

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #229
ON MARCH 11, 2025

DATE OF REPORT: APRIL 10, 2025

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

The Complaint is against USD #229, Blue Valley Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #229.

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 March 11, 2025, and the 30-day timeline ended on April 10, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #229, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to conduct child find activities to determine whether the Student was a student with a disability who required special education services. K.A.R. 91-40-7; 34 CFR § 300.111.

ISSUE TWO: Whether USD #229, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the Student with a free appropriate public education when the District did not provide the Student with an IEP. K.A.R. 91-40-1(z); 34 C.F.R. § 300.101.

Investigation of Complaint

Tania Tong, the Complaint Investigator, interviewed the Parent by video conference on March 26, 2025. The following District staff were interviewed on March 26, 2025: the School Psychologist and the Assistant Superintendent of Special Education.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and 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. Student Support Plan, 09/21/23
2. Email, re: [the Student], 08/26-08/28/24
3. Notice of Meeting, 11/06/24
4. Email, re: IEP meeting, 11/11-11/20/24
5. Email, re: fall, 08/02-08/06/24
6. Email, re: lunch help, 08/16/24
7. Email, re: thank you, 09/07-09/09/24
8. Email, re: [the Student] update?, 09/27-11/04/24
9. Email, re: draft evaluation report, 09/26/24
10. Student Profile, no date
11. Email, re: follow up, 09/23/24-03/14/25
12. Authorization to Disclose Health/Education Information, 11/08/24
13. Email, re: school, 09/17-09/19/24
14. 504 Accommodation Plan, 09/21/23
15. Email, re: release of information, 08/22/24
16. Email, re: board policy information, 10/29/24-03/14/25
17. Parent Input Form, 11/19/24
18. Email, re: follow up, 09/23-11/04/24
19. Student Record Release Form, 11/20/24
20. Student Enrollment Log, 2024-2025
21. Email, re: checking in, 10/23-11/08/24
22. Authorization to Disclose Health/Education Information, 09/18/24
23. Hospital Discharge Summary, 09/06/24
24. Hospital Discharge Summary, 08/24/24
25. Notice to Conduct a 504 Meeting, 04/11/24
26. Evaluation Report Draft, no date
27. Request for Consent, 04/11/24
28. Email, re: touching base, 04/09-04/26/24
29. Email, re: due process, 09/20/24-03/14/25
30. Special Ed Student Contact Log, 03/12/25
31. Notice of Meeting, 11/18/24

Parent Materials:

1. Email, re: no subject, 04/09/24
2. Email, re: touching base, 04/09-05/03/24
3. Email, re: academics, 09/12-09/20/24
4. Email, re: due process, 09/20-09/24/24
5. Email, re: no subject, 10/15-11/20/24
6. Draft Evaluation Report Comments and Inaccuracies, no date
7. Complaint Background, various dates
8. Email, re: [case] email from parent, 03/19/25

Background Information

This investigation involved a 15-year-old, ninth-grade student enrolled at a high school in the District. The Student is not currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA). According to the Parent, the Student was evaluated for preschool special education at age three, diagnosed with Attention Deficit/Hyperactivity Disorder (ADHD) and “suspected” Autism Spectrum Disorder (ASD) Level 1 at age four, and participated in a program focused on developing social-emotional skills for preschoolers for three years. The Student continued receiving special education services through kindergarten and then transitioned to a 504 Plan at private religious schools through eighth grade. The Student was formally medically diagnosed with ASD Level 1 at age eight.

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. A Private School Student Support Plan dated September 21, 2023 outlined the following for the Student:
 - a. Medical diagnoses of ADHD and Autism and current medications.
 - b. Documentation of eligibility: “The student has a physical or mental disability which substantially limits one or more major life activities and requires minor adjustments in the classroom.”
 - c. Area of need: “Adaptations to Assignments and Instruction”
 - i. “Minor Adjustments:”
 1. Participation in the enrichment program twice monthly;
 2. Breaking up long-term assignments into interim due dates communicated to the Parents; and
 3. An extra set of books provided at home.
 - d. Area of need: “Assessments”
 - i. “Minor Adjustments:”
 1. “The opportunity to test in a separate, quiet location, if needed (summative and standard).” (D37-D39)
2. During an interview with the Complaint Investigator, the School Psychologist stated the Parent called them in January 2024 and told them the Student was planning to attend public school in the fall, and had a 504 plan. They stated the Parent wanted to know how public school accommodations compared to the Private School. The School Psychologist said they talked to the Parent again in April 2024, when they requested a special education evaluation. They stated they met the Student in May 2024, when they started testing for the evaluation. (School Psychologist Interview,

P1, 00:57) The School Psychologist indicated the Parent did not ask for an evaluation in January 2024. (School Psychologist Interview, P1, 02:12) The School Psychologist stated that in January 2024, they told the Parent the School would continue with the services on the Student's 504 plan. (School Psychologist Interview, P2, 03:46)

3. The Parent stated when they spoke to the School Psychologist in January 2024, the School Psychologist told them they could wait closer to the end of the semester to start an evaluation. The Parent said, "... they started the evaluation at the end of May, I believe May 20th and May 30th [2024] were the two days that they evaluated [the Student]. Any other evaluations that were done were just observations There was nothing else that was done after that. We received the evaluation report on September 24th [2024]. Our 60 [school] day window ... was supposed to have been September 25th [2024].(Parent Interview, P6, 13:00)
4. According to a District enrollment report, the Student enrolled for a "special education evaluation" on April 10, 2024, and then as a student at a high school from August 13, 2024 through November 25, 2024. (D110)
5. On April 9, 2024, an Administrative Assistant to Student Services emailed the Parent on behalf of the counseling department, welcoming them to the School and identifying the Student's assigned counselor. They stated that the counselor was currently on leave, but would return in a few weeks, and an appointment would be scheduled for the Parent and Student to meet the counselor, choose classes, and tour the School. The Parent asked if the counselor would help coordinate 504 or IEP services, and the Administrative Assistant responded that those questions would be addressed in a meeting with the counselor, who was scheduled to return the last week of April [2024]. (P8)
6. On April 9 and April 10, 2024, the Parent and the School Psychologist exchanged emails about the Student.
 - a. The Parent said they had contacted the School Psychologist a few weeks before to discuss the Student, who would attend as a ninth-grader the next school year. They said they were unable to meet with the Student's assigned counselor until they returned from leave, that the Student had an IEP that was dismissed in 2016, and had a private school 504 Plan since kindergarten. The Parent expressed that the Student was having a "really hard semester that included inpatient hospitalizations and five weeks of intensive outpatient therapy," so they wanted to ensure that support and a plan were in place for the next year.
 - b. The School Psychologist replied that they would schedule a meeting once the Student's assigned counselor returned in two weeks since the Counselor was the only one who could access course scheduling for the Student.
 - c. The Parent asked what needed to be done for testing for an IEP evaluation because they did not want the school year to end and the Student to be without accommodations the next school year.

- d. The School Psychologist notified the Parent of the District's process for enrolling the Student for evaluation purposes. They also said the Private School teachers would be asked for input for the evaluation, and once school was out, they could schedule dates for the Student to be assessed by the School Psychologist. Also, once the Student's assigned high school counselor returned, the Student would be invited in to discuss their schedule and support. Finally, it was noted that they would plan an eligibility meeting within the first couple weeks of school as long as they had all the necessary data. (D246-D247)
7. A Request for Consent dated April 11, 2024 indicated that the District proposed to conduct an initial evaluation to determine the Student's eligibility and need for special education and related services. It listed a review of existing information in all areas and the collection of new data for social/emotional/behavioral status, general intelligence, academic performance, and transition skills. It was based on the Parent's request and medical diagnoses. The Parent signed it, giving consent, on April 11, 2024. (D239-D243, Parent Interview, P5, 12:06)
8. A Notice to Conduct a 504 Meeting dated April 11, 2024 listed a meeting at the School to discuss the need for a 504 evaluation scheduled for November 11, 2024 from 1:00 to 2:00 p.m. It was noted that the date was a placeholder to occur at the same date and time as the IEP to be determined. (D144)
9. On April 26, 2024, emails were exchanged between the School Psychologist and the Parent, scheduling evaluation testing with the Student on May 20, 2024. (D244)
10. On May 3, 2024, the Parent received an email from another District school psychologist assisting the School Psychologist with the Student's evaluation. They sent links for a behavior rating scale and questionnaire for the Parent to complete and asked for the email addresses of the Student's Private School teachers so that they could also submit completed rating scales. The Parent responded by sending three Private School teacher emails. (P10)
11. Between August 2, 2024 and August 6, 2024, emails were exchanged between the Parent and the School Psychologist. The Parent introduced the School Psychologist to the Student's Mental Health Case Manager and asked about the next steps for the Student regarding an IEP or 504 Plan. The School Psychologist replied with the following:
 - a. The School would honor the Private School 504 Plan and immediately communicate the accommodations with the Student's teachers.
 - b. The Student was enrolled in a "Career and Life Planning" course taught by an interventionist to support the Student with executive functioning, study strategies, and homework while in the IEP evaluation process.
 - c. The Student's evaluation was due to be completed by September 25, 2024, meaning the team needed to meet on or before that date to review the completed testing and data collected from the Private School teachers. The School Psychologist added, "There is so much that has already been collected; the last piece is allowing [the Student] to adjust to [the School] with the

- support of the intervention class plus [their] accommodations to determine if even more support is needed.”
- d. They concluded by listing the Student’s School Counselor and stating that the School Counselor would transfer the incoming 504 Plan information into the School information system and meet weekly with the Intervention Teacher and the School Psychologist to review and adjust support for the Student as needed. (D51-D53)
- 12. An August 8, 2024 District version of a 504 Accommodation Plan included the information from the September 21, 2023 Private School Support Plan regarding the Student’s accommodations and indicated that the Student was in the District’s special education evaluation process. (D86)
 - 13. A School class schedule indicated the Student entered their classes on August 13, 2024 and left on September 25, 2024. (D69)
 - 14. On August 16, 2024, the School Psychologist emailed the Parent, confirming that the 504 Plan had been distributed to the Student’s teachers and that the Parent could access it via their online parent portal. They also stated that the Private School Psychologist was collecting information from the Student’s previous teachers and would send it over once completed. (D54)
 - 15. On August 22, 2024, the School Psychologist emailed the Parent, saying they had sent a release of information to allow communication with the Student’s Mental Health Case Manager via the online parent portal. The Parent replied that they signed it. (D93)
 - 16. An email exchange occurred from August 26, 2024 through August 28, 2024 between the Parent and the District School Psychologist:
 - a. Monday, August 26, 2024: The Parent notified the School Psychologist that the Student was hospitalized with no discharge date and no anticipation of attending school that week. The Parent asked what they needed to do regarding academics.
 - b. Monday, August 26, 2024: The School Psychologist informed the Parent they would connect with other staff and work with teachers to make a plan to catch the Student up upon their return to school. They said, “Focusing on getting well comes first,” and asked for a good time to call the Parent.
 - c. Wednesday, August 28, 2024: The Parent responded with times for a possible phone call and stated they hoped the Student would be discharged from the hospital on Friday. (D40-D41)
 - 17. A Discharge Summary dated September 1, 2024 from the In-State Hospital indicated the Student had been admitted on August 24, 2024 and discharged on September 1, 2024. (D130)
 - 18. In the Parent’s written timeline for September 2024, it noted, “[The School Counselor] requested an extension for the IEP evaluation to allow more time for adjustment but never provided a consent via [the online parent portal]. [The

Student] did not have a written safety plan, but [their] verbal safety plan included daily check-ins with a psychologist or counselor. On September 6, [2024], [the School Principal] contacted us, informing us that [the Student] made concerning statements, which were deemed a high-level safety threat. The School advised seeking a medical evaluation." According to the Parent, the Student was offered to have their Parents or the School Resource Officer (SRO) transport them to the hospital and the Student chose the SRO, who then handcuffed the Student and escorted them to a police car while the School was on lockdown. The Parent claimed they never received an incident report regarding these events. (P41-P43)

- a. The Parent said, "They did request to extend [the Student's] evaluation. When I met with them [on] September 4th in the office, I did request that they send that in writing to us and we didn't ever receive that. (P42, Parent Interview, P3, 05:24) The Parent said a District administrator told them, "... that the [District], if they had extenuating circumstances, could extend the timeline without us signing consent." (Parent Interview, P13, 30:14)
- b. The School Psychologist explained that they met with the Parent in September 2024 about possibly gathering more data and extending the evaluation period. They stated that due to an incident with the Student shortly after, a decision about the extension was not reached and the School Psychologist did not send the Parent any paperwork. (School Psychologist Interview, P4, 11:32) The School Psychologist explained that the offer of an extension was not due to concerns about a specific learning disability. (School Psychologist Interview, P4, 12:58)
19. On September 9, 2024, the School Psychologist emailed the Parent and asked if they could let the School know where the Student was staying and the next steps for them. They stated, "That will help us know how to coordinate from a school standpoint." (D57)
20. A Discharge Summary dated September 11, 2024 from the In-State Hospital indicated the Student had been admitted on September 6, 2024 and discharged on September 11, 2024. It was noted, "Discharge was somewhat complicated by placement, but after coordination with case worker, [the] patient was set to be transferred to a [Psychiatric Residential Treatment Facility] PRTF, [Out-of-State Behavioral Health Agency] in [Another State]. [The] patient no longer requires inpatient treatment at the current level of care." (D124-D125)
21. On September 12, 2024, the Academic Coordinator for the Out-of-State Behavioral Health Agency emailed the Parent asking for contact information for the School. The Parent replied with the School's phone number and contact information for the School Psychologist and the School Counselor. The Parent sent a follow-up email on September 13, 2024 asking if there were any issues setting the Student up on the District platform and asking when they'd start coursework. (P13)
22. Between September 17, 2024 and September 19, 2024, emails were exchanged between the Parent and the Out-of-State Behavioral Health Agency's Academic

Coordinator regarding the Student's educational services. The School Psychologist and the Counselor were also included as recipients of the emails.

- a. September 17, 2024: The Parent asked if the Student logged on and resumed classes via the District platform, and if not, when would they start and what was needed to help facilitate the process. They also asked for copies of the testing done in May 2024 and what needed to be done in terms of paperwork. They wanted to know if the Student would continue with 504 accommodations or if they would need an "IEP placement" for the virtual platform.
- b. September 17, 2024: The Academic Coordinator replied that they had not been able to connect with the School staff and asked the School Psychologist and the School Counselor for a good time to talk via phone.
- c. September 17, 2024: The Parent asked if the Academic Coordinator had been in contact with anyone from the District and, if not, what was the anticipated timeline for the Student to start school and what was the Student currently doing during the "time allocated for school."
- d. September 17, 2024: The Academic Coordinator responded that they had requested to speak with the School staff via phone the next day, and in the meantime, they had given educational packets to the Student to complete. However, the Student chose to work on "tennis shoe coloring sheets." They said, "We do have a computer assigned to [the Student] and [they] will attempt to log in tomorrow."
- e. September 18, 2024: The School Psychologist replied to the emails stating that the District had been unaware that the Student was at the Out-of-State Behavioral Health Agency and that the first thing they needed to do was get a signed release of information. They also informed the Parent that the District would coordinate with care providers when students were inpatient, even if they did not have 504 Plans or IEPs.
- f. September 18, 2024: The Parent responded that they had signed District "consents" that morning and signed "consents" for the Out-of-State Behavioral Health Agency on September 9 and September 11, 2024 (admission date). They also said they had given the Out-of-State Behavioral Health Agency's Academic Coordinator the contact information for the District School Psychologist on September 12, 2024 and followed up via email on September 13 and September 17, 2024.
- g. September 19, 2024: The Parent asked how things were going and if getting the Student's District laptop to them at the Out-of-State Behavioral Health Agency made sense.
- h. September 19, 2024: The School Psychologist answered that they had contacted the Academic Coordinator the day before regarding the Out-of-State Behavioral Health Agency's educational setup. They said they were scheduled to meet with the School Principal that day to discuss the best way for the Student to access the curriculum and continue earning high school credit during their stay at the

Agency. They said they would need to prioritize which courses were most important and consider how much classroom time the Student was scheduled each day.

- i. September 19, 2024: The Parent said their priorities were algebra, English, and biology.
 - j. September 19, 2024: The School Psychologist responded that District leadership would be working on the best learning platform for the Student and the best way to complete the special education evaluation. They said the District had only learned of the Student's placement the day before and needed a few days to figure things out. They said they had talked with the Academic Coordinator and knew there were "many academic activities for students" at the Out-of-State Behavioral Health Agency to engage in while they awaited a more tailored plan with their home school. They encouraged the Parent to contact the School Principal with any questions or concerns regarding the process and that someone would contact them as soon as they knew the next steps.
 - k. September 19, 2024: The Parent stated, "I am very upset that [the Student] has had 6.5 days of admission and there is no plan. I hope that [the Out-of-State Behavioral Health Agency] is able to implement an interim plan because I do not think color sheets are appropriate. When can we expect to hear from the district with a time?" (D79-D84; P13-P15)
23. An Authorization to Disclose Health/Education Information dated September 18, 2024 proposed the disclosure and receipt of information between the District and the In-State Hospital. It identified the information to be shared as "any information regarding the diagnosis of and/or the services provided" to the Student from January 1, 2024 through January 1, 2025. The purpose was for special education evaluation and continuity of care. It was electronically signed and marked as "accepted" by the Parent on September 18, 2024. (D122-D123)
24. On September 20, 2024, the Parent emailed the School Principal asking what the "due process" was and the reasoning for it. The School Principal responded that upon the Student's return, the team would meet with them regarding the September 6, 2024 events. The Student would be allowed to share their perspective and comments and answer questions. This would serve as an informal due process hearing. They noted these meetings typically occurred immediately after an incident, but it was postponed due to concerns for the Student's mental health. ((D249-D250) The Parent said they were told that the Student could not attend School until they had met with the School Principal for an informal due process hearing. (Parent Interview, P8, 18:49)

In the Parent's written timeline for the same date, they noted, "[The School Principal] informed the family that [the Student] would be unenrolled from the school due to residency concerns effective September 23, [2024], as the school administration felt [the Student] was not meeting the 51% residency requirement to

remain enrolled. ... We requested district policy stating this requirement and said that we could bring [the Student] to school on [September 23, 2024] (during the allocated time for schoolwork at [the Out-of-State Behavioral Health Agency]) until it was resolved. [The School Principal] stated that [they] would need to complete an informal due process hearing. The school decided to transfer [the Student] to [the Virtual Academy], and consent for enrollment was signed September 25, [2024]." (P42, Parent Interview, P4-5, 10:10)

25. On September 23, 2024, the Parent emailed the School Principal, asking for an update on the status of the Student's enrollment. They stated they had "not received notice of unenrollment, per District policy." They also asked for an update on the Student's IEP evaluation status and the "implementation of educational services" with an estimated timeline during the Student's stay at the Out-of-State Behavioral Health Agency. The School Principal responded the same day, "Based on information we received from [the Out-of-State Behavioral Health Agency] today, our district has approved enrolling [the Student] in [the Virtual Academy] in partnership with [the District]." They added that they, or another District administrator, would contact them within 48 hours with further enrollment information. (D72-D73, School Psychologist Interview, P7, 20:38)
26. The Assistant Superintendent of Special Education said that when it seemed like the Student was not returning to the School, their thoughts were to close out the file so the deadline was met, and for the School Psychologist to send the evaluation report. (School Psychologist Interview, P5, 15:57)
27. The Other Parent indicated the evaluation process was ongoing throughout the discussions about enrollment. (Parent Interview, P5, 11:25)
28. According to the Parent's written timeline, the Student experienced the following hospitalizations:
 - a. September 23, 2024 through October 2, 2024: Admitted to the emergency room and transferred to the Out-of-State Hospital on September 24, 2024.
 - b. October 5, 2024 through October 10, 2024: Admitted to the emergency room and transferred to the In-State Hospital.
 - c. October 21, 2024 through November 14, 2024: Admitted to the Out-of-State Hospital for further treatment.

The Parent also noted, "These hospitalizations were partly due to rumors circulating at [the School] about [the Student], stemming from a report by another [School] student who was admitted to the [Out-of-State Behavioral Health Agency]." (P42)

29. A September 24, 2024 entry on the Special Education Contact Log indicated that the School Psychologist had responded to the Parent's September 23, 2024 email inquiring about the status of the IEP evaluation by saying, "I am going to send you a separate email with the draft of the special education evaluation report containing all the data collected thus far. ... Please let me know what your upcoming availability is to talk through the evaluation – I'd be glad to review any of the assessment scores

- with you. We can also discuss a meeting date to officially determine eligibility as a team." It was also noted, "No response was ever received on this chain." (D256)
30. On September 26, 2024, the School Psychologist emailed an attachment of the Draft Evaluation Report to the Parent, and the Parent replied, "Thank you for sending this." In the Parent's written timeline, they acknowledged receiving the draft evaluation report on September 24, 2024. (D65, P43)
- a. The School Psychologist stated they could not determine a completion date for the evaluation because the eligibility meeting had not been held. (School Psychologist Interview, P4, 14:10)
 - b. The Assistant Superintendent of Special Education said about the evaluation process, "But there's an exception that if the student's not made available to you, that then those days don't count towards the 60 [school] days. And so even though we had the document finished and the evaluation was ready to present to the parents, the Student wasn't available to us. ... Even though we were ready to go, the timeline was frozen because we had no access to the kid." (School Psychologist Interview, P9, 26:52)
 - c. The School Psychologist indicated that the Student's absences did not impact direct assessments for the evaluation. They also said they would have been able to complete eligibility statements with the information they had available, even though the Student was elsewhere. (School Psychologist Interview, P10, 31:14)
31. On September 26, 2024, emails were exchanged between the District administration and the Virtual Academy Academic Advisor. The District wanted to know if the Virtual Academy had contacted the Parent yet. The Academic Advisor stated that the Student's application for the Virtual Academy had been approved that morning, and as soon as they completed orientation, they would be enrolled in courses. They also acknowledged that the Student had a 504 Plan and was undergoing a special education evaluation. The Academic Advisor asked if any modifications were needed at the time. The Academic Advisor immediately followed up, stating they had contacted the Parent to ensure they understood the orientation requirement and were told the Student had been hospitalized the night before. The Parent asked the Academic Advisor for an extension as they anticipated discharge the following week. The District approved the extension on September 30, 2024. (D103-D105)
32. From September 27, 2024 through November 4, 2024, emails were exchanged between the School staff and the Out-of-State Behavioral Health Agency staff regarding coordinating academic services for the Student.
- a. September 27, 2024: The School Psychologist stated the District was working to set the Student up in a Virtual Academy. However, when the Virtual Academy contacted the Parent, the Parent notified them that the Student had been admitted to the hospital and asked for an extension because they anticipated the Student's discharge sometime the next week. The School Psychologist said the Parent had not notified the District of any updates to a change of location or

responded to offers to set up a meeting to review evaluation data. The School Psychologist asked if the Student was still at the Out-of-State Behavioral Health Agency.

- b. September 27, 2024: The Executive Director of the Out-of-State Behavioral Health Agency replied, "We will need an extension for [the Student] to begin [their] virtual academy." They stated the Student had been transferred to an "acute setting" that Monday and would not be back at the Out-of-State Behavioral Health Agency until the following week.
 - c. October 2, 2024: The School Psychologist responded, "We would like to schedule a phone call to coordinate whenever [the Student] is back at [the Out-of-State Behavioral Health Agency] to make sure you have what you need from our team and that we have any updated information relevant to planning for [the Student's] educational needs when [they return] to [the District]."
 - d. November 1, 2024: The School Psychologist wrote, "Within the next few weeks, we anticipate meeting with [the Student's] family to discuss [their] special education evaluation that was in progress prior to [the Student's] stay at [the Out-of-State Behavioral Health Agency]. In order to make recommendations regarding what [the Student] needs educationally, we will need the most updated information on [the Student's] progress and needs at this time in terms of both academics and social-emotional well[-]being."
 - e. November 4, 2024: The Out-of-State Behavioral Health Agency's Academic Coordinator responded that the Student "refused to participate in anything educational."
 - f. November 4, 2024: The School Psychologist replied that the Virtual Academy had just contacted the School Principal, confirmed that the Student never started the online curriculum, and indicated that the Parent said the Student was hospitalized. The School Psychologist asked if the Student was presently at the Out-of-State Behavioral Health Agency and if the District could have the Student's attendance dates at the Agency.
 - g. November 4, 2024: The Out-of-State Behavioral Health Agency's Enrollment Director stated the Student was not currently a resident at their Agency and that they were discharged from their program on October 21, 2024.
 - h. November 4, 2024: The School Psychologist said the District was unaware the Student had been discharged and asked if the Out-of-State Behavioral Health Agency could share any discharge paperwork, reports, or progress notes covered by the release of information so that the District could best support the Student's safety and well-being. (D58-D63)
33. On October 15, 2024, the Virtual Academy's Academic Advisor emailed the Student and the Parent a reminder about finishing their online courses. The Parent replied that due to mental health, the Student had not yet started their class work since enrolling and asked if their classes would get paused or what would happen. The Academic Advisor explained that the Student's classes would not expire or lock, but

that it was up to the District whether the Student continued enrollment with the Virtual Academy. They explained how many credits the School required for graduation and the typical timeline for achieving those credits, acknowledging that sometimes circumstances delayed graduation. (P18)

34. Between October 23, 2024 and November 8, 2024, emails were exchanged between the School Psychologist and the Parent regarding the Student.
- a. October 23, 2024: The School Psychologist said they were checking in to see how the Student was doing. They said the Virtual Academy staff confirmed that the Student had started their coursework. The School Psychologist also said they should set up a meeting to review the results of the special education evaluation and determine whether the Student needed an IEP or updates to the 504 Plan. They asked what the Parent's schedule was like during the week of November 11, 2024.
 - b. October 29, 2024: The Parent responded that they anticipated the Student finishing the semester at the Virtual Academy but wanted to know what the next semester's process would look like for the Student to return to the School. They also requested more information about the informal due process hearing, including District policies. Finally, they requested the District's provision of an Independent Educational Evaluation (IEE), including "a neuro[-]psych evaluation to better address [the Student's] social-emotional needs."
 - c. October 29, 2024: The School Psychologist said they would ask the School Principal to send the Parent the due process policies and information. They also stated that parents can request an IEE when they "disagree with the results of our evaluation, so we need to have that evaluation meeting first" and asked again about the Parent's availability to have an evaluation meeting.
 - d. October 30, 2024: The Parent replied with availability on November 12 or November 19, 2024, and asked for a list of attendees and their roles.
 - e. October 31, 2024: The School Psychologist responded that they would check the rest of the team's availability for those dates and listed the District staff they planned to invite.
 - f. November 1, 2024: The School Psychologist confirmed a team meeting could occur on November 19, 2024 at 1:45 p.m. and the Parent said that worked for them.
 - g. November 6, 2024: The School Psychologist emailed the Notice of Team Meeting, Parent Rights in Special Education, and virtual meeting link to the Parent. They also notified them of one change in attendees for the meeting. Additionally, they asked for the Parent's feedback via a Google form before the meeting regarding their concerns and recommendations for the Student. They indicated that one of the questions on the form was about the Student's care during their time out of the District. The School Psychologist explained that the Virtual Academy had contacted them on November 4, 2024 to say that the Student had not actually begun their coursework. Then, the School Psychologist

said they contacted the Out-of-State Behavioral Health Agency and were told the student had been discharged to acute care on October 21, 2024, but had not been given any other information.

- h. November 7, 2024: The Parent replied that they had received the notice.
 - i. November 8, 2024: The School Psychologist said that the day marked the 13th consecutive school day that the Student had not accessed the Virtual Academy, and the District did not have confirmation of their whereabouts. They explained that the District was required to file truancy if they had a student unaccounted for after 10 days, but their understanding from the Out-of-State Behavioral Health Agency and the Virtual Academy was that the Student was receiving care somewhere. The School Psychologist asked the Parent, "Is there a medical note that you could provide confirming where [the Student] is being treated and the dates of stay so that we can excuse [their] absences? If [the Virtual Academy] is inaccessible at the facility, I would like to problem-solve other ways that [the Student] could access education."
 - j. November 8, 2024: The Parent replied that the Student had been discharged from the Out-of-State Behavioral Health Agency to the Out-of-State Hospital and had not attended school except for the Virtual Academy orientation since leaving the School on September 6, 2024.
 - k. November 8, 2024: The School Psychologist asked the Parent if they knew of an academic liaison at the Out-of-State Hospital that they could connect with regarding academics. They also said they would need a release of information to contact them.
 - l. November 8, 2024: The Parent said they did not know about an academic liaison, but they knew the Student did not have access to a laptop or computer while they were there, which was why they had not accessed the Virtual Academy.
 - m. November 8, 2024: The School Psychologist stated they sent the Parent a release of information to sign via the online parent portal, and once signed, they would contact the Out-of-State Hospital.
 - n. November 8, 2024: The Parent replied, "[The Out-of-State Hospital] will provide verification of [the Student's] admission date and we will send that when we have it." (D111-D119, Parent Interview, P3, 03:26, School Psychologist Interview, P6, 19:01)
35. On October 29, 2024, the School Principal emailed the Parent information regarding school board documents related to suspension, expulsions, and informal due process, which typically meant meeting with a student and administrator to discuss situations that might require disciplinary action. The Parent asked for a written outline of charges and evidence against the Student as indicated in the school board documents. The Principal replied that the charges to be discussed were "making threats" to the Counselor on September 6, 2024. The Parent asked for

- clarification, and the Principal stated that since they had not met with the Student, they had made no disciplinary decisions yet. (D95-D98)
36. An October 29, 2024 entry in the Special Education Contact Log indicated that the School Psychologist had called and left a voicemail for the Parent referencing their October 23, 2024 email, asking for an update on the Student, and inquiring about scheduling a meeting to determine special education eligibility. (D255)
 37. A Notice of Team Meeting dated and noted as emailed to the Parent on November 6, 2024, proposed a virtual meeting on November 19, 2024 at 1:45 p.m. to review the evaluation and determine eligibility. It also noted, "If [the Student] is determined eligible for special education services, the team will discuss what services would be needed in light of [the Student's] circumstances. If [the Student] is determined ineligible for special education, the team may discuss what/if any adjustments may be needed to [their] current Section 504 Plan." It listed all the people invited to attend the meeting and was signed and shown as "accepted" by the Parent on November 6, 2024. (D42-D43)
 38. A November 8, 2024 Special Education Contact Log entry indicated that the School Psychologist received an email with an attached letter from the Out-of-State Hospital indicating that the Student was admitted October 21, 2024 with no discharge date. (D252)
 39. An Authorization to Disclose Health/Education Information dated November 8, 2024, indicated a request to disclose and receive information between the District and the Out-of-State Hospital. The information to be disclosed included the "diagnosis of and/or the services provided" to the Student between October 21, 2024 and October 21, 2025. It also stated that special education evaluation data and the Section 504 Plan could be disclosed. The purpose was "coordination of care" and "educational planning." It was electronically signed and marked "declined" by the Parent on November 8, 2024. (D77-D78)

In the Parent's written timeline, they stated they declined to sign the release of information for the Out-of-State Hospital because "it requested access to all medical and treatment records. We were advised by [the Out-of-State Hospital] staff that the school did not need full access to [the Student's] medical records." (P43) The Parent stated they communicated this reason to the District. (Parent Interview, P1, 00:51)

40. Between November 11, 2024 and November 20, 2024, an email exchange occurred between the Parent and the School Psychologist regarding the upcoming meeting.
 - a. November 11, 2024: The Parent emailed the School Psychologist and stated there was a death in the family and the funeral would be on November 19, 2024. They asked if the team could meet the following Monday instead.
 - b. November 11, 2024: The School Psychologist responded that they would need to check the team's availability. They also mentioned receiving a letter from the Out-of-State Hospital confirming the Student's admission to the "acute inpatient

hospital.” They asked if the Student would be residing at the facility after their acute care discharge because that would mean a different School District would take over the special education evaluation. If not, they acknowledged needing to “problem-solve educational access,” but stated they could not proceed without information about what was available at the hospital or the Student’s current progress, status, or ability to participate in education.

- c. November 11, 2024: The Parent replied that the Student was “acutely admitted” as of October 21, 2024, and was not enrolled in the residential program nor would be discharged to the residential program.
 - d. November 11, 2024: The School Psychologist thanked the Parent for the clarification and stated that if the Student did not have access to their laptop, the team needed to explore alternative options. However, without speaking to staff at the facility, they were unsure what alternatives were available and asked the Parent how they recommended proceeding. They also noted that other staff could not reschedule their meeting to November 18, 2024, but they would check for times after the Thanksgiving break and get back to the Parent.
 - e. November 11, 2024: The Parent replied with two additional days that they were available to meet during the current week, and mentioned they could meet any other time the following week except the day of the funeral.
 - f. November 15, 2024: The School Psychologist stated they had tentatively blocked time on November 22, 2024 and December 4, 2024, and asked the Parent if either date worked for them to meet.
 - g. November 15, 2024: The Parent confirmed they would be able to attend a meeting on November 22, 2024.
 - h. November 18, 2024: The School Psychologist confirmed they would send an updated meeting notice.
 - i. November 18, 2024: The Parent stated they found out the Student would be transferring to a different School District online, and they had contacted the school psychologist who coordinated their virtual program.
 - j. November 20, 2024: The School Psychologist stated they had received a records request from the new School District that morning, and since the Student would be withdrawn and enrolled elsewhere, they would have to cancel their meeting scheduled for November 22, 2024. They stated they would work with the new School District to transition the Student and the IEP evaluation. The Parent replied immediately and confirmed the completed enrollment in the new School District. (D44-D49, School Psychologist Interview, P8-9, 25:11, Parent Interview, P3, 05:10)
41. In the Parent’s written timeline on November 14, 2024, it was noted that the Student was transferred to the Psychiatric Residential Treatment Facility (PRTF) following their discharge from the Out-of-State Hospital. A different school district provided “on-site educational services” for students at PRTFs, so the Student was officially withdrawn from the District on November 25, 2024 and the IEP evaluation

meeting scheduled for November 22, 2024 was canceled by the School Psychologist. According to the Parent, consent for an evaluation with the new school district was signed and the School Psychologist provided records and engaged in phone conversations with the new school district's school psychologist.

- a. The Parent stated the Student's anticipated discharge date from the PRTF is May 15, 2025, and then the Student will be sent back to the District. (P43, Parent Interview, P9, 22:09)
42. The Parent stated they were unable to request an IEE because the meeting on November 22, 2024 had been canceled, due to the Student's enrollment in a new district. (Parent Interview, P4, 07:40)
43. The Parent confirmed that the Student's last enrolled day at the District was November 25, 2024, but the last day the Student attended school on the District campus was September 6, 2024. (Parent Interview, P9, 23:17)
44. A Notice of Team Meeting listed as emailed and dated November 18, 2024, proposed a virtual meeting for November 22, 2024 at 11:00 a.m. to review the evaluation results and determine eligibility. It was also noted, "If [the Student] is determined eligible for special education services, the team will discuss what services would be needed in light of [the Student's] circumstances. If [the Student] is determined ineligible for special education, the team may discuss what/if any adjustments may be needed to [their] current Section 504 Plan." It also said, "I waive my right to a 10-day prior written notice of the IEP meeting" and was electronically signed and marked "accepted" by the Parent on November 18, 2024. (D257-D258)
45. A Google form titled "Parent input form for 11/19/24 meeting" listed five questions specifically about the Student and the Parent's concerns and recommendations for support. One of the questions also asked for a description of the care and approximate dates of stay when the Student was away from the District. The questions did not indicate answers from the Parent. (D100-D101)
46. The School Psychologist explained as part of the evaluation process they included cognitive and academic testing, behavior rating scales, and teacher feedback. (School Psychologist Interview, P3, 06:47) They stated that the Parent completed a Behavior Assessment System for Children (BASC) for the Student. (School Psychologist Interview, P4, 10:12)

The Other Parent stated the Parent told the District the Student had a "serious mental health issue", but that there were no evaluations regarding that concern. The Other Parent said that the District mentioned in the evaluation that the Student's variation between scores on the gifted tests were "extremely rare" and was enough to indicate something. (Parent Interview, P7, 14:59)

47. An Evaluation Report Draft from District was undated, but outlined the following:
 - a. Type of evaluation: initial

- b. The Student “was referred for an evaluation to determine aspects of [their] intellectual, academic, and social/emotional functioning in order to identify an appropriate educational environment for [them].”
- c. Referral: The Parent had contacted the School during the spring semester of 2024 to share concerns about the Student, who was finishing up their eighth-grade year at the Private School and planning to enroll at the School to begin ninth grade. The Parent had originally contacted the School Psychologist on January 31, 2024 to discuss available support at the School and shared that the Student had an IEP as a preschooler and kindergartener, diagnoses of ADHD and ASD, and a current 504 Plan at the Private School. On April 10, 2024, the Parent shared with the School Psychologist that the Student was having a difficult semester and had missed a significant amount of school to participate in mental health treatment after being hospitalized for eight days. Upon discharge from an intensive outpatient program, the therapist suggested that the Student’s difficulties might be more related to Autism than to mental health issues. The Parent shared significant concerns about the School’s ability to support the Student as a ninth grader or to be as accommodating as the Private School regarding their mental health-related absences and requested a plan, such as an IEP, to be established before the beginning of the school year. Consent was obtained for a special education evaluation on April 11, 2024 by the District.
- d. Review of existing information:
 - i. The Student attended 12 out of 17 school days at the School between August 13, 2024 and September 6, 2024.
 - ii. The Student was hospitalized from September 6, 2024 through September 11, 2024.
 - iii. Medical information obtained from discharge paperwork from the Out-of-State Hospital was listed.
 - iv. The Student had been admitted to the Out-of-State Behavioral Health Agency on September 11, 2024.
 - v. The Student was approved for the Virtual Academy on September 26, 2024.
 - vi. The Student had been transferred from the Out-of-State Behavioral Health Agency to an acute care setting on September 23, 2024, returned to the Out-of-State Behavioral Health Agency at some point (date unconfirmed), and was transferred to acute care again on October 21, 2024. According to the District, the Parent did not notify the District either time the Student was transferred from the Out-of-State Behavioral Health Agency.
 - vii. The School Psychologist requested updated information on the Student’s progress from the Out-of-State Behavioral Health Agency on October 2, November 1, November 4, and November 7, 2024. Reportedly, the only information shared was that the Student did not engage in academics while

at the Out-of-State Behavioral Health Agency and had conflict with another student.

- viii. On November 8, 2024 the Virtual Academy confirmed the Student had not begun their online coursework and the Parent had informed them on November 7, 2024 that the Student was hospitalized without access to a laptop. The same day, the Out-of-State Hospital confirmed the Student's admission to their inpatient care on October 21, 2024 with no discharge date.
- ix. The Student was not present for state or district assessments.
- e. Background information provided by the Parent, including developmental and school history. The Parent shared concerns about the Student's impulsivity, emotional maturity, and apathy toward schoolwork.
- f. Teacher feedback:
 - i. Private School teachers indicated that the Student was "extremely intelligent" and functioned at a "very high level." They stated that the Student may need help adjusting to high school expectations, struggled with asking for help when needed, and was not bothered by poor grades.
 - ii. District teachers indicated the Student had several absences, seemed disorganized, had not turned in assignments, was distracted, and socially seemed to take things literally or not speak to other students.
- g. Impact: The Student's progress in the ninth-grade curriculum so far was due to attendance and not by a lack of appropriate instruction in math or reading.
- h. Additional Data:
 - i. A classroom observation was not completed.
 - ii. The Student participated in testing sessions with the School Psychologist on May 20 and May 30, 2024.
 - iii. The Student's cognitive abilities were assessed on May 20, 2024, and found to be overall in the average range. Working memory and processing speed were the only areas determined to fall in the low average range.
 - iv. The Student's academic abilities were also assessed and determined to fall within the average range.
 - v. The Student's social/emotional/behavioral skills were rated by the Parent, the Student, and the Student's eighth-grade Private School teachers. Concerns that emerged were related to organization, specifically planning and submitting assignments. It was also noted that the Student often expressed negative thoughts, argued with others, and had difficulty expressing themselves or asking for help when needed. No "clinically significant problems emerged across settings," but ten areas were rated as "at-risk" by at least two raters (hyperactivity, conduct problems, attention problems, behavioral symptoms, withdrawal, adaptive skills, adaptability, social skills, leadership, and functional communication).

- vi. The evaluation report contained detailed information from communication exchanges between the Parent and the District staff since the beginning of the 2024-25 school year and details of incidents leading to the Student's hospitalizations. Relevant details of those exchanges are listed elsewhere in this investigative report.
- i. The determination of the eligibility section and the list of evaluation team participants was blank. (D173-D183)
- 48. The Parent documented the following comments and "inaccuracies" regarding the Evaluation Report Draft:
 - a. "[The Student] was never evaluated for additional social[-]emotional and/or behavioral concerns."
 - b. "Teacher feedback repeated a pattern of needing help with social-emotional skills at both [the Private School] and [the School]."
 - c. "Performance by Index demonstrated significant and unusual discrepancy with no additional follow-up testing."
 - d. "No mention of [the School Principal's] role during the incident, the use of handcuffs, nor follow[-]up phone conversations or email stating that [the Student] would need to complete an 'informal due process' meeting. We were never provided an incident report of the event."
 - e. "No mention of phone discussion with school administrators on 9/20 in which we were told [the Student] was going to be unenrolled effective September 23, [2024]." (P23-P24)
- 49. The Parent stated they did not provide the District with their comments regarding the Evaluation Draft Report because they believed they would be meeting with the District to discuss the report. (Parent Interview, P2, 02:55)
- 50. A New Student Record Release Form dated November 20, 2024, indicated the Student had been enrolled in a different District and asked for the Student's records to be transferred. (D109)
- 51. On March 11, 2025, the Parent filed the Complaint.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #229, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to conduct child find activities to determine whether the Student was a student with a disability who required special education services. K.A.R. 91-40-7; 34 CFR § 300.111.

According to K.A.R. 91-40-7; 34 CFR § 300.111, each governing board is mandated to establish and execute policies and procedures designed to comprehensively identify, locate, and

evaluate all children with exceptionalities within its jurisdictional boundaries, encompassing those attending private schools, highly mobile children (including migrant and homeless children), and children suspected of having disabilities who demonstrate academic progression. The governing board's mandated policies and procedures must incorporate age-appropriate screening protocols that, for children under five, utilize observations and instruments to detect potential disabilities or developmental delays, including hearing and vision screenings; for children aged five to 21, utilize observations and instruments to identify potential exceptionalities, including state-mandated hearing and vision screenings; and ensure the implementation of procedures for the early identification and assessment of disabilities in all children.

A school board is authorized to refer a public school student for evaluation when:

1. School personnel possess data-driven evidence that general education interventions are insufficient to address the child's identified concerns;
2. School personnel provide data-driven documentation that the child received appropriate regular education instruction from qualified personnel, underwent repeated academic achievement assessments with results provided to parents, and these results indicate the necessity of an evaluation; or
3. The child's parent requests and consents to an evaluation, and the board concurs that an evaluation is warranted.

The Parent alleged that the Student was not identified or evaluated in a timely manner despite telephone contact with the District in January 2024 and a formal written request in April 2024 prior to the beginning of the 2024-25 academic year.

According to the District, the Student enrolled at a middle school in the District on April 11, 2024 as an "evaluation" student while they were enrolled and attending a private religious school. The enrollment for evaluation purposes allowed the District evaluation team to begin the parent-requested special education evaluation process. The Student began attending a District high school on August 13, 2024, as a general education student with 504 accommodations while the special education evaluation process continued. The District denied there was any delay or inaction that resulted in a failure to conduct child find activities.

A Private School Student Support Plan dated September 21, 2023 indicated the Student had medical diagnoses of ADHD and Autism. The Parent contacted the School Psychologist in January 2024 to inquire about accommodations, and explained the Student had a 504 plan. The Parent requested a special education evaluation in April 2024, and the School Psychologist met with the Student in May 2024 to begin testing. The Parent indicated they received the draft evaluation report on September 24, 2024, and that the 60-school day deadline was September 25, 2024. The Student's enrollment noted "special education evaluation" on April 10, 2024, and then "high school student" from August 13, 2024 through November 25, 2024.

On April 9, 2024, an Administrative Assistant to Student Services informed the Parent that the counselor would return the last week of April 2024 to schedule a meeting to discuss class selection, and 504 or IEP services. On April 9 and 10, 2024, the Parent inquired about IEP evaluation testing to ensure accommodations for the upcoming school year, and the School Psychologist outlined the process for evaluation. A Request for Consent dated April 11, 2024, signed by the Parent the same day, indicated the District proposed to conduct an initial evaluation to determine the Student's eligibility and need for special education and related services. A Notice to Conduct a 504 Meeting, dated April 11, 2024, listed a meeting to discuss the need for a 504 evaluation, and was scheduled for November 11, 2024. It was noted that the date was a placeholder.

Evaluation testing with the Student was scheduled for May 20, 2024. On May 3, 2024, the Parent received an email requesting completion of a behavior rating scale and questionnaire, and the email addresses of the Student's Private School teachers. The evaluation process included cognitive and academic testing, behavior rating scales, and teacher feedback. The Parent also completed a Behavior Assessment System for Children for the Student. The Other Parent stated the Parent told the District the Student had a "serious mental health issue", but that there were no evaluations done regarding that concern.

Between August 2 and 6, 2024, the Parent emailed the School Psychologist to discuss next steps for an IEP/504 plan. The School Psychologist responded that the Private School 504 Plan would be honored, and that the Student's evaluation was due by September 25, 2024, so the team needed to meet on or before that date to review it. An August 8, 2024 District version of a 504 Accommodation Plan included information from the September 21, 2023 Private School Support Plan. A School class schedule indicated the Student entered classes on August 13, 2024 and left on September 25, 2024.

The Parent signed a release of information to allow communication with the Student's Mental Health Case Manager. Between August 26 to August 28, 2024, the Parent and School Psychologist communicated about the Student's hospitalization. The School Psychologist stated they would coordinate with staff for a plan to help the Student catch up on schoolwork. A Discharge Summary dated September 1, 2024 from the In-State Hospital indicated the Student had been admitted on August 24, 2024 and discharged on September 1, 2024.

In a meeting on September 4, 2024, an extension for the evaluation was discussed, but the paperwork for consent was never sent. The School Psychologist corroborated this. The Parent was contacted on September 6, 2024 about an incident where the Student made concerning statements, which were deemed a high-level safety threat. On September 9, 2024, the School Psychologist asked the Parent if they could let the School know where the Student was staying and next steps. A Discharge Summary dated September 11, 2024 from the In-State Hospital indicated the Student had been admitted on September 6, 2024 and discharged on September 11, 2024. On September 12, 2024, the Academic Coordinator for the Out-of-State

Behavioral Health Agency asked the Parent for contact information for the School, which the Parent provided.

Between September 17, 2024 and September 19, 2024, the Parent, the Out-of-State Behavioral Health Agency's Academic Coordinator, the School Psychologist, and the Counselor discussed the Student's educational services while at the Agency. The Parent inquired about the Student resuming classes and requested testing information and clarification on accommodations. The School Psychologist outlined the District's initial steps to coordinate a learning plan. An Authorization to Disclose Health/Education Information dated September 18, 2024 was electronically signed and marked as "accepted" by the Parent that day. The School Principal informed the Parent that the Student would be unenrolled from the school due to residency concerns effective September 23, 2024. The School later decided to transfer the Student to the Virtual Academy, and consent for enrollment was signed September 25, 2024.

The Student had the following hospitalizations: September 23, 2024 through October 2, 2024; October 5, 2024 through October 10, 2024; and October 21, 2024 through November 14, 2024. The Student was hospitalized a total of 29 school days in that date range. The Parent noted the hospitalizations were due in part to rumors circulating about the Student.

The School Psychologist sent the draft evaluation report to the Parent on September 26, 2024, and could not determine a completion date because the eligibility meeting had not been held. The School Psychologist indicated that the Student's absences did not impact direct assessments for the evaluation, and that they would have been able to complete eligibility statements with the information they had. The School Psychologist wanted to schedule a meeting to review the evaluation. A meeting was scheduled for November 19, 2024, which was documented in a Notice of Team Meeting from November 6, 2024. The Parent canceled the meeting.

On November 15, 2024, the evaluation review meeting was rescheduled for November 22, 2024, and a Notice of Team meeting was sent on November 18, 2024. That day, the Parent learned the Student would be transferring to a different School District online. The School Psychologist received a records request from the new School District and canceled the meeting. The Student was officially withdrawn from the District on November 25, 2024.

The draft evaluation report detailed the referral process initiated by the Parent, and included a history of IEP services, ADHD/ASD diagnoses, and mental health challenges. The report summarized the Student's attendance, hospitalizations, lack of academic engagement, parent/teacher feedback, and cognitive and academic test results. The eligibility determination section was blank. The Parent documented "inaccuracies" with the evaluation, but did not share those with the District.

After reviewing the evidence, it was determined that the District was aware of the Student's Autism diagnosis. The District received paperwork from the Private School that was

acknowledged by the Case Manager on August 8, 2024, which contained information about the diagnosis. On September 4, 2024, the Parent provided the District with medical information from a recent hospital stay, which also listed an Autism diagnosis. During the evaluation, the District did not include any Autism rating scales as part of the process, even though they were aware of the diagnosis. Additionally, the District did not complete the evaluation and hold the eligibility meeting within the 60-school day deadline as specified by K.A.R. 91-40-8(f). The District also did not receive parental consent for an extension. Based on the foregoing, according to IDEA and Kansas special education regulations, *it is substantiated* that the District failed to conduct child find activities to determine whether the Student was a student with a disability who required special education services, in accordance with K.A.R. 91-40-7; 34 CFR § 300.111.

Issue Two

Whether USD #229, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the Student with a free appropriate public education when the District did not provide the Student with an IEP. K.A.R. 91-40-1(z); 34 C.F.R. § 300.101.

According to 34 C.F.R. § 300.101, a free appropriate public education (FAPE) must be available to all children residing in the state between the ages of 3 and 21.

K.A.R. 91-40-1(z) defines FAPE as special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the state board; include an appropriate preschool, elementary, or secondary school education; and are provided in conformity with an individualized education program.

The Parent alleged that the Student did not receive a FAPE as required under IDEA. The Parent indicated the Student's mental health significantly deteriorated less than two weeks into the semester requiring multiple hospitalizations and during this time, the Student was not provided with an IEP that addressed their individual needs.

The District denied there was any delay or inaction that resulted in a failure to provide FAPE by not providing an IEP.

The Student's Virtual Academy application was approved in September 2024. The Parent notified the Virtual Academy that the Student had been admitted to the hospital and asked for an extension. On October 15, 2024, the Virtual Academy's Academic Advisor emailed the Student and the Parent about finishing their online courses. The Parent replied that the Student had not yet started their work. On October 23, 2024, the School Psychologist said the Virtual Academy staff confirmed that the Student had started their coursework.

On November 4, 2024, the Out-of-State Behavioral Health Agency's Academic Coordinator stated that the Student "refused to participate in anything educational." The Virtual Academy

contacted the School Principal and indicated that the Student had never actually started the online curriculum. November 8, 2024 marked the 13th consecutive school day that the Student had not accessed the Virtual Academy. The Student had been discharged from the Out-of-State Behavioral Health Agency to the Out-of-State Hospital, and had not attended school except for the Virtual Academy orientation, since leaving School on September 6, 2024. The School Psychologist asked the Parent if they knew of an academic liaison at the Out-of-State Hospital that they could connect with regarding academics.

From reviewing the evidence and interviews, it appears that the Student's entries into hospitals and treatment centers were medically-based. There was not enough evidence to indicate these matters stemmed from educational reasons. Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to provide the Student with a FAPE when the District did not provide the Student with an IEP, in accordance with K.A.R. 91-40-1(z); 34 C.F.R. § 300.101.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. A violation occurred in the following area:

- B. Federal regulations at K.A.R. 91-40-7; 34 CFR § 300.111 specifies the District's obligations to conduct child find activities to determine whether the Student was a student with a disability who required special education services.

In this case, the evidence supports the finding that USD # 229 did not complete child find activities in accordance with K.A.R. 91-40-7; 34 CFR § 300.111. Documentation and Interviews document this.

Based on the foregoing, USD # 229 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #229 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 CFR § 300.111 and K.A.R. 91-40-7 by completing timely child find activities.
2. Within 30 calendar days of the date of this report, USD #229 shall develop and conduct KSDE approved training on the District obligations for timely child find activities. The District shall submit training materials for KSDE approval before conducting the training. The District shall submit training materials and attendance sheets no later than 15 days after the training is conducted.

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)