

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #89
ON MAY 21, 2025

DATE OF REPORT: JUNE 20, 2025

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

The Complaint is against USD #489, Hays Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #489.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the school district. In this case, the KSDE initially received the complaint on May 21, 2025, and the 30-day timeline ended on June 20, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #489, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented special education and related services as described in the Student’s IEP. K.A.R. 91-40-16(b)(3); 34 C.F.R. § 300.323.

ISSUE TWO: Whether USD #489, in accordance with state and federal regulations implementing the IDEA, offered an IEP that met the needs of the Student and considered Parent information, including from the Student’s physician, when developing the Student’s IEP. K.S.A. 72-3429; 34 C.F.R. § 300.320.

Investigation of Complaint

Tania Tong, the Complaint Investigator, interviewed the Parent by video conference on June 6, 2025. The following District staff member was interviewed on June 9, 2025: the Director of Special Education.

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

District Materials

1. Prior Written Notice (PWN), 10/25/24
2. Notice of Meeting, 02/21/25
3. Team Meeting Record, 02/07/25
4. Evaluation/Eligibility Team Report, 03/06/25
5. PWN, 02/21/25
6. Progress Report, 02/06/25
7. IEP, 03/05/25
8. Doctor's Note, 01/02/25
9. Notice of Meeting, Spanish 09/16/24
10. PWN, Spanish 09/30/24
11. Progress Report, Spanish 09/30/24
12. IEP Draft, Spanish 09/30/24
13. Letter to Parents, Spanish no date
14. Medicaid Information Release, Spanish no date
15. IEP Submission Checklist, 09/30/24 (duplicate)
16. Notice of Meeting, 09/16/24
17. Team Meeting Record, 09/30/24
18. PWN, 09/30/24
19. Progress Report, 09/30/24
20. IEP Draft, 09/30/24
21. Letter to Parents, no date
22. Checklist for Annual IEP Review, 10/03/23
23. IEP, 10/02/23
24. Medicaid Information Release, 10/03/23 (duplicate)
25. Therapy Data, 04/01/24-05/16/25
26. Report Card, 2024-2025
27. Email, re: counseling services summary report, 05/29/25
28. Email, re: formal complaint..., 05/29/25
29. Timeline of Communication, 04/26/24-05/07/25
30. Progress Report, 05/29/25

Parent Materials

1. Notes, no date
2. Doctor's Assessment Notes, 04/25/23
3. Doctor's Note, 01/31/23

Background Information

This investigation involved an eight-year-old student who attends second grade at an elementary school.

Findings of the Investigation

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

1. According to a letter from a Pediatric Clinic dated January 31, 2023, the Student was thoroughly evaluated at the University Medical Center Child Development Clinic. At that time, the Student's working diagnosis included Autism Spectrum Disorder, Level 2, and Chromosome 2q.13 Deletion Syndrome.
2. A Pediatric Specialist Report dated April 25, 2023, indicated the following assessments:
 - a. Encounter for therapeutic drug level monitoring.
 - b. Other long-term (current) drug therapy.
 - c. Attention deficit hyperactivity disorder (ADHD), combined type.
 - d. Chromosomal abnormality-Q99.9, 2q13 deletion.
 - e. Mixed receptive-expressive language disorder.
 - f. Behavior problems in childhood.
 - g. Autism Spectrum Disorder requiring substantial support.
 - h. Anxious mood.
3. According to a Checklist for an IEP Annual Review, with a meeting date of October 3, 2023, the "Documents given to [the] Parent [were] in Spanish."
4. Relevant items from the IEP dated October 3, 2023, indicated:
 - a. The Parent and an Interpreter/Translator attended the meeting.
 - b. The Student's motor goal was, "By the end of the IEP year, the Student will demonstrate the ability to print 4 self-generated sentences about a picture or drawing using [a] three-finger grip with 80% accuracy for sizing and letter placement within 1/8" of the bottom line on three lined paper in 7/9 tasks."
 - c. Based on the most recent evaluations and ongoing data collection, the Student had needs in the area of reading that included the following:
 - i. The Student's reading goal was, "By October 2023, given guided reading text to read at guided reading level G (or higher), the Student will use taught strategies to read with 75% comprehension and 94% accuracy or better. The Student will also use taught strategies to retell narrative stories independently, specifying 4/5 story details (characters, setting, problem, solution, theme).
 - d. In the area of written language, based upon the most recent evaluations and ongoing data collection, the Student did not have a need in this area that requires special education or related services.
 - e. In the area of communication, based upon the most recent evaluations and ongoing data collection, the Student did have needs that required special education or related services that include:

- i. The Student's first goal in communication was, "In one instructional year, October 2024, [the Student] will respond to/answer who, what, when, where questions following a narrative story and/or picture description task with 80% accuracy, when provided with visuals as needed during structured speech/language therapy sessions as judged by the clinician."
 - ii. The Student's second goal in communication was, "In one instructional year, October 2024, the Student will follow a 1-2 step direction with embedded spatial/linguistic concepts independently scoring 80% accuracy during speech/language therapy sessions as judged by the clinician."
- f. Special Education and Related Services starting October 3, 2023, and ending October 2, 2024, included:
 - i. Special education services in the general education/inclusion setting for ELA 50 (guided reading), reading 20, writing 20, morning packet). Math 20's all-inclusive time to facilitate on-task behavior and independence for 70 minutes, 5 days a week, every week.
 - ii. Special education services for pull-out instruction for 20 minutes for reading comprehension for 4 days a week, every week.
 - iii. Speech services for pull-out for speech-language therapy for 15 minutes, 3 days a week, every week.
 - iv. OT services for occupational therapy for 20 minutes, one day a week, every week.
 - v. The Student continues to require support in the general education classroom to support attention to task and independence.
 - vi. The Student continues to require specially designed instruction in the special education setting to improve reading comprehension skills.
- g. The Least Restrictive Environment section indicated the Student continued to require specially designed instruction for reading comprehension in a resource setting due to deficits with the Student's oral expression and listening comprehension. The Student continued to qualify for pull-out services in Speech-Language and Occupational Therapy.
 - i. The potential harmful effects, which could potentially include social stigma and/or absence of the general education classroom activities during implementation of the proposed services, have been considered and outweighed by the benefits of the proposed actions.
- h. Accommodations included:
 - i. Record 1: Access to visuals, when presented with a topic above the Student's listening comprehension instructional level across all settings, through completion of the assignment, with a start date of October 3, 2023, and an end date of October 2, 2024.
 - ii. The rationale included, "Due to [the Student's] deficits in receptive and expressive communication, the accommodation of visuals will assist in [the Student's] comprehension and understanding of the lecture."

- iii. The Student does not need any modifications or any supplementary aids and services.
- i. Supports for School Personnel included:
 - i. Record 1: The review of the current IEP will be conducted with all staff involved with the Student's education, at the beginning of each school year, after all IEP updates & amendments when staff begin working with the Student. It will occur across all settings through completion of the IEP review with a start date of October 3, 2023, and an end date of October 2, 2024.
 - ii. The rationale was "Due to the potential of amendments throughout [the Student's] IEP year, regular communication is necessary on those potential changes to ensure success of [the Student] through [their] IEP."
- 5. According to a Therapy Data Document with a date range of April 1, 2024, through May 16, 2025, using Speech to Text & Read and Write technology, the Student was able to score 80% accuracy or above during 15 therapy sessions out of 43 therapy sessions attended. The Student did not attend 22 sessions due to Student absences, Therapist absences, field trips, school closures, school parties, school assemblies, and assessment sessions. The Student's IEP goal for the therapy sessions were, "In one instructional year (February 2026), [the Student] will show increasing independence of vocabulary supports via assistive technology (e.g. Read & Write; Snap and Read) in the classroom setting requiring minimal supports (25% or less) as judged by speech/language pathologist. [min.25%, mod.50%, max. 75%]."
- 6. According to a Timeline of Communication regarding the Student with a date range of April 26, 2024, through May 27, 2025, there were 45 different communication contacts. Some contacts included:
 - i. Six in-person contacts.
 - ii. Four texts from the Special Education Teacher.
 - iii. One IEP meeting.
 - iv. Thirteen texts with the Translator.
 - v. Six phone calls.
 - vi. Six emails.
 - vii. Three seesaw messages from the Classroom Teacher.
 - viii. One letter delivered in person.
 - ix. Two Staff and Student contacts.
- 7. Communication records in English and Spanish to the Parent from the Special Education Teacher with a date range of August 30, 2024, through February 11, 2025, indicated information regarding the Parent being informed about situations with the Student that took place at school, such as the Student not following directions in the cafeteria at lunch, which was caught on camera.
- 8. On September 16, 2024, the Parent was sent a Notice of Meeting for reevaluation in Spanish. The Notice of Meeting indicated the need to conduct an annual review of the Student's IEP.

9. A Progress Report dated September 30, 2024, was sent to the Parent in Spanish. The Progress Report indicated:
 - i. The motor goal of "By the end of the IEP year, [the Student] will demonstrate the ability to print 4 self-generated sentences about a picture or drawing using 3 finger grip with 80% accuracy for sizing and letter placement within 1/8" of the bottom line on three-lined paper in 7/9 trials." Progress status indicated a score of 7, indicating moderate improvement.
 - j. The communication goal was "In one instructional year, October 2024, [the Student] will respond to/answer who, what, when, and where questions following a narrative story and/or picture description task with 80% accuracy, on average, when provided with visuals as needed during structured speech/language therapy sessions as judged by the clinician." Progress status recorded a score of 5, indicating maintained performance.
 - k. The communication goal of "In one instructional year, October 2024, [the Student] will follow a 1-2 step direction with embedded spatial/linguistic concepts independently, scoring 80% accuracy during speech/language therapy sessions as judged by the clinician." Progress status recorded a score of 5, indicating maintained performance.
 - l. The reading goal was "By October 2023 [sic], given guided reading text to read at guided reading level G (or higher), [the Student] will use taught strategies to read with 75% comprehension and 94% or better. [The Student] will also use taught strategies to retell narrative stories independently, specifying 4/5 story details (characters, setting, problem solution, theme)." Progress status recorded a score of 5, indicating maintained performance.
10. According to a Team Meeting Record dated September 30, 2024, the purpose of the meeting was to conduct an annual IEP. The Parent noted that the Student's therapist recommended a break throughout the school day to help with focus. The Parent requested more support for the Student because the Parent was not seeing the Student progress. The Parent stated the Student doesn't show interest in things, and the Student shuts down when the Parent tries to help the Student with homework. The Parent requested push-in support during the school day to help with the Student's focus and attention.

In the area of occupational therapy, the Student met their IEP goal. The Classroom Teacher shared that the Student's spelling was a strength. School staff indicated the Student was very distractible, even in a 1:1 setting. The Special Education Teacher shared that there was support referenced and proposed in the Student's IEP for check-ins to ensure the Student was remaining on task, 80 minutes in and 60 minutes out of class. The Special Education Teacher stated, "An increase push-in support would be to support the Student's focus and attention versus an academic skill deficit."

11. A draft IEP dated September 30, 2024, was given to the Parent in Spanish. Relevant items from the draft IEP indicated the following:
 - a. The Parent and an Interpreter/Translator attended the meeting.

- b. According to recent evaluations and ongoing data, the Student required special education services in the area of Motor Skills.
 - i. The previous goal of "By the end of the IEP year, [the Student] will demonstrate the ability to print 4 self-generated sentences about a picture or drawing using 3 finger grip with 80% accuracy for sizing and letter placement within 1/8" of the bottom line on three lined paper in 7/9 trials." Goals 1.1, 1.2, and 1.3 were met. Goal 1.4 was partially met due to "distractibility and hyperfixation of topics."
- c. According to recent evaluations and ongoing data, the Student required special education services in the area of Social Emotional Skills, which include:
 - i. The Student did not have a social/emotional goal on their previous IEP. It was recommended that the Student continue to receive individualized instruction in the special education classroom for reading and attention to tasks.
- d. According to recent evaluations and ongoing data, the Student required special education services in the area of Reading.
 - i. The Student continued to require specially designed instruction in a resource setting due "to deficits with [their] oral expression and listening comprehension, which are impacting [the Student's] ability to comprehend information [they are] reading. A lack of vocabulary knowledge also affects [their] ability to understand and draw meaning from words."
 - ii. The Student was able to meet the goal in reading fluency, but the Student was not able to meet the goal of reading comprehension.
 - iii. The Student's goal in reading was, "By the end of the IEP year, when given a FastBridge CompEfficiency Screener, [the Student] will be able to score a 70 in the overall comprehension efficiency."
- e. According to recent evaluations and ongoing data, the Student had needs that required special education in the area of written language that include:
 - i. The Student did not previously have written language as a service on their IEP. The Student was showing a need for written language services, and a written language goal was written.
 - ii. The written language goal was, "By the end of the IEP year, when given a four-minute writing CBM (Curriculum Based Measure), in which [the Student] will have one minute to think and three minutes to write, [the Student] will increase [their] total words written to 16."
- f. According to recent evaluations and ongoing data, the Student had needs that required special education services in the area of communication that include:
 - i. Needs and Parent concerns indicated that for the Student to become an independent learner, it was proposed that the Student learn to use assistive technology in the form of Read & Write, along with Snap & Read apps. These apps helped the Student to determine unfamiliar word meanings, read text out loud, research assignments, translate English into other languages, and proofread written work.
 - ii. The goal for communication was, "In one instructional year (October 2025), [the Student] will show increasing independence of vocabulary supports via assistive

technology (i.g. Read & Write; Snap and Read) in the classroom setting requiring minimal supports (25% or less) as judged by speech/language pathologist, (min. 25%, mod. 50%, max 75%)."

- g. Special Education and Related Services included:
 - i. Occupational therapy indirect services, 10 minutes, one day every 9th week starting September 30, 2024, and ending on September 29, 2025.
 - ii. Speech therapy pull-out services, assistive technology for 15 minutes, 2 days a week, starting September 30, 2024, and ending May 23, 2024.
 - iii. Special education pull-out services for written language, 30 minutes, 5 days a week, starting September 29, 2024, and ending on September 28, 2025.
 - iv. Special education pull-out services for supplemental reading (comprehension/vocabulary), 30 minutes, 5 days a week, every week, starting September 29, 2024, and ending September 28, 2025.
 - v. Special education in the general education setting/inclusion, for attention to task/following directions, (Reading/Mathematics) for 80 minutes, five days a week, starting September 29, 2024, and ending September 28, 2025.
 - vi. Speech services for speech/language therapy, 15 minutes, one day a week, starting August 20, 2025, through September 29, 2025.
 - vii. Speech services for general education/inclusion for speech/language therapy (assistive technology), 15 minutes 1 day a week, starting August 20, 2024, and ending September 29, 2025.
- h. The IEP team reviewed the educational placement and services and considered it reasonably designed to deliver FAPE in the Student's least restrictive environment.
- i. The Least Restrictive Environment section included the Student would:
 - i. Continue to receive individualized instruction in the resource room for reading and written language for 60 minutes a day, five days a week.
 - ii. Continue to receive supplemental, inclusive instruction to increase their awareness of the activity at hand for support as needed, for 80 minutes a day, 5 days a week.
 - iii. Continue to receive speech/language therapy in the form of technology for 15 minutes, 2 days each week, pulled out of the general education setting.
 - iv. Participate in extracurricular activities. The Student would be out of the classroom and away from their general education peers while receiving specially designed instruction in reading and written language, along with communication skills. The IEP team determined the Student needed specially designed instruction.
- j. Accommodations with a start date of September 30, 2024, and an end date of September 29, 2025, included:
 - i. Record 1: Access visuals, given when the Student was redirected or given a direction to ensure comprehension, in all core classes, lasting through the completion of the task. The rationale was that the Student had deficits in receptive and expressive communication, and the accommodation of visuals would assist the Student's comprehension and understanding of the lesson.

- ii. Record 2: Close monitoring for directions, frequent prompts, frequent reminders of tasks to clarify tasks to complete, and directions may be repeated or paraphrased. Accommodations, as well as monitoring by classroom teachers, should take place whenever classroom assessments and assignments are given in all core classrooms. Clarifications of accommodations, as well as monitoring by the classroom teacher, should continue throughout the length of classroom assessments and assignments. The rationale was due to the Student's distractibility, and the Student missing instructions and directions that are given. The Student needed clarification on accommodations to continue with their tasks and follow through with what was being asked of them.
- iii. Record 3: Provided with several illustrations/prompts during instruction, and teacher modeling for new tasks, by prompts and teacher modeling should take place during all new classroom instruction in all core classes. Prompts and teacher modeling should last the entire length of the new instruction. The rationale for the accommodation for illustrations, prompts, and modeling was due to the Student's deficits in receptive language, and would assist in the Student's comprehension and understanding of the lesson.
- k. Supplementary Aids and Services included:
 - i. Record 1: Para support in the general education classroom for Tasks at Hands activities. The Para would be available 80 minutes a day, 5 days a week, during mathematics and reading instruction in the general education classroom. The rationale was that the Student needs support from a Para to ensure the Student was actively listening to instruction because of the Student's current ability to attend to task.
- l. Supports for School Personnel included:
 - i. Record 1: The review of the current IEP would be conducted with all staff involved with the Student's education. A review of the Student's IEP would happen at the beginning of each school year, after all IEP updates and amendments, and when new staff begin working with the Student. The rationale for the support was due to the potential of amendments throughout the Student's IEP year. Regular communication was necessary on those potential changes to ensure success for the Student through their IEP.
- m. Assistive Technology included:
 - i. Record 1: Read & Write and Snap & Read as needed for vocabulary meaning throughout the day in the classroom and speech and language therapy sessions. The rationale was due to the Student's great need for support regarding [their] language comprehension. The use of assistive technology was proposed to allow the Student to become more independent in determining word meanings throughout the Student's academic day.
- 12. On September 30, 2024, the Parent was sent a Prior Written Notice (PWN) in Spanish. The PWN indicated the meeting to review special education and related services, the appropriate education placement identified in the IEP, and any additional changes or modifications needed. A Material Change in Services indicated a proposed change in

placement that resulted in the movement of more than 25% of the Student's school day. A Description of the Action Proposed or Refused indicated:

- a. The Student was continuing to demonstrate a need for specifically designed instruction in the areas of reading, written language, and attention to tasks.
 - b. The Student will receive direct, pull-out reading and written language instruction for 60 minutes a day, 5 days a week in the special education classroom.
 - c. The Student will receive inclusive services in the general education classroom for 80 minutes a day, 5 days a week, to assist the Student with attention to task.
 - d. OT services were recommended to receive 10 minutes of consult/indirect occupational services once every nine weeks. The Student currently receives direct OT services for 20 minutes once a week.
 - e. Speech/Language services proposed to have the Student pulled out of their classroom for 15 minutes, two days each week, in a small group or individualized setting from the beginning of their IEP until May 23, 2025. Beginning in the fall of 2025, the Student would receive pull-out for one day for 15 minutes, instruction and inclusion for one day for 15 minutes a week.
 - f. The actions were proposed due to:
 - i. The Student demonstrated increased fine and visual motor skills and no longer required direct instruction.
 - ii. The Student had low language comprehension. The use of assistive technology would allow the Student to become more independent.
 - iii. In order to meet the Student's needs more effectively and as quickly as possible, the above proposed services are highly recommended. The benefits of this plan should outweigh any potential harmful effects."
13. On October 21, 2024, a PWN For Evaluation or Reevaluation and Request For Consent indicated the LEA proposed to conduct a reevaluation. The IEP team considered the following relevant information to assist the Team in determining:
- a. "Whether your child continues to be a child with an exceptionality and the educational needs of your child."
 - b. "The present levels of academic achievement and related developmental needs of your child."
 - c. "Whether your child continues to need special education and related services."
 - d. "Whether any additions or modifications to the special education and related services are needed to enable your child to meet measurable annual goals set out in the IEP of your child and to participate as appropriate, in the general education curriculum."
 - e. The team considered maintaining the current level of support without conducting a reevaluation, but the option was rejected due to the Parent concerns regarding the Student's overall performance.
 - f. The data used for the proposed action included:
 - i. Existing data.
 - ii. Classroom observations.

- iii. Assessments, records, and reports.
 - g. The Parent signed consent for the reevaluation. Documents presented were in both English and Spanish.
14. According to a Physician Letter dated January 2, 2025, a history of Autism Spectrum Disorder, hyperactivity disorder, mixed receptive-expressive language disorder, Chromosome 2 q13 deletion with developmental delays was noted. The following actions were recommended:
- a. The Student needs accommodations to help with developmental delays.
 - b. The Student's IQ should be assessed.
 - c. A Functional Behavioral Analysis through school counseling to make sure the Student's needs were being met emotionally, physically, and academically.
 - d. Because the Parent speaks only Spanish, there is a need for an advocate to help with communication.
 - e. Recommended further an IEP or 504 plan to make sure the Student's needs were being met.
15. On January 24, 2025, the Parent was interviewed as part of the Functional Behavioral Assessment (FBA) process, which included the following areas of the Student's behaviors that the Parent explained:
- a. The Student had been diagnosed with Autism, hyperactivity, and a chromosome defect. The Parent noticed the Student's behaviors were more pronounced when the Student became overwhelmed by busy environments.
 - b. Mornings for the Student were particularly difficult. The Student struggled with routine changes. The Parent ate lunch with the Student at school to encourage the Student to eat. The Student felt too embarrassed to use headphones in the lunchroom.
 - c. To help the Student regulate their emotions, the Parent typically spoke to the Student and calmed them by rubbing their back. Fatigue and hunger could trigger the Student.
 - d. The Parent was seeking assistance with creating a structured routine for mornings at home and at school to help the Student with transitions. The Parent would like someone to monitor the Student's eating at lunch so they do not need go to school to eat with the Student.
16. A Team Meeting Record dated February 7, 2025, indicated the Parent felt that the Student didn't have the correct structure or support to help them be successful at school. The Parent reported that the Student didn't feel safe at school, and every day, the Parent had to fight with the Student to go to school. The team considered anxiety to be the driving force of the Student's inattention. The therapist suggested the same. Because of this, the team suggested changing the exceptionality from developmental delay, and "proceed with the exceptionality of autism for the current IEP."

The Parent wanted to take home the Evaluation and Eligibility Report to add parental concerns and then would sign at a later date. The Parent was given the opportunity to choose between a progress report or spend more time on the proposed plan. The

Parent chose to move towards the proposed plan. The team offered an opportunity to meet the next week after the Parent had a chance to review the documents. The Parent preferred to read through the amended documents and schedule a meeting for the following week.

17. According to Team Meeting Notes, the Parent provided the team with a letter listing their disagreements on February 13, 2025. "The School then took [their] letter and added [their] input to the evaluation/eligibility report." Additional accommodations and supplementary aids were added to the draft IEP. A new draft of the evaluation/eligibility report, along with a new draft of the IEP, was sent home with the Student.
18. A Notice of Meeting with an initial contact date of February 21, 2025, indicated a proposed meeting dated March 6, 2025, to discuss possible changes in the Student's IEP. The notice was sent to the Parent in Spanish.
19. A PWN dated February 21, 2025, indicated the Student was eligible for special education, and special education is needed to enable the Student to receive educational benefits in accordance with their abilities. A change in services was proposed as follows: "Beginning March 6, 2025, ... the District proposed to change the primary exceptionality from Developmental Delay (DD) to Autism (AM), as supported by the evaluation results and aligned with the Parent's request." The action revised the FBA wording based on the Parent's concerns, and confirmed the Student's behavior was a manifestation of their disability, rather than a conduct issue.

The Student would receive direct pull-out reading and written language instruction for 60 minutes a day, 5 days a week in the special education classroom. The Student would receive inclusive services in the general education classroom for 80 minutes a day, 5 days a week. The Student would receive 20 minutes a week of special education supports in the general education classroom for social skills. The OT proposed that the Student would be dismissed from all school-based occupational therapy services. It was proposed that the Student would receive speech/language therapy pulled out of their classroom for 15 minutes, 2 days a week, in a small group or an individual setting from the beginning of their IEP until May 23, 2025. Beginning in the fall of 2025, it was proposed that the Student would receive pull-out one day for fifteen minutes, and inclusion one day for 15 minutes each week.

The team considered eligibility under Other Health Impairment (OHI) due to concerns with focus and attention. However, the team determined AM, which encompassed the Student's profile. The team considered alternative accommodations but determined that the selected strategies best supported the Student in "minimizing distractions, managing routine changes, and addressing emotional regulation." The team considered keeping the original FBA wording but determined that revisions were necessary to ensure accuracy and alignment with the team's perspective. The team decided to remove the Student's academic, specialized services, which would not meet the Student's needs. Continued OT services were rejected by the team since the Student was on track with fine and visual motor skills.

Other factors considered were:

- The District agreed with the Parent to update the exceptionality from DD to AM.
 - The IEP included preferential seating, access to noise-cancelling headphones, and visual supports to help reduce distractions in response to the Parent's request for specific strategies to reduce distraction in the classroom.
 - The IEP included frontloading for schedule changes, use of visual schedules, and check-ins with a trusted staff member to support transitions in response to the Parent requesting strategies to help the Student adjust to changes in routine.
 - The IEP included regular check-ins, additional processing time, and checks for understanding to support emotional regulation in response to the Parent's request for additional emotional support strategies.
 - The District reviewed the FBA and revised sections to better reflect the Student's needs and behaviors in a way that aligned with the Parent and team input.
 - Behavior as a Manifestation of a Disability was reviewed by the team. The Parent emphasized that the Student's behaviors were related to their disability rather than a conduct issue. The team agreed and acknowledged the Student's behavior was a direct result of their disability.
 - The Parent signed the consent on March 6, 2025.
20. The Student averaged 84.1% for overall school attendance according to meeting notes dated March 4, 2025.
21. Team Meeting Notes for an Evaluation/Eligibility Team Report dated March 6, 2025, indicated that another copy of parental rights was given to the Parent. The team went through the Parent's concerns in the Parent's response "bullet by bullet," showing where the team addressed the concerns in the IEP. The team shared that the counseling services were not included in the IEP under services because it is not considered special education. The team showed the Parent where the Parent could find those services within the IEP. The Parent asked about occupational therapy and why the Student wasn't receiving those services anymore.

The Parent completed a Parental Input Form as part of the Student's comprehensive reevaluation. The Parent expressed concerns about the Student's ability to follow rules, understand instructions, concentrate, and memorize information. The Parent noted "... [the Student] frequently repeats phrases and benefits from structured support to navigate challenges related to [their] disability." Socially, the Student generally got along well with peers and adults but could be fearful of some individuals. The Student's hobbies included drawing, coloring, and playing with trains. The Student disliked rules, sharing belongings, and attending school. The Parent noted the Student had a diagnosis of 2q13 chromosome deletion syndrome, Level 2 Autism Spectrum Disorder, and ADHD, which should be considered in the IEP development.

The Team Meeting Notes indicated the Parent stated, "I am writing to express my disagreement regarding [the Student's] reevaluation. I disagree with the disability listed in [their] record as developmental delay. Please correct this to reflect the disability that [the Student] actually has. Additionally, I would like to address the proper structure that [the Student] requires due to [their] disability."

The Total Score on the CARS-2 HF was 28, which placed the Student in the Severity Group, Mid to Moderate Symptoms of Autism Spectrum Disorder. According to the Vineland Adaptive Behavior Scales, the Parent's ratings on the Student's communication skills were within the Low range. In the area of Socialization, the Parent rated the Student's overall socialization skills within the Low range. The Parent rated the Student's overall Daily Living Skills as within the Adequate range.

Regarding Health and Motor, the School Nurse completed hearing and vision screenings, which the Student passed. The Parent shared that the Student hadn't had any major illnesses. The Student was evaluated at a Pediatric Clinic on January 2, 2025, indicating "a diagnosis-Autism Spectrum Disorder, Attention Deficit Hyperactivity Disorder, Mixed Receptive-Expressive Language Disorder, and deletion of chromosome 2 q. With developmental delays." The Parent completed the Behavior Assessment System for Children, Third Edition (BASC-3). The Parent's ratings were considered acceptable for appropriate response patterns and consistency. The F-index scale indicated some responses were in the Extreme Caution range. The Parent rated the Student's overall level of the following subtests:

- Externalizing Problems: Clinically Significant range.
- Hyperactivity: Clinically Significant range.
- Aggression: Clinically Significant range.
- Conduct Problems: Significant range.
- Behavioral Symptoms: Clinically Significant range.
- Atypically scale: Clinically Significant range.

The Evaluation Report had been updated to include additional input from the Parent. The Parent wished to provide further thoughts and concerns regarding additional information. The Parent indicated, "I disagree with parts of the Student's reevaluation, particularly on page 15 where it is stated that [the Special Education Teacher] believes that [the Student's] behaviors are caused or motivated by [their] family teaching [the Student] not to do things on [their] own. ... I do not agree with [the Special Education Teacher's] assessment. ... I also disagree with [the Special Education Teacher's] statement that there are no observable events indicating behaviors of concern regarding [the Student]. I disagree because [the Student] comes home from school frustrated, sad, embarrassed, and stressed. ... Lastly, the reevaluation states that the teachers believe [the Student's] actions are due to [their] behavior (conduct). ... It is not due to behavior; it is due to [the Students'] autism, not [their] conduct."

The Student was found eligible for special education services under the exceptionality of Autism. The entire reevaluation team agreed, except the Parent. The Parent signed the participation form, and it was not noted if the Parent agreed or disagreed.

22. Relevant items from the IEP dated March 6, 2025, indicated the following:
 - a. The Parent and an Interpreter/Translator attended the meeting.

- b. The Student's Social-Emotional Behavior goal was, "By the end of the IEP year, when given a structured work system, movement breaks, and self-regulation strategies. [The Student] will improve [their] ability to remain engaged in academic tasks by demonstrating on-task behavior (e.g., staying seated, attending to the task, and completing work) for at least 75% of observed opportunities, as measured by teacher observations."
- c. The Student's goal for reading was, "By the end of the IEP year, when given a comprehensive efficiency assessment, such as the FastBridge CompEfficiency screener, [the Student] will be able to score 70% accuracy in the overall comprehension efficiency."
- d. The Student's goal for written language was, "By the end of the IEP year, when given a four-minute writing CBM (Curriculum Based Measure), in which [the Student] will have one minute to think and three minutes to write, [the Student] will increase [their] total words written to 24."
- e. In the area of communication, the Student has limited English proficiency. The Student's goal for communication was, "In one instructional year (February 2026), [the Student] will show increasing independence of vocabulary supports via assistive technology (e.g. Read & Write, Snap and Read) in the classroom setting requiring minimal supports (25% or less) as judged by speech/language pathologist. (min. 25%, mod 50%, max. 75%)."
- f. Special Education and Related Services included:
 - i. Speech pull-out services, speech/language therapy (assistive technology), 15 minutes for 2 days a week, every week, starting March 6, 2025, and ending May 23, 2025.
 - ii. Speech pull-out services, 15 minutes one day every week, starting August 20, 2025, and ending March 5, 2026.
 - iii. Speech, general education/inclusion services, speech/language therapy (assistive technology), 15 minutes one day a week, starting August 20, 2025, and ending March 5, 2026.
 - iv. Special education services, supplemental reading (comprehension/vocabulary), 30 minutes, 5 days a week, every week, starting March 6, 2025, and ending March 5, 2026.
 - v. Special education services, in the general education setting/inclusion, for attention to task/following directions, reading/math, 80 minutes, 5 days every week, starting on March 6, 2025, and ending on March 5, 2026.
 - vi. Special education pull-out, for written language, 30 minutes, 5 days every week, starting March 6, 2025, and ending March 5, 2026.
 - vii. The IEP team reviewed the educational placement and/or services and considered it reasonably designed to deliver FAPE in the Student's least restrictive environment. The School was unable to provide regularly scheduled special education and/or related services when the following occurs:
 - 1. Inclement weather closures.
 - 2. Scheduled school closures.

3. Early release days.
 4. Unforeseen emergencies.
 5. Student absences.
 6. School field trips.
 7. Emergency drills.
 8. Summer breaks.
- g. Least Restrictive Environment/Justification for non-participation in, and/or removal from, the general education class with students without exceptionalities, (both academic and nonacademic): "[The Student] requires removal from the general education settings for specific academic and nonacademic activities due to challenges related to focus and attention, anxiety, difficulties with transitions, and deficits in receptive and expressive communication. These factors, in addition to [the Student's] 2q13 chromosomal microdeletion, autism spectrum disorder, and ADHD, impact [their] ability to fully engage with peers and access the general education curriculum in an inclusive setting. [The Student's] communication difficulties and developmental delays require targeted support through speech and language therapy to address deficits and facilitate participation in both academic and social settings. Supportive environments provide the structure and individualized support needed to address these challenges, allowing [the Student] to participate at [their] level of ability, while reducing anxiety and increasing focus."
- h. Accommodations with a start date of March 6, 2025, and an end date of March 5, 2026, included:
- i. Record 1: Access visuals to be given when the Student was redirected or given a direction to ensure comprehension in all core classes, lasting through the completion of the task. The rationale was to give the Student access to visual supports, including manipulatives such as number lines and a 100's chart. Visuals to help the Student stay on task, follow directions more effectively, and reduce cognitive load, enhancing overall engagement and task completion.
 - ii. Record 2: Implement a daily check-in system, throughout the day, specifically each morning and right before lunch, in the general education setting, through completion of the check-in, not to exceed 5 minutes. Implementation of a daily check-in system with a trusted staff member (e.g., special education teacher, general education teacher, paraprofessional, counselor, or student support specialist) to provide predictable structure, reassurance, and schedule reassurance opportunities as needed, before transitions or challenging tasks, to support emotional regulation.
 - iii. Record 3: Provide frequent checks for understanding of directions and expectations when assigned independent work, across all settings, through completion of the assignment. Due to weak short-term working memory and a diagnosis of ADHD and Autism, the Student struggled with sustaining attention, processing verbal information, and following multi-step directions. "The accommodation will help reduce cognitive overload, increase engagement, and improve task completion."

- iv. Record 4: Provide extra processing time for verbal and written responses when asked to provide a verbal or written response, across all settings, through completion of the assignment. The Student experienced difficulties with processing verbal and written information quickly. "Extra processing time will allow [the Student] to better organize thoughts, reduce cognitive overload, and to fully engage in tasks without feeling rushed, thereby improving [the Student's] ability to demonstrate [their] understanding and complete work to the best of [their] ability."
- v. Record 5: Preferential seating, throughout the day, across all settings, specifically at lunch, through the duration of instruction, and work completion. The Student had a clinical diagnosis of autism and presents with anxiety, which can lead to struggles with unstructured environments like the cafeteria due to sensory sensitivities, social demands, and unpredictability. Allowing preferential seating near a preferred peer reduces anxiety, supports social engagement, and fosters emotional regulation by providing a familiar and predictable social setting.
- vi. Record 6: Frontload for changes in routine, when presented a change to the Student's structured day, across all settings, through completion of the task. "Unexpected changes in routine can lead to increased anxiety, difficulty transitioning, and problem behaviors due to challenges with flexibility and processing new information."
- vii. Record 7: Access to noise-cancelling headphones, available daily as needed, during tests in the classroom or a designated testing environment, during lunch, in the cafeteria or an alternate quiet space, as appropriate, for the full duration of tests and lunch. "Providing access to headphones minimizes distractions during testing and helps regulate sensory input in the cafeteria, promoting a more successful and comfortable experience."
- i. Supplementary Aids and Services with a start date of March 6, 2025, through March 5, 2026, included:
 - i. Record 1: Para support in the general education classroom for task-at-hand activities. The Para to be available 80 minutes a day, 5 days a week, during mathematics and reading instruction in the general education classroom. "While the reason for attending the classroom is to learn the instruction and to keep [the Student] engaged, the [P]araprofessional should appear to be helping everybody and to be actively involved in the lesson."
 - ii. Record 2: A check-in with a designated staff member to provide emotional support, review expectations, and assist with problem-solving during lunch, daily, in the cafeteria or when eating lunch, for 5 minutes. "A brief check-in provides predictability, reassurance, and regulation strategies, allowing [the Student] to manage anxiety, receive social support, and successfully engage with peers."
- j. Supports for School Personnel starting March 6, 2025, and ending March 5, 2026, indicated:
 - i. Record 1: Review of the current IEP will be conducted with all staff involved with the Student's education. Review of the Student's IEP would occur at the

beginning of each school year, after all IEP updates & amendments, and when new staff begin working with the Student during all core classes. A review of the current IEP would be done long enough to ensure adequate understanding of the core components of the IEP. "Due to the potential of amendments throughout the Student's IEP year, regular communication is necessary on those potential changes to ensure success for [the Student] through [their] IEP."

- k. Assistive Technology starting March 6, 2025, and ending March 5, 2026, indicated:
 - i. Record 1: Access to applications such as Read & Write and/or Snap & Read, as needed for vocabulary meaning throughout the day, in the classroom, and during Speech & Language Therapy sessions. "Due to [the Student's] great need of support regarding [their] language comprehension, the use of assistive technology is proposed to allow [the Student] to become more independent with determining word meanings throughout [their] academic day."
- 23. A Counseling Services Summary Report dated May 29, 2025, stated that the Student began weekly counseling services on January 10, 2025, as part of the Student's support plan. The service delivery and schedule section indicated the Student had regular sessions taking place on Friday afternoons. Recognizing the Student's ongoing needs and responding to the Parent's request for additional support, Tuesday sessions were also incorporated into the Student's schedule on a tentative basis. Intervention Focus areas included:
 - a. Social skills development.
 - b. Frustration management and coping strategies.
 - c. Cognitive flexibility training.
- 24. According to a Progress Report dated May 29, 2025, the following progress occurred:
 - a. Communication: "[The Student] continues to implement the application Read & Write well in speech/language therapy sessions with near 75% independence. ... If given opportunities in the classroom setting, [the Student] has shown to be successful with operating technology to determine word meaning."
 - i. Status-6, Slight Improvement.
 - b. Written Language: "On May 6, 2025, when given a four-minute writing CBM, in which [the Student] will have one minute to think and three minutes to write, [the Student] was able to write 20 words. [The Student] met this goal!"
 - i. Status-6, Slight Improvement.
 - c. Reading: "For the spring assessment window, when given a comprehensive efficiency assessment, such as FastBridge CompEfficiency screener, [the Student] was able to score a 65% accuracy. [The Student] met this goal."
 - i. Status-7, Moderate Improvement.
 - d. Social Emotional: "[The Student] was observed for 15 minutes, at 30-second intervals. ... was on task 22 out of 31 times observed. [The Student] was on task 71% of the time."
 - i. Status-7, Moderate Improvement.

25. According to a Second Grade Progress Report for 2024-2025, the Student received the following scores for the 4th quarter:
- a. Go Math Average-90%.
 - b. FastBridge aMath-16%.
 - c. FastBridge CBM Automaticity-42%.
 - d. Fact Fluency-100%.
 - e. Go Math Chapter Tests ranged from 70% to 100% accuracy.
 - f. FastBridge aReading-10%.
 - g. FastBridge CBM Fluency-20%.
 - h. Lexia Level-7.
 - i. Spelling-98%.
 - j. End of the Year Goals:
 - i. Fact Fluency-100%.
 - ii. CBM Fluency-131 words per minute.
26. The Parent filed the Complaint on April 21, 2025.

Interview Summaries

The Director of Special Education

27. During an interview with the Complaint Investigator, the Director of Special Education explained the support the Student was offered during lunch was documented in the IEP as a supplementary agent support, which meant the School provided guidance to staff that would be working with the Student. They explained it was decided that assigning a specific paraeducator to sit with the Student at lunch was not in the Student's best interest because the Student was "more independent." The Director of Special Education shared there were always staff in the lunchroom providing supervision. They said, "... we use the supplementary agent support to educate all of the staff that may be in that scenario We do have increased monitoring where they're keeping an eye on [the Student] a little bit more frequently than the rest of the students. ... They interact [with] [the Student] a little bit more, provide a little more positive interactions, and then they will provide the prompts"
28. The Director of Special Education indicated the IEP and evaluation teams received a note from the Student's doctor, which had been provided to the Parent on January 2, 2025. The note documented formal diagnoses and that the Student should be provided with accommodations. The Director of Special Education indicated the note also mentioned school counseling for the Student, which the School added. The Director of Special Education explained the counseling services were not documented as an IEP service because all students have access to it, but it was being documented that the Student was meeting with the school counselor. The Director of Special Education explained that around the time the reevaluation was near completion, the Parent expressed confusion if the Student's eligibility category would change from Developmental Delay to Autism. The Director of Special Education indicated they

clarified to the Parent about changing the Student's eligibility category, and that the doctor's note from January 2, 2025 was the only documentation the School received.

29. The Director of Special Education said, "We have an experienced translator. [The Parent] is Spanish speaking. [The Parent] does understand English a little bit, but we always use [sic] translator ... to make sure that documentation's [sic] happening or that communication is happening."
30. The Director of Special Education explained the IEP team was initially considering keeping the Student's eligibility category at Developmental Delay because of the Student's age, but decided because they were in the process of a reevaluation, to change it. The Director of Special Education explained there was a discussion of different options, and they perceived the Parent believed the team was not going to change the Student's eligibility category to Autism, even though they were. The Director of Special Education indicated this was clarified through additional communication with the Parent.
31. The Director of Special Education stated the Parent did not share the specific documentation they felt was not utilized during the reevaluation process or considered for the IEP. They indicated the only documentation they were aware of was the doctor's note from January 2, 2025.
32. The Director of Special Education, when shown a document which referenced a visit to a children's clinic in 2020 and the Student being diagnosed with autism, said, "That doesn't say that a report was provided to the [S]chool specifically, doesn't mean it wasn't, and I don't see anything attached to the IEP that would've indicated it was given at that time. ... I'm not seeing it in the files that have been uploaded for [the Student] ... but it does at least get referenced in the IEP that the team considered the input from [sic] parent, but I don't know if this specifically was given."
33. The Director of Special Education indicated the Student's attendance had been a concern in the past, and the Parent believed it stemmed from anxiety. The Director of Special Education indicated the counselor had been working with the Student on helping change their perception of attending school, to help with their anxiety. The Director of Special Education indicated the Student had a pattern of being chronically absent, but did not know if it all related to anxiety.
34. The Director of Special Education explained the IEP team had addressed the issue of the Student's attendance, but there were not IEP meetings held to address it because the Student was making progress and the team felt it was not impeding the Student's performance on their IEP goals in the classroom.
35. The Director of Special Education confirmed from the Student's IEP, dated March 20, 2025, that the Student received speech services. They indicated this was implemented through pull-out service from the speech language pathologist, and also push-in services. They said, "We use a blended model of speech language pathology where we pull out for some services, and then when they're ready to start to generalize some of those skills, then our speech pathologist will push into the classroom"
36. The Director of Special Education explained the Student received supplemental reading support, pulled out of the general education classroom, three to five times per week for 30-minute sessions in a special education classroom. The focus of this support was

comprehension and vocabulary, aligning with the Student's English Language Learner (ELL) goals. The Student also received 30 minutes of writing support five days a week in a special education classroom, and had push-in support during direct reading instruction in the general education classroom. For math, the Student received support to address attention concerns and help with following directions. This support included prompting, and restating directions or instruction.

37. The Director of Special Education explained the Student had access to visuals, the type of which depended on the class. They explained the visuals ranged from graphic organizers to charts and number lines. They stated these would have been made available to the Student.
38. When asked about implementing daily check-ins, the Director of Special Education explained a staff member would check in with the Student periodically. They believed the counselor was the main person implementing the accommodation, but it was designated that it could be other staff. The Director of Special Education indicated this would also be implemented before lunch, with the goal of checking in about the Student's anxiety before they transitioned to places which the Parent had been concerned about. The Director of Special Education explained that when staff gave the Student directions, they would give the Student time to process it before the Student had to respond.
39. The Director of Special Education acknowledged one of the Parent's concerns was having a peer sit with the Student during lunch. They indicated sitting beside a preferred peer was to help the Student's anxiety. They explained it had been explained to the Parent that a paraprofessional was not with the Student during lunch because the Student performed better when "... there wasn't somebody hovering over [the Student]." The Director of Special Education said, "... we've provide[d] the IEP services and we have addressed the concern at lunch. It may not be exactly how [the Parent] thought we would, but there's support there. [The Parent] may not always recognize it because somebody's not standing right beside [the Student] [sic] whole time."
40. The Director of Special Education indicated the Student had access to noise cancelling headphones but was unsure if the Student used them. The Director of Special Education indicated the Student received support from a paraprofessional in the general education classroom to help the Student with focusing, giving them prompts, and responding to their needs. They explained providing brief check-ins with the Student provided predictability and reassurance, and staff gave the Student prompts to eat their lunch if they were not doing so. The Director of Special Education indicated the Student received assistive technology, and indicated that the staff ensured this was available on the Student's devices and the staff knew how to prompt and encourage the Student to use it.
41. The Director of Special Education explained the Student's occupational therapy services were provided as a check-in with the occupational therapist, and that the indirect services were consultation services.
42. The Director of Special Education was asked about letter designations on the Student's progress report, specifically the letters "K" and "L." They explained it was a system where

"... 'L' is a little bit more complex than 'K.' 'K' is a little bit more complex than 'J.'" They confirmed it meant the Student was progressing.

43. When asked about a goal that was denoted as had been "met," but also noted the Student had made "slight improvement," the Director of Special Education explained the staff member was trying to indicate the Student had met their objectives goal, even though the Student had not yet met the full goal.

The Parent

44. During an interview with the Complaint Investigator, the Parent was asked which medical documentation was not considered during the reevaluation process. The Parent indicated they gave the School the Student's diagnosis of their disability and a note from the doctor that the Student needed help. The Parent believed that information was not used because the Student's autism diagnosis was not included in the IEP.
45. The Parent indicated they believed the Student needed psychological support. The Parent indicated the Student had been struggling at lunch because they were sitting with a peer who did not want to sit with the Student. The Parent also perceived the Student was struggling with reading comprehension and believed the Student had not received enough support. The Parent perceived the staff did not address the Student properly when giving instructions. The Parent believed this negatively impacted the Student and their desire to attend school.
46. The Parent explained they participated in the reevaluation process by being interviewed about the Student's behavior and completing questionnaires.
47. The Parent explained it was difficult to get the Student to attend school during the 2024-25 school year. The Parent indicated the Student told them they did not want to attend school because a teacher was angry with them and there were quarrels with peers. The Parent shared the Student started attending therapy three or four months prior, provided outside of the School, which helped the Student's attendance.
48. The Parent perceived they were ignored when they brought their concerns to the District, and told they had to get an evaluation done. The Parent indicated the Director of Special Education told them they would help the Student, but then the Parent perceived the District would not do anything, so the Parent went to an outside agency to ask for a reevaluation.
49. The Parent stated they sent a doctor's note about the Student's autism diagnosis to the School in 2022, and then in 2023, sent a doctor's note stating the Student required "extensive help." When asked about a letter dated January 31, 2023, the Parent said, "That was the first letter I sent to [the School] from the doctor with the diagnosis." They indicated they sent it to the School in 2023.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #489, in accordance with state and federal regulations implementing the IDEA, implemented special education and related services as described in the Student's IEP. K.A.R. 91-40-16(b)(3); 34 C.F.R. § 300.323.

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

The Parent alleged the School did not provide the Student with the appropriate support outlined in the Student's IEP, which contributed to the Student's poor performance. The Parent requested a reevaluation on September 16, 2024, and has not observed improvement in the support the Student received. For example, a peer was assigned to help the Student at lunch instead of a staff member to assist the Student when they get upset.

The District stated the School provided appropriate support for the Student and the IEP was followed consistently. According to the District, the Student had an improvement on all IEP goals and in their academics, as demonstrated by their progress reports and grades.

The Parent was sent a Notice of Meeting for reevaluation on September 16, 2024 to conduct an annual review of the Student's IEP. On September 30, 2024, the Parent was sent a PWN which indicated the meeting was to review special education and related services, placement, and any additional changes. A description of the action proposed or refused described the services the Student would receive. The PWN indicated the proposed services were highly recommended to help meet the Student's needs effectively and efficiently. A Progress Report dated September 30, 2024 was sent to the Parent and indicated the Student made moderate improvement on their motor goal, and maintained performance on their two communication goals and their reading goal. On October 25, 2024, a PWN For Evaluation or Reevaluation and Request For Consent indicated the LEA proposed to conduct a reevaluation. The Parent signed consent for the reevaluation.

A Counseling Services Summary Report, dated May 29, 2025, stated the Student began weekly counseling services on January 10, 2025 as part of their support plan. The Student had regular sessions, and additional sessions were incorporated in response to the Parent's request for more support. According to a Progress Report dated May 29, 2025, the Student made slight improvement on their communication and written language goals, and moderate improvement on their reading and social-emotional goals. A Second Grade Progress Report for 2024-2025 detailed the Student's scores for the fourth quarter.

The Director of Special Education stated the Student's IEP outlined a "supplementary agent support" for lunch, which involved guiding staff who would interact with the Student rather

than assigning a dedicated paraeducator. The Director of Special Education acknowledged the Parent's concern about having a peer sit with the Student during lunch, but said their reasoning was explained to the Parent. The Parent perceived the peer did not want to sit with the Student.

Through their interview, the Director of Special Education addressed the Student's services and accommodations, and detailed their implementation. The Parent perceived the Student was not receiving the proper support from the School and that their concerns were ignored by the District. The Director of Special Education indicated the Student's attendance had been a concern in the past, but explained the counselor had been working on the issue with the Student. They explained the IEP team addressed the Student's attendance, but there were not IEP meetings held about it specifically because the Student was progressing. The Parent explained it was difficult to get the Student to attend school during the 2024-25 school year, but that once the Student started attending therapy outside of the School, the Student's attendance improved. The Student averaged 84.1% for overall school attendance, according to meeting notes dated March 4, 2025.

The District had an IEP in place for the Student, and also conducted a reevaluation of the Student. Progress reports indicated the Student progressed on their goals. Documentation showed the Student received services, such as counseling. The type of support the Student received during lunch was a point of contention, but documentation and the interview with the Director of Special Education indicated there was adult supervision in the lunchroom. After reviewing documentation and interviews, there was not sufficient evidence to prove the Student's IEP was implemented incorrectly or the Student was denied proper support and services. Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to implement special education and related services as described in the Student's IEP.

Issue Two

Whether USD #489, in accordance with state and federal regulations implementing the IDEA, offered an IEP that met the needs of the Student and considered Parent information, including from the Student's physician, when developing the Student's IEP. K.S.A. 72-3429; 34 C.F.R. § 300.320.

According to K.S.A. 72-3429, when developing each child's IEP, the IEP team shall consider several factors: the child's strengths and parental concerns for enhancing education, the results of the initial or most recent evaluation, the child's academic, developmental, and functional needs, and for a child whose behavior impedes learning, the use of positive behavioral interventions and supports. Additionally, the following factors should be considered: for a child with limited English proficiency, their language needs related to the IEP; and whether the child requires assistive technology devices and services.

Additionally, Districts must ensure the IEP team reviews the child's IEP at least annually to determine if annual goals are being achieved and revise the IEP as appropriate to address any lack of expected progress, results of reevaluations, information provided by parents, the child's anticipated needs, or other matters.

The Parent alleged that despite receiving documentation from the Student's physician and discussing the physician's advice, the School did not incorporate these recommendations into the Student's IEP.

The District stated the recommendations from the Student's doctor were considered during the most recent reevaluation, and the recommendations were being provided before and were documented in the IEP following the reevaluation. The District stated the IEP team considered the Parent's concerns by adjusting plans, changing how details of the plan were documented, and by sharing data that supported their recommendations that were different than what the Parent had requested.

A letter from a Pediatric Clinic, dated January 31, 2023, indicated the Student was evaluated and had a working diagnosis of Autism Spectrum Disorder, Level 2, and Chromosome 2q.13 Deletion Syndrome. A Pediatric Specialist Report, dated April 25, 2023, detailed several disorders, including ADHD, combined type, chromosomal abnormality-Q99.9, 2q13 deletion, mixed receptive-expressive language disorder, and Autism Spectrum Disorder requiring substantial support.

The Student's IEP, dated October 3, 2023, indicated the Student had a motor goal, a reading goal, and two communication goals, but no written language goal. The IEP included special education services in the general education setting for ELA, reading, writing, and math, and pull-out instruction for reading comprehension. It also included speech services, speech-language therapy, and OT services. The IEP indicated the Student continued to require support in the general education classroom to support attention to task and independence, and specially designed instruction in the special education setting to improve reading comprehension skills. Accommodations included access to visuals.

A Therapy Data document from April 1, 2024 through May 16, 2025, indicated that using Speech to Text & Read and Write technology, the Student scored 80% accuracy or above during their therapy sessions. According to a Timeline of Communication, with a date range of April 26, 2024 through May 27, 2025, there were 45 communication contacts regarding the Student. There were Communication records between the Special Education Teacher to the Parent, ranging from August 30, 2024 to February 11, 2025.

An annual IEP meeting was held on September 30, 2024. The Parent noted the Student's therapist recommended a break during the day to help with focus, and the Parent requested more support for the Student. A draft IEP, dated September 30, 2024, was given to the Parent in Spanish, and indicated the Student required special education services in the area of motor

skills, social emotional skills, reading, written language, and communication, and it was proposed the Student would learn to use assistive technology. The Student did not have a social/emotional goal on their previous IEP, and it was recommended they continue to receive individualized instruction in the special education classroom for reading and attention to tasks. It was decided the Student would begin a written language goal. The draft IEP also detailed special education and related services the Student would continue to receive. Supplementary Aids and Services included paraprofessional support in the general education classroom. Assistive Technology included Read & Write and Snap & Read as needed.

A Physician Letter, dated January 2, 2025, noted the Student's history of Autism Spectrum Disorder and other medical information, and stated the Student needed accommodations and recommended a Functional Behavioral Analysis. On January 24, 2025, the Parent was interviewed as part of the FBA process.

A Team Meeting Record, dated February 7, 2025, indicated the Parent believed the Student did not have the correct structure or support. The team suggested changing the Student's exceptionality from Developmental Delay to Autism. According to Team Meeting Notes, the Parent provided the team with a letter listing their disagreements on February 13, 2025, and the School added that input to the evaluation/eligibility report. Additional accommodations and supplementary aids were added to the draft IEP. A new draft of the evaluation/eligibility report and the IEP were sent home with the Student. A Notice of Meeting, with a contact date of February 21, 2025, indicated a proposed meeting for March 6, 2025 to discuss possible changes to the IEP.

A PWN from February 21, 2025 indicated that beginning on March 6, 2025, the District would change the Student's primary exceptionality from Developmental Delay to Autism. The PWN reaffirmed and detailed the services the Student would receive. The team determined that the selected strategies best supported the Student in "minimizing distractions, managing routine changes, and addressing emotional regulation." It was decided the IEP would include strategies in response to the Parent's request to help the Student. The District reviewed and revised the FBA to reflect input from the Parent and team. The Parent signed the consent form on March 6, 2025.

Team Meeting Notes for an Evaluation/Eligibility Team Report, dated March 6, 2025, indicated the team reviewed the Parent's concerns. The Parent completed a Parental Input Form as part of the Student's reevaluation, which they confirmed in their interview, and expressed concerns about the Student. The Parent noted the Student's diagnosis should be considered in the IEP development. Team Meeting Notes indicated the Parent disagreed with the Student's disability being listed as Developmental Delay, and the doctor's note from January 2, 2025 was reviewed. The Evaluation Report was updated to include Parent input, and the Student was found eligible for special education services under the exceptionality of autism. The entire reevaluation team

agreed, except the Parent. The Parent signed the participation form, and it was not noted if the Parent agreed or disagreed.

The Director of Special Education indicated the doctor's note from January 2, 2025 was the only documentation the School received. They explained the Parent expressed confusion about the Student's eligibility category, but they clarified to the Parent it would be changed to reflect the Student's autism diagnosis. The Parent stated they sent a doctor's note about the Student's autism diagnosis to the School in 2022 and 2023, but the Director of Special Education explained they did not have any record of the Student's autism diagnosis from that time.

The Student's updated IEP, dated March 6, 2025, had a new social-emotional behavior goal, and continued to have goals in reading, written language, and communication. The IEP also detailed the special education services the Student would receive. The IEP addressed the Student's autism diagnosis and that the Student required targeted support through speech and language therapy to address deficits and facilitate participation. The IEP included five new accommodations which reflected the Student's needs, specifically in regards to their autism diagnosis, and a new Supplementary Service was added.

While the Parent indicated they provided the District with the Student's autism diagnosis in 2023, there was not sufficient evidence to confirm or refute the Parent's claim. When the District received medical documentation about the Student's autism diagnosis in January 2025, they documented the information and changed the Student's eligibility category and services accordingly. Documentation demonstrated the District responded to the Parent's concerns and made changes to the Student's IEP. Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to offer an IEP that met the needs of the Student and considered Parent information, including from the Student's physician, when developing the Student's IEP.

Tania Tong, Licensed Complaint Investigator

Right to Appeal

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

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

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

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

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

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

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