

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES
REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #259, WICHITA PUBLIC SCHOOLS
ON AUGUST 6, 2025
DATE OF REPORT: SEPTEMBER 12, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #259 (Wichita Public Schools) on behalf of ----- by her mother ----- . In the remainder of the report, ----- will be referred to as “the student” and ----- as “the parent” or “the complainant”. ----- is -----’s grandmother and will be referred to as “the grandparent” in the remainder of the report. ----- is the family's advocate and will be referred to as “the advocate” in the remainder of the report.

The complaint is against USD #259 (Wichita Public Schools). In the remainder of the report, USD #259 will be referred to as “the district”. For the 2024-2025 school year the student attended 8th grade at Christa McAuliffe Middle School which will be referred to as “the school” in the remainder of the report. School and district staff will be referred to in the remainder of this report as follows:

- Dr. Erica Shores, mediation/due process supervisor
- Loren Hatfield, assistant superintendent
- Jacob Johnston, principal
- Deana McMillan, counselor
- Dawn Olson, data analyst
- Mr. Leidholt, science teacher
- Lacey Pease, case manager (no longer at the district)
- Angela Cho, district student support services administrative liaison

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, the KSDE initially received the complaint on August 6, 2025. On September 5, 2025 a one week extension was requested and granted by KSDE.

Evidence Reviewed

USD #259 made the following staff available for interviews on August 21 and 22, 2025 as part of this investigation.

- Mediation/due process supervisor
- Principal

- Counselor

During the investigation, the Complaint Investigator, Nikki Crawford, reviewed all evidence and documentation provided by the district and the parent. Additionally, the complaint investigator contacted the parent, grandparent, advocate, mediation/due process supervisor and counselor on August 7, 8, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 28, 29 and September 3, 4, 5 and 11, 2025 by phone and email to clarify evidence and documentation.

In completing this investigation, the complaint investigator reviewed documentation provided by the complainant and district. Please note, although a good deal of additional documentation was provided and reviewed, the following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. Initial evaluation report dated May 16, 2023
2. Student's class schedule for the 2024-2025 school year, no date
3. 8th grade accommodations documentation for the 2024-2025 school year, no date
4. IEP final dated May 7, 2024
5. IEP meeting minute notes dated May 7, 2024
6. Signed PWN consenting the May 7, 2024 IEP
7. Report cards for the first, second, third and fourth quarters for the 2024-2025 school year
8. Attendance by course for the 2024-2025 school year
9. Special education parent contact log reflecting 18 contacts (phone, email or face-to-face), dates range from August 12, 2024-May 6, 2025
10. Teacher Notes from the Synergy Contact Log which note interactions with the student from August 14, 2024-May 21, 2025, 135 entries. Multiple examples of the student utilizing accommodations and struggling with social/emotional behaviors
11. General education parent contact log reflecting 97 contacts (phone, email or face-to-face), dates range from August 15, 2024-May 14, 2025
12. Accommodation documentation completed by teachers August 25, 2024-May 15, 2025. There are 235 entries across classrooms/subjects
13. Emails from the student support services liaison to the principal reporting on 16 meetings with the student to focus on social emotional skills, homework completion and grades between August 27, 2024 and April 17, 2025
14. Student discipline profile, dates range from August 28, 2024-May 1, 2025
15. Sign in record for student's use of the "Zen Zone" (a designated room used for self-regulation and ISS), dates range from August 29, 2024-May 16, 2025
16. Hall pass history October 9, 2024 to May 21, 2025 with 50 entries primarily noting the student leaving the classroom to use the restroom

17. Approximately 15 emails from the parent to school and district staff with concerns about the student's services, dates range from October 26, 2024 to June 16, 2025
18. Student's In School Suspension (ISS) record documenting instances of ISS dated November 1, 2024-April 30, 2025
19. Notice of meeting for the January 16, 2025 IEP dated December 16, 2024
20. Truancy letter, student attendance record and resolution December 20, 2024 through March 21, 2025
21. Truancy letter and resolution dated January 13, 2025
22. The parent's IEP amendment meeting agenda with handwritten notes dated January 16, 2025
23. IEP amendment meeting minutes dated January 16, 2025
24. Progress reports for the first, second, and third quarters, dated March 10, 2025
25. PWN for the January 16, 2025 IEP amendment dated February 13, 2025 is signed by the parent as both consenting and not consenting to the proposed amendments on March 11, 2025
26. Email on March 12, 2025 from the data analyst to the case manager noting the discrepancy in the signed PWN for the January 16, 2025 IEP amendment
27. Email reply on March 12, 2025 from the case manager to the data analyst, the case manager stating they had a hard copy of a correctly signed PWN
28. Truancy letter sent by the District Attorney dated March 19, 2025
29. Notice of Meeting sent March 31, 2025
30. IEP Teacher Report Page completed by the 8th grade science teacher for the April 16, 2025 IEP meeting, no date
31. IEP draft dated April 15, 2025 which includes incorrect tardy and absence information submitted by the 8th grade science teacher
32. IEP dated April 16, 2025
33. IEP meeting notes dated April 16, 2025
34. IEP PWN dated April 16, 2025 shared by the parent
35. Email exchange between the parent and case manager dated April 25, 2025 with the case manager's confirmation of removal of the incorrect tardy and attendance data from the drafted IEP dated April 15, 2025
36. Email from the case manager to the parent with the final April 16, 2025 IEP sent April 30, 2025
37. Email exchange between the parent and case manager dated May 6, 2025 related to the parent's further request that all information from particular teachers be removed from the IEP
38. PWN refusal to remove additional information dated May 23, 2025
39. Progress reports for fourth quarter dated May 16, 2025

40. Email from the parent to the case manager, principal and copied to the assistant superintendent requesting documents and stating that the May 23, 2025 PWN did not include a reason for refusal, dated June 16, 2025
41. Reply from the principal to the parent dated June 19, 2025
42. Email response from the principal to the parent in response to FERPA request, dated July 29, 2025
43. Email from the principal to the investigator comparing the student's social/emotional behavior across 2023-2024 and 2024-2025 school years sent August 22, 2025
44. An email exchange between the principal, mediation/due process supervisor and investigator clarified why specific records were not shared with the parent on September 11, 2025

Background Information

The subject of this complaint was an 8th-grade student during the 2024-2025 school year who lives at home with their parent and siblings. According to an email exchange with the parent on September 4, 2025, the student is not yet enrolled in 9th grade for the 2025-2026 school year. The parent is currently in mediation with the district to determine where the student will attend school this fall in addition to other issues raised in an Office of Civil Rights complaint.

The student is eligible for special education services with the exceptionality of Specific Learning Disability. Prior to qualifying for special education services, the student was determined to be eligible for accommodations under Section 504 in December 2022.

The student's initial/most current evaluation dated May 16, 2023 includes the following summary statement:

[The student] is eligible for special education services with the exceptionality of Specific Learning Disability. For [the student, their] cognitive deficits include the ability to reason with language and recall meaning; use information to quickly complete thoughts, words, and tasks; and reason non-verbally with shapes and patterns. Academic skills that are impacted by these deficits include reading comprehension, math facts fluency, and applied math requiring adequate processing speed to complete multistep problems. All core academic areas are affected by these ability and skill deficits including math, science, English language arts, and social studies. [The student] will benefit from instructional supports and accommodations to progress in the grade level curriculum and function in the general education setting. Frustration in the general education setting as a result of cognitive and academic skills deficits can result in verbal and physical aggression, conduct problems, emotional dysregulation, and loss of focus in the classroom setting for [the student]. Absences resulting in a loss of socialization has resulted in relational difficulties with both peers and staff in the classroom and in informal areas of playground, hallways, and lunch. [The student] exhibits some adaptive skills weaknesses in transitions, social skills, functional communication, leadership, and study

skills. Diagnoses of Adjustment Disorder, anxiety, PTSD, and depression contribute to emotional and behavioral difficulties for [the student].

The student had two IEPs during the 2024-2025 school year and both were reviewed and included as evidence for this investigation.

1. The May 7 2024 IEP included a study skills and a reading (comprehension) goal, as well as two social goals (self-regulation and self-advocacy). The IEP also included 23 accommodations, a state assessment accommodation and transportation.
2. The April 16, 2025 IEP includes a study skills and reading (fluency) goal, two social goals (self-regulation and impulse control). The IEP also includes 23 accommodations, a state assessment accommodation and transportation. The IEP team added counseling services 2 times per week, 30 minutes per session in order to address needs related to the student's social goals. Also included in the April 16, 2025 IEP are transition assessment results as required by K.S.A 75-53,101.

Accommodations and Modifications in both the May 7, 2024 and April 16, 2025 IEPs include:

1. Read aloud.
2. School Staff refraining from using negative words when addressing [the student] nor reference to previous events, as well as 3 positive interactions to 1 negative interaction.
3. Visuals to support instruction (math facts, formula sheets, word banks, charts/graphs, graphic organizers).
4. Daily check-in and check-out system to process assignments, missing assignments, and upcoming due dates.
5. Noise cancelling headphones or ear plugs during known loud experiences: assemblies, passing periods, music concerts, known fire drill, (not to be used during teacher instruction).
6. Teacher notes/study guides/ PowerPoints, etc.
7. Color-coded dots - yellow for restroom, so [they do] not have to ask to go to the restroom in front of peers. If [the student] asks verbally, [the student] will still be allowed to go.
8. A red dot to see the support staff member, when [the student] needs to leave the classroom for regulation. [The student] will have a blue dot to see the nurse. If [they] ask verbally, [they] will still be allowed to go. Added to this accommodation in the April 16, 2025 IEP, "To reduce unexcused absences, the adult will communicate with the classroom teacher to inform them that [the student] is using [their] accommodation".
9. Student will not be called on unless a hand is raised (no cold calling).
10. Use of agenda and/or checklist to track assignments due.
11. Frequent check-ins for understanding in each class (at least twice).
12. Use of fidget or calming tools when needing self-regulation.
13. Assignments to be given in manageable chunks.

14. Lights will be dimmed or filtered.
15. Allowing [the student] to stand up or walk in back of the classroom when [they] feel the need to move.
16. The option to sit out of performance-based activities that cause high anxiety. In such activities, [they] will be provided an alternative assignment for this anxiety-provoking activity.
17. Longer processing time with oral responses (up to one minute).
18. In order to lessen [the student]'s anxiety, if other students are involved, other students will be corrected first when appropriate.
19. Use of calculator and other math manipulatives (number line, multiplication charts, etc.)
20. When [the student] is absent, teachers will email the assignments one at a time. Upon returning to school, [they] will have 4 days to turn in the assignments once an assigned person has assisted with processing the assignments. These assignments will be reduced to focus on important content. Added to this accommodation in the April 16, 2025 IEP, "[the student] will have assignments reduced when [they are] absent from class".
21. [The student] will communicate with a trusted teacher/staff member if there is an issue with another student where a change of seating will help lessen anxiety.
22. [The student] will be given a choice of two or more appropriate activities when [they] feel uncomfortable or agitated.
23. School Staff will talk to [the student] calmly and discretely (1:1), without threats, when being individually redirected.

Issues Investigated

Based on the written complaint and an interview with the complainant, five concerns which fall under IDEA regulations were identified and investigated.

Issue One

Did USD #259 develop an appropriate IEP based on the student's social/emotional needs as required by 34 CFR §300.320(a)?

Applicable Law

Federal regulations at 34 CFR §300.320(a)(1-7) state an IEP must include: (1) A statement of the child's present levels of academic achievement and functional performance; (2) Measurable annual goals to meet the student's needs, including academic and functional goals related to the student's exceptionality; (3) A description of how progress will be measured and schedule of reports shared; (4) Special education and related services to support the student to make progress in the general education curriculum; (5) Explanation if the student will not participate

with nondisabled children in the regular class; (6) Accommodations for state and district assessments if needed; (7) Date for beginning of services.

Parent Position

The child complaint stated that the IEP content and services were not adequate to meet the student's needs, "the IEP fails to comprehensively address [the student's] needs in the areas of academics, social-emotional development, communication, behavior, and executive functioning". The complaint also asserted that the, "Present levels do not reflect actual functioning, attendance, or accommodation usage" and that the IEP contains inaccurate information in the PLAAFPs, particularly regarding social-emotional functioning, absences, tardies, and accommodation usage."

District Position

The district response states, "It is the position of USD #259 that the district developed an appropriate IEP based on the student's social/emotional needs as required by 34 CFR §300.320(a)".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The student's evaluation results summary, IEP goals and accommodations are noted in the Background Information section of this report beginning on page 5 for reference.

"The IEP fails to comprehensively address [the student's] needs in the areas of academics, social-emotional development, communication, behavior, and executive functioning."

1. In an interview with the advocate and grandparent on August 14, 2025 the advocated stressed that the family is concerned that the current IEP does not include sufficient information to convey the impact of the student's difficulties with executive functioning including, "lack of ability to plan, coping strategies, social, conversation skills, and understanding of social norms, leading to what they [teachers] observe as behavior".
2. For the May 7, 2024 IEP, the district response noted, "The student's IEP Team, including the parent and the student, developed the 5/1/24 IEP (in effect one year prior to the date of the formal complaint), based on the most recent information regarding the student's unique needs in light of [their] circumstances to confer educational benefit and afford [them] Free Appropriate Public Education (FAPE). The student is receiving special education for a specific learning disability (SLD)...".
3. For the April 16, 2025 IEP, the district response noted, "A new, annual IEP was developed by the IEP Team, including the parent, on 4/16/25, identifying the student's present levels of academic achievement and functional performance, identified [the student's] needs, and included goals (including two social goals, one for breaks and another to improve impulse control), special education and related services, including

counseling services, and accommodations (including one about positive reinforcement, which the parent had even indicated worked for her at home during the 5/16/23 Evaluation), to meet the student's identified needs in light of [the student's] circumstances".

4. The district response also addresses the PLAAFPs in both IEPs, "The PLAAFPs contain information – strengths and needs as they affect [the student's] learning – from the parent, teacher/provider reports, health and medical information, behavioral needs, and the team also considered the results of the initial or most recent evaluation of the student".
5. A review of both the 2024 and 2025 IEPs include all required content as required by 34 CFR §300.320(a)(1-7).
 - a. A statement of the child's present levels of academic achievement and functional performance- The PLAAFP sections include how the student's exceptionality affects progress in the general education curriculum including; strengths and needs of the student based on evaluation data including teacher input on current classroom performance and grades as well as the student's organizational skills, processing time and impulse control, all of which are related to executive functioning. Behavioral concerns are noted as impeding the student's learning and are addressed through the use of accommodations and are also mentioned in teacher comments. The PLAAFP sections also include results of the initial/most recent evaluation which are taken verbatim from the summary statement in the May 16, 2023 evaluation report.
 - b. Measurable annual goals to meet the student's needs, including academic and functional goals related to the student's exceptionality- IEP goals include baseline, are measurable and appropriate based on the most recent evaluation as well as parent and teacher input.
 - c. A description of how progress will be measured and reports shared- Progress is measured and when reports will be shared is noted.
 - d. Special education and related services to support the student to make progress in the general education curriculum- Included are in-class support, transportation and 23 classroom accommodations. The 2025 IEP also includes weekly counseling as a related service.
 - e. Explanation if the student will not participate with nondisabled children in the regular class- The student receives instruction in the general education setting.
 - f. Accommodations for state and district assessments if needed- The student has access to "read aloud" for state and district assessments.
 - g. Date for beginning of services- Start dates are included.
6. The May 7, 2024 IEP included a study skills and a reading goal (comprehension). The student also had two social goals including a self-regulation and self-advocacy goal.
7. The April 16, 2025 IEP includes a study skills and reading goal (fluency). The student also has two social goals including self-regulation and impulse control as well as

counseling services 2 times per week, 30 minutes per session in order to address the needs related to social goals.

8. Both IEPs include accommodations to support behaviors and multiple accommodations to support executive functioning, (visuals to support instruction, longer processing time, use of agenda, daily check-in/check-out system to process assignments, missing assignments, and upcoming due dates, copies of teacher notes/study guides or PowerPoints, and, only calling on the student when their hand is raised), are some examples.
9. During the January 16, 2025 IEP amendment meeting the team considered a behavioral goal which was ultimately not agreed to by the parent as the parent wanted to reconsider during the April 16, 2025 IEP meeting.
10. At the April 16, 2025 IEP meeting the team discussed and agreed on the addition of counseling support for the student twice a week for 30 minutes a session.
11. The April 16, 2025 IEP also addressed organizational skills as reflected in the PWN, "[The student] struggles to keep up with assignments and complete them in a timely manner when [they are] absent from class. The team tried out reducing assignments for [the student] when [they are] absent, and we found that this is helpful for getting [the student] caught up".

Incorrect information related to the student's absences and tardies in the IEP.

1. The parent complaint asserted, "Although [the student] has fewer than eight actual unexcused absences, the district has recorded approximately 320 absences and 116 tardies, many of which are the result of using accommodations outlined in the IEP (e.g., taking short breaks or utilizing safe spaces)".
2. The IEP draft dated April 15, 2025 includes the following information under the heading "Other", on page 8, "[The student] has a total of 320 individual classroom absences in all classes combined, and 116 tardies. This data does not include the times [the student] decided to go to [their] alternative setting room after letting the teacher know. [Science teacher]"
3. A review of emails and the Special Education Student Contact log confirm the district's following response:
 - a. "The district's student information system reflects that the student was absent from 253 class periods – Parent has access to and has the ability to view these in Parent Vue.
 - b. A 4/20/25 [Special Education] Student Contact Log entry and 4/25/25 follow-up email show that the [case manager] emailed the parent that [they] removed specific numbers of absences out of the PLAAFPs in the IEP per [the parent's] request.
 - c. A 4/30/25 email shows that the teacher sent the parent a new copy of the IEP after the specific class period absences had been removed per parent request.

The Teacher Report Pages (TRPs) remain in the student's file, however, and do reflect the numbers they reported (see TRPs)".

4. A review of the April 16, 2025 IEP shared with the investigator by the parent confirms that the specific tardy and absence numbers were removed from the April 16, 2025 IEP by the district.

Conclusion

Federal regulations at 34 CFR §300.320(a)(1-7) state an IEP must include: (1) A statement of the child's present levels of academic achievement and functional performance; (2) Measurable annual goals to meet the student's needs, including academic and functional goals related to the student's exceptionality; (3) A description of how progress will be measured and schedule of reports shared; (4) Special education and related services to support the student to make progress in the general education curriculum; (5) Explanation if the student will not participate with nondisabled children in the regular class; (6) Accommodations for state and district assessments if needed; (7) Date for beginning of services.

In this case, the IEP teams for both of the 2024 and 2025 IEPs addressed all of the content required by IDEA including the PLAAFP sections which were noted as a concern of the parent. Additionally, the IEP goals, accommodations and services appear to be appropriate based on the evaluation, teacher input, student's current academic/behavior functioning, and the parent's input. If the parent feels the IEP is not meeting the student's needs it is within their right to raise these issues, including a reevaluation with the IEP team.

Based on the foregoing, it is found that the IEP did include the required information and did not include incorrect information. The *district is IN compliance* and no corrective actions are required.

Issue Two

Did USD #259 implement the student's IEP specifically related to accommodations and social/emotional goals as required by 34 CFR §300.323(c)(2)?

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) requires school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Parent Position

The complaint listed, "Failure to implement the IEP as written- Supports, services, and accommodations are not being consistently or appropriately provided."

District Position

The district response states, "It is the position of USD #259 that the district implemented the student's IEP specifically related to accommodations and social/emotional goals as required by 34 CFR §300.323(c)(2)".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of Issue One are incorporated herein by reference. Note: For specific information about the student's IEP goals, accommodations and services for both of the student's IEPs during the 2024-2025 school year please refer to the Background Information section beginning on page 5 of this report.

IEP goal implementation

1. The parent shared 15 emails sent to the school or district between October 26, 2024, and June 16, 2025. In these messages, they raised concerns about how the IEP was being carried out, specifically the consistent and appropriate use of accommodations, supports, and disciplinary actions.
2. As noted in the IEP Progress Report for the last quarter of the 2023-2024 school year and the first three quarters of the 2024-2025 school year, the student made progress on study skills and reading comprehension, slight progress for self-regulation (use of the dot system) and no progress in self-advocacy.
3. As noted in the IEP Progress Report for the last quarter of 2025, the student made progress on study skills, slight progress on reading fluency, slight progress for self-regulation (use of the dot system) and no progress on the new goal of impulse control which had only been implemented for a month.
4. A Student Support Services Liaison met with the student 16 times between August 27, 2024 and April 17, 2025 to support the student with IEP goals including self-regulation and study skills as evidenced by emails from the provider to the principal.
5. The district response states, "The counselor met with the student two times per week to work on her social/emotional goals and recorded notes in [the counselor's] agenda during their sessions before transferring the information in aggregate form to the IEP progress reports for the corresponding social/emotional goals each quarter".
6. In an interview on August 21, 2025 the counselor confirmed the district's statement and additionally shared that there were many weeks when the student and counselor met more frequently.
7. Teacher input in the student's IEPs specifically in the PLAAFP sections reflected that the teachers felt the student generally did well in class and could be more successful if the student was in class more often.

Accommodations

8. In the parent interview on August 11, 2025 and the grandparent interview on August 12, both stated they felt the student was not making progress on IEP goals due to the lack of accommodations offered by the teachers.
9. In the August 12, 2025 interview with the grandparent, they stated that the student's IEPs PLAAFP sections reflect examples of when accommodations were not followed by teachers noting that one of the teachers asked the student to try to complete an assignment prior to shortening it. The grandparent added, "we have a whole bunch of assignments that don't look like they are chunked".
10. The grandparent shared in the August 12, 2025 interview that the January 16, 2025 IEP amendment meeting was called because the student was failing, accommodations were not followed, the student had been suspended and removed from class excessively primarily for talking out and associating with peers.
11. In the grandparent interview on August 12, 2025 they stated that the parent asked for the student to be removed from music due to an issue with para who didn't follow the accommodations.
12. The district report shares, "Teacher Report Pages (see TRPs) include data each teacher collected throughout the year and used for IEP updates. The science teacher included in his report accommodations provided and available to the student in his classroom, including but not limited to: Visual Aids; extra time to respond out loud; headphones available for [the student] to use on request (and they often do); a 3 to 1 ratio (of positive to negative interactions) is used as often as possible when addressing negative interactions; color coded dots to take breaks; speaking with trusted adults; a designated space to move around in the classroom when [the student] feels the need to; notes are printed out for [the student]; large assignments are broken down into manageable chunks; teacher always speaks calmly when redirecting, as well as others from [the] IEP. The Math teacher's TRP states that the student regularly used the accommodations of check-ins, passes as needed, breaks as needed, shortened assignments, folder for math located in the classroom, and took [their] classwork with [them] to work on in the Zen Zone when [the student] accessed that alternative setting". A review of the IEP PLAAFP sections confirms this information.
13. The district response states that the Accommodations Documentation record tracks accommodations offered to the student and include "restroom breaks, noise cancelling ear buds and headphones, and many remarks noted about not counting the student absent or tardy when accessing her accommodations". A review of this record confirms the district's assertion.
14. The district response shared, "there are many records of when the student sought out one of her trusted adults in Teacher Notes, emails, and records of her going to the Zen Zone included in the supporting documentation folders". A review of this folder confirms the district's assertion.

15. According to district records, the student used the Zen Zone for the IEP accommodation of self-regulation for 49 full or partial class periods over 44 days in the 2024-2025 school year.
16. The hall pass record reflects 50 instances of the student asking to use the restroom which is an IEP accommodation.
17. The district response also states, "The school has identified that, with the number of accommodations in this student's IEP, this 24-25 8th Grade Accommodations Documentation system used to track them being offered and utilized seemed cumbersome and was not used consistently, so there are data, but not for 100% of the opportunities needed or afforded, and the school is working on a new system to keep such records".

Discipline

18. The parent complaint stated, "Disciplinary actions taken against [the student] have not been consistently documented, tracked, or addressed in accordance with the IEP and applicable procedural safeguards".
19. The district response states, "The student's Discipline Profile shows instances of different disruptive behaviors that were addressed through conferences and/or the use of restorative practices".
20. The student's IEPs do not include a goal focused on reducing office referrals, but do include several accommodations to support the student's self-regulation behaviors.
21. There were discussions about the student's behaviors and a potential goal at the January 16, 2025 IEP amendment meeting but ultimately was not agreed to by the parent who wanted to wait for the April IEP meeting to discuss further.
22. The April 16, 2025 IEP team added a goal to address impulse control.
23. In an email from the principal to the investigator, the principal shared that during the 2024-2025 school year there were only 7 Tier 2/Tier 3 referrals contrasted by 13 during the 2024-2023 school year which reflects progress.

Conclusion

IDEA 34 C.F.R. §300.323(c)(2) requires school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

In this case, it is clear that there were many instances of concern related to the implementation of the IEP, accommodations and discipline raised by the parent.

IEP goal implementation: The student has made progress on all of their IEP goals as reflected in the progress reports with the expectation of the self-regulation goal. This lack of progress is concerning due to the student's accommodations for self-regulation resulting in the student being absent from the general education classroom.

Accommodations: The parent offered convincing evidence of missed opportunities for accommodation. The district also shared evidence that demonstrated the school's appropriate response to the parent's concerns and documentation that accommodations, services and appropriate disciplinary interventions were understood and followed by the staff. It is noted that with the number of accommodations required by the IEP, it is unlikely that a school would be able to document that accommodations were offered at every opportunity throughout the school year. Additionally, the district noted in their response that the tracking system used by the teachers to document accommodations was cumbersome and so they can not be confident that, "100% for the opportunities needed or afforded and the school is working on a new system to keep such records". The investigator strongly urges the student's IEP team to grapple with how to support the student in a more coherent manner which meets the student's need and also makes it possible for staff to follow and document implementation of the IEP accommodations.

Discipline: The student received six days of ISS in the 2024-2025 school year, but the principal reports this is progress from the 2023-2024 school year. Due to the lack of a behavior intervention plan it is appropriate for the school to deal with the student's social/emotional behaviors through the use of IEP accommodations as well as the responses the school would use for any student, as long as these responses do not trigger IDEA 34. §300.530(e), a manifestation determination must occur within 10 days of any decision to change the child's placement because of a violation of a code of student conduct.

Although there is some evidence of IEP implementation and appropriate disciplinary practices, the district's admission of the school's inability to confidently track use of accommodations does not meet the requirements of IDEA for IEP implementation.

Based on the foregoing, it is found that the district failed to implement the IEP. The *district is OUT of compliance* and corrective actions are required.

Issue Three

Did USD #259 ensure the student received instruction while in alternative school settings as required by 34 CFR §300.114(a) during the 2024-2025 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.114(a)(2)(i)(ii) states, "(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily".

Parent Position

The parent complaint noted, "Failure to provide access to the Least Restrictive Environment (LRE)- [The student] is being placed in alternative settings without justification, and without documentation of staff or instructional services provided".

District Position

The district response states, "It is the position of USD #259 that the district ensured the student received instruction while in alternative school settings as required by 34 CFR §300.114(a) during the 2024-2025 school year".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of previous issues are incorporated herein by reference.

1. The district provided documentation that reflected the dates and amount of time the student was sent to the Zen Zone for ISS as well as the amount of time the student chose to go to the Zen Zone for self-regulation.
2. The district shared evidence and included in their response, "The student was assigned six In-School Suspensions, for which the ISS Supervisor kept a log and the student was able to continue to participate in the general education curriculum (although in another setting) as well as progress toward meeting the goals in [the] IEP; the ISS form shows the curriculum [the student] worked on and access to [their] accommodations, and 11/1/24, 1/22 -1/23/25, 5/5/25 emails show communication between staff and also from the principal regarding homework being provided for the student's time in ISS and Zen Zone".
3. A review of the ISS sign-in sheet reflects that IEP accommodations were offered and the student reportedly worked on academics for each of the ISS sessions other than one session where the student slept.
4. According to district records, the student used the Zen Zone for the IEP accommodation of self-regulation for 49 full or partial class periods over 44 days in the 2024-2025 school year. It is noted that there is no time limit on how long the student may elect to be out of the classroom and the duration varied from several minutes up to two class periods.
5. The student also elected to leave the classroom to meet with the counselor (an IEP goal and accommodation), visit the nurse and the restroom, both of which are IEP medical accommodations.
6. IDEA 34 C.F.R.300.530(d)(3) states, "A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed".

Conclusion

After review of the evidence for this case it was determined that the issues were not directly tied to Federal regulations at 34 C.F.R. §300.114(a)(2)(i)(ii), but rather, IDEA 34 C.F.R.300.530(d)(3), “A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed”.

The Kansas Special Education Handbook offers additional clarity, “The IDEA allows traditional disciplinary methods such as restriction of privileges. School officials may also use in-school or out-of-school suspension so long as it does not constitute a change of placement. The law does not set an absolute limit on the number of cumulative school days needed to constitute a change of placement, but requires a case-by-case examination of specific factors and requires that services be provided after the 10th school day of suspension in a school year” (pg. 192). The Kansas Special Education Handbook defines change of placement as: “Change in Placement for Disciplinary Reasons (long-term removal) means that school officials or a special education due process hearing officer has ordered any of the following changes in placement of a child with a disability: 1. The child is suspended or expelled from school for more than 10 consecutive school days. 2. The child is subjected to a series of short-term suspensions that constitute a pattern because all of the following have occurred: a. they cumulate to more than 10 school days in a school year; b. each incident of misconduct involves substantially the same behavior; and c. because of other factors such as the length of each suspension, the total amount of time the child is suspended, and the proximity of the suspensions. 3. The child is placed in an interim alternative educational setting. (K.A.R. 91-40-33(a)(1))”, (pg. 194).

In this case, the student removed themselves from the general education classroom for 49 full or partial class periods over 44 days in the 2024-2025 school year. The school removed from the general education setting in ISS for six school days during the 2024-2025 school year, short of the 10 days noted in IDEA. Because the student had less than 10 days of ISS in the school year, the school was not required to ensure delivery of IEP services although the district did share evidence that there was instruction and the offer of IEP accommodation occurred during ISS.

Based on the foregoing, it is found that the district, although not required by IDEA to provide instruction and IEP services while the student was in ISS, did provide documentation to demonstrate delivery. The *district is IN compliance* and no corrective actions are required.

Issue Four

Did USD #259 issue timely and complete Prior Written Notices as required by 34 CFR §300.503(a)(2) during the 2024-2025 school year?

Applicable Law

Federal regulations at 34 C.F.R. 300.503(a)(2) states that prior written notice needs to be provided to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

Parent Position

The complaint included, "Failure to issue Prior Written Notice (PWN) – The district has not provided timely, written notification of refusals or decisions regarding services, accommodations, or placement."

District Position

The district response states, "It is the position of USD #259 that the district issued timely and complete Prior Written Notices as required by 34 CFR §300.503(a)(2) during the 2024-2025 school year".

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of previous issues are incorporated herein by reference.

1. In an email from the parent to the case manager, principal and assistant superintendent on June 16, 2025, the parent stated, "I previously requested a revision to [the student's] IEP due to inaccurate statements made by the teacher regarding absences. While I did receive a Prior Written Notice (PWN) in response, it did not include a specific reason for refusing my request, as required."
2. An investigator review of the May 23, 2025 PWN referenced above by the parent included the required information including a specific reason for the refusal, "The district considered removing the content regarding the information shared from the science teacher, but rejected this action as it would not allow for the strengths and weaknesses of [the student] to be examined by the IEP team to determine [if the student] received [their] Free Appropriate Public Education".
3. The district response states that even though they noticed the parent properly for a January 16, 2025 IEP amendment they are not able to locate the signed [paper copy of the] PWN where it is believed the parent signed "Do Not Give Consent."
4. On the January 16, 2025 amendment PWN, the parent checked both the consent and no-consent boxes, and included an electronic signature for consent on March 11, 2025.

5. In an email on March 12, 2025 the data analyst noted the discrepancy in the signed PWN for the January 16, 2025 IEP amendment meeting and notified the case manager.
6. In an email reply on March 12, 2025 from the case manager to the data analyst, the case manager wrote, "Good news! I had sent home a paper copy last week and it turns out [the parent] did sign that one correctly. I have it now".
7. The district reports that the case manager is no longer at the school and was not available to be interviewed.
8. The district response states that, "The school plans to review its practices regarding Noticing parents and ensuring that all records are filed properly."
9. In a September 3, 2025 email exchange, the investigator notified the mediation/due process supervisor that the investigation of 34 CFR §300.613(a) was being added to Issue Four and that the district had an opportunity to respond.
10. The mediation/due process supervisor replied with an offer to provide any needed additional information.
11. The investigator noted that the April 16, 2025 PWN shared by the parent stated that changes in the IEP were considered material and thus parent consent was required. The district also shared an April 16, 2025 PWN however it noted that the changes in service did not require parental consent for changes.
12. When asked in an email to clarify this discrepancy on September 5, 2025, the mediation/due process supervisor also noted the differences in the two PWNs and could not account for these differences.

Conclusion

IDEA 34 C.F.R. 300.503(a)(2) requires that PWN "needs to be provided to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child."

In this case, a review of the May 23, 2025 PWN showed that required information was included in this PWN. However, as noted in the district response the school is not able to locate a signed PWN from the January 16, 2025 IEP amendment meeting and there are two conflicting versions of the April 16, 2025 PWNs. This inability to maintain records of the signed PWN as well as two different versions of the same PWN calls into question 34 CFR §300.613(a) "Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part". The parent's right to review records clearly implies the district's responsibility to keep accurate records.

Please note, IDEA places a clear responsibility on state departments of education to make sure schools are following the law. Specifically, 34 C.F.R. § 300.600(d) assigns states a "general supervision" duty to monitor compliance. A state department of education can't overlook evidence of a district's failure to comply with law. If, during the course of an investigation, an

investigator uncovers a violation, even if it wasn't originally raised in the complaint the state can't ignore it. The investigator must either address that violation directly in the report or notify the state department of education so it can be addressed another way.

When an investigator finds an apparent violation that was not included in the original complaint that will be addressed in the investigation, the investigator should notify the school district of the additional issue. That provides the district with the opportunity to respond to the new allegation, as required by 34 C.F.R. 300.152(a)(3)."

Based on the foregoing, it is found that the district provided timely, written notification of refusals or decisions regarding services, accommodations, or placement and is *IN compliance* for 34 CFR §300.503(a)(2). However, the district failed to maintain accurate educational records and *OUT of compliance* for 34 CFR §300.613(a) and corrective actions are required.

Issue Five

Did USD #259 provide requested educational records as required under 34 CFR §300.613 during the 2024-2025 school year?

Applicable Law

Federal regulations at 34 CFR §300.613(a)(b)(1) state, "Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 or §§300.530 through 300.532, or resolution session pursuant to §300.510, and in no case more than 45 days after the request has been made. (b) The right to inspect and review education records under this section includes— (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

Parent Position

The parent complaint included, "Failure to Provide Access to Educational Records as required under 34 CFR §300.613 (IDEA) and 34 CFR Part 99 (FERPA), including records related to IEP implementation, disciplinary data, accommodation logs, staff supervision during alternate settings, and service delivery during periods marked as absences or tardies".

District Position

The district response states, "It is the position of USD #259 that the district provided requested educational records as required under 34 CFR §300.613 during the 2024-2025 school year."

Analysis: Findings of Fact

The following finding of facts is based upon a review of the documentation noted previously and interviews with all parties. The findings of previous issues are incorporated herein by reference.

1. In an email from the parent to the case manager, principal and copied to the assistant superintendent dated June 16, 2025, the parent requested the following records:
 - a. "All data referenced in the IEP used to support the claim of 320 class absences and 116 tardies.
 - b. Documentation of [the student's] location for each instance [they were] marked absent while present in the building.
 - c. Details on how [the student's] time in alternative settings such as the Zen Zone or Student Center is tracked and documented.
 - d. Identification of the staff responsible for supervision in these alternative settings.
 - e. All documentation or communication logs regarding alleged dress code violations, as well as records of any instances where [the student] was reportedly in the hallways or walking during class."
2. The principal replied in an email dated June 19, 2025 stating that a district administrator or the principal will respond to the parent's request on or before July 31st.
3. A July 29, 2025 email from the principal to the parent, in response to the parent's request for records, shared the following clarification of what the district is compelled to share and what they are not, "First, while FERPA does allow parents to inspect education records, I think it is important for me to inform you that not every document that the school district or one of its staff members creates or possesses is an 'education record'. 'Education record' is a defined term that refers to documents containing information directly related to your student and which are systematically maintained by the school district, usually in some central repository, such as a registrar. This includes items like grade cards and other key documents, but doesn't typically include emails, notes, or general correspondence. I want you to be aware of this in case you are expecting to see those sorts of documents".
4. The principal also addressed each of the parent's requests and included educational records as noted below:
 - a. Parent request. "All data referenced in the IEP used to support the claim of 320 class absences and 116 tardies."
 - b. Principal response. The IEP does not currently reflect that [the student] was absent from class 320 courses and tardy for class 116 courses. [The science teacher's] IEP Teacher Report Page does reflect this statement, which is [their] record from [their] notes. We are producing documents showing [the student's] attendance by hour for the 2024-25 school year, which reflects [the student] being absent from class for a total of 253 classes. I also believe that you had a

conversation with [the case manager] on April 25, 2025 regarding this discrepancy in numbers that were included in the IEP; at that time it was removed, and an updated copy of the IEP was provided to you with the numerical values removed. We are producing documents denominated '[Student] TRP Science [grade] and '[Student] Attendance By Course 24-25'.

- c. Parent request. "Documentation of [the student's] location for each instance [they were] marked absent while present in the building."
- d. Principal response. "We believe that this information may be recorded in staff notes or documents in staff's possession. Those are not education records under FERPA, but we will inquire about the existence of those records when our staff return from the summer break. We will furnish an update on this subject as soon as we are able; however, because the beginning of the school year is a busy time, that may not occur until sometime in the middle of August."
- e. Parent request. "Details on how [the student's] time in alternative settings such as the Zone or Student Center is tracked and documented."
- f. Principal response. "We are producing documents denominated '[Student] Zen Zone sign in_Redacted' and 'CMA ISS Form 2024-2025 - [Student] Redacted'. These documents have been redacted to exclude information not relevant to [the student]."
- g. Parent request. "Identification of the staff responsible for supervision in these alternative settings."
- h. Principal response. "During the 24-25 school year, the Zen Zone was staffed by the Zen Zone Supervisor who is typically a building substitute. During the 24-25 school year, the Student Center was staffed by a school counselor and an administrative assistant. Other staff may also supervise these settings due to unforeseen circumstances such as staff absences."
- i. Parent request. "All documentation or communication logs regarding alleged dress code violations, as well as records of any instances where [the student] was reportedly in the hallways or walking during class."
- j. Principal response. "Office staff maintain a 'dress code log' to record dress code violations that require clothing to be brought to school or clothing to be changed in order to achieve conformity with school policy. For the 2024-25 school year, [the student] did not have dress code violations that warranted being recorded in the log; rather, [the student's] dress code violations in 2024-25 involved conditions, such as an open zipper or a shirt tied up to reveal [their] midriff, that could be remedied without a change of clothes. [The science teacher's] IEP Teacher Report Page indicated [the student] 'often has to speak with administrators and/or office staff about dress code violations, and is often in the hallway or walking into other classrooms during class.' In these instances, these conversations were regarding minor dress code violations that were corrected immediately. Because of this, there was no need for documentation. Per [the student's] IEP, there are appropriate times [the student] is to be out of

the classroom to be provided services (such as the Zen Zone, restroom, preferred adult, etc.). The Synergy Contact Log provided has several relevant entries regarding communication between the school and you regarding times [the student] was in the halls or walking during class (see attached). We are producing documents denominated '[Student] General_Ed_Student_Contact 24-25' and '[Student] Special_Ed_Student_Contact 24-25'. (school/parent communication).

5. In an email exchange between the principal, mediation/due process supervisor and investigator on September 11, 2025 the principal clarified that the appropriate records were shared with the parent in the July 29, 2025 email and included documents indicating where the student was in the building when marked absent.
6. The principal further stated in the September 11, 2025 email, "I did tell the parent that education records do not include 'staff notes or other documents in staff's possession'. I intended this as a reference to 'personal notes' and 'sole possession records' which I understand are generally not considered education records under FERPA. However, as I also said at that time, we didn't know whether any such records existed".

Conclusion

34 CFR §300.613(a)(b)(1) "Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to § 300.507 or §§ 300.530 through 300.532, or resolution session pursuant to § 300.510, and in no case more than 45 days after the request has been made."

It is noted that the parent's complaint included a FERPA citation as well as an IDEA citation. Although FERPA is not a special education law, IDEA adopts the definition of educational records from FERPA which states, 20 USC § 1232g(a)(4)(A)(i-ii), "For the purposes of this section, the term 'education records' means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which— (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution. Please note that some documents are not considered educational records and thereby not required to be shared with parents upon request as defined by FERPA 20 USC § 1232g(a)(4)(B)(i), "The term 'education records' does not include—(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;"

In this case, the parent requested documents by email on June 16, 2025 and the district responded with educational records on July 29, 2025, which was 43 calendar days after the request, within the timeline required by IDEA. The information not yet shared by the district

consists of individual teacher notes designed for personal use; these documents do not meet the definition of “educational records” in IDEA and thus sharing is not required.

Based on the foregoing, it is found that the district did provide all of the educational records requested by the parent. The *district is IN compliance* and corrective actions are not required.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §300.320(a)(1-7) was not found based on the complete and accurate information in the IEP. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. §300.323(c)(2) was found based on the district's inability to ensure implementation of the student's IEP accommodations.
 - a. The district shall immediately, within 21 school days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at 34 C.F.R. §300.323(c)(2) to implement the IEP.
 - b. Note: The district's response included the admission of a tracking system that was difficult to use and stated that the school is working on a new system to keep such records.
 - c. The district shall submit evidence of the new accommodations tracking system to SETS by November 3, 2025.
3. ISSUE THREE: A violation of 34 C.F.R.300.530(d)(3) was not found. Corrective action is not required.
4. ISSUE FOUR: A violation of 34 CFR 300.503(a)(2) was not found, however a violation of 34 CFR 300.613(a) was found.
 - a. The district shall immediately, within 21 school days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations at 34 CFR 300.613(a) to maintain accurate educational records.
 - b. The district response included the following, “The school plans to review its practices regarding Noticing parents and ensuring that all records are filed properly.” Additionally, the district shall review practices related to ensuring consistency of document versions.
 - c. The district shall submit evidence of these reviews with SETS by November 3, 2025.
5. ISSUE FIVE: A violation of 34 CFR 300.613 was not found based on the district's sharing of all records that met the definition of “educational records.”

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)