

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233
ON MAY 4, 2025

DATE OF REPORT: JUNE 3, 2025

This report is in response to a complaint ----- filed with the Kansas State Department of Education, on behalf of their child, ----- . For the remainder of this report ----- will be referred to as "the student." ----- will be referred to as "the parent."

Investigation of Complaint

K.A.R. § 91-40-5(c)(5) requires that the complaint investigation include "[a] discussion with the complainant during which additional information may be gathered and specific allegations of noncompliance identified, verified, and recorded." Laura Jurgensen, complaint investigator, held this discussion with the parent via phone on May 7, gathering additional information and verifying the specific allegations to be investigated. The complaint investigator provided the specific allegations to be investigated to the parent via email on May 7. The parent did not dispute how the complaint investigator framed the issues to be investigated. The parent also provided documentation for the complaint investigator to consider as part of the investigation and the parent and investigator exchanged multiple emails. The district assistant special education director and the investigator had two phone calls and exchanged multiple emails. The investigator interviewed the principal of the student's school, the student's special education teacher, a district special services coordinator, and a district school psychologist and exchanged emails with the district special services coordinator. The district provided the investigator with a response to the issues identified, as well as all documentation and data the investigator requested.

In completing this investigation, the complaint investigator reviewed and considered all information both parties provided. The investigator determined the following documentation was most relevant to the identified issues and relied on this information in making findings of fact and conclusions:

- Student's 2024–25 Elementary Progress Report, May 22, 2025.
- Prior Written Notice Proposing Changes to Student's IEP Based on Reevaluation Report IEP Team Discussion, May 20, 2025.
- District Document with Information on Each Reevaluation Instrument, May 20, 2025.
- District Timeline, May 20, 2025.
- District's Response to the Complaint, May 20, 2025.

- IEP Team District Meeting Notes, May 16, 2025.
- Parent's Complaint, May 4, 2025.
- Prior Written Notice of the District's Decision to Grant an Independent Educational Evaluation, Apr. 30, 2025.
- Prior Written Notice and Request for Consent to Extend Evaluation Timeline to Include Additional Testing in Reevaluation and Refusal to Conduct Certain Testing, Apr. 25, 2025.
- Email from Parent to Principal Requesting Records, Apr. 25, 2025.
- Emails Between IEP Team Members Regarding Reevaluation, Apr. and May 2025.
- Draft Reevaluation Report, Apr. 17, 2025.
- Prior Written Notice Refusing Parent Request for Independent Educational Evaluation, Apr. 15, 2025.
- Parent Emails to District Staff with Independent Educational Evaluation Request, Apr. 14, 15, 22, and 29, 2025.
- Parent Emails to IEP Team Regarding Comprehensiveness of Reevaluation, Apr. 14 and 22, 2025.
- Email Exchange Between Parent and School Psychologist on Reevaluation, Jan. 15–16, 2025.
- Prior Written Notice and Request for Consent to Evaluate and Signed Parent Consent, Jan. 15, 2025.
- Email from Parent to District Staff Requesting Reevaluation, Jan. 9, 2025.
- Daily Reports Between Teacher and Parent and Parent Summaries of Daily Reports, Jan.–Apr. 2025.
- Email from Principal to District Staff Regarding Parent's Withdrawal of Oct. 16, 2024, Record Request, Oct. 23, 2024.
- Emails Between District Staff Regarding Parent's October 16, 2024, Record Request, Oct. 17, 2024.
- Email from Parent to Principal Requesting Records, Oct. 16, 2024.
- Prior Written Notice Proposing to Waive the Reevaluation and Signed Parent Consent, Sept. 12, 2024.
- Student IEP Progress Report – Annual Goal, Sept. 11 and Dec. 19, 2024, Mar. 14 and May 22, 2025.
- Student's IEP, Sept. 12, 2024.
- Email from Parent to Special Education Teacher Requesting Records, Aug. 14, 2024.
- District Process and Procedure for Review of Existing Data, Sept. 18, 2008.

Background Information

The student was a second grader in the 2024–25 school year. The student's 2024–25 IEP included one goal focused on social skills and included 30 minutes of special education services five times per week. The parent described the student in the information submitted for the student's reevaluation as "inquisitive, creative, and loves exploring the world around [the student.]" (Draft Reevaluation Report, Apr. 17, 2025.) The student's teacher described what she loves most about the student as "[the student's] smile [and] joking demeanor." (Draft Reevaluation Report, Apr. 17, 2025.)

Issues

In the written complaint, the complaint investigator's discussion with the complainant, and an issue the parent submitted on May 16, 2025, and the district agreed to add, the parent alleges fifteen issues upon which this investigation will focus:

Issue One: Whether the district provided written notice that meets the requirements of 34 C.F.R. § 300.503(b) to the parent in response to the parent's October 2024 request for accommodations to be added to the student's IEP. 34 C.F.R. § 300.503(a).

Issue Two: Whether the district ensured that a reevaluation of the student was conducted in accordance with 34 C.F.R. §§ 300.304 through 300.11 if the district determines that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation; or if the student's parent or teacher requests a reevaluation and at least once every three years. 34 C.F.R. § 300.303.

Issue Three: Whether the district provided notice to the parent, in accordance with 34 C.F.R. § 300.503, that described the reevaluation procedures the district proposed to conduct prior to conducting the student's 2024–25 school year reevaluation. 34 C.F.R. § 300.304(a).

Issue Four: Whether the district obtained informed parental consent, in accordance with 34 C.F.R. § 300.300(a)(1), prior to conducting the student's 2024–25 school year reevaluation. 34 C.F.R. § 300.300(c).

Issue Five: Whether as part of the student's 2024–25 school year reevaluation, the IEP Team and other qualified professionals, as appropriate, reviewed existing evaluation data on the student including evaluations and information the parents of the student provided; current classroom-based, local, or State assessments, and classroom-based observations; and teachers and related services providers' observations. 34 C.F.R. § 300.305(a)(1), (b); K.S.A. § 72-3428(i)(1).

Issue Six: Whether as part of the student's 2024–25 school year reevaluation, the IEP Team and other qualified professionals, as appropriate, on the basis of the review of

existing evaluation data, and input from the student's parents, identified what additional data, if any, were needed to determine whether the student continues to be an exceptional child, and the student's educational needs; the student's present levels of academic achievement and related developmental needs; whether the student continues to need special education and related services; and whether any additions or modifications to the special education and related services were needed to enable the student to meet the measurable annual goals set out in the student's IEP and to participate, as appropriate, in the general education curriculum. 34 C.F.R. § 300.305(a)(2), (b); K.S.A. § 72-3428(i)(2).

Issue Seven: Whether in conducting the student's 2024–25 school year reevaluation the district used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent, that may assist in determining whether the student continues to be an exceptional child; and the content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum. 34 C.F.R. § 300.304(b)(1); K.S.A. § 72-3428(b)(1).

Issue Eight: Whether in conducting the student's 2024–25 school year reevaluation the district used technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. 34 C.F.R. § 300.304(b)(3).

Issue Nine: Whether in conducting the student's 2024–25 school year reevaluation the district ensured the student is assessed in all areas of suspected exceptionality, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 34 C.F.R. § 300.304(c)(4); K.S.A. § 72-3428(c)(2).

Issue Ten: Whether in conducting the student's 2024–25 school year reevaluation the district ensured the evaluation is sufficiently comprehensive to identify all the student's special education and related services needs, whether commonly linked to the disability category in which the student has been classified. 34 C.F.R. § 300.304(c)(6).

Issue Eleven: Whether the district ensured that the IEP Team revised the student's IEP, as appropriate, to address information about the student provided to, or by, the parents, as described under 34 C.F.R. § 300.305(a)(2); the student's anticipated needs; or other matters. 34 C.F.R. § 300.324(b)(1)(C)–(E).

Issue Twelve: Whether the district provided the student with FAPE during the 2024–25 school year. 34 C.F.R. § 300.101(a); K.S.A. § 72-3410(a)(2); K.A.R. § 91-40-2.

Issue Thirteen: Whether the district afforded the parent, in accordance with the procedures of 34 C.F.R. §§ 300.613 through 300.621, an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the student; and the provision of a free appropriate public education (FAPE) to the student. 34 C.F.R. § 300.501(a).

Issue Fourteen: Whether the district correctly and within a reasonable time responded to the parent's request for an independent educational evaluation. 34 C.F.R. § 300.502.

Issue Fifteen: Whether the district predetermined the student's disability category prior to the May 2025 IEP Team meeting to discuss the student's reevaluation. 34 C.F.R. § 300.306(a); 34 C.F.R. § 300.501(b).

Issue One

Prior Written Notice for Accommodations Request

Applicable Law

Written notice that meets the requirements of 34 C.F.R. § 300.503(b) must be given to the parents of a child with a disability a reasonable time before the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. 34 C.F.R. § 300.503(a).

Analysis: Findings of Fact

In the parent's complaint, she indicates that in October 2024 she met with "all required IEP members" and requested "noise-canceling headphones, sensory accommodations, and improved communication" be added to the student's IEP. (Parent's Complaint, May 4, 2025.) When the complaint investigator interviewed the parent, the parent indicated that the special education teacher told the parent at the October 2024 meeting that the requested items would be added to the student's IEP. The parent also voiced concern in the complaint that the district later indicated the October 2024 meeting was not an IEP Team meeting and this characterization denied the parent "formal procedural safeguards, documentation, and follow-up action." (Parent's Complaint, May 4, 2025.) In the interview with the complaint investigator, the parent indicated the procedural safeguards she was denied due to the district's characterization of the meeting was "meaningful participation;" the documentation she was denied was documenting her parent concerns, including her requests for accommodations to be added to the student's IEP; and the follow-up action she was denied was that the requested accommodations were not added to the student's IEP.

In the district's response to the complaint, the district stated that on October 16, 2024, the parent participated in the student's parent-teacher conference and then requested a follow-up

discussion. (District's Response to the Complaint, May 20, 2025.) The special education teacher then set up a meeting with the parent, principal, student's general education teacher, and special education teacher for October 23, 2024. (District's Response to the Complaint, May 20, 2025.) The district's response indicated this meeting was not an IEP Team meeting and the participants discussed, among other things, general education interventions available to all students. (District's Response to the Complaint, May 20, 2025.) In the interview with the complaint investigator, the principal and special education teacher both stated they do not recall the parent requesting accommodations be added to the student's IEP. (District's Response to the Complaint, May 20, 2025.) The principal and special education teacher also both stated that if the parent had requested accommodations, their response would have been to set up an IEP Team meeting to discuss the request. (District's Response to the Complaint, May 20, 2025.) The special education teacher further explained that the district's procedure when a parent requests a change to a student's IEP is to schedule an IEP Team meeting to discuss. (District's Response to the Complaint, May 20, 2025.)

Conclusion

The parent stated several items she believed she was denied because the district did not characterize the October meeting as an IEP Team meeting. Whether the October 2024 meeting was characterized as an IEP Team meeting does not impact the district's obligation to respond to a parent's request regarding the provision of FAPE to the child with a Prior Written Notice. The parent indicates she requested accommodations be added to the student's IEP and district staff indicate the parent did not make this request. Neither party has documentation of this request or a lack of a request. The parent submitted all text messages and emails with school staff from the 2024–25 school year. The investigator reviewed all of it and did not find any reference to an accommodations request at the October 2024 meeting.

As there is no documentation of this request, the complaint investigator must then determine whether the information from the parent or from district staff is more credible. This investigator finds that the district staff testimony regarding the meeting discussion is more credible because the district staff were able to explain the district's procedure for this type of request and how district staff would have followed the procedure had the parent requested accommodations be added to the student's IEP. Additionally, had the parent made this request it is reasonable to think that the parent may have referenced it in her regular text messages to the student's special education teacher, but there is no mention of it.

Therefore, this investigation concludes that the district *did not violate its obligation* to ensure that it provided written notice that meets the requirements of 34 C.F.R. § 300.503(b) to the parent in response to the parent's October 2024 request for accommodations to be added to the student's IEP under 34 C.F.R. § 300.503(a). As there is no violation, no corrective action is needed.

Issue Two

Reevaluation Need

Applicable Law

A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with 34 C.F.R. §§ 300.304 through 300.311 if the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or if the child's parent or teacher requests a reevaluation. A reevaluation conducted under 34 C.F.R. 300.303(a) may occur not more than once a year, unless the parent and the public agency agree otherwise; and must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary. 34 C.F.R. § 300.303.

Analysis: Findings of Fact

In the parent's complaint she stated that "[a]t the beginning of the 2024–2025 school year, the district discouraged the parent from initiating a triennial evaluation, citing risk of losing services." (Parent's Complaint, May 4, 2025.) In the interview with the complaint investigator, the parent stated that she emailed the school psychologist at the beginning of the 2024–25 school year to discuss the plan for reevaluation. The parent's recollection was that the school psychologist indicated that the student was doing so well the IEP Team would discuss the student "graduating" from special education. The parent stated in the interview with the complaint investigator that she was concerned about the student no longer being eligible for special education as she had new concerns from the summer of 2024. The parent also indicated in the interview with the complaint investigator that the special education teacher "talked her out of" the reevaluation in a phone call because the reevaluation could show the student was no longer eligible for special education.

The parent also forwarded the complaint investigator an email she sent to the student's IEP Team on August 15, 2024, and indicated to the complaint investigator that this email "provides a clear example of something I referenced in my state complaint: that I was discouraged from moving forward with my written request for a reevaluation of" the student. (Email from Parent to Complaint Investigator, May 19, 2024.) The email is not completely clear about why the parent felt she was "discouraged from moving forward" with her request for a reevaluation. The parent may be referencing:

Please accept my apology for the misunderstanding on my part. This morning, [the special education teacher] reached out and was able to explain what I believe you ([the school psychologist]) was trying to convey, and I now see where I lost track in the conversation. . . . When I heard that [the student] might graduate from [the] IEP, all that came through (jumbled) within my brain, was that [the student] would lose . . . supports. Sadly, I misunderstood the conversation as I was stuck on this couldn't be beneficial for [the student]

at all. So, I dug my heels in and preemptively demanded that [the student] be evaluated. (my fight response is strong when I come from a place of panic). And often when I'm "hearing" information what's processed through my brain isn't always what the message really was.

After further consideration, I've decided that waiving my right to evaluate at this time will allow us more time to work with [the student] and potentially get a more accurate picture at [the] next triennial evaluation. (thank you [to the special education teacher]).

(Email from Parent to IEP Team, Aug. 15, 2024.)

The district's response indicates that the student's last evaluation was completed in December 2021 and the student's next reevaluation was due to be completed in December 2024. (District's Response to the Complaint, May 20, 2025.) The student's IEP Team met on September 11, 2024, to review the student's IEP and the IEP Team decided that a reevaluation was not needed at that time. (District's Response to the Complaint, May 20, 2025.) The district provided the parent with a Prior Written Notice on September 12, 2024, describing the proposed action as, "[t]he team proposes to waive the 3 year re-evaluation at this time" and the parent signed her consent the same date. (Prior Written Notice Proposing to Waive the Reevaluation and Signed Parent Consent, Sept. 12, 2024.)

In the interview with district staff, the complaint investigator asked the school psychologist for her perspective on her conversation with the parent where the parent indicated the student may "graduate" from an IEP. The school psychologist explained that it is her standard practice to explain that as part of a reevaluation, the IEP Team must determine whether the student continues to have an exceptionality and based on that exceptionality, needs special education and related services. The school psychologist said she always takes care to explain the IEP Team's required discussion on the second prong of eligibility (i.e., need for special education services) to ensure parents understand that is part of a reevaluation. The school psychologist maintained that she had the same conversation with this parent as she does with every parent, explaining the reevaluation process, but did not try to discourage the parent from a reevaluation. The special education teacher reflected that he has heard the school psychologist share this information many times and indicated his conversations with the parent were in the same vein, explaining the process and not trying to persuade the parent in any direction. When the investigator explained that the regulation at focus in this issue requires the district to reevaluate the student if the district determined that the student's improved academic achievement and functional performance warrant a reevaluation and asked why the district did not reevaluate if the student's performance had improved, the school psychologist responded that her comments to the parent were explaining the eligibility process and not necessarily indicating the student had improved to the degree that the student would not be eligible, just that eligibility was part of the discussion.

On January 9, 2025, the parent emailed the special education teacher, general education teacher, and principal and requested a reevaluation. (Email from Parent to District Staff

Requesting Reevaluation, Jan. 9, 2025.) The district provided a Prior Written Notice explaining the reevaluation and requesting consent, which the parent signed on January 15, 2025. (Prior Written Notice and Request for Consent to Evaluate and Signed Parent Consent, Jan. 15, 2025.)

Conclusion

The district documented the IEP Team's decision not to reevaluate the student in September 2024 through a Prior Written Notice and requested the parent's consent, which the parent provided. 34 C.F.R. § 300.303(b)(2) only requires agreement that a reevaluation is unnecessary, not the heightened standard of consent, but nothing prevented the district from documenting the parent and district's agreement not to evaluate as it did. The parent provided an email that indicated she waived her "right to evaluate." (Email from Parent to IEP Team, Aug. 15, 2024.) The parent alleges that district staff tried to talk her out of a reevaluation early in the school year, but there is not clear evidence of that. The email the parent provided in support of this assertion does not clearly establish that the parent is responding to district staff trying to talk her out of a reevaluation. It is equally plausible that the parent was responding to district staff explaining the two prongs of eligibility, as district staff indicated. District staff testimony and written documentation also do not show that the district determined that the student's educational or related services needs, including improved academic achievement and functional performance, warranted a reevaluation.

The documentation provided for this issue shows that the parent consented to not evaluate and does not have any indication district staff talked the parent out of evaluating. There is not documentation to show the district determined the student's needs or improvement warranted a reevaluation, which would have compelled the district to reevaluate the student. Therefore, this investigation concludes that the *district did not violate its obligation* to ensure that a reevaluation of the student was conducted in accordance with 34 C.F.R. §§ 300.304 through 300.11 if the district determines that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation; or if the student's parent or teacher requests a reevaluation and at least once every three years under 34 C.F.R. § 300.303. As there is no violation, no corrective action is needed.

Issue Three

Prior Written Notice for Reevaluation

Applicable Law

The public agency must provide notice to the parents of a child with a disability, in accordance with 34 C.F.R. § 300.503, that describes any evaluation procedures the agency proposes to conduct. 34 C.F.R. § 300.304(a).

Analysis: Findings of Fact

The parent's complaint does not mention a prior written notice leading to the student's 2024–25 reevaluation. Because the parent's complaint included several concerns and facts regarding a reevaluation, in the initial interview with the parent the complaint investigator asked if the district provided the parent with a Prior Written Notice of the reevaluation procedures the district proposed to conduct. The parent indicated she could not find a Prior Written Notice for the reevaluation. She could only find a January 16, 2025, Notice of Meeting for an April 17, 2025, meeting to discuss the reevaluation results.

The district provided the complaint investigator with a copy of the Prior Written Notice it provided to the parent via email on January 15, 2025, as well as the email where the school psychologist sent the Prior Written Notice to the parent. (Prior Written Notice and Request for Consent to Evaluate and Signed Parent Consent, Jan. 15, 2025.) The district also provided emails from the parent responding to the school psychologist asking questions after reading the Prior Written Notice. (Email from Parent to School Psychologist Asking For Further Information on Reevaluation, Jan. 15, 2025.) The Prior Written Notice proposed a reevaluation, gathering new data and reviewing existing data in the areas of Health/Motor Ability, Social/Emotional Status / Behavioral Status, General Intelligence, Academic Performance, and Communication Status and reviewing existing data in Vision and Hearing. (Prior Written Notice and Request for Consent to Evaluate and Signed Parent Consent, Jan. 15, 2025.)

Conclusion

The district provided evidence that showed it sent the parent a Prior Written Notice outlining the parameters for the student's reevaluation on January 15, 2025. Therefore, this investigation concludes that the *district did not violate its obligation* to provide notice to the parent, in accordance with 34 C.F.R. § 300.503, that describes any evaluation procedures the agency proposes to conduct under 34 C.F.R. § 300.304(a). As there is no violation, no corrective action is needed.

Issue Four

Parent Consent for Reevaluation

Applicable Law

Subject to 34 C.F.R. § 300.300(c)(2), each public agency must obtain informed parental consent, in accordance with 34 C.F.R. § 300.300(a)(1), prior to conducting any reevaluation of a child with a disability. 34 C.F.R. § 300.300(c).

Analysis: Findings of Fact

The parent's complaint does not mention parent consent leading to the student's 2024–25 reevaluation. Because the parent's complaint included several concerns and facts regarding a

reevaluation, in the initial interview with the parent the complaint investigator asked if the district requested the parent's consent for the reevaluation procedures the district proposed to conduct. The parent indicated she could not find a copy of the consent for the reevaluation. The district provided the complaint investigator with a copy of the parent's consent to the Prior Written Notice it provided to the parent via email on January 15, 2025, as well as the email where the school psychologist sent the Prior Written Notice and Request for Consent to the parent. (Prior Written Notice and Request for Consent to Evaluate and Signed Parent Consent, Jan. 15, 2025.) The district also provided an email where the school psychologist responded to the parent's request to confirm she had signed the consent. (Email from Parent to School Psychologist Asking For Further Information on Reevaluation, Jan. 15, 2025.)

Conclusion

The district provided evidence that showed it sent the parent a Prior Written Notice requesting consent for the student's reevaluation on January 15, 2025, and evidence that the parent signed consent the same day. Therefore, this investigation concludes that the *district did not violate its obligation* to obtain informed parental consent, in accordance with 34 C.F.R. § 300.300(a)(1), prior to conducting any reevaluation of a child with a disability under 34 C.F.R. § 300.300(c). As there is no violation, no corrective action is needed.

Issue Five

Review of Existing Data

Applicable Law

As part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the child, including evaluations and information provided by the parents of the child; current classroom-based, local, or State assessments, and classroom-based observations; and observations by teachers and related services providers. 34 C.F.R. § 300.305(a)(1), (b); K.S.A. § 72-3428(i)(1). The IEP Team and other qualified professionals, as appropriate, may conduct its review of existing evaluation data on the child without a meeting. 34 C.F.R. § 300.305(b).

Analysis: Findings of Fact

In the initial interview with the complaint investigator the parent indicated that the district did not engage her in reviewing existing data, including evaluations and information you provided, current classroom-based, local, or State assessments, and classroom-based observations, and observations by teachers and related services providers prior to the student's reevaluation. In the interview with district staff, the school psychologist indicated that, logistically, the school psychologist is responsible for much of the review of existing data that she then summarizes and brings to the other district IEP team members at regular

professional learning community meetings. The school psychologist indicated that she brought the summary of the review of existing data to the district staff IEP team members at a January professional learning community meeting before the district issued the January 15, 2025, Prior Written Notice and request for consent for reevaluation. When asked how the parent participated in the review of existing data, the school psychologist indicated this occurred via email. Upon further request, the district was unable to provide an email documenting the parent's involvement in the review of existing data and the school psychologist thought that the review of existing data with the parent could have occurred via phone call, but the district also did not have documentation of a phone call with the parent to review existing data.

The complaint investigator requested the district's procedure on the review of existing data. (District Process and Procedure for Review of Existing Data, Sept. 18, 2008.) The district's procedure indicates that a review of existing data will take place at a Student Intervention Team meeting that must be scheduled within 15 school days of receiving the parent's written request for an evaluation and that the parent must be invited. (District Process and Procedure for Review of Existing Data, Sept. 18, 2008.) There is no evidence that that the district followed this procedure with this student.

Conclusion

The parent's asserts that she was not involved in the review of existing data. The district indicated that the school psychologist engaged the parent in a review of existing data, but there is no evidence that this occurred. Further, the district's explanation of how it conducted the review of existing data for this student does not match the district's written procedure, which leads the investigator to be unsure of what the district process is and whether it was followed. The regulations implementing the IDEA require that the IEP Team (which must include the parent) and other qualified professionals, as appropriate, must review existing evaluation data on the child as part of a reevaluation and this review can occur without a meeting. There is not evidence to show that this review occurred with or without a meeting. Therefore, this investigation concludes that the *district violated its obligation* to ensure that as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the student, including evaluations and information provided by the parents; current classroom-based, local, or State assessments, and classroom-based observations; and observations by teachers and related services providers under 34 C.F.R. § 300.305(a)(1).

Issue Six

Additional Data Needed to Reevaluate

Applicable Law

As part of any reevaluation under Part B, the IEP Team and other qualified professionals, as appropriate, must on the basis of the review of existing evaluation data, and input from the child's parents, identify what additional data, if any, are needed to determine whether the child continues to have such a disability, and the educational needs of the child; the present levels of academic achievement and related developmental needs of the child; whether the child continues to need special education and related services; and whether any additions or modifications to the special education and related services 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. 34 C.F.R. § 300.305(a)(2), (b); K.S.A. § 72-3428(i)(2).

Analysis: Findings of Fact

In the initial interview with the complaint investigator the parent indicated that the district did not engage her in identifying what additional data were needed as part of the student's reevaluation prior the district issuing the Prior Written Notice requesting her consent for the student's reevaluation. In the interview with district staff, the school psychologist indicated that, logistically, the school psychologist is responsible for proposing what additional data may be needed as part of a reevaluation and bringing this proposal to the other district IEP team members at regular professional learning community meetings. The school psychologist indicated that she brought a proposal for what additional data would be needed as part of this student's reevaluation to the district staff IEP team members at a January professional learning community meeting before the district issued the January 15, 2025, Prior Written Notice and request for consent for reevaluation.

When asked how the parent participated in identifying what additional data were needed as part of the student's reevaluation, the school psychologist indicated the school psychologist requested the parent's input via email. The district pointed to two emails where it indicated that it gathered the parent's input on identifying what additional data were needed. Both emails were from January 16, the day after the district issued the parent a Prior Written Notice requesting consent to reevaluate the student and the parent provided consent. The first is an email the parent sent to the school psychologist after she signed consent to evaluate asking if the student would "be tested in all areas." (Email Exchange Between Parent and School Psychologist on Reevaluation, Jan. 15–16, 2025.) The school psychologist responded the next day saying, "[The student] will have . . . cognitive testing completed. I will look at the core areas, yes." (Email Exchange Between Parent and School Psychologist on Reevaluation, Jan. 15–16,

2025.) The second email is the parent responding to questions from the school psychologist including:

How would you describe your child?, Strengths (Academic and Life-Based), Interests, Concerns You May Have, How Would You Describe Your Child's Feelings About School?, What Do You Think Helps Your Child Be Successful in School?, What Are Your Goals for Your Child?, and What Do You Love Most About Your Child?

(Email Exchange Between Parent and School Psychologist on Reevaluation, Jan. 15–16, 2025.) Neither email the district provided includes a discussion based on the review of existing data that identifies what additional data are needed for the reevaluation.

In the district interview, the school psychologist stated that she also considered the input the parent provided in her January 9 email requesting a reevaluation. The parent stated, "I would like to move forward with a triennial evaluation in all areas of learning. [The student's] pediatrician has placed a referral for speech and language. She too, voiced concerns with auditory and visual processing, sensory input and potential Dysgraphia." (Email from Parent to District Staff Requesting Reevaluation, Jan. 9, 2025.) This email provides parent input that the school psychologist says she considered. The regulation at focus requires the IEP Team to identify what additional data are needed.

KSDE provides guidance in the Kansas Special Education Services Process Handbook on the timing of the IEP Team and other qualified professionals, as appropriate, completing the review of existing data and identifying what additional data, if any, are needed for the reevaluation. (Kansas Special Education Services Process Handbook, 135.) The Process Handbook indicates the "first activity the reevaluation team is to conduct is a review of existing data." (Kansas Special Education Services Process Handbook, 135.) If the IEP Team determines that additional data are needed, the "procedures to be used to collect the data should be described on the Prior Written Notice for the reevaluation and provided to the parents for their consent." (Kansas Special Education Services Process Handbook, 136.)

Conclusion

The emails the district points to consistently show parent input into the evaluation itself, but the emails do not show the IEP Team identifying what additional data are needed for the reevaluation. The district appears to have a consistent practice of identifying what additional data are needed with the district IEP Team members at professional learning community meetings, but these meetings do not include the parent, a required participant. KSDE provides clear guidance on the sequence districts must follow to ensure the IEP Team reviews existing data and, on the basis of that review, identifies whether and what additional data are needed for the reevaluation prior to issuing a Prior Written Notice requesting consent to evaluate. There is not evidence that the district followed this sequence, particularly because most of the emails the district points to where it indicates the IEP Team identified the additional data

needed for the reevaluation occurred after the parent requested consent. Therefore, this investigation concludes that the *district violated its obligation* to ensure the IEP Team and other qualified professionals, as appropriate, on the basis of the review of existing evaluation data, and input from the parent, identified what additional data, if any, were needed to determine whether the student continues to be an exceptional child, and the student's educational needs; the student's present levels of academic achievement and related developmental needs; whether the student continues to need special education and related services; and whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student's IEP and to participate, as appropriate, in the general education curriculum under 34 C.F.R. § 300.305(a)(2).

Issue Seven

Variety of Assessment Tools and Strategies in Reevaluation

Applicable Law

In conducting the evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability under 34 C.F.R. § 300.8; and the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum. 34 C.F.R. § 300.304(b)(1); K.S.A. § 72-3428(b)(1).

Analysis: Findings of Fact

On this issue, in the interview with the complaint investigator stated her concern that as part of the reevaluation the student was only observed once in one type of setting. The parent also shared this concern with the district in an email following the April 17, 2025, IEP Team meeting, requesting "Observations in multiple settings – especially unstructured times where masking may diminish and more authentic needs may surface." In this same email the parent also requested a "structured parent interview." The parent also states that, "[s]tandardized tools such as the BASC-3 (with Discrepancy Index), BRIEF-2, Sensory Profile 2, or SPM are widely used in school evaluations and were not utilized."

In the district's response it points to the Prior Written Notice requesting consent for reevaluation, proposing to gather new data and review existing data in the areas of Health/Motor Ability, Social/Emotional Status / Behavioral Status, General Intelligence, Academic Performance, and Communication Status and review existing data in Vision and Hearing. (Prior Written Notice and Request for Consent to Evaluate and Signed Parent Consent, Jan. 15, 2025.) The district's Prior Written Notice form appears to be adapted from KSDE's sample Prior Written Notice for evaluation,

https://www.ksde.gov/Portals/0/SES/forms/Notice_of_Meeting_English.docx. The KSDE form prepopulates the areas to be evaluated and for this student, the district proposed to include all prepopulated areas except Transition Skills as the student is not yet transition age. Within the reevaluation report the district included existing assessment results (i.e., FastBridge Reading and Math, vision results, and hearing results) and conducted new assessments (i.e., Woodcock-Johnson IV Tests of Achievement, Clinical Evaluation of Language Fundamentals-5 (CELF-5), Wechsler Intelligence Scale for Children-Fifth Edition (WISC-V), 2nd grade handwriting screener, Test of Auditory Processing Skills-Fourth Edition (TAPS-4), Beery-Buktenica Developmental Test of Visual-Motor Integration (Beery VMI), Sensory Processing Measure, Second Edition (SPM-2), Behavioral Assessment System for Children, Third Edition (BASC-3), executive functioning screener.)

Conclusion

There is not a requirement that an evaluation include observations of the student in multiple settings or gather parent input in a particular way. This reevaluation included a student observation in the general education classroom. The parent points out assessments that she believes were missing from the reevaluation, but the reevaluation clearly included a variety of assessments to gather functional, developmental, and academic about the student. Therefore, this investigation concludes that the *district did not violate its obligation* in conducting the student's reevaluation, to use the public agency a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information the parent provided, that may assist in determining whether the student is a child with a disability under 34 C.F.R. § 300.8; and the content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum under 34 C.F.R. § 300.304(b)(1). As there is no violation, no corrective action is needed.

Issue Eight

Technically Sound Instruments in Reevaluation

Applicable Law

In conducting the evaluation, the public agency must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. 34 C.F.R. § 300.304(b)(3).

Analysis: Findings of Fact

In the complaint the parent alleged that the district "used an informal 2nd grade handwriting screener rather than norm-referenced tools to assess writing skills, sentence organization, spacing, or automaticity." In the interview with the complaint investigator the parent did not provide any additional concerns regarding assessments the district used in the reevaluation.

The district's response on this issue was very thorough, providing a research base for each instrument the district used in the reevaluation. (District Document with Information on Each Reevaluation Instrument, May 20, 2025.) The district indicated that this handwriting screener is "based on the PRINT Tool (from Learning Without Tears), a norm referenced assessment. This screener was created by occupational therapists for occupational therapists in order to determine if further assessment is warranted." (District Document with Information on Each Reevaluation Instrument, May 20, 2025.) The handwriting screener included copying sentences, writing sentences without a model, mazes, drawing a picture and labeling it, speed writing, and shape copying. (Draft Reevaluation Report, Apr. 17, 2025.)

In the 2006 comments to the regulations implementing IDEA, the United States Department of Education indicated that the definition of "technically sound" in 34 C.F.R. § 300.304(b)(3) "generally refers to assessments that have been shown through research to be valid and reliable." (71 Fed. Reg. 46,642 (2006).) A 2018 study found the Print Tool to have "good concurrent validity" and studies with kindergarteners and first graders indicate the tool is reliable. (Donica DK, Holt S. Examining Validity of the Print Tool Compared With Test of Handwriting Skills 2013; Revised. OTJR: Occupational Therapy Journal of Research. 2018; Broussard, M. Reliability of The Print Tool™ in Measuring Handwriting Abilities in Kindergarten Students 2010; Cook W. A Comparison of the Effectiveness of Two Handwriting Programs on Legibility in First Grade Students 2021. Eastern Kentucky University Encompass.)

Conclusion

The parent did not provide any evidence that the handwriting screener the district used in the reevaluation was not technically sound. The district provided information on the research base for each assessment in the reevaluation. There is evidence that the handwriting screener the district used is valid and reliable, meeting the definition of technically sound. Therefore, this investigation concludes that the *district did not violate its obligation* in conducting the student's reevaluation, to use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors under 34 C.F.R. § 300.304(b)(3). As there is no violation, no corrective action is needed.

Issue Nine

Reevaluation Assessment in All Areas Related to the Suspected Disability

Applicable Law

Each public agency must ensure that the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 34 C.F.R. § 300.304(c)(4); K.S.A. § 72-3428(c)(2).

Analysis: Findings of Fact

The parent stated in her complaint that the reevaluation did not include any assessments in “written expression, despite longstanding concerns regarding dysgraphia, refusal to write, and graphomotor difficulties.” Additionally, the parent alleged that autism-related “traits were not explored at all, despite documentation from September 2024 onward showing the student was on a waitlist for an autism evaluation.”

In the district’s response it points to the Prior Written Notice requesting consent for reevaluation, proposing to gather new data and review existing data in the areas of Health/Motor Ability, Social/Emotional Status / Behavioral Status, General Intelligence, Academic Performance, and Communication Status and review existing data in Vision and Hearing. (Prior Written Notice and Request for Consent to Evaluate and Signed Parent Consent, Jan. 15, 2025.) The reevaluation report indicates the district assessed the student using the Beery-Buktenica Developmental Test of Visual-Motor Integration (Beery VMI), which showed that the student has a relative weakness in motor coordination with may affect the student’s performance in written expression. (Draft Reevaluation Report, Apr. 17, 2025.) The district also assessed the student using the Woodcock-Johnson IV Tests of Achievement, which includes assessment in written expression and fluency. (Draft Reevaluation Report, Apr. 17, 2025.) The reevaluation also includes a statement from the general education teacher regarding the student’s writing refusal, often during phonics. (Draft Reevaluation Report, Apr. 17, 2025.) When the general education teacher asks the student to slow down and try the student can successfully write. (Draft Reevaluation Report, Apr. 17, 2025.) The reevaluation report also indicates that to complete parts of the handwriting screeners and the Woodcock-Johnson IV Tests of Achievement the student was required to write. The reevaluation report indicates that either the student completed the required writing or is silent about whether the student completed it and reporting the results, which indicates the student completed the required writing. (Draft Reevaluation Report, Apr. 17, 2025.)

In the interview with the complaint investigator, district staff indicated the suspected disability, going into the reevaluation, was Other Health Impairment. During the interview, district staff explained the district process for all eligibility conversations, which they stated the May 16 IEP Team meeting followed. The district has an internal eligibility document based on KSDE’s Eligibility Indicators document, <https://www.ksde.gov/Portals/0/SES/misc/iep/EligibilityIndicators.pdf>. District staff stated that district practice is to use this document as a guide to discuss categories of suspected exceptionality and whether there is data to support each prompt.

District staff indicated in the interview that the IEP Team first discussed Other Health Impairment, determining that data supported that the student exhibited this exceptionality. District staff also stated that the team discussed the data from the four categories to determine whether the student exhibited the Autism exceptionality category, using

reevaluation data. The district recorded this discussion in the May 16, 2025, IEP Team meeting notes stating, "Autism exceptionality vs. OHI. Reviewed both-OHI better fits [the student's] needs. Autism exceptionality has 4 components to which [the student] does not best fit." (IEP Team District Meeting Notes, May 16, 2025.) The district also recorded this discussion as an option considered and rejected in the May 20, 2025, Prior Written Notice it issued to the parent with the proposed changes to the student's IEP based on the IEP Team's discussion of the reevaluation report stating, "The team considered finding [the student] eligible under the Autism exceptionality category. This option was rejected, as [the student] does not meet eligibility criteria for this exceptionality as outlined by re-evaluation data collected within this re-evaluation period." (Prior Written Notice Proposing Changes to Student's IEP Based on Reevaluation Report IEP Team Discussion, May 20, 2025.)

Conclusion

The district's Prior Written Notice requesting consent for reevaluation is clear that the student would be reevaluated in all areas. The reevaluation report recounts all the assessments in which the student participated and the results of those assessments. The reevaluation report includes multiple assessments for the student in the areas of written expression and references how the general education teacher supports the student through writing refusal and does not include information that the student exhibited writing refusal during the reevaluation process. The parent expressed her concern about dysgraphia in the parent input section of the reevaluation report, but there is not any information about dysgraphia concerns in the documentation the district submitted. The results of the writing portions of the reevaluation did not show a concern with dysgraphia. Additionally, even though the district did not go into the reevaluation considering autism, the reevaluation contained sufficient data for the IEP Team to review autism as a potential exceptionality category and reject it. Therefore, this investigation concludes that the *district did not violate its obligation* to ensure that the student is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities under 34 C.F.R. § 300.304(c)(4). As there is no violation, no corrective action is needed.

Issue Ten

Comprehensive Reevaluation

Applicable Law

Each public agency must ensure that in evaluating each child with a disability under 34 C.F.R. §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. 34 C.F.R. § 300.304(c)(6).

Analysis: Findings of Fact

The parent's complaint indicates that the district did not adequately assess the student's executive functioning and sensory regulation until after the parent objected. The parent went on to state that the "SPM-2 was only administered after the parent objected post-eligibility meeting." In the interview with the complaint investigator, the parent stated that she received a draft copy of the evaluation report on April 11 and that her impression was that the reevaluation was not sufficiently comprehensive given the student's needs. The parent indicated that after she emailed her concerns the district sent a new draft on April 14.

The district indicates it designed the reevaluation to be more comprehensive than is typical for a student with an IEP with one goal in social skills to be responsive to the parent's requests. (District's Response to the Complaint, May 20, 2025.) The district's response indicated that on April 11, 2025, the school psychologist emailed the parent a draft copy of the reevaluation report with a reminder that the report is a draft "and may be edited to and through the evaluation meeting." (District Timeline, May 20, 2025.) In a follow-up email with the district special services coordinator he indicated that it is district practice to send the parent a draft reevaluation report even if not all assessments are yet fully interpreted, written up, and included in the draft reevaluation report. The district special services coordinator indicated that is what occurred here, the school psychologist sent the parent a draft reevaluation report stating that it would continue to be edited "to and through the evaluation meeting." (District Timeline, May 20, 2025.) The district special services coordinator stated in an email to the complaint investigator that one such assessment the parent referenced, the parent requested in an April 14, 2025, email to district staff and so the district conducted the assessment, providing the results in the April 17, 2025, draft reevaluation report. The district special services coordinator confirmed that district practice is to include all assessments in a reevaluation report and all conducted assessments were included in the April 17, 2025, draft reevaluation report.

Following the April 17, 2025, IEP Team meeting the parent sent an email with additional requests for assessments to be included in the reevaluation. (Parent Emails to IEP Team Regarding Comprehensiveness of Reevaluation, Apr. 14 and 22, 2025.) The parent requested additional testing in sensory processing, visual/motor skills, executive functioning, working memory, processing speed, phonological processing, decoding, and fluency. (Parent Emails to IEP Team Regarding Comprehensiveness of Reevaluation, Apr. 14 and 22, 2025.) The district responded in an April 25, 2025, Prior Written Notice proposing to extend the evaluation timeline to include testing in the areas of sensory processing and visual/motor skills. (Prior Written Notice and Request for Consent to Extend Evaluation Timeline to Include Additional Testing in Reevaluation and Refusal to Conduct Certain Testing, Apr. 25, 2025.) The district declined to do additional testing in executive functioning, working memory, processing speed, phonological processing, decoding, and fluency and explained where each area was covered

within the existing reevaluation data. (Prior Written Notice and Request for Consent to Extend Evaluation Timeline to Include Additional Testing in Reevaluation and Refusal to Conduct Certain Testing, Apr. 25, 2025.) The parent declined to extend the timeline and so the district completed the additional assessments it proposed in the Prior Written Notice within the existing reevaluation timeline. (District Timeline, May 20, 2025.)

Conclusion

The district's response indicates that when it sent the parent the draft reevaluation report on April 14, 2025, that the school psychologist explained that the draft reevaluation would be added to until and through the April 17, 2025, IEP Team meeting. This explains the additions to the draft reevaluation report after the district sent a first draft to the parent. After the parent voiced concerns on the comprehensiveness of the evaluation, the district completed additional assessments within the reevaluation timeline and issued the parent a Prior Written Notice explaining where her additional requests were already taken care of within the reevaluation. Therefore, this investigation concludes that the *district did not violate its obligation* to ensure that in evaluating the student under 34 C.F.R. §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified under 34 C.F.R. § 300.304(c)(6). As there is no violation, no corrective action is needed.

Issue Eleven

Appropriate IEP Revision

Applicable Law

Each public agency must ensure that, subject to 34 C.F.R. 300.324(b)(2) and (b)(3), the IEP Team revises the IEP, as appropriate, to address information about the child provided to, or by, the parents, as described under 34 C.F.R. § 300.305(a)(2); the child's anticipated needs; or other matters. 34 C.F.R. § 300.324(b)(1)(C)–(E).

Analysis: Findings of Fact

In the parent's complaint she indicated that she "raised concerns about sensory overwhelm, academic regression, masking, and PTSD as early as September 2024." In the initial interview with the complaint investigator, the parent indicated that when she participated in the student's parent-teacher conference in October the classroom seats were arranged in a circle with one desk in the center of the circle, the student's. The parent indicated the general education teacher referred to this as "island seating" and that the student enjoyed sitting in the center. The parent stated that she voiced her concern to the student's teacher that this seating model put the student on display and would likely result in sensory overwhelm to the student and asked that the student not be seated in this arrangement any longer. The parent stated

that at the October meeting, held after the parent teacher conference, that she requested a reading goal, but district staff indicated that was not permitted as the student's identified needs were social emotional. The parent indicated that the student would regularly come home with work not completed, but when the parent asked the general education teacher about the work, the general education teacher was unconcerned. The parent also stated that in February an outside provider identified the student with post-traumatic stress disorder and the parent believed this was due to the student masking at school (e.g., working hard to perform well when actually struggling). The parent reported that most of the school year the student was suffering from extreme exhaustion at home and regular meltdowns, which the parent believed resulted from masking at school and being able to relax at home.

As support for these concerns, the investigator asked the parent for any written requests she made for additions to the student's IEP (e.g., academic goals, etc.), whether she asked for "island seating" to be recorded in the student's IEP as prohibited, and documentation of what the parent believed the district should have understood about [the student's] needs that should have caused the district to revise [the student's] IEP to respond to those needs. The parent indicated she did not make requests for additions to the student's IEP in writing and had not asked for her request for the general education teacher to stop using "island seating" to be added to the student's IEP. In terms of documentation of what the parent believed the district should have understood about the student's needs that should have caused the district to revise the student's IEP to respond to those needs, the parent provided many dates worth of a daily communication log exchanged between the parent and the general education teacher. The parent regularly communicated about challenges at home and, generally speaking, the general education teacher's reflections on the day did not mirror similar challenges at school. (Daily Reports Between Teacher and Parent and Parent Summaries of Daily Reports, Jan.–Apr. 2025.) The daily report provides prompts for the parent to report on the student's night and morning at home, where the parent frequently commented on concerns regarding sensory overwhelm at home. The daily report provides prompts for the teacher to report on the student's morning and afternoon at school, three things the student did today, things the student did not complete, activities the student had, a highlight from the day, a drawback from the day, and something the student can work on at home. The general education teacher often responded to the parent's reports of sensory overwhelm at home, reflecting that the student did not exhibit that at school. The general education teacher sometimes focused on the student's behavior at school, which is consistent with the student's IEP goal focused on the target behaviors of staying focused, putting away distracting items, speaking in the appropriate tone of voice, remaining quiet during direct instruction, and listening and responding appropriately. The general education teacher did not provide any consistent information in the daily reports showing there were concerns with academic regression or sensory overwhelm at school.

In the interview with district staff, the investigator asked district staff whether there are any exceptionality categories where the district does not permit an academic goal. District staff answered there are none, that all goals are based on need and not on exceptionality category. The school psychologist went on to say that she has worked with the special education teacher and principal in countless meetings regarding students and their needs and that neither of them would say that to a parent as it is not true. The special education teacher and principal agreed. The evidence the district provided regarding the student's 2024–25 progress on the IEP goal and in the general education curriculum, which will be explored more fully in Issue Twelve, do not show evidence of student need that should have led the district to revise the student's IEP.

Conclusion

In the initial interview with the complaint investigator the parent raised several concerns that she believed should have led the district to revise the student's IEP during the 2024–25 school year. After further inquiry, the parent did not have documentation that showed the district was aware of the parent's concerns and should have acted (i.e., no documentation of request for academic goal, prohibiting "island seating" in the student's IEP). Regarding the parent's concerns on "sensory overwhelm" and "masking," from review of the daily reports exchanged between the general education teacher and the parent, these items do not appear to be of concern at school, although they are of great concern to the parent at home. As there is not sufficient evidence to show that the district should have been aware of changes in the student's needs that would warrant an IEP revision, therefore, this investigation concludes that the *district did not violate its obligation* to revise the student's IEP, as appropriate, to address information about the student provided to, or by, the parents, as described under 34 C.F.R. § 300.305(a)(2); the student's anticipated needs; or other matters under 34 C.F.R. § 300.324(b)(1)(C)–(E). As there is no violation, no corrective action is needed.

Issue Twelve

FAPE

Applicable Law

A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive. 34 C.F.R. § 300.101(a). Each board shall provide a free appropriate public education for exceptional children enrolled in the school district. K.S.A. § 72-3410(a)(2). Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality. K.A.R. § 91-40-2(e).

Analysis: Findings of Fact

The parent's complaint alleges that the district denied the student FAPE as the student's IEP did not include an academic goal for writing, a behavior goal, isolating the student in "island

seating” after parent objection, the district did not provide follow up supports after the student wet himself, and the general education classroom provided an inconsistent behavior system that led to the student’s emotional dysregulation.

The findings from Issue Eleven that are also relevant here are that the district has no record and district staff do not recall the parent requesting an academic goal for writing for the student, the parent did not request that her objection to the student participating in “island seating” be recorded in the student’s IEP, and the district and parent documentation submitted for this investigation showed the student was often emotionally dysregulated at home, but that was not noted at school. On the remaining facts, the parent indicated in the interview with the complaint investigator that the parent has not requested a behavior goal for the student. Also, in the interview with the complaint investigator, the parent described that the student attempted to signal the need to go to the bathroom, but the teacher did not notice, and the student wet themselves in class. The parent voiced concern about this indicating the student has been potty trained from two years old. The parent stated in the interview with the complaint investigator she did not request additions to the student’s IEP when she learned of the incident or in subsequent IEP Team meetings. The parent provided an email from the general education teacher to the parent explaining the incident. The general education teacher explained the incident in the same way as the parent and indicated that after the incident, the teacher asked the student to show her how the student signaled to use the restroom. The teacher realized that the student’s arm was too low, and she could not have seen it and encouraged the student to make the signal differently in the future and reminded the student they are able to run to the restroom if needed. The daily communication logs the parent submitted as part of the investigation do not show an impact to the student other than the day the incident occurred.

The student’s reevaluation report indicates the student is in the 55th percentile for sentence writing fluency. On motor coordination the student scored in the 25th percentile, the low average range, indicating that this could impact the student’s written work, particularly in terms of legibility, writing speed, and endurance during written tasks. The handwriting screener showed that the student demonstrated functional handwriting skills appropriate for a second-grade level. The district proposed to meet these needs through accommodations in revisions to the student’s IEP. (Prior Written Notice Proposing Changes to Student’s IEP Based on Reevaluation Report IEP Team Discussion, May 20, 2025.)

During the reevaluation, the district assessed the student’s sensory issues to determine whether those sensory issues may be contributing to the student’s behavior. The assessment results suggested several sensory accommodations for the IEP Team to consider and the district proposed including several in the student’s revised IEP. (Prior Written Notice Proposing Changes to Student’s IEP Based on Reevaluation Report IEP Team Discussion, May 20, 2025.) The district also assessed the student using the Behavioral Assessment System for Children,

Third Edition (BASC-3) which showed that the student “is experiencing difficulties in the areas of Atypicality, Functional Communication, Hyperactivity, Aggression, Anxiety, Depression, Attention Problems, and Study Skills. Of these, Atypicality was the only area that was marked as Clinically Significant. The others were At Risk. These difficulties span across [the student’s] school day and at home.” The district proposed meeting these needs through accommodations in the student’s revised IEP. (Prior Written Notice Proposing Changes to Student’s IEP Based on Reevaluation Report IEP Team Discussion, May 20, 2025.)

The investigation does not show, for any of the parents listed concerns, that the district either knew about the concerns or had sufficient data prior to the student’s reevaluation that should have led the district to revise the student’s IEP to ensure that the student received FAPE. Although there is not a connection to potential impact on the student’s right to FAPE, this investigation also reviewed information on the student’s progress this school year in the general education curriculum and on the student’s IEP goal. The student’s 2024–25 IEP included one goal in social skills. (Student’s IEP, Sept. 12, 2024.) The goal was designed for the student to work toward improvement on identified social skills throughout the school year evaluated using a social rubric attached to the student’s IEP, resulting in a goal of 12/15 demonstrated social skills by the end of the school year. (Student IEP Progress Report – Annual Goal, Sept. 11 and Dec. 19, 2024, Mar. 14 and May 22, 2025.) The student’s baseline data was 5/15 demonstrated social skills. (Student IEP Progress Report – Annual Goal, Sept. 11 and Dec. 19, 2024, Mar. 14 and May 22, 2025.) In Quarter 1 the student progressed to 6/15 demonstrated social skills, in Quarter 2 8/15, in Quarter 3 9/15, and in Quarter 4 12/15, completing the student’s goal. (Student IEP Progress Report – Annual Goal, Sept. 11 and Dec. 19, 2024, Mar. 14 and May 22, 2025.)

On the student’s 2024–25 progress report, the district uses a Grading Scale with four levels with Requires Support as the lowest level, then Developing, followed by Progressing, and finally Proficient. (Student’s 2024–25 Elementary Progress Report, May 22, 2025.) The student’s Reading and Writing grades for Quarter 4 are Developing, an improvement from Quarter 1 and consistent since Quarter 2. (Student’s 2024–25 Elementary Progress Report, May 22, 2025.) The student’s Spelling grade in Quarter 4 is Requires Support, down from a Developing grade in Quarters 2 and 3 and the same grade as in Quarter 1. (Student’s 2024–25 Elementary Progress Report, May 22, 2025.) The student’s Speaking and Listening, Math, Science, and Social Studies grades are Progressing. (Student’s 2024–25 Elementary Progress Report, May 22, 2025.)

Conclusion

The reevaluation showed that the student needs additional support in behavior and writing, but there is not documentation submitted as part of this investigation from the parent or the district prior to the April reevaluation that should have led the district to include support for writing or behavior in the student’s IEP. On the remaining concerns the parent raises in this

issue, there is no evidence to show that any of those concerns impacted the student's right to FAPE. Despite that, this investigation reviewed the student's 2024–25 progress on the student's IEP goal, which was met, and the student's progress in the general education curriculum. The only area of potential concern in the student's 2024–25 progress is spelling. The student's reevaluation assessed the student in spelling and the IEP Team did not determine the student needed additional support in spelling. A low grade does not automatically mean the student needs additional support from an IEP in that area and there is not data outside of the student's progress report that indicates this is a need that should be addressed in the student's IEP. As there is no evidence to show that the parent's concerns on this issue impacted the student's FAPE, this investigation concludes that the *district did not violate its obligation* to provide a free appropriate public education for exceptional children enrolled in the school district under K.S.A. § 72-3410(a)(2) and provide special education and related services based upon the student's unique needs and not upon the student's area of exceptionality under K.A.R. § 91-40-2(e).). As there is no violation, no corrective action is needed.

Issue Thirteen

Review Education Records

Applicable Law

The parents of a child with a disability must be afforded, in accordance with the procedures of 34 C.F.R. §§ 300.613 through 300.621, an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child. 34 C.F.R. § 300.501(a).

Analysis: Findings of Fact

In the parent's complaint, she indicates a violation of 34 C.F.R. § 300.501. In the initial interview with the parent, the complaint investigator asked the parent, which portion(s) of the regulation she was alleging a violation(s), the right to examine records, participate in meetings, or be involved in placement decisions. The parent stated she was alleging a violation of the right to examine records. She indicated she emailed an August 14, 2024, request for records to the special education teacher, an October 16, 2024, request to the special education teacher and the principal, and an April 25, 2025, request to the special education teacher, principal, and school psychologist. (Email from Parent to Principal Requesting Records, Apr. 25, 2025; Email from Parent to Principal Requesting Records, Oct. 16, 2024; Email from Parent to Special Education Teacher Requesting Records, Aug. 14, 2024.) She indicated the district never responded to any of the three requests.

Regarding the August 14 request, the special education teacher believed the parent subsequently withdrew the request in a text message, email, or phone call. The special education teacher could not locate the parent's withdrawal of this request. The text messages

between the special education teacher and parent did not reference the August 14 records request.

For the October 16 request, the district provided an email from the district assistant special education director to the principal explaining the process to provide the parent with access to the student's education records and that there were district staff working on coordinating this and the principal's response that the special education teacher spoke with the parent and did not "believe [the parent] will still be requesting that information." (Emails Between District Staff Regarding Parent's October 16, 2024, Record Request, Oct. 17, 2024.) On October 23, the principal emailed the district assistant special education teacher and stated, "We just met with [the parent], and she is no longer requesting any of these documents." (Email from Principal to District Staff Regarding Parent's Withdrawal of Oct. 16, 2024, Record Request, Oct. 23, 2024.)

For the April 25, 2025, request the parent emailed the complaint investigator regarding her opportunity to review the student's records on May 30.

Conclusion

There is no evidence that the district responded to the parent's August 14, 2024, request to access the student's records and no evidence the parent withdrew the request. On the October 16, 2024, request, the parent believes the district did not respond and the district provided evidence that the parent withdrew the request. While the clearest approach would have been for the district to document the parent's withdrawal in an email to the parent, the district documented its understanding of the withdrawal, which this investigator finds sufficient as the law does not require a particular method of documenting a parent's withdrawal of a request to access records. On the April 25, 2025, request, the district provided the parent the opportunity to review the student's records within 45 days, as 34 C.F.R. § 300.613(a) requires. Therefore, this investigation concludes that the *district violated its obligation* to afford the parents of a child with a disability, in accordance with the procedures of 34 C.F.R. §§ 300.613 through 300.621, an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the student; and the provision of FAPE to the child under 34 C.F.R. § 300.501(a) regarding the August 14, 2024, request, but not the October 16, 2024, or April 25, 2025, requests.

Issue Fourteen

Independent Educational Evaluation

Applicable Law

If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either file a due process complaint to request a hearing to show that its evaluation is appropriate; or ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing

pursuant to 34 C.F.R. §§ 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria. 34 C.F.R. § 300.502(b)(2). A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. 34 C.F.R. § 300.502(b)(5).

Analysis: Findings of Fact

The parent's complaint indicated that the parent requested an independent educational evaluation (IEE) on April 15, 2025, and "the district improperly deferred the request until after the eligibility meeting . . . [and] did not issue a new PWN until April 30, exceeding a reasonable timeframe."

The district's response indicated that on April 11, 2025, the school psychologist emailed the parent a draft copy of the reevaluation report with a reminder that the report is a draft "and may be edited to and through the evaluation meeting." (District Timeline, May 20, 2025.) On April 14, 2025, the parent emailed the special education teacher, school psychologist, and principal and requested "a comprehensive IEE." (Parent Emails to District Staff with Independent Educational Evaluation Request, Apr. 14, 15, and 29, 2025.) On April 15, 2025, the district sent the parent a Prior Written Notice denying the parent's IEE request "because the team has not had the opportunity to hold the reevaluation meeting with parent to review and discuss the Reevaluation Report." (Prior Written Notice Refusing Parent Request for Independent Educational Evaluation, Apr. 15, 2025.) On April 15, 2025, the parent emailed the special education teacher, school psychologist, and principal and requested an IEE and stated the basis for her request as, "[t]he district has now completed and presented its evaluation report, which I received and reviewed. While I understand the reevaluation meeting is scheduled for April 17, 2025, my disagreement is not contingent upon the team's eligibility determination, but rather on the evaluation itself." (Parent Emails to District Staff with Independent Educational Evaluation Request, Apr. 14, 15, 22, and 29, 2025.)

On April 17, 2025, the student's IEP Team meet to discuss the reevaluation report. (District's Response to the Complaint, May 20, 2025.) At this meeting, the parent requested additional testing, which led the district to conclude in its response that "the evaluation was not completed on April 17, 2025." Later that day, the parent emailed district staff, which she characterized in an April 22, 2025, email as a "request that [the student's] evaluation be extended to fully assess all areas of suspected need."

The district provided the parent with a Prior Written Notice on April 25, 2025, agreeing to complete two of the parent's requested assessments, refusing several other assessments and explained how the district's assessments included testing in the areas the parent identified, and proposing to extend the reevaluation timeline by 15 school days for the additional testing. The parent refused to extend the evaluation timeline, and the district proceeded with the two assessments as it believed this was included in the parent's January consent to reevaluation.

(District's Response to the Complaint, May 20, 2025.) On April 29, 2025, the parent again requested an IEE. (District's Response to the Complaint, May 20, 2025.) Although the district still maintained the evaluation was not yet complete as it was finishing the two additional assessments, the district sent the parent a Prior Written Notice on April 30, 2025, granting the parent's request for an IEE. (Prior Written Notice of the District's Decision to Grant an Independent Educational Evaluation, Apr. 30, 2025.)

Longstanding KSDE guidance indicates that "unless there is an unusual circumstance, districts must provide parents with a Prior Written Notice within 15 school days in response to any parent request regarding identification, evaluation, placement or the provision of a FAPE." (Kansas Special Education Services Process Handbook 6.)

Conclusion

The district maintains that the parent's right to an IEE does not vest until the district has completed its evaluation. This assertion is grounded in the language in 34 C.F.R. § 300.502(b)(5), that a parent is entitled to an IEE "each time the public agency conducts an evaluation with which the parent disagrees." The district's reasoning is that the evaluation is not complete until after the eligibility meeting and the parent's reasoning is that the evaluation was complete once the district sent the parent a draft of the evaluation report.

The district is not required to provide a parent with draft reevaluation reports prior to the IEP Team meeting to discuss the reevaluation but did so to allow the parent to review in advance and was clear that the report was a draft and could be changed during the meeting. Additionally, on April 25 the district agreed to add assessments the parent requested, which were not yet completed and included in the reevaluation report at the time of the parents' IEE requests. A reevaluation report clearly labeled as a draft, especially with an accompanying explanation that the report can change until and during the reevaluation meeting that is scheduled within the reevaluation timeline, is not a completed reevaluation. Particularly when the IEP Team has agreed to conduct and add assessments, the reevaluation certainly is not complete. The district's reasoning for its April 15 denial of the parent's IEE request is supported by the language in 34 C.F.R. § 300.502(b)(5) that the parent is only entitled to an IEE once the district conducts an evaluation with which the parent disagrees. The district changing course and agreeing to the IEE on April 30 is reasonable, even though the district was still working to add assessments and complete the reevaluation, because the ensuing two weeks of discussions with the parent had likely shown the district that the parent was dissatisfied with the reevaluation, even when completed. Even taken from its longest point, the parent's initial IEE request on April 15, to the district's second response on April 30, the district responded to all the parent's IEE requests within the 15-school day KSDE guidance. Therefore, this investigation concludes that the *district did not violate its obligation* to provide an IEE under 34 C.F.R. § 300.502(b)(2). As there is no violation, no corrective action is needed.

Issue Fifteen

Predetermination

Applicable Law

Upon completion of the administration of assessments and other evaluation measures—

- (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in §300.8, in accordance with paragraph (c) of this section and the educational needs of the child; and
- (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. 34 C.F.R. § 300.306(a).

The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to—

- (i) The identification, evaluation, and educational placement of the child; and
- (ii) The provision of FAPE to the child.

34 C.F.R. § 300.501(b)(1).

Analysis: Findings of Fact

After the May 16, 2025, IEP Team meeting to discuss the student's reevaluation, the parent emailed the complaint investigator and asked to add this issue. The complaint investigator drafted an issue statement for the parent to consider and the parent did not have any suggested changes. The complaint investigator asked the district if there was sufficient time for the district to respond to the added issue within the current complaint investigation or whether the district would prefer that the parent file a new complaint on this issue. The district agreed to add this issue to the current investigation. The complaint investigator provided the district with the issue statement and the email from the parent to the complaint investigator with the facts on which the parent based her concern. The complaint investigator provided the district with the opportunity to respond to the concern, which it did, as well as propose a resolution to KSDE on this issue and consider mediating this issue with the parent.

The parent's email to the complaint investigator after the May 16, 2025, IEP Team meeting indicated that she had concerns about "predetermination, lack of meaningful parental participation, and the failure to consider key areas of suspected disability." The parent indicated that the school psychologist started the eligibility discussion by stating "her personal opinion that if it were solely up to her, she would not find [the student] eligible for an IEP, because in her view, [the student] does not require specially designed instruction." The parent went on to state that the school psychologist's statement:

was never discussed or challenged by the team, and no one offered an explanation of how the team reached eligibility under Other Health Impairment (OHI) despite this open objection from the psychologist. . . . Despite being present, I do not believe I was meaningfully included in the eligibility decision. At no point did the team ask for my input on whether I agreed with

the proposed eligibility category, nor did they seek to address the repeated concerns I raised about sensory processing, writing difficulties, regression, and masking.

The parent pointed to information she believed showed potential eligibility for Specific Learning Disability and stated the district did not follow up on that information with specific assessments. The parent stated that she additionally raised concerns about autism and district staff indicated that the student did not meet the criteria for autism. The parent was concerned that the evaluation did not include any autism-specific assessments on which this statement could have been based.

The parent emailed the complaint investigator and indicated she reviewed the student's education record on May 30 and believed she came across information that showed the district predetermined the outcome of the student's eligibility conversation. The parent indicated that in the records she reviewed there were several assessments that the district completed and did not include in the initial drafts of the reevaluation report. The parent asserted that this shows the district selected which assessments to include in the reevaluation report to point the team in the direction of a particular decision. The parent's thought is that then once the parent reviewed initial drafts of the reevaluation report and pushed back on the comprehensiveness of the report, the district then added the assessments they had previously completed and not included.

When interviewed, district staff explained the district process for all eligibility conversations, which they stated the May 16 IEP Team meeting followed. The district has an internal eligibility document based on KSDE's Eligibility Indicators document, <https://www.ksde.gov/Portals/0/SES/misc/iep/EligibilityIndicators.pdf>. District staff stated that district practice is to use this document as a guide to discuss categories of suspected exceptionality and whether there is data to support each prompt. District staff also stated that it is district practice for the exceptionality category on the reevaluation report is not filled in prior to the IEP Team meeting discussing the reevaluation and the district followed this practice with this student.

Prior to this reevaluation, the student was identified under the Developmental Delay exceptionality category. (Student's IEP, Sept. 12, 2024.) District staff stated due to the student's age (eight) and that this was the last scheduled reevaluation before the student turned ten, that the IEP Team first discussed Other Health Impairment, determining that data supported that the student exhibited this exceptionality. District staff also stated that the team discussed the data from the four categories to determine whether the student exhibited the Autism exceptionality category. The district recorded this discussion in the May 16, 2025, IEP Team meeting notes stating, "Autism exceptionality vs. OHI. Reviewed both-OHI better fits [the student's] needs. Autism exceptionality has 4 components to which [the student] does not best fit." (IEP Team District Meeting Notes, May 16, 2025.) The district also recorded this discussion as an option considered and rejected in the May 20, 2025, Prior Written Notice it

issued to the parent with the proposed changes to the student's IEP based on the IEP Team's discussion of the reevaluation report stating, "The team considered finding [the student] eligible under the Autism exceptionality category. This option was rejected, as [the student] does not meet eligibility criteria for this exceptionality as outlined by re-evaluation data collected within this re-evaluation period." (Prior Written Notice Proposing Changes to Student's IEP Based on Reevaluation Report IEP Team Discussion, May 20, 2025.) The school psychologist and special services coordinator indicated in the district interview the parent did not voice any disagreement during the IEP Team's discussion of whether reevaluation data support an Autism identification. The school psychologist stated that it is not district practice to ask whether the parent agrees at each step of reviewing data because identifying a student with a particular exceptionality category does not require parent consent.

District staff stated in the interview that the district's practice is to use the indicators listed in Prong 2 for each exceptionality category the team determined the student exhibits to determine whether the student needs special education and that the district followed this practice during this student's May 16 IEP Team meeting. After the IEP Team discussed the Prong 2 indicators for Other Health Impairment and it was time to make a decision, the school psychologist indicated in the district interview that she started the conversation by stating that there seemed to be no disagreement on the IEP Team that the student has an exceptionality (Prong 1) and that the team then needed to discuss whether the student needed special education (Prong 2). The school psychologist indicated she started this part of the conversation as she does most conversations to determine eligibility, by providing her personal opinion that she did not believe the data indicated the student needed special education, stating she is one member of the team and not the sole decisionmaker, and then inviting others to share their opinion. District staff indicated the conversation continued, with other team members sharing their opinions, and the IEP Team determining the student continued to be eligible for special education.

The special services coordinator recalled in the district interview that the parent briefly mentioned reading concerns. The special services coordinator also stated the district's data showed the student was in the average range in reading and that the district did not have any data to show concerns that would have led the IEP Team to consider the Learning Disability exceptionality category as this is not a category where the district staff saw any need, based on the reevaluation data. The special services coordinator indicated this discussion is not mentioned in the IEP Team meeting notes or the May 20 Prior Written Notice as he recalled the mention being very brief and there really being no discussion on the topic.

The district's response indicated that on April 11, 2025, the school psychologist emailed the parent a draft copy of the reevaluation report with a reminder that the report is a draft "and may be edited to and through the evaluation meeting." (District Timeline, May 20, 2025.) In a follow-up email between the district special services coordinator and complaint investigator he

indicated that it is district practice to send the parent a draft reevaluation report even if not all assessments are yet fully interpreted, written up, and included in the draft reevaluation report. The district special services coordinator indicated that is what occurred here, the school psychologist sent the parent a draft reevaluation report stating that it would continue to be edited “to and through the evaluation meeting.” (District Timeline, May 20, 2025.) The district special services coordinator stated that one such assessment the parent referenced, the parent requested in an April 14, 2025, email to district staff and so the district conducted the assessment, providing the results in the April 17, 2025, draft reevaluation report. The district special services coordinator confirmed that district practice is to include all assessments in a reevaluation report and all conducted assessments were included in the April 17, 2025, draft reevaluation report.

District staff provided all communication between IEP Team members between the April 17 and May 16 IEP Team meetings and all communication included the parent. (Emails Between IEP Team Members Regarding Reevaluation, Apr. and May 2025.) Neither party provided evidence that showed that district staff had any discussion about the student’s eligibility prior to the May 16 IEP Team meeting where district staff could have made an eligibility determination without the parent. The May 20, 2025, Prior Written Notice details many parent requests from the May 16, 2025, and the district’s response to each, accepting some and explaining how the request would be implemented within the student’s IEP and rejecting others, providing a basis for the decision, typically that data did not support implementing the request. (Prior Written Notice Proposing Changes to Student’s IEP Based on Reevaluation Report IEP Team Discussion, May 20, 2025.)

Conclusion

District staff clearly articulated the district’s process for the IEP Team discussion of a student’s eligibility and explained how the district followed its process with this student. The district documented the IEP Team’s discussions in the May 16, 2025, IEP Team meeting notes and May 20, 2025, Prior Written Notice. The clearest evidence that the district did not engage in predetermination is that the IEP Team disagreed with the school psychologist’s opinion on Prong 2, finding that the student needed special education. Additionally, there is no evidence to show that district team members had any discussion about the student’s eligibility without the parent or made a decision without the parent. All district staff interviewed provided information regarding the parent’s participation in the IEP Team’s discussion and documented the parent’s participation in the IEP Team meeting notes and Prior Written Notice. Therefore, this investigation concludes that the *district did not violate its obligation* to ensure a group of qualified professionals, and the parent determined whether the student continued to be an exceptional child and the student’s educational needs under 34 C.F.R. § 300.306(a) and afforded the parent an opportunity to participate in the May 16, 2025, IEP Team meeting under 34 C.F.R. § 300.501(b)(1). As there is no violation, no corrective action is needed.

Summary of Conclusions and Corrective Action

Issues One, Two, Three, Four, Seven, Eight, Nine, Ten, Eleven, Twelve, Fourteen, and Fifteen

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

Issue Five

The district violated 34 C.F.R. § 300.305(a)(1), based on the findings of fact listed above.

Corrective action is required, as follows:

1. Within 10 calendar days of the date of this report, the district must submit a written statement to KSDE Special Education and Title Services (SETS) that it will comply with federal legal requirements at 34 C.F.R. § 300.305(a)(1) which require that as part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the child, including evaluations and information provided by the parents of the child; current classroom-based, local, or State assessments, and classroom-based observations and observations by teachers and related services providers.
2. The district must revise its procedure on reviewing existing evaluation data to ensure that the review of existing data is completed by the IEP Team, including the parent, and other qualified professionals, as appropriate. The procedure must also include how the district will document the review of existing evaluation data and those that participated in the review. The district must submit a draft of this procedure revision to KSDE for approval before implementing.
3. The district must identify the staff roles that must receive communication of the district's revised procedure and communicate the revised procedure to those staff roles. The district must provide KSDE with the communication to staff of the revised procedure and the roles of staff communicated with.
4.
 - a. The district must provide KSDE with a list of students that received a reevaluation between August 14 and September 14, 2025.
 - b. From that list, KSDE will pick five students.
 - c. The district must then submit to KSDE the documentation indicated in its procedure on the review of existing data for those five students.
5. Due Dates:
 - a. June 13, 2025: 1;
 - b. June 20, 2025: 2;
 - c. August 14, 2025: 3;
 - d. September 15, 2025: 4.a.;
 - e. September 18, 2025: 4.b.;
 - f. October 3, 2025: 4.c.

Issue Six

The district violated 34 C.F.R. § 300.305(a)(2), based on the findings of fact listed above. Corrective action is required, as follows:

1. Within 10 calendar days of the date of this report, the district must submit a written statement to KSDE Special Education and Title Services (SETS) that it will comply with federal legal requirements at 34 C.F.R. § 300.305(a)(2) which require that as part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must on the basis of the review of existing evaluation data, and input from the child's parents, identify what additional data, if any, are needed to determine whether the child is a child with a disability, as defined in 34 C.F.R. § 300.8, and the educational needs of the child; or in case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child; the present levels of academic achievement and related developmental needs of the child; whether the child needs special education and related services; or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and whether any additions or modifications to the special education and related services 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.
2. The district must revise its procedure on identifying what additional data, if any, are needed to make the determinations 34 C.F.R. § 300.305(a)(2) requires to ensure the identification of additional data, if any, is completed by the IEP Team, including the parent, and other qualified professionals, as appropriate. The procedure must also include how the district will document this requirement and those that participated. The district must submit a draft of this procedure revision to KSDE for approval before implementing.
3. The district must identify the staff roles that must receive communication of the district's revised procedure and communicate the revised procedure to those staff roles. The district must provide KSDE with the communication to staff of the revised procedure and the roles of staff communicated with.
4.
 - a. The district must provide KSDE with a list of students that received a reevaluation between August 14 and September 14, 2025.
 - b. From that list, KSDE will pick five students.
 - c. The district must then submit to KSDE the documentation indicated in its procedure for those five students.
5. **Due Dates:**
 - a. June 13, 2025: 1;
 - b. June 20, 2025: 2;
 - c. August 14, 2025: 3;
 - d. September 15, 2025: 4.a.;

- e. September 18, 2025: 4.b.;
- f. October 3, 2025: 4.c.

Issue Thirteen

The district violated 34 C.F.R. § 300.501(a), based on the findings of fact listed above. Corrective action is required, as follows:

1. Within 10 calendar days of the date of this report, the district must submit a written statement to KSDE Special Education and Title Services (SETS) that it will comply with federal legal requirements at 34 C.F.R. § 300.501(a) which require the district to afford the parents of a child with a disability, in accordance with the procedures of 34 C.F.R. §§ 300.613 through 300.621, an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child.
2. If the district does not have a procedure explaining to staff what they must do when they receive a request from a parent to examine their child's records, then the district must create a procedure on this. The procedure must also include how the district will document when a staff member receives a request from a parent to examine their child's records if it does not already. If the district needs to create a procedure, then it must submit a draft of this procedure to KSDE for approval before implementing. If the district already has a procedure, then it must submit to KSDE for review.
3. The district must communicate this procedure to all staff in the student's elementary school and the student's special education teacher that is transferring to a new school in the district. The district must provide KSDE with the communication to staff.
4.
 - a. The district must provide KSDE with a list of requests it received from parents whose child attends this student's school between August 14 and September 14, 2025.
 - b. From that list, KSDE will pick five students.
 - c. The district must then submit to KSDE the documentation indicated in its procedure for those five students.
5. **Due Dates:**
 - a. June 13, 2025: 1;
 - b. June 20, 2025: 2;
 - c. August 14, 2025: 3;
 - d. September 15, 2025: 4.a.;
 - e. September 18, 2025: 4.b.;
 - f. October 3, 2025: 4.c.

Laura N. Jurgensen
Complaint Investigator

Right to Appeal

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