

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #383  
ON APRIL 1, 2025

DATE OF REPORT: MAY 1, 2025

This report is in response to a complaint ----- filed with our office, on behalf of their child, -----  
-. For the remainder of this report -----will be referred to as "the student." ----- will be  
referred to as "the mother."

**Investigation of Complaint**

K.A.R. § 91-40-5(c)(5) requires that the complaint investigation include "[a] discussion with the complainant during which additional information may be gathered and specific allegations of noncompliance identified, verified, and recorded." Laura Jurgensen, complaint investigator, held this discussion with the parent via Teams on April 3, gathering additional information and verifying the specific allegations to be investigated. Laura Jurgensen provided the specific allegations to be investigated to the parent via email on April 4. The parent did not dispute how the complaint investigator framed the issues to be investigated. The parent also provided documentation for the complaint investigator to consider as part of the investigation and the parent and investigator exchanged multiple emails. The district provided the investigator with a response to the issues the investigator identified, most documentation and data the investigator requested. The complaint investigator interviewed two district assistant directors of special education and exchanged multiple emails with the district special education director. The complaint investigator also interviewed the private school principal.

In completing this investigation, the complaint investigator reviewed the following:

- Email from Former Private School Teacher to Special Education Director Regarding Special Education Services for Students with IEPs at Private School, Apr. 25, 2025.
- Paraeducator Schedule for Private School, Apr. 24, 2025. (District provided.)
- (Student's 1st, 2nd, and 3rd Quarters and Semester 1 2024-25 Report Card.)
- District's Response to the Complaint, Apr. 20, 2025.
- Email from Special Education Teacher to Special Education Director, Apr. 7, 2025.
- Student's 2024-25 Class Schedule, Apr. 14, 2025. (District provided.)
- Student's 2024-25 Class Schedule, Apr. 4, 2025. (Parent provided.)
- Letter from District to Parent Requesting to Move the Site for Services to the Public School, Apr. 3, 2025.
- Paraeducator Schedule for Private School, Apr. 2, 2025. (Parent provided.)

- Parent's Complaint, Apr. 1, 2025.
- Email from Special Education Teacher with Student's IEP, Apr. 1, 2025.
- Special Education Teacher Schedule for Private School, Apr. 2025.
- Email from Private School's Head of School to Private School Staff Regarding Special Education Teacher's Schedule, Mar. 27, 2025.
- Email from Private School Principal to Special Education Teacher, Private School Head of School, and Parent Requesting Support for Student in Health Class, Jan. 28, 2025.
- Email from Special Education Teacher to Parent Responding to Parent's Request for Support in Health Class, Jan. 21, 2025.
- Email from Parent to Special Education Teacher Requesting Support for Student in Health Class, Jan. 15, 2025.
- Email from Special Education Teacher with Student's IEP, Jan. 9, 2025.
- Email from Special Education Teacher to Parents, Dec. 18, 2024.
- Student's Nov. 13, 2024, IEP.
- Prior Written Notice and Request for Consent for Substantial Change in Placement, Nov. 13, 2024. (Consent Signed Nov. 18, 2024.)
- IEP Page Showing Special Education Services for Student 1 at Private School, Nov. 7, 2024.
- Notice of Nov. 13, 2024, IEP Meeting from District to Parent, Oct. 25, 2024.
- Email from Parent to Paraeducator Attaching Student's IEP, Oct. 24, 2024.
- Photograph of Handwritten Paraeducator Notes, Sept. 9–Oct. 8, 2024.
- Email from Special Education Teacher with Student's IEP, Aug. 14, 2024.
- Paraeducator and Special Education Teacher Schedule for Private School, Aug. 2024.
- Student Passport Book, Aug. 2024.
- District's Special Education Standard Operating Procedures 2024-2025.
- Student Daily Zones of Regulation Behavior Tracking, 2024–25 School Year.
- Private School 2024–25 Special Education Staff Schedule. (Provided in District's Response to Complaint.)
- Email from Parent to Special Education Teacher Requesting Different Paraeducator to Support Student, May 2, 2024.

Kansas regulations require that a complaint "allege a violation that occurred not more than one year before the date the complaint is received" K.A.R. § 91-40-51(b)(1).

Therefore, this complaint investigator did not consider any information either party submitted dated prior to April 1, 2024.

## **Background Information**

The student at the focus of this investigation lives in the public school district at the focus of this investigation and attends a private school within the public school district.

## **Issues**

In the written complaint and the complaint investigator's discussion with the complainant, the parent alleges five issues upon which this investigation will focus:

**Issue One:** Whether the district provided the student with special education services and accommodations. K.S.A. §§ 72-3462, -3463.

**Issue Two:** Whether the district ensured the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. K.A.R. § 91-40-16(b)(4).

**Issue Three:** Whether the district ensured each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for the implementation of the student's IEP is informed of that individual's specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. K.A.R. § 91-40-16(b)(5).

**Issue Four:** In the 2024–25 school year, whether the district provided special education services for all students with IEPs attending the same private school as the student. K.S.A. §§ 72-3462, -3463.

**Issue Five:** Whether the district provided the parent with prior written notice in response to the parent's request for support for the student in health class. K.S.A. § 72-3430(b)(2).

Additionally, the parent alleged a concern regarding district personnel actions and the district's fulfillment of its contract to the student's private school. These are not allegations of a violation of special education law and this investigation does not have the authority to consider these concerns. K.A.R. § 91-40-51(a). During the investigation, the parent brought up a concern regarding retaliation for filing this complaint. The complaint investigator explained that this complaint process does not have authority to consider retaliation complaints and pointed the parent to the United States Department of Education's Office for Civil Rights.

## **Issue One**

### **Special Education Services and Accommodations for the Student**

## **Applicable Law**

K.S.A. § 72-3462 requires "[e]very school district shall provide special education services for exceptional children who reside in the school district and attend a private, nonprofit

elementary or secondary school Special education services provided under this section for exceptional children who attend a private, nonprofit elementary or secondary school are subject to the following requirements If the services are provided for in the private, nonprofit elementary or secondary school, amounts expended for the provision of such services shall not be required to exceed the average cost to the school district for the provision of the same services in the public schools of the school district for children within the same category of exceptionality . . .” K.S.A. § 72-3463 requires that “[n]o special education services shall be provided in connection with religious courses, devotional exercises, religious training, or any other religious activity.”

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

The student’s Nov. 13, 2024, IEP states the student will receive 30 minutes of special education services daily in Study Hall. (Student’s Nov. 13, 2024, IEP.) The provider is listed as the special education teacher and there is no language that indicates the special education services in Study Hall would be provided by anyone except the special education teacher. (Student’s Nov. 13, 2024, IEP.) The student’s IEP also indicates the student will receive 30 minutes of special education services, stated as “paraeducator support in English, Math, Bible, Social Studies and Science.” (Student’s Nov. 13, 2024, IEP.) The student’s IEP provides for 13 accommodations and modifications to be provided in “All Areas,” “All Settings,” or “in all core subjects.” The student’s IEP includes a behavior intervention plan focused on keeping the student in class and required data collection. The student’s IEP indicates the student is eligible for additional services at the public school, with transportation provided. (Student’s Nov. 13, 2024, IEP.) The parent indicated she did not consent to these services as she did not want the student to leave the private school. (Parent Interview with Complaint Investigator, Apr. 3, 2025.)

The parent’s particular concerns within this issue are that the student is not receiving 30 minutes of special education services daily from a special education teacher in Study Hall and that instead the student is receiving special education services from a paraeducator in Study Hall. (Parent Interview with Complaint Investigator, Apr. 3, 2025; Parent’s Complaint, Apr. 1, 2025.) The parent is also concerned that the student is not receiving the number of special education services minutes of paraeducator support indicated in the student’s IEP. (Parent Interview with Complaint Investigator, Apr. 3, 2025; Parent’s Complaint, Apr. 1, 2025.) Additionally, the parent included a copy of the student’s IEP with her complaint, highlighting the following accommodations the parent does not believe the district is providing:

- Avoid Penalizing for Spelling Errors
- Chunk assignments (give one assignment at a time)
- Provide an alternate/reduced (by half) assignment to show mastery of concepts
- Provide sensory break and rewards when [the student] meets [the] expectation based on the scores on the behavior chart.

- Provide sensory strategies to help reduce frustration (i.e., breaks, walking, using putty, going to a quiet location such as the library).
- Response dictated to scribe.

(Parent Interview with Complaint Investigator, Apr. 3, 2025; Parent's Complaint, Apr. 1, 2025.)

Finally, the parent indicated that she does not believe the district is implementing the student's behavior intervention plan that is part of the student's IEP. (Parent Interview with Complaint Investigator, Apr. 3, 2025; Parent's Complaint, Apr. 1, 2025.)

The district does not maintain documentation of the special education services and accommodations provided to students or behavior intervention plan implementation data. (District Interview with Complaint Investigator, Apr. 25, 2025.) As documentation that the student was provided with the special education services stated in the student's IEP, the district provided the student's class schedule, the paraeducators' and special education teachers' schedule as of August 2024, the current paraeducators' schedule (following a paraeducator resignation), and the current special education teacher's schedule (following a district reassignment of the special education teacher at the private school). (Student's 2024–25 Class Schedule, Apr. 4, 2025; Paraeducator and Special Education Teacher Schedule for Private School, Aug. 2024, Paraeducator Schedule for Private School, Apr. 24, 2025. (District provided.), Special Education Teacher Schedule for Private School, Apr. 2025.) Additionally, the district provided anecdotal data via emails discussing specific student assignments, accommodations, and the student's behavior intervention plan asserting that these emails show that the district provided all the special education services indicated in the student's IEP this school year. (District's Response to the Complaint, Apr. 20, 2025.)

The IEP Team clearly indicated the student's special education services in English, Math, Bible, Social Studies, and Science would be provided by a "paraeducator," but did not indicate the student's special education services in Study Hall would be provided by a paraeducator, listing the special education teacher as the provider of the student. (Student's Nov. 13, 2024, IEP.) The IEP Team makes an intentional distinction that the special education teacher will provide the student's special education services in Study Hall. (Student's Nov. 13, 2024, IEP.) The paraeducators' and special education teacher's schedule dated August 2024 shows the student is not scheduled for special education services during Study Hall with a special education teacher, instead the student is scheduled with a paraeducator. (Paraeducator and Special Education Teacher Schedule for Private School, Aug. 2024.) The current paraeducators' schedule indicates that the student is scheduled for special education services each school day during the student's Study Hall period (Period 6 from 1:01 to 1:48 p.m.) for 30 minutes. (Paraeducator Schedule for Private School, Apr. 24, 2025. (District provided.)) The special education teacher's schedule shows that she is at the private school day each day from 7:45 to 9:00 a.m. and her schedule does not include any time with the student. (Special Education Teacher Schedule for Private School, Apr. 2025.)

The August 2024 paraeducator schedule indicates the district has planned for the student to receive 30 minutes of paraeducator support in English, Math, Bible, Social Studies, and Science. (Paraeducator and Special Education Teacher Schedule for Private School, Aug. 2024.)

Following the special education teacher's recognition that K.S.A. § 72-3463 requires that "[n]o special education services shall be provided in connection with religious courses, devotional exercises, religious training, or any other religious activity," the district removed the student's paraeducator support in Bible. (Email from Special Education Teacher to Parents, Dec. 18, 2024.) After a paraeducator resignation, the district developed the current paraeducator schedule. (Paraeducator Schedule for Private School, Apr. 24, 2025.) This schedule does not include any paraeducator support for the student in Social Studies and less than 30 minutes of paraeducator support in Science on Fridays. (Paraeducator Schedule for Private School, Apr. 24, 2025.) On April 3, 2025, the district sent a letter to the parent indicating that "to ensure that all agreed-upon services are provided effectively, it is necessary for our staff to have direct access to [the student]. This would require [the student] to be transported to a public school within our district where [the student] can receive the full scope of services as outlined in [the student's] IEP." (Letter from District to Parent Requesting to Move the Site for Services to the Public School, Apr. 3, 2025.)

Regarding the student's accommodations, the parent indicated that it is her understanding that some accommodations are implemented by the student's general education teacher and others are implemented by the paraeducator. (Parent Interview with Complaint Investigator, Apr. 3, 2025.) The parent teaches at the private school where the student attends and indicated it is her experience that there is typically a conversation between each general education teacher, special education teacher, and paraeducator to discuss who will implement each accommodation for a student. (Parent Interview with Complaint Investigator, Apr. 3, 2025.) The district indicated in the interview with the complaint investigator that general education teachers, in this case the private school general education teachers, are responsible for implementing accommodations for students with IEPs. (District Interview with Complaint Investigator, Apr. 25, 2025.)

Regarding the student's behavior intervention plan, the student's IEP indicates that the special education teacher and paraeducator bear most responsibility for implementation with "General Education Teachers" responsible for providing the student with "[a]dditional prompts for behavior correction [and] [p]rivate/quiet discussions with student while other students are working," as well as participating in the review of the student's behavior intervention plan and data. (Student's Nov. 13, 2024, IEP.) The behavior intervention plan indicates that the "Required Data Collection System" is "ABC documentation" and "Documentation of any discussed issues and duration of the event." (Student's Nov. 13, 2024, IEP.) The district did not provide specific documentation of behavior intervention plan implementation, including any data the behavior intervention plan indicates would be collected. The only documentation the district provided were a few emails with staff discussing the student's behavior, but not any emails that would

meet the behavior intervention plan requirement to “[document] any discussed issues and duration of the event.” (District’s Response to the Complaint, Apr. 20, 2025; Student’s Nov. 13, 2024, IEP.)

Regarding the implementation of special education services, the district maintains that its paraeducator and special education teacher schedules ensure implementation as required by IEPs. (District Interview with Complaint Investigator, Apr. 25, 2025.) However, a schedule represents a plan to implement special education services and is not documentation that special education services occurred. For this student, the district did not schedule the student for special education services with a special education teacher during Study Hall, as required in the student’s IEP. A schedule certainly cannot serve as documentation of implementation if the schedule does not represent what a student’s IEP requires. Additionally, the district’s current paraeducator schedule contains insufficient special education services for the student in Social Studies and Science.

Regarding the student’s accommodations, district staff indicated in the interview with this complaint investigator that they believe the private school general education teachers are responsible for implementing this student’s accommodations. (District Interview with Complaint Investigator, Apr. 25, 2025.) This belief seems to stem from the student’s general education teachers participating in the student’s IEP Team meetings. (District Interview with Complaint Investigator, Apr. 25, 2025.) K.S.A. § 72- 3462 requires “[e]very school district shall provide special education services for exceptional children who reside in the school district and attend a private, nonprofit elementary or secondary school ” (emphasis added) There is nothing in this statute that would place the responsibility of IEP implementation with a private school teacher. The statute clearly places responsibility for providing special education services for a student with an IEP with the school district. District staff indicated the district does not have a contract with the private school for private school staff to provide the special education services outside of their regular work hours and under the supervision and control of the public school. (District Interview with Complaint Investigator, Apr. 25, 2025.) When the district consulted with the parent and the private school officials about the site for services for this student and then the district decided where this student’s services would be provided, the district could have decided that the student’s accommodations would be available only in a public school building, but there is no documentation that shows that. Alternatively, after deciding that the student’s accommodations would be provided in the private school the district could have ensured that a district staff member (e.g., a paraeducator or special education teacher) carried out each accommodation, but the district also did not do this.

On the accommodations where the parent voiced implementation concerns, not all could have been carried out by district staff. In particular, “Avoid Penalizing for Spelling Errors, Chunk assignments (give one assignment at a time), [and] Provide an alternate/reduced (by half) assignment to show mastery of concepts” could not have been carried out by public school

staff as public school staff do not have the ability to impact the private school teachers' carrying out of and grading assignments. These are examples of accommodations that the district could have indicated it would provide in a public school, where public school teachers carry out and grade assignment. The accommodations, "Provide sensory break and rewards when [the student] meets [the] expectation based on the scores on the behavior chart, Provide sensory strategies to help reduce frustration (i.e. breaks, walking, using putty, going to a quiet location such as the library), [and] Response dictated to scribe" could have been carried out by public school staff and perhaps were, but the district does not maintain documentation of accommodation implementation. The parent does not provide information that would indicate that if these accommodations have not been provided whether they impacted the student's progress in the general education curriculum or on the student's IEP goals. The district provided progress information for the student, but there is no data or information that shows the impacts of these accommodations on the student's progress or lack of progress in each subject or IEP goal. (Student's 1st, 2nd, and 3rd Quarters and Semester 1 2024–25 Report Card.)

The portions of the student's behavior intervention plan that required implementation by general education teachers were established due to the district's mistaken belief that the student's private school teachers were responsible for implementing the student's behavior intervention plan. The private school teachers were not responsible for implementing any components of the student's behavior intervention plan.

However, the special education teacher and paraeducator were responsible for implementing the student's behavior intervention plan and the district does not have any documentation the behavior intervention plan indicates would be collected.

Setting aside the district's misunderstanding about private school staff being responsible for IEP implementation, there is one explanation regarding the district not providing all this student's special education services and accommodations that could make sense. K.S.A. § 72-3462 indicates that when the district provides services in the private school, ". . . amounts expended for the provision of such services shall not be required to exceed the average cost to the school district for the provision of the same services in the public schools of the school district for children within the same category of exceptionality" KSDE guidance further explains this portion of the statute by saying, "[i]n determining this cost, the public school must look to similar services in the public school for children with the same exceptionality. The average amount expended may or may not allow for the provision of services at a level that would provide a free appropriate public education. For services provided at a private school, state law simply requires the expenditure of this level of funding, however, and does not require the provision of FAPE." This complaint investigator asked the district whether it is undertaking this calculation and then using the calculation to determine the services offered at the private school. (Email from Complaint Investigator to District Staff, Apr. 25, 2025.) The



district special education director responded that “[t]he decision regarding whether services are delivered onsite at [the private school] or at a public school location is based on the specific nature of the services required and the resources needed to implement them appropriately—not as a result of any intent to limit funding.” (Email from Special Education Director to Complaint Investigator, April 28, 2025.)

When providing services to students with IEPs in a private school, the district does not appear to be calculating “the average cost to the school district for the provision of the same services in the public schools of the school district for children within the same category of exceptionality.” (K.S.A. § 72-3462.) This is something that K.S.A. § 72-3462 permits a district to do and could explain why the district has not fully provided services for this student. Instead, the district maintains that it has provided this student with the services, accommodations, and behavior intervention plan support the student’s IEP requires until its recent letter indicating that the student’s site for services need to be at the public school. The parent maintains she received this letter without any consultation from the district and the district special education director indicates that at the beginning of the school year, district staff, the parent, and private school officials discussed that if the district ever could not locate an appropriate number of staff to provide services at the private school, then services would be available at the public school with transportation provided. (Parent Interview with Complaint Investigator, Apr. 3, 2025; District Special Education Director Email to Complaint Investigator, Apr. 24, 2025.)

### **Conclusion**

The district’s current method for ensuring the provision of the student’s special education services is scheduling district staff to provide the services in the student’s IEP. However, the district’s schedules fall short with this student as the district’s 2024– 25 school year schedules never include a special education teacher providing the student with special education services. The current schedules also do not show the student receiving the required amount of special education services in Science or Social Studies, however the district has indicated these services are available to the student at the public school.

The district misunderstands staff responsibilities for implementing the student’s accommodations and behavior intervention plan. For this student, this potentially impacted three of the student’s accommodations that the parent is concerned are not being provided. The parent and district disagree about whether these accommodations have been provided and neither party has consistent documentation showing whether these accommodations have been provided. Despite the student’s behavior intervention plan requiring data collection and documentation and most of the responsibility for implementation is with the special education teacher and paraeducator, the district does not have any implementation documentation.

Based on the foregoing, this investigation concludes that the *district violated K.S.A. § 72-3462*.

## **Issue Two**

### **IEP is Accessible**

#### **Applicable Law**

K.A.R. § 91-40-16(b)(4) requires “. . . each agency shall ensure that . . . [t]he child’s IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.”

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

The relevant portions of Issue One are incorporated here. In particular, the Issue One analysis found that the parent and district all misunderstood which staff were required to implement the student’s IEP. Only district staff are responsible for implementing the student’s IEP and, absent parent consent, the district was required to ensure the student’s IEP was accessible to each special education teacher and paraeducator supporting the student.

Most of the parent’s concern on this issue are focused on the student’s regular education teachers, who are not responsible for implementation of the student’s IEP. (Parent Interview with Complaint Investigator, Apr. 3, 2025; Parent’s Complaint, Apr. 1, 2025.) The parent also indicated that in October 2024 she sent a copy of the student’s IEP to a paraeducator because the paraeducator told the parent she did not know what was in the student’s IEP. (Parent Interview with Complaint Investigator, Apr. 3, 2025.) The parent provided the investigator with the email from the parent to the paraeducator and the email is blank, other than the attached IEP. (Email from Parent to Paraeducator Attaching Student’s IEP, Oct. 24, 2024.) The parent indicated the conversation with the paraeducator about her lack of access to the student’s IEP was verbal. (Parent Interview with Complaint Investigator, Apr. 3, 2025.)

The district special education director indicated that, “paraeducators have full access to students’ IEPs to ensure they have a comprehensive understanding of their individual responsibilities.” (Email from Special Education Director to Complaint Investigator, Apr. 28, 2025.) The district special education director stated that the district provided the special education teacher and paraeducators with access to the student’s IEP by keeping it with all other student IEPs in the special education classroom at the private school. (Email from Special Education Director to Complaint Investigator, Apr. 24, 2025.) The special education director indicated the special education teacher and paraeducators reference student IEPs regularly in their daily planning meetings. (Email from Special Education Director to Complaint Investigator, Apr. 24, 2025.) The district’s procedure document indicates that after each IEP Team meeting the Case Manager must provide a copy of the IEP to “all staff who work with student . . .” It is evident

from emails from the former and current special education teachers that they both had access to the student’s IEP. (Emails from Former Special Education Teacher with Student’s IEP, Aug. 14,

2024, and Jan. 9, 2025; Email from Current Special Education Teacher with Student's IEP, Apr. 1, 2025.)

### **Conclusion**

There is not specific documentation that the paraeducators were provided with access to the student's IEP, but because the district is providing paraeducators with a hard copy and not an electronic copy it is reasonable there is not necessarily electronic documentation that the paraeducators received a copy of the student's IEP. The district's written procedure and explanation of how this is carried out at the private school is sufficiently detailed to show that the district ensured access of the student's IEP to the staff responsible for its implementation.

Based on the foregoing, this investigation concludes that the *district did not violate K.A.R. § 91-40-16(b)(4)*.

### **Issue Three**

#### **Inform of IEP Responsibilities**

#### **Applicable Law**

K.A.R. § 91-40-16(b)(5) requires "... each agency shall ensure that ... [e]ach [regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation] is informed of ... [t]hat individual's specific responsibilities related to implementing the child's IEP; and ... the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP."

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

The relevant portions of Issues One and Two are incorporated here. In particular, the Issue One analysis found that the parent and district all misunderstood which staff were required to implement the student's IEP. Only district staff are responsible for implementing the student's IEP and, absent parent consent, the district was required to ensure the student's special education teacher and paraeducator were informed of their specific responsibilities relating to implementing the student's IEP.

Most of the parent's concern on this issue are focused on the student's regular education teachers, who are not responsible for implementation of the student's IEP. (Parent Interview with Complaint Investigator, Apr. 3, 2025; Parent's Complaint, Apr. 1, 2025.) The parent also provided information, included in the Issue One analysis, which showed it was unclear which of the student's accommodations were to be provided by the special education teacher and paraeducator.

The district special education director indicated that the special education teacher created each paraeducator a "'passport book' that outlines the specific accommodations, modifications, supports, and services required by each student's IEP, including responsibilities

related to the implementation of behavior intervention plans.” (Email from Special Education Director to Complaint Investigator, Apr. 28, 2025.) The special education director provided photographs of the “passport book” for this student. (Student Passport Book, Aug. 2024.) The photographs provided show the following pages from the student’s IEP: special education services; program modifications, accommodations, and supplementary aids and services; state and district assessment accommodations; and the student’s behavior intervention plan. (Student Passport Book, Aug. 2024.)

The district is required to ensure that any staff supporting the student, “is informed of . . . [t]hat individual’s specific responsibilities related to implementing the child’s IEP; and . . . the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.” (K.A.R. § 91-40-16(b)(5).) The photographs of the student’s “passport book” show “the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.” (K.A.R. § 91- 40-16(b)(5); Student Passport Book, Aug. 2024.)

### **Conclusion**

There is nothing in the “passport book” that shows that the paraeducators were “informed of . . . [their] specific responsibilities related to implementing the child’s IEP.” (K.A.R. § 91-40-16(b)(5); Student Passport Book, Aug. 2024.) This is evident in that there is no information on what accommodations the paraeducator is expected to implement and no information on the paraeducator’s specific responsibilities for carrying out the student’s special education services in English, Math, Social Studies, and Science. Additionally, the special education teacher put together the “passport book” for the paraeducators, but there is no documentation to show that the district ensured the special education teacher was informed of her specific responsibilities related to implementing the student’s IEP. With this student, there does not appear to be a process by which the district determined and assigned specific responsibilities for all components of the IEP.

Based on the foregoing, this investigation concludes that the *district violated K.A.R. § 91-40-16(b)(5).*

### **Issue Four**

**Special Education Services and Accommodations for All Students Attending the Private School**

### **Applicable Law**

K.S.A. § 72-3462 requires “[e]very school district shall provide special education services for exceptional children who reside in the school district and attend a private, nonprofit elementary or secondary school . . . Special education services provided under this section for

exceptional children who attend a private, nonprofit elementary or secondary school are subject to the following requirements . . . If the services are provided for in the private, nonprofit elementary or secondary school, amounts expended for the provision of such services shall not be required to exceed the average cost to the school district for the provision of the same services in the public schools of the school district for children within the same category of exceptionality . . .” K.S.A. §72-3463 requires that “[n]o special education services shall be provided in connection with religious courses, devotional exercises, religious training, or any other religious activity.”

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

This concern stems from a March 27, 2025, email the private school head of school sent to private school staff and one district paraeducator following the change in special education teachers at the private school that states the district does “not have enough resources to support all” IEP service minutes. (Email from Private School’s Head of School to Private School Staff Regarding Special Education Teacher’s Schedule, Mar. 27, 2025.) The parent also provided information from her own experience as a teacher at the private school of students she knew to have IEPs where she indicated that paraeducators regularly did not come to her classroom, as scheduled, to provide special education services to her students. (Parent Interview with Complaint Investigator, Apr. 3, 2025.) As a teacher at the private school, the parent had a copy of the paraeducator and special education teacher schedule so she would know when paraeducators would be in and out of her classroom throughout the day. (Parent Interview with Complaint Investigator, Apr. 3, 2025.)

As stated in Issue One, the district does not maintain documentation of the special education services provided to students. (District Interview with Complaint Investigator, Apr. 25, 2025.) As documentation that all students with IEPs attending the private school were provided with the special education services stated in the students’ IEPs, the district provided the paraeducators’ and special education teachers’ schedule as of August 2024, the current paraeducators’ schedule (following a paraeducator resignation), and the current special education teacher’s schedule (following a district reassignment of the special education teacher at the private school). (Paraeducator and Special Education Teacher Schedule for Private School, Aug. 2024, Paraeducator Schedule for Private School, Apr. 24, 2025. (District provided.), Special Education Teacher Schedule for Private School, Apr. 2025.)

The district also provided what it indicated were “paraeducator logs documenting the provision of services.” (Email from District Special Education Director to Complaint Investigator, Apr. 25, 2025.) These were photographs of handwritten notes from September 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 24, 30 and October 3, 4, 7, and 8, 2024. (Email from District Special Education Director to Complaint Investigator, Apr. 25, 2025.) These handwritten notes provide blocks of time on each date sometimes accompanied by descriptions like “in class” or “study hall.” (Email from District Special Education Director to Complaint Investigator, Apr. 25, 2025.)

Sometimes there are initials next to a block of time that the district indicated are the initials of the student being served during that time. Certain dates are accompanied by the word “absent.” (Email from District Special Education Director to Complaint Investigator, Apr. 25, 2025.)

The district also provided IEP Team meeting summaries for two students, which did not include specific services those students were to receive. (Email from District Special Education Director to Complaint Investigator, Apr. 28, 2025.) The district also provided an email from a private school teacher that no longer works for the private school that, in that teacher’s experience, the students with IEPs in that teacher’s classroom received the special education services their IEPs required. (District’s Response to the Complaint, Apr. 20, 2025.) The April 3, 2025, letter referenced in the Issue One analysis went to each student with an IEP indicating that each student’s site for services need to be at the public school. (District’s Response to the Complaint, Apr. 20, 2025.) For each student with an IEP at the private school whose parents refused services at the public school or did not respond, the district provided email documentation. (District’s Response to the Complaint, Apr. 20, 2025.)

What is missing from this extensive documentation is any information about what these students’ IEPs require them to receive. The complaint investigator requested the district provide, “documentation showing the services their IEPs indicated they were to receive and documentation these services were actually provided.” (Complaint Investigator Email to District, Apr. 25, 2025.) The district special education director responded detailing the information previously provided, all listed above, indicating those documents “collectively demonstrate that services are being provided in accordance with each student’s IEP.” (Email from District Special Education Director to Complaint Investigator, Apr. 28, 2025.) Additionally, nearly all of the documentation provided does not show that the district delivered all services as indicated in student IEPs. The “paraeducator logs” were very informal, did not contain sufficient information, and were for only a small part of the school year.

Additionally, because the district and the parent disagree about whether the district ensured special education services were provided for each student with an IEP attending the private school, this complaint investigator interviewed the private school principal. The private school principal indicated that the former special education teacher regularly did not come to the private school during her scheduled time and would later inform private school staff she had been pulled into other buildings in the district. (Complaint Investigator Interview with Private School Principal, Apr. 29, 2025.) The private school principal indicated the former special education teacher provided her with IEPs for all students with IEPs attending the private school and she has reviewed them. (Complaint Investigator Interview with Private School Principal, Apr. 29, 2025.) The private school principal does not believe it is possible that the district is providing all special education services indicated in student IEPs, pointing to the regular absences of the former special education teacher, the current special education teacher’s

schedule (the schedule shows only 30–45 minutes of direct services to students each day), and several experiences of the private school principal finding paraeducators in the special education classroom when she knew they were scheduled to be in a student's general education classroom providing services. (Complaint Investigator Interview with Private School Principal, Apr. 29, 2025.)

## **Conclusion**

The district's current method for ensuring the provision of special education services is scheduling district staff to provide the services in the students' IEPs. However, the district did not provide any information on the services each student's IEP requires and does not have any mechanism to ensure services are provided with a public-school staff member responsible for providing services in the public school is pulled to another district building. The district provided documentation that all services are available to each student at the public school, but that only speaks to the availability of services after April 3, 2025, not prior to that in the 2024–25 school year. The district's misunderstanding of staff responsibilities for implementing accommodations and behavior intervention plans is likely impacting all students with IEPs at the private school. The parent's and private school principal's account of whether the district is providing services undermines the district's assertion that it is providing services as indicated in student's IEPs.

Based on the foregoing, this investigation concludes that the *district systemically violated K.S.A. § 72-3462*.

## **Issue Five**

### **Support in Health Class**

### **Applicable Law**

K.S.A. § 72-3430(b)(2) requires, "[t]he parents of exceptional children shall have the right to . . . written prior notice in accordance with K.S.A. 72-3432, and amendments thereto, whenever an agency: (A) Proposes to initiate or change; or (B) refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child."

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

The student started health class during second semester and was without paraeducator support, which included no implementation of the student's accommodations and behavior intervention plan. (Parent Interview with Complaint Investigator, Apr. 3, 2025.) District staff indicated that IEP Team meeting notes do not indicate the IEP Team discussed whether the student would need support in health class. (District Interview with Complaint Investigator, Apr. 25, 2025.) District staff stated that the private school health teacher was responsible for

implementing the student's accommodations and behavior intervention plan during health class. (District Interview with Complaint Investigator, Apr. 25, 2025.)

On January 15, 2025, the parent emailed the special education teacher and requested "a preemptive plan for health class." The parent maintained the special education teacher did not respond to this email. (Parent Interview with Complaint Investigator, Apr. 3, 2025.) The special education teacher sent an April 7, 2025, email to the district special education director that she followed up "verbally" with the parent. (District's Response to the Complaint, Apr. 20, 2025.) On January 21, 2025, the parent emailed the special education teacher and asked if she "had a chance to think through the email I sent you about support for health, because if [the student] needs a para there then we" may as well include that in an IEP amendment on which they were working. (District's Response to the Complaint, Apr. 20, 2025.) The special education teacher responded to the parent the same day stating, "Unfortunately, we cannot provide support for a class prior to a demonstrated need. We can keep an eye on the situation. I will check in with [the health teacher] and even do some observations to watch for any signs of need." (District's Response to the Complaint, Apr. 20, 2025.) At the end of January, the parent and private school principal decided to move the student to independent study in health class with the parent. (Parent Interview with Complaint Investigator, Apr. 3, 2025.)

## **Conclusion**

The parent's request for support in health class was a request that impacted the student's free appropriate public education. This obligated the district to respond with a Prior Written Notice. The district first responded verbally and then responded in an email, denying the request. Neither method is permitted when a parent makes a request that impacts their child's free appropriate public education. The only appropriate method was for the district to respond with a Prior Written Notice.

Based on the foregoing, this investigation concludes that the *district violated K.S.A. § 72-3430(b)(2)*.

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

### **Issue One**

The district violated K.S.A. § 72-3462, based on the findings of fact listed above. Corrective action is required, as follows:

1. Within 10 calendar days of the date of this report, the district must submit a written statement to KSDE Special Education and Title Services (SETS) that it will comply with state legal requirements at K.S.A. § 72-3462 which requires every school district to provide special education services for exceptional children who reside in the school district and attend a private, nonprofit elementary or secondary school. If



the services are provided for in the private, nonprofit elementary or secondary school, amounts expended for the provision of such services shall not be required to exceed the average cost to the school district for the provision of the same services in the public schools of the school district for children within the same category of exceptionality.

2.

- a. The district must offer to the parent to provide compensatory special education services to the student in an amount KSDE will determine after submitting the following information. The offered compensatory services are not subject to the average cost calculation in K.S.A. § 72-3462. The district must provide 30 minutes of special education services for each day the student was in school for the 2024–25 school year until the date the district begins to provide the student with special education services from a special education teacher as stated in the student's IEP. Within 11 calendar days of the date of this report, the district must provide KSDE with the student's 2024–25 attendance data and undertake staffing efforts to provide the student with 30 minutes of special education services from a special education teacher as indicated in the student's IEP.
- b. Within one school day of beginning to provide the student with special education services from a special education teacher, the district must communicate to KSDE that it has done this. KSDE will then calculate the amount of compensatory services the district must offer to the parent based on the days of the 2024–25 school year the student was in session before the district provided special education services from a special education teacher and communicate that to the district.
- c. Within five business days of KSDE communicating the amount of compensatory services, the district must send the parent a Prior Written Notice offering compensatory services from a special education teacher at the private school and, on that same day, send the Prior Written Notice to KSDE. Prior to sending the parent the Prior Written Notice, the district must make reasonable efforts to collaborate with the parent and student on the proposed schedule for compensatory services. In the Prior Written Notice, the district must provide the parent with fifteen school days to accept all, some, or none of the compensatory services.
- d. On the same day the district receives the parent's response, it must provide the response to KSDE. If the parent accepts some or all compensatory services, the district must also provide KSDE with the proposed end date for compensatory services based on the proposed schedule.
- e. If the parent accepts some or all the compensatory services, the district must maintain documentation of the provision of compensatory services. One business day following the proposed end date for compensatory services, the district must provide this documentation to KSDE.

3. Within 11 calendar days of the date of this report, the district must consult with the parent and private school officials about the location for each of the student's special education services, accommodations, and behavior intervention plan implementation; decide the location for each of the student's special education services, accommodations, and behavior intervention plan implementation; and communicate this decision to the parent, private school officials, and KSDE.
4.
  - a. Within 11 calendar days of the date of this report, the district must begin collecting data under the student's behavior intervention plan as stated in the plan.
  - b. By May 16, the district must provide KSDE with the data collected under the student's behavior intervention plan.
5.
  - a. Within 15 calendar days of this report, the district must develop and submit to KSDE a draft procedure as to how the district will consult with parents and private school officials for students with IEPs in private school the district is serving under K.S.A. § 72-3462 about the location for all services, accommodations, modifications, and support for school personnel included in a student's IEP. KSDE will request any needed revisions to this draft procedure and communication confirmation when the district may finalize the procedure.
  - b. Within 15 calendar days of this report, the district must develop and submit to KSDE a draft procedure that assigns staff responsibility and a timeline to create schedules for public school staff serving students in private schools. This draft procedure must include reviewing and revising staff schedules, if needed, each time the IEPs of students in the private school are changed. The draft procedure must also include a step where a public-school staff member that did not create the schedule reviews the schedule and student IEPs to ensure that the schedule includes the support listed in each student's IEP. The draft must also include how services will be provided when a staff member is unable to provide services during a scheduled time due to district staffing decisions. KSDE will request any needed revisions to this draft procedure and communication confirmation when the district may finalize the procedure.
  - c. Within three business days of KSDE's confirmation, the district must place the draft procedures into its Special Education Standard Operating Procedures and communicate the procedures to any public-school staff with responsibility for implementing the procedures. On this same date, the district must send to KSDE its Special Education Standard Operating Procedures with the draft procedures included and its communication to relevant staff regarding the procedures.

- d. By August 21, 2025, the district must submit to KSDE the public school staff schedule for services the district will provide at the private school, documentation for each student with an IEP attending the private school that show the services and accommodations the district will provide at the private school, and confirmation that the district has followed its procedure to review the schedule. KSDE will review the schedule and IEP pages to ensure that the district has created a staff schedule to implement the services and accommodations for each student that the district will provide at the public school. If, after consultation with each parent of a student with an IEP attending the private school and private school officials, the district decides not to provide services and accommodations at the private school in the 2025–26 school year, the district will communicate this to KSDE on the date indicated at the beginning of this paragraph.
6. Due Dates:
  - e. May 12, 2025: 1, 2.a., 3., and 4.a.;
  - a. Within one school day of beginning to provide the student with special education services from a special education teacher: 2.b.;
  - b. Within five business days of KSDE communicating the amount of compensatory services: 2.c.
  - c. On the same day the district receives the parent’s response on compensatory services: 2.d.
  - d. One business day following the proposed end date for compensatory services: 2.e.
  - e. May 16, 2025: 4.b., 5.a., and 5.b.;
  - f. Within three business days of KSDE’s confirmation of the draft procedures: 5.c.; and
  - g. August 21, 2025: 5.d.

## **Issue Two**

This investigation found no violations and there is no corrective action.

## **Issue Three**

The district violated K.A.R. § 91-40-16(b)(5), based on the findings of fact listed above. Corrective action is required, as follows:

1. Within 10 calendar days of the date of this report, the district must submit a written statement to KSDE Special Education and Title Services (SETS) that it will comply with state legal requirements at K.A.R. § 91-40-16(b)(5) which requires each agency to ensure that each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation is informed of that individual’s specific responsibilities related to implementing the child’s IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

2. Within 11 calendar days of the date of this report, the district must create a document for each public school staff member responsible for implementation of the student's IEP detailing each staff member's specific responsibilities related to implementing the student's IEP, use this document to inform each public school staff member responsible for implementation of the student's IEP of their specific responsibilities related to implementing the student's IEP, and provide this document to KSDE along with confirmation that the district has informed each staff member of their responsibilities.
3.
  - a. Within 15 calendar days of this report, the district must develop and submit to KSDE a draft procedure as to how the district will inform each public-school staff member responsible for implementation of each private school student's IEP of their specific responsibilities related to implementing each student's IEP. This procedure must include how the district will document that it has carried this out. KSDE will request any needed revisions to this draft procedure and communication confirmation when the district may finalize the procedure.
  - b. Within three business days of KSDE's confirmation, the district must place the draft procedures into its Special Education Standard Operating Procedures and communicate the procedures to any public-school staff with responsibility for implementing the procedures. On this same date, the district must send to KSDE its Special Education Standard Operating Procedures with the draft procedures included and its communication to relevant staff regarding the procedures.
  - c. By August 21, 2025, the district must submit to KSDE the documentation indicated in the district's procedure as to how the district will inform each public-school staff member responsible for implementation of each private school student's IEP of their specific responsibilities related to implementing each student's IEP.
4. Due Dates:
  - a. May 12, 2025: 1 and 2;
  - b. May 16, 2025: 3.a;
  - c. Within three business days of KSDE's confirmation of the draft procedures: 3.b.; and
  - d. August 21, 2025: 3.c.

#### **Issue Four**

The district violated K.S.A. § 72-3462, based on the findings of fact listed above. Corrective action is required, as follows:

1. Within 11 calendar days of the date of this report, the district must consult with the parent and private school officials about the location for the special education

- services, accommodations, modification, supports for school personnel, and behavior intervention plan implementation for each student with an IEP attending the private school; decide the location for each of the student's special education services, accommodations, and behavior intervention plan implementation; and communicate this decision to the parent, private school officials, and KSDE.
2. Corrective action ordered in Issue One: 1. and 5. also applies to this issue.
  3. Due Date:
    - a. May 12, 2025: 1.

### **Issue Five**

The district violated K.S.A. § 72-3430(b)(2), based on the findings of fact listed above. Corrective action is required, as follows:

1. Within 10 calendar days of the date of this report, the district must submit a written statement to KSDE Special Education and Title Services (SETS) that it will comply with state legal requirements at K.S.A. § 72-3430(b)(2) which requires the district to provide the parents of exceptional children written prior notice in accordance with K.S.A. § 72-3432, whenever the district proposes to initiate or change or refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.
2. Within 11 calendar days of the date of this report, the district must provide the parent with a Prior Written Notice of its decision to provide support to the student in health class in the current independent study with the parent and should the parent decide to return the student to the regular health class. If the parent disagrees with the district's decision, the parent could ask the district to go to mediation or could file a due process complaint on the district's decision. If the parent believes that the district's failure to implement the student's IEP in health class impacted the student's right to a free appropriate public education, the parent can file a formal complaint or a due process complaint on that issue as that issue was not included in this investigation.
3. Due Dates:
  - a. May 11, 2025: 1 and 2.

*Laura N. Jurgensen*

Laura N. Jurgensen 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](mailto:formalcomplaints@ksde.gov). The notice of appeal must be delivered within 10 calendar days from the date of this report.

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

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

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

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

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

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