

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES  
REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #402, AUGUSTA PUBLIC SCHOOLS  
ON APRIL 22, 2025  
DATE OF REPORT: MAY 22, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #402 (Augusta Public Schools) on behalf of ----- by his mother ----- . In the remainder of the report, ----- will be referred to as “the student” and Amanda as “the parent” or “the complainant”.

The complaint is against USD #402 (Augusta Public Schools). In the remainder of the report, USD #402 will be referred to as “the district”. The student currently attends Garfield Elementary which will be referred to as “the school” in the remainder of the report. The Beloit Special Education Cooperative provides special education support for the district; however, Beloit Public Schools remains the agency responsible for the student’s educational services. In the remainder of the report, the Beloit Special Education Cooperative will be referred to as “the coop.” School and district staff will be referred to In the remainder of this report as follows:

- April Hilyard, cooperative director
- Denise Walton, cooperative assistant director
- Joe Tallman, school psychologist
- Merek Holtzinger, classroom teacher
- Tiffany Arnold, special education teacher
- Trever Lockamy, school principal
- Janet Doud, assistant superintendent
- Paul Glasier, outside neuropsychologist

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on April 22, 2025.

### **Evidence Reviewed**

USD #402 made the following staff available for interviews on May 7, 2025 as part of this investigation.

- Director
- Assistant director
- School psychologist

During the investigation, the Complaint Investigator, Nikki Crawford, reviewed all evidence and documentation provided by the district and the parent. Additionally, the complaint investigator contacted the parent, school psychologist, assistant director and director on April 23, 24, 25, 28, 30, May 1, 5, 7 and 8, 2025 by phone and email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and district. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Notice of IEP meeting, dated August 28, 2024
2. Student's IEP, dated September 17, 2024
3. Speech Language Reevaluation report, dated September 17, 2024
4. Prior Written Notice (PWN) confirming the need for services, dated September 17, 2024
5. Email from classroom teacher to parent noting academic concerns, dated September 20, 2024
6. Progress report for IEP articulation goal, dated October 15, 2024
7. Progress report for IEP articulation goal, dated December 20, 2024
8. Neuropsychological Evaluation report, dated March 11, 2025
9. Progress report for IEP articulation goal, dated March 16, 2025
10. Email from parent to the school psychologist, principal and classroom teacher requesting a reevaluation, dated March 12, 2025
11. Reply from the school psychologist to the parent acknowledging the reevaluation request, dated March 15, 2025
12. Email from parent to the school psychologist, principal and classroom teacher attaching the neuropsychologist's report, dated March 15, 2025
13. The district's spring break was from March 17-21, 2025
14. Email from parent to the school psychologist, principal and classroom teacher asking about the status of her reevaluation request, dated April 7, 2025
15. Email from the school psychologist to the parent with the PWN refusing a reevaluation, dated April 8, 2025 at 11:07 a.m.
16. Email reply from the parent to the school psychologist, principal and classroom teacher stating the PWN sent on April 8, 2025 contains incorrect information, sent on April 8, 2025 at 12:12 p.m.
17. Email from parent to the school psychologist, principal and classroom teacher stating the April 8, 2025 PWN contains additional incorrect information, sent on April 8, 2025 at 12:27 p.m.
18. Email from parent to the school psychologist, principal and classroom teacher disagreeing with the PWN, sent on April 8, 2025, sent on April 8, 2025 at 4:51 p.m.

19. Email from the school psychologist to the parent to schedule a meeting to discuss the parent's concerns, sent April 8, 2025 at 6:52 p.m.
20. Several scheduling emails between the parent, school psychologist, principal and cooperative assistant director, sent April 9 and 10, 2025
21. Email from parent to school psychologist, principal, assistant director and assistant superintendent, suggesting mediation, sent April 10, 2025 at 12:18 p.m.
22. Reply from the assistant director suggesting a team meeting prior to mediation, sent April 10, 2025 at 12:36 p.m.
23. Reply from the parent again suggesting mediation and a meeting to review and amend [student's] IEP to incorporate additional support and services for the new diagnoses of dysgraphia and dyslexia, sent on April 10, 2025 at 3:11 p.m.
24. Reply from the assistant director confirming that the team did look at the evaluation, gathered the parent's input and looked at classroom data. The email also included a present level statement and confirmed that they will hold an IEP meeting. The email also asked the parent to clarify if they wanted to discuss the refusal to test or hold an IEP meeting. Sent April 10, 2025 3:22 p.m.
25. Reply from the parent stating she can not find any data from the neuropsychological evaluation included in the PWN and raised the question about the student being potentially gifted, sent April 10, 2025 at 3:38 p.m.
26. Reply from the assistant superintendent offering to be engaged in addressing the parent's concerns, sent on April 10, 2025 at 4:17 p.m.
27. Reply from the assistant director clarifying the information included in the April 8, 2025 PWN and offering to meet, sent on April 10, 2025 at 4:44 p.m.
28. Reply from the parent requesting specific data from the evaluation be included in the April 8, 2025 PWN and stating that it is not clear as to why the reevaluation is being refused, sent on April 10, 2025 at 8:15 p.m.
29. Email from assistant director to the assistant superintendent, school psychologist and principal, sent on April 10, 2025 at 10:14 p.m.
30. Email from parent to assistant director, assistant superintendent, principal and school psychologist requesting an independent education evaluation (IEE), sent April 11, 2025 at 2:03 p.m.
31. Email from parent to assistant director, assistant superintendent, principal and school psychologist clarifying her requests and again noting the incorrect information in the April 8, 2025 PWN, her related questions and confirming her availability to meet, sent April 11, 2025 at 7:36 p.m.
32. Email reply from the assistant director confirming the availability of the team to meet with the parent on April 17, 2025, sent April 11, 2025 at 8:13 p.m.
33. Reply from parent confirming that she will attend the April 17, 2025 meeting, sent April 11, 2025 at 8:22 p.m.

34. Email from the parent to the assistant director, assistant superintendent, principal and school psychologist that she is not able to meet on April 17, sent April 14, 2025 at 10:46 a.m.
35. Reply from the assistant director asking for available dates and times to reschedule the meeting, sent April 14, 2025 at 11:00 a.m.
36. PWN refusing to conduct an IEE, dated April 14, 2025
37. Email from the parent to the assistant director, assistant superintendent, principal and school psychologist with attached documentation noting academic concerns raised by the student's teacher on September 20, 2024, sent April 17, 2025 at 9:53 a.m.
38. Reply from the assistant director again requesting available dates and times to meet, sent April 17, 2025 at 10:17 a.m.
39. Reply from the parent sharing that her schedule is difficult due to the student's upcoming surgery and asking what would be accomplished from meeting in person, sent April 17, 2025 at 11:58 a.m.
40. Reply from the assistant director encouraging an in person meeting and if not possible then her willingness to go to mediation, sent April 17, 2025 at 12:14 p.m.
41. Reply from the parent stating that an in person meeting or mediation may not be the next best step. Asking again for the criteria for an IEE and how to get her concerns about the inaccuracies in the April 8, 2025 PWN resolved, sent April 18, 2025 at 6:50 a.m.
42. Reply from the assistant director stating that the IEE question was answered in the PWN issued on April 14, 2025 and asking the parent to clarify what they want amended in the April 8, 2025 PWN, sent April 21, 2025 at 12:03 p.m.
43. Reply from parent stating that she has filed a formal complaint with KSDE, sent April 21 at 4:58 p.m.
44. Phone call between the parent and investigator on April 23, 2025
45. Phone call between the director and investigator on April 24, 2025
46. Email from the school psychologist to the parent confirming that the parent requested to have the April 8, 2025 PWN amended, dated Apr 24, 2025 at 3:34 p.m.
47. PWN issued by the district refusing to change the April 8, 2025 PWN details as requested by the parent, dated April 24, 2025
48. Reply from the parent pointing out that the details in the PWN are still not correct, sent April 24, 2025 at 4:11 p.m.
49. Email response from the assistant director disagreeing with statements in the parent's email. Sent April 24, 2025 at 4:43 p.m.
50. Email from parent to the assistant superintendent, director, assistant director, school psychologist, and principal to clarify the information the parent would like amended on the April 8, 2025 PWN, sent April 25, 2025 at 9:31 a.m.
51. Email from the director to the parent confirming that the parent's requested amendments to the April 8, 2025 PWN are saved in the student's record, sent April 25, 2025 at 12:22 p.m.

52. Email reply to the investigator from the school psychologist on April 30, 2025, describing the phone call between him and the parent on April 4, 2025.
53. Investigator interview with the psychologist, assistant director and director on May 7, 2025.
54. Email exchange with the student's teacher clarifying the teacher's participation in the discussions prior to the PWN refusal for reevaluation, May 8, 2025.
55. Table of the student's FastBridge scores for fall, winter and spring for the 2024-2025 school year

## **Background Information**

The subject of this complaint is a 9 year old student enrolled in the 3rd grade during the 2024-2025 school year. The student lives at home with their parents and one sibling. The student was supported at home from the ages of 3 to 5 by a local early intervention program and found eligible for services in kindergarten with a Speech/Language impairment as the primary exceptionality.

The current IEP is dated September 17, 2024 and states that the student has an articulation goal. The student receives speech/language services in the special education room for 15 minutes, one day per week. There are no modifications, accommodations or supplementary supports noted in the IEP. The student's most recent speech/language assessment report is dated September 17, 2024 and shares that the student scored below the average range in articulation, stating, "[the student's] 'speech is intelligible with careful listening. The errors are atypical for students and peers his age'. The report also shares, '[The student] shows strong skills in [their] expressive and receptive language by using appropriate grammar skills and understanding concepts. [The student] follows classroom directions and participates in classroom activities. There are no concerns regarding [the student's] ability to use language appropriately at this time'".

A Neuropsychological evaluation was conducted on March 11, 2025 and summarizes the following, "[The student's] developmental history and clinical profile of deficits in fundamental reading/written expression skills such as sight word reading, timed/untimed phonetic decoding, and spelling skills also supports his diagnosis of dyslexia, which is also known as specific learning disorder with impairments in reading and written expression. [The student's] clinical profile of deficits in aspects of fine motor speed/dexterity, graphomotor coordination, visual-motor integration, and parent-rated motor skills also supports [the student's] diagnosis of dysgraphia, which is also known as specific learning disorder with impairment in written expression".

## **Issues Investigated**

Based on the written complaint and an interview with the complainant, two concerns which fall under IDEA regulations were identified and investigated.

## **Issue One**

Did USD #402 consider and respond to the parent's request for a reevaluation on March 12, 2025?

### **Applicable Law**

Federal regulations at 34 C.F.R. 300.503(a)(2) states that prior written notice needs to be provided to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

K.A.R. 91-40-8 (c)(1)(A-C). Evaluations. (c) As a part of an initial evaluation, if appropriate, and as a part of any reevaluation, each agency shall ensure that members of an appropriate IEP team for the child and other qualified professionals, as appropriate, comply with the following requirements: (1) The evaluation team shall review existing evaluation data on the child, including the following information: (A) Evaluations and information provided by the parent of the child; (B) current classroom-based, local, and state assessments and classroom-based observations; and (C) observations by teachers and related services providers. (2) On the basis of that review and input from the child's parent, the evaluation team shall identify what additional data, if any, is needed to determine the following matters: (D) whether, in the case of a reevaluation of the child, any additions or modifications to the special education and related services currently being provided to the child are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. (d) The team described in subsection (c) may conduct its review without a meeting.

### **Parent Position**

The parent states that, "On March 12, 2025, I formally requested a reevaluation of my child, [the student] due to concerns about reading and writing difficulties. The school denied this request on April 8, 2025, citing adequate classroom performance with accommodations and FastBridge scores (single data points), without considering the private neuropsychological evaluation diagnosing dyslexia and dysgraphia, and data that shows deficits and weaknesses that hinder his learning and success".

### **District Position**

The district response dated April 24, 2025 states that, "In September 2024, the team conducted a triennial evaluation, completed with new standardized testing and not just a records review. [The student] was determined to still be eligible and in need of speech only services for an articulation error. [The student] currently receives speech services for an articulation delay (15 minutes, once a week). Per the evaluation report and subsequent progress reports, [the student] continues to show progress on their goals. [The student] has

mastered many sounds through direct instruction and practice of placement in speech activities. Per the reevaluation report dated 9/17/24, [the student] shows strong skills in their expressive and receptive language with no concerns regarding [the student's] ability to use language appropriately".

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

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties.

1. According to the district response on April 24, 2025, "Per the current IEP (9/17/24) that was agreed upon by the entire team, including the parent, there are no concerns with [the student's] general intelligence, health, social emotional, motor skills, math skills, reading skills, written language skills or adaptive skills. Additionally, both grades and assessments (both formal and informal) reflect grade level skills and appropriate academic and social progress. Data points include overall grades, Fastbridge scores, Accelerated Reading scores and teacher input."
2. An email from the classroom teacher to the parent on September 20, 2024 notes five academic concerns;
  - a. Lack of one to one correspondence while counting using models.
  - b. Lack of one to one correspondence counting on fingers or without.
  - c. Unable to skip count.
  - d. Inability to write sentences/phrases the same way they are spoken.
  - e. Repeating phrases back to me audibly is also a struggle, as [the student] will mix the order of words into something nonsensical.
3. A neuropsychological evaluation conducted on March 11, 2025 suggested a number of academic recommendations which include:
  - a. "[The student's] diagnosis of dyslexia/specific learning disorder with impairments in reading and written expression will significantly hinder [their] reading fluency/comprehension for connected texts, spelling, and written expression. In fact, [the student] performed at the level of most students in first or second grade on current measures of sight word reading, phonetic decoding, and spelling skills. Therefore, [the student's] parents should share a copy of this report along with a written request for an Individualized Education Program (IEP) evaluation with a designated educator.
  - b. Since the IDEA as well as Kansas statute (K.S.A. 2022 Supp. 72-3404) and regulations recognize dyslexia as a disability as stated within the definition of Specific Learning Disability (SLD), [the student] should qualify for future IEP services through the SLD exceptionality.
  - c. To guide special education services for [the student], his future IEP evaluation should include a comprehensive assessment of [the student's] reading

- fluency/comprehension for connected texts, written expression, and applied math reasoning, which was beyond the scope of the current evaluation.
- d. [The student's] future IEP services should include dyslexia interventions from a reading intervention specialist at school.
  - e. Due to [the student's] diagnosis of dysgraphia, which is also known as a specific learning disorder with impairment in written expression, [the student's] future IEP evaluation should include an occupational therapy assessment to determine [the student's] eligibility for therapeutic interventions at school.
  - f. Due to previously documented deficits in speech articulation, [the student] should continue to receive school-based speech therapy through the Speech Impairment exceptionality".
4. Additionally, the evaluation report offered suggestions related to:
    - a. Working memory and verbal fluency.
    - b. Accommodations and modifications to support the evaluation's diagnosis of dyslexia and dysgraphia as well as suspicions of attention-deficit/hyperactivity disorder (ADHD).
    - c. There were additional suggestions related to the student's "clinically significant concerns with [the student's] global independent living skills as well as moderate concerns with [the student's] withdrawal.
  5. The parent emailed the school psychologist, principal and classroom teacher requesting a reevaluation on March 12, 2025
  6. The school psychologist replied to the parent acknowledging the reevaluation request on March 15, 2025
  7. The parent emailed the neuropsychologist's report to the school psychologist, principal and classroom teacher on March 15, 2025
  8. The parent and school psychologist had a phone call on April 4, 2025 to discuss the parent's reevaluation request where according to the school psychologist in an email to the investigator, "I initiated the phone call in order to share with [the parent] the information I had collected from the school staff regarding [the student's] academic performance and progress, and to see what special education services [the parent] saw as necessary for [the student]. We talked a bit about what special education services are, and what information the school considers when determining if an evaluation is appropriate. We talked about differing views (between the school and [the parent]) of how [the student] is performing in school and in how much support/interventions [the student] needs to progress academically".
  9. The parent emailed the school psychologist, principal and classroom teacher asking about the status of the reevaluation request, dated April 7, 2025
  10. The school psychologist replied to the parent with the PWN refusing a reevaluation dated April 8, 2025 at 11:07 a.m. stating, "As we discussed in our phone conversation Friday, I visited with [the classroom teacher] and [principal], as well as [the special



education teacher], about [the student's] academic performance and progress. I have attached the school's response to your request for a re-evaluation to this email."

11. The April 8, 2025 PWN refusing the reevaluation included the following justifications:
  - a. The [student's] current math grade is 94% (first quarter was 83%, second quarter was 88%);
  - b. Current language grade is 91% (first quarter was 94%, second quarter was 88%).
  - c. Fall and winter Fastbridge scores (national percentile ranking) for this school year are all within the Average or Above Average range: CBMR-English (fall = 50th, winter = 49th), aReading (fall = 62nd, winter = 84th), AUTO L3 GOM (fall = 67th, winter = 30th), aMath (fall = 59th, winter = 76th).
  - d. "In the Accelerated Reading Program, [the student] has read 97 books this school year with an average book reading level of 3.6 with 87% accuracy (class average accuracy is 85%)."
  - e. "[The student] has never been referred to the general education Intervention team; [the student] demonstrates grade level achievement skills and adequate progress. According to [the student's] teacher, [the student] receives general education classroom intervention as needed, and [they have] responded to these interventions positively by demonstrating adequate progress."
  - f. "The school determined [the student's] classroom performance is similar to [their] peers, [they are] making appropriate progress, and [they do] not demonstrate a need for any service that regular education is unable to provide."
12. The parent replied with an email to the school psychologist, principal and classroom teacher disagreeing with the April 8, 2025 PWN, the email was sent on April 8, 2025 at 4:51 p.m.
13. The school psychologist emailed the parent to schedule a meeting to discuss the parent's concerns, sent April 8, 2025 at 6:52 p.m.
14. Scheduling emails between the parent, school psychologist, principal and cooperative assistant director, sent April 9 and 10, 2025
15. The parent sent an email to the school psychologist, principal, assistant director and assistant superintendent, suggesting mediation, sent April 10, 2025 at 12:18 p.m.
16. The assistant director replied suggesting that the team meet prior to initiating mediation, sent April 10, 2025 at 12:36 p.m.
17. Reply from the parent again suggesting mediation and stated, "I would like to meet to review and amend [student's] IEP to incorporate additional support and services for his dysgraphia and dyslexia, as recommended by the [outside neuropsychology] evaluation", sent on April 10, 2025 at 3:11 p.m.
18. Reply from the assistant director confirming that the team did look at the outside evaluation, gathered the parent's input and looked at classroom data. The email also included a present level statement and confirmed that the district is willing to hold an

IEP meeting. The email also asked the parent to clarify if they wanted to discuss the refusal to test, or hold an IEP meeting, sent April 10, 2025 3:22 p.m.

19. Reply from the parent stating she can not find any data from the evaluation included in the PWN and raised a question about the student being gifted, sent April 10, 2025 at 3:38 p.m.
20. Reply from the assistant superintendent offering to be engaged in addressing the parent's concerns, sent on April 10, 2025 at 4:17 p.m.
21. Reply from the assistant director clarifying the information included in the April 8, 2025 PWN and offering to meet, sent on April 10, 2025 at 4:44 p.m.
22. Reply from the parent requesting specific data from the evaluation be included in the April 8, 2025 PWN and stating that it is not clear as to why the reevaluation is being refused, sent on April 10, 2025 at 8:15 p.m.
23. Email from assistant director to the assistant superintendent, school psychologist and principal stating that the district has now offered a meeting 3 times and does not want to continue to discuss a student over email, sent on April 10, 2025 at 10:14 p.m.
24. The parent sent an email to the assistant director, assistant superintendent, principal and school psychologist requesting an independent education evaluation (IEE), sent April 11, 2025 at 2:03 p.m.
25. Email reply from the assistant director confirming the availability of the team to meet with the parent on April 17, 2025, sent April 11, 2025 at 8:13 p.m.
26. Reply from parent confirming that she will attend the April 17, 2025 meeting, sent April 11, 2025 at 8:22 p.m.
27. The parent sent an email to the assistant director, assistant superintendent, principal and school psychologist that she is not able to meet on April 17, sent April 14, 2025 at 10:46 a.m.
28. Reply from the assistant director asking for available dates and times to reschedule the team meeting, sent April 14, 2025 at 11:00 a.m.
29. PWN refusing to conduct an IEE, dated April 14, 2025
30. The parent sent an email to the assistant director, assistant superintendent, principal and school psychologist with an email attached noting academic concerns from the student's teacher which had been sent to the parent on September 20, 2024, sent April 17, 2025 at 9:53 a.m.
31. Reply from the assistant director again requesting for available dates and times to reschedule the team meeting, sent April 17, 2025 at 10:17 a.m.
32. Reply from the parent, sharing that her schedule is difficult due to the student's upcoming surgery and questioning what would be accomplished from meeting in person, sent April 17, 2025 at 11:58 a.m.
33. Reply from the assistant director stating, "I think in person meetings are much more efficient when discussing data and performance for a student, and it's definitely our recommendation as a first step before attempting mediation. That said, I will reiterate that

if you prefer to refuse a team meeting and go to mediation, I would be willing to complete that form to move forward with that process”, sent April 17, 2025 at 12:14 p.m.”.

34. Reply from parent stating that she has filed a formal complaint with KSDE, sent April 21 at 4:58 p.m.
35. In the district interview with the investigator on May 7, 2025 when asked about why data from the neuropsychological evaluation was not included in the April 8, 2025 PWN refusing a reevaluation, the school psychologist replied, “Our job was to clarify the school’s perspective and include the school data, everyone else had the new evaluation report. I used the PWN to clarify our data and our response.”
36. In an email exchange with the classroom teacher on May 8, 2025 when asked if he was consulted in the consideration of a reevaluation in light of the neuropsychological’s evaluation report he replied that he was part of team meetings regarding the parent’s request for a reevaluation. He had received the outside evaluation report and as a school team they discussed the results in full. He shared, “I was asked for my read on [the student] and gave my answers. [The student] is thriving in a regular ed setting, with minor interventions we would give for any kid showing specific struggles. I’m very data driven when we talk about whether a student is growing, focused on growth rather than benchmarks (but there’s a place for both). I’ve never been one to rest on my laurels and say ‘[their] doing great, no matter what the data says.’ I’ll share the spreadsheet I put together for [the parent] showing fall-spring growth in all four of our Fastbridge tests. I’m finishing my 20th year, and I’d like to say I can spy kids who need real services, and kids who can thrive with a little extra attention. [The student] is a kid who just needed a little bit of attention.”
37. Additionally, in the May 8, 2025 email exchange with the classroom teacher when asked about the academic concerns shared with the parent on September 20, 2024 he replied, “I feel [student] has moved past those specific concerns. [Student] was showing some error patterns I picked up on, and were a bit concerning. I didn’t do anything for [the student] I wouldn’t do for any kid when I see a pattern; pointed intervention, extra guidance, share info with parents, and specific practice. [The student] responded quickly to any and all intervention”. The teacher also shared a table of the student’s Fastbridge scores for fall, winter and spring for the 2024-2025 school year, all of which showed steady increases across the school year.

## **Conclusion**

The outside neuropsychological evaluation diagnosed dyslexia and dysgraphia for the student. The evaluation report also stated, “[the student’s] parents should share a copy of this report along with a written request for an Individualized Education Program (IEP) evaluation with a designated educator”. The parent shared the outside evaluation report with the district and requested a reevaluation based on the recommendations in the report. According to IDEA a parent may request a reevaluation of their child’s eligibility at any time.

When a parent initiates an outside evaluation and shares the results with the district that the results must be considered by the district; it does not require that this consideration take place during an IEP meeting. 34 C.F.R. 300.502 (c)(1), states, “c. Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation—(1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child;.”

In this case, the district produced evidence that the results of the parent initiated outside evaluation were considered by the district team. This consideration included the outside evaluation results, the student’s current performance in the classroom and the student’s district assessment performance. After considering all of the relevant information, a PWN was issued within the timeframe established by IDEA and included the required information.

It is also noted that the district attempted to meet with the parent to discuss the refusal of the reevaluation and consideration of the new diagnoses as reflected in numerous email exchanges.

During the investigation, it was also noted that the parent requested a IEE on April 11, 2025 to which the district replied with a PWN refusing the IEE on April 14, 2025. The district stated in an April 11, 2025 email to the parent, “The independent education evaluation, or IEE, is only triggered by disagreeing with the evaluation itself, not the [district’s] decision to refuse an evaluation”.

The district’s response of a PWN refusing the IEE was not in accordance with IDEA 34 C.F.R. 300.502(b)(2)(i-ii), “(b)(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—(i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or (ii) Ensure that an independent educational evaluation is provided at public expense,”. Additionally, 34 C.F.R. 300.502(b)(4) states that the district may not require the parent to provide an explanation for the request. Therefore the reason for the requested IEE is not relevant to the manner in which the district is required to respond. The district should have responded to the parent’s request for an IEE with the filing of a due process complaint to request a hearing to show that its evaluation is appropriate, or conducted the IEE.

Based on the foregoing, The *district is IN compliance* for Issue One, however the *district is out of compliance* for their response to the IEE and corrective actions are required to address the district’s response to the parent’s request for an IEE.

## **Issue Two**

Did USD #402 amend the student's record to correct the information in a PWN issued on April 8, 2025 upon parent request or notify the parent of the refusal?

### **Applicable Law**

Federal regulations at 34 C.F.R. 300.618. Amendment of records at parent's request. (a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information. (b) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. (c) If the agency decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under Sec. 300.619.

Federal regulations at 34 C.F.R. 300.619 Opportunity for a hearing. The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

### **Parent Position**

The parent complaint states, "The Prior Written Notice dated April 8, 2025, inaccurately stated that I requested para support and services for potential future needs, which I did not. The Prior Written Notice also mentions that data was used from the neuropsychologist evaluation, but there is no data shown to support that. My input and concerns were not heard or taken into account".

### **District Position**

The district response dated April 24, 2025 states, "On April 8, 2025, the parent stated in an email: 'Your PWN is not accurate. I never said nor do I believe [the student] needs para support; I do believe [the student] needs support now and in the future. You misunderstood our phone conversation.' The team did not see this as a request to amend the record." Additionally, in reference to the parent's assertion that there was no specific data from the outside evaluation included in the PWN, the school psychologist shared in an interview with the investigator on May 7, 2025, "I used the PWN to clarify our data and our response."

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

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of Issue One are incorporated herein by reference.

1. April 8, 2025 at 12:12 p.m. the parent emailed the school psychologist, principal and classroom teacher stating the PWN refusing the reevaluation sent on April 8, 2025 was

not an accurate reflection of the April 4, 2025 phone conversation between the parent and school psychologist. The parent states, "Your PWN is not accurate. I never said nor do I believe [the student] needs para support; I do believe [the student] needs support now and in the future. You have misunderstood our phone conversation".

2. April 8, 2025 at 12:27 p.m. the parent followed up with another email pointing out additional inaccuracies related to the student's early development stated in the PWN dated April 8, 2025.
3. The parent sent an email to the assistant director, assistant superintendent, principal and school psychologist again noting the incorrect information in the April 8, 2025 PWN, including, "And just to reiterate, I did not say [the student] needs para support, nor did I say [they need] an IEP to address needs that may arise later". In this email the parent also confirmed their availability to meet to discuss the PWN and clarify their request to see data from the neuropsychological evaluation in the April 8, 2025 refusal PWN, sent April 11, 2025.
4. The parent replied to an email from the district stating that an in person meeting or mediation may not be the next best step. The parent asked for the criteria for an IEE and how to get concerns about the inaccuracies in the April 8, 2025 PWN resolved, sent April 18, 2025.
5. Reply from the assistant director stating that the IEE question was answered in the PWN issued on April 14, 2025 and asking specifically what the parent would like amended in the April 8, 2025 PWN, sent April 21, 2025.
6. The school psychologist sent an email to the parent stating, "Based on your statement in an email on April 18, 2025, 'How do I get my concerns and input accurately reflected in the PWN as the current PWN is a misrepresentation,' we are considering that a request to amend a record. We did request clarification on what you wanted changed on April 21, 2025. You did not respond to that request but did email stating you had filed a formal complaint. Attached is a Prior Written Notice outlining the district's refusal to change the Prior Written Notice dated April 8, 2025", sent April 24, 2025 at 3:24 p.m.
7. Reply from the parent stating, "Unfortunately, this [the details in the PWN] again is inaccurate according to our one short phone conversation, which was so that you could clarify information with [the student's] teacher before getting back to me, which didn't happen, and our previous emails". Sent April 24, 2025 at 4:11p.m.
8. The assistant director responded to the parent's email with the following, "This is false as we attempted several times to schedule in person meetings in order to address your concerns which you have refused. I offered to sign the Mediation form, but you refused. It is clear that email correspondence isn't working, and you refuse to meet with us in person, so at this point we will no longer be replying to these emails and will await the outcome of the investigation", sent April 24, 2025 at 4:43 p.m.
9. The parent sent and email on April 25, 2025, at 9:31a.m., to the school psychologist to clarify what they would like amended in the April 8, 2025 PWN which included:
  - a. "I did not request para support.

- b. I did not suggest services be added to address needs that 'might arise later.'
  - c. My concerns are and continue to be based on the comprehensive neuropsychological evaluation provided by [the outside neuropsychologist] which identifies [the student's] diagnosis of dyslexia and dysgraphia and documents current, ongoing needs, not hypothetical or future ones.
  - d. My concerns are and continue to be the information provided by communication in person and by email from [the student's] teacher, regarding [the student's] struggles in the classroom and the assistance [they are] being provided.
  - e. My concerns are that [the student] currently has a Speech IEP, and it states that "[the student's] articulation delay makes [the student] difficult to understand at times in the regular education setting. It is also affecting [their] ability to read and write (spelling is a bit difficult)."
  - f. My concerns are that my [child] is struggling due to [the student's] disabilities, and they are creating daily challenges to keep up with [their] peers.
  - g. I request that the PWN be amended to:
    - i. Remove any statement suggesting I requested para support or future-focused services.
    - ii. Accurately states my actual concerns."
10. The director sent an email to the parent confirming that the parent's requested amendments to the April 8, 2025 PWN have "been uploaded as an educational record in WebKIDSS", sent April 25, 2025 at 12:22 p.m. It is noted that the amendments saved as an educational record was the email sent by the parent on April 25, 2025, at 9:31a.m., thus ensuring that the parent's request was honored, word-for-word.

## **Conclusion**

IDEA requires that when a request to amend their child's education record is issued, the district is responsible to respond to that request with an amendment or refusal to amend and offer a hearing, within a reasonable period of time.

IDEA regulations for amending records at a parent's request (34 C.F.R. 300.618(a)(b)(c)) state, "(a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information. (b) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. (c) If the agency decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under Sec. 300.619."

In this case, the parent pointed out the misunderstandings reflected in the April 8, 2025 PWN in an email that same day and reiterated her concern about the inaccuracies in the PWN on April 11 and April 18, 2025. The district acknowledged the parent's request to have records

amended in an April 18, 2025 email. The district asked for clarification of the parents requested corrections on April 21, 2025 and the parent replied with an email notifying the district that she had filed a formal complaint. The district responded with a PWN on April 24, 2025 refusing to amend the details of the April 8, 2025 PWN. The parent responded with an email on April 25, 2025 clarifying the requested corrections and on April 25, 2025 the director confirmed with the parent that the requested amendments were uploaded as part of the student's educational record.

In this case, the parent notified the district of their request to have the April 8, 2025 PWN details corrected on April 18, 2025 and the district responded with a PWN refusing to amend on April 24, 2025. The district informed the parent of the refusal but did not advise the parent of the right to a hearing.

It is noted that the records were in fact amended by the district on April 25, 2025, exactly as the parent requested. But nonetheless, the district failed to advise the parent of the right to a hearing along with the PWN refusing to amend records on April 24, 2025.

Based on the foregoing, it is found that the district did not follow the process required by IDEA to address requests for amendments of records. The *district is NOT in compliance* and corrective actions are required.

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

1. **ISSUE ONE:** A violation of 34 C.F.R. 300.503(a)(2) and K.A.R. 91-40-8 (c)(1)(A-C) was not found based on the district's consideration and appropriate PWN response to the parent's request for a reevaluation. Corrective action is not required.
2. A violation of 34 C.F.R. 300.502(b)(2)(i-ii) and (b)(4) was found based on the issuance of a PWN in response to the parent's request for an IEE. Corrective action is required.
  - a. The district shall immediately, within 21 school days, by June 20, 2025, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at Federal regulations at 34 C.F.R. 300.502(b)(2)(i-ii) and (b)(4) which dictate how the district is to respond to a parent request for an IEE.
  - b. The district shall respond to the parent's request for an IEE in accordance with IDEA 34 C.F.R. 300.502(b)(2)(i-ii) within 21 school days, by June 20, 2025.
  - c. The district shall train staff members responsible for responding to parent requests for an IEE to include 34 C.F.R. 300.502(b)(2)(i-ii) and (b)(4) by September 30, 2025.
  - d. The district shall submit documentation of staff training to Special Education and Title Services (SETS), by October 15, 2025.
3. **ISSUE TWO:** A violation of 34 C.F.R. 300.618(a)(b)(c) and 34 C.F.R. 300.619 was found based on the district's failure to inform the parent of the right to a hearing.



- a. The district shall immediately, within 21 school days, by June 20, 2025 submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at Federal regulations at 34 C.F.R. 300.618(a)(b)(c) and 34 C.F.R. 300.619 which requires the district to advise parents of the right to a hearing when refusing to amend student records.
- b. Please note: The district is not required to inform the parent of their right to a hearing based on the fact that the district amended the student records, after issuing a PWN refusing to amend.
- c. The district shall train staff members responsible for issuing PWNs to include 34 C.F.R. 300.618(a)(b)(c) and 34 C.F.R. 300.619, by September 30, 2025.
- d. The district shall submit documentation of staff training to Special Education and Title Services (SETS), by October 15, 2025.

## **Right to Appeal**

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to [formalcomplaints@ksde.gov](mailto:formalcomplaints@ksde.gov). The notice of appeal must be delivered within 10 calendar days from the date of this report.

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

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

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

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

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

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