

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES  
REPORT OF COMPLAINT 26FC383-001  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #383 MANHATTAN OGDEN PUBLIC SCHOOLS  
ON AUGUST 13, 2025 AND ON SEPTEMBER 3, 2025  
DATE OF REPORT: SEPTEMBER 19, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ----- by his mother, ----- . In the remainder of the report, ----- will be referred to as “the Student.” ----- will be referred to as “the Complainant” or “the Parent”. ----- is -----’s father and will be referred to as “the Father.” Together, ----- and ----- will be referred to as “the Parents.”

The complaint is against USD #383 Manhattan Ogden Public Schools. In the remainder of the report, USD #383 will be referred to as “the local education agency (LEA)”. The Student attends Manhattan Catholic School, and in the remainder of the report, Manhattan Catholic School will be referred to as “the Private School.”

When a special education complaint is filed against a school district that is a member of a special education cooperative or interlocal, or that uses any other state recognized public agency to serve children with disabilities, the term “ local education agency (LEA)” in this report will include the school district, the special education cooperative or interlocal, and any other agency that is recognized by the state as an administrative agency for public elementary or secondary schools and is serving the educational needs of this student.”

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 13, 2025, and the 30-day timeline ends on September 12, 2025.

### **Evidence Reviewed**

During the investigation, the Complaint Investigator, Gwen Beegle, reviewed all evidence and documentation that was provided by both the LEA and the Complainant. The Parent was contacted on August 16, 2025, to clarify the concerns and the issues of the complaint, and re-interviewed on September 12, 2025 upon the submission of a second complaint to KSDE. KSDE granted a 7-day extension to complete the investigative report with one additional issue (Issue Six).

Three persons were interviewed at the Parent’s request: Kris Lyons (Friend, Kansas Child Care Training Opportunities) on August 22, 2025, Cristine Weixelman (the Student’s Aunt) on August

19, 2024, and Shandi Schropp (the Student's IDD Waiver Case Manager) on August 20, 2025. Emails were exchanged between the Parent and the Complaint Investigator from August 15, 2025, to September 10, 2025. Dr. Jessical Nelson, Special Education Director for the LEA was contacted on August 18, 2025. The LEA made available Jessica Nelson (Director of Special Education), Felicity Post (Assistant Director of Special Education), Caroline Holt (Special Education Coordinator and Sarah Myers (Special Education Teacher) for a group interview on August 26, 2025. Follow up questions were sent via email to these persons, and replies were received on September 3, 2025, and September 8, 2025. Finally, when the additional complaint was included into this investigative report, the LEA was invited to respond, which it did on September 16, 2025. Emails were exchanged with the LEA through September 16, 2025. In addition, the following documentation and information were used in consideration of the issues

Documentation provided by the Parent.

1. Notice of Meeting dated April 25, 2024 for an IEP meeting on May 7, 2024
2. The Student's IEP dated May 7, 2024
3. Prior Written Notice dated May 7, 2024 for material change of service, substantial change of placement, and other changes to the IEP, with Father's signature giving consent dated May 16, 2024
4. Email from the Assistant Special Education Director, co-signed with the Special Education Director to the Parents dated August 9, 2024 at 3:26 p.m. and the Parent's reply copied to the Father, the Private School Kindergarten Teacher, and the Student's IDD Waiver Case Manager dated August 12, 2024 at 8:14 a.m.
5. Email from the Parent to the Student's IDD Waiver Case Manager dated August 13, 2024 at 4:59 p.m.
6. Notice of Meeting dated August 14, 2024 for an IEP meeting dated August 15, 2024, with parent signature consenting to waive 10 day notice
7. Email from the Special Education Teacher to the Parents dated August 14, 2024, at 9:19 a.m.
8. Email from the Parent to the Special Education Teacher dated August 14, 2024 at 1:55 p.m.
9. Letter from the Special Education Director to the Parents dated August 15, 2024
10. Email from the Special Education Director to the parent dated August 16, 2024, at 8:32 a.m. with August 15, 2025 letter (above) attached
11. Email from the Parent to the Special Education Director, Assistant Special Education Director, Special Education Teacher, the Special Education Coordinator, and the Student's IDD Waiver Case Manager dated August 16, 2024 at 3:30 p.m.
12. Email from the Parent to Disability Rights Center representative dated August 17, 2024 at 3:50 p.m.
13. Email from the Parent to the Special Education Director, Assistant Special Education Director, Special Education Teacher, the Special Education Coordinator, and the

Student's IDD Waiver Case Manager dated August 19, 2024 at 7:47 a.m. and the Special Education Director's reply to same dated August 20, 2024 at 3:09 p.m.

14. Email from the Parent to Families Together representative dated August 19, 2024 at 9:55 a.m.
15. Email from the Parent to the Special Education Director, the Assistant Special Education Director, the Special Education Teacher, the Student's IDD Waiver Case Manager, the Special Education Coordinator), the Private School Kindergarten Teacher, the Private School Principal and the Father dated August 20, 2024 at 10:15 p.m.
16. Email from the Special Education Director to the Parents, the Assistant Special Education Director, the Special Education Teacher, the Special Education Coordinator, and the Student's IDD Waiver Case Manager dated August 20, 2024 at 3:09 p.m.
17. Email from the Special Education Director to the Parents, the Assistant Special Education Director, the Special Education Teacher, the Special Education Coordinator, and the Student's IDD Waiver Case Manager on August 20, 2024 at 3:38 p.m.
18. Email from the Parent to Jessica Nelson dated August 22, 2024 at 8:11 p.m.
19. Email from the Special Education Director to the Parent dated August 23, 2024 at 2:13 p.m., the Parent's reply dated August 23, 2024 at 2:42 p.m. and the Special Education Director's reply dated Aug 23, 2024, at 4:11 p.m.
20. Email from the Parent to the Special Education Director dated August 29, 2024 at 12:40 p.m., the Special Education Director's reply on the same date at 4:55 p.m. and the Parent's reply on the same date at 6:49 p.m.
21. Personal notes dated September 3, 2024 by the Student's Aunt
22. Email from the Special Education Director to the Parents dated September 6, 2024 at 5:06 p.m.
23. Undated kindergarten class schedule spreadsheet
24. Timeline of events dated August 17, 2025

Additional documentation provided by the LEA (\*starred items also provided by Parent)

25. Notice of Meeting dated August 14, 2024 for an IEP meeting dated August 15, 2024, unsigned by Parent
26. Notice of Meeting dated August 23, 2024 for an IEP meeting dated September 3, 2024, with acknowledging signature by Parent
27. Prior Written Notice dated August 23, 2024 for a meeting on August 23, 2024 to discuss special education needed and possible changes to the IEP including a material change in services to add transportation including a request for consent emailed to and unsigned by Parents
28. Email from the Assistant Special Education Director, co-signed with the Special Education Director to the Parents dated August 9, 2024 at 3:26 p.m. and the Parent's reply copied to the Father, the Private School Kindergarten Teacher and the Student's IDD Waiver Case Manager dated August 12, 2024 at 8:14 a.m.\*

29. Email from the Special Education Teacher to the Parents dated August 14, 2024, at 9:19 a.m.\*
30. Email from the Special Education Teacher to the Parents dated August 14, 2024 at 12:55 p.m.
31. Email from the Parent to the Special Education Teacher dated August 14, 2024 at 1:55 p.m.\*
32. Email from the Special Education Teacher to the Parents dated August 14, 2024 at 2:39 p.m.
33. Letter from the Special Education Director to the Parents dated August 15, 2024\*
34. Email from the Special Education Director to the parent dated August 16, 2024, at 8:32 a.m. with August 15, 2025 letter attached\*
35. Email from the Special Education Teacher to the Special Education Director dated August 19, 2024 at 12:49 p.m.
36. Email from the Special Education Teacher to the Special Education Director dated August 19, 2024 at 12:56 p.m.
37. Email from the Special Education Director to the Parents, the Assistant Special Education Director, the Special Education Teacher, the Special Education Coordinator and the Student's IDD Waiver Case Manager) dated August 20, 2024 at 3:09 p.m.\*
38. Email from the Special Education Director to the Parents, the Assistant Special Education Director, the Special Education Teacher, the Special Education Coordinator and the Student's IDD Waiver Case Manager on August 20, 2024 at 3:38 p.m.\*
39. Email from the Special Education Director to the Parent dated August 23, 2024 at 2:13 p.m., the Parent's reply dated August 23, 2024 at 2:42 p.m. and the Special Education Director's reply dated Aug 23, 2024, at 4:11 p.m.\*
40. Email from the Parent to the Special Education Director dated August 29, 2024 at 12:40 p.m., the Special Education Director's reply on the same date at 4:55 p.m. and the Parent's reply on the same date at 6:49 p.m.\*
41. Speech language contact log, dated August 13, 2024 through May 23, 2025
42. District response to the complaint, dated August 22, 2025
43. District response to investigators questions, dated September 3, 2025
44. District response to the additional allegation, dated September 16, 2025

### **Background Information**

The Student is described as a happy, social and interactive child, with a history of heart surgery as an infant and smaller than average size for his age, who uses assistive technology and some sign language to communicate. The IEP stated that the Student has Down Syndrome with global delays limiting the ability to fully participate in classroom activities. In the IEP dated May 7, 2024, the Student's needs included assistance to engage in play, pureed foods, and support for toileting. The Student has a history of significant health problems, including hyperthyroidism, a heart attack and pneumonia. Developmental delays established the Student's need for special education, including occupational, physical, and speech therapies.

At the time pertaining to this complaint, the Student was transitioning to Kindergarten at a Private School where the other children in the family attend. The Parent reported that at the time of the IEP meeting on May 7, 2024, no discussion of public-school attendance occurred. The Parent reported that the Student's IEP was written for full time support and therapies to occur at the Private school, and the Parent received a notice from the LEA on Friday afternoon, August 9, 2024, that the occupational and physical therapies would be provided at a nearby elementary school rather than the Private school. In response, the Parent contacted the LEA that day and the following Monday, August 12, 2024 to question and clarify the meaning of the LEA's email as it pertained to the Student's IEP services and to request an IEP Meeting. The 12-month period for investigation began August 13, 2024, and the Parent's complaint concerns the events that occurred at the beginning of the 2024-25 school year.

### **Issues Investigated**

1. ISSUE ONE: Did the LEA provide an opportunity for the parent to provide informed consent on the notice of meeting waiver dated August 14, 2024 for an IEP meeting on August 15, 2024? (p 6)
2. ISSUE TWO: Did the LEA provide appropriate notices of meetings? (p 9)
3. ISSUE THREE: Did the LEA afford parental participation by providing appropriate prior written notice? (p 12)
4. ISSUE FOUR: Did the LEA implement the student's IEP during the 2024-25 school year? (p 19)
5. ISSUE FIVE: Did the LEA respond to the parent's request for an IEP meeting after the meeting dated August 15, 2024 through September 30, 2024? (p.22)
6. ISSUE SIX (Additional Issue): Did the LEA consider the information brought forward by the parents during the IEP meetings on August 15, 2024 and September 3, 2024? (p. 26)

### **Issue One**

Did the LEA provide an opportunity for the Parent to provide informed consent on the notice of meeting waiver dated August 14, 2024 for an IEP meeting on August 15, 2024?

### **Applicable Law**

Federal/State statutes and regulations at 34 C.F.R. 300.9 state "Consent means that (a) the parent has been fully informed of all information relevant to the activity for which consent is sought in his or her native language or through another mode of communication; (b) the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes the activity and lists the records (if any) that will be released." Further, while granting consent is voluntary and can be revoked, revocation is not retroactive in that it does not negate an action that has occurred after the consent was given and before the consent was revoked

### **Analysis: Findings of Fact**

The Parent alleged that while in the school drop off line on August 15, 2024, the Special Education Teacher asked her to sign the notice of meeting, stating that it was required in order to meet with the Special Education Teacher on August 15, 2025. The Parent stated that she did not know what she was signing and so she was unaware that the subsequent meeting on August 15, 2024 would be the entire team for an IEP meeting rather than what she expected, a meeting with the Special Education Teacher to share information about the Student for the upcoming school year. The Parent alleged that she understood that she had to sign the paper in order to meet with the Special Education Teacher.

The LEA responded: "USD 383 complied with all requirements under the Individuals with Disabilities Education Act ("IDEA") and the Kansas Special Education Process Handbook. Pursuant to the Handbook, Chapter 4 (Parent and Student Participation), parents must receive written notice of an IEP team meeting early enough to ensure the opportunity to attend, but the law expressly permits the parent to waive the ten (10) calendar day notice requirement if the parent so chooses. On August 13, 2024, [the Special Education Teacher] met with [the Parents] in person and explicitly explained that if the IEP meeting was to occur the following day, they would need to waive the ten-day notice requirement. Both parents verbally agreed, affirming their desire to convene the IEP team without delay. This conversation was documented by [the Special Education Teacher] in an email to [the Special Education Director] on August 19, 2024. On August 14, 2024, at 12:55 p.m., USD 383 provided [the Parent] an email with the formal Notice of Meeting along with the Procedural Safeguards. On August 15, 2024, prior to the IEP meeting, [the Parent] signed the Notice of Meeting, affirmatively waiving the ten-day notice requirement, and [the Special Education Teacher] again explained the purpose of the signature. This procedure satisfied all IDEA and Kansas Process Handbook requirements by providing the parents with informed consent."

### **Findings of Fact**

The following findings are based upon a review of documentation and interviews with the individuals listed in Evidence.

In an email dated August 13, 2024 at 4:59 p.m., the Parent explained to the IDD Waiver Case Manager that she had contacted the LEA, stating, "[The Assistant Special Education Director] did call me this morning, to say they received my email and voice message. She told me that someone would contact me today about his para and no one has. School starts tomorrow [August 14, 2024]"

The LEA and the Parent agreed that the Father met briefly with the Special Education Teacher to organize a meeting. In a record of the timeline of events, the Parent reported that the Father met the Special Education Teacher at 8 a.m. on August 14, 2024, asked if the Special Education Teacher wanted to meet to review the Student's schedule and share things about

the Student's needs, and confirmed to meet at 2:00 pm that afternoon. The Parent reported that the Special Education Teacher later asked to move the meeting to Thursday, because she was with the Student on August 14, 2024.

In an email to the Parent on August 14, 2024 at 9:19 a.m., the Special Education Teacher stated, "It was nice meeting you both this morning. I am still waiting on my supervisor to give me a time [when] available to meet for [the Student]'s IEP meeting. I will let you know when she gives me a day and time. Meanwhile, will [the Student] be at MCS all day, what will his daily schedule look like?" The Parent replied to this email on the same day, giving the Special Education Teacher the times when the Student would be attending an outside agency for therapy.

In an email dated August 14, 2024 at 12:55 p.m., the Special Education Teacher sent an email which stated that the Notice of Meeting for the (NOM) meeting was attached and later sent a second email asking if it had been received at 2:39 p.m. on the same day. There is no record of the Parent replying to this email.

The LEA and the Parent agreed that the Parents attended the meeting scheduled for 2:00 on August 15, 2024.

In an email dated August 16, 2024, the Parent requested a copy of the paperwork she signed the previous day. On August 19, 2024, the Parent wrote in an email to the Special Education Director, "The morning of the scheduled meeting with [the Special Education Teacher], I was given a legal document to sign [that] I did not understand what was presented or signed, nor did I receive a copy."

In an email to the Parent dated August 20, 2024 at 3:38 p.m., the Special Education attached a copy of the Notice of Meeting dated August 14, 2024 for a meeting on August 15, 2024, with the parent's signature, consenting to waive 10 day notice

## Conclusion

In this case, the Parent anticipated that the Parents would meet with the Special Education Teacher to discuss the Student's services and schedule, and signed the Notice of Meeting with that understanding. It is understandable that the Parent felt rushed when signing the Notice of Meeting dated August 14, 2024. However, the LEA demonstrated that it had provided written and verbal explanation prior to asking for the signature to consent to waive of the 10 day notice for an IEP meeting, in modes typically used by the Parent to communicate with the School.

Based on the foregoing, *it is not substantiated* that the LEA failed to provide the opportunity for the parent to provide informed consent on the Notice of Meeting dated August 14, 2024.

## **Issue Two**

Did the LEA provide appropriate notices of meetings?

### **Applicable Law**

Federal and state statutes and regulations at 34 C.F.R. 300.322(a) and (b) and K.A.R. 91-49-25(b) require that that each public agency must take steps to ensure parental participation at each IEP meeting or afforded the opportunity to participate by notifying parents of the meeting early enough to ensure they have the opportunity to attend and scheduling the meeting at a mutually convenient time. Information provided to the parent on the notice of meeting indicates the purpose, time, and location of the meeting and who will be in attendance; and inform the parents of the provisions in § 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), if relevant.

### **Analysis: Findings of Fact**

The Parent alleges that the Notice of Meeting dated August 14, 2024 for the August 15, 2024 meeting did not have an accurate statement regarding the purpose of the meeting, and that the Parents were blindsided by the LEA's action at the meeting, which was to remove all services from the Private School immediately. The Parent stressed that the Parents believed that the meeting was to share information with the Special Education Teacher about the child and to discuss transportation to and from related services at another location.

The LEA responded, "USD 383 provided all required notices consistent with the Kansas Process Handbook. For the August 15, 2024 IEP meeting, parents signed the Notice of Meeting and explicitly waived the ten-day notice requirement. For the September 3, 2024, IEP meeting, USD 383 issued and the parents signed a Notice of Meeting more than ten days prior to the meeting date. Thus, the LEA complied with its obligation to provide appropriate and timely notice."

### **Findings of Fact**

The findings of Issue One are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the individuals listed in Evidence.

The Notice of Meeting dated August 14, 2024 for an IEP meeting on August 15, 2024 at 2:00 at the Private School, under the heading "Meeting to Develop the IEP" stated: "As the parent of an exceptional child, you are entitled to a 10-day prior written notice of any meeting to discuss the needs of your child and develop an Individualized education program (IEP). You may consent to hold the meeting with less than 10-days written notice." Below this statement, "Other" was checked, and "Related Services" was written beside "Other."



Invited participants were listed by role: a general education teacher, a special education teacher or special education provider, a school representative, a person who can interpret instructional implications of evaluation results, along with the Special Education Director, and the Assistant Special Education Director.

According to the LEA's report, participants at the meeting included the Parents, the Special Education Director (LEA), the Private School Principal (General Education Teacher), the Special Education Teacher, the Physical Therapist, the Speech Language Pathologist, the Occupational Therapist, the Special Education Coordinator and the Assistant Director of Special Education.

The LEA and the Parent agree that the Parent signed the Notice of Meeting and checked the box by the waiver of the 10-day notice, dated August 15, 2024. The LEA and the Parent agree that the Parent attended the IEP meeting on August 15, 2024.

The LEA provided a Notice of Meeting August 23, 2024 for an IEP meeting dated September 3, 2024, at 2:00 at the Private School with acknowledging signature by the Parent. Under the heading "Meeting to Develop the IEP" the item "Discuss possible changes to your child's IEP" was checked.

Participants were listed by role: a general education teacher of your child, a special education teacher of your child or special education provider of your child, a school representative, a person who can interpret instructional implications of evaluation results, the Special Education Director, the Special Education Coordinator, and the Assistant Special Education Director.

According to staffing notes, the participants at the September 3, 2024 meeting were: the Parents, the Special Education Director, the Special Education Coordinator, and the Assistant Special Education Director, the Special Education Teacher, Occupational Therapist, Physical Therapist, Speech Language Pathologist, the Student's Aunt, General Education Teacher, Families Together Representative, Case Manager, and School Social Worker. Personal handwritten notes taken by the Student's Aunt showed an additional individual attended as a friend of the family.

## **Conclusion**

In this case, the parent alleged that the LEA knew, or should have known, that the purpose of the August 15, 2024, meeting changed to remove all services from the Private School and that the LEA did not accurately inform the Parent of the meeting's purpose. The parent attended the meeting, waiving the 10-day notice in good faith, anticipating that the meeting would pertain to the transportation needs of the child given the August 9, 2024, email and the purpose statement included in the Notice of Meeting ("Related Services"). The meeting had substantial and immediate implications for the child and family when the LEA presented the August 15, 2024 "ready willing and able" statement to remove all the Student's services from the Private School and the Parents were required to decide immediately to accept or refuse services at the Public School.

The Notice of Meeting requirement in 34 C.F.R.300.322 requires the LEA to provide notice of the “purpose” of the meeting and does not specify any other criteria as to what the purpose must include. This requires districts to provide a general statement of the purposes of the meeting, not a detailed statement, and the LEA’s notice sufficiently indicates a general purpose of the meeting.

It is noted and regrettable that the LEA did not provide more information to the Parents prior to an important IEP meeting. However, there is no violation. Based on the foregoing, *it is not substantiated* that USD 383 failed to give appropriate notice of meeting in this instance.

### **Issue Three**

Did the LEA afford parental participation by providing appropriate prior written notice?

### **Applicable Law**

Federal statute and regulations at 34 C.F.R. 300.503(a) and (b) requires that written notice must be given 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; the content of the notice must include a description of the action proposed or refused, an explanation of why the agency proposes or refuses to take the action, a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action, a statement that the parents of a child with a disability have protection under procedural safeguards and the means by which a copy of a description of the procedural safeguards can be obtained, sources for the parents to contact to obtain assistance in understanding, a description of other options that the IEP team 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.

### **Analysis: Findings of Fact**

The Parent alleged that the LEA did not provide prior written notice of its actions when the LEA changed the Student’s services from the Private School to the Public School immediately on the second day of school. The Parent alleged that the LEA’s communication regarding its actions prevented effective parental participation in the IEP process at two meetings occurring at the beginning of the 2024-25 school year.

The LEA responded: “USD 383 provided Prior Written Notice (“PWN”) as required by 34 C.F.R. § 300.503 and the Kansas Process Handbook. For the August 15, 2024, IEP meeting, the parents checked the box acknowledging their waiver of the ten-day notice, and email documentation further confirms their agreement. For the September 3, 2024 meeting, the Notice of Meeting was issued with more than ten days’ notice. The LEA also continued to maintain communication with the family beyond these meetings. Documentation includes: The August

15, 2024, signed notice of meeting with the 10-day notice waived. The September 3, 2024, Notice of Meeting, signed and confirmed by email. . . . Additionally, the LEA provided a PWN and amendment approving transportation services so the student could be transported to a public school site, and sent the required "Ready, Willing, and Able" letter to the parents . . . These actions reflect the LEA's consistent commitment to ensuring meaningful parental participation."

### **Findings of Fact**

The findings of Issue One and Issue Two are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the individuals listed in Evidence.

The Student's IEP being discussed in this complaint was created by the IEP team that met on May 7, 2024 to plan for the Student's transition to kindergarten during the 2024-25 school year. According to that IEP, the services to be in place, beginning August 14, 2024 through May 6, 2025 were:

- 1) Attendant care - special education direct service in a general education setting (daily, 40 minutes)
- 2) Nursing services - indirect (10 minutes, weekly)
- 3) Special education services - special education direct services in general education classroom (305 minutes, two days a week)
- 4) Special education services - special education direct services in general education classroom (310 minutes, three days a week)
- 5) Special education services - special education direct services outside general education settings (60 minutes, daily)
- 6) Occupational therapy - special education direct service outside general education setting (25 minutes, one day per week)
- 7) Physical therapy - special education direct service outside general education setting (25 minutes, one day per week)
- 8) Physical therapy - indirect (15 minutes, monthly)
- 9) Speech language therapy - special education direct service outside general education setting (20 minutes, two times a week).
- 10) Speech language therapy - special education direct service in general education setting (20 minutes, one time a week).
- 11) Teacher consultation (10 minutes, one day per week)

In addition, the IEP dated May 7, 2024 included accommodations and supplementary aids and services to be provided: adequate response time, preferential seating, repeated review and drill, positive / concrete reinforcers, and visual supports.

The LEA and the Parent agree that two IEP meetings were held on August 15, 2024 and on September 3, 2024 and that the location of services was a topic at each meeting.

When asked to provide notes of the August 15, 2024 IEP meeting to the Investigator, the LEA provided an email to the Parents dated August 20, 2024 at 3:09 p.m., which the LEA stated served as staffing notes. The LEA's notes include four points regarding the IEP meeting on August 15, 2024: (a) the attendees at the meeting, (b) the Student's services would be provided at the Public School, (c) the Student's services as listed in the IEP dated May 7, 2024 would not be changed by the LEA but transportation to the Public School would be added, and (d) the LEA was ready willing and able to implement the IEP at the Public School.

In an email dated August 20, 2024, asking for assistance, the Parent forwarded these notes to Families Together and added that the details were incorrect because the discussion stated that the Student would be in the Life Skills Program at the Public School.

In an excerpt from an email to the Special Education Director on August 19, 2024 at 7:47 a.m., the Parent requested an IEP meeting and requested alternative OT and PT services to be delivered to the Private School, specifically

" . . . we make the following requests: 1) OT – Peer classroom modeling in the classroom, least restrictive environment to assist [the Student] most appropriate during daily activities, 2) PT – Direct during PE/Recess with the PE teacher and recess supervisor in the least Restrictive Environment during the most active part of the day with his peers. Alternatively, instead of losing valuable instruction time while being transported to & from on the bus, we'd prefer: 3) OT - we would like to have a consult with the classroom teacher to communicate the most appropriate ways to assist [the Student] within the classroom daily during learning activities alongside his peers, 4) PT- For an Indirect Service consultation to the PE/Recess with the PE teacher and Recess supervisor providing alternative equipment or modifications to accommodate [the Student]'s needs. Either way, we believe these changes would require IEP amendments prior to agreeing to or signing any such amendments we are requesting"

On August 20, 2024 at 3:09 p.m., the Special Education Director sent an email to the Parents acknowledging the request for a meeting, recounting a timeline of events relating to scheduling the August 15, 2024 meeting, and stating,

"We are not proposing to change current services on [the Student]'s current IEP. Based on the need outlined in his IEP (305 minutes two days per week, 310 minutes three days per week for daily living and social skills, recess, and academic support from a paraeducator, occupational therapy, physical therapy, speech language therapy, attendant care, and school nursing services). USD 383 will provide transportation to [the Public School] where all of these services can be accessed. We have received your request for an IEP team meeting. . . . Until we can schedule an IEP team meeting, USD 383 is ready, willing, and able to serve [the Student]'s IEP as written at [the Public School]."

The LEA provided a PWN dated August 23, 2024 along with a proposed IEP amendment to add transportation services to the Public School to the Student's IEP.

The Investigator interviewed and surveyed four District employees, interviewed three persons suggested by the Parent, reviewed two sets of meeting notes, and read subsequent emailed conversations to ascertain the content of the IEP meeting on September 3, 2024.

- The Parent and the LEA agree that information about the proposed Public School program and transportation was requested and the LEA subsequently emailed information in response to the Parent's questions.
- The LEA supplied staffing notes and summarized the meeting topics: "the discussion focused exclusively on logistical matters related to potential placement at [Public] School. Topics included the structure of the classroom, bus transportation times, kindergarten information, and the amount of resource time available. No changes to the IEP itself or requests for different services were raised."
- Interviewees and the Parent added that the following topics were discussed at the September 3, 2024 meeting: para support, least restrictive environment concerns, the Student's safety, the Student's home school, and the LEA's declination to allow the Parents to personally view the proposed Public School classrooms or to identify the proposed teacher. Personal handwritten notes taken by the Student's Aunt at the September 3, 2024 meeting also included the following topics: student safety, transportation, the nature of the proposed Public School program including class sizes, age limit of students in Life Skills, questions regarding service provision options, concern about negative effect on the Student and the Student's progress due to the move, and speech language therapy offered at the Private School.
- Personal handwritten notes taken by the Student's Aunt at the September 3, 2024 meeting show that the Parent asked if it was possible to amend the IEP for speech language and para services to be maintained at the Private School and move only the OT and PT services, and the LEA refused without a new evaluation. A participant invited by the parent asked if the Student's services could be provided at the Student's home school, and the LEA stated that the decision had to be an IEP team decision based on data and that the present IEP team had no authority to make that decision. The Parent asked if it had been a unilateral decision to move the Student's services by the LEA without consultation of Parents or Private School. The Parent asked how the decision to move the Student's services was made.
- The personal handwritten notes taken by the Student's Aunt at the IEP meeting dated September 3, 2024 state: "Does the IEP need to be re-written to include SLP at [the Private School? Is it possible to edit the IEP to do SPL and para and do at [the Private School] [without] OT/PT if para was hired/paid by [the Private School?] [Special Education Director's initials] Would need evaluation." In an interview, the Assistant Special Education Director stated that to change the IEP to such a degree would require more information such as an evaluation and an additional team meeting after collecting data.

- The LEA's staffing notes for the September 3, 2024, meeting stated that the Student's home school "case loads are full" and the student would be bussed to the Public School; later, the same notes stated that the home school "could be taken into consideration." According to the personal handwritten notes taken by the Student's Aunt, the LEA stated that the student's home school may be considered and that Speech Language Therapy may be provided at the Private School.
- The LEA's staffing notes for the September 3, 2024 meeting stated: "Mom: how do we accommodate for [the Student] to attend [the Private School]? How can we have a true conversation for what is best for [the Student]? The IEP that was written last school year is for what services [the Student] needs."

The Parent and the LEA agree that Speech Language Therapy was provided at the Private school during the 2024-25 school year.

In an interview, the LEA reported that it provided PWN to add transportation only, stating that there was no change in the LEA's offer of FAPE and therefore no PWN was required for specific requests. Documentation supported that PWN was provided to add transportation to the Student's IEP dated May 7, 2024 through a proposed IEP amendment.

### **Conclusion**

In this case, whether the LEA had the authority to offer the Student's IEP at the Public School is not questioned or investigated. Rather, this issue concerns whether the LEA was obliged to provide PWN based on the evidence available regarding the events of August and September, 2024.

Communication at the IEP meetings, as investigated now, was not clear among the parties. Prior written notice can be clarifying to the parties, and it is required when the LEA either proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE. In this case, the LEA communicated its decision to provide the Student's IEP services at the Public School rather than the Private School through its "ready willing and able" letter dated August 15, 2024.

However, the Parent requested that the LEA's offer of FAPE be altered, documented in the investigation in at least three instances. First, in an email on August 19, 2024, after receiving the LEA's letter, the Parent specifically requested OT and PT services be changed and that these changes be discussed at the upcoming meeting. The LEA received the email and responded to other elements of this email by scheduling a meeting on September 3, 2024. Second, at that meeting, the Parent asked that some or all the Student's services be continued at the Private School. Third, the LEA agreed to provide the Student's speech language therapy at the Private School rather than at the Public school.

When the Parents attended the September 3, 2024 IEP meeting and requested changes to the IEP, the LEA IEP team denied this request, thereby maintaining their previous offer of FAPE

through the “ready willing and able” letter dated August 15, 2024. Although the LEA maintained its offer of FAPE, it did so by refusing to make the changes being requested by the Parents. At that point, the LEA was required to give the Parents written notice of that refusal and an explanation of why it was refusing the parents requests, with a PWN. Further, the LEA altered its own offer of FAPE at the Public School by providing the Speech Language services at the Private School during the 2024-25 school year and failed to provide PWN to allow the parent to accept this service while refusing the other services, in this case due to the location determined by the LEA.

Therefore, it is found that the LEA was required by 34 C.F.R. 300.503(a) and (b) to provide a PWN to refuse the change proposed by the Parent. The LEA’s “ready willing and able letter” does not relieve the LEA of the requirement to provide PWN when the parent asks for a change to the IEP or there is an alteration of the IEP services offered by the LEA.

Based on the foregoing, *it is substantiated* that USD 383 failed to provide proper prior written notice.

### **Issue Four**

Did the LEA implement the student’s IEP during the 2024-25 school year?

### **Applicable Law**

Federal regulations at 34 C.F.R. 300.323(c)(2) require 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. Each special education service on the IEP is required to be accompanied by the projected date for the beginning of the service and the anticipated frequency, location, and duration of the service (34 C.F.R. § 300.320(a)(7)).

According to K.S.A. 72-3462: “Every school district shall provide special education services for exceptional children who reside in the school district and attend a private, nonprofit elementary or secondary school, whether such school is located within or outside the school district upon request of a parent or guardian of any such child for the provision of such services. . . . Special education services, which are provided under this section for exceptional children who attend a private, nonprofit elementary or secondary school which is located in the school district may be provided in the private, nonprofit elementary or secondary school or in the public schools of the school district. The site for the provision of special education services under this section for an exceptional child shall be determined by the school district in consultation with the parent or guardian of the child and with officials of the private, nonprofit elementary or secondary school,” subject to requirements specified in the statute.

The (Kansas Special Education Process Handbook (p. 217) explains: “The state law relating to children voluntarily enrolled in private schools by their parents significantly adds to federal requirements. State law requires that when a parent requests services, the school district of

residence will make available all services and will provide any or all of the special education and related services that are identified by an IEP team for any child with an exceptionality, to which the parent provides consent. . . Parents may refuse to accept some or all of the offered services. In this case, the public school should have documentation that the parents refused to accept some or all of the services recommended by the IEP team. One way this could be documented is by providing Prior Written Notice for all of the services identified on the IEP and the parent would consent to only the services they are accepting”

According to KAR 91-40-27 (h), “An agency shall not use a parent's refusal to consent to an activity or service to deny the parent or child other activities or services offered by the agency.”

### **Analysis: Findings of Fact**

The Parent alleges that the LEA did not implement the Student’s IEP services, specifically the Student’s Speech Services, until the Parent notified them after the IEP meeting on September 3, 2024.

The LEA responded: “At the August 15, 2024, IEP meeting, the IEP team confirmed that all services would be provided at the public-school site, with transportation furnished by the LEA. A PWN and IEP amendment documenting this addition were provided to the parents.”

### **Findings of Fact**

The findings of Issue One, Issue Two and Issue Three are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the individuals listed in Evidence.

In a response dated September 3, 2025 to the Investigator’s follow up questions, the LEA replied: “Under IDEA and the Kansas Process Handbook, districts must provide a free appropriate public education (FAPE) to students in public schools, but for parentally-placed private school students, the LEA is not required to replicate the full IEP in the private setting. Instead, services are made available in accordance with equitable services provisions (34 C.F.R. §§ 300.137- 300.138). In this case, the May 7, 2024, signed Prior Written Notice (PWN) and IEP authorized speech language services. Because the LEA had a speech-language pathologist on site at [the Private School] during the 2024-25 school year, the LEA lawfully continued providing that service at [the Private School]”.

The Student’s IEP dated May 7, 2024 included the following speech language services: “speech language therapy - special education direct service outside general education setting (20 minutes, two times a week) and speech language therapy - special education direct service in general education setting (20 minutes, one time a week).”

According to the personal handwritten notes of the IEP meeting dated September 3, 2024, the LEA stated that speech language services would be provided at the Private School. In an



interview follow-up email, the LEA reported that it received an email notifying them that the Student was not receiving the speech language service at the Private School.

The LEA provided a log that showed that direct speech language services in a special education setting were provided to the Student beginning September 19, 2024, two times a week, through the 2024-25 school year.

No PWN was offered by the LEA regarding speech language services offered at the Private School, as found in Issue Three.

### **Conclusion**

In this case, the LEA agreed to provide the student's speech language service at the Private School as of September 3, 2024, and those services began on September 19, 2024. While no PWN exists to clearly delineate the specific services and the beginning and ending date of those services, from the evidence provided, four, twenty-minute sessions were missed. Based on the foregoing, *it is substantiated* that USD383 failed to provide the Student's speech language services as required by the Student's IEP dated May 7, 2024 during the 2024-25 school year.

### **Issue Five**

Did the LEA respond to the parent's request for an IEP meeting after the meeting dated August 15, 2024 through September 30, 2024?

### **Applicable Law**

Federal and state statutes and regulations at CFR 300.324(b)(1)(ii)(C) and KSA 72-3429(f) require that the IEP team meets at least annually and that it revises the IEP as appropriate to respond to a parent's request for an IEP meeting to address a lack of progress, evaluation, the child's anticipated needs, information provided to or by the parents, or other matters. In Kansas, a reasonable time to respond to parental requests such as the request for an evaluation or for an IEP meeting is three weeks, or 15 school days.

The Kansas Special Education Process Handbook (p. 88) states: "Although the school is responsible for determining when it is necessary to conduct an IEP meeting, the parents of a child with an exceptionality have the right to request an IEP meeting at any time. The child's teacher or other school staff may also propose an IEP meeting at any time they feel the IEP has become inappropriate for the child and revision should be considered (K.S.A. 72-3429(f))."

### **Analysis: Findings of Fact**

The Parent alleges that the Parent requested an IEP meeting to discuss the change to the location of the child's services, which the LEA responded to by scheduling a meeting on September 3, 2024. However at that meeting, the Parent alleges that the District repeatedly said that the meeting was not an IEP meeting but only a team meeting which was informational

about the change of location. This obstructed the Parents' participation and advocacy for changes in the Student's IEP at the September 3, 2024 IEP meeting.

The LEA responded: "On August 23, 2024, the LEA confirmed via email a Notice of Meeting scheduling the requested IEP meeting. This meeting was held on September 3, 2024, with the parents and the full IEP team in attendance. The LEA therefore responded promptly and appropriately to the parental request within the relevant timeframe."

### **Findings of Fact**

The findings of Issue One, Issue Two, Issue Three and Issue Four are incorporated herein by reference.

The following findings are based upon a review of documentation and interviews with the individuals listed in Evidence.

In an excerpt from an email to the Special Education Director on August 19, 2024 at 7:47 a.m., the Parent stated,

"At the meeting as referenced on 8/15/2024 the entire team was not present. I understood this to be a meeting, by which I requested, with the Special Education teacher [Name omitted] to prepare for this academic semester. . . If [the Student's] IEP is not going to be followed as written, we need a new IEP prefaced with a full team meeting and the required notice."

In an email dated August 23, 2024 to the Parents, the Special Education Director stated,

"Attached to this email you will find an amendment to add transportation services to [the Student's] IEP as well as a prior written notice (PWN) for the addition of transportation services. We, of course, would be happy to sign these or discuss this addition in person at an IEP meeting as well. We received your request for an IEP team meeting. Without parents waiving the 10-day notice, we would be looking at September 3, 2024. Does this date work for you, [Parents names omitted], with the time being sometime in the afternoon? If not, we can look at the afternoon of September 5, 2024, as well. Until we can schedule an IEP team meeting, USD 383 is ready, willing, and able to serve [the Student's] IEP as written at [the Public School]."

The NOM dated August 23, 2024 for a meeting on September 3, 2024 was attached to an email from the Special Education Director to the Parents dated August 23, 2024 at 4:11 p.m. and the Parent replied affirming the time and date of the meeting.

Personal handwritten notes taken by the Student's Aunt at the September 3, 2024 IEP meeting showed that the Assistant Director stated that the participants were here to discuss the IEP but not make changes to the IEP, that the Director stated that they could discuss the addition of transportation only, and that the Director stated that "this isn't an IEP meeting, no decisions are being made." Interviewees stated that the LEA administrators attending the September 3, 2024 meeting stated that the meeting was not an IEP meeting. In an interview with the LEA administrators, the administrators stated that they conveyed that no changes to the IEP were

being offered by the LEA at the September 3, 2024 meeting and that the meeting was intended by them to be informational about the LEA's offer to provide the Student's IEP services at the Public School.

### **Conclusion**

In this issue, the LEA's communication with the Parent and others invited by the Parent to the IEP meeting conveyed a message that the meeting on September 3, 2024 was not an IEP meeting, although the written Notice of Meeting dated August 23, 2024 was for an IEP meeting on September 3, 2024. This confused the Parents and the parentally invited IEP participants, who were veteran IEP attendees. It is noted that the LEA administrators attempted to semantically differentiate the meaning of an IEP team meeting to clarify that the LEA's offer of FAPE was not being changed. However, the LEA assembled an IEP team, offered a notice of meeting for an IEP meeting and held a meeting at the predetermined time and place. Therefore, regardless of whether the offer of FAPE was changed by the LEA, based on the evidence in the written communication through emails and the NOM provided, the LEA received and responded to the Parent's request for an IEP meeting, and no violation occurred. Based on the foregoing, *it is not substantiated* that USD 383 failed to respond to the Parent's request to schedule an IEP meeting.

### **Issue Six (Additional Issue)**

Did the LEA consider the information brought forward by the parents during the IEP meetings on August 15, 2024 and September 3, 2024?

### **Applicable Law**

Federal statute and regulation at 34 C.F.R. 300.324(a)(1)(ii) require that in developing each child's IEP, the IEP Team must consider—The strengths of the child; the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child.

### **Analysis: Findings of Fact**

The parent alleged that the LEA "did not meaningfully consider or document our parental concerns, which limited our participation in the IEP process and did not meet requirements under Kansas special education regulations and IDEA. Concern #1 - Consideration of Parent Concerns At the September 3, 2024 IEP meeting, we raised specific concerns regarding our child's educational placement, loss of instructional time due to transportation, and the need for paraeducator support. These concerns were not reflected in meeting notes or prior written notices, and no documentation was provided showing how they were considered by the IEP team. The process did not demonstrate a focus on what was most appropriate for our child. Violations: Kansas Special Education Handbook, Section 9.2 (parent participation); IDEA 34 CFR

300.322 (parent involvement in IEP meetings); IDEA 34 CFR 300.324(a)(1)(ii) (IEP team must consider the concerns of the parents)."

The LEA responded by reiterating its authority to offer the Student's IEP at the Public School, noting that it had provided its "ready willing and able" letter to the parents, who declined to take up its offer and voluntarily placed the Student at the Private School. The LEA stated that due to the voluntary placement at the Private School, the LEA is not required to offer all the services on the IEP to the Student. The LEA responded that staffing notes are not legally required, and the notes taken at the meeting by the Student's Aunt had previously been provided for the complaint investigation. The District asserted that no parental requests were made at the meeting that required PWN, that the content of the meeting was fact finding.

The LEA opined that repeated complaints "does not impose upon the district an obligation to alter its legally compliant practices or to extend services beyond what the law requires. The district has already offered FAPE in the least restrictive environment (LRE) as evidenced by: - The Prior Written Notice (Kansas Process Handbook, Ch. 3, § C), which proposed an additional service, transportation, the parents refused to sign. -The Ready, Willing, and Able letter provided on August 15, 2024 (Kansas Process Handbook, Ch. 14, § A), documenting the district's ongoing readiness to implement the IEP in the public setting; and -The district's consistent efforts to provide services in good faith within the limits permitted by IDEA and Kansas law, despite the parents' refusal to consent to or accept those services. The parents' decision to reject those lawful offers does not create additional obligations on the district (34 C.F.R. §§ 300.137–300.138)."

### **Findings of Fact**

The findings of Issue One, Issue Two, Issue Three, Issue Four and Issue Five are incorporated herein by reference.

In an email to the investigator, the parent reported that the following concerns had been raised at the August 15, 2024 and September 3, 2024 meetings: class size and attention to the Student's needs, the building size and transitions, the school schedule, siblings and peers in the same school, playground accessibility needed for the Student's health and size, and predictable routines, reduced transitions, and accessibility as offered by the Private School. The Parent reported that the LEA did not display an "openness to have a conversation" and the outcome of the meetings appeared to be predetermined "without regard for our concerns."

In an email to the parents dated September 6, 2024, the LEA provided the following information on the Public School program, describing this as information requested at the IEP meeting: class sizes and number of classes at the Public School, details on the offered transportation by bus for the Student, and the Public School class schedule.

In an interview, the Assistant Special Education Director stated that the communication with the Parents in the September 3, 2024 IEP meeting was like a "broken record" technique, to

deliver the ready willing and able message repeatedly to the Parents who wanted services to continue at the Private School.

## Conclusion

This issue, like the previous issues investigated, does not take up the question of the proper placement of the Student nor the authority of the LEA to offer the Student's IEP services at a Public School rather than the Private School. Instead, the question is whether, in providing its offer of FAPE at the Public School at two IEP meetings, the LEA considered the parental concerns in those discussions.

As the LEA responded, "fact finding" regarding the proposed Public School location occurred at the IEP meetings, according to the evidence. In this instance, the Parent believes that the concerns raised regarding the nature of the location and its suitability for the Student were not considered seriously by the LEA, when the LEA was delivering the conclusive message conveyed by its "ready willing and able" letter and statements at the IEP meetings.

In this case, the Parent was afforded the opportunity to attend and participate in the IEP meetings. Findings in Issue Four show that parental concerns were raised at the September 3, 2024 IEP meeting. The LEA's response shows that its communication focused on providing information about the Public School program and not on making any changes to the IEP or location of services. While this may have been perceived as failing to consider the Parents concern for the Student's health in the new location, this investigation cannot authoritatively state that the LEA was not in compliance when considering the parental concerns raised during the period of the investigation.

Therefore, it is found that the *LEA is in compliance* and no violation can be substantiated.

## **Summary of Conclusions/Corrective Action**

1. **ISSUE ONE:** A violation of 34 C.F.R. 300.9 was not found, based on facts above. Corrective action is not required.
2. **ISSUE TWO:** A violation of 34 C.F.R. 300.322(a) and (b) and K.A.R. 91-49-25(b) was not found, based on facts above. Corrective action is not required.
3. **ISSUE THREE:** A violation of 34 C.F.R. 300.503(a) and (b) was found, based on facts above. Corrective action is required (as follows):
  - a. **CORRECTIVE ACTION:**
    - i. USD #383 shall, within 60 days of this report (November 11, 2025) submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal regulations at 34 C.F.R. 300.503(a) and (b) which require that the parents are provided prior written notice each time a district proposes or refuses the actions specified in the regulation.
    - ii. The LEA shall, within 60 days of this report (November 11, 2025) provide Prior Written Notice to the Parents meeting the requirements of 34 C.F.R.

300.503(a) and (b) based on the finding of this report that the LEA did refuse parental requests to amend the Student's IEP and the LEA did provide some but not all services at the Private School during the 2024-25 school year. The LEA shall provide a copy of the Prior Written Notice(s) to SETS by November 11, 2025.

- iii. The LEA shall, within 60 days of this report (November 11, 2025) review the provisions of 34 C.F.R. 300.503(a) and (b) with Special Education administrators, review and correct (if needed) District policy documents on providing Prior Written Notice under the circumstances of this report relating to students in private schools, and provide current information to all District employees who are responsible for providing Prior Written Notice to parents.
4. **ISSUE FOUR:** A violation of 34 C.F.R. 300.323(c)(2) was found, based on facts above. Corrective action is required (as follows):
- a. **CORRECTIVE ACTION:**
    - i. USD #383 shall, within 60 days of this report (November 11, 2025) submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal regulations at 34 C.F.R. 300.323(c)(2) which require IEPs to be in effect after development, and K.S.A. 72-3462 regarding provision of services to students in private schools.
    - ii. USD #383 shall, within 60 days of this report (November 6, 2025) offer the Parents four, 20 minute speech language sessions to the Student. The LEA shall determine and propose a location for the services to occur, and the LEA shall schedule the sessions at a time mutually agreeable with the Parents. The Parents may accept some, all or none of the proposed services. The LEA shall submit a copy of the proposal to SETS by November 11, 2025 and notify SETS by January 5, 2026 that the scheduled sessions, if accepted by the Parents, have been completed.
    - iii. The LEA shall, within 60 days of this report (November 11, 2025) review the provisions of 34 C.F.R. 300.323(c)(2) in light of K.S.A. 72-3462 with Special Education administrators, review and correct (if needed) District policy documents on implementing IEP services under the circumstances of this report relating to students in private schools, and provide current information to all District employees who are responsible for coordinating or providing services to students in private schools.
5. **ISSUE FIVE:** A violation of CFR 300.324(b)(1)(ii)(C) and K.S.A. 72-3429(f) and was not found, based on facts above. Corrective action is not required:
6. **ISSUE SIX:** A violation of 34 C.F.R. 300.324(a)(1)(ii) was not found, based on the facts above. Corrective action is not required.

## **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)