

**KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES**

**REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #322
ON APRIL 3, 2025**

DATE OF REPORT: MAY 16, 2025

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

It is noted that the student is 18 years of age and her own legal guardian. However, the student has signed and provided a written copy of a Durable Power of Attorney for Health Care and Education Related Decisions dated March 5, 2025 which states that the student's parents will "serve as the decision maker in educational related matters related to my education, including, but not limited to enrollment in secondary or post-secondary school or schools, administration of the IEPs".

The complaint is against USD #322 (Onaga Public Schools) who contracts with the Holten Special Education Cooperative (HSEC) 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 #322" and "HSEC" respectively.

The IDEA allows for the investigation of allegations of noncompliance for a period up to 12-months from the date on which a complaint was filed. The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and issue a final report from the date on which a complaint 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 27, 2025 and additional complaints on April 3, 2025. These complaints were combined into one investigation and the 60-day timeline extended to begin on April 3, 2025. It is noted that the investigation timeline was extended due to the number of allegations and the amount of documentation provided by both parties that needed to be reviewed and carefully considered during the investigation.

Based upon the written complaint, six issues were identified to be investigated. It is noted that several issues included in the parent's complaint fell outside of the 12-month investigation window and will not be addressed in this investigation.

These issues are related to the issuance of the IEP Goal Progress Report in February 2025 and the in-state IEP transfer process which occurred in August 2023. The parent should review the

IDEA Procedural Safeguards for other options for resolving complaint and may want to consider having these allegations of noncompliance addressed through a due process complaint which allows for the investigation of allegations of noncompliance for a period up to two years from the date on which a complaint is filed.

Evidence Reviewed

The parent was interviewed by telephone on April 18, 2025 and the LEA staff provided written responses to interview questions on May 1, 2025.

During the investigation, the Complaint Investigator, Nancy Thomas, reviewed over 400 pages of documentation provided by both the LEA and the parent. While all of the documentation was taken into consideration for context, the following written documentation was used in consideration of the issues:

1. Psychoeducational evaluation report dated April 25, 2022
2. Individualized Education Program (IEP) dated January 17, 2024
3. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent (PWN) dated January 17, 2024 and signed by the parent on that same date
4. Log documenting daily check-ins and stress pass Use dated between January 22, 2024 and April 8, 2025
5. February 5, 2024 Amendment to the January 17, 2024 IEP
6. PWN dated February 5, 2024 which was signed by the parent on February 12, 2024
7. Email exchange dated March 28, 2024 between the parent and Tracy Reisinger, Special Education Teacher regarding remaining in class and computer access
8. Email exchange dated May 16, 2024 between the parent and the Special Education Teacher regarding course of study for senior year and credits for graduation
9. IEP Goal Progress Reports for 23-24 school year
10. Email exchange dated August 13, 2024 between the parent and the Special Education Teacher regarding the ACT and SAT
11. Email dated August 20, 2024 written by the Special Education Teacher regarding ACT scores from 2023-24 school year with the ACT score summary attached
12. Notifications of Meetings dated November 26, 2024, January 13, 2025 and January 22, 2025
13. Meeting Notice dated December 3, 2024 which was signed by the parent on the same date
14. Email dated December 10, 2024 written by the Special education Teacher to the parent regarding the upcoming reevaluation and options
15. Email dated December 13, 2024 written by the Special Education Teacher to the parent regarding inviting Pre-ETS and Independent Living Specialist from Kansas Department of Children and Families to the IEP team meeting

16. Draft IEP dated December 19, 2024
17. PWN dated December 19, 2024 which the parent refused to sign
18. Email exchange dated December 19, 2024 between the parent; Jennifer DeShazer, Pre-Employment Transition Services (Pre-ETS) Specialist; and Anton Johnson, Pre-ETS Manager, regarding supported post-secondary college programs at Johnson County Community College and Kansas University
19. Pre-ETS Application dated December 19, 2024
20. Email dated December 20, 2024 written by the Special Education Teacher to the parent regarding changing the services back from the proposed indirect to the original direct
21. Pre-ETS Service Agreement dated December 23, 2024
22. Email dated January 9, 2025 written by the parent to the Special Education Teacher regarding reconvening the IEP team
23. Email dated January 16, 2025 written by the Special Education Teacher to the parent regarding need to obtain signatures on the December 19, 2024 in order to remain in compliance and indicating a new IEP could be written at a later date
24. Email dated January 17, 2025 written by the Pre-ETS Specialist to the parent and the Special Education Teacher regarding inviting representative from Vocational Rehabilitation to the IEP team meeting
25. Email dated January 17, 2025 written by the parent to the Special Education Teacher listing the concerns with the draft version of the December 19, 2024
26. Email exchange dated January 20, 2025 between the parent and the Special Education Teacher with handwritten note regarding Xello
27. Notice of Meeting to the parent and the student dated January 22, 2025
28. Draft version of an December 19, 2024 IEP provided to the parent on January 22, 2025
29. Email exchange dated January 24, 2025 between the parent and the Special Education Teacher regarding collaboration with outside agencies and potential community work-based program
30. Draft version of the December 19, 2024 IEP provided to the parent on January 27, 2025
31. IEP and Transition Meeting Notes dated January 28, 2025 written by the Director of Special Education
32. Updated draft version of the December 19, 2024 IEP provided to the parent on January 28, 2025 with the original PWN dated December 19, 2024
33. Email exchange dated February 4 and February 7, 2024 between the parent and Alia Capps, Supervisor for Permanency at KVC Kansas regarding change in post-secondary goal and services available
34. Email exchange dated February 11, February 21, and February 24, 2025 between the parent and Trisha McNally, the High School Counselor regarding the student's course of study and transition services including assessments, work study, and job shadowing

35. Email exchange dated February 26, February 27, February 28, March 3, and March 4 between the parent and the Special Education Teacher regarding signing the updated version of the IEP and PWN resulting from the January 28, 2025 IEP team meeting
36. Updated draft version of the IEP dated December 19, 2024 provided to the parent on March 6, 2025 and updated version of the PWN reflecting the changes discussed at the January 28, 2025 IEP Team Meeting
37. Email dated March 12, 2025 written by the student to the Special Education Teacher to request an IEP team meeting, to indicate that the draft IEP was still incorrect, and to notify the district that the parent had POA for her education decisions
38. Handwritten Meeting Notes dated March 13, 2025 between student; Peyton Bowers, School Psychologist; and Special Education Teacher related to reevaluation discussion
39. Screenshots of texts between the student and the parent dated March 13, March 15, and March 27, 2025 regarding the reevaluation meeting
40. Email dated March 14, 2025 written by the parent to the Special Education Teacher refusing to sign the PWN as written and sharing concerns with the different draft versions of the IEP developed at the January 28, 2025 IEP team meeting provided to the parent between January and March 2025 which are all dated December 19, 2024
41. List of IEP Concerns dated March 14, 2025, written by the parent
42. Re-evaluation Not Needed Agreement Form dated March 14, 2025 , signed by the parent on March 27, 2025
43. Email dated March 15, 2025 at 5:01 PM written by the School Psychologist to the student's IEP team members regarding the three-year reevaluation meeting with the student
44. Email dated March 15, 2025 at 5:29 PM by the parent to the School Psychologist regarding her concerns with the reevaluation meeting with the student
45. Email dated March 24, 2025 written by the School Psychologist to the parent regarding the three-year reevaluation and continued eligibility
46. Email dated March 27, 2025 written by the Special Education Teacher to the parent and the student regarding scheduling an IEP team meeting
47. IEP Goal Progress Reports for first – third quarters of 24-25 school year
48. Notice of Meeting dated March 31, 2025
49. Interview Statement dated March 31, 2025 written by Trish McNally, High School Counselor regarding the provision of accommodations
50. Email exchange dated April 8-9, 2025 between the parent and Amy Haussler, Director of HSEC indicating the parent would not participate in the IEP team meeting scheduled for April 10, 2025 and the district requesting the parent reconsider
51. Email dated April 10, 2025 written by the Special Education Teacher to the parent providing a draft version of an IEP addressing the parent concerns of March 14, 2025
52. PWN dated December 19, 2024 summarizing the actions proposed in December 2024, January 2025, and April 2025

- 53. Interview Statement dated April 10, 2025 written by Crystal Brunner, former Principal regarding the provisions of accommodations
- 54. LEA Response to the Allegations dated April 14, 2025 written by the Director of HSEC
- 55. Email exchange dated April 22-23, 2025 between the parent and the Special Education Teacher LEA Response to Interview Questions dated May 1, 2025
- 56. USD #322 School Calendar for the 2024-25 school year

Background Information

The student is an 18-year-old female who is currently enrolled in the 12th grade at the Onaga Senior High School in USD #322 for the 2024-25 school year. The student was initially evaluated on March 24, 2022 and determined eligible for special education and related services under the exceptionality category of Emotional Disturbance in Olathe Public Schools. It is noted that the required three-year reevaluation, which was due on March 23, 2025, is the subject of Issue Five in this evaluation report.

Records and interviews found the student began receiving special education services during the 9th grade following the eligibility determination. She transferred into USD #322 from at the beginning of her 11th grade year during the 2023-24 school year from Topeka Public Schools while in the custody of the Kansas Department of Children and Family Services (DCF). She currently lives with a foster family and has a case manager at KVC through a contract with DCF. The student became her own educational decisionmaker when she turned 18 on March 6, 2025 but signed a Power of Attorney (POA) document naming her parents as her educational decision makers. It is reported that the student has met graduation requirements and is scheduled to graduate with a high school diploma on May 17, 2025.

Issues Investigated

Issue One

USD #322, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically the accommodation to allow the use of stress pass during the past 12 months.

Applicable Law

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Analysis: Findings of Fact

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

The parent and district both identify the last agreed upon IEP for the student as being developed on January 17, 2024. It is noted that the district reconvened the IEP team on December 19, 2024 to review this IEP and revise, as needed. The district provided the parent with prior written notice PWN of the proposed changes to move from direct special education services to indirect special education services at that time but the parent refused to provide consent for this substantial change of placement. Since that time, the parent and the district have made multiple and ongoing efforts to reach an agreement on an IEP that provides a free appropriate public education for the student. However, since no agreement has been reached, the January 17, 2024 IEP is in effect at this time and will be the IEP to be used for determining whether or not the district is in compliance with the requirements of the IDEA.

The January 17, 2024 IEP requires the following accommodation related to the stress pass:

When the student is experiencing an upsetting event and is unable to self-regulate, she can ask for a stress pass to see her contact person or school counselor.

The parent reports the student has not been allowed to use a stress pass to remove herself from upsetting events on a regular basis during the past 12 months. She specifically refers to an email dated March 28, 2024 written by the Special Education Teacher which states, *"She had a rough time waiting to hear about her probation. Once she was cleared, I told her she had to go and stay in all her classes. She was not happy about that"*. The parent believes the stress caused by the student not being allowed to use a stress pass was a contributing factor to the student being hospitalized approximately two weeks later.

The Special Education Teacher reported that the student was actually using her stress pass accommodation to practice using the calming strategies in the special education setting to address her upset in regard to the probation prior to learning the outcome of the situation. These strategies were successful, and the student was able to return to class although she would have preferred to remain in the special education classroom for the remainder of the day. The daily expectation is that the student will remain in her general education classes but that she always has the option of using a stress pass if an upsetting event that may occur during the class period. This was the same expectation for the student on March 27, 2024.

The LEA provided a Log dated between January 22, 2024 and April 8, 2025 which shows the student used the stress pass on March 26, 2024 to remain in the special education room for approximately three hours that day. In addition, the Log shows the student used a stress pass to visit with the High School Counselor on April 19, 2024 and that she was hospitalized on April 22, 2024.

The High School Counselor stated that the student is often anxious and needs to have "down time" to reset or talk through her concerns. She indicated that the student can visit with her or

the Special Education Teacher at these times. She also noted that the student typically attends the one hour and thirty-minute general education classes for the lectures (approximately one hour) and can use her pass to come to the special education classroom or counselor's office to work on homework and de-stress.

The former High School Principal also reported that the student was allowed to use the stress pass whenever she needed a break during the school day for sensory and self-regulation breaks. She noted, *"These visits were often a necessary part of her coping strategy and self-care routine, and they allowed her to remain engaged in her academic and social environments"*.

Conclusion

In this case, the IEP in effect does contain an accommodation which allows the student to use a stress pass to visit with the High School Counselor and the Special Education Teacher when she is experiencing an upsetting event. Documentation and interviews show that the student has used this accommodation during the past 12-months and there is no evidence directly connecting the implementation of this accommodation to the student's hospitalization in April 2024.

Based on the foregoing, the district is found to be *IN compliance* for implementing the student's IEP, specifically the accommodation to use a stress pass when she is experiencing an upsetting event.

Issue Two

USD #322, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by not providing the specialized instruction required to address the IEP goal related to personal safety during the past 12 months.

Applicable Law

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference.

The January 17, 2024 IEP has one goal which states, *"By the end of this IEP, the student will be able to use strategies (deep breathing, coloring, fidgets) to return to her regularly scheduled class during the day within 15 minutes"*.

The January 17, 2024 IEP requires 10 minutes per day, five days per week of resource/ pull-out special education services to address this goal. The IEP includes the following explanation regarding these services, *"The student needs to have a daily check-in for social / emotional support"*.

The district reported that the student checks in every morning with the Special Education Teacher. The student provides two numbers - one for self-harm (e.g: cutting) and one for suicidal ideation. The rating is on a scale from 1-10, with 1 being she feels safe and nothing is going to happen. The special education teacher provides explicit instruction and review of the self-regulation strategies and also involves asking the student to confirm who her contacts and resources are if she needs help throughout the day so that she can use her strategies to remain in the general education setting as much as possible to access the general education curriculum.

The district provided a Log dated between January 22, 2024 and April 8, 2025 which shows the student checked-in with the Special Education Teacher.

The parent believes the January 17, 2024 IEP should also have included 45 minutes per day of direct special education instruction in addition to the check-in minutes. She reported these minutes were discontinued when the student transferred into the district in August 2023. As noted previously, this allegation falls outside the one-year investigation window allowed in the state complaint process and the parent is referred to the IDEA Procedural Safeguards section on dispute resolution addressing due process which allows for a two-year investigation window.

Conclusion

In this case, the IEP in effect does contain a goal related to personal safety and specialized instruction for 10 minutes per day, five days per week to address that goal. Documentation and interviews show that the student checks in each morning with the Special Education Teacher and rates how she is feeling that day in regard to self-harm and suicidal ideation. The special education teacher provides explicit instruction and review of the student's self-regulation strategies and also asks the student to confirm who her contacts and resources are if she needs help throughout the day so that she can use her strategies to remain in the general education setting as much as possible to access the general education curriculum. The district provided a Log showing data supporting the check-in process being implemented with the student.

Based on the foregoing, the district is found to be ***IN compliance*** for implementing the student's IEP, specifically the special education services to address the personal safety goal.

Issue Three

USD #322, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to develop measurable goals and benchmarks to address the areas of need identified in the present level of performance in the student's IEP during the past 12 months.

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(2) require school districts to develop an IEP for each eligible student with a disability which includes a statement of measureable annual goals, including academic and functional goals, designed to meet the student's needs that result from the student's disability in order to enable the student to be involved in and make progress in the general education curriculum as well as meet each of the student's other educational needs that result from the student's disability.

According to Chapter 4, Section 2.b of the Kansas Special Education Process Manual, measurable goals must contain a timeframe, a description of the conditions, a description of the behavior, and the criterion established for meeting the goal.

Federal regulations at 34 C.F.R. 300.320(b)(1)(i) require school districts to review each student's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and revise the IEP, as appropriate, to address: 1) any lack of expected progress toward the annual goals and in the general education curriculum; 2) the results of any reevaluation conducted; 3) information about the child provided to, or by, the parents; 4) the child's anticipated needs; or 5) other matters.

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.

In addition, Kansas 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 findings of Issue One and Two are incorporated herein by reference. This allegation will be investigated looking at both the last agreed upon IEP as well as the process for reviewing and

revising that IEP, as necessary, to identify appropriate goals and services to provide a free appropriate public education (FAPE) to the student.

Documentation shows the parent attended the IEP team meeting on January 17, 2024 when the IEP currently in effect was developed. The parent was provided with PWN following that meeting and signed consent for the IEP on that same date. The investigator will not second-guess the IEP team's decisions regarding the chosen goals and services to address the student's needs described in the present level as the parent had the opportunity to participate in the process and gave consent for the special education services required by this IEP.

The January 17, 2024 IEP has one goal. This goal includes a timeframe for achieving the goal "*By the end of this IEP*". The IEP reflects the anticipated start date of the IEP was January 17, 2024 and the anticipated end date was January 16, 2025. The conditions of the goal are for the student to use strategies such as deep breathing, coloring, or fidgets when she is upset during the school day. The observable behavior in the goal is for the student to return to her regularly scheduled class during the day. The criterion for the goal is for the student to return to her regularly scheduled class within 15 minutes from the time she began using the self-regulation strategies.

The district scheduled and held an IEP team meeting on December 19, 2024 to review and revise the IEP, as appropriate, and the parent attended and participated in that IEP team meeting. Also participating in the meeting were the following school staff: Staci Claycamp, General Education Teacher; Brian Sixbury, High School Principal; the Special Education Teacher; the Pre-ETS Specialist; the Pre-ETS Manager; and the Supervisor of Permanency at KVC Kansas.

Following the IEP team meeting, the district provided the parent with a PWN proposing changes in services from direct to indirect; however, the parent refused to provide consent at that time because she disagreed with proposed changes as well as the transition plan for the student. The parent believed that a follow-up IEP meeting would be scheduled to further discuss her concerns regarding the necessary services and transition plan which would provide FAPE to the student.

The district reported a snow day occurred on the original rescheduled meeting date at the beginning of January. However, the parent indicated that the district did not contact her about the meeting and she requested another IEP team meeting via an email on January 9, 2025.

On January 16, 2025, the Special Education Teacher emailed the parent regarding the need to obtain signatures on the December 19, 2024 IEP in order to remain in compliance with the IDEA requirement to review the IEP at least annually. The parent attached a "fixed" copy of the IEP moving the proposed services back to direct special education services rather than the proposed indirect services because of the parent's concerns with this proposed change of placement. The Special Education Teacher also provide the parent with another copy of the PWN, still dated December 19, 2024, which now stated, "*This action* [changing from direct

services to indirect services] *is proposed but rejected because parents want to continue with the current IEP and meet again at the beginning of the 2nd semester after Pre-Ets (sic) and Voc-Rehab services are in place*".

In the January 16, 2025 email, the Special Education Teacher stated, *"As I look at the calendar and the IEP, I notice that we will be out of compliance if we cannot meet on or before the 17th. In order to stay in compliance, I need your signature on the IEP I fixed after our last meeting using that date. I can create a new IEP when we meet again"*.

On January 17, 2025, the parent refused explaining that, if she signed the documents, it would indicate that she was in agreement, and she was definitely not in agreement with the IEP as written. The parent provided the Special Education Teacher with a list of her specific concerns regarding the draft version of the December 19, 2024 IEP on that same date. The parent stated in her email written to the Special Education Teacher,

In terms of your request for me to sign the IEP, I understand the need for compliance deadlines, however, the proposed plan does not include the required transition plan or services. Signing the IEP is an indication that we agree with it, which does not reflect our position. As we plan to meet to address the concerns, we are choosing to exercise the "stay put" provision of IDEA to maintain the student's previous IEP until a new one is developed by the team that includes a transition plan and services.

On January 22, 2025, the district sent a Notification of Meeting scheduling an IEP team meeting for January 28, 2025. On January 27, 2025, the Special Education Teacher sent the parent an updated draft version of the IEP which incorporated the parent's list of concerns and on January 28, 2025, the following persons met to review this updated draft version of the IEP: the parent; the student; the Special Education Teacher; the High School Principal; the School Psychologist; the Director of Special Education; the Pre-ETS Specialist; the Pre-ETS Manager; the Supervisor of Permanency at KVC Kansas; and Addie Larson, Secondary School Psychologist. It is noted that a general education teacher did not participate and that additional school staff joined the IEP team at this IEP team meeting.

Following the January 28, 2025 IEP team meeting, the district provided the parent with an updated version of an IEP, still dated December 19, 2024, which included the list of parent concerns and now included statements of how each concern would be addressed by the district. The district provided the parent with the same PWN, still dated December 19, 2024, keeping the direct special education services rather than changing the services to indirect.

The parent refused to sign the PWN and, subsequently, the Special Education Teacher and the parent exchanged multiple emails during February and March 2025 trying to come to an agreement on what needed to be changed in the draft version of the IEP and PWN. On March 6, 2025, the Special Education Teacher provided the parent with another copy of an IEP and a PWN, both still dated December 19, 2024.

The student turned age 18 on March 6, 2025 and, on March 12, 2025, she requested the IEP team be reconvened to review and revise the IEP, as needed. On March 14, 2025, the parent sent an email to the Special Education Teacher again refusing to sign the PWN as written and sharing another list of concerns for the different draft versions of the IEP provided to the parent between January and March 2025, all of which are dated December 19, 2024.

On March 31, 2025, the district provided a Notification of Meeting scheduling an IEP team meeting for April 10, 2025. The parent canceled this meeting on April 8, 2025 because she had filed a formal complaint with KSDE and wanted to wait for the completion of the investigation of her allegations. The Special Education Director encouraged the parent to attend this IEP team meeting to discuss another draft version of the IEP that addressed all of the concerns that had been shared with the district. A copy of this most recent draft version of the IEP and a PWN with a summary of the December, January, and April proposals, all still dated December 19, 2024, were emailed to the parent on April 10, 2025.

Conclusion

In this case, there is sufficient evidence to support a finding that the current IEP dated January 17, 2024 does address the areas of need identified in the present level of performance as determined by the IEP team, which included the parent, and that the IEP does include a measurable goal which includes a timeframe, a description of the conditions, a description of the behavior, and the criterion for measuring achievement of the goal.

However, there is also sufficient evidence to support a finding that the district failed to review the IEP at least annually and to revise the IEP based on information provided by the parent at the IEP team meetings held on December 19, 2024 and January 28, 2025.

While the district made multiple and ongoing attempts to address the parent's concerns by creating the multiple versions of the IEPs and PWNs over a four-month period, the end result was very confusing as all the various versions continued to be dated December 19, 2024. It is also noted that these versions were developed by different IEP teams and included updates and referred to discussions that were not known or had not happened at the time of the original meeting date on December 19, 2024.

There are situations when it is appropriate to schedule a continuation of an IEP team meeting with the same IEP team members over a short period in order to allow for additional time to discuss all issues and allow the district to propose the final IEP and to provide the parent with appropriate PWN, if necessary. However, in this situation, the various IEPs were developed by different IEP teams and, after almost four months, the district is still proposing final IEPs and providing PWNs with the original IEP meeting date of December 19, 2024.

This situation is complicated by the parent's belief that "signing the IEP" means she agrees with the IEP and, that by refusing to sign the IEP, "stay put" provisions take effect. The IEP does not have to be signed because the IDEA only requires the IEP to include a listing of the IEP team

members who attended the IEP team meeting, their positions, and their method of attendance. Instead, parent written consent is requested through PWN and is only required for initial evaluations, reevaluations with assessment, initial services, material changes in services, and substantial changes of placement. The IDEA only requires “stay put” when a parent has filed for a due process hearing and this concept is not triggered by the parent refusing to provide written consent for a proposed action described in a PWN.

Further complicating the situation, it appears that the district misunderstood the PWN requirement for notifying the parent of proposed changes to the IEP and when parental consent must be obtained. It appears the district originally proposed changing the special education services from a direct to an indirect delivery model at the December 19, 2024 IEP team meeting which would be considered a substantial change of placement and require parental consent. However, the parent was not in agreement with this proposal and would not agree to provide consent. The parent wanted the services to remain the same until the IEP team was able to meet again to continue the discussion regarding services and the transition plan.

On January 16, 2025, the district sent the parent an updated draft of the IEP changing the services back to the original direct services delivery model and provided the parent with a PWN explaining the district was rejecting their previously proposed change to indirect services because the parents wanted to “*continue with the current IEP and meet again at the beginning of the 2nd semester after Pre-Ets (sic) and Voc-Rehab services are in place*”. These two documents appear to be an accurate reflection of what was ultimately decided at the December 19, 2024 IEP team meeting and both the draft IEP and the PWN were accurately dated December 19, 2024.

The Special Education Teacher requested the parent sign the updated IEP and PWN, and on January 17, 2025, the parent refused to sign and then provided the district with a list of all the things that needed to be changed in the draft IEP dated December 19, 2024. This started the ongoing cycle of draft versions of IEPs and PWN, all of which were dated December 19, 2024, which were responding to the multiple lists of concerns from the parent. However, in looking at the IEP and PWN provided to the parent on January 16, 2025, there was no need to obtain written parent consent as the district was proposing nothing that changed from the student’s previous IEP.

The documents resulting from the subsequent January 28, 2025 IEP team meeting held with a different group of IEP team members would have then described the proposed changes resulting from the review and discussion of the parents’ January 17, 2025 written concerns. In this way, each subsequent IEP team meeting and the resulting decisions could have been more accurately shared with all parties and avoided the confusion which was caused by the constant stream of updated IEPs and PWN, all of which were dated December 19, 2024.

Based on the foregoing, the district is found to be ***OUT of compliance*** with the requirements to review the IEP periodically, but at least annually, and to revise the IEP as appropriate to include information shared by the parent and to address the student’s anticipated needs because the

IEP has not been reviewed and revised, as needed, for more than 16 months. In addition, the district also failed to provide the parent with appropriate PWN for any proposed changes in the IEP because all PWNs are inaccurately dated December 19, 2024 and contain information which was not discussed or was unavailable as of December 19, 2024.

Issue Four

USD #322, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to develop and implement an IEP with appropriate transition services, specifically by failing to conduct appropriate transition assessments, failing to involve external agencies in transition planning with parent consent, and failing to create and appropriate course of study aligned with the student's post-secondary goals during the past 12 months.

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(2) require that , beginning not later than the first IEP to be in effect when the student turns 16 and updated annually, school districts must develop IEPs that include 1) appropriate measurable post-secondary goals based on age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills, and 2) transition services, including a course of study, needed to assist the student in reaching those goals.

However, Kansas statutes at K.S.A. 72-3429(c)(8)) require this transition planning to begin at the age 14. In addition, at age 16, these Kansas statutes require a statement of needed transition services for the student, including, when appropriate, a statement of the interagency responsibilities or any needed linkages.

Federal regulations at 34 C.F.R. 300.322(b)(ii) require that the school district notify the parent of any agency that will be invited to send a representative when the purpose of the IEP team meeting is to consider the post-secondary goals and transition services for the student.

Analysis: Findings of Fact

The findings of Issues One, Two, and Three are incorporated herein by reference. This allegation will be investigated looking at both the last agreed upon IEP as well as the process for reviewing and revising that IEP, as necessary, to develop an appropriate post-secondary transition plan for the student.

The student was 16 years of age when the January 17, 2024 IEP was developed. This IEP documents that two transition assessments were administered to the student and the results considered in the development of the transition plan. Charting Your Life Course and Xello are both programs designed to allow students to assess and explore interests and strengths for potential vocational paths. Xello is used district-wide to develop each student's Individual Plan

of Study (IPS) and the Charting Your Life Course is used by students in the special education program for obtaining data to assist IEP teams in developing post-secondary transition plans.

Summarized results of these two assessments noted the student enjoys drawing and prefers to work in a quiet environment. She wants to have a professional career, live on her own, and care for her own needs. She has a Creator/Artistic and Helper/Social personality style and her preferred Career Clusters fall in the Arts, Communications, Law, Public Safety, and Audio/Visual Technology. The student prefers to make her own decisions and identified that continuing to work on her mental health is important for her to be able to meet her life goals.

This IEP also includes post-secondary goals for the student. The goal in Education/Training is *"After finishing high school, I will pursue education / training in the following areas: college in the area of counseling".* The goal for Employment is *"After completing high school, I will work in the following job/profession: Counselor in the area of Art Therapy".* No goal was identified for Independent living skills because *"The student has adequate skills in this area".* The current IEP identifies the annual measurable goal addressing the social/emotional skills of self-regulation as being related to the student's post-secondary outcomes.

The anticipated course of study states the student will earn her high school diploma by earning credits based on Kansas graduation requirements and that the student is currently on course to graduate in May 2025. Art, music and band are shown as elective classes the student will take based on her post-secondary goals and preferences.

The IEP notes the student was initially referred to Vocational Rehabilitation at age 15 on March 25, 2022 by the Olathe Public Schools when she was initially determined eligible for special education services. The IEP team did not identify any agency collaborations as necessary for grades 9, 10, and 11. The IEP team determined the student did not require any additional transition services in instruction, employment, adult living and post school objectives, related services, community experience, functional vocational assessment or daily living beyond what was being provided through the general education curriculum.

As noted in Issue Three, noncompliance was identified for the district in regards to reviewing and revising the student's IEP at least annually. This delay has impacted the development of an appropriate post-secondary transition plan for the student for at least five months to date. However, interviews and documentation show the district was able to collaborate with the Pre-ETS program to provide some pre-employment transition services during the second semester of the student's 12th grade school year prior to the anticipated graduation date.

Notifications of Meetings provided to the parent and student dated November 26, 2024, January 13, 2025 and January 22, 2025 all contain the following statement, "If necessary, and with your consent, staff from other agencies that may be able to provide appropriate transition services/linkages will be invited to our meeting. The agencies they represent are shown below: Voc-Rehab, Pre-ETS". The documentation shows the parent signed these Notifications of Meetings.

In an email dated January 17, 2025 explaining why she refused to sign the proposed IEP resulting from the December 19, 2024 IEP team meeting, the parent stated, *"During the last meeting the majority of time was focused on the lack of transition services up to this point and the unjust ramifications of it"*.

During the January 28, 2025 IEP team meeting, the IEP team included multiple representatives from the Pre-ETS program as well as the Supervisor of Permanency at KVC Kansas. Notes of this meeting written by the Director of Special Education stated, *"The student described everything she is planning to do, and speaks very well on her own, has a plan, and doesn't seem to need additional support"*.

The student reported that she had decided to change her post-secondary goals and now wanted to "take a gap year" to get a job and find a place to live prior to studying for a career in the culinary field. The notes reflect discussions related to obtaining necessary personal documents including a social security card and birth certificate for obtaining a driver's license, applying for a job, getting a bank account, etc. Information about the plan for services being provided through the foster care program through KVC Kansas prior to the student "aging out of the system" was also shared. It was also noted that another referral for Vocational Rehabilitation was being made.

The district provided the parent with a draft IEP and PWN following this meeting which the parent refused to sign because she believed the transition plan was inadequate. As noted previously, this started the cycle of draft IEPs being created in response to lists of concerns provided by the parent followed by the parent refusing to provide consent for the proposed changes in the transition plan.

Conclusion

In this case, there is sufficient evidence to support a finding that the current IEP dated January 17, 2024 does include an appropriate transition plan as determined by the IEP team, which included the parent. It is noted that the investigator will not second guess the content of the decisions made by the IEP team.

There is also evidence that the district did invite external agencies to the student's IEP meetings held during the 2024-25 school year with parent consent. In addition, the student received transition assessments both in the general education and special education setting through the use of Xello and Charting Your Life Course.

However, as noted in Issue Three, noncompliance was identified for the district reviewing and revising the student's IEP at least annually. This delay has impacted the development of an appropriate post-secondary transition plan for the student and the district is found to be ***OUT of compliance*** with 34 C.F.R. 300.320(a)(2).

Issue Five

USD #322, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow the appropriate procedures to conduct the required three-year reevaluation of the student during the 2024-25 school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.303(b)(2) require public agencies to conduct a reevaluation of the student at least once every three years unless the parent and the public agency agree that a reevaluation is unnecessary.

Federal regulations at 34 C.F.R. 300.305 require the IEP Team and other qualified professionals, as appropriate, to conduct a review of existing data with or without a meeting. Based on that review, the public agency must determine what additional data, if any, is required to 1) whether the student continues to have such a disability, and the educational needs of the child; 2) the present levels of academic achievement and related developmental needs of the child; 3) whether the student continues to need special education and related services; and 4) whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of that determination and the reasons for the determination; and the right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs. The public agency is not required to conduct the assessment unless requested to do so by the child's parents.

Analysis: Findings of Fact

Interviews and documentation show the student was initially found eligible for special education and related services on March 24, 2022.

On December 10, 2024, the Special Education Teacher made the parent aware of the upcoming reevaluation and possible options. The email stated:

Our school psychologist is asking me about dismissing the student from services because she is doing so well. She is turning 18 soon and graduating in May. I wanted to give you a heads-up for when he contacts you. My thoughts: She is doing very well in school. However, because she is aging out of the system and has an IEP, more services may be available for her. I am trying to research this to get you more information.

On December 13, 2024, the Special Education Teacher sent an email to the general education staff gathering current information about the student's school performance in preparation for the December 19, 2024 IEP team meeting. However, the triennial reevaluation of the student was not discussed at this IEP team meeting.

As noted previously, the December 19, 2024 IEP meeting was continued at the January 28, 2025 IEP team meeting. The School Psychologist informed the IEP team of the need to conduct the triennial review and asked if they wanted to wait until closer to the student's 18th birthday or proceed at this time. The IEP team did not have a preference but all agreed that the student continued to be eligible for special education services.

On March 12, 2025, the student notified the district that she had given POA to her parent in an email written to the Special Education Teacher. However, the district reported a copy of the POA was not received in USD #322 until March 14, 2025.

The School Psychologist and Special Education Teacher reported they met with the student on March 13, 2025 to discuss the need for a reevaluation and to gather student input. The student refused to sign any documentation at the meeting and stated that she had given power of attorney (POA) to her parent for making educational decisions.

On March 15, 2025, the School Psychologist summarized the situation in an email to school staff as follows:

On 03/13/2025, I met with the student and Tracy [the Special Education Teacher] via phone to discuss the student's triennial revaluation due on 03/24/2025. I explained that she is now 18 years old and that she now has educational rights to make decisions for herself. I explained that since she wished to remain on her IEP, we could propose a reevaluation waiver since we did not need additional data to determine her eligibility for special education services and that she wished for her IEP to continue. If the student wanted additional data, I informed her we could send her consent for a reevaluation as well to address her concerns. I also informed her that since she is now her own legal educational decision-maker, we could have her sign a release of information to talk to her mother as the student expressed concerns that she wanted us to talk to her mother as well. I explained that to protect her confidentiality, that is why we proposed the release of information. Tracy [the Special Education Teacher] took notes during this meeting, had the student take a picture at the end, and share it with her mother as the student stated that she did not feel comfortable signing any documents without consulting with her mother first. Tracy and I stressed to the student that we did not want her to sign any documents that she did not feel comfortable signing and that we encouraged her to consult with her mother before she signed anything.

On 03/14/2025, Tracy and I again attempted to meet with the student but we were not able to meet. I called the student's foster parent, to talk to the student in the evening as this was the phone number the student provided Tracy and me to contact her on as she does not

have her own phone. The foster parent did not allow me to talk to the student as she said that this was stressing the student and that we should contact the student's mother to discuss the next steps. I then proceeded to call the parent and had an approximately 20-minute phone conversation with her. I explained to the parent that I was calling in reference to the student's reevaluation that I initiated talking to her about during the student's IEP meeting on 01/28/2025 via Google Meet. The mother stated that I did not make any reference to the student's reevaluation at the time of the meeting. . The parent stated that she has a Power of Attorney in place to make all decisions for the student and that was sent to the school. I told her that I apologized as I did not know this was in place as we work under the assumption that students who turn 18 years old are their own legal educational decision-makers unless we have documentation otherwise and I was not aware of this documentation.

The parent expressed her concerns for not addressing the reevaluation until nine days prior to the due date and questioned if the district had deliberately waited until the student had reached the age of majority in order to take advantage of her "inexperience" in making such decisions. According to the parent:

Staff improperly compelled the student to waive the reevaluation on March 13, 2025, even if a POA had not been in place, justification to waive a reevaluation must be based on a review of existing data AND collaboration with the IEP team. Students are also members of the IEP team – not just the school. Staff instructed the student to state that she still needed services when asking for her consent. That is not collaboration.

On March 24, 2025, the School Psychologist responded to the parent in an email explaining that he was unaware of the power of attorney paperwork and stating:

Now that I am aware of the POA and have documentation, I am seeking consent from you to waive the 3-year reevaluation. There is no recommendation to dismiss from special education, and there is no need for formal assessments to determine continued eligibility. The reevaluation waiver will include the information that was used to make the recommendation, and you can add any additional parent information, as it relates to the student's continued eligibility for special education. I have attached a draft copy of the reevaluation waiver for you to review. I have intentionally left the "Parent Input" section per your request to review the form and input your own parent input. Additionally, there was never any purposeful intent to delay the process timeline.

A Re-Evaluation Not Needed Agreement Form dated March 14, 2024 includes the following parent input, *"I agree that the student continues to qualify for special education services under the ED category. I support the recommendation that a re-evaluation is not needed at this time. Please note this form was received until 3/24/25"*. The parent signed consent for this action on March 27, 2025.

Conclusion

In this case, the required reevaluation should have been conducted no later than March 23, 2025. Interview and documentation show that the parent was initially made aware of the required three-year reevaluation on December 10, 2024; however, despite the two IEP Team meetings held on December 19, 2024 and January 28, 2025, a decision for how to proceed with the reevaluation was not made.

The district did not take any action on conducting the triennial review until March 13, 2025 when the Special Education Teacher and School Psychologist met with the student to discuss the reevaluation and attempted to obtain consent from the student to waive the three-year reevaluation. It is noted this meeting was only 10 days prior to the triennial due date.

The parent was not provided the opportunity to provide input in regards to the reevaluation until March 24, 2025. However, the Re-Evaluation Not Needed Agreement Form containing the parent input continued to be dated March 14, 2024 and the parent only provided written consent for this document on March 27, 2025, which is beyond the three-year timeframe.

Based on the foregoing, the district is found to be *OUT of compliance* with the requirements of federal regulations at 34 C.F.R. 300.303(b)(2) which require public agencies to follow appropriate procedures to conduct a reevaluation of the student at least once every three years unless the parent and the public agency agree that a reevaluation is unnecessary.

Issue Six

USD #322, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parent with the opportunity to participate in the development of the student's IEP and to provide appropriate prior written notice regarding parent requests made during IEP team meetings during the past 12 months.

Applicable Law

Federal regulations at 34 C.F.R. 300.322(a) require each public agency to take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed on time and place.

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.

Federal regulations at 34 C.F.R. 300.503(b)(1-2) require the prior written notice to include a description of the action and an explanation of why the action is being proposed or refused.

Analysis: Findings of Fact

The findings of Issues One, Two, Three, Four, and Five are incorporated herein by reference.

The parent expressed concerns with being provided with appropriate Notifications of Meetings throughout the past 12 months with inaccurate information and the timeliness of the notifications. However, interviews and documentation show that the parent attended every IEP team meeting held during the past 12 months either in person or virtually and thus had the opportunity to participate in the development of the student's IEP.

As noted previously, between December 2024 and March 2025, the district provided the parent with multiple versions of IEPs and accompanying PWNs, all of which were dated December 19, 2024, regardless of when they were actually created. These documents often contained information that was discussed or obtained subsequent to the December 19, 2024 IEP team meeting which was confusing and made these documents an inaccurate record of IEP team decisions. The investigator chose to look at three specific PWNs as representative samples for this issue.

As noted in Issue Three, the IEP team met on December 19, 2024 and the district proposed changing the student's special education services from direct to indirect but the parent disagreed and refused to provide consent for this change. On December 20, 2024, the Special Education Teacher sent the parent an email stating, *"I just made the changes to the IEP back to direct services. I am emailing this back to you"*.

The parent was then provided with another PWN proposing *"to move from direct to indirect services for the student"* and this PWN included an explanation of the action stating, *"This action is proposed but rejected because parents want to continue with the current IEP and meet again at the beginning of the 2nd semester after Pre-ETS and Voc-Rehab services are in place"*. The Special Education Teacher's email encouraged the parent to review and agree to the updated IEP and indicated, *"There are several places for signatures . . . page 15, the legal part stating what services and placement the student will receive"* which was referring to the signature page of the PWN.

On January 17, 2025, the parent provided the district with a list of specific concerns for the December 19, 2024 IEP along with a list of *"Immediate Actions Requested"* which included requests for transition assessments, independent living services, and compensatory services for lack of transition services over the past year.

The parent concerns were incorporated verbatim into the proposed IEP developed at the January 28, 2025 IEP team meeting. This IEP also included a listing of *"How these concerns will be addressed"* which described the district's actions in regards to each concern. However, despite all of this additional information and proposed changes, the parent was provided with the same PWN that was provided on December 20, 2024, which did not address the decisions regarding the parent's specific requests included in the *"Immediate Action Requested"* list or the *"How these concerns will be addressed"* list.

It is noted the parent and student requested an IEP team meeting in March and the district scheduled this meeting for April 10, 2025. However, the parent informed the district on April 8, 2025 that she would not participate in that scheduled IEP team meeting because the state complaint had been filed on April 3, 2025 and she requested that the meeting be cancelled. On April 9, 2025, the Director of Special Education emailed the parent stating,

The school team has been working on the IEP to consider the concerns you noted in your March 14, 2025 document. We are fully prepared to propose a draft IEP that addresses these concerns. Waiting for the investigation to be completed will push this out to May. We are concerned that further postponement of this meeting will result in the student not receiving the transition services we are proposing, as we need your consent for implementation. Will you reconsider attending the scheduled IEP meeting tomorrow to review our proposed IEP?

The parent did not attend the April 10, 2025 meeting but the district did provide the parent with a copy of the draft IEP and a summary PWN, still dated December 19, 2024, which included information dated December 2024, January 2025, and April 2025.

Conclusion

The purpose of the PWN is to clearly explain to the parent what action is being proposed or rejected and the rationale for why the district made that determination. In this case, the district provided the parents with multiple PWNs between December 2024 and April 2025; however, all of these PWN are dated December 19, 2024. The various versions of these PWNs did contain information that was discussed and proposed or rejected in an effort to respond to the parent's listing of concerns dated January 17 and March 14, 2025. However, by having every PWN continue to be dated December 19, 2024, the more recent versions of the PWNs contained information that was unavailable and incongruous with the date of the document. This has created a very confusing situation and has led to ongoing misunderstandings between the parent and the district.

Summary of Conclusions/Corrective Action

ISSUE ONE: No violations of federal and state regulations were found for the implementation of the student's IEP, specifically the accommodation for use of a stress pass. Therefore, no corrective action is required.

ISSUE TWO: No violations of federal and state regulations were found for the implementation of the student's IEP, specifically the special education services required to address the personal safety goal. Therefore, no corrective action is required.

ISSUE THREE: A violation of federal regulations is found in the following areas:

- 1) Federal regulations at 34 C.F.R. 300.320(b)(1)(i) which require school districts to review each student's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and revise the IEP, as

appropriate, to address: 1) any lack of expected progress toward the annual goals and in the general education curriculum; 2) the results of any reevaluation conducted; 3) information about the child provided to, or by, the parents; 4) the child's anticipated needs; or 5) other matters. In this case, the annual review of the student's IEP should have occurred on or before January 16, 2025; however, at this time, it has been almost 16 months since the annual IEP was reviewed and revised, as necessary. Please note that the violations related to 34 C.F.R. 300.503(a) will be addressed under the Correction Actions ordered under Issue Six, which also relates to PWN.

a) Corrective Action Required

- i) Within 10 days of this report, both USD #322 and HSEC shall provide an assurance statement that it will comply with federal regulations at 34 C.F.R. 300.320(b)(1)(i) to Special Education and Title Services (SETS) at KSDE
- ii) Prior to the beginning of the 2025-26 school year, HSEC shall contact TASN and arrange for training for all special education staff working with USD #322 regarding the procedures for the development of an IEP and then providing the parent with a copy of the IEP in a timely manner following the IEP team meeting. HSEC shall provide SETS with the date of the training, the names/positions of the staff who were trained, and a copy of the presentation handouts or slides within 10 days of the date of the training.
- iii) No individual corrective action is required at this point as the student has met the graduation requirements and no longer requires an IEP to access the general education curriculum. Compensatory services resulting in the delay in developing the annual IEP will be addressed through the corrective action required for Issue Four.

ISSUE FOUR: A violation of federal regulations is found in the following area:

- 2) Federal regulations at 34 C.F.R. 300.320(a)(2) which require that , beginning not later than the first IEP to be in effect when the student turns 16 and updated annually, school districts must develop IEPs that include 1) appropriate measurable post-secondary goals based on age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills, and 2) transition services, including a course of study, needed to assist the student in reaching those goals and Kansas statutes at K.S.A. 72-3429(c)(8) which require a statement of needed transition services for the student, including, when appropriate, a statement of the interagency responsibilities or any needed linkages.

a) Corrective Action Required

- i) Within 10 days of this report, both USD #322 and HSEC shall provide an assurance statement that it will comply with federal regulations at 34 C.F.R. 300.320(a)(2) and K.S.A. 72-3429(c)(8) to Special Education and Title Services (SETS) at KSDE .

- ii) Prior to August 1, 2025, HSEC shall collaborate with representatives of Pre-ETS and Vocational Rehabilitation to review policies, procedures, and practices for the development of post-secondary plans for students with IEPs. A summary of findings and any recommended changes in procedures shall be sent to SETS along with a plan for sharing any necessary changes with staff prior to the first day of the 2025-26 school year.
- iii) Prior to the beginning of the 2025-26 school year, HSEC shall contact TASN and arrange for training for all special education staff working with USD #322 regarding the procedures for the development of a post-secondary transition plan. HSEC shall provide SETS with the date of the training, the names/positions of the staff who were trained, and a copy of the presentation handouts or slides within 10 days of the date of the training.
- iv) No later than July 31, 2025, the district will convene an interagency team consisting of representatives of Pre-ETS, Vocational Rehabilitation, the Center for Independent Living, and TASN along with the parent, the student, the foster parent, and the Supervisor of Permanency at KVC Kansas to develop a plan to transition the student to agencies and resources who will be providing adult services to the student in the areas of education/training, employment, and independent living. The district will provide the parent, the student, and SETS with a summary of this meeting including a detailed listing of the transition linkages and contact information.

ISSUE FIVE: A violation of federal regulations is found in the following area:

- 3) Federal regulations at 34 C.F.R. 300.303(b)(2) which require public agencies to follow appropriate procedures to conduct a reevaluation of the student at least once every three years unless the parent and the public agency agree that a reevaluation is unnecessary. In this case, the triennial review should have occurred on or before March 23, 2025. In addition, the review of existing data was conducted over a three month period of time which caused confusion for the parent and student and would not have allowed time to conduct a reevaluation with assessment, if one had been needed for this student.
 - a) Corrective Action Required
 - i) Within 10 days of this report, both USD #322 and HSEC shall provide an assurance statement that it will comply with federal regulations at 34 C.F.R. 300.303(b)(2) to SETS at KSDE
 - ii) Prior to the beginning of the 2025-26 school year, HSEC shall contact TASN and arrange for training for all special education staff working with USD #322 regarding the procedures for conducting a reevaluation, specifically the review of existing data and the timeline to meet the triennial due date. HSEC shall provide SETS with the date of the training, the names/positions of the staff who were trained, and a copy of the presentation handouts or slides within 10 days of the date of the training.

- iii) No individual corrective action is required at this point as the parent was in agreement that a reevaluation was not necessary at this time to determine continued eligibility, the need for continued special education services, and the educational needs of the student.

ISSUE SIX: A violation of federal regulations is found in the following area:

- 4) Federal regulations at 34 C.F.R. 300.503(b)(1-2) which require the prior written notice to include a description of the action and an explanation of why the action is being proposed or refused. In this case, the district provided the parent with multiple PWN over a period of approximately four months but dated each PWN as December 19, 2024. This created confusion and misunderstandings as the various versions of these PWN contained information which was not discussed or was unavailable as of December 19, 2024.
 - a) Corrective Action Required
 - i) Within 10 days of this report, both USD #322 and HSEC shall provide an assurance statement that it will comply with federal regulations at 34 C.F.R. 300.503(b)(1-2) to SETS at KSDE.
 - ii) Prior to the beginning of the 2025-26 school year, HSEC shall contact TASN and arrange for training for all special education staff working with USD #322 regarding the provision of appropriate PWN, specifically the content requirements and when parental consent is required. HSEC shall provide SETS with the date of the training, the names/positions of the staff who were trained, and a copy of the presentation handouts or slides within 10 days of the date of the training.
 - iii) Within 10 days of this report, the district will provide SETS with a copy of the PWN provided to the parent and the student proposing a material change of services and a substantial change of placement due to the student meeting the requirements to earn her high school diploma. The PWN will include the correct content, be provided in a timely manner, and document that written consent from the parent was obtained prior to graduation from high school on May 17, 2025.

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)