strategy for these lost minutes of support.

There were no minutes of special education services provided from January 6 through March 7, 2025 in the student's math classroom due to a change in the student's second semester schedule which placed her in a class with no paraprofessional availability. This change in schedule placed the student in a math class with a teacher whom the student had previously and is a certified special education teacher. Neither the parents or district were able to produce documentation that the parents had been notified or agreed to the lack of paraprofessional support as a result of the schedule change prior to the change on January 6, 2025. A PWN was not issued until February 25, 2025 notifying the parents of this change.

Additionally, the schedule change also placed the student in a history class that did not have ongoing paraprofessional available, however the school ensured there was a paraprofessional available to check in with the student and offer support as requested by the student. The paraprofessional was not available to support the student for four of the 15 class periods from

the beginning of the semester to March 7, 2025 when the district scheduled a consistent paraprofessional in the classroom. It is also noted that the student is earning an A in this class.

It is true, as the district response states, that the IEP does not specifically define special education support as paraprofessional time. However, the PWN issued on February 25, 2025 states “[Student] is losing 45 minutes of service time due to losing a para educator”. This PWN reflects the district’s own definition of special education services as paraprofessional support for this student.

The district's assertion that ACE is a replacement for special education service is not appropriate in light of IDEA's definition of special education including, 300.39(a)(1) “Special education means specially designed instruction to meet the unique needs of a child with a disability”, and “Specially designed instruction means “adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction--(i) To address the unique needs of the child that result from the child's disability; and (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children [34 C.F.R. 300.39(b)(3)].”

The availability of the math teacher to be consulted with during study hall does not meet the definition of specially designed instruction. The math teacher stated that he has not been asked to, nor does he provide individualized services through adaptation or specialization of instruction beyond what he would do for any of his students. Additionally, the student’s access to ACE has been consistent, meaning the loss of special education services was not offset by an increase in ACE time. At no point in the first or second semesters when there was a loss of paraeducator time in math, were these lost minutes of special education services offset by increases in other methods of special education service.

Based on the foregoing, it is found that although there were four days of missed special education services delivered by the paraprofessional in the student’s history class, the student is not experiencing material harm as evidenced by her grade. No corrective action is ordered for the missing services in history. However, the student did not receive 225 minutes of special education services for math as required by the IEP from November 12, 2024 through December 20, 2024. Additionally, the student did not receive 720 minutes of special education services for math from January 6 through March 7, 2025. Therefore the *district is found to be OUT of compliance* with IDEA regulations for the missing special education services in her math class.

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

1. ISSUE ONE: A violation of 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) was found based on the lack of accommodations and paraprofessional support as required by the IEP during the 2024-2025 school year. Corrective action is required.
  - a. USD #402 shall reconvene the student’s IEP team and will offer a minimum of 945 minutes of special education services for math in the general education setting as

described in the March 6, 2024 IEP as compensatory services for failing to implement the student's IEP during the 2024-25 school year.

- b. USD #402 shall provide SETS with a copy of the written plan for providing the compensatory services offered and the parents' decision on whether to accept the offer, in whole or in part, no later than 10 days from the date of the IEP team meeting.

### **Right to Appeal**

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to [formalcomplaints@ksde.gov](mailto:formalcomplaints@ksde.gov). The notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f).

### **K.A.R. 91-40-51(f) Appeals.**

(1) Any agency or complainant may appeal any of the findings or conclusions of a compliance report prepared by the special education section of the department by filing a written notice of appeal with the state commissioner of education. Each notice shall be filed within 10 days from the date of the report. Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect.

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

- (A) The issuance of an accreditation deficiency advisement;
- (B) the withholding of state or federal funds otherwise available to the agency;
- (C) the award of monetary reimbursement to the complainant; or
- (D) any combination of the actions specified in paragraph (f)(2)