

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #501
ON FEBRUARY 27, 2025

DATE OF REPORT: MARCH 31, 2025

This report is in response to a complaint filed with our office on behalf of a student, ----, by their parents, ----. In the remainder of the report, the student will be referred to as “the Student” and the parents as “the Parents.”

The Complaint is against USD #501, Topeka Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #501.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the school district. In this case, the KSDE initially received the complaint on February 27, 2025, and the 30-day timeline ended on March 31, 2025.

Allegations

The following one issue will be investigated:

Issue One

Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the Student’s IEP. K.A.R. 91-40-16 (b)(3); 34 C. F. R. § 300.323.

Investigation of Complaint

Tania Tong, the Complaint Investigator, interviewed the Parent by video conference on March 24, 2025. The following District staff were interviewed on March 25, 2025: the Principal and the GEI Coordinator.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the District. Although additional documentation was provided and reviewed the following materials were used as the basis of the findings and conclusions of the investigation:

District Materials:

1. Formal Response, 03/10/25
2. GEI Referral Plan, 11/06/24
3. Behavior Plan, 10/09-12/04/24

4. Daily Point Sheets, 10/21-12/10/24
5. Email, re: [Student] notes, 12/04/24
6. GEI Referral Plan, 08/09/23
7. GEI Referral Plan, 08/04/23
8. 2024-2025 Implementation Manual
9. General Education Intervention Guide
10. Notice of Meeting, 03/03/25
11. Prior Written Notice (PWN), 12/12/24
12. Email, re: ... complaint, 03/05-03/06/25
13. Evaluation Report, 03/04/25
14. Email, re: [Student], 08/26/24
15. Email, re: behavior note..., 09/05-09/11/24
16. Email, re: [Student], 10/18/24
17. Email, re: [School], 10/29-12/02/24
18. Email, re: [Student], 01/27-01/28/25
19. Email, re: 5th grade Student behavior, 01/30/25
20. Notice of Short Term Suspension, 02/04/25
21. Email, re: manifestation determination review, 02/06/25
22. Email, re: [Student], 02/14-02/16/25
23. Email, re: [Student], 03/03/25
24. Email, re: ... complaint, 03/06/25
25. Notice of Short Term Suspension, 09/30/24, 11/08/24, 11/19/24, 11/21/24, 12/20/24, 02/04/25
26. Student Discipline Profile, 2024-2025
27. Manifestation Determination Review, 02/11/25
28. Daily Attendance Profile, 2024-2025
29. Special Programs Policy 6200-1, 06/18/80-06/05/09
30. Initial Contact for Special Services Intervention Policy 6200-2, 06/18/80-07/19/02
31. Comprehensive Evaluation Policy 6200-3, 02/10/83-09/07/03
32. Implementation of Individual Education Programs (IEPS) Policy 6200-4, 11/11/19
33. Class-size/caseload for Special Education Classes Policy 6205-1, 05/25/01
34. Student Transfers and Enrollment, 04/23/91-11/16/23
35. Email, re: transfer application submitted, 03/06/25

Background Information

This investigation involved a ten-year-old student who attends fifth grade at an Elementary School that is not the Student's neighborhood school. The Student has been diagnosed with Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder.

Findings of the Investigation

The following findings are based on a review of documentation and interviews with the Parent and staff in the District.

1. The GEI Coordinator stated the Student was having behavior difficulties and was referred to the GEI team to help with interventions that would help them be more successful in school.
2. A General Education Intervention Referral Plan (GEI Referral Plan) dated August 13, 2024 indicated a goal of, "By November 19th, [the Student] will use a calming strategy when [the Student] is escalated 50% of the time as evidenced by [their] behavioral chart." According to Behavior Plan Meeting notes dated October 9, 2024, the team decided to implement for the Student breaks, Check In & Check Out, a behavior chart and reward system, a science class modification, and a Crisis Plan.
3. The Parent stated there were "many plans put in place", and perceived the plans were always changing and inconsistent. The Parent indicated the Student's behavior plan charts also changed, and stated there were two or three versions. The Parent stated the Student reviewed their behavior chart with an adult every day, during check-in/check-out. The Parent stated that the GEI plan was inconsistent, and that sometimes the Student reported the staff had forgotten to give them a break or had denied them a break.
4. The GEI Coordinator said, "... when a student is referred for GEI, we ... put them on the calendar and then we meet officially as a GEI team and we like to have at least four to six weeks of intervention to see if whatever the team has come up with is working or not. And then when you meet again, if it is successful, then we just continue on with the plan. If it is not being as successful as we would like, then we come up with a different intervention to try to help the student be more successful at that time." They stated that in general, the GEI team preferred to do at least two or three cycles of interventions before referring for special education evaluation.
5. According to discipline referrals ranging from September 6, 2024, through February 10, 2025, the Student was suspended for fighting, harassment/ bullying, insubordination, obscene behavior, disruptive behavior, and vandalism. The Student received six short-term suspensions and 23 major and minor referrals.
6. An email exchange between the Principal and the Case Manager dated September 27, 2024 indicated the Other Parent suggested the Student not go to specials because the Student continued to have issues in music and science.
7. An email exchange between the Principal and the Case Manager dated October 18, 2024 indicated the Other Parent would like to have the Student, "start fresh each day," meaning the Student would not review their think sheet from the previous day.

8. During an email exchange between the Principal and the Case Manager dated December 2, 2024 the Principal requested the Case Manager attend a meeting with the Parent to “start working on the 504.”
9. Daily Point Sheets with date ranges from November 1, 2024 through December 10, 2024 indicated behaviors noted were cussing, rudeness, leaving class without permission, throwing chairs, earning 140 points out of 290 points, 48% on December 9, 2024. On December 10, 2024 the Student earned 89 out of 290 points.
10. A GEI Referral Plan was developed for the Student on November 6, 2024, indicating the Student was on a Tier 2 Plan ending on May 23, 2025. The plan stated the Student was absent 37.5 days from August through February. No year was indicated. There were no math, reading, writing, or speech concerns at the time.

Student strengths were the following:

- a. Able to focus.
- b. Excels at Mathematics.
- c. Enjoys taking part in class discussions.
- d. Helps others with their math.
- e. Likes to work problems on the board.
- f. Likes to volunteer to walk through the questions as a class.
- g. Likes to read aloud when able.

The area of concern was for behavior. Behaviors noted were:

- a. Following directions/expectations.
- b. Emotion regulation.
- c. Social Skills.
- d. Self-regulation.
- e. Externalizing behavior (elopement, aggression, inappropriate language, non-compliance).

Documented concerns noted the Student was easily triggered. “[The Student] enters the classroom in a heightened emotional state (not always negative) and has a difficult time regulating [their] emotions. ... emotions are amplified when we transition to S.T.E.M. or Music class. [The Student] has particular feelings towards those subjects and the teachers involved, and refused to show respect to them, their classrooms, or focus on what [the Student] simply needs to do for [themselves].” The Student gets physical with things in the classroom. The Student “gets extremely verbal and colorful with [their] word choice, often times leaning towards the F word and disrespecting other teachers and administration with not kind names.”

The team used a behavioral chart with the Student and recorded Student incidents. Incidents were also reported in Synergy. Interventions were implemented for a

minimum of 3 weeks. Interventions used were calming strategies and instruction. The Goal stated, "By January 16th, [the Student] will use a calming strategy when escalated 50% of the time. Sessions were for 30 minutes one time a week, starting November 6, 2024. The baseline score was 25%. An accommodation/modification listed was, "[The Student] will go to the SPED teacher for whole group social skills lesson."

The Parents requested a comprehensive evaluation for the Student. The General Education Intervention (GEI) Team recommended moving forward with the request. The team recommended referring the Student for a comprehensive evaluation and continuing the intervention progress monitoring.

11. In an email exchange between the Principal and a Behavioral Consultant dated November 15, 2024, the Behavior Consultant after observing the Student suggested:
 - a. "Have [the Student] obtain unconditional connection time with staff."
 - b. "Do not get into power struggles."
 - c. "Give [the Student] scheduled breaks that are gross motor in nature."
 - d. "Have [the Student] use a self-monitoring tool."
12. According to the District General Education Intervention Guide, "the GEI Team can consider a special education referral if they have tried at least two rounds of GEI providing evidence-based interventions with fidelity and the student did not show adequate progress. ... A parent can request a special education evaluation. The GEI Team should consider the parent's concern and review the GEI documentation. If there is a concern the student has a disability, the GEI process does not need to be completed prior to an evaluation."
13. Parent concerns dated December 4, 2024 noted, "[The Student] is behind academically due to behavior." The Parent felt the Student was triggered when the Student struggled academically. The Other Parent was concerned that the Student sleeps too often, stating that 90% of the Student's problems are the Student sleeping in class and waking up agitated. The Other Parent wanted the plan to continue in middle school.
14. According to an email exchange between the Assistant Principal and the Instructional Coach dated December 4, 2024, the Student has "great days vs. suspensions-there is no middle." The Parent requested a bag of candy be used with the Student to reward good behavior.
15. A Prior Written Notice (PWN) for Evaluation or Reevaluation and Request for Consent dated December 12, 2024 indicated the District proposed to conduct an initial evaluation. The Parent signed the consent for evaluation on December 12, 2024.
16. On January 23, 2025, a GEI Plan indicated the Student was not able to self-regulate 50% of the time. The performance goal was changed to "By March 27th, [the Student] will self-regulate 50% of the time." The Student does try to calm themselves, but it doesn't last. The classroom teacher provided breaks for the Student; however, the Student had been refusing to go.

17. In an email exchange dated February 6, 2025, the School Psychologist emailed the Parent regarding a meeting for a Manifestation Determination Review for the Student.
18. According to a Manifestation Determination Review dated February 11, 2025, which the Parents were notified about on February 6, 2025, the Student had been removed from school for more than 10 consecutive days in a row. The conduct in question was caused by, or had a direct and substantial relationship to, the Student's disability. The IEP/504 Team determined the misconduct was a manifestation of the Student's disability.
19. During an email exchange between the Case Manager and the School Psychologist, dated February 14, 2025, the Parent shared they wanted the assessment completed so the Student can be supported in Middle School. The School Psychologist replied, "I believe we have enough data already gathered to determine eligibility."
20. On February 19, 2025, the Parent withdrew the Student from the Elementary School to be home-schooled.
21. An email exchange between the Case Manager and the District indicated the Parent requested to have the Student dropped on February 27, 2025. The Parent wanted to continue with determining eligibility for special education for the Student. The Parent agreed to waive the ten-day notice of meeting, and an eligibility determination meeting was set up for March 5, 2025.
22. The Attorney for the District said that the Student's evaluation was finished on February 21, 2025, and the evaluation staff determined the Student's eligibility on March 5, 2025.
 - a. In an email dated February 20, 2025, one of the Student's teachers wrote, "Parents agreed that they wished the evaluation to continue and testing has been arranged for tomorrow ... to complete testing. Then an eligibility meeting will be held soon after."
23. A Notice of Meeting dated March 3, 2025, indicated a meeting to determine if the Student was eligible for special education and related services and if needed, an individualized educational program (IEP) be developed for the Student and appropriate placement determined. The Case Manager requested two meetings to discuss what services for the Student would look like for the remainder of the year.
24. An Evaluation Report dated March 4, 2025 indicated that this was a second initial comprehensive special education evaluation. The Parent reported that the Student was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) and Oppositional Defiant Disorder (ODD). The Student recently transitioned to home-schooling. The team determined the Student qualified as a student with a disability under the exceptionality of Other Health Impairment.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #501, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the Student's IEP. K.A.R. 91-40-16 (b)(3); 34 C. F. R. § 300.323.

According to K.A.R. 91-40-16 (b)(3) and 34 C. F. R. § 300.323, an IEP must be in effect for each exceptional child at the beginning of each school year.

The Parent alleged that the District was "not following [the Student's] plan that was in place."

The District stated they made a good faith effort to address the Student's educational needs through the Student Intervention Plan Process. When that was not successful, the District proceeded to request a special education evaluation. The District stated there was no evidence to show that they failed to implement the Student's General Education Plan.

The Student was referred to the GEI team for behavioral interventions, and had a General Education Intervention Referral Plan dated August 13, 2024. Behavior Plan Meeting notes dated October 9, 2024 detailed strategies to help the Student. The Parent reported that the Student's GEI plan, behavior plans and charts were inconsistently followed and frequently changed. The GEI Coordinator said they preferred to have at least four to six weeks of intervention to determine the success of a plan, and to try two or three intervention cycles before considering a special education evaluation.

From September 6, 2024 through February 10, 2025, the Student received six short-term suspensions and 23 major and minor referrals. One of the Parents suggested the Student avoid specials due to issues in music and science, and that the Student no longer review their think sheet from the previous day. On December 2, 2024, the Principal emailed the Case Manager requesting their attendance at a meeting with the Parent to begin working on the 504. Daily Point Sheets from November 1, 2024 through December 10, 2024 indicated negative behaviors the Student had displayed.

A GEI Referral Plan was developed for the Student on November 6, 2024, and listed Student strengths and behavior concerns. On November 15, 2024, the Behavior Consultant made recommendations to the Principal after observing the Student. According to the District General Education Intervention Guide, typically, two rounds of effective GEI are needed before a special education referral for lack of progress; however, a parent's request or a team concern about a disability allows for an evaluation without completing the GEI process.

On December 4, 2024, the Parents requested a comprehensive evaluation for the Student. The GEI Team recommended proceeding with the evaluation. A PWN for Evaluation or Reevaluation and Request for Consent dated December 12, 2024 indicated the District proposed to conduct an initial evaluation. The Parent signed the consent for evaluation on December 12, 2024. On February 14, 2025, the School Psychologist shared via email that the Parent still wanted the

assessment completed. The Student's assessments were finished on February 21, 2025 and an eligibility meeting was held on March 5, 2025. The evaluation and meeting were completed within 47 school days, meeting the 60-day deadline.

On January 23, 2025, a GEI Plan indicated the Student was not able to self-regulate 50% of the time and a performance goal was changed. A Manifestation Determination Review was held on February 11, 2025. On February 19, 2025, the Parent withdrew the Student from the School. An Evaluation Report dated March 4, 2025 stated that the Student qualified as a student with a disability under the exceptionality of Other Health Impairment.

After reviewing documentation and from interviews with the Parent and District staff, it was determined that the Student did not have an IEP during the complaint range. Based on the foregoing, according to IDEA and Kansas special education regulations, it is not substantiated that the District failed to implement the Student's IEP in accordance with K.A.R. 91-40-16 (b)(3); 34 C. F. R. § 300.323.

Tania Tong, Licensed 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)