

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #290
ON MARCH 27, 2025

DATE OF REPORT: APRIL 28, 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 #290, Ottawa Public Schools. In the remainder of the report, the "School," the "District," and the "local education agency (LEA)" shall refer to USD #290.

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 27, 2025, and the 30-day timeline ended on April 26, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #290, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), developed an IEP that included the "proper accommodations" for the Student. K.A.R. 91-40-18; 34 CFR §300.320.

ISSUE TWO: Whether USD #290, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP. K.A.R. 91-40-16(b)(3); 34 C.F.R. § 300.323.

ISSUE THREE: Whether USD #290, in accordance with state and federal regulations implementing the IDEA, considered and offered the Student an IEP in their least restrictive environment. K.S.A. 72-3420, K.A.R. 91-40-1.(II), K.A.R. 91-40-21; 34 CFR § 300.116.

ISSUE FOUR: Whether USD #290, in accordance with state and federal regulations implementing the IDEA, conducted a re-evaluation for the Student. K.S.A. 72-3428(h)(1)(2); 34 CFR § 300.303.

ISSUE FIVE: Whether USD #290, in accordance with state and federal regulations implementing the IDEA, provided the Student with a free appropriate public education. K.A.R. 91-40-1(z); 34 C.F.R. § 300.101.

Investigation of Complaint

The Complaint Investigator interviewed the Parents by video conference on April 14, 2025. The following District staff were interviewed on April 14 and 15, 2025: a Middle School Special Education Teacher, a Special Education Teacher for the District, the Assistant Director of Special Education, the Director of Special Services, and a Resource Room Teacher.

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. Daily Behavior Tracking, Monday [no date]
2. Daily Behavior Tracking, Tuesday [no date]
3. Daily Behavior Tracking, Wednesday 01/15 [no year]
4. Daily Behavior Tracking, 08/02/2024, 08/14/2024, 08/15/2024, 08/19/2024, 08/20/2024, 08/27/2024, 08/28/2024, 09/04/2024, 09/05/2024, 09/09/2024, 09/10/2024, 09/11/2024, 09/12/2024, 09/16/2024, 09/17/2024, 09/18/2024, 09/20/2024, 09/23/2024, 09/24/2024, 10/03/2024, 10/04/2024, 10/08/2024, 10/21/2024, 10/22/2024, 10/25/2024, 10/28/2024, 10/29/2024, 10/30/2024, 11/05/2024, 11/06/2024, 11/07/2024, 11/08/2024, 11/12/2024, 11/13/2024, 11/14/2024, 11/19/2024, 12/03/2024, 12/04/2024
5. Daily Behavior Tracking, no date
6. Daily Behavior Tracking with comments on back, Thursday 01/16 [no year]
7. Daily Behavior Tracking with comments on back, Thursday 01/16 [no year]
8. Daily Behavior Tracking, 08/22 [no year]
9. Daily Behavior Tracking, 08/23 [no year]
10. Daily Behavior Tracking, 09/2024 [no date]
11. Daily Behavior Tracking, 10/09 [no year]
12. Daily Behavior Tracking, 10/10 [no year]
13. Daily Behavior Tracking, 10/24 [no year]
14. Prior Written Notice, 01/27/2025
15. Staffing Record, Special Services, 01/24/2025
16. Prior Written Notice, 02/25/2025
17. Staffing Record, Special Services, 03/03/2025

18. [Student] Functional Outline, 12/05/2024
19. Individualized Education Plan, 10/02/2024
20. Team Meeting Notes, 10/02/2024
21. Staffing Record, Special Services, 11/04/2024
22. IEP Amendment Form, 12/16/2024
23. Prior Written Notice, 12/17/2024
24. IEP Amendment Form, 01/24/2025
25. [Alternative School] [District] Referral Form, 11/22/2024-01/24/2025
26. IEP Team Meeting, 08/13/2024
27. Prior Written Notice, 09/02/2024
28. Prior Written Notice, 10/02/2024
29. Staff Record, Special Services, 12/16/2024
30. [Student] Transition to [Alternative School] Meeting Notes, 01/23/2025
31. Updated Plan for [Student], 01/09/2025 (Implemented 01/13/2025)
32. Letter, re: Children's Mercy Kansas City, 02/14/2025
33. General Correspondence, re: Doctor Note, 02/28/2025
34. Referral Report, 01/30/2025, 02/03/2025, 02/11/2025, 03/03/2025, 03/04/2025
35. Daily Points Score Sheet, 01/27/2025, 01/28/2025, 01/29/2025, 01/30/2025, 01/31/2025, 02/03/2025, 02/04/2025, 02/05/2025, 02/11/2025, 02/13/2025, 02/27/2025, 02/28/2025, 03/03/2025, 03/04/2025, 03/05/2025
36. Referral Log, 01/01/2025-03/14/2025
37. Staffing Record, Special Services, 03/12/2025
38. Parent Questionnaire for Initial Evaluation, 03/11/2025
39. Prior Written Notice, 03/04/2025
40. Staffing Record, Special Services, 10/09/2024
41. Email, re: I am so Sorry!, 10/03/2024
42. Email, re: [The Student], 10/01/2024-10/02/2024
43. Email, re: Today, 12/05/2024
44. Email, re: (no subject), 10/23/2024
45. Email, re: Good Morning, 11/15/2024
46. Email, re: [The Student], 10/06/2024-10/07/2024
47. Email, re: Checking In, 09/25/2024
48. Email, re: Next Week and Para Coverage, 01/23/2025
49. Email, re: Please Review, 10/03/2024
50. Email, re: IEP Meeting Notes, 10/03/2024
51. Email, re: Follow-up to IEP Meeting, 10/06/2024-10/13/2024
52. Email, re: [The Student], 10/22/2024-10/23/2024

53. Email, re: Status of BIP, 10/28/2024-10/29/2024
54. Email, re: [The Student] Draft BIP, 11/01/2024
55. Email, re: [The Student], 11/20/2024
56. Email, re: BIP, 11/20/2024-11/21/2024
57. Email, re: 2nd Draft BIP, 11/18/2024-11/22/2024
58. Email, re: BIP, 11/25/2024
59. Email, re: Proposed Changes for Consideration, 12/09/2024-12/17/2024
60. Email, re: BIP, 12/19/2024-12/20/2024
61. Email, re: [The Student] Write Up, 12/26/2024-01/01/2025
62. Email, re: [The Student] Support Schedule, 01/13/2025
63. Email, re: Student Update, 01/11/2025-01/13/2025
64. [The Student] Behavior Intervention Plan Summary, 01/09/2025
65. Email, re: IMPORTANT: Student Update, 01/17/2025-01/21/2025
66. Email, re: Document Shared With You: "1.9.25 [The Student] Behavior Intervention Plan," 01/22/2025
67. Email, re: Paperwork, 01/23/2025
68. Email, re: [The Student], 01/22/2025-01/24/2025
69. Email, re: [The Student] Academic Information, 01/26/2025
70. Email, re: PWN, 01/27/2025
71. Email, re: Amendment, 01/27/2025-01/28/2025
72. Email, re: Follow Up, 02/23/2025
73. Email, re: [The Student], 02/24/2025
74. Email, re: IEP Team Meeting, 02/25/2025-02/27/2025
75. Email, re: IEP Meeting, 03/04/2025-03/05/2025
76. Email, re: [The Student], 03/13/2025-03/23/2025
77. Email, re: A Couple of Questions, 03/24/2025-04/02/2025
78. Documented Phone Discussion with Parent to Address Email, re: Concerns, 08/29/2024-08/30/2024
79. Phone Conversation Documentation, 10/22/2024
80. Phone Conversation Documentation, 02/26/2025
81. Email, re: Invitation: IEP MEETING, 03/05/2025
82. Email, re: Two Paras Gone, 08/27/2024
83. Email, re: One Para Gone, 08/21/2024
84. Email, re: Amendment - 3 Paras Gone, 09/30/2024
85. Email, re: Three Gone, 10/03/2024
86. Email, re: 2 ½ Gone Today, 10/10/2024

Background Information

This investigation involved a seventh grade student enrolled at a school in USD #290. The Student was first found eligible for special education on February 4, 2015 under the exceptionality of Developmental Delay. The Student was adopted by their grandparents in November 2021. The Student is currently eligible for special education services due to an Other Health Impairment.

Findings of the Investigation

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

1. The Student's Daily Behavior Tracking sheets from August 2024 included August 14, 15, 23, 26 and 28, with no total points listed. On August 23, 26 and 28, no anxiety level was chosen. Anxiety Levels were on a scale from 1-10. The remainder of the sheets indicated:
 - a. August 14, 2024
 - i. Anxiety Level of 10.
 - b. August 15, 2024
 - i. Anxiety Level of nine.
 1. ii. Comments: The Student did well and asked questions.
 - c. August 19, 2024
 - i. Anxiety Level of eight.
 - ii. Comments: The Student was upset and took breaks, but also followed directions and worked hard.
 - iii. Total points: 14/24.
 - d. August 20, 2024
 - i. Anxiety Level of 10.
 2. ii. Comments: The Student was nervous, but worked through it. The Student refused to participate with the group and eat lunch. The Student wanted to go home.
 3. iii. Total points: 8/24.
 - e. August 22, 2024
 - i. Anxiety Level of seven.
 - ii. Comments: The Student did not want to fully engage, but later did. They helped clean and were polite.
 - iii. Total points: 22/24.
 - f. August 23, 2024
 - i. Comments: The Student was in the green zone.

- g. August 26, 2024
- h. Comments: The Student was in the green zone in the morning, but later refused to work.
- i. August 27, 2024
- j. Anxiety Level of six and seven.
- 4. ii. Comments: The Student was in the green zone often.
- 5. iii. Total points: 22/24.
- i. August 28, 2024
- i. Comments: The Student started in the green zone. The Student was then upset, struggled to participate, and had to take a sensory break.
- 2. The Student's Daily Behavior Tracking sheets from September 2024 did not include total points. On September 4, 2024, no anxiety level was chosen. The remainder of the sheets indicated:
 - a. September 4, 2024
 - i. Comments: The Student was in the green zone often.
 - b. September 5, 2024
 - i. Anxiety Level of five.
 - ii. Comments: The Student had a good day in art but struggled to participate in music class.
 - c. September 9, 2024
 - i. Anxiety Level of three.
 - iii. Comments: Described the Student's daily activities.
 - d. September 10, 2024
 - i. Anxiety Level of four.
 - ii. Comments: The Student was in the green zone in the morning, but later struggled to stay in class.
 - e. September 11, 2024
 - i. Anxiety Level of three.
 - iii. Comments: The Student was in the green zone.
 - f. September 12, 2024
 - i. Anxiety Level of four.
 - 6. ii. Comments: The Student was in the green zone in the morning, but refused to participate in music theory.
 - g. September 2024 (illegible date)
 - h. Anxiety Level of three and four.
 - 7. ii. Comments: The Student struggled with anxiety.
 - i. September 16, 2024

- j. Anxiety Level of three and four.
- 8. ii. Comments: The Student was in the green zone.
 - i. September 17, 2024
 - i. Anxiety Level of three.
 - ii. Comments: Description of the Student's activities.
 - k. September 18, 2024
 - i. Anxiety Level of three and four.
 - iii. Comments: The Student did great with participation.
 - j. September 20, 2024
 - i. Anxiety Level of two.
 - ii. Comments: The Student performed well in class.
 - k. September 23, 2024
 - i. Anxiety Level of three.
 - ii. Comments: The Student was in the green zone and asked for a sensory break.
 - l. September 24, 2024
 - i. Anxiety Level of three.
 - ii. Comments: The Student was initially hesitant to participate.
- 3. The Student's Daily Behavior Tracking sheets from October 2024 did not include total points. On October 4, 8, 9, 10, 28, 29 and 30, no anxiety level was chosen. The remainder of the sheets indicated:
 - a. October 3, 2024
 - i. Anxiety Level of two.
 - iii. Comments: The Student refused to participate, and escalated to throwing items. The Student later calmed down. The Student's behavior switched between complying and not complying.
 - b. October 4, 2024
 - i. Comments: The Student did well and asked for a break.
 - c. October 8, 2024
 - i. Comments: The Student had a good morning.
 - d. October 9, 2024
 - i. Comments: The Student started the day by taking things off of the wall and leaving the room. The Student improved by the end of the day.
 - e. October 10, 2024
 - i. Comments: The Student had a good day overall.
 - f. October 21, 2024
 - i. Anxiety Level of three.

- iii. Comments: The Student tore up posters but cleaned it up. The Student improved in the afternoon.
 - g. October 22, 2024
 - h. Anxiety Level of two.
- iii. Comments: The Student worked well and "did a good job."
 - i. October 24, 2024
 - j. Anxiety Level of two.
 - ii. Comments: The Student had a good day overall.
- i. October 28, 2024
- i. Comments: The Student was anxious during third and fourth hour classes, and social studies.
 - k. October 29, 2024
- i. Comments: The Student refused to go to speech.
- j. October 30, 2024
- i. Comments: The Student did not want to participate, and wanted sensory breaks. The Student was given breaks and was given "a limit on them."
- 4. The Student's Daily Behavior Tracking sheets from November 2024 did not include total points or anxiety levels. The remainder of the sheets indicated:
 - a. November 5, 2024
 - i. Comments: The Student had a good morning and put posters back that they tore down. The Student was aggressive in art class, but improved later.
 - b. November 6, 2024
 - i. Comments: The Student completed their assignments. They were "a little anxious here and there."
 - c. November 7, 2024
 - i. Comments: The Student worked hard, was compliant to alternative choices, and completed their work.
 - d. November 8, 2024 and November 12, 2024
 - i. Comments: The Student had an overall good day.
 - e. November 13, 2024
 - i. Comments: The Student had challenges following directions.
 - f. November 14, 2024
 - i. Comments: The Student had good participation.
 - g. November 19, 2024
 - h. Comments: The Student had a good morning. In the afternoon, the Student refused to go into class, threw items and hit a teacher with one, and then ran into another room.

5. The Student's Daily Behavior Tracking sheets from December 2024. No total points for the day were listed during the below dates. On December 3, 2024, no anxiety level was chosen. The remainder of the sheets indicated:
 - a. December 3, 2024
 - i. Comments: The Student tore up some items and asked for a break. The Student regulated and improved.
 - b. December 4, 2024
 - i. Anxiety Level of two.
 - ii. Comments: The Student took a sensory break in the morning. They had an overall positive day.
6. The Student's Daily Behavior Tracking sheets from January 2025: No total points or anxiety levels were listed. The remainder of the sheets indicated:
 - a. No date
 - i. Comments: The Student "did very well" in the first hour of the day. Then colored on the walls and refused to clean. With support, they cleaned the wall, then refused to continue, then cleaned some more.
 - b. No date
 - i. Comments: The Student did well, but wanted a break in the third hour of the day.
 - c. January 15, [2025]
 - i. Comments: The Student worked well, was compliant, and had a "great day."
 - d. January 16, [2025]
 - i. Comments: The Student tore up the carpet. The Student said they wanted to go home, then tried prying a plaque off of the wall. The Student started rolling the cart of sensory items down the hall, pulled someone's hair, ripped decorations off of a door, and threw shoes at peers.
7. IEP Team Meeting notes, dated August 13, 2024, indicated:
 - a. One of the Parents requested the meeting and wanted to consider a shortened school day for the Student.
 - b. The Student had paraprofessional support throughout the school day, except when pulled out for direct special education services.
 - c. The Student's anxiety level over the summer was high. One of the Parents stated the Student's increased anxiety started in January 2024.
 - d. The District would consider doing an updated sensory profile to consider programming needs.
8. Emails about paraprofessional coverage between August 21, 2024 through October 10, 2024 indicated that on:
 - a. August 21 and 27, 2024: The Student had no coverage during their second hour class.
 - b. September 30, 2024: The Student had no coverage during lunch.

- c. October 3, 2024: The Student had no coverage during their second and sixth hour class, and during lunch.
 - d. October 10, 2024: The Student had no coverage during second hour class and lunch.
- 9. Emails from one of the Parents indicated the Student was absent on the following days: September 26, 2024; October 1, 2024; October 7, 2024; October 9, 2024; October 23, 2024; November 15, 2024; and December 5, 2024.
- 10. Notes from a phone call between one of the Parents and the Principal on August 30, 2024 indicated:
 - a. The Parent's request for a Functional Behavior Assessment (FBA) was granted.
 - b. The Student had been receiving speech-language services since 2015. The Parent thought the services had stopped and was concerned about the effectiveness of the virtual services. The Principal shared the Student's progress report and that they were progressing.
 - c. The Principal shared the Student's IEP did not contain direct occupational therapy services, but the Student had indirect/consult services. The Principal indicated that when they received consent for the FBA, they would get consent to evaluate for fine motor to update sensory and fine motor needs.
 - d. The Parents did not feel the Student was ready to increase their day.
- 11. A Prior Written Notice (PWN) for Evaluation or Reevaluation and Request for Consent, dated September 5, 2024, indicated:
 - a. The District proposed to conduct a re-evaluation of the Student.
 - b. The team would collect data on Health/Motor Ability, Social/Emotional Status/Behavioral Status and Other (Sensory Processing, Functional Behavior Assessment, and Fine Motor).
 - c. The re-evaluation was requested by the Parents.
 - d. The Parents gave their signed consent on September 9, 2024.
- 12. The Student's IEP, dated October 2, 2024, stated the Parents were concerned the Student was not ready for a full schedule and wanted to add time slowly. The IEP indicated:
 - a. The Student had a history of a Developmental Delay. The Student had been diagnosed with Developmental Coordination Disorder/Dysgraphia.
 - b. The Wechsler Intelligence Scale for Children (WISC-5) was administered to the Student on September 28, 2023.
- i. The Student scored Very Low or Extremely Low in 12 areas; and
- iii. Results indicated concerns with the Student's overall intellectual functioning.
 - c. The Student's Autism, Attention-Deficit/Hyperactivity Disorder (ADHD) and Dysgraphia impacted their ability to independently comprehend text at

grade level, their ability to produce legible written work, and their ability to solve multi-digit math problems across all settings.

- d. The Student's behavior significantly impeded the learning of them self and others. It was indicated that the family reported the Student had diagnoses of Autism Spectrum Disorder, ADHD, Generalized Anxiety and Post-Traumatic Stress Disorder (PTSD). The IEP indicated that the Student's anxiety could impact their ability to engage fully or without resistance in the school setting, and that the Student might become dysregulated. The IEP noted that building self-confidence, positive coping skills and emotional vocabulary might assist in decreasing their anxiety and improve participation. It was reported that the Student's emotional disability and inability to self initiate coping skills impacted their ability to engage adequately in the school environment.
- e. The Student would require accommodations which included: separate task setting, hard copy of schedule, shortened assessments and assignments, scribe for writing tasks, frequent breaks, extra cues/prompts, hard copy of notes provided, and the ability to use the restroom whenever needed.
- f. The Student required specially designed adaptive physical education.
- g. Goals and Benchmarks/Objectives.
- h. Anticipated Services to be Provided:
 - i. Indirect/consultation occupational therapy services;
 - ii. Direct special education service for ELA, Math and Life Skills;
 - iii. Support Services in the Student's elective class;
 - iv. Pull-out services for speech and language services;
 - v. Consult/indirect services for speech and language services;
 - vi. 15 minutes direct social work services, once a week, in a private area of current learning or with social worker as pull-out as tolerated;
 - vii. 10 minutes of consult services between treatment team to get a baseline of the previous month;
 - viii. Provide medication and bathroom support outside of the general education classroom;
 - ix. Provide direct math and reading support during the Extended School Year; and
 - x. Assistance provided before school during breakfast and in lunch in a separate setting and during passing periods between each class daily.
- j. The Student would have the opportunity to participate with non-identified peers in all general education classes except for when they received direct special education for ELA, Math and Life Skills classes. The Student would have the opportunity to participate in clubs, sports, field trips, assemblies and special events to the same extent as non-identified peers.
- k. Potential harmful effects of that placement were listed as:

- i. Social stigma associated with receiving special education support; and
- iii. The Student could become overly dependent on adult support for academics or behavioral reminders and prompts.
- j. The Student required Extended Year Services.
- k. The Student required text-to-speech/speech-to-text assistive technology.
- 13. Team Meeting Notes dated October 2, 2024 detailed what was reviewed in the aforementioned IEP. Notes also indicated:
 - a. The Student's psychiatrist recommended the Student continue with a shortened day schedule. The team disagreed with the suggestion, but later agreed a gradual increase would be best. The team agreed to tentatively extend the Student's day by 30 minutes every two weeks, starting October 8, 2024.
- 14. A PWN dated October 2, 2024 indicated that on the same day, the team met to review the evaluation/assessment data. The Request for Consent was signed on October 22, 2024. The PWN stated that starting October 2, 2024, the Student would receive the following services:
 - a. Continuing current Speech/Language Services.
 - i. Pull-out services two times a week for 20 minutes every 3 to 4 weeks, and indirect/consult services for 10 minutes, once a week, every 4th week.
 - b. Continuing occupational therapy services.
 - i. Continue indirect consultation occupational therapy services one time a quarter for 15 minutes to support fine motor skills, dysgraphia, and sensory supports.
 - c. Continuing special education services.
 - i. In-class support for electives daily. Pull-out for ELA, Math, and interventions in Life Skills daily. Attendant care for 45 minutes, 20 minutes before school/breakfast and lunch, to be provided in a separate setting. Attendant care for passing periods between each class daily.
 - d. Changing social work services.
 - i. Decrease direct services and consult services to 15 minutes, once a week.
 - e. Continuing nursing services
 - i. 10 minutes, five times a week, to administer medication.
 - f. The Student was eligible for Extended School Year.
 - g. The District offered the Student a full school day as part of the FAPE, but the Parents elected for a shortened school day.
- 15. In an email dated October 3, 2024 to the Director of Special Education, the Assistant Director of Special Education wrote, "Are you good with this statement for [the Student's] PWN? ... The team ... has developed a plan in collaboration with the family to gradually increase the length of [the Student's] school day. ... The goal is to

- have [the Student] return to a full school day by January, with adjustments as necessary based on [the Student's] progress and response to the increased time."
16. In an email dated October 3, 2024 to the School Psychologist, School Principal, and Special Education Teacher 1, the Assistant Director of Special Education wrote, "... make sure that the services minutes in the IEP reflect the services that would be provided to [the Student] if [they] were attending a FULL day of school, as this is our offer of FAPE."
 17. Between October 6, 2024 and October 11, 2024, emails were exchanged between the Assistant Director of Special Education, Special Education Teacher 1, the School Principal and the School Psychologist regarding a Behavior Intervention Plan (BIP) for the Student.
 - a. October 6, 2024: The Assistant Director of Special Education shared that one of the Parents asked if the Student had a BIP. They discovered they did not and directed one would need to be developed.
 - b. October 11, 2024: The Assistant Director of Special Education asked for an update on the BIP. Special Education Teacher 1 replied that day and indicated it was in progress.
 18. In an email dated October 22, 2024 to the IEP team, the Assistant Director of Special Education indicated:
 - a. There was a plan to decrease the Student's dependency on their case worker, by attendant care being provided by other case workers.
 - b. The Parents shared they were concerned about the plan to increase the Student's school day. One of the Parents requested to have the plan sent to them.
 - c. One of the Parents asked about the BIP.
 19. Between October 28 and 29, 2024, emails were exchanged between the Assistant Director of Special Education, Special Education Teacher 1, the School Principal and the School Psychologist regarding the BIP.
 - a. October 28, 2024: The Assistant Director of Special Education asked if the draft was complete and if a meeting had been scheduled. The School Psychologist replied it was in progress.
 - b. October 29, 2024: The Assistant Director of Special Education responded that the draft had to be completed "in the next day or two," and offered items to consider adding to the BIP.
 20. The School Psychologist emailed the draft of the Student's BIP to the IEP team on November 1, 2024.
 21. Staffing Record notes, dated November 4, 2024, indicated:
 - a. The School Psychologist discussed the Student's FBA and BIP with the Parents.

- b. The team agreed to implement the BIP and make the changes that were discussed.
- 22. Between November 18, 2024 and November 22, 2024, emails were exchanged between the School Psychologist and the IEP team about the second draft of the BIP. Some of the team sent corrections, and then the School Psychologist sent the third draft of the BIP.
- 23. In an email dated November 20, 2024 to the IEP team and the Superintendent, the Director of Special Education wrote that they needed to start the referral process by having the Alternative School staff observe the Student and offer guidance on any strategies to help maintain the Student at the School.
- 24. The School Psychologist emailed the Parents the current draft of the Student's BIP on November 25, 2024.
- 25. Between December 9, 2024 and December 17, 2024, emails were exchanged between the School Psychologist and the IEP team about proposed changes to the BIP and new items to add, which came from the Student's mental health team outside of school and the Parents.
 - a. December 9, 2024: Special Education Teacher 2 sent their responses.
 - b. December 11, 2024: The Assistant Director of Special Education wrote that if the triggers listed in the original email were added to the BIP, it needed to be stated they were "sometimes" triggers.
 - c. December 14, 2024: The School Psychologist attached the fourth draft of the BIP, which addressed the following items:
 - i. Triggers (added to either "triggers" section or as a "sometimes trigger"):
 - 1. Others coughing, gagging, throwing up, loud noises, or unexpected noises;
 - 2. Fatigue or lack of sleep;
 - 3. Family health concerns;
 - 4. Large groups of people;
 - 5. Thunder or bad weather; and
 - 6. Bus rides or driving on the interstate.
 - 9. ii. Behavior Signals
 - 1. Raises voice; and
 - 2. Runs away from staff or out of the building.
 - iv. Preventative Strategies
 - 1. Morning check-in with a trusted adult reviewing the Student's current zone and goal for the day;
 - 2. Suggest immediate reward as the Student arrived to school as positive reinforcement;
 - 3. Ask if the Student needs to use noise cancelling headphones, especially in loud environments. Staff should help get them or insist on usage;

4. Offer two options (staff choice) so the Student feels a sense of control;
5. When noticing escalatory behaviors, ask the Student to point to the zone they are in using a visual cue card. Remind them of coping strategies to return to green zone; and
6. Add specific rooms School staff or ELC staff can take the Student when needing a break.
- v. Earned Privileges
 1. After school check-out, review point sheet and cashing in for a reward item or desired food.
- vi. Additional Remarks
 1. Request laptop stay at school;
 2. Release 10 minutes early from school to avoid crowds when back to a full day; and
 3. Request adding time to the school day be measured by progress rather than interval.
 - d. December 16, 2024: The Assistant Director of Special Education wrote that releasing the Student 10 minutes early could be noted as an accommodation.
26. A Functional Outline, dated December 5, 2024, indicated:
 - a. A re-evaluation or more testing to determine if all the Student's biological needs were being met with the current diagnoses, medications, and level of functioning.
 - b. The use of the updated school plan (January 9, 2025) that shortened the day, decreased transitions, and used a more restrictive setting as the team worked to decrease the Student's anxiety and increase their compliance.
 - c. Using a level system that would help the team determine when to add time to the day and increase the Student's workload.
27. An IEP amendment, dated December 16, 2024, indicated:
 - a. A BIP would be added to the Student's supports they received through special services, and implemented as part of their school day.
 - b. The Student should be allowed to leave before the bell rings at the end of the day to help with the transition home.
 - c. Staff training for those who worked with the Student concerning de-escalation and implementation of the BIP.
 - d. The effective date of change was December 17, 2024.
28. A PWN dated December 17, 2024 detailed what was described in the aforementioned IEP amendment.
29. One of the Parents shared via email on December 19, 2024 that they signed the BIP.

30. A document titled "Updated Plan for [Student] January 9, 2025 (Implemented January 13, 2025)" indicated:
 - a. To support the Student's transition back to school after extended absences, their day would end at 10:30 a.m. through at least January 14, 2025. Then their schedule would be gradually extended in 30-minute increments as determined by the team.
 - b. The Student would receive services in an individualized learning space for the first two hours of the day.
 - c. Staff should review the Student's BIP to ensure the strategies and supports listed within were in place.
31. The Student's BIP summary, dated January 9, 2025, detailed notes regarding:
 - a. Problem behaviors and replacement behaviors.
 - b. Direct instruction.
 - c. Preventative strategies.
 - i. "Provide Independent Area/Space: Provide [the Student] with larger work areas and designate "Safe Areas" within and outside the classroom."
 - d. Triggers.
 - e. Warning signs.
 - f. Steps to follow once escalated/displaying problem behaviors.
- i. "Ensure Safety: If [the Student] displays any of the targeted behaviors and behaves dysregulated (yelling, throwing items, pulling hair, hitting, kicking, etc), determine safety for all involved first. If deemed UNSAFE, move to evacuation of the area."
- g. Steps to follow if nothing worked.
32. On January 10, 2025, the Case Manager emailed the Student's support schedule, which indicated support services on:
 - a. Mondays: 11 a.m. to 12:30 p.m.
 - b. Tuesdays: 11 a.m. to 12 p.m.
 - c. Wednesdays: 10:45 a.m. to 11:45 a.m.
 - d. Thursdays: 11:30 a.m. to 12:30 p.m.
 - e. Fridays: 10:30 a.m. to 11:30 a.m.
33. On January 11, 2025, the Assistant Director of Special Education emailed the IEP team and shared that they were adjusting the Student's school day, and that the changes did not constitute a change in services or placement.
34. On January 17, 2025, the Assistant Director of Special Education emailed the IEP team and staff from the Alternative School and said, "The decision has been made that [the Student] will be moving to the [Alternative School]. [The Parents] fully support this plan."
35. On January 22, 2025, the Assistant Director of Special Education shared the Student's BIP with some of the Alternative School staff.

36. On January 23, 2025, the School Psychologist at the Alternative School asked via email for a copy of the Student's IEP and re-evaluation from October 2024.
37. Notes titled "[Student] - Transition to [Alternative School]" dated January 23, 2025, indicated:
 - a. The School team proposed the Student start with a full day at the Alternative School. The Parents supported the plan.
 - b. The Alternative School Special Education Teacher explained that staff used corrective teaching and that many items in the Student's current behavior plan were part of the Alternative School program. The behavior plan would be rewritten to address what the Student needed in addition to what was in place at the Alternative School. The team agreed a separate behavior plan was not needed.
38. A Referral Form, signed by the Parents and team on January 24, 2025, indicated the Student was being referred to the Alternative School due to refusal (verbal and nonverbal), disruptive and destructive behavior, and physical aggression. The form stated the Student had a behavior plan.
39. In an email dated January 26, 2025 to the Alternative School staff, the Assistant Director of Special Education shared a summary of the Student's academic performance in 6th and 7th grade in ELA, Math, and Intervention. They also indicated they were drafting an updated IEP for the Student.
40. A PWN dated January 27, 2025 indicated that on January 24, 2025, the team met to review the Student's evaluation/assessment data. The PWN indicated:
 - a. School staff and Alternative School staff discussed the Student's transition to the Alternative School. The Student's school day would be from 8:20 a.m. to 2:30 p.m. Monday through Thursday, and 8:20 a.m. to 1:50 p.m. on Friday. The team agreed on the following changes to the Student's IEP:
 - i. Change of placement to the Alternative School;
 - ii. Change of services to a full day of service in the special education setting;
 - iii. Decrease of Attendant Care services;
 - iv. Change of Nursing services to indirect services;
 - v. Increase of direct Social Work services;
 - vi. Removal of Behavior Intervention Plan; and
 - vii. Removal of Accommodation: Alternate Passing Periods.
 - b. An explanation of why the action was proposed indicated that the Student was demonstrating a need for a smaller learning environment that provided intensive daily behavioral and social skills support. All of the Student's classes would be provided in the special education setting at the Alternative School. This section stated that due to the behavioral components in place at the Alternative School, the Student's BIP was not necessary at that time.
 - c. The Parent gave their signed consent on January 29, 2025.

41. A Staffing Record and IEP Amendment, dated January 24, 2025 contained meeting notes and information of what was discussed in the aforementioned PWN.
42. A letter from the Student's psychiatric nurse practitioner, dated February 14, 2025, requested that the Student was considered for engagement in 1:1 individual paraprofessional support and reduced school hours with incremental advances in duration. They also requested that an FBA be conducted and a BIP created.
43. An email from the Assistant Director of Special Education to one of the Parents and the Assistant Principal, dated February 23, 2025, was a follow up to a phone conversation and indicated the Assistant Director of Special Education:
 - a. Discussed with the Assistant Principal about getting noise-cancelling headphones for the Student, asking staff to review the Student's IEP to ensure accommodations were being implemented, and addressing that the Student wanted to work in an isolated area.
 - b. One of the Parents replied the next day and indicated they did not think the Student being in the classroom with other students would work, and that it was increasing the Student's fear and anxiety.
 - c. The Assistant Director of Special Education responded by requesting an IEP team meeting to discuss concerns about the Alternative School and potential options.
44. Between February 25, 2025 and February 27, 2025, emails were exchanged between the Assistant Director of Special Education, the Parents and the Case Manager about scheduling an IEP meeting. It was scheduled for March 3, 2025 at 2 p.m.
45. Notes from a phone call with one of the Parents, dated February 26, 2025, indicated that the Student was experiencing more fear and anxiety, and did not want to return to school.
46. A letter from the Student's doctor, dated February 28, 2025, stated the Student's anxiety had worsened. They stated they did not feel the Alternative School program was right for the Student and that it seemed to be exacerbating the Student's anxiety. The doctor indicated they believed the Student did better on shortened school days.
47. A Staffing Record, dated March 3, 2025, indicated that the Parents were concerned about the Student's increased anxiety due to fear of their peers. Notes indicated the staff wanted to find a balance, push the Student when things were hard, and keep them around their peers as much as possible. It was reported that on days when the Student did not have a "big issue" they still showed signs of anxiety and stated their heart was racing. A re-evaluation and possible IEP update was recommended.
48. A PWN, dated March 4, 2025 indicated the District proposed to conduct a re-evaluation of the Student. The new data to be collected and reviewed would be Social/Emotional Status/Behavioral Status. The PWN indicated the team met and discussed the lack of information regarding academic and adaptive skills levels, and

- determined a re-evaluation would be completed to get this information. It was signed by one Parent on March 5, 2025, and the other Parent on March 11, 2025.
49. An email from one of the Parents, dated March 4, 2025, indicated they did not want the Student at the Alternative School and around students that increased their fear and anxiety.
- a. The Director of Special Education replied that day and indicated they would schedule a meeting to discuss the Parents' concerns about the Student's placement. They sent a calendar invite for a meeting to be held on March 12, 2025.
50. A Parent Questionnaire For Initial Evaluation, signed by one of the Parents on March 11, 2025, indicated the Parents wanted to make sure the school staff were properly trained to handle the Student's disabilities. The form also reported the Student had been diagnosed with gastroesophageal reflux disease (GERD), chronic constipation, epilepsy, autism, ADHD, generalized anxiety, dysgraphia, and intermittent explosive disorder.
51. Staffing Record notes, dated March 12, 2025, indicated the Parents believed the Student should not be in the Alternative School setting.
52. On March 13, 2025, one of the Parents emailed the Director of Special Education and indicated they decided they did not want the Student at the Alternative School or another State Center that was proposed. One of the Parents wrote they wanted to transition the Student back to the School.
- a. The Director of Special Education acknowledged the Parents' concerns, but responded that the safety of the Student, their peers, and staff was their top priority. They explained they were working on a schedule to provide services and conduct evaluations while the Parents had the Student at home.
- b. On March 20, 2025, the Director of Special Education emailed the Parents and said, "We've been exploring ways to provide some level of continued instruction for [the Student] (outside [the Alternative School]), but due to staffing constraints, this isn't feasible at this time." Their response also indicated they would start the re-evaluation and shared possible adjustments to help reduce the Student's anxiety.
- c. One of the Parents replied on March 23, 2025 and reiterated they disagreed with sending the Student to the Alternative School or the State Center. They explained one of their major concerns was the lack of services from a certified Autism Specialist.
53. On March 24, 2025, the Director of Special Education emailed the Parents and asked if they wanted the District to perform cognitive testing for the evaluation, if they were interested in virtual speech/language services, and if they wanted to attend an informational meeting with the State Center.
- a. One of the Parents replied that day and decided to wait on the cognitive testing because they were concerned about the accuracy of the District's testing. They declined the speech/language services and the meeting.

54. Daily Points Score Sheets from January 27, 2025 through March 5, 2025 recorded the Student's scores for Classroom Tasks, Target Skills and Other Skills. They also record earned, lost and total points, in addition to Point Penalties.
55. Referral reports from January 30, 2025 through March 5, 2025 indicated:
 - a. On January 30, 2025, the Student left their science class without permission.
 - b. On February 3, 2025, the Student "didn't want to do science," and asked for and took a break. When they returned, the Student put on their headphones, threw their football and called someone a "bitch."
 - c. On February 3, 2025, during their elective class, after someone did not accept their apology, the Student refused to go to time away. The Student threw their shoes and tried to hit the paraprofessional.
 - d. During their math class on February 3, 2025, the Student wanted to go home.
 - e. During lunch on February 3, 2025, the Student stated the other students were making fun of them. The Student left the room and tried to hit another student.
 - f. On February 11, 2025, the Student did not want to go to science class. The Student refused to stay in time away and pulled posters off the walls.
 - g. During second hour elective on March 3, 2025, the Student became overwhelmed and frustrated, and threw items around the room. The Student went to another room and continued to escalate. They "...grabbed and hit staff with furniture and objects."
 - h. On March 3, 2025, the Student had returned to class and wanted to leave. The Student decided to draw on another student.
 - i. During science class on March 4, 2025, the Student flipped over a desk, and started grabbing and hitting the paraprofessional on their way to time away.

Interview Summaries

The following findings are based on interviews with the District and the Parents and have been compiled as interview summaries.

Special Education Teacher 2

56. In an interview with the Complaint Investigator, Special Education Teacher 2 described the Student was placed in their class around December 2024 to receive more support with social skills. Special Education Teacher 2 explained their classroom was divided into three rooms: the classroom, an independent living area, and a sensory room with a bathroom. It was not a self-contained classroom.
57. Special Education Teacher 2 explained that sometimes the Student would be willing to engage in activities and sometimes they needed sensory breaks, choices given to them, or would refuse to participate. They indicated the Student was "refusing" the majority of the time. Special Education Teacher 2 explained the Student refused to work because the work was "baby-ish" or they simply did not want to do it.

- 58. Special Education Teacher 2 shared there were no issues implementing the Student's IEP. They indicated they implemented the following accommodations for the Student: providing choices, different seating, and someone to read with or to the Student. They said, "... when I did have activities with writing, [the Student] would join in most of the time or [they] would try." Special Education Teacher 2 explained that when there were writing assignments, the Student either had a piece of paper with everything spelled out for them, or if that was deemed too overwhelming, then either a paraprofessional or Special Education Teacher 2 would write for the Student.
- 59. Special Education Teacher 2 indicated the Student had one-on-one support in their classroom. They shared that in addition to themselves, there were two paraprofessionals in the classroom. Special Education Teacher 2 explained the Student had one-on-one support for lunch almost every day.
- 60. Special Education Teacher 2 perceived the Student's anxiety was brought on by the Student being "hyper-focused" on wanting to go home.
- 61. Special Education Teacher 2 perceived most of the Student's absences were due to medical reasons.
- 62. Special Education Teacher 2 said, "... if [the Student] was having a bad day, [they] would get extended time to think about [the] choices [they] wanted to make. If [the Student] requested a certain para[professional] to work with [them], we would try to work that out. ... If [the Student] was requesting another [para] throughout the building, we would try to find out if they were busy, if they could come work with [them]."

Special Education Teacher 4

- 63. In an interview with the Complaint Investigator, Special Education Teacher 4 explained that the teaching methods at the Alternative School were proactive and individualized to the student. They indicated a point sheet was used.
- 64. Special Education Teacher 4 described that for the Student's referrals from January 30, 2025 through March 5, 2025, they used positive statements and told the Student they had lost points, but could earn them back. They said the Student worked through their referrals and earned some points back.
- 65. Special Education Teacher 4 explained the Student had daily opportunities to interact with non-disabled peers while at the Alternative School.
- 66. Special Education Teacher 4 did not recall any issues implementing the Student's IEP.
- 67. Special Education Teacher 4 explained that they followed a behavior plan from the Student's previous school when they came to the Alternative School. They explained some additional items were added to the plan, including breaks and shortened time. Special Education Teacher 4 indicated it felt like they were following two plans, "the one that was amended in" and the Specialized Behavior Program. They indicated there were no conflicts between the two programs.
- 68. Special Education Teacher 4 recalled the Student had anxiety, but indicated they had positive interactions with the Student.

69. According to Special Education Teacher 4, the Student spent four days at the Alternative School.

Resource Room Teacher

70. During an interview with the Complaint Investigator, the Resource Room Teacher described the Student's behavior as sometimes "erratic", and that the Student would often try to leave the classroom during the second hour. They shared the Student was not at school often. They recalled the Student would try to get out of doing work almost every day. The Resource Room Teacher did not recall issues implementing the Student's IEP. The Resource Room Teacher explained they implemented the Student's IEP by shortening their work, offering breaks, reading aloud to the Student and scribing for them. They did not recall any accommodations not being implemented.
71. The Resource Room Teacher recalled the Student would sometimes get nervous and they would offer the Student breaks, time to use their fidgets, or take a few breaths. They indicated it was "... hard to get [the Student] back after those breaks" and then the Student's anxiety would slowly increase to the point where the Student would not listen or participate.
72. The Resource Room Teacher recalled the Student was absent either due to illness or simply not wanting to attend.

Assistant Director of Special Education

73. In an interview with the Complaint Investigator, the Assistant Director of Special Education explained the Student engaged in some general education classes and received special education services at the School. They explained the Student was demonstrating behaviors such as destroying property, aggression, elopement, and taking their clothes off. They brought in an Educational Behavioral Consultant to observe the Student for about three hours one day in December 2024.

They continued that the Educational Behavioral Consultant shared their input with the Parents during a virtual meeting, after which, a plan was created to reduce the Student's time in the general education classroom. They indicated the Student had been on a shortened day at the Parents' request.

The Assistant Director of Special Education explained they discussed the continuum of services with one of the Parents. They described an incident where the Student had been suspended, and the Assistant Director of Special Education suggested the Student receive some special education services at the building which housed the Alternative School. The Assistant Director of Special Education reported that after that day, the Student shared that they wanted to attend the Alternative School, which triggered an IEP meeting with all parties involved, including the Parents. They indicated there was a need to change placement.

74. The Assistant Director of Special Education explained that they discussed doing a re-evaluation to get updated data on academic and social-emotional information for

the Student. The re-evaluation was going to start after spring break, but the Student did not return to the Alternative School, so other arrangements were made. They indicated a middle school teacher was conducting the academic assessments with the Student, and the teachers and Parents were completing the rating scales for the social-emotional portion. They shared there was no reason for a re-evaluation to be done prior to the one in March 2025. They said, "... there was never a request or a conversation about the need for a re[-]evaluation on our part until there was conversation about [the Student's] academic levels, and we determined that we were going to rewrite [their] IEP and to do that, we wanted updated academic information as well as social-emotional."

75. When asked about the Student's updated plan from January 13, 2025, the Assistant Director of Special Education shared that earlier in the year, the Parents had requested a shorter day and there was a plan to increase the Student's day slowly over time. When the Student returned after Christmas break, they had challenges transitioning back to school. One of the Parents asked to shorten the Student's day, which was done.

1. The Assistant Director of Special Education shared the plan with the Parents, who agreed to it. They explained that the plan changed to where the Student worked in their own classroom for first and second hour, and then went to Special Education Teacher 2's classroom for third and fourth hour. They shared this new information with the School staff via email on January 11, 2025.

76. The Assistant Director of Special Education did not recall any issues with implementing the Student's IEP.

77. The Assistant Director of Special Education indicated the Student had a BIP from the School. When it was decided the Student would attend the Alternative School, it was found that what was included in the Student's BIP was already built into the model of the Alternative School.

The IEP team, including the Parents, agreed that the BIP would be removed from the Student's IEP and they would follow the Alternative School program. The Assistant Director of Special Education explained that if the IEP team later saw a need for something to be added, they would amend the IEP.

78. According to the Assistant Director of Special Education, the Alternative School used a specialized social-emotional and social skills curriculum that provided direct, explicit instruction to students. They explained the Alternative School also used a point system as part of that structure, and that the Student was able to get immediate feedback, rewards and incentives. They shared that the Alternative School implemented things that were already part of the Student's BIP.

79. The Assistant Director of Special Education indicated they received letters from outside physicians which stated that those professionals felt the Alternative School was not an appropriate placement for the Student. They recalled these were discussed

- at an IEP meeting in March 2025. The Assistant Director of Special Education indicated they did not have any documentation that the Student had epilepsy.
80. The Assistant Director of Special Education shared that when the Student was in sixth grade, Special Education Teacher 3 was their special education case manager, and was also on the Autism Interdisciplinary Team in the District. They explained the District provided training for all staff members regarding disabilities, including autism. They indicated that Special Education Teacher 3 attended the last IEP meeting in March 2025 and was conducting the academic testing for the Student's re-evaluation.
 81. The Assistant Director of Special Education stated the Student received full day support, including at the Alternative School, but did not recall the IEP stating it had to be one-on-one support.
 82. According to the Assistant Director of Special Education, one of the Parents requested an FBA, which was completed and the results were discussed at the IEP meeting on October 2, 2024. The BIP was developed and added to the IEP as an amendment on December 17, 2024. They shared the BIP was removed when the Student moved to the Alternative School.
 83. The Assistant Director of Education shared that the IEP team initially recommended the Student attend a full day at the Alternative School. It was determined the Student would have a shortened day, but one that was longer than their day at their previous school. This was agreed to by the Parents. They indicated the Student did not attend the Alternative School long enough to increase their hours.

Director of Special Services

84. In an interview with the Complaint Investigator, the Director of Special Services shared that the Student did not receive supports, accommodations or instruction after they were removed from the Alternative School in late March 2025. They said, "We told [the Parents] in the meeting when they decided to pull [the Student] that we would attempt to set something up just to keep [them] in contact with school staff and we don't have the staff to do it."
85. The Director of Special Services indicated that the Parents shared they did not believe the Alternative School was appropriate for the Student because of their autism diagnosis. They explained the Alternative School had staff well-trained to handle student behaviors, and the program included general education and special education students. They indicated they tried to tell the Parents that the Alternative School had several students who had autistic characteristics.
86. The Director of Special Services explained the District allowed the Student to remain on a shortened day when the Parents requested it, but maintained the offer of a full day.
87. The Director of Special Services explained the accommodations on the Student's IEP were determined by the IEP team, which include the Parents. They stated the Parents gave signed consent for the IEP accommodations.

The Parents

88. During an interview with the Complaint Investigator, the Parent stated they did not believe the Student's IEP had all the necessary accommodations. They indicated that the use of a sensory room was missing from the IEP. The other Parent shared that there was not a plan written into the IEP for what would happen if the Student needed to be removed from the classroom if they had an episode. The other Parent believed that issue was also not addressed in the Student's BIP, and indicated this was when the Student was at the Alternative School. The other Parent indicated they believed the Student's BIP was not implemented correctly.
89. The Parent explained there were IEP meetings on March 3, 2025 and March 5, 2025 to discuss where the Student was going after the Alternative School. The Student's last day of school was March 5, 2025.
90. The Parent shared the Student had anxiety on the highway and PTSD due to a car accident. The Parent indicated this was why they did not want the Student to go to the State Center, in addition to concerns about the Student's epilepsy. The Parent indicated they did not think the District went through the proper steps before moving the Student to the Alternative School, which they did not believe had the proper accommodations for the Student's autism.
91. The Parent shared the Student was not receiving scribe services for their dysgraphia while at the Alternative School.
- The other Parent indicated they did not receive a copy of the Student's class notes because they were never sent home with the Student. They shared that they never saw anything that had been scribed for the Student. The other Parent said, "On occasion, there would be completed papers that were sent home. ... but everything on there was [the Student's] handwriting"
92. The Parent explained the Student was supposed to be on a point/award system at the Alternative School, but alleged that was not happening.
93. The other Parent said, "I think the least restrictive environment for [the Student] would be in a regular school setting with somebody to be supervising [them] the whole time and following the behavior intervention plan."
94. At the time of the interview, the Parent stated the re-evaluation had just started. The other Parent indicated they emailed the District and encouraged them to do all parts of the re-evaluation.
95. The Parent observed the Student's anxiety worsened after attending the Alternative School.
96. Describing the Student's time at the Alternative School, the other Parent said, "And then the following week, they integrated [the Student] into the regular classroom with a full class. ... And [the Student had] been on a shortened day the entire year. ... All of a sudden [the Student's in] in a full day environment."
97. The Parent explained that the Student had completed an in-school suspension at the Alternative School on January 17, 2025. The Parent recalled the Student had

told the Assistant Director of Special Education they wanted to attend the Alternative School. The Parent indicated they were told the Student would attend full days at the Alternative School, to which they disagreed, but stated were still implemented. The Parent described the Student had many episodes the second week they were going to the Alternative School.

98. The Parents shared they did not know why the Student's BIP was removed after the IEP meeting in January 2025 and it was not their suggestion. The other Parent recalled the Alternative School was going to use their behavior program model for the Student.
99. The Parent shared they were concerned the Student's speech and occupational therapy services were not done fully in person.
100. The other Parent indicated their understanding was that there was a paraprofessional in every classroom the Student was in. The Parent shared their understanding that the paraprofessional helped the Student stay engaged and focused.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #290, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to develop an IEP that included the "proper accommodations" for the Student. K.A.R. 91-40-18; 34 CFR §300.320.

According to K.A.R. 91-40-18 and 34 CFR §300.320, in developing or reviewing the IEP of any exceptional child, each agency shall comply with the requirements of K.S.A. 72-3429 and amendments thereto, and shall consider the results of the child's performance on any general state or district-wide assessment programs. If, as a result of its consideration of the special factors described in K.S.A. 72-3429 and amendments thereto, an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive FAPE, the IEP team shall include those items in the child's IEP. Each agency shall ensure that the IEP of each exceptional child includes the information required by K.S.A. 72-3429 and amendments thereto, and shall give the parent a copy of the child's IEP at no cost to the parent.

The Parents alleged the IEP was missing the accommodation of a sensory room and that it did not contain a specific plan regarding what to do if the Student had to be removed from the classroom.

The District indicated that the Student's IEP contained the proper accommodations.

IEP Team Meeting notes from August 13, 2024, indicated one of the Parents wanted the Student to have a shortened school day. The notes also reported the Student had paraprofessional support throughout the day. The Assistant Director of Special Education

stated the Student received full day support, including at the Alternative School, but did not recall the IEP stating it had to be one-on-one support. Notes from a phone call between one of the Parents and the Principal on August 30, 2024 indicated their request for an FBA was granted, and the Parents did not feel the Student was ready to increase their school day.

The Student's IEP, dated October 2, 2024, stated the Parents were concerned the Student was not ready for a full schedule and wanted to add time slowly. The IEP indicated the Student had been diagnosed with Developmental Coordination Disorder/Dysgraphia, and that their Autism, ADHD and Dysgraphia impacted their text comprehension, ability to produce legible written work, and their ability to solve multi-digit math problems. The Student also had diagnoses of Generalized Anxiety and PTSD. The IEP indicated that the Student's anxiety could impact their ability to fully engage in the school setting. The IEP included accommodations and services, but did not specifically state the Student had one-on-one support services. The Director of Special Services explained the Parents gave signed consent for the IEP accommodations.

On November 20, 2024, the Director of Special Education sent an email to start the referral process by having the Alternative School staff observe the Student and offer guidance on strategies to help maintain the Student at the School. A Functional Outline dated December 5, 2024 indicated a need to re-evaluate if the Student's biological needs were being met, and to use a plan that shortened the Student's school day. On January 17, 2025, it was decided the Student would attend the Alternative School, and reported that the Parents supported it. This was confirmed by the Assistant Director of Special Education.

The Assistant Director of Special Education shared that the IEP team initially recommended the Student attend a full day at the Alternative School. It was determined the Student would have a shortened day, but one that was longer than at their previous school, which the Parents agreed to. The Assistant Director of Special Education indicated the Student did not attend the Alternative School long enough to increase their hours. A letter from the Student's psychiatric nurse practitioner, dated February 14, 2025, requested that the Student be considered for one-on-one paraprofessional support and reduced school hours.

The Parents did not believe the Student was on a point system at the Alternative School, but there were Daily Points Score Sheets from January 27, 2025 through March 5, 2025. These recorded how the Student earned and lost points, point penalties, and total points. Referral reports from January 30, 2025 through March 5, 2025 detailed behavior incidents with the Student. The use of the score sheets and referral reports was confirmed by Special Education Teacher 4.

The Parents indicated the use of a sensory room was missing from the IEP, but Special Education Teacher 2 explained their classroom had a sensory room with a bathroom, and the Student had one-on-one support in their classroom. They also explained the Student was given extended time to think about choices and allowed to work with a preferred paraprofessional if requested.

The Student's IEP listed their diagnoses and how their disability impacted their ability to participate in the school environment, which informed the accommodations and services listed therein. While not a part of the IEP, the Parents stated several times they thought the Student wasn't ready for a full day, and a shortened day was accommodated by the District. The Parents' allegations that the Student was not using a point system or had access to a sensory room were refuted through documentation and interviews.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to develop an IEP that included the "proper accommodations" for the Student.

Issue Two

Whether USD #290, in accordance with state and federal regulations implementing the 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 is in effect for each exceptional child at the beginning of each school year.

The Parent alleged that the District failed to implement the Student's IEP.

The District responded that there were no issues implementing the Student's IEP.

Emails about paraprofessional coverage between August and October 2024 indicated the Student had no coverage for specific times on five days. Team Meeting Notes from October 2, 2024 detailed what was reviewed in the IEP, and also stated the IEP team agreed to tentatively extend the Student's day by 30 minutes every two weeks, starting October 8, 2024. A PWN dated October 2, 2024 indicated that on the same day, the team reviewed the Student's evaluation/assessment data. It also stated that starting October 2, 2024, the Student would receive speech/language services, occupational therapy services, and special education services. The District offered the Student a full school day as part of a FAPE, but the Parents elected for a shortened school day, which the Director of Special Services confirmed. In an email dated October 3, 2024, the Assistant Director of Special Education stated the IEP team planned to gradually increase the Student's school day with the goal of a full return by January, with adjustments as needed.

Between October 6-11, 2024, School staff discussed developing a BIP for the Student. Between October 28-29, 2024, emails were exchanged between District staff regarding the BIP. The School Psychologist emailed the draft of the Student's BIP to the IEP team on November 1, 2024. Staffing Record notes from November 4, 2024 reported the School Psychologist discussed the Student's FBA and BIP with the Parents, and the team agreed to make changes and implement the BIP. Between November 18-22, 2024, the School Psychologist and the IEP team worked on the BIP. The School Psychologist emailed the Parents a draft of the BIP on

November 25, 2024. Between December 9-17, 2024, emails were exchanged between the School Psychologist and the IEP team about the BIP.

An IEP amendment, dated December 16, 2024, indicated the BIP would be added to the Student's supports. A PWN dated December 17, 2024 detailed what was described in the aforementioned amendment. The Parents signed the BIP on December 19, 2024. The other Parent alleged there was not a plan written into the IEP or BIP about what would happen if the Student needed to be removed from the classroom if they had an episode. The Student's BIP summary, dated January 9, 2025, detailed several items, including providing the Student with "safe areas" within and outside the classroom, and moving the Student to another area if they were dysregulated.

An updated plan for the Student, which was implemented on January 13, 2025, detailed the Student's day would end at 10:30 a.m. and then their schedule would be gradually extended. It also stated staff should review the Student's BIP. The Assistant Director of Special Education stated the Student's day was shortened at the Parents' request, and the plan was shared with staff on January 11, 2025.

On January 22, 2025, the Assistant Director of Special Education shared the Student's BIP with the Alternative School staff. The next day, the School Psychologist at the Alternative School asked for a copy of the Student's IEP and re-evaluation from October 2024. Notes from January 23, 2025 about the Student's move to the Alternative School reported that the School team and the Parents agreed the Student would start full-time at the Alternative School and the BIP would be rewritten to address the Student's needs. The Parents signed a referral form on January 24, 2025. On January 26, 2025 the Assistant Director of Special Education shared a summary of the Student's academic performance with the Alternative School staff.

A PWN dated January 27, 2025 indicated the Student's IEP had been changed, with adjustments to the change of placement, change of services to a full day of service in the special education setting, removing the BIP, and that the Student's classes would be provided in the special education setting at the Alternative School. The Assistant Director of Special Education explained that the IEP team, including the Parents, agreed the BIP would be removed from the Student's IEP and they would follow the Alternative School program. The Parents gave their signed consent on January 29, 2025, but the Parents shared they did not know why the BIP was removed. A Staffing Record and IEP Amendment from January 24, 2025 described what was discussed in the PWN. According to the Assistant Director of Special Education, the Alternative School used a specialized social-emotional and social skills curriculum, and implemented strategies that were already part of the BIP.

An email from the Assistant Director of Special Education to one of the Parents and the Assistant Principal, dated February 23, 2025, indicated the Assistant Director of Special Education talked to the Assistant Principal about staff reviewing the Student's IEP. An IEP meeting was scheduled for March 3, 2025. An email from one of the Parents on March 4, 2025

shared they did not want the Student at the Alternative School. A meeting was scheduled for March 12, 2025. One of the Parents signed a Parent Questionnaire For Initial Evaluation on March 11, 2025. The Student's last day of school was March 5, 2025.

During interviews, Special Education Teacher 2, Special Education Teacher 4, the Resource Room Teacher, and the Assistant Director of Special Education stated there were no issues implementing the Student's IEP. The Parent indicated they did not think the District went through the proper steps before moving the Student to the Alternative School, which they did not believe had the proper accommodations for the Student's autism diagnosis.

Special Education Teacher 2 indicated they implemented the following accommodations for the Student: providing choices, different seating, someone to read with or to the Student, and writing for the Student. The Parent claimed the Student was not receiving scribe services for their dysgraphia while at the Alternative School and never saw anything that had been scribed.

Special Education Teacher 4 explained that they followed a behavior plan from the Student's previous school when they came to the Alternative School. They indicated it felt like they were following two plans, but that the plans did not conflict. The Resource Room Teacher explained they implemented the Student's IEP by shortening their work, offering breaks, reading aloud to the Student and scribing for them. They recalled the Student would sometimes get nervous and they would offer the Student breaks, time to use their fidgets, or take a few breaths.

Evidence showed the District followed protocol for the IEP, PWNs, the BIP and meeting notes, and that they made regular updates to documents as necessary. Documentation showed the District engaged in other steps prior to the Student attending the Alternative School. During interviews, staff detailed how they implemented the Student's IEP.

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.

Issue Three

Whether USD #290, in accordance with state and federal regulations implementing the IDEA, failed to consider and offer the Student an IEP in their least restrictive environment. K.S.A. 72-3420, K.A.R. 91-40-1.(II), K.A.R. 91-40-21; 34 CFR § 300.116.

According to K.S.A. 72-3420, each school district shall be required, to the maximum extent appropriate, to educate children with disabilities with children who are not disabled, and to provide special classes, separate schooling or for the removal of children with disabilities from the regular education environment only when the nature or severity of the disability of the child is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily. Nothing in this section shall be construed to authorize the state board or any board to function as an admitting agency to the state institutions or to limit or supersede or in any manner affect the requirements of each board to comply with the

provisions of K.S.A. 72-3410, and amendments thereto, to provide special education services for each exceptional child in the school district unless and until such child meets the criteria for admission to a state institution and is so admitted by the state institution. Each state institution shall publish the criteria for admission to such state institution and shall furnish such criteria to each board upon request therefore.

K.A.R. 91-40-1.(II) states that "Least restrictive environment" and "LRE" mean the educational placement in which, to the maximum extent appropriate, children with disabilities are educated with children who are not disabled.

K.A.R. 91-40-21 and 34 CFR § 300.116 state that each agency shall ensure that the children with disabilities served by the agency are educated in the LRE.

The Parents alleged the Student was moved to the Alternative School without trying other options first, such as positive behavior supports, autism specialists, or a life skills classroom. They claimed this negatively impacted the Student.

The District responded that the Student was referred to the Alternative School due to continued behavior problems. The District indicated that due to the Student's struggles, a plan was created to pull back on their time in the general education classroom.

The Student's IEP from October 2, 2024 indicated the Student would have the opportunity to participate with non-identified peers in all general education classes, except for when they received direct special education. The Student would also have the opportunity to participate in clubs, sports, field trips, assemblies and special events to the same extent as non-identified peers.

The Assistant Director of Special Education explained the Student engaged in some general education classes and received special education services at the School. A Staffing Record from March 12, 2025 indicated the Parents believed the Student should not be in the Alternative School setting. Special Education Teacher 4 explained the Student had daily opportunities to interact with non-disabled peers while at the Alternative School. The Director of Special Services explained the Alternative School included general education and special education students. The other Parent thought the least restrictive environment for the Student was in a regular school setting with somebody supervising them.

The IEP indicated the Student would have opportunities to interact with non-identified peers, which was bolstered by statements from the Assistant Director of Education and Special Education Teacher 4. There was not substantial evidence to show the Student was kept from interacting with non-identified peers.

Based on the foregoing, according to IDEA and Kansas special education regulations, ***it is not substantiated*** that the District failed to consider and offer the Student an IEP in their least restrictive environment.

Issue Four

Whether USD #290, in accordance with state and federal regulations implementing the IDEA, failed to conduct a re-evaluation for the Student. K.S.A. 72-3428(h)(1)(2); 34 CFR § 300.303.

According to K.S.A. 72-3428(h)(1)(2) and 34 CFR § 300.303, each agency shall ensure that a reevaluation of each exceptional child is conducted if the agency determines that the educational or related services needs of the child, including academic achievement or functional performance, warrant a reevaluation; or if the child's parent or teacher requests a reevaluation. An agency shall conduct a reevaluation of a child not more frequently than once a year, unless the parent and the agency agree otherwise; and at least once every three years, unless the parent and the agency agree that a reevaluation is unnecessary.

The Parents stated they decided to pull the Student out of the Alternative School until the District could find a more appropriate placement and perform a re-evaluation.

The District indicated that a re-evaluation was started in March 2025.

A PWN dated September 5, 2024, indicated that the District proposed to conduct a re-evaluation of the Student, which had been requested by the Parents. The Parents gave their signed consent on September 9, 2024. A PWN dated October 2, 2024 showed the team met to discuss the Student's evaluation/assessment data and the proposed actions. A Staffing Record from March 3, 2025, indicated the Parents were concerned about the Student's increased anxiety, and a re-evaluation was recommended. A PWN from March 4, 2025 indicated the District proposed to conduct a re-evaluation. It was signed by one Parent on March 5, 2025, and the other Parent on March 11, 2025. The Assistant Director of Special Education explained the re-evaluation was supposed to start after spring break, but other arrangements were made when the Student did not return to the Alternative School.

On March 24, 2025 the Director of Special Education asked the Parents if they wanted the District to perform cognitive testing for the re-evaluation, and one of the Parents replied they wanted to wait. However, the other Parent indicated they emailed the District and encouraged them to do all parts of the re-evaluation. A middle school teacher was conducting the academic assessments with the Student, and the teachers and Parents were completing the rating scales for the social-emotional portion.

Based on the evidence, a re-evaluation of the Student was initiated in September 2024. A second re-evaluation was started in March 2025, and is ongoing at the time of this report.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to conduct a re-evaluation for the Student

Issue Five

Whether USD #290, in accordance with state and federal regulations implementing the IDEA, failed to provide the Student with a free appropriate public education. K.A.R. 91-40-1(z); 34 C.F.R. § 300.101.

According to K.A.R. 91-40-1(z) and 34 C.F.R. § 300.101, "Free appropriate public education" and "FAPE" mean 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 District did not follow the proper protocol before moving the Student to the Alternative School.

The District contended they did not deny the Student a FAPE and services were provided in alignment with the Student's IEP.

The Student's Daily Behavior Tracking sheets from August 2024 through January 2025 indicated the Student experienced observable anxiety on multiple occasions and showed the Student's behavior demonstrated a pattern of fluctuating emotional regulation, in addition to positive instances of Student participation and self-regulation. The evidence did not include a tracking sheet for every day. Emails from one of the Parents indicated the Student was absent seven times from September 2024 through December 2024. In an email from October 3, 2024, the Assistant Director of Special Education instructed that the service minutes in the Student's IEP reflect full-day school services.

Notes from a phone call with one of the Parents, dated February 26, 2025, indicated the Student was experiencing anxiety and did not want to return to school. A letter from the Student's doctor, dated February 28, 2025, stated the Student's anxiety had worsened and they did not feel the Alternative School was right for the Student. The Assistant Director of Special Education confirmed receipt of the letters, and that the issues were discussed in an IEP meeting in March 2025.

On March 13, 2025, one of the Parents emailed the Director of Special Education and indicated they did not want the Student at the Alternative School. The Director of Special Education responded they were working on a schedule to provide services and conduct evaluations while the Student was at home. On March 20, 2025, the Director of Special Education emailed the Parents and explained that due to staffing constraints, it wasn't feasible at the time. On March 23, 2025 the Parents explained one of their concerns was the lack of services from a certified Autism Specialist. The Assistant Director of Special Education explained the District provided training for all staff members regarding disabilities, including autism.

Special Education Teacher 2 perceived the Student's anxiety was brought on by the Student being "hyper-focused" on wanting to go home, and that most of the Student's absences were

due to medical reasons. The Resource Room Teacher recalled the Student was absent either due to illness or not wanting to attend. There was not substantial evidence to show absences were due to educationally-based reasons.

Through documentation and observations stated in interviews, it was determined the Student experienced anxiety, but that most of their absences were due to medical reasons and happened before they attended the Alternative School. While the District did not provide instruction for the Student after the Parents removed them from the Alternative School, and there were five documented instances where the Student did not have paraprofessional coverage, these did not amount to "material failures."

Relevant case law includes E.C. v. U.S.D. 385 Andover (2020), which held that the district's occasional deviations from the BIP did not amount to a material implementation failure. Because a Kansas district's failure to follow an elementary school student's BIP on three occasions did not cause any lasting harm, the student was not entitled to relief for the implementation failures. U.S. District Judge Eric F. Melgren noted that the 10th U.S. Circuit Court of Appeals, which includes Kansas, has not decided whether parents are only entitled to relief for a "material" implementation failure. Based on rulings from other federal Circuit Courts, however, the judge determined the parents in this case would need to prove a significant deviation from the BIP. Judge Melgren observed that the parents failed to meet that standard.

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.

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)