

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #446
ON SEPTEMBER 10, 2025

DATE OF REPORT: OCTOBER 9, 2025

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

The Complaint is against USD # 446, Independence Public Schools. In the remainder of the report, the “School” and the “local education agency (LEA)” shall refer to USD #446.

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 school district. In this case, the KSDE initially received the complaint on September 10, 2025, and the 30-day timeline ended on October 10, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #446, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented child find requirements. K.A.R. 91-40-7 (a)(b)(2)(c)(1)(2)(A)(C)(D)(3); 34 § C.F.R. 300.111(a)(c).

ISSUE TWO: Whether USD #446, in accordance with state and federal regulations implementing the IDEA, declined a parent request for an initial special education evaluation and used Response to Intervention (RTI) and General Education Intervention (GEI) data as the basis to decline the initial evaluation. K.A.R. 91-040-8, K.S.A. 72-3428, K.A.R. 91-40-7 (c), K.A.R. 91-40-11 (b)(1)(A)(B)(c)(2)(A), 34 §§ C.F.R. 300.301 (a)(b)(c), 300.305 (a)(1)(2)(d).

Investigation of Complaint

The Complaint Investigator interviewed the following LEA staff on October 1 and 3, 2025: the Assistant Principal and the School Psychologist. The Parent did not respond to a request for an interview.

In completing this investigation, the Complaint Investigator reviewed documentation provided by the Parent 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. District Policy for Response to Intervention (MTSS in KS terms), no date
2. Prior Written Notice for Evaluation or Reevaluation and Request for Consent, 09/04/25
3. Notice of Meeting, 09/04/25
4. Letter from [the Complainant], 08/26/25
5. Intervention Meeting Documentation, 09/025/25
6. Behavior Detail Report, 10/29/24-11/26/24
7. Student Period Attendance Detail, 2024-25 School Year
8. Student Period Attendance Detail, 2025-26 School Year
9. Student Schedule, 2024-25 School Year
10. Student Schedule, 2025-26 School Year
11. High School Transcript, 09/17/25
12. Report Card, 2024-25 School Year
13. DIBELS Score Sheet - Grade 8, 08/15/25
14. STAR Reading Scores, 08/16/24-08/20/25
15. STAR Math Scores, 08/16/24-08/14/25
16. Information on Communication, Meetings, Concerns, 09/04/25-09/18/25
17. Email, re: Special Education Evaluation Request, 08/28/25-09/25/25
18. Email, re: [the Student], 09/04/25-09/16/25
19. Email, re: [the Student] [Student Intervention Team] SIT, 08/28/25-09/25/25
20. Email, re: Special Education Evaluation Request - [the Student], 08/26/25-09/25/25

Background Information

This investigation involved a high school-aged student enrolled at Independence High School in USD #446. The Student is not currently receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA). The Parent requested an evaluation for their child on August 26, 2025. On September 4, 2025, the LEA responded to the Parent that an initial evaluation was not required and rejected conducting the parent-requested evaluation.

Findings of the Investigation

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

1. The LEA Policy for Academic Interventions/Tiered Support indicated the following:
 - a. Students in grades 9-12 who were identified as needing additional support participated in a dedicated advisory class for 60 minutes per week, which focused on individualized academic instruction in reading.
 - b. Students identified as needing reading support participated in English Essentials as a required elective.
 - c. "Math: At the secondary level, many data sources are used to determine if a student needs to be on an adjusted track with additional support."
 - d. "Reading: All students are screened At the secondary level, students scoring below the 40th percentile on STAR Renaissance [formerly Standardized Test for the Assessment of Reading] are administered the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) Those scoring in the Strategic or Intensive Intervention range are provided with Reading Interventions through push-in and pull-out services."
 - e. LEA policy indicated "Students can be moved out [of] or into all supports based on data from each screening window."
2. A Behavior Detail Report for the 2024-25 school year for the Student indicated three behavior incidents (October 29, 2024, November 25 and 26, 2024) for "excessive tardiness," with a resolution of detention for 25 minutes.
3. A Student Period Attendance Detail indicated the following for the 2024-25 school year:
 - a. Period 1: 21 total absences, four tardies;
 - b. Period 2: 21 total absences, zero tardies;
 - c. Period 3: 21 total absences, zero tardies;
 - d. Advisory: 22 total absences, one tardy;
 - e. Period 4: 23 total absences, zero tardies;
 - f. Period 5: 24 total absences, zero tardies;
 - g. Period 6: 22 total absences, one tardy; and
 - h. Period 7: 24 total absences, zero tardies.
4. The Student's schedule for the 2024-25 school year listed the following courses:
 - a. Term 1:
 - i. Period 1: Physical Science
 - ii. Period 2: English Essentials
 - iii. Period 3: English 9
 - iv. Advisory: Advisory 9

- v. Period 4: Geography
- vi. Period 5: Math I
- vii. Period 6: Mixed Chorus
- viii. Period 7: Girls' Health
- b. Term 2:
 - i. Period 1: Physical Science
 - ii. Period 2: English Essentials
 - iii. Period 3: English 9
 - iv. Advisory: Advisory 9
 - v. Period 4: Drawing I
 - vi. Period 5: Pre-Math I
 - vii. Period 6: Mixed Chorus
 - viii. Period 7: Web Page Design
- 5. The Student's report card for the 2024-25 school year indicated the following grades:
 - a. "English 9: Term 1, 60.04%, D; Term 2, 49.65% F";
 - b. "English Essentials: Term 1, 86.11%, B; Term 2, 88.98%, B";
 - c. "Pre-Math: Term 1, no mark; Term 2, 62.47%, D";
 - d. "Math 1: Term 1, 42.98%, F; Term 2, no mark";
 - e. "Mixed Chorus: Term 1, 93.38%, A; Term 2, 96.80%, A";
 - f. "Girls Health: Term 1, 51.51%, F"; Term 2 no mark";
 - g. "Physical Science: Term 1, 80.46%, B; Term 2, 85.72, B";
 - h. "Advisory 9: Term 1, 100%, A; Term 2, 100%, A"; and
 - i. "Geography: Term 1, 66.64%, D; Term 2, no mark."
- 6. The Student's DIBELS scores from the 2024-25 school year indicated the following:
 - a. "August 23, 2024: 96% Oral Reading Fluency Accuracy (ORF);
 - b. "December 16, 2024: 100% ORF"; and
 - c. "April 30, 2024: 98% ORF."

The Student's DIBELS score from the 2025-26 school year indicated the following:

 - d. "August 15, 2025: 98% ORF."
- 7. The Student Period Attendance Detail for the 2025-26 school year (report included school year data through September 16, 2025) indicated:
 - a. Period 1: two total absences, zero tardies;
 - b. Period 2: two total absences, zero tardies;
 - c. Period 3: two total absences, zero tardies;
 - d. Advisory: two total absences, zero tardies;

- e. Period 4: five total absences, zero tardies;
 - f. Period 5: two total absences, zero tardies;
 - g. Period 6: two total absences, zero tardies; and
 - h. Period 7: two total absences, zero tardies.
8. The Student's schedule for the 2025-26 school year indicated placement in the following courses:
- a. Term 1:
 - i. Period 1: Girls' Physical Conditioning
 - ii. Period 2: Math I
 - iii. Period 3: World History
 - iv. Advisory: Advisory 10
 - v. Period 4: Biology
 - vi. Period 5: English 10
 - vii. Period 6: Mixed Chorus
 - viii. Period 7: Learning Lab
 - b. Term 2:
 - i. Financial Literacy
 - ii. Math I
 - iii. World history
 - iv. Advisory 10
 - v. Biology
 - vi. English 10
 - vii. Mixed Chorus
 - viii. Learning Lab
9. A high school transcript that included full high school data through September 17, 2025, listed the Student's cumulative Grade Point Average (GPA) as 2.143 (weighted and unweighted). During their 9th-grade year, the Student earned 6 out of the 7.5 attempted credits.
10. An undated STAR assessment listed the following scores for the Student:
- a. Reading Enterprise:
 - i. Grade 9- August 16, 2024: "13th percentile, Intervention."
 - ii. Grade 9-December 11, 2024: "15th percentile, Intervention."
 - iii. Grade 9- April 16, 2025: "28th percentile, On watch."
 - iv. Grade 10- August 20, 2025: "29th percentile, On Watch."
 - b. Math Enterprise:
 - i. Grade 9- August 16, 2024: "25th percentile, Intervention."
 - ii. Grade 9-December 16, 2024: " 31st percentile, Intervention."

- iii. Grade 9- April 14, 2025: "26th percentile, On watch."
 - iv. Grade 10- August 14, 2025: "57th percentile, At/Above Norm Reference Benchmark."
- 11. In reference to the Student getting out of the Reading Essentials class, the Assistant Principal stated, "[The Student] tested into [the class]" based on the DIBELS' screening and STAR score for the 2024-25 school year. "This year, [the Student's] STAR score grew significantly. In [20]25 [they] qualified for a DIBELS screener, [and they] did pass benchmark there, and [then] was tested out of Reading Essentials." They added, the Student's grades now are mostly "B's."
 - 12. The Assistant Principal indicated the Student's "[Graduation Related Analytic Data] GRAD score showed [they were] on track to graduate." This score was a tool used to show potential through attendance, behavior, and grade data.
 - 13. When asked about communication with the Parents last year, the Assistant Principal indicated, "I tried to contact them and was unsuccessful. I recall that personally. ... [through] phone calls."
 - 14. An August 26, 2025 letter from the Parent to the Records Clerk served as a formal, written request for a "comprehensive special education evaluation" and was signed by the Parent. The Parent expressed concern about the Student's inability to sustain attention, focus, and follow through on academic tasks.
 - 15. On August 26, 2025, the School Counselor emailed the Parent acknowledging their formal request for a special education evaluation. They informed the Parent they planned on gathering teacher input and "as much information as possible in order to make the most informed decision for your student." They also requested to schedule a team meeting to discuss and offered a time to meet.
 - 16. On August 29, 2025, the School Counselor emailed the Choir Teacher informing them the Student had been referred to the SIT. They inquired about concerns regarding "[the Student's] ability to learn, stay focused, etc." As well as any accommodations or modifications that have been successful with the Student.
 - 17. The School Psychologist indicated the Student was referred to SIT on August 28, 2025, which was "a few days after we had gotten the Parent request." When asked how this was communicated to the Parent, they stated, "I think [the Assistant Principal] wanted to get the [SIT] to discuss, to see if there were any concerns from teachers about [the Student], because we had already had information from the Parent and we were getting ready to meet with the Parent. So [the Assistant Principal] wanted to meet with the teachers to see what concerns we had so that we could bring them to the meeting the following day to talk with the Parent."
 - 18. An Intervention Meeting document dated [September 3, 2025] indicated teacher feedback regarding the Student. It described the current concern for the Student as "attentiveness and motivation." Data shared with the team indicated the following:
 - a. Reading:
 - i. "August [20]24 - 13th percentile";

- ii. "December [20]24 - 15th percentile";
 - iii. "April [20]25 - 28th percentile"; and
 - iv. "August [20]25 - 29th percentile."
 - b. Math:
 - i. "August [20]24 - 25th percentile";
 - ii. "December [20]24 - 31st percentile";
 - iii. "April [20]25 - 26th percentile"; and
 - iv. "August [20]25 - 57th percentile."
 - c. The Preliminary version of the college entrance exam (PreACT)
 - i. "Composite Score 13: Math, 12; English 11; Reading 13."
 - d. GRAD Score
 - i. "122 - everything looks good[,] but attendance 87% last year."
 - e. Meeting notes indicated:
 - 1. The Student was "motivated" to "test out" of an Essentials Class, which the Student was able to do.
 - 2. Attendance was discussed, and it was noted the Student's frequent absences last school year may have contributed to their missing assignments.
 - 3. The Student had missing assignments for the majority of the 2024-25 school year and spent time during Advisory period in the guidance office getting "caught up."
- 19. In an interview with the Complaint Investigator, the Assistant Principal described the [September 3, 2025] SIT meeting.
 - a. Prior to the meeting, the Parent "filled out a request, sent an email to [the LEA], and said they would like to have [the Student] tested for special education."
 - b. "We set up a meeting with [the] Parent, myself, and the School Psychologist.
 - c. The protocol is to take information about a student to SIT. "So, we put [the Student] on our SIT agenda." The SIT members then reached out to "every teacher [the Student] has to get feedback" regarding performance in each class. A reading specialist pulled the Student's testing data. All of this information was presented at the meeting and the team "discussed that data. ... [We were] looking at the interventions that we were already doing with [the Student] through our reading program and an adjustment that we made with our math class. Those interventions worked."
 - d. The team knew these interventions worked due to:
 - ii. "Feedback from teachers;"
 - iii. The Student also showed significant growth in reading. The reading specialist in the SIT meeting was the Student's reading program teacher

- and mentioned the Student “was very motivated to not be in that program. ... [the Student] testing out of our reading intervention showed one piece of growth.”
- iv. Math “was a concern at [the] semester, but I remember a conversation with myself and our counselor, who was doing a grade check, and then checked in with [the Student's] math teacher last year ... [the Student] wasn't progressing well in Math One. ... We moved [the Student] to Pre-Math second semester [2024-25 school year] and [they] passed. And then this year in math, [the Student's] done well ... [Their] math teacher spoke [in SIT] that [the Student] was doing really well and [was] very surprised that there was even a concern.”
 - v. For classes the Student was not passing, “there was a significant amount of missing assignments” and “there was quite a bit of absences.”
 - vi. They noted that this is the only meeting they have had about the Student. “I tried to get in touch with [one of the Parents] because after the math move, we were trying to get in contact with them, and it has always been a struggle. So, when we got contact from [the] Parents, they actually contacted our special ed[ucation department]. So no one's ever asked for anything for us or even requested any information from us.”
20. In an interview with the Complaint Investigator, the School Psychologist described the SIT meeting and referral process:
- a. “When any parent has concerns about their student, we refer them to the [SIT] to help figure out some [GEI]. ... Teachers can refer, anybody can refer a student if they find that they're having struggles in any academic, any social, maybe it's attendance, maybe it's their buy-in to school in general, but anybody can refer their student to the SIT.”
 - b. There is a document that teachers fill out when they have concerns and are “wanting to send a student to the SIT.” When asked how parents refer their student to SIT, “I think it's more of a communication, like a verbal communication. I don't know if we have a form for parents to fill out.”
 - c. “When the SIT team meets, they get feedback from all of the students' teachers, gather up as much information that we can about a student, and then we discuss problem areas that we see in the student, things that we can improve on, [and] the student's strengths. We openly discuss how we might be able to help the child.”
 - d. “If a student isn't responding well to [GEI], we would refer them to the special education team to start the evaluation process if we deem it necessary.”
 - e. The SIT is comprised of general education teachers, one special education teacher, the School Psychologist, an administrator, a reading interventionist, and “a couple of different teachers from each department, like math, reading, history.”

21. The School Psychologist described interventions specific to the Student, "At this point [September 3, 2025 SIT Meeting], we hadn't had any concerns for [the Student] that couldn't be addressed through GEI. [They were] put in a reading essentials class, which is the general education reading intervention class ... [as] an intervention."
22. A Notice of Meeting dated September 4, 2025 specified a meeting date of September 4, 2025, at 2:30 at the High School. Delivery to the Parents was marked mailed and emailed by the School Psychologist. The purpose of the meeting indicated by an "X" stated, "If your child will be at least 14 years old during the anticipated duration of this IEP... . Your child is invited by the school to attend the meeting," and "X", "Other: Parent request for initial evaluation, team discussion."
23. The School Psychologist noted, "We don't always meet when getting consent for an evaluation, but I think it's really important to talk with the parents, especially when there's a request, to hear what their specific concerns are and if we have any more questions. ... You get so much more information than talking to them on the phone or ... through email. So I really like to have a face-to-face conversation with parents, especially when they [a]re wanting to voice concerns. ... It can be really intimidating to sit at a table with education professionals, ... but for communication[']s sake, ... we can have that back and forth. ... I just think it's best practice to meet with a parent."
24. In an Interview with the Complaint Investigator, the School Psychologist indicated they met with the Parent, the Assistant Principal, the School Counselor, and the Family Educational Advisor the day after the SIT meeting. The following is relevant information from the School Psychologist's account of the meeting:
 - a. "I was just very confused where this all came from, because it was just all of a sudden [the Student] needs an IEP. ... We hadn't had any specific concerns before and [the Student] had made progress, [they were] actively making progress."
 - b. "The atmosphere of that meeting was very hostile." "[The Parent] immediately started the meeting off with, 'I'm not going to take no for an answer and I'll take you to court.' ... We were hearing things that [the Parent] was doing to help [the Student]; all about the truancy that [the Student] had last year and how [the Parent was] just making [the Student] go [to school] regardless if [they are] sick. And if [the Student was] sick, [the Parent's idea was] the school [would then] send [the Student] home. ... Truancy was a really big issue [for the Student] last school year. [The Parent] also expressed to us ... [the Student's] previous school ... coddled [the Student] and they wouldn't listen to [the Parent's] concerns and they wouldn't do anything about [their] concerns either." "It's hard when a student misses 20% of their school year."
 - c. "Anytime I said something, it was very uncomfortable. ... [The Family Educational Advisor] kept asking for us to diagnose [the Student] with

[Attention-Deficit Hyperactivity Disorder] ADHD. ... I thought it was really strange if [they were] an educational advisor, why [were they] advising these things that schools don't do." "I asked, has [the Student] ever been diagnosed with ADHD or [do they] take any medication for attention, and [the Parent] said 'no, a doctor won't diagnose [them] with ADHD.' ... I said I do see that [the Student] does take some medication, can you explain to me what that medication is for? and [the Parent] said '[they] take it for [their] attention and depression and anxiety.' ... I think [the Parent] was saying that the depression medication does help [the Student] with [their] anxiety and attention. ... And then the [Family Education Advisor] asked if I could diagnose [the Student] with ADHD. And I said, No, schools do not diagnose. We are not medical professionals. And ADHD is a medical diagnosis."

- d. The Family Education Advisor continued asking about Other Health Impairment (OHI) and ADHD. The School Psychologist responded to them, "I am an educational professional. I am not a medical professional. I cannot diagnose your child with ADHD. ... And we talked about how, during an evaluation, we find characteristics of ADHD or characteristics of a student that might be linked to an ADHD child, similarities. And that was explained, but I never said that I diagnose ADHD. I try to make that very clear."
- e. "Towards the end [of the meeting], we were talking about all the positive things that [the Student] has done in response to [GEI]. [The Parent] almost got even more and more defensive, which is weird because those are positive things, but yet, [they were] a little bit more negative about it. ... I also understand that [the Parent] really wants [the Student] on an IEP for OHI."
- f. The end of the meeting was described as "very hostile." The School Psychologist recalled, "When it was told that we were not going forward with a special education evaluation, they said that they would be filing for due process and they would be taking us to court. And they were demanding the [PWN]. They wanted to sign the [PWN], but I told them that there wasn't any need to sign the [PWN] because we weren't moving forward with any special education action. I asked [the Parent] to stay so that I can write everything and make sure that I documented everything. And [they] said, 'no, I don't have time for that. I have to get back to work.' I [asked if they] would like me to email it to [them], or I can print it up so that it's easier to read instead of trying to read my chicken scratch. [The Parent responded] 'yes, that's fine. Just make sure you email me the [PWN] and ... the next steps to take, or whatever, to take you to court.' [I responded] 'no, I can't advise you what to do.'"
- g. At the end of the meeting, "I felt like the Parent was mad that we weren't going through with an evaluation and [they thought] that we were just dismissing their child. And I really don't think that [they] listened to any of the positive things that we said. ... But I think that the Parent left that

meeting ready to fight for [the] Student, not physically fight, but [they] wanted this to happen and [they were] really upset that it didn't happen."

25. A Prior Written Notice (PWN) dated September 4, 2025 indicated the following:
- a. The proposed action: "The LEA refuses to conduct an initial evaluation. (Parental Consent Not Required)."
 - b. The explanation of why the action was refused indicated, "LEA [rejected] the option to conduct an initial evaluation at this time. The team does not suspect the Student has a disability that significantly impedes [their] ability to access appropriate education. [The Student] has been referred for the [SIT] to address and monitor [their] missing assignments. In advisory class, [their] teacher will be monitoring missing assignments weekly. To address attendance, [the Parent] said that [they] plan to send [the Student] to school even when [they] may be sick. The team also discussed the option for [the Student] staying after school for tutoring in order to work on any missing assignments. After school tutoring has not previously been utilized by [the Student], and the team would like to see [them] [utilize] this when [they] [get] behind on assignments. [The Student] has tested out of the [GEI] in English and [has] made great gains in the area of math, displayed through [their] district assessments. [The Student] is responding well to [GEI], and the school team believes [they] will continue to make gains with assistance monitoring missing assignments, and attending school regularly."
 - i. Additionally, the action was refused, indicating the "School team shared data that [the Student] is not displaying significant deficits in these areas. Last school year, [the Student] was placed in the English Essentials class, a Tier 2 [GEI]. The English Essentials teacher expressed that [the Student] was highly motivated and a hard worker in that class. This year, [the Student] has tested out of the intervention and no longer required this intervention. After failing [their] first semester of Math 1, [the Student] was placed in a general education math intervention class to help [them] build necessary skills. This school year [the Student] has made excellent gains in the area of math and is successful in Math 1, reported by [the Student's] current math teacher. Overall, the team is seeing positive gains in response to [GEI]. ... [The Parent] shared that [the Student] does not have an ADHD diagnosis but does take some medication to address mental health (depression/anxiety). ... [The] School Psychologist expressed that schools do not have the ability to diagnose students at all, only help identify different characteristics that may [be] attribute[d] to academic deficits."
 - ii. It was noted the Student was considered "chronically truant," and the absences may have "attributed" to the Student's missing assignments and failing/low grades.

- iii. The Parent and the Family Education Advisor requested the Student be evaluated for OHI and conveyed the Student may not qualify, but “would like an evaluation to get the information.”
 - c. Options considered and the reasons the options were rejected indicated, “... an initial evaluation was rejected on the basis that [the Student] has made academic progress through [GEI] and the team does not suspect that [the Student] required specifically designed instruction in order to have education[al] success.”
 - d. Data used as a basis for the refused action indicated:
 - i. Input from three general education teachers was taken into consideration. The Choir Teacher noted the Student struggled with “retention” and “self-awareness”. The Math Teacher indicated the Student answered questions correctly when asked, and “does not suspect need for special education.”
The Advisory Teacher noted the Student had multiple missing assignments last year, and the Student “does not take direction well, but not in a defiant way.” They noted the Student was only missing one assignment thus far in the school year, which was an improvement.
 - ii. Additional data used: The Student’s grades were taken into consideration; The Student’s attendance information from the 2024-25 school year was noted; District assessment information for reading and math was taken into consideration; and the Parent input and team discussion were taken into consideration.
 - e. Other factors considered relevant to refusal of action indicated, “The team is not initiating an evaluation for special education at this time. The school team has outlined [the Student] attending school regularly, turning assignments in on time, and utilizing school-provided after-school tutoring as ways to address [P]arent’s concerns.”
 - f. Team members indicated on the form included: the Parent, the Family Education Advisor, the School Psychologist, the Assistant Principal, and the School Counselor.
 - g. Noted on the PWN was that the PWN was not immediately given to the Parent, as the Parent was unable to wait for the information to be documented.
 - h. The document listed the school contact person as the School Psychologist and indicated delivery was to the Parent with an “X” for other with no specificity, and dated September 5, 2025.
26. A Request for Consent for Special Education dated September 4, 2025, completed by the School Psychologist indicated “No signature is required. No special education action is being taken.”

27. On September 4, 2025, the Assistant Principal emailed the Advisory Teacher and explained the Student had been referred to SIT, and the main concern was regarding missing assignments. They inquired about the regularity of turned-in student work.
28. On September 5, 2025, the School Psychologist emailed the Parent, per the Parent's request, the PWN, which outlined "... the conversation we had yesterday and the school's decision to not initiate a special education evaluation." They also attached a copy of the Parent Rights in Special Education.
29. An undated document titled "Information on Communication, Meetings, and Concerns" described the following items:
 - a. "Per interview on September 18, 2025 with [the School Counselor] and [the Assistant Principal], there was no communication to the school from [the P]arents, or from the school, regarding concerns for [the Student] prior to the request for special education evaluation by [Parents]."
 - b. "The school was following their process for students that were showing a need, and the interventions worked, therefore there was not a need to reach out with concerns."
 - c. The September 4, 2025 meeting's purpose was to address the Parent's concerns and their request for evaluation. They also reviewed the supports provided over the past year to the Student, along with "the data that supports the determination that a disability is not suspected and that specially designed instruction [SDI] is not warranted at this time."
 - d. The School Psychologist asked the Parent during the meeting if the Student had an official diagnosis of ADHD, as the Parent continued to mention it. The Parent replied, "No, the doctor won't diagnose [the Student] with ADHD." The Family Education Advisor specifically asked the School to diagnose the Student with ADHD. The School Psychologist clarified that schools cannot diagnose ADHD. The Family Education Advisor then modified the request, asking if the School could at least diagnose "characteristics of ADHD," to which the School Psychologist again clarified, while a school can identify characteristics, they cannot diagnose them.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #446, in accordance with state and federal regulations implementing the IDEA, implemented child find requirements. K.A.R. 91-40-7

(a)(b)(2)(c)(1)(2)(A)(C)(D)(3); 34 § C.F.R. 300.111(a)(c).

According to K.A.R. 91-40-7 (a)(b)(2)(c)(1)(2)(A)(C)(D)(3) Each board shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities

residing in its jurisdiction, including children with exceptionalities who meet any of the following criteria: attend private schools; are highly mobile, including migrant and homeless children; or are suspected of being children with disabilities even though they are advancing from grade to grade. In addition, each board's policies and procedures under this regulation shall include age-appropriate screening procedures that meet the following requirements: for children from ages five through 21, observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening as required by state law. School personnel have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met: the child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel; the child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction; the assessment results were provided to the child's parent or parents; the assessment results indicate that an evaluation is appropriate; and the parent of a child request an evaluation of the child and the board agrees that an evaluation of the child is appropriate.

The Parent alleged the LEA failed to fulfill its Child Find requirements on September 4, 2025, when it refused to initiate an evaluation of the Student per the Parent's written request, which was submitted on August 26, 2025.

The LEA clarified they have policies and procedures for Child Find and based on those procedures, the Student was placed in a reading intervention class (and later "tested out"), the Student was moved to a general education math intervention class to increase math skills (and has since shown "high growth"), and the Student has shown growth with "significantly less" missing assignments.

The LEA's tiered support system included reading and math screenings. In ninth grade, the Student's STAR Reading scores were in the "Intervention" range, leading to placement in English Essentials and a dedicated advisory class. By April 2025, their score improved to the 28th percentile, and they exited English Essentials for the 2025-26 school year based on STAR growth and DIBELS. For math, the Student failed Math I Term 1, was moved to Pre-Math I for Term 2 (which they passed), and showed improved STAR Math scores. The LEA concluded the Student was making progress and responding well to the GEI.

The Parent formally requested a special education evaluation on August 26, 2025, due to concerns about the Student's attention and follow-through. The Student was referred to the SIT on August 28, 2025. The SIT met on September 3, 2025, reviewing teacher input, low PreACT scores, attendance issues, and missing assignments; the concern was documented as "attentiveness and motivation." The LEA met with the Parent on September 4, 2025. The Parent and the Family Education Advisor requested an evaluation for OHI and ADHD. However, the Parent noted a doctor would not diagnose ADHD and the School Psychologist clarified that the School cannot diagnose it.

Based on evidence of the Student's growth and positive response to GEIs (e.g., testing out of English Essentials and math gains), the LEA refused to conduct an initial evaluation. The September 4, 2025 PWN stated the team did not suspect the Student had a disability requiring SDI, believing the Student would continue to make gains with assistance for regular attendance and monitoring missing assignments. The LEA demonstrated a system of GEI and academic screenings that identified the Student as needing support in reading and math, in accordance with the requirement to have a system to identify, locate, and evaluate all children residing in the State who are suspected of being a child with a disability. The LEA then provided GEIs that the team concluded were successful, based on assessment data (STAR scores) and teacher feedback.

Based on the foregoing, according to IDEA and Kansas special education regulations K.A.R. 91-40-7 (a)(b)(2)(c)(1)(2)(A)(C)(D)(3), *it is not substantiated* that the LEA failed to implement child find.

Issue Two

Whether USD #446, in accordance with state and federal regulations implementing the IDEA, declined a parent request for an initial special education evaluation and used RTI and GEI data as the basis to decline the initial evaluation. K.A.R. 91-040-8, K.S.A. 72-3428, K.A.R. 91-40-7 (c), K.A.R. 91-40-11 (b)(1)(A)(B)(c)(2)(A), 34 §§ C.F.R. 300.301 (a)(b)(c), 300.305 (a)(1)(2)(d).

According to K.A.R. 91-040-8, each agency shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services. Each evaluation shall include procedures to determine the following: whether the child is an exceptional child, and what the educational needs of the child are. The evaluation team shall review existing evaluation data on the child, including the following information: evaluations and information provided by the parent or parents of the child; current classroom-based, local, and state assessments and classroom-based observations; and observations by teachers and related services providers. On the basis of that review and input from the child's parent or parents, the evaluation team shall identify what additional data, if any, is needed to determine the following matters: whether the child has a particular category of exceptionality or, in the case of a reevaluation of a child, whether the child continues to have such an exceptionality; what the present levels of academic achievement and educational and related developmental needs of the child are; and whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services.

According to K.S.A. 72-3428, an agency shall conduct a full and individual initial evaluation in accordance with this section before the initial provision of special education and related services to an exceptional child. An initial evaluation may be initiated either by the parent of a child or by an agency. An initial evaluation shall consist of procedures to determine whether a

child is an exceptional child and the educational needs of such child. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation under this act. An agency proposing to conduct an initial evaluation of a child shall obtain informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services. If the parent of a child refuses consent for an initial evaluation of the child, or fails to respond to a written request to provide consent, the agency may, but shall not be required to, continue to pursue an initial evaluation by utilizing the mediation or due process procedures prescribed in this act. An agency shall provide notice to the parents of a child that describes any evaluation procedures the agency proposes to conduct.

According to K.A.R. 91-40-7 (c), any board may refer a child who is enrolled in public school for an evaluation if one of the following conditions is met: school personnel have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child. School personnel have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met: the child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel; the child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction. School personnel must ensure the assessment results are provided to the child's parent or parents, and the assessment results indicate that an evaluation is appropriate. The parent of the child requests and gives written consent for an evaluation of the child, and the board agrees that an evaluation of the child is appropriate.

According to K.A.R. 91-40-11, a group evaluating a child for a specific learning disability may determine that the child has that disability only if the following conditions are met: the child does not achieve adequately for the child's age or meet state-approved grade-level standards, if any, in one or more of the following areas—Oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, and mathematics problem solving—when the child is provided with learning experiences and instruction appropriate for the child's age and grade level; and the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified above when using a process based on the child's response to scientific, research-based intervention, or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade-level standards, or intellectual development that is determined by the group conducting the evaluation to be relevant to the identification of a specific learning disability, using appropriate assessments. Furthermore, the group evaluating the child shall ensure that the child is observed in the child's learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty, and in conducting the

observation, the group may employ either of the following procedures: Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation, or have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent is obtained.

The Parent alleged the LEA refused to complete an evaluation for special education services due to a lack of a medical statement. The Parent alleged the LEA violated policy by using RTI and GEI data to deny an initial evaluation request.

The LEA clarified they identified areas of need for the Student, and they were placed in a reading intervention class (and later "tested out"), and were moved to a general education math intervention class to increase math skills (and have since shown "high growth"). Data showed these interventions by the LEA were adequate, which meant they had no reason to initiate special education evaluation.

The evidence confirms the LEA declined the Parent's request for an initial special education evaluation on September 4, 2025, formally documented in a PWN. The LEA used the Student's positive response to and success with GEI as the basis to decline the initial evaluation. Specifically, the PWN cited the Student "testing out of the [GEI] in English" and making "great gains in the area of math." The LEA concluded the Student was responding well to GEIs, and therefore, the team did not suspect a disability that would require SDI.

This action by the LEA, utilizing GEI/RTI data to inform the decision not to evaluate, aligns with the principles codified in K.A.R. 91-40-11 (b)(1)(A), which requires the use of a variety of assessment tools and strategies, including "existing data" and information provided by the parent. It also relates to K.A.R. 91-40-7 (c) and K.S.A. 72-3428, which recognize that a tiered system of support (like RTI/GEI) is a part of general education.

Based on the evidence, the LEA followed its process, implemented documented GEI, and used data showing the Student was making sufficient progress and was responsive to those GEIs. The LEA then documented this existing data in the PWN to support its conclusion that a disability was not suspected and SDI was not warranted at that time, which is consistent with the framework supported by state regulations.

Based on the foregoing, according to IDEA and Kansas special education regulations K.A.R. 91-040-8, K.S.A. 72-3428, K.A.R. 91-40-7 (c), and K.A.R. 91-40-11 (b)(1)(A)(B)(c)(2)(A), ***it is not substantiated*** that the LEA's use of RTI and GEI data as the basis to decline the initial evaluation was a violation of regulations.

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. 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)