

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #512
ON MAY 27, 2025

DATE OF REPORT: JUNE 30, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ----- by -----, Educational Advocate. In the remainder of the report ----- will be referred to as the “student” and ----- will be referred to as the “complainant” or the “advocate”. It is noted that the complainant provided written consent from the student’s parent, -----, to share personally identifiable information regarding the student in regards to this investigation. In the remainder of the report, ----- will be referred to as the “parent” or the “mother”.

The complaint is against USD #512 (Shawnee Mission Public Schools). In the remainder of the report, this responsible public agency may also be referred to as “the district”, “the local education agency (LEA)”, or “the school”.

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on May 27, 2025 and assigned the case for investigation on May 28, 2025.

Evidence Reviewed

Both parties were contacted via telephone during the investigation to gather and clarify information. The Chief of Special Education for USD #512, Sherry Dumolien, was interviewed on June 16, 2025. The advocate and the mother were interviewed on June 17, 2025.

The LEA and the complainant provided the following written documentation which was used in consideration of the issue:

1. Individualized Education Program (IEP) dated April 19, 2024 and amended on May 14, 2024
2. Prior Written Notice (PWN) for Identification, Initial Services, Placement, Change in Services, Change in Placement, and Request for Consent dated May 14, 2024
3. Shawnee Elementary Attendance Detail Report dated August 20, 2024 through May 16, 2025
4. School Attendance Records from District Office dated August 20, 2024 through May 16, 2025

5. Discipline records for the student dated August 16, 2024 through May 14, 2025
6. Out-of-School Suspension (OSS) Letter dated August 30, 2024 written to the parent by Tasha Howard, Shawanoe Elementary School Principal, assigning one day of OSS on September 3, 2024
7. Screenshot of text dated September 26, 2024 of parent phone indicating she picked up the student after school due to bus issues at district request
8. OSS Letter dated October 7, 2024 written to the parent by the principal assigning two days of OSS on October 7 and 8, 2024
9. OSS Letter dated October 24, 2024 written to the parent by the principal assigning one day of OSS on October 29, 2024
10. OSS Letter dated November 20, 2024 written to the parent by the principal assigning OSS on November 20, 2024
11. OSS Letter dated November 20, 2024 written to the parent by the principal assigning OSS on November 21, 2024
12. Johnson County Mental Health (JCMH) Call Report dated December 3, 2024 showing parent picked up student after school after police were called
13. OSS Letter dated December 5, 2024 written to the parent by the Principal assigning two days of OSS on December 5 and 6, 2024
14. Screenshot of text dated March 28, 2025 of parent phone indicating she picked up the student after school due to bus issues at district request
15. Screenshot of text dated April 8, 2025 of parent phone indicating she picked up the student after school due to bus issues at district request
16. JCMH Call Intake / Call Detail dated April 8, 2025
17. IEP dated April 10, 2025 and amended on May 19, 2025
18. Screenshot text dated April 11, 2025 at 1:43 PM from "Allison, the school secretary" requesting the parent pick up the student from school
19. Screenshot of text dated April 11, 2025 at 1:51 PM from Shawnee Police officer requesting the parent pick up the student from school
20. Screenshot of text dated April 11, 2025 at 2:28 PM from Shawnee Mission School District Police officer requesting the parent pick up the student from school
21. Screenshot of text dated April 15, 2025 of parent phone indicating she picked up the student after school due to bus issues at district request
22. OSS Letter dated May 2, 2025 written to the parent by the principal assigning one day of OSS on May 2, 2024
23. Shawnee Police Incident Report dated May 13, 2025 at 3:41PM
24. OSS Letter dated May 15, 2025 written to the parent by the principal assigning one day of OSS on May 16, 2024
25. Email dated May 20, 2025 written by John McKinney, Director of Student and Family Services for USD #512, to the advocate explaining the attendance codes

26. Formal Complaint Request Form dated May 27, 2025
27. Release of Information dated June 1, 2025 signed by the parent
28. District response to the allegations dated June 10, 2025 written by Sherry Dumolien, Chief of Special Education for USD #512
29. District response for clarification dated June 23, 2025 written by Ms. Dumolien

Background Information

The student is a six-year-old boy who lives at home with his mother and sibling in USD #512. During the 2024-25 school year, the student was enrolled at Shawano Elementary School where he repeated kindergarten. The parent reported the student attended Benninghoven Elementary School for extended school year services during June 2025 and will be attending Rosehill Elementary School for first grade during the 2025-26 school year.

The student was initially evaluated and determined eligible for early childhood special education (ECSE) services at age three while enrolled in preschool in USD #231. The student transferred into USD #512 and attended pre-kindergarten with ECSE services at Apache Elementary School during the 2022-23 school year. The next school year he attended kindergarten and received special education and related services at Shawano Elementary until March 1, 2024 when he transferred to USD #367. He transferred back to USD #512 on May 10, 2024 and finished the rest of his kindergarten year at Shawano Elementary School. For the 2024-2025 school year, the student continued to be enrolled at Shawano Elementary School for a repeat of kindergarten and to receive his special education and related services.

According to the January 21, 2025 evaluation report from Children's Mercy Hospital, the student has medical diagnoses of Autism and Attention Deficit Hyperactivity Disorder. His most recent special education reevaluation was conducted on April 10, 2025. At that time, the IEP team determined the student was a child with an exceptionality under the category of Other Health Impairment and continued to be in need of special education and related services.

Issues Investigated

Based on the written complaint, one issue was identified and investigated.

Issue One

USD #512, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow appropriate disciplinary procedures during the 2024-25 school year when the student was suspended for greater than ten days.

Applicable Law

Federal regulations at 34 C.F.R. 300.530 require specific procedures to be followed when a student with a disability or suspected of having a disability are subject to a disciplinary removal because of a violation of the student code of conduct.

Disciplinary removals are considered to be “short-term” when a student is removed from their educational placement for no more than 10 consecutive school days or no more than 10 cumulative school days during a school year. In these situations, federal regulations at 34 C.F.R. 300.530(b)(1) allow for a public agency to remove a student with a disability who violates a code of student conduct from the student’s educational placement to another setting, including suspension, without providing any services.

However, when a student with a disability who has violated a code of student conduct has been removed from the student’s educational placement for more than 10 cumulative days during a school year, federal regulations at 34 C.F.R. 300.536(a) require the public agency to determine if a pattern of suspensions exists. The public agency must consider the length of each removal, the total amount of time removed, the proximity of removals to one another, and the similarity of the behaviors resulting in the removals when determining if a pattern exists. If the public agency determines that a pattern does not exist, a manifestation determination meeting is not required to be held but the public agency must provide services to enable the student to participate in the general education curriculum (although in another setting) and to progress toward meeting the goals in the IEP according to 34 C.F.R. 300.530(d)(4).

Disciplinary removals are considered to be “long-term” when a disciplinary change of placement occurs. Federal regulations at 34 C.F.R. 300.536(a) define a disciplinary change of placement as occurring when a student’s educational placement has been changed because of disciplinary action resulting from a violation of the student code of conduct for more than 10 consecutive school days or for more than 10 cumulative school days when a pattern exists. When a long-term suspension occurs, the public agency is required to conduct a manifestation determination meeting to determine if the behavior resulting in the disciplinary action is related to the student’s disability as described in federal regulations at 34 C.F.R. 300.530(c,d,e,f). In this situation, the public agency is also required to provide services to enable the student to participate in the general education curriculum (although in another setting) and to progress toward meeting the goals in the IEP.

Analysis: Findings of Fact

The following findings of fact are based upon interviews and record review.

During the 2024-25 school year, the student had two IEPs in effect. The first IEP is dated April 19, 2024 and requires special education and related services be provided in the school setting. This IEP was amended on May 14, 2024 to include transportation as a related service. The Prior Written Notice provided to and signed by the parent on May 14, 2024 states, “*The team*

proposes to add special transportation to the student's IEP because he needs transportation services in order to access his special education services and general education instruction".

The second IEP is dated April 10, 2025 and amended on May 19, 2025. This IEP also requires special education and related service be provided to the student in the school setting and includes transportation as a related service. The IEP states, *"Transportation will be provided from the time the student gets on/off the bus from home to school, school to home, and/or school to school in a special education vehicle".*

Based on a review of documentation provided by both parties, the following chart summarizes the dates the student did not receive the services required by the IEPs as a result of behaviors which resulted in disciplinary action by the district.

It is noted that the investigator considered any instance where the district denied the student the special education and related services required by the IEP as a disciplinary action resulting in a disciplinary removal of the student as the provided documentation did not always "match" across all of the documentation sources. Discrepancies are described in the notes following the chart.

Date of Behavioral Incident	Result of Behavioral Incident	Discipline Log	Attendance Record	OSS Letter	Parent Documentation
8/30/24	Sent home at 11:45 AM due to physical aggression towards adults	X	X	8/30/24 OSS Letter	
9/26/24	Mom picked up from school at district request due to unspecified behavior				Screenshot at 3:09 PM ¹
10/7/24	Sent home at 1:45 PM due to physical aggression towards adults and property destruction	X	X	10/7/24 OSS Letter	
10/8/24	OSS		X	10/7/24 OSS Letter	
10/29/24	Sent home at 10:00 AM due to physical aggression towards adults and property destruction	X	X	10/29/24 OSS Letter	
11/20/24	Mom picked up from school at district request due to physical aggression towards adults on bus	X		11/20/24 OSS Letter ²	
11/21/24	OSS		X	11/20/24 OSS Letter ²	
12/3/24	Mom picked up after school at district request due to physical aggression towards adults and peers and the student eloping from the school building	X			JCMH Call Report ³
12/4/24	Mom picked up from school at district request due to self-harm, physical aggression towards adults and peers	X			
12/5/24	OSS	X		12/5/24 OSS Letter	

Date of Behavioral Incident	Result of Behavioral Incident	Discipline Log	Attendance Record	OSS Letter	Parent Documentation
12/6/24	OSS			12/5/24 OSS Letter	
2/28/25	Sent home at 10:30 AM due to physical aggression towards adults and peers along with property damage	X	X		
3/28/25	Mom picked up after school at district request due to physical aggression towards adults	X			Screenshot at 3:05 PM
4/8/25	Mom picked up after school at district request due to physical aggression towards adults	X			Screenshot at 3:35 PM and JCMH Call Report
4/11/25	Mom picked up from school at district request due to physical aggression towards adults				Screen shot at 1:43 PM (school secretary); at 1:51 PM (Shawnee Mission Police); at 2:28 PM (Resource Officer) and JCMH Call Report ⁴
4/15/25	Mom picked up after school at district request for unspecified bus issue				Screenshot at 3:16 PM ⁵
4/22/25	Mom picked up after school at district request for unspecified bus issue				Screenshot at 3:18 PM ⁶
5/2/25	Sent home at 8:15 AM due to physical aggression towards staff and eloping from building	X		5/2/25 OSS Letter	
5/13/25	Mom picked up after school at district request due to physical aggression towards adults on bus ⁸				Shawnee Mission Police Report ⁷
5/14/25	Mom picked up from school at district request due to physical aggression towards adults on bus ⁸	X			
5/16/25	OSS ⁹		X	5/15/25 OSS Letter	

Note¹: The Screenshot shows a text message stating, *"I am leaving work now the school called me to get the student"*

Note²: There are two versions of the OSS Letter dated 11/20/24. The first version assigns one day of OSS and shows the student can return to school on 11/21/24. The second version also assigns one day of OSS and shows the student can return to school on 11/22/24. The district reports 11/21/24 was the correct date of the OSS assigned to the student since the incident resulting in the OSS happened after school hours on the bus.

Note³: The JCMH Call Report states the student eloped from the school building at dismissal time and that police and JCMH staff were called to assist. The parent provided transportation after the student was located and returned back to school.

Note⁴: Screenshots show a phone message left by the school secretary at 1:43 PM requesting the parent *"come for the student"* and stating that both the Shawnee Mission Police and the

District Resource Office had been called. Subsequent screenshots of phone messages from the Shawnee Police at 1:51 PM and the District Resource Office at 2:28 PM requested that parent come to the school. The JCMH Call Report documents the behavioral issue was physical aggression towards adults.

Note⁵: The Screenshot shows a text message stating, *"Another bus issue i have to leave and get the student . . ."*

Note⁶: The Screenshot shows a text message stating, *"Leaving again to get the student . . ."*

Note⁷: The Shawnee Mission Police Report states, *"I spoke to staff and they reported the student was being driven by assisted transport to day care. The student unbuckled his 5 point harness and grabbed the driver's face and broke her glasses. The student was taken back to school and his mother. The mother was contacted and was in route to the location from Olathe, KS."*

Note⁸: This appears to be the same incident based on the description in both the police report which was completed after school hours in the law enforcement system and the discipline report which was entered into the school system the next morning.

Note⁹: No description of the incident resulting in the disciplinary action was provided by the district

The chart shows the student did not receive the special education and related services required to be provided in the school setting for a total of 11 cumulative school days during the 2024-25 school year as follows: August 30, October 7 and 8, October 29, November 21, December 5 and 6, February 28, April 11, May 2 and May 16.

The district acknowledged the student was suspended for the following 10 school days: August 30, October 7 and 8, October 29, November 21, December 5 and 6, February 28, May 2 and May 16 based on an internal review. The investigator notes that the discrepancy is from district not including the incident on April 11 as no building level documentation was made in the school system despite the documentation provided by the parent indicating district staff and police involvement on that date.

The chart shows the student did not receive the transportation as a related service as required by the student's IEP for a total of nine cumulative school days during the 2024-25 school year as follows: September 26, November 20, December 3 and 4, March 28, April 8, April 15, April 22, and May 13.

The chart shows physical aggression towards others as the behavior resulting in 15 of the 20 days of missed services during the 2024-25 school year.

Conclusion

Based upon the information summarized in the chart, the student was never removed from his educational placement for greater than 10 consecutive school days during the 2024-25 school year. However, the documentation shows the student was removed from his educational placement for greater than 10 cumulative school days during the 2024-25 school year due to disciplinary removals.

A disciplinary removal occurs when the district refuses to provide the special education and related services required by a student's IEP due to behavior that violates the student code of conduct. The student's IEP in effect during the 2024-25 school year requires special education and related services in the school setting as well as transportation as a related service. Transportation as a related service is required to be provided for the student both to and from school.

In this case, the documentation in the chart shows the student did not receive the required special education and related services, including transportation as a related service, for a total of 20 cumulative school days during the 2024-25 school year due to behavior which resulted in a disciplinary action taken by the district. This situation required USD #512 to follow specific procedures.

Beginning on December 6, 2024, which was the eleventh cumulative school day the student did not receive his required special education and related services, including transportation as a related service, the district was required to determine if a pattern existed with the disciplinary removals. And following each subsequent disciplinary removal, the district was also required to determine if a pattern existed. The district acknowledged that no special procedures were followed because the district believed the student was only suspended for 10 cumulative school days during the 2024-25 school year.

In addition, IDEA required that the district to provide services to the student beginning on the eleventh day of the cumulative suspension during the school year regardless if a pattern was determined to have existed. Again, the district acknowledged this did not occur because the district believed the student was only suspended for 10 cumulative school days during the 2024-25 school year.

Based on the foregoing, the district *is found to be out of compliance* with the requirements of federal regulations at 34 C.F.R. 300.530 which require specific procedures to be followed when a student with a disability or suspected of having a disability is subject to a disciplinary removal because of a violation of the student code of conduct. In this case, USD #512 failed to determine if a pattern of suspensions existed and failed to provide the student with services to enable the student to participate in the general education curriculum (although in another setting) and to progress toward meeting the goals in the IEP.

Summary of Conclusions/Corrective Action

ISSUE ONE: Interviews and documentation support a finding that the district did not follow the specific procedures required by the IDEA when the student was removed from his educational placement due to disciplinary action taken by the district for greater than 10 cumulative school days during the 2024-25 school year. Specifically, USD #512 failed to determine if a pattern of suspensions existed beginning on day 11 of the suspensions and did not provide services to enable the student to participate in the general education curriculum

and progress toward meeting the goals in the IEP for a total of nine days during the 2024-25 school year. Based on the foregoing, the district is determined to be OUT of compliance with the requirements of the IDEA and corrective action is required.

Corrective Action:

1. The LEA will review all of the documentation included in the chart and will make a determination if a pattern of suspensions occurred during the 2024-25 school year. If a pattern does not exist, no further action will be taken. However, if a pattern is determined to exist, the LEA will follow the specific procedures required by conducting a manifestation determination meeting. The LEA will provide KSDE with a summary of the factors considered when determining if a pattern exists with the disciplinary removals during the 2024-25 school year along with documentation from the manifestation determination meeting (if one is required) no later than August 20, 2025.
2. Beginning on the eleventh day of the cumulative removals from the student's educational placement, services in the school setting were not provided on four dates (February 28, April 11, May 2, and May 16). The LEA will develop a plan to provide four days of compensatory services to the student and offer these services to the parent. The parent may accept all, some, or none of these services. The LEA will provide KSDE with a copy of the PWN offering these services to the parent no later August 30, 2025. If the parent accepts all or some of the services, the LEA will provide KSDE with documentation showing the services were provided within one week from the date of the final service.
3. Beginning on the eleventh day of the cumulative removals from the student's educational placement, transportation as a related service was not provided on eight dates (February 28, March 28, April 8, April 11, April 15, April 22, May 2, and May 13). The LEA will determine the round trip mileage between the parent's home during the 2024-25 school year and the Shawanoe Elementary School and provide the parent with mileage reimbursement based on the district's rates in effect for the eight dates that the parent provided the required transportation for the student. The LEA will provide KSDE with a copy of the cashed check no later than 30 days from the date the check was cashed but not later than September 30, 2025.
4. The LEA will review procedures and practices for recording and monitoring when students with disabilities are subject to disciplinary action in the school information systems at Shawanoe Elementary School. These procedures and practices should be designed to ensure more accurate records are kept at the building level so that monitoring can be triggered when a student's discipline history approaches either the 10 consecutive school days or the 10 cumulative school days in a school year. In addition, these procedures should ensure more accurate communication with parents regarding disciplinary actions. A copy of the procedures will be provided to KSDE no later than the first day of the 2025-26 school year along with documentation showing that all relevant building level staff including, but not limited to, the administrators and secretaries, have been trained in these procedural expectations.

5. USD #512 shall develop and maintain a central tracking system beginning with the 2025-26 school year to which all qualifying suspensions of special education students are reported so that district level special education staff are aware of the suspension status of these children and know when a child has reached the 11th day of suspension and so is entitled to services during any subsequent suspension. USD #512 shall provide KSDE of documentation showing administrators in all school buildings have been informed of the updated procedures related to the implementation of this central tracking system beginning with the 2025-26 school year.
6. No later than November 15, 2025, USD #512 shall provide KSDE with a list of all students from the central tracking system receiving any discipline/suspensions in excess of 10 days between the dates of September 1 and November 1, 2025. From that list, KSDE will randomly chose up to five students for USD #512 to provide KSDE with documentation indicating the appropriate IDEA requirements related to discipline have been met for these identified students.

Nancy Thomas

Nancy Thomas, M.Ed., 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)