

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES
REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #233. OLATHE PUBLIC SCHOOLS
ON SEPTEMBER 8, 2025
DATE OF REPORT: OCTOBER 8, 2025

This report is in response to a complaint filed with the Kansas State Department of Education against USD #233 (Olathe Public Schools) on behalf of ----- by his mother ----- . In the remainder of the report, ----- will be referred to as “the student” and ----- as “the parent” or “the complainant.”

The complaint is against USD #233 (Olathe Public Schools). In the remainder of the report, USD #233 will be referred to as “the Local Education Agency”. 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.” Local Education Agency staff will be referred to In the remainder of this report as follows:

- Ashley Niedzwiecki, Assistant Director of Special Services
- Heidi Schneider, Special Services Coordinator

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 September 8, 2025.

Evidence Reviewed

During the investigation, the Complaint Investigator, Donna Wickham, reviewed all evidence and documentation provided by the Local Education Agency and the parent. The investigator interviewed the parent by phone on September 26, 2025 and the Assistant Director of Special Services and Special Services Coordinator for USD #233 on September 25, 2025 as part of this investigation. Finally, the parent’s advocate provided responses to investigator questions via email on September 24, 2025 at 8:15 a.m.

The following materials were used as the basis of the findings and conclusions of the investigation:

Documents:

1. District Response dated September 22, 2025
2. Notice of Meeting, dated September 17, 2024
3. IEP meeting minutes dated September 17, 2024
4. IEP amendment dated September 27, 2024
5. Resolution Acceptance Letter for 25FC233-002 dated September 16, 2024
6. Audio recording of IEP meeting from September 17, 2024 1 hour 24 minutes
7. Notice of Meeting, dated December 12, 2024
8. Screen shot of the LEA Special Education/Contact Special Education page, retrieved from the Complainant on September 15, 2025 at 9:52 a.m. and by the LEA on September 22, 2025 at 3:48 p.m.
9. Job posting for Assistant Director of Special Education Legal Services, retrieved from the LEA website on September 15, 2025 at 10:10 a.m. The position is marked as closed
10. Overview of Disability Law retrieved from the LEA website on September 15, 2025 at 9:50 a.m.

Emails:

1. Email exchange among parent, advocate, and IEP team between August 29, 2024 at 11:50 a.m. and September 16, 2024 at 12:23 p.m.
2. Email exchange among parent, advocate and special education coordinator dated between September 12, 2024 at 4:53 p.m. and September 14, 2024 at 5:11 p.m.
3. Email from parent to IEP team dated September 16, 2024 at 2:23 p.m.
4. Email from assistant director of special services to investigator dated September 22, 2024 at 5:22 p.m.
5. Email from parent to investigator dated September 10, 2025 at 12:15 p.m.
6. Email from parent to Investigator dated September 15, 2025 at 10:57 a.m.
7. Email exchange between parent's advocate and investigation dated between September 23, 2025 at 8:55 a.m. and September 24, 2025 at 8:41 a.m.

Background Information

The subject of this complaint was a sixth-grade student during the 2024-2025 school year who lives at home with their mother. As noted in the May 16, 2024, evaluation report the student was found eligible for special education services with the exceptionalities of autism and hearing impairment. The student additionally has medical diagnoses of KBG Syndrome, autism, ADHD, and anxiety. This complaint follows up 26FC233-001 regarding procedural issues and LEA procedures and practices.

Issues Investigated

Issue One

Did USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to disclose that the assistant director of special services is a currently licensed attorney in the state of Kansas at the September 27, 2024 or December 12, 2024 IEP meeting?

It is noted that the date of September 27, 2024 represents the date the parent signed the Prior Written Notice for the IEP amendment. Two meetings, held on September 9, 2024 and September 17, 2024 IEP occurred to discuss and come to agreement for the September 27, 2024 IEP amendment.

Applicable Law

Federal regulations at 34 CFR §300.321(a)(6) allows for parents or the agency to invite other individuals who have knowledge or special expertise regarding the child.

Parent Position

The child complaint stated that the Assistant Director of Special Services was a participant at the September and the December 2024 IEP meetings for her child. At none of the meetings did this staff person disclose being an active attorney licensed in Kansas. The Complainant had questioned the Investigator at the conclusion of 26FC233-001 whether the Assistant Director of Special Services for the LEA, who is a licensed attorney, had to disclose this professional training. The Investigator replied that it was not required. The Complainant disagreed with the Investigator's statement and requested an investigation.

Local Education Agency Position

The Local Education Agency responded that the Assistant Director of Special Services is not representing the LEA as an attorney. This staff person was hired in the position of Assistant Director of Special Services and in that role will occasionally attend IEP team meetings when possessing special knowledge or expertise about the student or services on behalf of a student. This is well within the scope and expectation of the Assistant Director of Special Services job duties and as a discretionary member of a students' IEP team the Assistant Director of Special Services executes duties in the same manner and capacity as other District Directors of Special Services.

The LEA staff is listed on IEP paperwork as the Assistant Director of Special Services and has introduced self as the Assistant Director of Special Services at all IEP team meetings for the student's IEP meetings and other IEPs attended. Attending as the Assistant Director of Special Services this LEA staff contributes a general understanding of District Policies, a general

understanding of the IEP process, and participates in discussions related specifically to a student's needs based on specialized knowledge.

Analysis: Findings of Fact

1. The Parent and LEA agree that the Assistant Director of Special Services attended the September 9, 2024 and December 12, 2024 IEP meetings for the student.
2. The parent and advocate reported that the Assistant Director of Special Services attended the September 17, 2024 IEP meeting but arrived late. The Assistant Director of Special Services reported that according to their calendar they were conducting a presentation with Assistant Principal during that time.
3. The Assistant Director of Special Services and parent agree that the Assistant Director of Special Services did not disclose being an active attorney in Kansas at any of the student's IEP meetings. The staff member introduced as Assistant Director of Special Services.
4. The Assistant Director of Special Services stated that attendance at the September 9, 2024 IEP meetings was in response to an email from the Complainant with a list of questions and concerns about district services the day before the meeting. The LEA determined that the Assistant Director of Special Services was most knowledgeable to respond to these questions. Attendance at the December 12, 2024 meeting was based on the student's return to district services following a medically based placement.
5. The Complainant provided a job description that lists a position titled, "Assistant Director of Special Education Legal Services." The Complainant stated during interview that this position was closed about the time the Assistant Director of Special Services was hired and concluded that the Assistant Director of Special Services was hired in as an attorney. The LEA stated that this is the position that resulted in the hiring of the current Assistant Director of Special Services. The Executive Director of Special Services for the LEA stated that the position lists a preference for a juris doctor (JD) degree, but it is not required and the person who was previously in the current Executive Director of Special Services position held a JD as well. Finally, the Executive Director of Special Services for the LEA stated that the position of Assistant Director of Special Services is in the Special Education Department in Academics of the LEA organizational chart, not in the Staff Counsel department.
6. The LEA webpage lists the staff person as Assistant Director of Special Services on the Special Education webpage under, "Contact Special Education"

Conclusion

The LEA response dated September 22, 2025 articulated the explanation for the investigator's conclusion.

The [LEA] asserts that this staff person is the Assistant Director of Special Services, not an attorney representing the [LEA]. According to the Kansas Special Education Process Handbook, pg. 64, the district may include "others as appropriate", at a student's IEP meeting. Additionally,

“The determination of who has knowledge or special expertise regarding the child is made by the party (parents or school) who invited the individual to be a member of the IEP team. Therefore, the other party may not bring into question the expertise of an individual invited to be a member of the IEP team and may not exclude another team member’s expertise based on the amount or quality of their expertise.” (K.A.R. 91-40-17(j); 34 C.F.R. 300.321(c))

OSEP guidance has clearly stated that the disclosure of an invited IEP team member’s specific knowledge is not required, stating:

Section 614(d)(1)(B)(vi) of the Act allows other individuals who have knowledge or special expertise regarding the child to be included on the child’s IEP team. Section 300.321(c) provides that the determination of the knowledge or special expertise of those individuals must be made by the party (parent of public agency) who invited the individual to be a member of the IEP team. We continue to believe that this determination is best left to parents and the public agency. We also believe that it would be inappropriate to regulate on the specific knowledge and expertise that an individuals must have to be included on an IEP Team because it would be burdensome for both parents and public agencies.” (Fed. Register, Vol. 71, No. 156, pg. 46670 (August 14, 2006)) Here, the District had determined this staff member has special expertise, as an Assistant Director, and invited this staff member to join the IEP team as a discretionary member.

Finally, the federal regulation requiring a public agency to notify parents of upcoming IEP meetings is 34 C.F.R. 300.322(b). That regulation requires the public agency to provide notice of “the purpose, time and location of the meeting and who will be in attendance.” It does not require the public agency to provide more. Specifically, there is nothing in the law that requires notifying a parent that a person invited to attend the meeting is an attorney.

Based on the foregoing, it is found that the Local Education Agency did not have an obligation to disclose that the Assistant Director of Special Services is a currently licensed attorney in the state of Kansas at the September 9, 2024, September 17, 2024 or December 12, 2024 IEP meetings and *is IN compliance*, and no corrective action is required.

Issue Two

Did USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to include the assistant special education director as an IEP team member on the Notices of Meeting for the September 27, 2024 and December 12, 2024 IEP meetings?

Applicable Law

Federal regulations at 34 C.F.R. §300.322(b)(1)(i) require that the notice of meeting list “who will be in attendance” . 34 C.F.R. §300.321(a)(1-6) states the public agency must ensure that the IEP Team for each child with a disability include the parents of the child; at least one regular

education teacher of the child (if applicable); at least one special education teacher/provider of the child; a representative of the public agency; an individual who can interpret evaluation results; others with knowledge/special expertise at the discretion of the parent or agency; and the child, when appropriate.

Parent Position

The complaint alleged that the assistant special education director was an active participant at the September meetings and December 2024 IEPs meetings for her student and was not listed on the Notices of Meeting for either IEP.

Local Education Agency Position

The LEA responded in the September 22, 2025 response that the Assistant Director of Special Services was not listed on the Notice of Meeting for the September 17, 2024 meeting but was not in attendance at that meeting. The LEA responded that the Assistant Director of Special Services was listed on December 12, 2024 Notice of Meeting.

Analysis: Findings of Fact

The findings of Issue One are incorporated herein by reference.

1. It is noted that the Notice of Meeting for the September 9, 2024 meeting was sent on August 29, 2024 which exceeds the 12 month period of investigation and therefore not included in consideration of the finding.
2. The September 17, 2024 Notice of Meeting listed the following LEA staff as "Other(s) who can help explain the evaluation results or who have knowledge or special expertise regarding your child or services that may be needed." Autism Specialist, School Social Worker, Autism Specialist, Speech Language Pathologist, DHH Consultant, SPED Coordinator, Audiologist, Nurse School, and Psychologist. Based on documentation and interview with the complainant, advocate, and LEA it was not determined if the Assistant Director of Special Services attended this meeting in part or at all.
3. The December 12, 2024 Notice of Meeting listed the following LEA staff as "Other(s) who can help explain the evaluation results or who have knowledge or special expertise regarding your child or services that may be needed." Special Services Coordinator, Assistant Director of Special Services, School Nurse, Behavior Coach, School Social Worker, Speech Language Pathologist, and Autism Specialist.
4. The IEPs dated September 27, 2024 and December 12, 2024 does not show the Assistant Director of Special Services listed as an IEP team meeting attendee.

Conclusion

The IDEA specifies who must attend an IEP meeting and the Notice of Meeting further specifies that the parent receive notice of the potential attendees prior to the meeting. It is found that the Notice of meeting for the September 9, 2025 meeting, September 17, 2025 IEP meeting do

not include the Assistant Director of Special Services, but the Assistant Director of Special Services is listed on the December 12, IEP meeting.

Although not listed specifically in the issue, the Investigator reviewed the IEP participant list for the September 27, 2024 and December 12, 2024 IEP amendments to gain clarity on whether the Assistant Director of Special Services had attended the September 17, 2024 IEP meeting in part or whole to compare how it was documented for December 12, 2024. It was known that the Assistant Director of Special Services was listed on the Notice of Meeting for the December 12, 2024 IEP meeting and attended this IEP meeting. It was discovered that the Assistant Director of Special Services was not listed as in attendance at the IEP meeting. Therefore, *the Local Education Agency is OUT of compliance* and corrective action is required.

Issue Three

Did USD #233, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to name the district staff on the Notice of Meetings for the September 27, 2024 and December 12, 2024 IEPs with job titles from the district website or with enough detail/accuracy so as to meet regulation for providing the complainant with proper notice of who was attending the student's IEP?

Applicable Law

Federal regulations at 34 C.F.R. §300.322(b)(1)(i) require that the notice of meeting list "who will be in attendance". 34 C.F.R. §300.321(a)(1-6) states that the public agency must ensure that the IEP Team for each child with a disability include the parents of the child; at least one regular education teacher of the child (if applicable); at least one special education teacher/provider of the child; a representative of the public agency; an individual who can interpret evaluation results; others with knowledge/special expertise at the discretion of the parent or agency; and the child, when appropriate.

Parent Position

The parent complaint stated that the roles of the meeting attendees on the September and December 2024 Notice of Meetings do not match the job titles from the district website or provide enough detail or accuracy that the parent can determine who is attending the student's IEP. This lack of specificity and/accuracy does not meet the regulation for providing the complainant with proper notice of who will be attending the student's IEP.

Local Education Agency Position

The Local Education Agency states that neither federal nor state regulations require the Notice of Meeting to identify the district's meeting attendees by name, so long as the notice identifies those individuals by position.

Analysis: Findings of Fact

The findings of Issues 1 and 2 are incorporated herein by reference.

1. The LEA Notice of Meeting form includes the following statement, "As required by federal and state law, in addition to you, we will have the following people at our IEP meeting: 1) A general education teacher of your child 2) A special education teacher of your child 3) A school representative 4) If this is an initial IEP, a representative, if you request, of the Part C (Early Intervention Program for Infants/Toddlers with Disabilities) if your child is transitioning from Part C to Part B 5) Student (when checked)" Further, "Other(s) who can help explain the evaluation results or who have knowledge or special expertise regarding your child or services that may be needed." Finally, "If necessary, and with your consent, staff from other agencies that may be able to provide appropriate transition services/linkages will be invited to our meeting. The agencies they represent are shown below:"
2. The Notice of Meeting for the September 17, 2024 IEP meeting lists the role of LEA attendees that match job titles on the LEA website.
3. The Notice of Meeting for the December 12, 2024 IEP meeting lists the role of LEA attendees that match job titles on the LEA website.

Conclusion

It is found that the Local Education Agency named the LEA staff on the Notice of Meetings for the September 27, 2024 and December 12, 2024 IEPs with job titles from the LEA website and therefore met regulations for providing the complainant with proper notice of who was attending the student's IEP and *is IN compliance*.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of 34 CFR §300.321(a)(6) and was not found. Corrective action is not required.
2. ISSUE TWO: A violation of 34 C.F.R. §300.322(b)(1)(i) and 34 C.F.R. §300.321(a)(1-6) was found and corrective action is required as follows:
 - a. A procedural violation of 34 C.F.R. §300.322(b)(1)(i) and 34 C.F.R. §300.321(a)(1-6) was found based on the student's December 12, 2024 IEP not listing the Assistant Director of Special Services in attendance. The LEA shall immediately, within 21 school days, submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state statutes and regulations 34 C.F.R. §300.322(b)(1)(i) and 34 C.F.R. §300.321(a)(1-6).
 - b. The LEA shall send an email to all case managers reminding them of their obligation to include all attendees at IEP meeting on the IEP attendance sheet. The LEA shall submit evidence of this email and the recipients to SETS by November 8, 2025.
3. ISSUE THREE: A violation of 34 C.F.R. §300.322(b)(1)(i) and 34 C.F.R. §300.321(a)(1-6) was not found. 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. 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)