

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #305
ON MARCH 26, 2025

DATE OF REPORT: MAY 1, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ----- by his mother, ----- . In the remainder of the report ----- will be referred to as the “student” and ----- will be referred to as the “complainant”, the “parent”, or the “mother”.

The complaint is against USD #305 (Salina Public Schools) who contracts with the Central Kansas Cooperative in Education (CKCIE) to provide special education services to students enrolled in the school district. In the remainder of the report, both of these responsible public agencies may also be referred to as “the district”, “the local education agency (LEA)”, or “the school”. Individually, they will be referred to by “USD #305” and “CKCIE” respectively.

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on March 26, 2025 and assigned the case for investigation on March 27, 2025.

Evidence Reviewed

Both parties were contacted via telephone during the investigation to gather and clarify information. Both the parent and the 305 LEA representative were interviewed on March 28, 2025 and the parent was interviewed again on April 18, 2025. After an internal investigation, the LEA acknowledged noncompliance for all three issues and an interview was determined to not be necessary.

The LEA provided multiple documents for review and consideration during the investigation. All this documentation was reviewed and considered by the investigator. The following written documentation was viewed as most relevant and primarily used in consideration of the issues:

1. USD #457 Individualize Education Program (IEP) dated March 22, 2024
2. Contact Notes with Angela Alarcon, Oakdale School Administrative Assistant dated March 6 – March 26, 2025
3. Administrative Conversations with Angela Dorzweiler, Oakdale School Principal and April Mayorga, Lead Teacher, dated March 6 – March 31, 2025

4. Timeline of Contacts with Kent Trimmell, School Psychologist dated March 11 – March 31, 2025
5. Communication/Information/Timeline with Lori Thornton, Oakdale School Special Education Coordinator, dated March 11 – April 4, 2025
6. Meeting Notes dated March 27, 2025
7. USD #305 IEP dated April 4, 2025
8. Prior Written Notice (PWN) for Identification, Initial Services, Placement, Change of Services, Change of Placement, and Request for Consent dated April 4, 2025
9. IEP Conference Summary dated April 4, 2025
10. Resolution Meeting Notes dated April 4, 2025
11. Response to the Allegations dated April 14, 2025 written by Sarah Loquist, CKCIE General Counsel

Background Information

The student is an eight-year-old boy who is currently enrolled in the third grade at Meadowlark Ridge Elementary School in USD #322 for the 2024-25 school year. He was initially evaluated and found eligible for early childhood special education services at the age of three and the student has continuously received special education services to the present time. His most recent reevaluation was conducted on March 22, 2024 and it was determined that he continued to be a child with an exceptionality and in need of special education under the category of autism.

Issues Investigated

Based on the written complaint and an interview with the complainant, three issues were identified and investigated.

Issue One

Did the district provide free appropriate public education (FAPE) to the student, including services comparable to those described in the student's IEP from the previous school district special education services during 2024-2025 school year following a move from one Kansas school district to another?

Applicable Law

Federal regulations at C.F.R. §300.323(e) and state regulations at K.S.A. 72-3429(g) state that if a child with a disability who had an IEP that was in effect in a previous public agency within the same State transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency, in consultation with the parents, must provide FAPE to the child including services comparable to those described in the child's IEP from the previous public agency, until the new public agency either 1) Adopts the child's IEP

from the previous public agency; or develop, adopt, and implement a new IEP that meets the applicable requirements at C.F.R. 300.320 through 300.324.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

The parent and LEA both reported the initial contact regarding enrollment occurred on Thursday, March 6, 2025 and that the parent visited the neighborhood school, Oakdale Elementary School on the afternoon of Friday, March 7, 2025 and provided the required enrollment documentation. The LEA reported that the parent provided a copy of the student's IEP Goal Progress Report at that time; however, she did not provide a copy of the student's current IEP from USD #457, the previous Kansas school district.

Angie Dorzweiler, the Oakdale Elementary School Principal, reported speaking with the parent about the previous educational program for the student on that same day and discussing that the student was partially integrated but also in a behavior classroom where he received supports for social emotional learning and behavior.

The enrollment documentation was processed on Monday, March 10, 2025 and the LEA requested a copy of the student's IEP from USD #457. It is noted that the student's sibling began attending the neighborhood school, Oakdale Elementary School, on Tuesday, March 11, 2025.

According to district staff, a copy of that IEP was not received until Wednesday, March 12, 2025. That IEP was reviewed by the Oakdale team on Thursday, March 13, 2025 The IEP from USD #457 required 60 minutes per day of specialized instruction in social/emotional skills in the special education setting; 180 minutes per day of specialized instruction in the general education setting; 20 minutes per week of social work services, and indirect Autism consultation for 10 minutes one time per each nine-week period.

On March 14, 2025, a referral was sent to Opportunity Now and Meadowlark Ridge Elementary School, the two district programs for students needing emotional and behavioral special education support services.

It is noted that all students in the district were out of school between Friday, March 14 and Friday, March 21, 2025.

Meeting notes kept by Angela Mayorga, Lead Teacher, describes a meeting with the parent on Monday, March 24, 2025 as follows:

Mother arrived at Oakdale asking questions on where we are on the student's paperwork . . . During the meeting Mr. Trimmell [School Psychologist] reviewed the placement piece from the current IEP, inquiring about the behavior school. Mom stated it was not a behavior school, he was in general education as much as possible throughout the day. I asked Mom what his typical day looked like. Mom shared that he would work for 15 minutes, then have breaks

throughout the day and that he had some behaviors that occurred. Mom also shared that she would meet with the IEP team every couple of months to check on goals and what is working or not working.

Mom asked about the programs we have in Salina. Mr. Trimmell reviewed the programs that we have in Salina and Mom immediately said no self-contained at all, I do not want that. Mr. Trimmell shared that a meeting to discuss appropriate placement is scheduled for Monday, March 31st at 9:30. Mom is concerned that brother has been going to school, but not the student. Mr. Trimmell stated that we cannot deny you (the student) enrollment starting now. Mom said that will not work for him to start here (Oakdale) then go somewhere else in a week. April [Oakdale Lead Teacher] discussed with Mom that we can send some work and activities home with him, Mom agreed. We assured her that someone will reach out to her Monday to follow up after the meeting. She agreed. At the end of the meeting, we reviewed her concerns and next steps. Mr. Trimmell re-stated that he can begin attending Oakdale today as we work through the process and meeting. Mom again said that will not work for him and agreed to wait for someone to contact her after the meeting. Materials were sent home with sibling at the end of the school day.

On Thursday, March 27, 2025, the parent, the student's IEP team at USD #322 and the student's IEP team from USD #457 met to review the IEP and discuss the student's services. Lori Thornton, Special Education Coordinator for USD #305, reviewed the placement options available in the district and arranged tours for the parent.

On March 31, 2025, an internal team determined that the most appropriate program in the district for the student would be at Meadowlark Ridge Elementary School.

The student's IEP team met on Friday, April 4, 2025 to develop a new IEP for the student. A prior written notice was provided to the parent describing the special education services proposed and the parent provided written consent for these services.

Also at this IEP team meeting, the LEA offered to provide compensatory services "due to the district's delay in determining comparable services and processing the student's enrollment." USD #305 provided the parent with a prior written notice dated April 8, 2025 offering the following services:

It is proposed that the student will be provided an equivalent of 10 days (430 minutes per day) of compensatory education due to delay in his enrollment in school. This compensatory education will be provided in ESY between the dates of 6/2/2025-7/15/2025. The time in service will be provided over the course of 20 days at 215 minutes per day.

The parent did not provide written consent for these services.

Conclusion

In this case, *USD #305 acknowledged noncompliance* with the requirement to provide FAPE upon the student's transfer from USD #457 by not providing comparable services between March 11, 2025, the date the student's sibling began attending school in USD #305, and April 4, 2025, the date the IEP team met and developed a new IEP for the student.

While the LEA made two offers of services to the student after enrollment, neither of these made comparable services available to the student. First, the district offered the parent the option for the student to begin attending the neighborhood school but comparable services to those provided in the previous school district were not available in this school building and the parent was not in agreement. The district also offered the parent the option of providing classwork while the student remained at home awaiting an IEP team meeting to develop a new IEP but, while the parent agreed, the district did not provide any specialized instruction to the student to address the social/emotional and behavioral support services required in the previous IEP.

The LEA did offer to provide compensatory services but only proposed 10 days of compensatory services when the student was actually denied comparable services for a total of 12 days between March 11, 2025 and April 4, 2025, excluding the days students in the district did not attend school between March 14 and March 21, 2025.

It is unclear how USD #305 determined the student was owed a total of 430 minutes per day of special education services as comparable services. According to the previous IEP, a total of 240 minutes per day of specialized instruction [60 minutes in the special education setting and 180 minutes in general education setting] were required to be provided. In addition, the comparable services offered to the student did not include any weekly social work services or indirect Autism consultation.

Issue Two

Did the district follow IDEA procedures for the eligible student when moving from one Kansas school district to another during 2024-2025 school year by adopting the student's IEP from the previous school district or developing and implementing a new IEP?

Applicable Law

Federal regulations at C.F.R. §300.323(e) and state regulations at K.S.A. 72-3429(g) state that if a child with a disability who had an IEP that was in effect in a previous public agency within the same State transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency, in consultation with the parents, must provide FAPE to the child including services comparable to those described in the child's IEP from the previous public agency, until the new public agency either 1) Adopts the child's IEP

from the previous public agency; or develop, adopt, and implement a new IEP that meets the applicable requirements at C.F.R. 300.320 through 300.324.

The Kansas Special Education Process Manual in Chapter Four, Section G: Transfer within the State and From Out of State notes that when a student moves within the state, eligibility has already been established and a reevaluation is not required. This chapter delineates the following steps for meeting the in-state transfer process requirements:

Step 1: When a student moves into a new school district, the school district must take reasonable steps to promptly obtain the child's records, including the individualized education program (IEP) and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school district in which the child was enrolled. The previous school district in which the child was enrolled must take reasonable steps to promptly respond to the request from the new school district. Parent consent is not required to transfer education records to a school where a student intends to enroll, or is already enrolled.

Step 2: When a child with an exceptionality transfers to a new school district in Kansas, with a current IEP in a previous school district in Kansas, the new school district, in consultation with the parents, must provide a free appropriate public education (FAPE) to the child, including services comparable to those described in the child's IEP from the previous school district.

Step 3: Once the new district receives the current IEP the new school district may adopt the child's IEP from the previous school district or develop and implement a new IEP. If the new district develops a new IEP, parent consent is required for any substantial change in placement or any material change in services proposed in the new IEP.

Federal regulations at 34 C.F.R. 300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

State regulations at K.A.R. 91-40-27(a)(3) require school districts to obtain parent consent before making a material change in services or a substantial change in placement. "Material change in services" is defined at K.A.R. 91-40-1(mm) as an increase or decrease of 25% or more of the frequency or duration of a special education service, related service, or supplementary aid or service specified in the child's IEP. "Substantial change in placement" is defined at K.A.R. 91-40-1(sss) as the movement of an exceptional child for more than 25% of the child's school day from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

The findings of Issue One are incorporated herein by reference.

The IEP team met on Friday, April 4, 2025 to develop an IEP for the student. The LEA proposed to provide 60 minutes per day of specialized instruction in the special education setting and 180 minutes per day of specialized instruction in the general education setting to address social/emotional skills as well as indirect behavior consultation for 10 minutes one time per each nine-week period. These services would not be provided in the neighborhood school but instead at Meadowlark Ridge Elementary School.

Also at this IEP team meeting, the LEA offered to provide compensatory services “due to the district’s delay in determining comparable services and processing the student’s enrollment.”

USD #305 provided the parent with a Prior Written Notice (PWN) for Identification, Initial Services, Placement, Change of Services, Change of Placement, and Request for Consent dated April 4, 2025 describing the 60 minutes per day of specialized instruction in the special education setting and 180 minutes per day of specialized instruction in the general education setting to address social/emotional skills and the indirect behavior consultation for 10 minutes one time per each nine-week period.

In addition, the PWN proposed the following compensatory services:

It is proposed that the student will be provided an equivalent of 10 days (430 minutes per day) of compensatory education due to delay in his enrollment in school. This compensatory education will be provided in ESY between the dates of 6/2/2025-7/15/2025. The time in service will be provided over the course of 20 days at 215 minutes per day.

The PWN did not describe the deletion of the 20 minutes per week of social work services nor did the parent provide written consent for this material change in services.

Conclusion

In this case, the *district again acknowledged that it did not follow the required procedures* for the transfer of a student with an IEP between two school districts within the same State.

In addition, noncompliance is identified for not providing the parent with appropriate prior written notice to remove the social work services from the proposed IEP and obtaining parental consent for a material change of services following the April 4, 2025 IEP team meeting.

Issue Three

Did the district meet the student's IEP team to review the student's IEP annually during the 2024-2025 school year?

Applicable Law

Federal regulations at C.F.R. §300.324(b)(1)(i) that each public agency must review the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved.

Analysis: Findings of Fact

The district noted the student's previous IEP was developed on March 22, 2024 in USD #457; however, that IEP was not received by USD #322 until March 12, 2025 through the in-state transfer process. The district reported the district's spring break for student's started on March 14 and ended on March 21, 2025 and there was no opportunity to conduct an IEP review within 365 days of March 22, 2024.

Documentation shows the student's current IEP was developed at an IEP team meeting held on April 4, 2025 in USD #322. The district acknowledged noncompliance and plans to conduct another IEP team meeting with the parent in May to come back into compliance with the requirement for the student's current IEP to be reviewed and revised, as necessary, with 365 days of April 4, 2025.

Conclusion

In this case, *USD #322 acknowledged the student's IEP was not reviewed and revised*, as necessary, within 365 days of March 22, 2024, the previous IEP team meeting date. Based on the foregoing, noncompliance with the requirements of federal regulations at C.F.R. §300.324(b)(1)(i) is found.

Summary of Conclusion s/Corrective Action

ISSUE ONE: USD #305 acknowledged noncompliance with the requirement to provide FAPE upon the student's transfer from USD #457 by not providing comparable services between March 11, 2025, the date the student's sibling began attending school in USD #305, and April 4, 2025, the date the IEP team met and developed a new IEP for the student. It is noted the LEA did make an offer of compensatory services, but the parent did not provide consent to the prior written notice dated April 8, 2025 which described the offered services. Based on the foregoing, corrective action is required.

Corrective Action

1. The LEA will contact TASN to arrange for training to be provided to the special education staff and building administrators working at Oakdale and Meadowlark Ridge

Elementary Schools in USD #322 and special education staff working with USD # 322 employed with CKCIE regarding the appropriate in-state transfer procedures, specifically the requirement to provide comparable services to the student until such time the LEA adopts the transfer IEP or develops a new IEP for the student no later than August 1, 2025. The LEA will provide KSDE with the date of the training, the name of the trainer, and a copy of any handouts or presentation materials no later than one week following the date of the actual training.

2. Because of the noncompliance, the student was not provided with comparable services for a total of 12 days school days based upon when the sibling began attending school on March 11, 2025 and the date of the IEP team meeting on April 4, 2025. Based upon the March 22, 2024 IEP, the student should have been provided with a total of 12 hours of special education instruction in social/emotional skills in the special education setting (60 minutes per day); a total of 36 hours of special education services for social/emotional skills in the general education setting (180 minutes per day); and 40 minutes of social work services (40 minutes per week) during that timeframe. The LEA will create a plan to provide the student with a minimum of these amounts of compensatory services being provided to the student by the end of the first quarter of the 2025-26 school year. This plan will be provided to the parent no later than May 23, 2025. The parent may choose to accept all, some, or none of these services. The LEA will notify KSDE of the parent's decision no later than 10 days from the date of the parent's decision. If any amount of compensatory service is accepted by the parent, the LEA will provide KSDE with documentation of the provision of these services by the end of the first quarter of the 2025-26 school year.

ISSUE TWO: Again, USD #305 acknowledged noncompliance because it did not follow the procedures for the transfer of a student with an IEP between two school districts within the same state as required by federal regulations at C.F.R. §300.323(e) and state regulations at K.S.A. 72-3429(g). In addition, noncompliance is identified for not providing the parent with appropriate prior written notice to remove the social work services from the proposed IEP and obtaining parental consent for a material change of services following the April 4, 2025 IEP team meeting. Based on the foregoing, corrective action is required.

Corrective Action

3. USD #322 and CKCIE will review their policies, procedures and practices for in-state transfer students with IEPs and develop a checklist form to be used to document the appropriate steps in the process. A copy of the checklist will be provided to KSDE no later than July 1, 2025 for approval. Once approved by KSDE, a copy of this checklist will be shared with all special education staff and building administrators no later than August 1, 2025.
4. The LEA will contact TASN to arrange for training to be provided to the special education staff and building administrators working at Oakdale and Meadowlark Ridge Elementary Schools in USD #322 and special education staff working with USD # 322 employed with CKCIE regarding the appropriate in-state transfer procedures and the

checklist no later than August 1, 2025. In addition, this training will include information about the requirements for providing appropriate prior written notice to parents, specifically addressing material changes in service and significant changes of placement. The LEA will provide KSDE with the date of the training, the name of the trainer, and a copy of any handouts or presentation materials no later than one week following the date of the actual training.

5. The LEA will reconvene the student's IEP team no later than May 30, 2025 to review and revise, as appropriate, the provision of social work services to the student as required by the March 22, 2024 IEP and provide the parent with appropriate prior written notice following that IEP team meeting. The LEA will provide KSDE with a copy of the prior written notice within 10 days of the date of the IEP team meeting.

ISSUE THREE: Again, the LEA acknowledged the student's IEP was not reviewed and revised, as necessary, within 365 days of the development of the previous IEP. The previous IEP was developed on March 22, 2024 and the student's current IEP was developed on April 4, 2025. It is noted that the student transferred into the district on March 10, 2025, which was only 12 calendar days prior to the annual review date and that eight of those 12 calendar days were the district's spring break. However, based on the foregoing, the district is determined to be out of compliance with the requirement to review and to revise, as necessary, each student's IEP at least annually.

Corrective Action

6. The LEA will provide KSDE with an assurance statement that it will review each student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved, and to revise each student's IEP as necessary.

Nancy Thomas

Nancy Thomas, M.Ed., 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)