

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #500  
ON MAY 26, 2025

DATE OF REPORT: JUNE 25, 2025

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

The Complaint is against USD #500, Kansas City Public Schools. In the remainder of the report, the “School,” the “District,” and the “local education agency (LEA)” shall refer to USD #500.

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 26, 2025 and the 30-day timeline ended on June 25, 2025.

### **Allegations**

The following issues will be investigated:

**ISSUE ONE:** Whether USD #500, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student’s IEP from their previous District or provided comparable services pending the development of a new IEP. K.S.A. 72-3429(g)(1), K.A.R 91-40-16(a)(b)(1)(2); 34 C.F.R. § 300.323(e)

**ISSUE TWO:** Whether USD #500, in accordance with state and federal regulations, convened an IEP team meeting, including the Parent, to make decisions regarding the Student’s appropriate educational placement in the least restrictive environment prior to implementing such placement. Additionally, whether the District obtained Parental consent prior to changing the Student’s placement to the behavior support classroom. K.S.A 72-3420 (a), K.A.R. 91-40-21(a-c)(d)(1-5); CFR 34 C.F.R. §§ 300.114, 300.116, 300.327, 300.501(c)

**ISSUE THREE:** Whether USD #500, in accordance with state and federal regulations, appropriately informed the Parent of changes to the Student’s IEP in a Prior Written Notice. K.S.A. 72-3430(2), K.S.A 72-3432, K.A.R. 91-40-26; C.F.R § 300.503

### **Investigation of Complaint**

The Complaint Investigator, interviewed the Complainant by video conference on June 20, 2025. The following District staff were interviewed on June 23, 2025: the Special Education Coordinator and the Executive Director of Special Education.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Complainant 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. District Response, 06/06/25
2. Email, re: new transfer..., 05/06-05/07/25
3. Email, re: [students] - programming, 05/14/25
4. PWN, 05/14/25
5. Process and Procedures Handbook, 2024-2025
6. Evaluation Report, 10/21/24
7. IEP, 11/04/24
8. Positive Behavior Support Plan, 01/12-10/18/24

**Complainant Materials:**

1. Formal Complaint 1, 05/19/25
2. Email, re: signed PWN?, 05/16/25
3. Email, re: new students, 05/13/25
4. Email, re: urgent, [the Student] start date, 05/13/25
5. Email, re: triplets - programming, 05/14/25
6. Email, re: [the Student] family, 05/14-05/23/25
7. Individualized Education Program (IEP), 11/04/24
8. Positive Behavior Support Plan, 01/12-10/18/24
9. Formal Complaint 2, 05/23/25
10. Email, re: special education social work minutes, 05/24-11/12/24
11. Prior Written Notice (PWN), 11/04/24
12. Transfer IEP, 05/14/25
13. PWN, 05/14/25
14. Evaluation Report, 10/21/24
15. Wechsler Intelligence Scale for Children Report, 09/25/24
16. Academic Assessment, 10/09/24
17. Vineland Adaptive Behavior Scales Report, 10/07/24
18. Speech-Language Evaluation Report, 10/21/24

19. Occupational Therapy, 10/16/24

20. Meeting Notes, 05/02/25

## **Background Information**

This investigation involved a fourth grade student who previously attended a school in another district. The Student is eligible for special education under the exceptionality of Other Health Impairment. The Student is polite and enjoys talking to their peers and adults.

## **Findings of the Investigation**

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

1. The Student is nine years old and attends 4th grade in a Behavior Support Classroom (BSC) at an elementary school.
2. According to a Positive Behavior Support Plan dated January 12, 2024, the targeted behaviors included refusals and elopements. Prevention procedures included:
  - a. Universal positive behavior supports include:
    - i. Posted rules.
    - ii. Posted daily schedules.
    - iii. Posted behavior expectations.
    - iv. Use of transition signals.
    - v. Warning prior to transitions.
    - vi. Pre-correction (priming).
    - vii. Acknowledgement system.
    - viii. Four to one ratio of positive attention to negative attention (praise to correction).
    - ix. Use of specific praise.
  - b. Individualized behavior supports.
    - i. Reinforcement and prompting include:
      1. Specific and descriptive praise.
      2. Choice of reinforcers.
      3. Enthusiastic adult interactions.
      4. Reinforcement, token economy.
      5. Prompting for schedule changes and reminders of expectations.
    - ii. Transitions included verbal printing prior to transitions. Reinforcers are given at the end of transitions when appropriate, and going over daily schedules.

- iii. Sensory modifications included the Student being allowed to handle objects such as fidgets.
  - iv. Environmental modifications included areas with fewer distractions and helping tasks.
  - v. Instructional support included motivating activities, mixing target areas with one teaching session, quick-paced instruction, and pre-teaching.
3. According to an Evaluation Report dated October 21, 2024, the Student's attendance indicated the following:
- a. The 2024 School Year-1 absence.
  - b. The 2024 Summer-Supplemental School-0 absences.
  - c. "... the IEP team determined that [the Student] required intensive programming within a center-based program setting to address [their] specific learning needs, communication, behavior, social, and self-help needs. ... [the Student] continues to require individualized instruction in order to make progress and address [their] needs. [The Student] requires direct and intensive services to make adequate progress toward [their] individualized goals and objectives. Given [their] progress, a hybrid approach is currently being used between the intensive resource classroom setting and the pullout service of the interrelated resource program, which is the most appropriate place to address these needs at this time ... ."
  - d. Specific concerns identified included academics, communication, and behavior.
  - e. The Student had a Positive Behavior Support Plan.
  - f. The Student was diagnosed with ADHD in April of 2023.
  - g. In November 2021, an Evaluation Report indicated a diagnosis of Unspecified Intellectual Disability.
  - h. The Student is a twin and was exposed to drugs in utero.
  - i. The Student qualified for special education under the category of Other Health Impairment.
  - j. "[The Student] is currently enrolled in a center-based classroom designed for students who require more intensive individualized instruction in all academic and/or adaptive functioning areas. [The Student] also receives instruction in a less restrictive special education setting for portions of [their] day."
  - k. The Student's learner characteristics impact their educational performance in the following ways:
    - i. Cognitive challenges impact areas such as storing and retrieving information and following directions.
    - ii. Distractibility affects progress due to verbal reasoning, visual perceptions, and attention.

- I. The Student's overall Full Scale I Q score fell into the Very Low range when compared to other children their age, according to the Wechsler Intelligence Scale for Children-V (WISC-V).
  - m. The Student's results from the Wechsler Individual Achievement Test- 4th edition (WIAT-IV) dated October 9, 2024, indicated the following:
    - i. Reading Comprehension-2nd percentile, extremely low.
    - ii. Word Reading-.8 percentile, extremely low.
    - iii. Written Expression- couldn't score this subtest.
    - iv. Spelling-3 percentile, very low.
    - v. Mathematics-7 percentile, very low.
  - n. The Vineland-3 indicated the Student's Adaptive Behavior Composite score in the home environment was 72, which is in the Moderately Low range. In the school environment, their Adaptive Behavior Composite score is 88, which is in the Adequate range.
  - o. The Speech-Language Evaluation Report dated October 21, 2024, indicated the following:
    - i. The Peabody Picture Vocabulary Test-89 Standard Score, 23rd percentile, in the expected range.
    - ii. The Oral and Written Language Scales, second edition, Oral Language Composite-85 SS, 16th percentile, below average.
    - iii. The Expressive Vocabulary Test, Third Edition, 90 SS, 25th percentile, in the expected range.
    - iv. The Sounds-In-Words Test, initial substitution w/r,f,d/th with an r distortion.
- 4. Relevant items from the IEP dated November 4, 2024, indicated the following:
  - a. The re-evaluation for the Student was due on October 20, 2027.
  - b. The Summary of Present Levels of Academic Achievement and Functional Performance included:
    - i. The Maze Adjusted Reading Score-21st percentile.
    - ii. The Reading Composite Score-<1st percentile.
    - iii. I-Ready Diagnostic Assessment-Overall score-17th percentile.
  - c. Current Academic Achievement and Functional Performance included:
    - i. The Student was enrolled in a center-based classroom designed for students who require more intensive individualized instruction in all academic and/or adaptive functioning areas.
    - ii. The Student also received instruction in a less restrictive special education setting for portions of their day.
    - iii. Behaviors: The Student was easily distracted and needed moderate prompts to help them focus on their academic tasks.

- iv. Math: The Student could identify whole, half, and fourths in fractions with 80% accuracy, two-digit numbers plus two-digit numbers with regrouping with 85% accuracy, and two-digit numbers minus two-digit numbers with regrouping with 25% accuracy.
- v. Speech-Language: The Student had difficulty using age-appropriate grammar, including the use of irregular past-tense verbs (33% accuracy). The Student exhibited weaknesses in supralinguistic language skills, understanding non-literal language, and word relationships. The Student's conversational speech was characterized by r/w substitutions, f and d/th substitutions, and vocalic /r/ in single words.
- vi. Occupational Therapy (OT): The Student was receiving indirect OT services to monitor and support the Student's visual motor skills, visual memory skills, typing skills, pre-vocational skills, and self-care skills.
- d. The Impact of Exceptionality in General Education indicated that the Student's learning characteristics impact their educational performance, which included:
  - i. Cognitive challenges: Impact areas such as storing and retrieving information and following directions. The Student's distractibility affected progress due to verbal reasoning, visual perceptions, and attention.
  - ii. Language: The Student's language delays impacted their comprehension during reading and oral language tasks in the classroom. The Student's speech/sound disorder impacted their comprehension during reading.
  - iii. Occupational Therapy: The Student's difficulty with performing tasks that required visual memory skills impacted their ability to participate in assignments and activities.
- e. Student Strengths: "[The Student] is a kind, caring, and thoughtful student. [The Student] is a great friend to everyone and consistently follows behavior expectations. During social studies and science lessons, [the Student] enjoys working collaboratively in groups."
- f. Behavioral Needs: The Student's behavior impeded their learning and the learning of others. "A FBA is not warranted. Behavior can be addressed through [a] Positive Behavioral Intervention & Support Plan."
- g. The Student's goal for math was, "By the end of the IEP year, October 2025, when given direct instruction in the area of math, when given math calculations and number recognition problems, [the Student] will correctly identify place value, demonstrate knowledge of greater than/less than, and compute math calculation problems (addition, subtraction, and multiplication), with 90% accuracy across 3 out of 5 consecutive data days."
- h. The Student's goal for language was, "By the end of the IEP year, October 2025, when given a grade-level curriculum vocabulary target in context (i.e., a sentence or short paragraph), [the Student] will define the word and identify at least one related synonym or antonym with an average of 80% accuracy."

- i. The Student's goal for occupational therapy was, "By the end of the IEP year, October 2025, [the Student] will compose 2-4 sentences on notebook paper with 80% accuracy for line use (alignment to baseline and letter size) and spacing between words on 2 out of 3 data collection days."
- j. The Student's first goal for reading was, "By the end of the IEP year, October 2025, given direct instruction in a research-based reading approach, [the Student] will be able to decode and encode a list of real and/or nonsense words following a known word pattern at [their] instructional level, with 85% accuracy across 4 out of 5 consecutive data days."
- k. The Student's second goal for reading was, "By the end of the IEP year, October 2025, given direct instruction in a research-based reading approach, [the Student] will be able to decode and encode a list of real and/or nonsense words following a known word pattern at [their] instructional level, with 85% accuracy across 4 out of 5 consecutive data days."
- l. The Student's goal for writing was, "By the end of the IEP year, October 2025, when given direct instruction in the area of encoding with a research-based and systemic approach to reading and encoding, [the Student] will be able to write a dictated sentence on known word pattern, previously taught skills, and use the CHOPS (capitals, handwriting, organization, punctuation, and spelling) checklist to check and proof-read [their] sentences, with 95% accuracy across 3 out of 5 consecutive data days."
- m. The Statement of Special Education/Related Services beginning on November 4, 2024, and ending on November 3, 2025, indicated:
  - i. Special Education Services, provided by the Special Education Teacher:
    - 1. In the General Ed Classroom, for 90 minutes, 3 times every week.
    - 2. In the General Ed Classroom, for 120 minutes, 2 times every week.
    - 3. In the Special Ed Classroom, for 155 minutes, 5 times every week.
  - ii. Speech and Language as a related service, provided by the Speech-Language Pathologist, in the Special Ed Classroom, for 60 minutes, one time a week.
  - iii. Occupational Therapy provided by an Occupational Therapist, direct service in the Special Ed Classroom.
  - iv. Occupational Therapy Services, provided by an Occupational Therapist, indirect service, 15 minutes every month.
- n. The Description of Specially Designed Instruction and Related Services included: "[The Student] will participate with [their] general education peers in a combination of direct special education services in the general education classroom and in specials [sic] classes such as Art, Computers, Music, Spanish, and PE. ... some limited Math and ELA instruction, some iLit lessons, and phonics. ... Special Education: [The Student] will receive direct special education instruction within the special education classroom for a maximum total of 775

minutes per instructional week. [The Student] is participating in a hybrid design between the intensive resource program and the interrelated resource program. [The Student] is receiving 60 minutes of instruction per day within a small group as a pull-out in the interrelated resource room. Support will be provided as needed; however, if [the Student] does not need direct special education support, [they] can remain in the general education setting.”

- o. Supplemental Aids and Services (Accommodations and Modifications) with a start date of November 4, 2024, (no end date noted) included:
  - i. Organizational supports (i.e., near-point alphabet visuals for handwriting activities and near-point copy of written work, and CHOPS writing checklist, in the general and special education settings, until a written assignment is completed, when the Student needs support to remember how to write certain letters and when the Student needs to write out sentences for an assignment.
  - ii. Text-to-Speech on classroom assignments, in the general and special education settings, until the reading of an assigned text is completed, when given material above a second-grade reading level.
  - iii. Extended time for assignments, without extended time on assignments, the Student will not be able to finish the assignments, in all core classes (social studies, science, math, and language arts). The Student will receive a time extension of up to 2 times the required assignment time to complete the assignment, whenever written assignments are given.
  - iv. Oral instruction administration for assignments, in the general education setting, for the length of the assignment, when the Student needs support reading material above a second-grade reading level.
  - v. Read Write Word prediction in the general and special education settings until a written assignment is completed, whenever classroom writing assignments are given.
  - vi. Scribe in the general and special education settings, for the duration of the writing assignment, whenever classroom writing assignments are given.
  - vii. Reduce the number of questions in the general education setting. The Student will be required to complete ½ of the questions assigned whenever classroom assignments are given.
  - viii. A Word Bank, used in the general education and special education setting, for the duration of instruction, practice, and assignments that are given.
- p. Extended School Year (ESY) included:
  - i. Special education services for the extended school year setting, 225 minutes, 4 times, every week, starting June 2, 2025, and ending June 26, 2025.
- q. The Least Restrictive Environment (LRE) included:



- i. "[The Student] will participate in all general education program activities with the exception of when [they are] receiving direct special education services in a hybrid-designed program, including center-based and interrelated resource programs at a neighborhood school in the School District in the special education setting. [The Student] will participate with [their] general education class to the fullest extent appropriate, including recess, lunch, morning routines, morning meeting, limited reading and/or math small group time, phonics, and specials. During assemblies, field trips, counselor lessons, and other special times within the school building, [the Student] will not be pulled out of the general education setting. Time in the general education setting will focus on continued academic learning, observational learning, and appropriate social interactions with same-age peers."
  - ii. Areas of Non-participation included: "[The Student] will participate in all areas of the general education program with the exception of when [the Student] is receiving direct special education services in the resource setting and related services."
  - iii. Full participation is not possible due to the following: "Full participation in a general education classroom is difficult due to [the Student's] needs in the areas of communication, attention/focus, academics, and social skills. [The Student] requires individualized and/or small instruction in order to make progress and address [their] needs to make adequate progress toward [their] individualized goals and objectives. The hybrid approach being used between the intensive resource classroom setting and the pullout service of the interrelated resource program is the most appropriate place to address these needs."
  - iv. Potential harmful effects included: "[The Student] will miss time with [their] same-aged peers to receive individualized instruction in the center-based classroom. The team has determined that the benefits of the current placement outweigh any potential harmful effects."
5. A Prior Written Notice (PWN) dated November 4, 2024, indicated the identification/eligibility determined the Student had an exceptionality and needed specially designed instruction and was eligible for special education with a change in services. It was proposed that the Student's special education services in the general education setting increase from 450 minutes per week to 510 minutes per week. It was proposed that the Student's special education services within the special education setting decrease from 1060 minutes per week to 775 minutes per week. The Student's speech language services would increase from 40 minutes to 60 minutes per week. Direct OT services would be added for 30 minutes per week. The Parent signed the PWN.
6. Meeting Notes regarding the move-in Student from the Previous School, dated May 2, 2025, indicated the Student attended a center-based program at the Previous School, which was an intensive resource classroom. The Student received a hybrid model of instruction with intensive resources for pullout for 60 minutes. The Student spent the

majority of their time in class. The Student needed more support in a self-contained hybrid classroom. The Student has ADHD and takes medication, but not at school. It was indicated that the Student will need a self-contained placement in middle school. The Student steals at times, is not always truthful, and was academically low.

7. On May 13, 2025, the Principal emailed Special Education Coordinator 2 requesting a meeting to review the Student's IEP from the previous district. "The previous school principal shared additional information today regarding their placements based on their evaluation and current services that were in place at their prior school. Please let us know when you can meet so next steps can take place to get them in the appropriate placement."

The Principal again reached out to Special Education Coordinator 2 a second time, indicating, "After the principal from the previous school provided information about the Student [which included the Student's sibling] in combination with the current IEP and services, it doesn't appear that any Student should be attending our BSC program. Neither were in a behavior program before. They have significant trauma. ... [The Student] is a (lower)-current life skills student. [The Student] is in a hybrid model-Life Skills and [the Structured Learning Classroom] SLC."

On May 14, 2025, the Principal emailed the Executive Director of Special Education, reiterating the fact that the Student was not previously placed in a BSC Program and that the Current School is the farthest from the Student's home school. The Principal stated, "Most importantly, placing a student with trauma in a BSC setting—when that's not indicated—could be harmful and inappropriate."

8. Relevant items from the transfer IEP dated May 14, 2025, indicated:
  - a. The Placement selected was outside the regular class more than 60% of the time.
  - b. Related Services from May 14, 2025, to September 17, 2025 included:
    - i. Occupational Therapy for 30 minutes, one day a week, outside the regular ed classroom.
    - ii. Speech and Language Services, 60 minutes weekly, outside the regular ed classroom.
    - iii. Occupational Therapy 15 minutes, one day, 1 out of 4 weeks, outside the regular ed classroom.
  - c. Special Education Services May 14, 2025, to September 17, 2025, included:
    - i. Special Education Services, 155 minutes, 5 days weekly, special education direct services outside the regular classrooms, programs, and other locations.
    - ii. Special Education Services, 90 minutes, 3 days weekly, special education direct services outside the regular classrooms, in an elementary or secondary building.

- iii. Special Education Services, 120 minutes, 2 days weekly, special education direct services outside the regular classrooms, in an elementary or secondary building.
9. On May 14, 2025, the Assistant Principal emailed the previous school administrator to ask if the Student was in an "IR setting", which was equivalent to the Current School's Life Skills Program. In a forwarded email to the Complainant from an Additional School Administrator, the Complainant was told that the Student was in Life Skills class.
10. A PWN dated May 14, 2025, indicated the team met to review the evaluation/assessment of the Student. The action proposed indicated:
  - a. "The Student will receive the following comparable services until the move-in IEP meeting is held."
  - b. "Special Education Services, 155 minutes X 5 days a week in the Special Education Setting."
  - c. "Special Education Services, 120 minutes X 2 days a week in the General Education Setting."
  - d. "Special Education Services 90 minutes X 3 days a week in the General Education Setting."
  - e. "Related Service-Speech and Language 60 minutes weekly in the Special Education Setting."
  - f. "Related Service-Occupational Therapy 30 minutes 1 day weekly in the Special Education Setting."
  - g. "Related Service-Occupational Therapy of indirect services 15 minutes X 1 day every 4 weeks."
  - h. "Related Service-Transportation 30 minutes X 5 days a week."
  - i. The PWN was emailed to the Parent.
11. In an email exchange between the Complainant and the Special Education Coordinator dated May 16, 2025, the Complainant asked if there was a signed PWN from the Student's Parent for the current placement. Special Education Coordinator 2 stated, "There won't be one. When we do a transfer IEP, we write a PWN for comparable services and send it to the Parent. No signature is needed. There is a PWN in there, though."
12. On May 19, 2025, the Complainant filed a Complaint regarding their concerns, which included, "[The Student] has been placed in a BSC as an incoming student from out of district without an IEP meeting, parental consent, or adherence to [the] existing IEP (LRE violation)." The Complainant indicated that questions were raised to the Director of Special Education and Special Education Coordinator 2. Changes were then made, but only the Student, not the Student's sibling, was placed in the BSC. The Student's IEP showed no Functional Behavioral Assessment (FBA) or a Behavior Intervention Plan (BIP). The IEP indicated that an FBA "was not warranted." According to the IEP, the Student "consistently following behavior expectations."

According to the Complainant, the BSC was not the correct placement because the sending District did not have the equivalent placement for the Student. The Complainant indicated that Parental consent was not given to the current District.

13. According to the District Response, the Student transferred to the School on May 14, 2025. It was reported that a PWN was written and provided to the Parent about accepting the move-in evaluation, and the rejection of the IEP because it could not be fully implemented as written. The District indicated the same PWN contained a provision of comparable services until a move-in IEP meeting was to be held.
14. In their Response, the District indicated the Student was supposed to receive 775 minutes a week of services in the special education setting, and had access to the special education setting in the behavior support classroom for those minutes.
15. In an email from Special Education Coordinator 1 to the Executive Director of Special Education, dated May 6, 2025, Special Education Coordinator 1 shared information about the Student, who was transferring to the District. They indicated the Student and their sibling received specialized programming. Special Education Coordinator 1 wrote, "[The Student] was enrolled in a center-based classroom designed for students who require more intensive instruction in all academic/adaptive functioning areas. [The Student] did have access to a less restrictive special education environment setting for portions of [their] day. ... [The Student] was participating in a hybrid design between an intensive special education program and the interrelated resource program. ... My recommendation is a BSC program with access to the general education classroom ... . Where would you like to place this student?" The email also contained the following information about the Student:
  - a. An eligibility category of OHI.
  - b. Medical diagnoses of ADHD and fetal alcohol syndrome.
  - c. Minutes from their current IEP:
    - i. Special education services in the general education setting, 90 minutes for three days a week;
    - ii. Special education services in the general education setting, 120 minutes for two days a week;
    - iii. Special education services in the special education classroom, 155 minutes for five days a week;
    - iv. Speech and Language Therapy in the special education classroom, 60 minutes for one day a week;
    - v. Occupational Therapy in the special education classroom, 30 minutes for one day; and
    - vi. Occupational Therapy in direct services, 15 minutes every once per month.
  - d. Types of goals: reading, written expression, math, speech and language, and occupational therapy.
  - e. BIP: Targeted Behaviors

- i. Refusals;
  - ii. Elopement; and
  - iii. Property Destruction.
  - f. Behavior Supports:
    - i. Reinforcing and Prompting;
    - ii. Support during transitions;
    - iii. Sensory breaks;
    - iv. Environmental Modifications; and
    - v. Instructional Support.
  - g. Full Scale: 77.
  - h. Adaptive Scores within the school setting
    - i. Overall: 88;
    - ii. Communication: 86;
    - iii. Daily living skills: 87; and
    - iv. Socialization: 100.
16. The Executive Director of Special Education replied to Special Education Coordinator 1 on May 6, 2025 and said the Student was placed in BSC at the Current School.
17. According to The Cooperative's Special Education Coordinator Process and Procedures Handbook, for the process of a student transfer, when the coordinator was notified a new student was in the building, they were to request records from the previous school. Then when the student's evaluation was received, the school psychologist had five days or less to accept or reject the evaluation. The handbook indicated a special education coordinator would then review the IEP and determine whether to accept or reject it. If the transfer IEP was rejected, the special education coordinator would consult with the parent and discuss what the comparable services would be until the IEP meeting could be held, complete the Parent Consultation/Interview Form, and write a Prior Written Notice to the parent.

According to the handbook, if a student needed a placement in a Specialized Program (SAILS, BSC, STEPS or Bridges), an email would be sent to the Executive Director of Special Education, who would respond with the final place and location decision. The handbook also indicated, "[The Cooperative] provides special education services in the least restrictive environment (LRE). The process for determining the least restrictive environment (LRE) must be individualized for each student with a disability ... ." The handbook indicated that supports, resources, and interventions were provided before the team began consideration of a District program classroom or outside placement. It indicated the main reason for increasing support, resources, and interventions was to allow the student to be successful in their neighborhood school in order to maintain the least restrictive environment. "However, for a few students, more intensive services

and programming may be required to progress on IEP goals. District programs are considered for these students."

## **Interview Summaries**

### **The Complainant**

18. During an interview with the Complaint Investigator, the Complainant explained the Student was placed in their behavior support classroom at the end of May 2025.
19. According to the Complainant, when they reviewed the Student's IEP, it indicated the Student followed behavior expectations and that a FBA was not warranted, which indicated to the Complainant that it was possible their classroom was not an appropriate placement for the Student. The Complainant explained the Principal from the previous school indicated the Student did not come from a behavior support classroom, and that that placement was not available at the previous school. After further review, the Complainant perceived the Student had come from a life skills setting with a structured learning classroom or resource room.
20. The Complainant stated they were not provided a reason as to why the Student was placed in their classroom. They indicated the only communication they received was from Special Education Coordinator 2, who stated there would not be a signed PWN. The Complainant explained they spoke with Special Education Coordinator 2 virtually asking if the Student's placement was correct. They stated Special Education Coordinator 2 told them the Executive Director of Special Education had determined the Student's placement. The Complainant explained it was not standard practice to hold IEP meetings for move-in students, and that the Executive Director of Special Education was the one who determined placement.
21. The Complainant explained there were between 6-11 students with them in their classroom, in addition to 1-4 paraprofessionals. They indicated their students often had an FBA or a Behavior Intervention Plan before they came to their classroom. The Complainant indicated the School had a resource program. The Complainant explained the Student performed well in their classroom, interacted well with peers, and did not exhibit any negative behaviors.
22. When asked what they perceived would have been the better placement for the Student, the Complainant explained they believed it would have been better for the Student to be in a structured learning classroom with more collaborative minutes in the general education environment. The Complainant indicated they did not ask the Parent if they agreed with the Student's placement. The Complainant believed the Parent had been notified through the PWN that the Student had been placed in their behavior support classroom.
23. When asked about the comparable services they provided, the Complainant explained the Student was able to go to a general education environment and was provided materials at grade or ability level. When asked about any services they provided which were not comparable, the Complainant explained there were not enough personnel available to maintain safety, and that the Student had limited access to peers because

they were removed from the general education classroom to be in the behavior support classroom. The Complainant also indicated the Student might not have gone to the general education classroom as much as they could have, because there was not enough support staff to accompany the Student, but they did assign a staff member to do so when someone was available.

- 24. The Complainant expressed concern the PWN was not signed by the Parent.
- 25. The Complainant indicated the Student's Positive Behavior Support Plan was implemented when they came to the Complainant's program.
- 26. The Complainant explained that in the building where they had worked at the School, there was a structured learning center and a life skills program, but not an intensive resource program. They recalled the previous school called their life skills program an intensive resource program, which helped students with lower cognition.

### **Special Education Administrators**

- 27. During an interview with the Complaint Investigator, the Executive Director of Special Education explained the transfer IEP process was when a student transferred into the District from any school outside of the District or in a different state. A student's IEP and evaluation information was requested and reviewed by the special education coordinator, who emailed the Executive Director of Special Education asking about proper placement. The Executive Director of Special Education would review the information, look at which programs could best serve a student's needs, send a response with their recommendation, and then write a PWN. If an IEP was rejected because it could not be fully implemented, that information was shared with the parent and comparable services were then outlined. An email was sent to the new school regarding the comparable services so the new school was prepared to receive the student and what services to provide.
- 28. The Executive Director of Special Education indicated the Parent wanted all three siblings, including the Student, to be at the same location. Thus, a location where all three students could be together and get their individual needs met was selected. A PWN was written aligning to the Student's minutes that they had from their previous district, and the Student was able to go to the School with their siblings.
- 29. According to Special Education Coordinator 2, the Student was enrolled in the School with structured learning classroom and behavior support classroom access because their IEP from the previous district had very high minutes. They indicated the Student was to receive their structured learning classroom minutes working with a general resource teacher, and their resource minutes in the behavior support classroom because of the low number of students in that classroom. The Student had some behavior supports at their previous school, so those minutes were going to be provided in the behavior support classroom. Special Education Coordinator 2 did not have any concerns with the Student being placed in the behavior support classroom because of the model that was used.

30. According to the Executive Director of Special Education, the behavior support program typically supported students with behavior needs who had a behavior intervention plan. There was also the SAILS program, also known as a life skills program, which was for students who had lower cognitive abilities and had a high number of minutes. Students in the behavior support classroom did not typically have low cognitive abilities, but had access to the general education classroom, whereas students in the SAILS program did not have as much access to general education.
31. The Executive Director of Special Education explained they learned from Special Education Coordinator 2 that the Principal was concerned about the Student receiving services in the behavior support classroom. The Executive Director of Special Education stated they explained their reasoning, that because the Student had a behavior support plan, the Student might need access to some of the behavior supports in that classroom, and they needed a staff member with a low caseload to support the service minutes the Student required when they were removed from general education. The Student was still in the structured learning classroom, but with access to the behavior support classroom to get their behavior needs met.
32. The Executive Director of Special Education indicated the Student's IEP was not accepted "as is," but the evaluation report was accepted. They explained the PWN included an offering of comparable services aligned to the IEP. Because the Student transferred to the School shortly before the school year ended, an IEP meeting was not held, but they were provided with comparable services which aligned with the transfer IEP. They indicated if the Student returned to the School in the fall of 2025, the School would hold an IEP meeting to develop the new IEP.
33. Special Education Coordinator 2 indicated the Parent was notified about the process through the PWN, and they also spoke with the Parent over the phone about what the programming looked like. They indicated the Parent's major concern was keeping the three siblings together in the same building, which was met.
34. The Executive Director of Special Education said, "Parents typically would not need to sign the PWN. We are required that we give them the notice, but there was no significant change. And with us it's 25% or more. There was no changes. It was just communicated that this is what the comparable service would be. And we were able to show that these are exactly the same services that was [sic] they were receiving. ... So there was no change. So there was no required consent from [the Parent] for the PWN to be signed."
35. Special Education Coordinator 2 indicated their only communication with the Complainant was to explain the PWN did not require a signature because it was a transfer IEP.



## **Positions of the Parties, Applicable Regulations, and Conclusions**

### **Issue One**

Whether USD #500, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP from their previous District or provided comparable services pending the development of a new IEP. K.S.A. 72-3429(g)(1), K.A.R 91-40-16(a)(b)(1)(2); 34 C.F.R. § 300.323(e)

According to K.A.R 91-40-16(a)(b)(1)(2), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Except as otherwise provided in subsection (c), each agency shall ensure that the following conditions are met: an IEP is in effect before special education and related services are provided to an exceptional child; and those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown. K.S.A. 72-3429(g)(1) indicates that if an exceptional child with a current IEP transfers from one Kansas school district to another during the academic year, the new school district, in consultation with the child's parent, shall provide the child a FAPE, including services comparable to those described in the transferred IEP, until the new school district either adopts the transferred IEP, or develops and implements a new IEP for the child.

The Complainant alleged the Student was placed in a Behavior Support Classroom, as an incoming student from another district, without an IEP meeting, parental consent, or adherence to an existing IEP.

The District stated they provided comparable services for the Student during the remainder of the 2024-25 school year.

The documentation demonstrated that the transfer IEP, created by the District on May 14, 2025, had comparable services which aligned with the supports and service minutes outlined in the Student's IEP and a PWN from November 4, 2024. Important items to note from the original IEP included that the Student would participate with their general education peers in a combination of direct special education services in the general education classroom and in specials classes, and the Student was participating in a hybrid design between the intensive resource program and the interrelated resource program.

The services from the transfer IEP were also reflected in the PWN, which the Executive Director of Special Education confirmed. The PWN was emailed to the Parent on May 14, 2025. It should be noted the services listed as taking place in the "general education setting" in the PWN, were described in the transfer IEP as being held "in an elementary or secondary building."

The Complainant learned from the previous school that the Student had been in a life skills class. The Complainant explained the School had a structured learning center and a life skills program, but not an intensive resource program. They recalled the previous school called their life skills program an intensive resource program. In regards to comparable services provided, the Complainant explained the Student accessed the general education environment and provided materials at grade or ability level. However, the Complainant noted there were not enough personnel available to maintain safety, and the Student had limited access to peers when they were in the behavior support classroom. The Complainant indicated they implemented the Student's Positive Behavior Support Plan.

The District indicated the Student had access to the special education setting in the behavior support classroom for the minutes they were supposed to receive in the special education setting. The Cooperative's Special Education Coordinator Process and Procedures Handbook outlined the process of a student transfer, which the Executive Director of Special Education reiterated during their interview. It was determined through email documentation and interviews this process was followed for the Student. The Executive Director of Special Education indicated the Parent wanted all three siblings, including the Student, to be at the same location, which the District was able to do. Special Education Coordinator 2 corroborated this.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to implement the Student's IEP from their previous District or provide comparable services pending the development of a new IEP.

## **Issue Two**

Whether USD #500, in accordance with state and federal regulations, convened an IEP team meeting, including the Parent, to make decisions regarding the Student's appropriate educational placement in the least restrictive environment prior to implementing such placement. Additionally, whether the District obtained Parental consent prior to changing the Student's placement to the behavior support classroom. K.S.A 72-3420 (a), K.A.R. 91-40-21(a-c)(d)(1-5); 34 C.F.R. §§ 300.114, 300.116, 300.327, 300.501(c)

According to K.A.R. 91-40-21(a-c)(d)(1-5), each agency shall ensure that the children with disabilities served by the agency are educated in the LRE. Each agency shall ensure that a continuum of alternative educational placements is available to meet the needs of children with disabilities. These alternative educational placements shall meet the following criteria: include instruction in regular classes, special classes, and special schools; instruction in a child's home; and instruction in hospitals and other institutions; and make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement. In determining the educational placement of a child

with a disability, including a preschool child with a disability, each agency shall ensure that the placement decision meets the following requirements: the decision shall be made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options; and the decision shall be made in conformity with the requirement of providing services in the LRE.

Each agency shall give notice to the parents of any meeting to discuss the educational placement of their child. The notice shall meet the requirements of K.A.R. 91-40-17. If a parent cannot participate in person at a meeting relating to the educational placement of the child, the agency shall offer to use other methods to allow the parent to participate, including conference calls and video conferencing. An agency may conduct a meeting to determine the appropriate educational placement of a child with a disability without participation of a parent if the agency, despite repeated attempts, has been unable to contact the parent or to convince the parent to participate. If an agency conducts a meeting to determine the appropriate educational placement of a child without the participation of a parent, the agency shall have a record, as prescribed in K.A.R. 91-40-17(e)(2), of the attempts that the agency made to contact the parent. An agency shall take action to ensure that parents understand, and are able to participate in, any discussions concerning the educational placement of their children, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

According to K.S.A 72-3420 (a), each school district shall be required, to the maximum extent appropriate, to educate children with disabilities with children who are not disabled, and to provide special classes, separate schooling or for the removal of children with disabilities from the regular education environment only when the nature or severity of the disability of the child is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily.

The Complainant alleged the Behavior Support Classroom was not the correct placement for the Student, and that the decision was made without parental consent.

The District responded that the Student having access to the special education setting in a behavior support classroom did not mean the Student was assigned to receive all services in that program, but the Student had to have access to the special education teacher to provide the necessary amount of weekly services. The District indicated that once the Student returned for the 2025-26 school year, the School team would hold an IEP meeting, and the Student would continue to receive comparable services until the IEP meeting was held with all required participants, including the Parent.

A Positive Behavior Support Plan, dated January 12, 2024, indicated the Student's targeted behaviors included refusals and elopements, and also described prevention procedures. According to an Evaluation Report dated October 21, 2024, it was determined the Student needed intensive, individualized instruction within a center-based program to address their

needs. A hybrid approach combining an intensive resource classroom and a pull-out interrelated resource program was being used at the time. The Student's IEP from November 4, 2024 indicated the Student was enrolled in a center-based classroom designed for students who required more intensive individualized instruction, and the Student received instruction in a less restrictive special education setting for portions of their day. The IEP also detailed the type and amount of services the Student received.

Meeting Notes regarding the Student's transfer, dated May 2, 2025, indicated the Student attended a center-based program at the previous school, which was an intensive resource classroom, and received a hybrid model of instruction. In an email from Special Education Coordinator 1 to the Executive Director of Special Education, dated May 6, 2025, Special Education Coordinator 1 shared information about the Student, their current placement, IEP minutes, their recommendation for placement, and asked where the Student should be placed. The Executive Director of Special Education replied that day and stated the Student would be placed in the behavior support classroom.

On May 13, 2025, the Principal emailed Special Education Coordinator 2 and requested a meeting to review the Student's IEP. The Principal contacted Special Education Coordinator 2 again, with concerns about the Student being in the behavior support classroom. The Principal emailed the Executive Director of Special Education the next day, reiterating their concerns.

After reviewing the Student's IEP, the Complainant perceived the behavior support classroom was not the appropriate placement, and stated they were not provided a reason as to why the Student was placed in their classroom. The Complainant indicated they asked Special Education Coordinator 2 if the Student's placement was correct, and were told the Executive Director of Special Education had determined the Student's placement. The Complainant explained it was not standard practice to hold IEP meetings for move-in students, and that the Executive Director of Special Education determined placement.

The Complainant indicated the Student performed well in the behavior support classroom, but perceived it would have been better for the Student to be in a structured learning classroom with more minutes in the general education environment. The Complainant did not ask the Parent if they agreed with the Student's placement.

An IEP meeting was not held when the Student transferred to the School. However, statements from the Complainant indicated it was not standard procedure to do so. Additionally, the District indicated the lack of a meeting was because the Student was only in school for six days before the 2024-25 school year ended, and the Student's educational placement was not changed.

A letter from the United States Department of Education stated in part, "Historically, we have referred to 'placement' as points along the continuum of placement options available for a

child with a disability and 'location' as the physical surrounding, such as the classroom, in which a child with a disability receives special education and related services."

As seen in Issue #1, the District provided comparable services to the Student. According to Special Education Coordinator 2, the Student had access to the structured learning and behavior support classrooms. The Executive Director of Special Education indicated the behavior support program typically supported students with behavior needs who had a behavior intervention plan. They explained the Student was still in the structured learning classroom, but with access to the behavior support classroom to get their behavior needs met. In this instance, the District utilized different classrooms as a way to provide services, but an educational placement, as defined above, was not made.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to convene an IEP team meeting, including the Parent, to make decisions regarding the Student's appropriate educational placement in the least restrictive environment prior to implementing such placement, or that the District failed to obtain Parental consent prior to changing the Student's placement to the behavior support classroom.

### **Issue Three**

**Whether USD #500, in accordance with state and federal regulations, appropriately informed the Parent of changes to the Student's IEP in a Prior Written Notice. K.S.A. 72-3430(2), K.S.A 72-3432, K.A.R. 91-40-26; C.F.R § 300.503**

According to K.A.R. 91-40-26, K.S.A. 72-3430(2), and K.S.A 72-3432, in providing any notice to the parent or parents of an exceptional child in accordance with K.S.A. 72-990 and amendments thereto regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes the following information: a description of other options that the agency considered and the reasons why those options were rejected; and a description of other factors that are relevant to the agency's proposal or refusal. The notice shall be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of a parent is not a written language, the agency shall take steps to ensure all of the following: the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication; the parent understands the content of the notice; and there is written evidence that the requirements of paragraphs (1) and (2) of this subsection have been met. The agency shall be required to provide a parent with a copy of the procedural safeguards available to parents only one time during each school year, except that a copy shall also be provided to the parent in the following circumstances: upon initial referral of the child for an evaluation or upon parental request for an evaluation; upon receipt by the state

department of education of the first complaint filed with it by the parent; upon receipt by an agency of the first due process complaint filed against it by the parent; upon the parent's child being subjected to disciplinary removal from the child's current placement; and at any time, upon request of the parent. The agency shall inform the parent of any free or low-cost legal or other relevant services available in the agency's area if the parent requests the information or the parent or agency initiates a due process complaint involving the parent's child.

The Complainant alleged the Parent was not involved in, or gave consent to, the Student being placed in a Behavior Support Classroom.

The District stated that by reviewing the Student's transfer IEP and evaluation reports, and providing the Parent a PWN about comparable services that aligned with the services the Student was receiving in the previous district, was in accordance with state and federal regulations, and the District appropriately informed the Parent of any changes.

In an email exchange between the Complainant and Special Education Coordinator 2 on May 16, 2025, the Complainant asked if there was a signed PWN from the Parent, and was told no signature was required for a transfer IEP. The Executive Director of Special Education explained a PWN was written to align the Student's service minutes to their new school. Special Education Coordinator 2 indicated the Parent was notified about the process through the PWN, which was emailed to the Parent, and they also spoke with the Parent over the phone about the Student's programming. The Executive Director of Special Education indicated the Parent did not need to sign the PWN because a significant change was not made. While the Parent was not interviewed for this investigation, there was no documentation or testimony to demonstrate the Parent was not informed of, or concerned about, the services the Student was receiving at the School.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is not substantiated* that the District failed to appropriately inform the Parent of changes to the Student's IEP in a Prior Written Notice.

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](mailto:formalcomplaints@ksde.gov). The notice of appeal must be delivered within 10 calendar days from the date of this report.

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

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

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

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

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

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