

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #383
ON APRIL 29, 2025

DATE OF REPORT: MAY 29, 2025

This report is in response to a complaint filed with our office on behalf of a student, ----- by their parents, ----- . In the remainder of the report, the student will be referred to as “the Student” and the parent as “the Parents.”

The Complaint is against USD # 383, Manhattan Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #383.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the school district. In this case, the KSDE initially received the complaint on April 29, 2025, and the 30-day timeline ended on May 29, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #383, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented special education and related services as described in the Student's Individualized Education Program (IEP). Specifically alleged is the lack of: paraprofessional support throughout the school year, elimination of the Student's exposure to latex, and appropriate supervision of the Student for their safety, inclusion and independence. K.A.R. 91-40-16(b)(3); 34 CFR § 300.323.

ISSUE TWO: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided the Parents with an opportunity to participate in the IEP and reevaluation process. K.A.R. 91-40-17, K.A.R. 91-40-25; 34 CFR § 300.501.

ISSUE THREE: Whether USD #383, in accordance with state and federal regulations implementing the IDEA, conducted an accurate reevaluation that met the requirements. K.S.A. 72-3428; 34 CFR § 300.303.

Investigation of Complaint

The Complaint Investigator, interviewed the Parents by video conference on May 21, 2025. The following District staff were interviewed on May 20 and May 21, 2025: the Principal and Special Education Teacher 2.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent and the District. Although additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

1. Parent Square Team Messages, 01/15-02/20/25
2. Parent Square Team Messages, 09/18/24-02/04/25
3. Parent Square Principal and Parent Messages, 08/05/24-04/14/25
4. Email, re: concern for [the Student], 09/18-11/21/24
5. Parent Square Team Messages, 02/03-02/22/25
6. Parent Square Physical Therapist and Parent Messages, 01/22-01/28/25
7. Parent Square Teacher and Parent Messages, 08/16-11/19/24
8. Parent Square Nurse and Parent Messages, 08/19/24-04/18/25
9. Special Education Paperwork Coversheet/Compliance Checklist, no date
10. Staffing Summary, 02/21/25
11. Passport, 02/21/25
12. Notice of Meeting, 02/20/25
13. Prior Written Notice (PWN), 12/20/24
14. Request for Consent, 01/27/25
15. Reevaluation/Continued Eligibility Report, 02/20/25
16. Individualized Education Program (IEP), 02/21/25
17. PWN, 02/19/25
18. Individual Health Plan, 02/19/25
19. Direct Message, 12/20/24
20. Health Office Visit Report, 08/13/24-05/02/25
21. Paraeducator Schedule, 08/26/25
22. Paraeducator Schedule, 03/01/25
23. Paraeducator Schedule, 12/01/24
24. Email re: [the Student], 04/04/25
25. Classified Staff Evaluation, 04/15/25
26. Progress Report, 02/22/24-02/21/25
27. Attendance Detail, 2023-2024
28. Attendance Detail, 2024-2025
29. Complete Payroll, 08/12/24-05/17/25
30. Daily Schedule, no date

Background Information

This investigation involved a third grade student enrolled at Oliver Brown Elementary in USD #383. The Student is currently receiving special education and related services as a child with a disability per the IDEA. The Student requires an IEP due to physical need and participates full-time in general education classes.

Findings of the Investigation

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

1. The Student's attendance during the complaint period reflected full days of absence on the following dates:
 - a. February 26, 2024
 - b. April 30, 2024
 - c. May 1, 2024
 - d. August 29, 2024
 - e. September 30, 2024
 - f. October 2, 2024
 - g. December 18, 2024
 - h. January 9 - January 17, 2025
 - i. January 31, 2025
 - j. March 3, 2025
 - k. April 30, 2025
2. Paraprofessional 1's regular schedule was 8:00 a.m. - 3:45 p.m. on school days. Their attendance for the 2024-25 school year reflected the following missed time:
 - a. September 6, 2024, no record
 - b. October 29, 2024, absent
 - c. October 30, 2024, absent
 - d. October 31, 2024, absent
 - e. November 1, 2024, left at 11:32 a.m.
 - f. November 4, 2024, absent
 - g. November 5, 2024, absent
 - h. December 18, 2024, no record
 - i. December 19, 2024, no record
 - j. January 7, 2025, no record
 - k. January 20, 2025, no record
 - l. February 12, 2025, no record

- m. February 18, 2025, absent
- 3. Paraprofessional 2's regular schedule was 8:00 a.m. - 3:45 p.m. on school days. Their attendance for the 2024-25 school year reflected the following missed time:
 - a. August 19, 2024, left at 12:10 p.m.
 - b. August 20, 2024, arrived at 10:37 a.m.
 - c. August 22, 2024, left at 10:06 a.m.
 - d. August 26, 2024, absent
 - e. August 22, 2024, absent
 - f. September 3, 2024, absent
 - g. September 17, 2024, absent
 - h. September 18, 2024, absent
 - i. September 26, 2024, no record
 - j. October 23, 2024, no record
 - k. November 7, 2024, no record
 - l. November 8, 2024, no record
 - m. November 11, 2024, no record
 - n. January 7, 2025, no record
 - o. February 3, 2025, no record
 - p. February 18, 2025, no record
 - q. February 28, 2025, no record
 - r. March 5, 2025, no record
 - s. March 6, 2025, no record
 - t. April 18, 2025, left at 12:05 p.m.
 - u. April 22, 2025, absent
 - v. April 28, 2025, absent
 - w. April 29, 2025, absent
- 4. The classroom schedule reflected the following relevant items for the 2024-25 school year:
 - a. Recess daily from 10:05 a.m.-10:30 a.m.
 - b. Physical Education (PE) on Tuesdays and Thursdays from 11:00 a.m.-11:30 a.m.
 - c. Lunch daily from 12:00 p.m.- 12:30 p.m.
 - d. Recess daily from 2:20 p.m.-2:50 p.m.
- 5. On August 16, 2024 at 7:24 a.m., the Parents sent a direct message to the Special Education Teacher 1 introducing themselves and inquiring about paraprofessional coverage stating, "I am concerned that [the Student's] IEP is not being met. So far [they have] only had a para[professional] during recess time."

6. On August 16, 2024 at 7:54 a.m., Special Education Teacher 1 sent a direct message to the Parents that stated, "I am still working on schedules, and [the Student] is at the top of my list of concerns."
7. The August 26, 2024 paraprofessional schedule indicated the following:
 - a. Paraprofessional 2 as the Teacher's support from approximately 10:15 a.m. to 10:30 a.m..
 - b. Paraprofessional 2 as the Teacher's support from approximately 10:45 a.m. to 11:50 a.m..
 - c. Paraprofessional 2 as the Teacher's support from approximately 12:30 p.m. to 2:00 p.m..
 - d. Paraprofessional 2 as the Teacher's support from approximately 2:15 p.m. to 3:45 p.m..
 - e. Paraprofessional 2 had AC (Attendant Care) listed for the Student first thing in the morning.
 - f. Paraprofessional 1 and Paraprofessional 2 had AC recess listed from approximately 10:30 a.m. to 10:45 a.m. and 2:00 p.m. to 2:15 p.m..
 - g. AC lunch was listed on 4 different Paraprofessional's schedules ranging from 11:15 a.m. to 12:15 p.m.
8. On August 26, 2024, the Parents sent a direct message to the Principal inquiring when the Student "will begin having all of [their] para[professional] minutes met. It is the third week of school and [the Student] is still not having a para[professional] for the majority of the day including PE and some days [they] lack one at recess as well."
9. On August 27, 2024, the Principal replied to the Parents in a direct message and stated, "Para[professional] schedules and adjustments were put into place starting yesterday, however, we did have two para[professionals] absent. The coverage was a complete oversight on our end, so I do apologize. At this time, [the Student] has para[professional] support and [the] minutes are being covered."
10. On September 18, 2024 at 11:07 a.m., the Parents sent a direct message to the Principal and Special Education Teacher 1 and stated, "[the Student] indicated that [they] didn't have a para[professional] yesterday, Friday, and part of Monday. Yesterday at recess, [the Student] was being encouraged by [their] friends to walk without [their] walker ... [the Student] took several steps and then fell to the ground." The message also indicated that the Student was told that the para[professional] that has been assigned to them "is doing MTSS groups now."
11. On September 18, 2024 at 2:49 p.m., Special Education Teacher 1 responded to the Parent's message and stated "[the Student] does have [AC] during recess, and I will continue to communicate with that para[professional] and [the Student's] teacher regarding expectations including ensuring [the Student] is using [their] walker." Special Education Teacher 1 continued, "we have had to make adjustments to the [paraprofessional] schedules. We have also had several illnesses among staff, so we have needed to make adjustments to support all students. There is a para[professional]

beginning next week who will be working in [the Teacher's] room, so [the Student] will have support once again."

12. On September 18, 2024 at 3:27 p.m., the Parents responded to Special Education Teacher 1's message asking if the Student had a paraprofessional for the required minutes that day (Wednesday) and if the Student would have one Thursday and Friday (September 19 and 20, 2024).
13. On September 18, 2024 at 8:51 p.m., Special Education Teacher 1 responded to the Parents message and stated, "Due to the shortage of para[professional] subs, [the Teacher's] classroom is not assigned a para[professional] ... The para[professional] that is assigned [AC] at recess has other students that they also oversee during recess. [The Student] does not have any time with one-on-one para[professional] support, so anytime that a para[professional] is in [the Student's] classroom, they are supporting multiple students."
14. On September 18, 2024 at 11:11 p.m., the Parents responded to Special Education Teacher 1 and reported the issue of not having a paraprofessional had been going on for over a month and the "approach of having one para[professional] in charge of assisting multiple kids is not effective. This is evident because [the Student] was engaging in dangerous activity without the para[professional] noticing." In addition, the Parents stated, "Up until this year, [the Student] has had 1:1 para[professional] support during recess and PE. Our understanding was that there were no changes made to [their] IEP from last year. It is essential for [the Student's] safety and inclusion to have close support during those times in particular."
15. On September 19, 2024 at 11:22 a.m., the Parents sent an email to the Superintendent and stated, "While attending Back to School Night, we were told by the School Nurse and the Teacher that [the Student] would not have para[professional] support this year. We spoke to the Principal that evening, [they] looked at [the Student's] IEP and reassured us [the Student] would have a para[professional]. [The Student] did not have a para[professional] the majority of the time for the first 10 days of school."
16. On September 19, 2024 at 8:33 p.m., the Principal sent a direct message to the Parents and Special Education Teacher 1 and shared appreciation for the continued communication regarding paraprofessional support for the Student and that "[AC] has been provided for [the Student] consistently. With all para[professionals], they are covering the needs of more than one student in a classroom or during recess/lunch. [Special Education Teacher 1] has already shared concerns with the para[professionals] that are supporting [the Student] and the need to be in closer proximity." The Principal goes on to explain that more paraprofessionals have been hired to provide support and the Student "will have adequate support starting Monday." The Principal also added a link to information that outlined steps that parents can take when addressing concerns.
17. On September 25, 2024, the School Nurse sent a direct message to the Parents and stated, "Today at 11:45 [a.m.] I was on the look out for [the Student] and [they] didn't come to the office. [They] have a brand new para[professional] so I thought perhaps

they were late. I waited until nearly 12:00 [p.m.] and then I went looking for [the Student]. When I asked [the Student] where [the] Para[professional] was [they] said [they] didn't know, that "[they] just disappeared."

18. On October 29, 2024, the Parents sent a direct message to Special Education Teacher 1 requesting a "team meeting to go over [the Student's] needs and [the] current IEP to clear up any misunderstandings." Special Education Teacher 1 and the Parents scheduled a meeting for November 19, 2024.
19. On November 19, 2024, the Parents sent a direct message to Special Education Teacher 1 and the Principal and stated, "we were disheartened to learn that [the Student] didn't have a para[professional] again today" and "the Nurse had to come get [the Student] to do [their] cath [(catheterization)] because there wasn't a para[professional] to take [the Student] when it was time."

The Principal replied to this message the same day and stated, "We were short on para[professionals] today, as we had several absent. We had to make adjustments to provide coverage."

20. On November 20, 2024 at 9:22 a.m., the School Nurse sent a direct message to the Parents and stated, "I wanted you to know that there is a balloon parade tomorrow being held by the second grade class. I questioned the balloons, wanting to keep my four latex allergy kiddos safe. Yesterday the Principal had the office professional get latex free balloons for this parade. So, my understanding is that this concern was corrected."
21. On November 20, 2024 at 2:20 p.m., the Parents sent an email to the Superintendent and stated, "We are reaching out to you again because our concerns have not been resolved." The Parents describe a meeting they had the day prior that was supposed to be a discussion of issues surrounding paraprofessional support, safety, and inclusion, and the meeting "turned into a discussion on reducing [the Student's] services, rather than making sure the current IEP is followed." The Parents stated that the Principal "called later in the day to apologize for the nature of the meeting, to retract the IEP, and that we will plan to meet to discuss the IEP in February when it is due." The email goes on to share the Parents' concerns about coverage when paraprofessionals are absent and states that, "[the Student] has gone upwards of 19 days without a para[professional] this year."
22. The December 1, 2024 paraprofessional schedule indicated the following:
 - a. Paraprofessional 2 as the Teacher's support from approximately 10:15 a.m. to 11:30 a.m.
 - b. Paraprofessional 2 as the Teacher's support from approximately 12:30 p.m. to 2:00 p.m.
 - c. Paraprofessional 2 as the Teacher's support from approximately 2:45 p.m. to 3:45 p.m.
 - d. Paraprofessional 2 had AC listed for the Student first thing in the morning.
 - e. Paraprofessional 2 had AC recess listed from approximately 2:00 p.m. to 2:15 p.m.
 - f. Paraprofessional 1 had AC lunch assigned to the Student from approximately 12:00 p.m. to 12:30 p.m.

23. On a December 16, 2024 entry to the Health Office Visit Report, the School Nurse logged an incident of the Student falling in the classroom, hitting their buttock on the ground, and then denying hitting their head or any concerns of pain. The School Nurse called the Parents to inform them and they advised to check the brace for tightness. The School Nurse checked the brace and cited no evidence of further injury, then sent the Student back to class.
24. In a December 20, 2024 direct message to the Parents, the School Psychologist stated, "[The Student's] three year reevaluation is due this year. I am going to send home consent forms."
25. On a December 20, 2024 PWN For Evaluation Or Reevaluation And Request For Consent, the Special Education Action Proposed was "The [LEA] proposes to conduct a reevaluation. (Parental consent required)." This was based on new data for health/motor ability and social emotional status/behavioral status, along with existing data on vision, hearing, and academic performance. The explanation of proposed action is "to gain consent to complete a reevaluation. [The Student's] reevaluation is due in March 2025. Additionally, new data is needed." The data used as the basis for the action included staff input, parent input, observations, and three year reevaluation.

This notice was delivered to the Parents on December 20, 2024 by the School Psychologist by being sent in the Student's bag.

The notice was signed by one of the Parents on January 27, 2025 and indicated the Parents had "received [their] rights and give consent for the evaluation or reevaluation specified in the notice."

26. On January 15, 2025 at 12:38 p.m., the Parents sent a direct message to the Physical Therapist (PT), the Principal, Special Education Teacher 1, the School Nurse, and the Teacher and stated "we just wanted to make sure that [the Student] will have para[professional] support as indicated in [their] IEP." They continued by noting the Student would need extra support for "transfers" due to a "large incision" and "two ports with healing wounds."
27. On January 15, 2025 at 3:35 p.m., the Principal sent a direct message to "all staff working with [the Student]" and the Parents outlining a detailed coverage plan for the Student when they returned from their surgery.
28. On January 22, 2025, the PT sent a direct message to the Parents about the Student's return to school after surgery and recommending the Student use their wheelchair for school mobility "this week" with guided transfers and ambulation at designated times under supervision and that weekly reevaluations should occur to determine needed adjustments. The PT also stated, "[The Student] is showing poor safety awareness, frequently ignoring cues from staff, sitting on the edge of [their] chair, and refusing to maintain a clutter-free workspace despite frequent prompts. [The Student's] inability to wear twister cables and recent muscle weakness further increase [their] fall risk."

29. On January 23, 2025 at 4:52 p.m., the Parents sent a direct message to the PT and stated "We discussed yesterday that [the Student] would be allowed to walk during PE and across the hall to groups and be able to walk or stand during recess. Do you know why that didn't happen?"
30. On January 23, 2025 at 5:23 p.m., the PT sent a direct message to the Parents that they have reached out to the Teacher for specifics, took time to discuss recommendations with staff after the phone conversation with the Parents, and that they would observe the Student at the School the following day. In addition they stated, "My communication with staff is that we are using the wheelchair as [the Student's] desk chair and [they] should continue to walk as tolerated."
31. On January 24, 2025, the PT sent a direct message to the Parents and stated, "Yesterday appears to be a misunderstanding. Everyone, including [the Student], is on the same page."
32. On February 3, 2025 at 3:18 p.m., Special Education Teacher 1 sent a direct message to the Parents and the Principal and stated, "It is time for [the Student's] annual IEP review" and went on to offer February 19 or February 20, 2025 as possible meeting days. On February 4, 2025 at 8:56 a.m., the Parents responded that February 20, 2025 would work. Special Education Teacher 1 responded the same day at 10:53 a.m. and stated, "I will send the draft as soon as I can and send home the Notice of Meeting this week."
33. On February 3, 2025 at 4:17 p.m., the Parents sent a direct message to Special Education Teacher 1 and the Principal and stated, "[the Student] told me today that [they] did not have a para[professional] today besides the person that pushed [them] out at dismissal." The Parents went on to express that there had been "no fewer than nine different people" who had accompanied the Student to the School Nurse's office during the school year. The Parents requested to "find a way to make sure there is one consistent person available for [the Student's] bathroom time."
34. On February 3, 2025 at 5:54 p.m., the Principal replied to the Parents message and stated, "We had several para[professionals] out today, as well as a couple teachers without subs. We made adjustments to the schedule as needed to provide support throughout the building." The Principal added that they would reach out to the School Nurse to "see what accommodations we can make during that time to offer [the Student] more privacy while still following protocol."
35. On February 4, 2025 at 9:15 a.m., the Parents sent a direct message to the Principal and Special Education Teacher 1 and stated, "[Paraprofessional 1] has demonstrated numerous times that [they are] detrimental to [the Student's] safety, inclusion and independence. For these reasons, we have requested both this year and last year that [Paraprofessional 1] not be involved in [the Student's] care." The Parents added that the PT expressed their concerns with transitions and classroom safety.
36. On February 19, 2025, the Principal sent a direct message to the Parents and stated, "With the additional inclement weather days, we are needing to reschedule [the Student's] IEP and Reevaluation Meeting. Will Friday [February 21, 2025] morning @

8:00 work for you?" The Parents replied to this message and stated, "Yes. That will work for us. Will we still receive the proposed IEP prior to the meeting?" The Principal replied to this message and stated, "Yes. I will ask that [Special Education Teacher 1] have that to you by the end of the day tomorrow."

37. Relevant items from the Student's Individual Health Plan (IHP) dated February 19, 2025 contained the following relevant information:
- a. The Medical Diagnosis section listed a latex allergy;
 - b. The Prescribed Treatment/Medication section listed daily cath, mobility assistive devices, monitor shunt placement, avoid latex, and not being upside down for any length of time;
 - c. The Nursing Assessment listed risk for fall and injury with the School Nurse assessing for skin breakdown and irritation, ensuring a safe workspace, providing verbal cues for safe transfers, assessing the Student after any fall or injury and informing the Parents, and reminding teachers, paraprofessionals, and staff to ensure the Student did not remain in one position for extended amounts of time;
 - d. The Nursing Assessment listed increased risk for UTI with the School Nurse notifying the Parents of symptoms and expected use of "aseptic technique" when performing daily cath;
 - e. The Nursing Assessment listed increased risk of injury due to Latex Precaution with the School Nurse expected to "ensure that all products used for cath, assessments, first aid and general care for [the Student] will be Latex free and within expiration date" and "assess [the] Student if there is an accidental latex exposure/contact and notify parents as needed." It was also noted that an "Epi-pen" is in the office for emergency intervention if needed;
 - f. The Nursing Assessment listed increased risk for "emergent cares [sic] s/t shunt malfunction" with the School Nurse expected to assess for headaches, increased irritability, lethargy, projectile vomiting, glazed stare, changes in urination" and to inform the Parents of any concerns.
 - g. The Nursing Goals and Plans stated, "Teachers will make [the] classroom accessible and safe for [the] student" and "Staff will eliminate latex exposures."
38. On February 20, 2025, the Parents sent a direct message to the PT, the Principal, Special Education Teacher 1, the School Nurse, and the Teacher that indicated the Student would need to "cath more frequently" and offered to come to the School to show the School Nurse the new procedure. Special Education Teacher 1, the School Nurse, and the Teacher replied to the message within one hour in support of "accommodating this in the IEP" and meeting with the Parents and seeing the procedure.
39. A February 20, 2025 Reevaluation/Continued Eligibility Report stated, "[The Student's] reevaluation is due by March 2025. [The] Parents signed consent on January 27, 2025 for the school team to complete the reevaluation."

40. A February 20, 2025 Reevaluation/Continued Eligibility Report stated, “[The Student] is allergic to Latex and has a history of fractures related to low bone density.” The report also indicated the Student’s need for daily physical assistance with “managing items or gross motor verbal cues to improve safety.” The PT reported “a significant delay and continued direct physical therapy interventions in the school setting are recommended to enable [the Student] to access [the] educational environment and improve interactions with peers.”
41. A February 20, 2025 Reevaluation/Continued Eligibility Report indicated there were “parent ratings” taken as data regarding the Student’s “schoolwork T-score.”
42. A February 20, 2025 Reevaluation/Continued Eligibility Report was acknowledged, agreed to and signed by the Parents on February 21, 2025. The Principal, Special Education Teacher 1, the Teacher, the School Psychologist, the Special Education Coordinator, and the PT agreed to and signed the report on February 21, 2025.
43. On an undated Special Education Paperwork Cover Sheet/Compliance Checklist for the Student’s IEP and Reevaluation, all items were checked off for “PWN” and “Notice of Meeting.” In addition, under the “IEP” checklist, “Documentation that parent questions/input were considered and noted” and “Parent Rights/PWN, PWN for Eval/Reeval given in native language” were checked as complete.
44. On an undated document labeled “Passport,” the Student’s exceptionality was listed as “OH- Other Health Impairment.” The following services and accommodations were listed to begin February 21, 2025 and end February 20, 2026:
 - a. Physical Therapy, 25 minutes one day per week as long as school is in session;
 - b. School Nurse Services “provided by a qualified nurse,” 15 minutes daily as long as school is in session;
 - c. AC “a non instructional paraeducator (lunch coverage),” 10 minutes daily as long as school is in session;
 - d. Special Education Services “(Adult support for mobility in specials, recess, and classroom),” 245 minutes one day per week as long as school is in session;
 - e. Special Education Services “(Adult support for mobility in specials, recess, and classroom),” 270 minutes four day[s] per week as long as school is in session;
 - f. Adult check in/check out for organization, daily for the length of the activity not to exceed five minutes check in and five minutes check out;
 - g. Alternative seating, activities, etc. may be needed in order for the Student to be most successful at school, daily for the length of the activity;
 - h. Visual organizational prompt on student desk, daily for the length of the school day.“Important Notes” indicated the Student has “diagnosis of spina bifida (lumbar myelomeningocele), chiari malformation, hydrocephalus with shunt placement, bilateral hip dysplasia tether spinal cord, and metatarsus adductus. Due to [their] diagnoses, [the Student’s] highest needs are to safely access the educational environment.” It was also mentioned that the Student only needs safety support and

the "role of the paraprofessional is to ensure [the Student's] safety while navigating the educational environment."

45. On a Staffing Summary form dated February 21, 2025, the "Purpose of Staffing" was checked as "IEP Meeting- Reevaluation," the "Persons Present" were checked as "Parent/Guardian, Administrator, Special Education Teacher, Social Worker, Psychologist, PT, Nurse, and General Education Teacher," and the "Summary of Discussion" was checked that the "Parents Rights were presented and reviewed" and the "Parents accepted."
46. On a Staffing Summary document dated February 21, 2025, the "Discussion Details" stated, "Eligibility was signed and agreed to continue to the draft of the proposed IEP ... [The] Parents' concerns were noted that they feel the paraprofessionals are not providing adequate benefit. [The] Parents request a specific paraprofessional not be with [the Student]. They feel if an emergency situation were to occur that Paraprofessional 1 could not help [the Student]. " The discussion details then stated, "[The Special Education Coordinator and the Principal] noted that our goal is to provide [the Student] with adult support within [their] IEP and the team will take into consideration the specific concerns noted to train paraprofessionals on the specific concerns. (No further questions from [the] Parents)."
47. On a Staffing Summary document dated February 21, 2025, the "Discussion Details" stated, "[Special Education Teacher 1] presented proposed services: AC, 10 minutes daily; Special Education services Adult Support, 245 minutes one day a [week]; Special Education services Adult Support, 270 minutes four days a week." The discussion details then read, "[The] Parents have concerns on the supports. The team highlighted when [the Student] will be receiving services throughout the day. The Parents have concerns about morning meeting[s] and the what if scenarios that could occur to get [the Student] out of the school. The team discussed this and noted we have accommodations for a check-in/check-out with an adult that would address this concern."
48. "We also addressed the observation and data that reflect [the Student] has shown the ability to be independent during these parts of the day. Data reflects that [the Student] needs physical assistance for 120 minutes of the school day and is independent the remainder of the day on a regular basis. However, the team considered [the] Parents' concerns of reducing [the Student's] para[professional] support to 120 minutes of [their] school day and concluded that [the proposed minutes presented by Special Education Teacher 1] was adequate ... ([the] Parents had no further comments/concerns)."

A Notice of Meeting dated February 20, 2025 listed a proposed meeting date, time and place as Friday, February 21, 2025 at 8:00 a.m.. On the document it was noted that on February 19, 2025, the Principal reached out to the Parents to reschedule the meeting to February 21, 2025 at 8:00 a.m. due to snow days and late start and the Parents confirmed the meeting change.

The Notice of Meeting indicated a meeting to review the evaluation and determine eligibility and a meeting to develop the IEP. The Notice of Meeting indicated hand delivery by Special Education Teacher 1 to the Parents on February 21, 2025.

The Notice of Meeting was acknowledged by the Parents with signatures on February 21, 2025 and list items checked were: "I have received a copy of my parental rights in my primary language; I plan to attend the meeting as scheduled; and I consent to waive my right to a 10-day PWN of the meeting to develop, review or revise the IEP for my child."

49. The Student's IEP dated February 21, 2025 indicated the date of the meeting as February 21, 2025, the Parents received the Parental Rights on February 5, 2025, the Evaluation consent was obtained on January 27, 2025, and the evaluation date was February 21, 2025. Meeting participants on the IEP listed and included signatures for the Parents, Special Education Teacher 1, the Principal, the Special Education Coordinator, the PT, the School Nurse, the School Psychologist, and the Physical Therapy Assistant.
50. Relevant items from the Student's IEP dated February 21, 2025 indicated the following:
- "[The Student] is great at reading" and "loves to read, draw, and build with their friends."
 - The Student's highest need was described as safely accessing the educational environment. "[School staff] are currently empowering [the Student] to become as safe as possible within the school."
 - Parental concerns were noted as "lack of para[professional] support, para[professionals] [not] always providing real benefit, [paraprofessionals] doing things [the Student] is able to do and would like to do [themselves], para[professionals] being present but not able to physically help [the Student] if there was an emergency or not [being] nearby to offer assistance when needed." The Parents added, "[The Student] needs involved assistance with safety and inclusion. [They] need standby assistance with some transfers and mobility, as well as on the playground and in PE. [They] need someone to help adapt PE to [their] physical abilities. [The Student] also needs someone to help [them] get to safety in times of emergency. [The Student] tires easily because simple tasks require extra effort and exertion compared to a fully abled body individual."
 - The PT noted that the Student sustained two recent falls from their classroom chair and required multiple cues to sit safely when utilizing a regular classroom chair, along with requiring stand by assistance for opening exterior doors from walker level and moderate assistance from wheelchair level. "[The Student] accesses a regular playground swing with supervision for safety and safely stops the swing with stand by assistance. [The Student] requires supervision to stand by assistance when accessing playground steps ... [The Student] descends the roller slide with stand by assistance."

- e. "The Student is allergic to Latex and has a history of fractures related to low bone density."
- f. The Student's diagnoses of "paraplegia s/t spina bifida lumbar myelomeningocele with Hydrocephalus with shunt, chiari malformation, bilateral hip dysplasia, metatarsus adductus, osteopenia with history of leg fractures, leg length discrepancy, neurogenic bowel and bladder necessitating frequent caths and enemas. (January 2025 had Mace/Mitrofanoff surgical procedures), agenesis of the corpus callosum, and latex allergy" required an Individual Health Plan (IHP).
- g. The Student had three goals listed in the IEP:
 - i. Goal 1.1- "Within the duration of the IEP, [the Student] will practice safety (including but not limited to clearing [their] desk, clearing floor area around [their] desk, safe sitting, safely using [their] roller walker) across all school settings within 2 staff prompts with 80% accuracy based upon observations by school staff."
 - ii. Goal 2.1- "[The Student] will open exterior doors from walker level independently 75% of the time within the duration of [their] IEP based on observations by Physical Therapy Staff."
 - iii. Goal 2.2- "[The Student] will catch a small ball thrown overhanded from 10 ft 75% of the time within the duration of [their] IEP based on observations by Physical Therapy Staff."
- h. Related services were Physical Therapy provided by the PT from February 21, 2025 to February 20, 2026 for 25 minutes one day per week as long as school is in session.
- i. Special Education Services from February 21, 2025 to February 20, 2026 were:
 - i. School Nurse Services provided by the School Nurse for 25 minutes daily as long as school is in session;
 - ii. A non instructional paraeducator (lunch coverage) for 10 minutes daily as long as school is in session;
 - iii. Adult support for mobility in specials, recess, and classroom 245 minutes one day per week and 270 minutes four days per week as long as school is in session.
- j. Support for School Personnel service was teacher consultation "(PT and special education teacher will consult classroom teacher, specials teachers, and other staff members regarding [the Student's] needs)" for 5 minutes monthly as long as school is in session.
- k. It was noted under Services that "Services may be interrupted for a variety of reasons, including, but not limited to personal illness, professional staff obligations, field trips, school closure due to inclement weather and other issues beyond the control of the school system."

51. A PWN dated February 19, 2025 indicated a February 21, 2025 meeting for Eligibility and Change in Services (that included parent input) was hand delivered by Special Education Teacher 1, to the Parents, on February 21, 2025.
52. On February 21, 2025, the Parents signed a Request for Consent for Special Education Action that provided consent for the special education placement and services action(s) in the PWN.
53. On a February 21, 2025 Student Progress Report, the Student's progress was listed as:
 - a. "Making progress toward annual goal" in Goal 1.1 in Period 3 for 2023-24 (February 12, 2024 thru May 5, 2024), Period 1 for 2024-25 (August 13, 2024 thru October 17, 2024), and Period 2 for 2024-25 (October 21, 2024 thru February 6, 2025);
 - b. "Making progress toward annual goal" in Goal 2.1 in Period 3 for 2023-24, Period 1 for 2024-25, and Period 2 for 2024-25;
 - c. "Making progress toward annual goal" in Benchmark 2.1.1 in Period 3 for 2023-24, Period 1 for 2024-25, and "Goal Met" in Period 2 for 2024-25;
 - d. "Making progress toward annual goal" in Benchmark 2.1.2 in Period 3 for 2023-24, Period 1 for 2024-25, and "Goal Met" in Period 2 for 2024-25;
 - e. "Making progress toward annual goal" in Benchmark 2.1.3 in Period 3 for 2023-24, Period 1 for 2024-25, and "Goal not addressed in this reporting period" in Period 2 for 2024-25;
 - i. Benchmark 2.1.3 was not addressed in the reporting period due to "recent weather constraints and recent surgery."
 - f. "Making progress toward annual goal" in Benchmark 2.1.1 in Period 3 for 2023-24, Period 1 for 2024-25, and "Not making progress toward annual goal" in Period 2 for 2024-25.
 - i. Benchmark 2.1.1 listed the reason the Student was not making progress as "[The Student] continues to require daily reminders for keeping the floor area around [their] desk clean and has not demonstrated safety maintaining [the] environment for one week."
 - ii. The progress report was delivered to the Parents through email.
54. On February 21, 2025, the Parents sent a direct message to Special Education Teacher 1 and the Principal and indicated the Principal reached out to the Parents via phone and said the requested draft of the IEP could not be shared until the evaluation was completed. The evaluation was scheduled as the first part of the meeting. The Parents stated, "not having access to this document in advance made it difficult for us to be fully prepared and actively participate in the process." The Parents questioned if this was standard practice, requested information on laws and policy surrounding sharing an IEP prior to the meeting, asked for clarification of the term "adult" in the IEP, and requested "scheduling meetings earlier so we have adequate time to review [the IEP]."
55. On February 22, 2025 at 7:33 a.m., the Principal sent a direct message to the Parents and Special Education Teacher 1 providing Kansas regulations . explaining evaluations. The Principal stated, "that said, we understand the desire to review information in

advance, and we are happy to discuss ways to ensure you feel fully prepared for future meetings. We recognize that holding the meeting on the same day as the IEP expiration may have caused undue pressure. While it is not standard practice to schedule meetings on the expiration date, various factors impact scheduling.” The Principal then clarified the term “adult” in the IEP and acknowledged concerns “about previous instances where [the Student’s] IEP was not fully implemented. Please know that we are committed to ensuring that all supports and services outlined in [the Student’s] plan are followed.”

56. On February 22, 2025 at 9:37 a.m., the Parents sent a direct message to the Principal and Special Education Teacher 1 thanking the Principal for their response and stating, “in this case, the IEP was already drafted before the reevaluation discussion took place, which seems to contradict that intent [of the regulations]. These legal requirements exist to protect the child and to ensure that parents are equal and well-informed participants in the process – not to limit access to critical information.” The Parents then requested that in the future the draft IEP be provided in advance.
57. On February 28, 2025 at 11:50 a.m., the School Nurse sent a direct message to the Parents and stated, “[The Student’s] Para[professional] was absent today, I was unaware, my apologies for not getting to [the Student] sooner. [The Student] ended cath about five minutes ago.” The Parent responded to this message stating, “I’m fine with [the Student] not having a para[professional] with [them] during [their] cath time as long as it is you in the office.”
58. The March 1, 2025 paraprofessional schedule indicated the following:
 - a. Paraprofessional 2 as the Teacher’s support from approximately 8:45 a.m. to 9:15 a.m..
 - b. Paraprofessional 2 as the Teacher’s support from approximately 10:15 a.m. to 12:00 p.m..
 - c. Paraprofessional 1 as the Teacher’s support from approximately 1:30 p.m. to 3:45 p.m..
 - d. Paraprofessional 2 had AC listed for the Student first thing in the morning.
 - e. AC lunch was listed on 5 different Paraprofessional’s schedules ranging from 11:15 a.m. to 12:15 p.m.
59. On April 3, 2025, the Parents sent a direct message to the Principal and reported that the Student did not have a paraprofessional that morning during PE and recess. They also claimed the Student was not taken to do the morning routine with the School Nurse. The Parent indicated that the same thing happened on February 28 [2025]. In addition, the Parents reported that the Student “is having to walk the long way outside to the playground to avoid balloons in the 4th/5th pod.” The Parents went on to explain how much energy this takes for the Student and inquired why latex balloons had to be used.
60. On April 3, 2025, there were two entries logged for “Catheretization” in the Health Office Visit Report. The first was at 11:00 a.m. and listed the Student completing “self catheterization” then returning to class. The second was at 1:45 p.m. and listed the Student completing “self catheterization” then returning to class.
61. On April 4, 2025 at 9:24 a.m., the Principal sent an email to the PT asking if there is a reason the Student is not able to walk with their class at recess. The Principal also

mentions they were “not tracking that was an accommodation that we had [in] place and fourth and fifth grade decorated for state assessments with balloons.”

The PT replied to the Principal at 10:49 a.m. and stated, “[The Student] is able to navigate ramps, though slower than peers. [They] occasionally require cues for safety as [they] begin walking too fast when descending. [They are] slower than peers when ascending ramps. At the beginning of the year, [they were] arriving at the playground a few minutes after peers. [The Teacher] and I discussed options and [discussed] giving the transition time required. So we tried having [the Student] walk indoors and [they were] able to arrive at the playground the same time as peers. Physically, there is no reason [the Student] can’t transition with [their] class other than the additional time required to navigate ramps. During winter months the ramps often had slick areas which posed a safety risk. Since Balloons are on the 4/5 pod, [the Student] should be able to transition with [their] class outdoors on the ramps. [The Student] should be either first in line or last in line with [their] para[professional] to allow additional time to navigate the ramps safely.”

62. On April 7, 2025 at 2:13 p.m., the Principal sent a direct message to the Parents in response to their inquiry about the Student not being taken to the Nurse (on April 3, 2025) and explained the Student “was seen in the Nurse’s office between 11:05 [a.m.] and 11:10 [a.m.], just shortly after [their] scheduled time.” The Principal also added a response to the concern about the outdoor transitions due to balloons and stated, “I followed up with the [PT] to better understand the need and utilization of [the Student] using an alternate route. The decision was made after noticing [the Student] was arriving at the playground a few minutes after [their] class. [The Student] is able to navigate ramps, though [they do] so more slowly and may occasionally require verbal cues for safety—especially when descending, as [they] tend to speed up. To support [them] in doing so safely, [they] should either be at the front or end of the line with [their] para[professional], giving [them] the necessary space and time to navigate the ramps comfortably. I will be sure that this is communicated with [the Student’s] team.”
63. On April 7, 2025 at 8:27 p.m., the Parents sent a direct message to the Principal and inquired which paraprofessional was working with the Student on the morning of February 28 and April 4, 2025. The Parents added that they have “repeatedly asked for [Paraprofessional 1] not to be involved in [the Student’s] care” because Paraprofessional 1 “continues to restrict [the Student’s] area of play at recess, not to mention the safety concerns [Paraprofessional 1] has presented.”
64. On April 8, 2025 at 8:13 p.m., the Parents sent a direct message to the Principal and stated, “last week [the Student] began reporting that [they] often do not have a para[professional] during check-in time in the morning.” They also inquired when the balloons would be removed.
65. On April 10, 2025 at 12:06 p.m., the Principal sent a direct message to the Parents and stated, “I wanted to check in on the classroom during [the Student’s] morning check-in to see if a para[professional] was present and completing the process. Both yesterday

and today, that was in place. I will be sure to follow up with the team in making sure it is consistent and for [Special Education Teacher 2] to step in if needed due to absences or if someone is running late.” The Principal also explained that the balloons would be taken down after state assessments, “which will conclude at the end of next week.”

66. On April 10, 2025 at 1:57 p.m., the Parents sent a direct message to the Principal and stated, “[The Student] mentioned yesterday specifically that [they] did not have para[professional] assistance at the drop in time. We also witnessed that [the Student] had no one there during drop in time on March 27, [2025] after the donut event.” They added, “By refusing to remove the balloons as soon as you recognized the issue, you are not in compliance with [the Student’s] IEP.”
67. On April 13, 2025, the Parents sent a direct message to the Principal and stated, “I asked [the Student’s] doctor for specific guidance concerning [their] latex allergy in the situation that is present at [the School]. Please see attached. Due to the inhalation risk as described in the attached literature, [and the language in the IEP], the balloons need to be removed immediately without being popped inside of the building. This is not only for [the Student’s] safety but also for the safety of others in the school with this allergy.”
68. On April 14, 2025, the Principal sent a direct message to the Parents and stated, “Thank you for the documentation. The balloons will be removed and disposed of properly.” The Parent replied asking when the balloons would be removed and the Principal responded that they were out of the building that day, but had sent a message to the staff.
69. On an April 15, 2025 Classified Staff Evaluation, the Principal rated Paraprofessional 1 as “meets expectations” in the “Safety” category of “Job Skills, Duties, and Professional Responsibilities” and noted, “employee engages in safe work practices and appropriately addresses safety concerns.”

Interviews

70. In an interview with the Complaint Investigator, the Parents stated, “The first few months of school [the Student] lacked para[professional] support pretty frequently. [Paraprofessional support] has gotten better throughout the year as we’ve complained more and more about it ... [The School has] fairly consistently been providing a para[professional].”
71. The Parents indicated Paraprofessional 1 “struggles providing support for [the Student] with inclusion and safety.” Examples cited were encouraging the Student to sit because Paraprofessional 1 “doesn’t want to be very active and encourages [the Student] to be that way” and limiting where the Student can be on the playground due to Paraprofessional 1 “sitting on a bench right outside the door and telling [the Student] to stay where [they] can see [them].” They also stated, “our big concern this year was not watching at all what was going on at recess and [the Student].”
72. The Parents recalled, “the first two or three weeks [of school] they’re still trying to figure out [paraprofessional] schedules ... it seemed like [the Student] was the last one on [the School’s] list to have [the paraprofessional] role filled ... Anytime someone was sick, [the Student’s] para[professional] would be pulled and go to help whoever was missing and [the Student] would be left without assistance.”

73. The Parents indicated the School had “never communicated to us” when a paraprofessional is absent, “unless I actually reach out to them and ask why [the Student] did not have a para[professional] that day.”
74. The Parents recalled that earlier in the school year, the Student’s friends had to help so often due to not having adult help that they were telling the Student they were tired of helping and that the Student is a “pain.”
75. The Parents recalled a recent time at the School during field day activities where one of the Parents was with the Student helping them with activities in the grass and “at the end of the day, Paraprofessional 1 said, ‘I am glad you were here because I wouldn’t have done any of that.’”
76. The Parents reported that they saw Paraprofessional 1 leaning on the Student’s wheelchair. They also found out from another staff member that Paraprofessional 1 let the Student climb up the playground structure and when the Student was ready to go down the slide, another paraprofessional had to “run over” and help them get down safely.
77. The Parents stated, “When we brought up concerns about [the Student] not having a para[professional] on days, then we’ve gotten new revised IEP’s with a reduction of minutes ... when you bring a concern and you’re trying to work with somebody and ask for help and you get the opposite. You get a reduction of care and service.”
78. The Parents recalled they were told they could see a draft of the IEP prior to the February 21, 2025 meeting, but the Principal called them and said they were not able to share a draft until the meeting because a three year evaluation needed to take place before the IEP meeting.
79. The Parents stated, “[the School] ended up reducing some of the para[professional] support. Not significantly, but ... [the Student] doesn’t have para[professional] support during morning meetings.” They went on to express their concern that reducing minutes would make it easier for the school to “meet [the Student’s] IEP to a lesser extent.”
80. The Parents indicated the evaluation process did not accurately reflect the Student’s current level of physical ability due to a recent surgery that impacted the Student’s strength and mobility. “the data that [the School] used for the revised IEP indicated that [the Student] had improved, [which] didn’t accurately reflect where [the Student] actually was at the point in time relative to where [they] had been previously ... it feels like [the School] were trying to justify reducing [the Student’s] para[professional] support.”
81. The Parents stated, “what they ultimately decided with the IEP ... we weren’t really on board with that, but we’re in a situation where we need to come to some sort of agreement in order to have an IEP or if we didn’t sign anything, it’s just going to expire. So we feel like due to the pushing off of all this stuff until late, we didn’t really have adequate time to be able to push back or to be able to take it and then look for options on what we might be able to do. We just had to kind of agree and move on even though it wasn’t ideal.”

82. The Parents stated, "the real concern is they had the reevaluation completed and really that reevaluation has to happen [first], and then they're supposed to use that data to write the IEP, but they'd already written this IEP."
83. The Parents recalled they received two revised IEP's in October/November [2024]. The Parents stated, "[the Student's] minutes were greatly reduced at that point. [The School] was trying to pull way back on [the minutes] and it seemed like it was in retaliation for us complaining about [the Student] not having para[professional] support as was indicated in the IEP." The Parents indicated they showed up to a meeting and got "blindsided by a great reduction in [the Student's] IEP ... we went to the meeting and we said this is not right. And it got very contentious. And then the Principal called and said we'll just wait to do anything until [the Student's] IEP is due in February."
84. In reference to the two revised IEP's received in October/November 2024, the Parents indicated "They were drafts ... We didn't agree to sign them, so they never went into place ... The one in October does not say draft. The one that we went to the meeting for in November does say draft on it. We never signed either of them."
85. The Parents stated, they got a letter from the Student's doctor that "specifically talked about the airborne danger of latex in the building and that is when [the Principal] agreed to take [the latex balloons in the School] down. But we had already told [the Principal] that airborne latex is dangerous for [the Student] ... there was definite knowledge of the fact that there was a latex allergy and disregard for that."
86. In an interview with the Complaint Investigator, the Principal stated, "Typically the case managers are responsible for assigning para[professional's schedules] ... we were in a position we were very short staffed and we had to do more of a building overview ... within the first week or two I took over para[professionals] scheduling."
87. The Principal recalled that at the beginning of the school year, they tried to "maximize coverage as much as we could with the para[professionals] I had in the building ... I made the determination to use our at-risk aids to support our special education minutes at that time so that they would at least have coverage." The Principal stated, "it was really about trying to hire people, utilize the supports that we [did have] in place, even if it wasn't directly for special education, but trying to manage it that way. And then also continuing to hire and go about filling our staff and being able to provide services and fill all of the minutes that we were needing to cover."
88. The Principal reported they took over scheduling the paraprofessionals because Special Education Teacher 1 "was needing additional support in being able to work [their] own schedule and provide services and pullout minutes that is required by the IEP's ... [scheduling] needed to be taken off [the Special Education Teacher 1's] plate, as well as training and communication of expectations with para[professionals]."
89. The Principal stated, "[the schedule for the paraprofessionals began] within the first couple weeks [of school starting], however, as I continued to hire, adjustments were being made ... it was an ever-changing document ... I did keep track of the minutes that were short that we were not quite covering. And so then I would make adjustments in making sure those minutes were covered."

90. The Principal indicated, "by the end of the first nine weeks we [were] fully staffed ... that means that if all the para[professionals] show up, if no one calls in sick or has an appointment or any other things happen outside the building, then we would be fully covered."
91. The Principal stated, "When we've had two or three para[professionals] call in on a day, we look at what is going to be least disruptive to the environment. Are some classrooms able to accommodate and continue to provide those accommodations that are needed? ... [the decision is made to accommodate] those with the most significant needs in regards to function. So unfortunately, students that have academic supports honestly may miss some pull out or may miss some minutes at that time because we have to cover the higher needs."
92. The Principal reported that the PT is responsible for training the paraprofessionals to support the Student.
93. The Principal stated, "my understanding of the latex was that fact that [the Student] was not to have direct exposure. Therefore, with direct exposure, I understood we didn't want [the Student] to not be able to participate by seeing that. So that was why we made that adjustment [purchasing Mylar balloons] because [the Student] would've been in the same vicinity [as the balloons]."
94. The Principal recalled an event with latex balloons and stated, "kindergarten roundup was at 5:00 at night, it wasn't set up until 5:00 at night and it was taken down by 7:30 that evening."
95. In regard to the latex allergy and exposure, the Principal stated, "once [the Parents] shared with me the doctor's note, it was then shared [with staff] that there should not be, the balloons can't be in the building. [The balloons] can't be disposed of in the building. [The Parents] shared that we need to take them outside to dispose of them, that we can't pop them because there could be remnants."
96. The Principal stated, "we had to complete the reevaluation prior to the IEP date ... we were up on a tighter timeline because for the reevaluation, we do need to have parents sign and consent ... When we complete the evaluation, it is a team decision to determine if services will continue ... so typically that is the first part of the meeting. If everyone believes that the services are required and that it's appropriate and necessary, then we would move forward with the draft IEP." The Principal continued, "if it's not a reevaluation year, the IEP draft is shared with the parents in order for them to look over that and go through it before the meeting. We're not able to share a draft IEP when we're doing a reevaluation as then it's showing that there's a predetermination. We also want to make sure that we are prepared for moving forward if the determination is made that services will continue."
97. When asked about the reevaluation and IEP meeting process for the Student, the Principal stated, "nothing was atypical."
98. In an interview with the Investigator, Special Education Teacher 2 explained that when a paraprofessional is "missing or absent, it is up to [the] Administrators to figure out the scheduling and they schedule it based [on] student needs."

99. When asked about typical procedures for completing a reevaluation, Special Education Teacher 2 explained “you would do your IEP form with the School Psychologist. Then when you have your meeting with parents, you go over it and the School Psychologist goes over the new evaluation scores. And then once you go over that, you have parents give their input and then from there you give signatures and they ask questions.”

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, implemented special education and related services as described in the Student's IEP. Specifically alleged was the lack of: paraprofessional support throughout the school year, elimination of the Student's exposure to latex, and appropriate supervision of the Student for their safety, inclusion and independence. K.A.R. 91-40-16(b)(3); 34 CFR § 300.323.

According to K.A.R. 91-40-16(b)(3) and 34 CFR §300.323(a), an IEP must be in effect for each exceptional child at the beginning of each school year.

The Parents alleged that beginning in August 2024, paraprofessional support was absent on numerous days. Furthermore, they alleged that despite the Student's IEP listing a latex allergy, latex balloons were present in the School on multiple instances during the 2024-25 academic year, including a balloon parade, a balloon arch for Kindergarten Round-Up, and balloons used for state testing. The Parents also claimed inadequate supervision by the School to minimize safety risks, referencing incidents on the playground and in the classroom where the Student was allegedly not monitored or supported. Additionally, the Parents alleged that Paraprofessional 1 was incapable of providing assistance to the Student during emergency situations.

The District contended that they have fully implemented the Student's IEP as written and ensured that all required services and supports were provided. They noted paraprofessional schedules and daily nurse logs as evidence paraprofessional minutes were being met. In addition, the District indicated they took extensive and consistent action to meet obligations regarding the Student's safety through ongoing parent communication and supervision measures. In addition, the District claimed that during paraprofessional absences, the special education teachers would assume coverage responsibilities. The District also noted that the Student continued to make meaningful progress on their IEP goals. Last, the District maintained they took timely and appropriate action to eliminate latex exposure by removing balloons from the school environment, creating a safe path for the Student, and collaborating with the Parents to develop a plan.

The Student's IEP, dated February 21, 2025, included specific minutes for "Adult support for mobility in specials, recess, and classroom." The IEP listed the need for this support as 245 minutes one day per week and 270 minutes four days per week.

The Principal stated they took over paraprofessional scheduling at the beginning of the school year due to being "very short-staffed" and tried to "maximize coverage." They used at-risk aids to support special education minutes and made ongoing adjustments as they hired more staff. They said that by the end of the first nine weeks of school, they were "fully staffed" assuming all staff were present. The paraprofessional schedules demonstrate full coverage for the Student, assuming all staff were present. Special Education Teacher 2 explained that when a paraprofessional was "missing or absent, it is up to [the] Administrators to figure out the scheduling and they schedule it based [on] student needs." The Principal stated that when paraprofessionals called in sick or missed time, they prioritized coverage for "those with the most significant needs in regards to function."

The Parents stated that in the "first few months of school" in the 2024-25 school year (which began in August 2024), the Student lacked paraprofessional support "pretty frequently," although they noted it had improved as they complained more. Initially, the School was described as "fairly consistently providing a paraprofessional," but issues persisted. The Parents recalled the "first two or three weeks" of school (around mid to late August 2024) involved the School trying to figure out paraprofessional schedules. They felt the Student was "the last one on [the School's] list to have [the paraprofessional] role filled." They also stated that if a paraprofessional was sick, the Student's paraprofessional would be pulled to cover for the absent one, leaving the Student without assistance. The Parents recalled that earlier in the school year (likely September or October 2024), the Student's friends had to help so often due to the lack of adult support that the friends told the Student they were "tired of helping" and that the Student was a "pain."

On August 16, 2024, the Parents sent a message to Special Education Teacher 1 inquiring about paraprofessional coverage, specifically noting the Student had a paraprofessional only during recess. Special Education Teacher 1 responded that schedules were still in process. On August 26, 2024, the Parents contacted the Principal to ask when the Student would receive all their paraprofessional minutes, citing a lack of support for most of the day, including PE. On August 27, 2024, the Principal acknowledged an oversight in paraprofessional coverage and stated that adjustments were being made.

On August 16, September 18, November 20, 2024, January 15, February 4, and February 21, 2025, the Parents expressed significant concerns about the Student's safety, inclusion, and independence, emphasizing the need for close support, particularly during recess and PE. The same day, the Parents reported the Student did not have a paraprofessional, which they indicated led to a fall at recess. Staff attendance shows that Paraprofessional 2 was absent on that day, but Paraprofessional 1 was present and scheduled during both recess times. Special

Education Teacher 1 explained that schedule adjustments were due to staff illness and a new paraprofessional would start the following week. Special Education Teacher 1 also noted a shortage of substitute paraprofessionals and mentioned that existing paraprofessionals were supporting multiple students. The Principal stated that AC had been provided and more paraprofessionals had been hired. The Principal also provided information to the Parents on September 19, 2024, on steps they could take to address concerns. On September 19, 2024, the Parents emailed the Superintendent to express ongoing concerns about the lack of paraprofessional support. On September 25, 2024, the School Nurse reported the Student's paraprofessional had been absent. Staff attendance records show that both Paraprofessional 1 and Paraprofessional 2 were present on September 25, 2025.

On October 29, 2024, the Parents requested a team meeting with Special Education Teacher 1 to discuss the Student's needs and review the IEP. On November 19, 2024, the Parents reported the Student lacked a paraprofessional again, requiring the nurse to assist with catheterization. The Principal cited a shortage of paraprofessionals due to absences. Staff attendance records show that both Paraprofessional 1 and Paraprofessional 2 were present on November 19, 2025. The Parents continued to express their concerns on November 20, 2024, when they emailed the Superintendent expressing these unresolved concerns.

On January 15, 2025, the Parents wrote to the Physical Therapist (PT) and others regarding paraprofessional support and transfers. On January 15, 2025, the Parents noted the Student's need for extra support for "transfers" due to a surgery the Student recently had. On January 22-24, 2025, there were communications regarding the Student using a wheelchair and walking as tolerated. On January 22, 2025, the PT noted the Student's poor safety awareness, risk of falls, and the need for physical assistance. On February 3, 2025, the Parents reported the Student did not have a paraprofessional except for dismissal assistance. Staff attendance records show that Paraprofessional 1 was present and Paraprofessional 2 had no record of attendance on February 3, 2025.

On February 4, 2025, the Parents requested Paraprofessional 1 not be involved in the Student's care. The Parents specifically indicated that Paraprofessional 1 "struggles providing support for [the Student] with inclusion and safety." They cited examples of Paraprofessional 1 encouraging the Student to sit to avoid being active Limiting the Student's playground area by staying on a bench and telling the Student to remain within sight; not closely watching the Student at recess; and concern about not being capable of assisting in an emergency. The parents mentioned an incident at a recent (undated) field day where Paraprofessional 1 said, "I am glad you were here because I wouldn't have done any of that." They also reported seeing Paraprofessional 1 leaning on the Student's wheelchair and learning that Paraprofessional 1 had allowed the Student to climb playground equipment, requiring another paraprofessional to assist the Student in getting down.

The Student's IHP, dated February 19, 2025, includes assessments and goals related to safety, such as ensuring a safe workspace and safe transfers. The IEP, dated February 21, 2025, includes goals related to practicing safety, such as safe sitting and safely using a walker. On February 28, 2025, the School Nurse apologized for the delay in assisting the Student with catheterization, attributing it to the paraprofessional's absence. Staff attendance records show that Paraprofessional 1 was present and Paraprofessional 2 had no record of attendance on February 28, 2025.

On April 3, 2025, the Parents reported the Student did not have a paraprofessional during PE and recess and was not taken to the School Nurse as scheduled. Staff attendance records show that both Paraprofessional 1 and Paraprofessional 2 were present on April 3, 2025. The Parents then asked which paraprofessional was working with the Student on February 28th and April 4th, reiterating their request regarding Paraprofessional 1. On April 8, 2025, the Parents reported the Student often lacked a paraprofessional for check-in time. On April 10, 2025, the Principal checked on the morning check-in and stated they would ensure consistency. Later on April 10, 2025, the Parents stated they had observed the Student without assistance during check-in on March 27, 2025. Paraprofessional 2 was assigned to assist during check-in time on March 27, 2025, and was present during check-in time.

During the 2023-24 school year, the Student was making progress toward annual Goal 1.1, Goal 2.1, and all Benchmarks. This trend of making progress continued during Period 1 in the 2024-25 school year. In Period 2 of the 2024-25 school year, progress continued for Goal 1.1 and Goal 2.1, and Benchmarks 2.1.1 and 2.1.2 were "Met." Benchmark 2.1.3 was "not addressed in this reporting period" due to "recent weather constraints and recent surgery." Benchmark 2.1.1 showed the Student was "Not making progress toward annual goal" because "[The Student] continues to require daily reminders for keeping the floor area around [their] desk clean and has not demonstrated safety maintaining [the] environment for one week."

The Student has a documented latex allergy requiring specific precautions and considerations in their care plan and school environment. The Student's IHP, dated February 19, 2025, lists "latex allergy" under Medical Diagnosis and includes "avoid latex" in the Prescribed Treatment/Medication section, further noting the availability of an Epi-pen for emergency use. The Nursing Assessment within the IHP outlines an increased risk of injury due to the latex precaution and directs the School Nurse to ensure all products used for care are latex-free and within expiration dates, and to assess the Student for accidental latex exposure and notify the Parents as needed. Furthermore, the Nursing Goals and Plans state that "staff will eliminate latex exposure."

On November 20, 2024, the School Nurse communicated to the Parents about a planned balloon parade by the Student's class, mentioning concerns about potential risks to multiple Students with latex allergies. The Nurse reported that the Principal arranged for latex-free balloons to be obtained for the parade. The Principal's understanding was initially that the

student should avoid direct exposure to latex. To allow the Student to participate in events where balloons were present, Mylar balloons were purchased as an adjustment. The Principal also mentioned a kindergarten roundup event where latex balloons were used. This event took place from 5:00 PM to 7:30 PM, during which time the latex balloons were set up and then taken down.

On April 13, 2025, the Parents provided a doctor's note to the Principal, School Nurse, and Special Education Teacher 1, regarding the airborne danger of latex, and requested the immediate removal of all balloons. In response, on April 14, 2025, the Principal informed the Parents that the balloons would be removed and properly disposed of. The Principal communicated to staff that latex balloons were not to be in the building and could not be disposed of inside; the balloons needed to be taken outside for disposal without being popped inside.

The facts in this case indicate the School was aware of the Student's latex allergy, documented it in the IHP, and had procedures in place for managing it. While the balloon parade incident showed awareness, it also highlighted a potential oversight that was addressed by the School Nurse. The Parents' providing the doctor's note emphasized the severity of the allergy and the need for strict avoidance, leading to the requested balloon removal. Overall, the Student's latex allergy was acknowledged, measures were taken by the School to address it, and active communication occurred between the Parents and school staff regarding the Student's safety and well-being in relation to the allergy.

Throughout the complaint period, the School actively communicated with the Parents regarding the Student's safety and inclusion, addressing concerns as they arose and making adjustments to scheduling and staffing as needed. Additionally, the Student demonstrated progress on the majority of their established goals within their IEP. The specific goals that were not met or were not addressed in the reporting period were not directly tied to the Student's immediate safety, inclusion, or the provision of paraprofessional minutes. While there were documented instances where paraprofessional minutes may not have been served as outlined in the IEP, primarily due to staffing shortages and unexpected absences, these instances, viewed within the totality of the situation, did not constitute a material failure to implement the IEP. The School's efforts to secure additional staff, adjust schedules to prioritize the Student's needs, and directly address the Parents' concerns, as evidenced by the ongoing dialogue and documented actions, demonstrate a commitment to supporting the Student's needs and implementing the IEP to the best of their ability under the circumstances.

Based on the foregoing, according to IDEA and Kansas special education regulations, the District did implement special education and related services as described in the Student's IEP. Specifically, paraprofessional support throughout the school year, elimination of the Student's exposure to latex, and appropriate supervision of the Student for their safety, inclusion and independence.

Issue Two

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, provided the Parents with an opportunity to participate in the IEP and reevaluation process. K.A.R. 91-40-17, K.A.R. 91-40-25; 34 CFR § 300.501.

According to K.A.R. 91-40-17, K.A.R. 91-40-25, and 34 CFR § 300.501, each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP meeting or are afforded the opportunity to participate. These steps shall include scheduling each meeting at a mutually agreed-upon time and place and informing the parents of the information specified in subsection (b) of this regulation and providing written notice, in conformance with subsection (b) of this regulation, to the parents of any IEP team meeting at least 10 days in advance of the meeting. In addition, each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the identification, evaluation, or education placement of the child; and the provision of FAPE to the child.

The notice shall meet the following requirements: indicate the purpose, time, and location of the IEP team meeting and the titles or positions of the persons who will attend on behalf of the agency, including, if appropriate, any other agency invited to send a representative to discuss needed transition services; and that the parents have the right to invite to the IEP team meeting individuals whom the parents believe to have knowledge or special expertise about their child.

The Parent alleged they were not given the opportunity to adequately review the proposed IEP prior to the meeting due to the triennial review being conducted directly before the IEP meeting and both happening the day before the IEP was scheduled to expire.

The District responded that it provided the Parents with meaningful opportunities to participate in all aspects of the IEP and reevaluation process. In support of their compliance, the District cites Parental Consent for Reevaluation, documented parent involvement in meetings, parent input in eligibility and planning, and proactive communication from the School Psychologist.

On October 29, 2024, the Parents requested a team meeting to review their child's needs and IEP, which was scheduled for November 19, 2024. The Parents shared their concerns about the Student's lack of paraprofessional coverage during the school year. They stated that when concerns about the absence of paraprofessional support were raised, it resulted in new revised IEPs proposing a reduction in minutes, which they perceived as a retaliatory measure. The Parents recalled receiving two revised IEP drafts in October and November 2024, which significantly reduced the Student's support minutes. They described the November meeting where they were "blindsided by a great reduction" to the IEP which became "very contentious." The Parents clarified that the received documents were drafts that they did not sign and

therefore were not implemented. They noted that while the November document was marked as a draft, the October document was not.

On November 20, 2024, the Parents emailed the Superintendent expressing that their concerns remained unresolved. In the email, they described the meeting from the previous day, which they intended to be a discussion about paraprofessional support, safety, and inclusion. However, the meeting reportedly shifted to a discussion about reducing the Student's services rather than ensuring adherence to the current IEP. The Parents noted that the Principal subsequently called to apologize for the nature of the meeting, retract the IEP, and proposed a meeting in February for the regularly scheduled IEP review.

On December 20, 2024, the School Psychologist informed the Parents about the Student's upcoming three-year reevaluation and sent consent forms home, as well as a PWN for Reevaluation. On January 27, 2025, the notice was signed by one of the Parents which indicated the Parents had received their rights and consented to the reevaluation that was specified in the notice. By February 3, 2025, Special Education Teacher 1 requested to schedule the annual IEP meeting. On February 19, 2025, the Principal rescheduled the IEP meeting for February 21, 2025 due to inclement weather on February 19, and confirmed the proposed IEP draft would be shared the next day. The IEP was not shared with the Parents and the Principal explained that when a reevaluation is being conducted, the IEP draft is typically not shared with parents beforehand to avoid showing a predetermination of services. The Principal stated that the team needs to complete the reevaluation first, which includes the parents signing consent and the team deciding if services will continue. Only after this reevaluation process and decision is made, would they then move forward with the IEP draft.

A Reevaluation/Continued Eligibility Report was acknowledged and signed by the Parents on February 21, 2025. On the same day, a Staffing Summary form indicated Parents' rights were reviewed and accepted. The Staffing Summary also noted the Parents' concerns and a request regarding specific support personnel. A Notice of Meeting on February 21, 2025, was signed and indicated the Parents waived their right to the 10-day PWN. The Student's IEP, dated February 21, 2025, was finalized and listed Parent concerns regarding support and emergency assistance. The Parents also signed a Request for Consent for Special Education Action.

The Parents then sent a message on February 21, 2025, expressing concern about not receiving the draft IEP in advance. On February 22, 2025, the Parents thanked the Principal for their response but stated the IEP was drafted prior to the reevaluation, and requested draft IEPs be provided in advance in the future. The Principal acknowledged that holding the meeting on the same day as the IEP expiration might have created pressure and stated they are committed to ensuring all support and services outlined in the Student's plan are followed.

The facts in this case indicate the Parents were provided with a meaningful opportunity to participate and give feedback throughout the IEP process. Records demonstrate numerous instances of communication between the Parents and various school staff members regarding

the Student's needs and IEP. The Parents actively voiced their concerns, requests, and input in direct messages, emails, and meetings, and the school acknowledged and documented these contributions. The District scheduled and held IEP meetings, provided PWNs, and obtained parental consent for evaluations and services. Moreover, the IEP document reflects parental input regarding the Student's needs, supports, and concerns, thereby illustrating the consideration of the Parents' perspectives in the development of the IEP. While there were concerns raised by the Parents regarding the timing of receiving the final IEP draft before the meeting, particularly during reevaluation, the District's actions in holding meetings, obtaining consent, documenting parent input, and providing an opportunity to inspect and review the IEP reflect adherence to procedural requirements.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the district failed to provide the Parents with an opportunity to participate in the IEP and reevaluation process.

Issue Three

Whether USD #383, in accordance with state and federal regulations implementing the IDEA, conducted an accurate reevaluation that met the requirements. K.S.A. 72-3428; 34 CFR § 300.303.

According to K.S.A. 72-3428 and 34 CFR § 300.303, an agency shall provide notice to the parents of a child that describes any evaluation procedures such agency proposes to conduct. This is pertinent to initial evaluation of children prior to provision of services, parental consent, reevaluation, and notice.

The Parents alleged they were not given the opportunity to adequately review the proposed IEP prior to the meeting due to the triennial review being conducted directly before the IEP meeting and both happening the day before the IEP was scheduled to expire.

The District responded that the reevaluation conducted for the Student adhered to the procedural and substantive requirements outlined in IDEA and K.A.R. They maintained that the parental consent, the timely and ongoing communication, the comprehensive review and data collection, the proper composition and documentation of the multidisciplinary team, the alignment with the IEP and continued provision of FAPE, and the procedural timeliness aligns with the best practices and legal requirements outlined in the Kansas Special Education Process Handbook.

On December 20, 2024, the reevaluation process for the Student was initiated. The School Psychologist informed the Parents via direct message that the Student's three-year reevaluation was due, and that consent forms would be sent home. On the same day, a PWN for Evaluation or Reevaluation and Request for Consent was delivered to the Parents. This PWN outlined the proposal to conduct a reevaluation, specifying that it was based on new data needed for health/motor ability and social-emotional/behavioral status, alongside existing data

on vision, hearing, and academic performance. The notice detailed that the reevaluation was necessary as the Student's three-year review was due in March 2025, and new data was required. The basis for the action included staff input, parent input, observations, and the scheduled three-year reevaluation.

On January 27, 2025, one of the Parents signed the PWN, indicating their receipt of rights and consent for the specified evaluation or reevaluation. On February 20, 2025, a Reevaluation/Continued Eligibility Report was created, which confirmed the reevaluation was due by March 2025 and noted the Parents' consent given on January 27, 2025. This report contained details regarding the Student's health, physical needs, and the Physical Therapist's (PT) recommendations. It also included information based on "parent ratings" as data for the Student's "schoolwork T-score." The following day, on February 21, 2025, the Reevaluation/Continued Eligibility Report was acknowledged, agreed to, and signed by the Parents, the Principal, Special Education Teacher 1, the Teacher, the School Psychologist, the Special Education Coordinator, and the PT. Also on February 21, 2025, the Student's IEP, dated the same day, indicated that evaluation consent was obtained on January 27, 2025, and the evaluation date was February 21, 2025. The IEP meeting participants were listed and included signatures for the Parents, Special Education Teacher 1, the Principal, the Special Education Coordinator, the PT, the School Nurse, the School Psychologist, and the Physical Therapy Assistant.

The timeline and facts in this case show that the District provided notice of the proposed reevaluation, obtained parental consent before conducting the reevaluation, completed the reevaluation, and held an IEP meeting to discuss the results and update the IEP.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the district did not conduct an accurate reevaluation that met the requirements.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

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

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

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

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

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

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

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