

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
STATE ORGANIZATION 610 (SO610)
ON SEPTEMBER 4, 2025

DATE OF REPORT: OCTOBER 8, 2025

This report is in response to a complaint filed with the Kansas State Department of Education on behalf of ----- by her mother, ----- . In the remainder of the report ----- will be referred to as “the student” and ----- will be referred to as the “complainant” or “the parent”.

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.”

In this case, the student is a resident of the Blue Valley School District (USD #229) but receives a free appropriate public education (FAPE) at the Kansas School for the Deaf (SO610), which employs its own staff to meet the requirements of the IDEA. It is noted that the allegation investigated was made solely against SO610 and, while both USD #229 and SO610 are considered the responsible local education agency (LEA), any findings resulting in corrective action will be the responsibility of SO610..

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on September 4, 2025 and assigned the case for investigation on that same date.

Evidence Reviewed

Both parties were contacted via telephone during the investigation to gather and clarify information. The complainant was interviewed by telephone on September 23, 2025. SO610 made the following school personnel available for a Zoom interview on September 25, 2025:

- Luanne Barron, Superintendent
- Dean Muszynski, Activities Coordinator

The complainant provided written responses to clarification questions on September 29, 2025. Quinn Price, the cheerleading coach for SO610 during the 2024-25 school year provided written responses to clarification questions on September 30, 2025.

Written documentation was provided by both the LEA and the complainant. All the documentation was reviewed and the following written documentation was used in consideration of the issue:

1. Formal Complaint Request Form dated September 4, 2025 written by the complainant
2. The Individual Education Program (IEP) dated February 26, 2024 and amended on September 23, 2024
3. The IEP dated March 5, 2025
4. Doctor's Note written by Dr. Jennifer Mellick, Pediatric Partners
5. Kansas School for the Deaf Extra-Curricular Activities & Athletics Handbook (revised July 2024)
6. Email chain dated August 29, September 1, 3, and 4, 2025 between the complainant; Joelle Allen, Secondary Principal; Dean Muszynski, Activities Coordinator; and Luanne Barron, Superintendent
7. Email dated December 2, 2024, written by the complainant to the Secondary Principal
8. Email chain dated December 4 and 6, 2024 between the complainant, the Activities Coordinator, and the Superintendent
9. Email dated December 10, 2024, written by the Activities Coordinator to the Superintendent
10. Email dated December 29, 2024, written by Quinn Price, Cheerleading Coach, to the parents of all the students on the cheerleading team, including the complainant
11. Copy of the January 2025 Cheerleading Schedule showing home games and practice schedule
12. Email chain dated January 20, 2025 between the complainant and the Cheerleading Coach
13. Email chain dated January 28, 2025 between the complainant and Cheerleading Coach
14. Meeting Notes dated September 15, 2025 written by the Superintendent
15. Email dated September 29, 2025, written by the complainant to the Investigator responding to clarification questions
16. Email dated September 30, 2025, written by the Cheerleading Coach to the Investigator responding to clarification questions

Background Information

The student is 16 years old and currently enrolled in the tenth grade at SO610 for the 2025-26 school year. The student received early intervention services and began receiving special education and related services at the Kansas School for the Deaf at the age of three. The most

recent reevaluation was completed on February 26, 2024 and the IEP team determined that the student continued to be eligible for special education and related services under the primary exceptionality category of Deaf / Blind due to medical diagnoses of bilateral sensorineural hearing loss and strabismus as well as the secondary exceptionality category of Other Health Impaired due to medical diagnoses which result in extreme fatigue and being tube fed.

Issues Investigated

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

Issue One

SO610, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the student with a free appropriate public education (FAPE), specifically by not providing the supplementary aids and services necessary to allow the student to participate in nonacademic and extracurricular activities during the past 12 months .

Applicable Law

Federal regulations at 34 C.F.R. 300.320(a)(4)(ii) require that each public agency include a statement in each student's IEP describing the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities.

Analysis: Findings of Fact

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

There were two IEPs in place for the student during the past 12 months. The first IEP was developed on February 26, 2024 and amended on September 23, 2024. The second IEP was developed on March 5, 2025. Both IEPs include the following statement:

The student has the opportunity to participate in all non-academic and extracurricular activities such as clubs, sports, to the same extent as non-identified peers".

The parent reported the student was a member of the cheerleading team but was excluded from participating in extracurricular activities during the 2024-25 school year when she was not allowed to cheer during the last home basketball game on January 28, 2025 due to the Cheerleading Coach not providing the agreed upon accommodations for the student's disability.

The parent reported the student had participated in sports as the manager for the basketball team during the 2023-24 school year while in eighth grade. At the beginning of the 2024-25 school year, the student had expressed interest in being the manager for the volleyball team at home games but, after discussing this with the Secondary Principal and the Activities Coordinator, it was decided this would not be appropriate in light of the responsibilities for this position at the high school level.

The parent reported and documentation shows the student was diagnosed with chronic fatigue and was being treated at both the hematology and pulmonology clinics at Children's Mercy Hospital to "improve her endurance and find a medical solution for her fatigue". This information was shared with SO610 and the student's IEP was amended on September 23, 2024 to allow the student to be dismissed at 1:30 pm on Wednesdays in order to rest.

The parent contacted the Secondary Principal on December 2, 2024 regarding the possibility of the student becoming involved in extracurricular activities as a cheerleader during the basketball season with an adapted schedule due to her health issues.

On December 4, 2024, the Secondary Principal contacted the Activities Coordinator about the possibility of the student participating in cheerleading with a flexible cheer schedule. The following questions were posed:

- *What does the current cheer schedule look like?*
- *Would it be okay for her to attend practice once or maybe twice a week?*
- *Would it be okay for her to attend shorter practices if needed?*
- *Would it be okay for her to cheer at select games and miss others?*

SO610 reported that a meeting was held on December 10, 2024 to discuss this request. The Activities Coordinator provided a written summary of that meeting as follows:

The complainant, the student, and I met in my office to discuss how the student could participate in cheerleading given her medical conditions which prevent her from attending every practice. We agreed on the following:

- *The student may be included in the team picture wearing a cheerleader uniform*
- *She may sit with the team on the bleachers in uniform*
- *She may wave the Jackrabbits flag*

It was also agreed that the student will not participate in cheer competitions due to not being able to show up to all scheduled practices. However, if she is able to attend some practices, she may cheer with the team on the sidelines.

The December 10, 2025 written meeting summary was apparently not shared with either the complainant or the Cheerleading Coach. The complainant was surprised that waving the

Jackrabbit flag was listed as one of the activities the student could participate in as a cheerleader at the home games because the Activities Coordinator had been told during that meeting that the student didn't have the strength to wave the large flags and this was not an activity she could do during the home games. In addition, the Cheerleading Coach stated, "I was never aware of any agreement for this student to wave a flag as I didn't know we had one".

SO610 reported there were a total of five home games scheduled following the meeting on December 10, 2024. The Cheerleading Coach confirmed that there were five home games after the student joined the team and that cheerleading practice was held *"every Monday, Tuesday, and Thursday if there was not a basketball game"*.

The Cheerleading Coach noted that the student joined the team late and was behind the other students for learning the cheers and the steps because of the late start. The Cheerleading Coach believed the student was supposed to attend at least one practice per week but reported she was not sure how many practices the student actually attended because she did not have access to last year's records. However, based on her recollections, she indicated that the student *"attended one or two practices for the entirety of her time on the team"*. The Cheerleading Coach also noted that the student missed the required practice where uniform fitting took place and the student's uniform did not fit her correctly.

The complainant reported the cheerleading practices were held after 6 pm and it was difficult for the student to attend due to her fatigue but that she was supposed to participate once per week to learn the routine and chants; however, the student did not need to attend cheer practices which solely focused on the competition team cheers. The complainant indicated that some of the other cheerleaders taped the cheer routines on their phones and sent them to the student so she could practice at home. In addition to practicing on her own at home, the complainant reported the student attended two of the six practices held in January 2025.

The complainant provided the Cheerleading Calendar for January 2025 which showed a total of seven cheer practices: two practices scheduled for the school weeks of January 6-10, 13-17, and 27-31; and one practice scheduled for the school week of January 20-24, 2025. The calendar showed two home games scheduled for January 21 and 28, 2025.

On January 20, 2025, the complainant sent an email to the Cheerleading Coach regarding the student missing practices due to being sick and the student's participation in the home game scheduled for January 21, 2025. The Cheerleading Coach responded that same day stating, *"It is okay she hasn't been there, we have honestly just been working on the competition"*.

The complainant and the Cheerleading Coach both reported the student attended the game but did not cheer on the sidelines during the game; instead the student chose to sit with the cheerleading team during the game and observe.

On January 28, 2025 at 12:32 pm, the complainant sent an email to the Cheerleading Coach stating:

I'm sorry the student didn't make it to practice last night. She was so tired she went to bed at 7. She has lots of health issues that make it pretty challenging to have any energy in the evening. She really wants to come support the team tonight. She's been practicing the cheers on her own. I hope it's okay if she comes. Hopefully next fall she will be in better health and can start cheer season at the beginning of the year. I really appreciate your understanding this season!

The Cheerleading Coach responded to the complainant on that same date at 2:14 pm in an email which stated:

Since the student has not been at practice, I don't feel confident letting her cheer and I do not know what she has learned. I will unfortunately not have time to walk her through the cheers or dances before the games today. She may come and sit if that is what she wants. For next year, it is important she comes to practice if she wants to cheer.

The complainant responded that same date at 3:27 pm in an email sent to both the Cheerleading Coach and the Activities Coordinator stating:

. . . I get the need to know what she has learned. She just really wants to find a place she can belong and participate and it's hard with her health issues because they do limit her so much to participate that late in the evening for practice. I thought in our conversation with Dean [Activities Coordinator] that there was flexibility for the student to participate. This is really going to break her heart.

The Activities Coordinator responded to the complainant and the Cheerleading Coach on that same date at 3:47 pm in an email and stated:

Yes, we discussed flexibility, but to cheer with the team on the sideline, the student will need to attend practice. We expect all players to show up to practice if they want to cheer in the game. I understand that the student's health situation, and we agreed to allow her to participate in other ways if she was not able to show up to all practices, such as sitting with the team, being in the team picture, and waving the Jackrabbit flag. The student is welcome to sit with the team on the bleachers in her cheer uniform.

The complainant made a final response at 4:00 pm via email to the Activities Coordinator and the Cheerleading Coach stating:

I just really misunderstood that she would need to attend practice as much as she needed to. Her health makes those late practices almost impossible. She is still on a modified school schedule for fatigue ordered by her physician. She thought they were practicing for the competition, and she knew that she couldn't participate in that so I think that's where she misunderstood that she didn't need to go . . . We will seek out other opportunities for her to feel like part of the KSD [Kansas School for the Deaf] community.

The complainant reported that the student chose not to attend the final home game.

After the filing of this complaint, the Superintendent, Activities Coordinator, the Secondary Principal, and the parents met on September 15, 2025 to review the situation and develop a plan for the student to participate in extracurricular activities during the 2025-26 school year. Meeting notes kept by the Superintendent state:

Dean [Activities Coordinator] reviewed the incident, explaining that the student had missed all of the cheerleading practices. To ensure that she could still be included as part of the team, modifications were made for her participation in the last home game. These modifications included carrying the mascot flag and wearing the cheerleading uniform. Dean further clarified that , because the student had missed too many practices to participate fully in the cheers, these adjustments were intended to help her feel included and maintain her connection to the team.

These notes as well as interviews with the SO610 staff and the complainant indicate that discussions are taking place to identify modification to enable the student to act as the manager for the junior varsity volleyball team during home games this season.

Conclusion

In this case, the complainant alleges the student was excluded from participating with the cheerleading team during the final home game on January 28, 2025 because the Cheerleading Coach and the Activities Director failed to provide the agreed upon program modifications developed at the December 10, 2024 meeting.

Interviews and documentation found the Activities Coordinator, the complainant, and the student met on December 10, 2024 and agreed to the following program modifications e designed to allow the student the opportunity to participate in extracurricular activities at the Kansas School for the Deaf given her medical conditions which prevent her from attending every cheerleading practice:

- The student may be included in the team picture wearing a cheerleader uniform
- She may sit with the team on the bleachers in uniform
- She may wave the Jackrabbits flag
- The student will not participate in cheer competitions due to not being able to show up to all scheduled practices.
- However, if she is able to attend some practices, she may cheer with the team on the sidelines.

It is noted that the term "some" was not specific or defined in the meeting notes and is, therefore, open to interpretation. The Google definition will be used for the purposes of this investigation and, as such, the term "some" is defined as an unspecified number or a small amount.

Interviews and documentation found conflicting information about the number of cheerleading practices which were held as well as the number of these practices the student actually participated in during December 2024 and January 2025. The Activities Coordinator indicated the student did not attend any of the cheerleading practices; however, both the Cheerleading Coach and the complainant reported the student attended at least some of the practices.

SO610 contends that the student failed to participate in enough cheerleading practices between December 10, 2024 and January 28, 2025 to be allowed to cheer on the sidelines during the final home game of the basketball season. However, interviews with the complainant and the Cheerleading Coach both support a finding that the student attended "some" practices as was described in the program modifications determined at the December 10, 2024 meeting. For this reason, the student did meet the requirement to cheer on the sidelines during the final home game on January 28, 2025.

However, based on this incorrect interpretation of the term "some", SO610 unilaterally determined to only provide the student the opportunity to *"to sit with the team on the bleachers in her cheer uniform"* and thus denied the student the opportunity to cheer with her teammates during the final home game.

It should be noted the student did not cheer on the sidelines during the home game held on January 21, 2025 but instead chose to sit and observe her cheerleader peers. While this is essentially the same outcome that was offered to the student by SO610 for the January 28, 2025 home game, the glaring difference is that the student made the choice of how she would participate in the cheerleading activity on January 21st while SO610 made the decision and took away the student's opportunity to make a choice for how to participate in the game on January 28th.

Based on the foregoing, ***SO610 is determined to be OUT of compliance*** with federal regulations at 34 C.F.R. 300.320(a)(4)(ii) which require that each public agency provide program modification or supports to enable the student with a disability to be involved in in extracurricular and other nonacademic activities. As such, the following corrective actions are ordered to be completed by SO610:

Corrective Action

1. No later than 15 days from the date of this report, SO610 will provide SETS with an assurance statement that it will comply with federal regulations at 34 C.F.R. 300.320(a)(4)(ii) which require that each public agency provide program modification or supports to enable the student with a disability to be involved in in extracurricular and other nonacademic activities.
2. SO610 will develop written procedures for developing, documenting, and sharing any program modifications that are determined necessary to be provided to a student with

a disability in order to enable that student to be involved in extracurricular and other nonacademic activities. SO610 will provide SETS with a written copy of the plan and documentation that these procedures were shared with all SO610 staff responsible for extracurricular and nonacademic activities no later than October 30, 2025 .

3. SO610 will provide the Activities Coordinator with training on how to develop and document program modifications that are specific so as to avoid any miscommunication between parents and school staff in the future. SO610 will provide SETS with documentation showing the date of the training, the name of the trainer, and a summary of the training provided no later than October 30, 2025.

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

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

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

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

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

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

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

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