

KANSAS STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT  
FILED AGAINST  
UNIFIED SCHOOL DISTRICT #375  
ON SEPTEMBER 3, 2025

DATE OF REPORT: OCTOBER 3, 2025

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

The Complaint is against USD # 375, Circle Public Schools. In the remainder of the report, the “School” and the “local education agency (LEA)” shall refer to USD #375.

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 child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on September 3, 2025, and the 30-day timeline ended on October 3, 2025.

## **Allegations**

The following issues will be investigated:

ISSUE ONE: Whether USD #375, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), unilaterally placed the Student in a solo classroom without ensuring the placement determination was made by a group of persons, including the Parent and other persons knowledgeable about the Student. K.S.A. 72-3420(a), K.A.R. 91-40-21, K.S.A. 72-3433, K.S.A. 72-3429 (4)(A)(B); 34 §§ C.F.R. 300.116, 300.530, 300.531

ISSUE TWO: Whether USD #375, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the Student’s IEP prior to using alternative strategies that were not part of the behavior plan. K.A.R. 91-40-16(a); 34 § C.F.R. 300.323(a)(c)(d).

## **Investigation of Complaint**

The Investigator interviewed the Complainant by telephone on November 17, 2022. The LEA staff were interviewed on December 5, 2022.

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

1. Functional Behavior Assessment, 12/17/24
2. Emails dated: 03/13/25, 10/03/24, 12/18/24, 09/03/25-09/04/25
3. Individualized Education Program (IEP), 01/30/25
4. Manifestation Determination Review, 04/24/25
5. Notice of Special Education Meeting, 12/13/[24]
6. Prior Written Notice for Identification, Special Education and Related Services, Educational Placement, Change in Placement, and/or Request for Consent (PWN), 08/20/24
7. IEP Amendment Between Annual IEP Meetings, 08/20/24, and 12/17/24
8. Out of School Suspension Letter, 12/18/24
9. Emergency Safety Intervention, 10/03/24, and 03/13/25

## **Background Information**

This investigation involved an eighth-grade student enrolled at the Day School in USD #375 who qualifies for special education services under the disability category of autism. The Student is kind, loving, and has a great sense of humor.

## **Findings of the Investigation**

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

1. On October 3, 2024, the Principal attached an Emergency Safety Intervention (ESI) document to an email to the Complainant and shared, "We did not have to restrain [the Student] when [the Student] ran as [the Student] willingly returned to the school when law enforcement and school personnel arrived at [After School Care]."
2. On October 3, 2024, an ESI document described the Student's behaviors that led to one restraint and three seclusions.
  - a. The Student became verbally aggressive when they were told they missed snack time.
  - b. The room was cleared when the Student targeted smaller students.
  - c. Staff blocked and redirected the Student until the room was cleared.

- d. The [School Resource Officer] SRO entered the classroom, and the Student became combative and was escorted to the seclusion room by the SRO and the Principal. The restraint lasted 1 minute.
  - e. The Student willingly agreed to enter the seclusion room after the SRO and the principal spoke with them.
  - f. Once in the seclusion room, the Student began yelling and came towards the staff with the threat of harming them. The seclusion room door was shut for the safety of the staff. The seclusion lasted six minutes.
  - g. The Student was directed to go to the wall with a calm body. The Student complied, and the staff opened the door.
  - h. The Student asked to use the bathroom and was accompanied there by staff.
  - i. While in the calm room discussing the rest of their day, the Student yelled and charged at the staff. The door was closed for safety. The seclusion lasted six minutes.
  - j. Once the Student showed a calm body, the door was opened.
  - k. The Student was agitated about their report home, and while the staff member tried to de-escalate the Student, they threatened to punch the staff member.
  - l. The Student pushed past the staff member and hit them with the door. The staff blocked the Student's exit and shut the door. The seclusion lasted four minutes.
  - m. The Student was told to show a calm body to have the door opened, which they did. The Student's transportation was there, and the Student walked calmly to the van.
  - n. The Student took off running, and staff, Sheriff's officers, and the transportation department looked for them. The Student was located at a convenience store about a half mile away.
3. On November 14, 2024, the Legal Decision Maker "agreed" to an IEP amendment between annual meetings that listed an amendment date of August 20, 2024. The amendment indicated "[The Student] is attending [the Day School] ... for 100% of [the Student's] school day and will receive 100% of [their] special education services there. [The Student] will receive services at [the Day School] for 465 minutes, 4 days a week since [the Day School] is a 4[-]day[-]a[-]week school. This is a change from receiving services 5 days a week at [the Student's] last school." The undated PWN that accompanied this amendment described a "material change in services" and indicated the Student was placed at the Day School due to behaviors at their previous school. Data was reviewed, and the option of not placing the Student at the Day School was rejected. "Consent" was provided via checkmark and signature by one of the Legal Education Decision Makers (LEDMs).

4. On December 13, 2024, a Notice of Special Education Meeting was created for an IEP meeting on January 30, 2025, to discuss the Student's eligibility for special education, changes to the IEP, to conduct an annual review, and discuss post-secondary goals. The Parent was listed as the LEDM.
5. On December 17, 2024, a Functional Behavior Assessment (FBA) was conducted and indicated the following:
  - a. The Student was "disruptive in the class around 40% of the time."
  - b. The Student's instructional, environmental, and learner-specific antecedents to challenging behaviors were noted. The consequences and functions of the behaviors were described.
  - c. Hypotheses were described, and it was noted the IEP team determined a Behavior Intervention Plan (BIP) was a required part of the Student's IEP.
6. On December 18, 2024, the Principal emailed the Complainant regarding the Student's behavior. According to the Principal, "[The Student] got very aggressive this afternoon and punched a para[professional] pretty hard. After that escalation, [the Student] was hard to calm and continued to threaten and aggress towards staff. [Foster Parent 2] talked to [the Student] at one point, but [the Student] escalated again after. [The SRO] was very close to arresting [the Student] due to the severity of [the Student's] aggression. Due to this level of aggression, [the Student] will be suspended tomorrow. ... I worry because [the physical aggression] is increasing in frequency and severity."
7. On December 18, 2024, a notice of suspension was created, which stated the Student had been suspended for December 19, 2024, due to "significant aggression towards staff and verbal threats to staff."
8. On December 20, 2024, the Parent "agreed" to an IEP amendment between annual meetings that listed an amendment date of December 17, 2024. The amendment described, "The team is going to amend the IEP to add a BIP." The Parent agreed via checkmark and signature to amend the Student's IEP without convening a meeting. The accompanying PWN dated December 17, 2024, indicated the team met to review the evaluation data and discuss changes to the IEP, which included adding a BIP. An explanation, options, relevant factors, and a description of the data used to propose the BIP were noted. "Consent" was provided via checkmark and electronic signature by the Parent.
9. The January 30, 2025, IEP indicated the following:
  - a. The Student's reevaluation was completed on December 17, 2024.
  - b. Participants included the Parent, the Special Education Teacher, the Principal in the role of LEA Representative, and the School Counselor.
  - c. The Student's "Impact of Exceptionality" described, "[The Student] will need structure and consistent behavioral interventions (as outlined in [the Student's] behavior intervention plan) in all environments throughout the school ... in order to gain educational benefit."

- d. The Student's present levels of academic and functional performance were described. It was noted the Student's behavior impeded their learning and that of others, and the Student required special education and related services.
- e. The IEP included goals for coping strategies, elopement, math, reading, and writing.
- f. The following special education and related services were described for the dates of January 30, 2025 through January 29, 2026:
  - i. Special education service at the Special Day School for 465 minutes, three days per week.
  - ii. Special education service at the Special Day School for 435 minutes one day per week.
  - iii. Counseling at the Special Day School for 30 minutes weekly.
  - iv. Accommodations/Modifications/Supplementary Support were listed and scheduled to begin on January 30, 2025, and end on January 29, 2026.
  - v. The Student "... will not be with any non-identified peers at the Dayschool setting [sic]" and will "... utilize a curriculum that is modified to fit [the Student's] instructional needs."
  - vi. vi. The following BIP was described:
    - 1. Elopement, aggression, and property destruction in all settings, multiple times per day, caused the Student to miss instruction.
      - a. Functions included escape/avoidance, gaining access to a reinforcer, inability to regulate emotion, and power/control.
      - b. The replacement behavior indicated when the Student was "becoming frustrated or upset [the Student] will be ask[ed] to go talk with the SRO or the counselor ... or talk to staff calmly in the safe space in the hallway."
      - c. Positive behavior supports included:
        - i. "Catch [the Student] being good. Ignore what can be ignored. Multiple positives noted through out [sic]."
        - ii. "If a visual frustration or upset is started it must be noted and ahead of that give [the Student] an out to help [them] move on with not outburst [sic]."
        - iii. "Do remind [the Student] to follow [their] plan, before [the Student] explodes. Then reward when [the Student] does. Remind [them] [the Student] needs a 'reset'."

- iv. "[The Student] will have a token system to earn breaks and music listening time. 2 activities to a song, or [a] 5[-]minute break."
- d. Staff responses were listed:
  - i. "Staff will not engage with [the Student] when escalated. They will give any expectation in a calm tone and regulated slower speed."
  - ii. "There will not be multiple people covering or hovering around [the Student] when [the Student] is elevated. 1-2 if possible, 3 if needed for escort."
  - iii. "Staff will not keep talking to/at [the Student] when [the Student] is elevated. If there is a request a soft, gentle reminder such as walk threw [sic] the door or let's share with SRO first. This will get [the Student] where it is safest for [the Student] and others."
  - iv. "Do not press hard on moving onto work again, missed work does not add up. There is no make[-]up work."
  - v. "Staff will not bribe with preferred activities to move on or give in to demands which will both reward, and intensify demands in the long run."
  - vi. "Staff will allow [the Student] to settle and calm before moving on. [The Student] will be allowed to lay [sic] down after an incident as it overwhelms and wipes out [the Student's] energy and thoughts."
  - vii. "Staff will always meet the students [sic] need where they are, emotional regulation before academics."
- e. Special Considerations indicated "[The Student's] staff will be [Crisis Prevention Institute] CPI certified in case of outburst and danger is presented. The team considered the harmful effects of continuing placement at the day school. The team determined that the benefits continue to outweigh the harmful effects."
- f. Meeting notes indicated the Parent was present and had the opportunity to provide input, and the harmful effects of the placement were discussed.

10. On March 13, 2025, the Principal emailed documentation to the Complainant regarding an incident that occurred. The Principal shared that the Student struggled at times

during the day. The Principal wrote, "I was SOOO proud of [the Student] for eventually walking with us and having an incredible conversation with us afterwards where [the Student] took accountability and ownership over [their] response. [The Student] was not the aggressor in this situation. [The Student] just reacted."

11. On March 13, 2025, an ESI Documentation Form described the Student's behaviors that led to one restraint:
  - a. A peer flipped off and kicked the Student.
  - b. The Student tried to fight the peer, but staff intervened and transported the Student to the calming room. The restraint lasted one minute.
  - c. The Student dropped to the floor, and after they were de-escalated, the Student walked unassisted to the SRO's office.
12. On April 24, 2025, a Manifestation Determination Review (MDR) was conducted. According to the MDR, "The Student has engaged in multiple incidents of physical aggression, property destruction, and elopement from school property. [The Student] has broken three windows within our building, destroyed a gate on a doorway and has hurt 4 staff with [the Student's] physically aggressive behavior." The IEP was reviewed, and interventions were listed. It was noted the Student's conduct was caused by or had a direct and substantial relationship to their disability and was not a result of the Day School's failure to implement the IEP. The team, including the Parent, determined the Student's conduct was a manifestation of their disability and it was noted, in the form of a checkmark, that the Student "... will be returned to the placement specified in [their] IEP, unless ... the school and the parent(s)/LEDM(s) agree to a change of placement through the IEP process, or ... the student is assigned to an alternative educational setting for possession of a weapon or illegal drugs or for infliction of serious bodily injury on another person." The remaining language regarding conducting an FBA (unless one has already been conducted), implementing the BIP, or reviewing and modifying the BIP remained unchecked on the MDR document. The Parent and the Parents were listed as participants in the meeting.
13. On September 3, 2025, the Principal emailed the Liaison and wrote, "I have reported to [a parent] that we are running out of intervention ideas as [the Student] has not responded to many interventions that have been tried." Additionally, the Principal wrote, "[The Student] is currently in a separate classroom without access to peers as they frequently trigger [the Student] and it is in [the Student's] best interest not to have access to all peers throughout the day. [The Student] does have time embedded into [their] day for peer interaction that is guided and supported by staff." The Principal indicated that outside agencies provided consultation and training regarding the Student's behaviors.

### **Principal Interview**

14. In an interview with the Investigator, the Principal stated they were the Principal at the Special Day School in the District. They described knowing the Student since August 2024 because the Student attended the day school program.

15. The Principal stated the Complainant was a caseworker at the foster care organization that the Student was in custody through.
16. The Principal was able to describe the staff responses to the Students' behavior at different levels of escalation.
  - a. The least intensive behaviors looked like refusal to comply and verbal aggression.
    - i. Staff responses were redirection and stating the positive and negative consequences.
  - b. More intensive behaviors looked like property destruction, the Student hitting things, and breaking things.
    - i. Staff responses were to disengage with the Student, and/or block the Student from access to staff or peers.
  - c. Most intensive behaviors looked like hitting, kicking, biting, throwing, and using things as weapons.
    - i. Staff responses included backing away, "running with dignity," and the use of non-violent crisis intervention, if necessary.
    - ii. The Principal described the term "run with dignity" as a method for disengaging with a student by backing up both physically and verbally to avoid a power struggle and to position themselves in a place of safety from the escalated student.
17. The Principal stated there is no reason a staff member would not use one of the strategies listed on the Student's Behavior Intervention Plan (BIP).
18. The Principal stated they think the Complainant was concerned because the LEA "didn't put in the [BIP] that [the Student is] receiving one-on-one support and that [the Student] doesn't have access to all of [their] peers throughout the day." The Principal stated they are unsure if the one-on-one support is listed in the Student's IEP because when the IEP was written, "it wasn't something that was always available to [the Student]." They stated the one-on-one adult assistance was discussed in April 2025 after the Student's MDR meeting. The Principal confirmed the Student has always required one-on-one adult support for some part of their day, especially during academic instruction.
19. The Principal stated the Student did have access to one-on-one adult support, and added they had support to two-on-one, depending on the Student's request. The Principal stated the adult support was documented through a schedule that was also shared with the [Parent].
20. The Principal confirmed all students in the day school have supervision for the entirety of their school day and added, "none of them walk unaccompanied anywhere in the building."
21. The Principal explained the MDR meeting that took place in April 2025. The team consisted of District staff, including the Principal, the Parents and Guardians, and workers from community support programs associated with the Student. They stated it



occurred following a suspension on April 23, 2025. The Student had broken a window for the second time. The Principal stated they worked with the Parents during this meeting to develop a plan for the Student, which consisted of placing the Student in a separate environment “where [they are] not surrounded by kids that are cussing and flipping [the Student] off and just trying to antagonize [them] all day.” The plan included only allowing the Student to engage with regulated peers who were “being positive influences.”

22. The Principal stated recent data shows “we’ve had an extreme decrease in that maladaptive behavior, especially the physical aggression.”

### **Complainant Interview**

23. On September 30, 2025, in an interview with the Investigator, the Complainant stated they were the Student’s foster care case manager. They affirmed they are the legal guardian of the Student and are required to see the student once a month and help coordinate services for the home. The Complainant disclosed they don’t have educational rights and therefore work with the Parent to ensure the Student was “getting [their] rightful education that the school can provide to [them].”
24. The Complainant stated that after the MDR meeting on April 24, 2025, they were having a check-in meeting via Zoom when the Principal notified the Complainant they felt the Student would be better served in a solo classroom. The Complainant added they agreed to the change if a written agreement was completed and the Parent was notified. The Complainant stated, “one was not made for it.” The Complainant noted at this meeting, the team had mentioned they had tried having the Student in a modified classroom with success. The Complainant stated the attendees of the meeting included themselves, the Principal, and Foster Parent 1.
25. The Complainant stated they had not directly seen anything happen regarding the LEA not using strategies from the behavior plan before the team changed the IEP, but had been told the team told the Student they loved [them] and called them “pet names” which caused the Student to go into “defense mode” due to past abuse. The Complainant stated the team used food as an incentive. They added the Student needed to feel “like everything is equal to [them], and got upset if they felt “like [they are] not being treated fairly.” The Complainant added they were not sure if specific strategies were listed in the behavior plan, stating they were not allowed to view it, but stated Foster Parent 1 provided strategies to the LEA to try. The Complainant stated the LEA tried the strategies for less than a month and then stated they weren’t working. The Complainant noted the team was striving for consistency but added, “we have to go through that rough patch to get that consistency.”
26. The Complainant stated, “when [the Student] gets dysregulated, [they] will fight and destroy property.” This led to the Student getting involved with the legal system because people pressed charges. The Complainant stated that when the team isolated the Student in a classroom, the Student destroyed property. The Complainant added the courts are asking to have additional services placed in the home, even though the

Student was not having issues at home. They stated they were “getting this roundabout way that’s not actually helping us get services into the school. It’s all being placed on placement.”

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

### **Issue One**

Whether USD #375, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), unilaterally placed the Student in a solo classroom without ensuring the placement determination was made by a group of persons, including the Parent and other persons knowledgeable about the Student. K.S.A. 72-3420(a), K.A.R. 91-40-21, K.S.A. 72-3433, K.S.A. 72-3429 (4)(A)(B); 34 §§ C.F.R. 300.116, 300.530, 300.531

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

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

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

Each agency shall give notice to the parents of any meeting to discuss the educational placement of their child. The notice shall meet the requirements of K.A.R. 91-40-17. If a parent cannot participate in person at a meeting relating to the educational placement of the child, the agency shall offer to use other methods to allow the parent to participate, including conference calls and video conferencing. An agency may conduct a meeting to determine the

appropriate educational placement of a child with a disability without the participation of a parent if the agency, despite repeated attempts, has been unable to contact the parent or to convince the parent to participate. If an agency conducts a meeting to determine the appropriate educational placement of a child without the participation of a parent, the agency shall have a record of the attempts that the agency made to contact the parent. An agency shall take action to ensure that parents understand, and are able to participate in, any discussions concerning the educational placement of their children, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

Each agency shall ensure that each exceptional child's placement meets the following criteria, which are determined at least annually, are based on the child's IEP, and, for a child with a disability, are as close as possible to the child's home. Unless the IEP of a child with a disability requires some other arrangement, the agency shall ensure that the child is educated in the school that the child would attend if nondisabled. In selecting the LRE for a child with a disability, the persons making the educational placement decision shall give consideration to any potential harmful effect on the child or on the quality of services that the child needs.

An agency shall not remove a child with a disability from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum. In providing, or arranging for the provision of, nonacademic and extracurricular services and activities, including meals, recess periods, and other nonacademic services and activities, each agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child. Each agency shall ensure that each child with a disability receives the supplementary aids and services specified in the child's IEP as being appropriate and necessary for the child to participate in nonacademic settings. If it is determined that the placement in a specialized public or private school or facility is necessary to provide FAPE to a child with a disability in accordance with the child's IEP, the agency shall provide for the placement, including nonmedical care and room and board, at no cost to the parent or parents of the child.

Each agency that operates any separate facility for the education of children with disabilities shall ensure that the facility meets the following requirements: each facility shall be comparable to those operated for nonexceptional children, and each facility shall be appropriate to the chronological ages of the students and the instructional program being provided.

According to K.S.A. 72-3429 (4)(A)(B), after the annual IEP meeting for a school year, the parent of an exceptional child and an appropriate representative of the agency providing services to the child may agree to develop a written document amending or modifying the child's current IEP, without convening an IEP meeting. If the parent and agency representative develop a written document amending or modifying a child's current IEP, the document shall be dated

and signed by the parent and the agency representative. The parent and the agency shall be provided a copy of the document.

According to K.S.A. 72-3433, school personnel may order a change in placement of a child with disability to an alternative setting as disciplinary action for certain behavior. The duties of the IEP team and hearing officer, behavioral assessment and intervention plan, and the determination and review procedure must be taken into consideration. School personnel may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting or other setting, or the short-term suspension of the child. School personnel may order a change to an appropriate interim alternative educational placement for not more than 186 school days if it is determined that the conduct of the child violated the code of student conduct and was not a manifestation of the child's disability. If the relevant disciplinary procedures applicable to children without disabilities are applied in the same manner and the discipline is for the same duration as would be applied to a child without disabilities, except that services must continue to be provided to the child during the period of disciplinary action.

Any child with a disability whose placement is changed shall continue to receive educational services to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP and receive, as appropriate, a functional behavioral assessment, behavioral intervention services, and modifications that are designed to address the inappropriate behavior so that it does not recur. The alternative educational setting shall be determined by the IEP team. If a disciplinary action is contemplated not later than the date on which the decision to take that action is made, the agency shall notify the parents of that decision and of all procedural safeguards and amendments thereto, and within 10 school days of the date on which the decision to take disciplinary action is made. A review shall be conducted to determine the relationship between the child's disability and the conduct that is subject to disciplinary action.

The review shall be conducted by the agency, the parent, and relevant members of the child's IEP team as determined by the parent and the agency. In carrying out the review, that group shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parent. Based upon its review of all the relevant information, the group shall determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability or was the direct result of the agency's failure to implement the child's IEP. If it is determined that the conduct of the student was caused by or had a direct and substantial relationship to the child's disability or was the direct result of the LEA failing to implement the child's IEP, then the conduct shall be determined to be a manifestation of the child's disability. If it is determined that the conduct of a child was a manifestation of the child's disability, the IEP team shall conduct an FBA and

implement a BIP for such child. Provided that the agency has not conducted such an assessment prior to the behavior that resulted in a change in placement.

If the child already had a BIP, review and modify it, as necessary, to address the behavior and return the child to the placement from which the child was removed, unless the parent and the agency agree to a change of placement as part of the modification of the behavioral intervention plan.

The Complainant alleged the Student was placed in a solo classroom setting with no IEP amendment to support the change of placement.

In their response, the LEA shared that "moving a student from one classroom to another within the same program does not constitute a change of placement under the IDEA." The LEA indicated a classroom move did not alter the Student's access to non-disabled peers or the LRE. Additionally, the LEA indicated the Parents consented to the classroom adjustment.

Based on the foregoing, according to IDEA and Kansas special education regulations, it is unsubstantiated that the LEA did not ensure the placement determination for the initial material change on November 14, 2024, was made by a group of persons, including the Parent and other knowledgeable persons, as required by K.A.R. 91-40-21 and K.R.S. 72-3429 (4)(A)(B), as the change was agreed to through a signed IEP amendment by the Parents.

## **Issue Two**

Whether USD #375, in accordance with state and federal regulations implementing the IDEA, reviewed and revised the Student's IEP prior to using alternative strategies that were not part of the behavior plan. K.A.R. 91-40-16(a)(b)(3)

According to K.A.R. 91-40-16(a), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. According to K.A.R. 91-40-16(b)(3), at the beginning of each school year, each agency must have in effect an IEP for each child with a disability within its jurisdiction. Each agency must ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. Each teacher and provider must be informed of their specific responsibility related to implementing the child's IEP and specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

The Complainant alleged that although a behavior plan was in place, staff stated the plan was not effective and the staff had begun implementing alternative strategies without documentation or revision of the behavior plan.

The LEA indicated in their Response that the IEP team "... did not implement interventions or strategies that were not identified in the student's BIP. All interventions implemented were consistent with the Student's IEP/BIP or were discussed and documented with IEP team

members who hold decision-making authority." Additionally, the LEA indicated they had the authority to implement appropriate general classroom management and safety strategies, even if they were not included in the Student's IEP or BIP, as long as the strategies did not contradict the Student's plans. This included using CPI-approved emergency safety interventions when the Student was at imminent risk of harm to self or others.

Based on the foregoing, according to IDEA and Kansas special education regulations, it is unsubstantiated that the LEA significantly changed the Student's placement and least restrictive environment when they used a "separate classroom without access to peers." The LEA maintained the authority to implement appropriate general classroom management and safety strategies, even if not explicitly in the IEP, so long as the strategies did not contradict the Student's plans. The change in the Student's services did not impact their access to the least restrictive environment because the Student already lacked access to general education peers in their placement. This means there was no change to their placement and least restrictive environment as defined by K.A.R. 91-40-16(a) and 34 C.F.R. § 300.323..

**Tania Tong, Licensed Complaint Investigator**

## **Right to Appeal**

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

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

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

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

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

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

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