

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #37
ON SEPTEMBER 11, 2025

DATE OF REPORT: OCTOBER 14, 2025

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

The Complaint is against USD # 437, Auburn/ Washburn Public Schools. In the remainder of the report, the “School” and the “local education agency (LEA)” shall refer to USD #437.

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

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint. A complaint is considered to be filed on the date it is delivered to both the KSDE and the LEA. In this case, the KSDE initially received the complaint on September 11, 2025, and the 30-day timeline ended on October 11, 2025.

Allegations

The following issues will be investigated:

ISSUE ONE: Whether USD #437, in accordance with state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), implemented the Student's Individualized Education Program (IEP), which included supports identified in the Student's Behavior Support Plan and Medical Plan. K.A.R. 91-40-16(b)(3), K.A.R. 91-40-19; 34 CFR §300.323.

ISSUE TWO: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, limited the Complainant's right to ask for revisions of their child's IEP. K.A.R. 91-40-16(a), K.A.R. 91-40-19(c), K.S.A. 72-3429(f)(2); 34 CFR § 300.324.

ISSUE THREE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant with a copy of the procedural safeguards

at least one time during the school year and upon the request of the Complainant. K.A.R. 91-40-26(d); 34 CFR § 300.504.

ISSUE FOUR: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided IEP access to each regular education teacher, special education teacher, related service provider, and other service providers who are responsible for its implementation. K.A.R. 91-40-16 (4), 34 CFR § 300.321.

ISSUE FIVE: Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the least restrictive environment (LRE) for the Student, including non-academic and extracurricular services and activities, such as meals, recess periods, and other non-academic services and activities, to the maximum extent appropriate to the needs of the Student. K.A.R. 91-40-1(h)(i)(1).(II), K.A.R. 91-40-21, K.S.A. 72-3420; 34 CFR § 300.600(d).

Investigation of Complaint

The Complaint Investigator interviewed the Complainant by video call on October 3, 2025. The following LEA staff were interviewed on October 2, 2025: The Food Service Manager, the Special Education Provider, the Behavior Technician 2, and the Director of Secondary Special Education.

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

1. Individualized Education Program, dated December 17, 2024.
2. Email correspondence between the LEA and the Complainant dated September 17, 2024 through September 10, 2025.
3. Progress Report dated May 19, 2025.
4. The Student's daily schedules dated January 14, 2025 through September 8, 2025.
5. Doctor's Note dated April 24, 2025.
6. My Ride K-12 Bus Details dated September 5, 2025, through September 8, 2025.
7. Emergency Safety Intervention (ESI): Report and Parent Notification dated May 5, 2025.
8. ESI Documentation Log dated May 5, 2025.
9. ABC Data dated February 7, 2025.
10. IEP Fidelity & Support system for [the Student] dated September 10, 2025.
11. Prior Written Notice (PWN) for Evaluation or Reevaluation dated June 4, 2025.
12. PWN for Identification, Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent dated December 17, 2024.
13. Request for Consent for Special Education Action dated March 7, 2025.

14. Student Activity Report dated September 12, 2024.
15. Functional Behavior Assessment Summary (FBA) dated July 3, 2025.
16. LEA Response, undated.
17. Staffing Transition Plan dated February 28 through April 2 (no year given).
18. APE Consult dated August 14, 2024, through September 10, 2025.
19. Student Period Attendance Detail dated September 24, 2025.
20. Student Bell Schedule, undated.
21. Advanced De-Escalation Skills Slideshow dated August 5, 2025.
22. Detailed Hours Report dated July 11, 2025, through August 11, 2025.

Background Information

This investigation involved a tenth-grade student enrolled at Washburn Rural High School in USD #437. The Student was receiving special education or related services as a child with a disability per the Individuals with Disabilities Education Act (IDEA). The Student is very observant and enjoys building relationships with school staff. The Student experienced significant disabilities and required a one-to-one staff member during their entire school day, including transportation to and from school. The Student had a Behavior Intervention Plan (BIP) that addressed behaviors such as physical aggression, eloping, self-injurious behaviors, eating too fast, and toileting challenges. The Student was non-verbal and used an Augmentative and Alternative Communication (AAC) device.

Findings of the Investigation

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

1. On September 17, 2024, an email thread between the Special Education Provider and the Complainant stated:
 - a. The Complainant requested the Student's "dedicated bathroom breaks and drinking water schedule" for each day, stating the Student was using the bathroom at home more frequently during school days and had clear urine. In addition, the Complainant stated the Student was "soaking [their] pull-up, the bedsheets, [their] pillow and pillowcase, blanket and comforter" on school nights only.
 - b. The Special Education Teacher stated the Student was drinking "anywhere between 20 and 24 ounces a day," adding the Student's last drink of the day "is typically before 6th hour, about 6 oz."
 - c. The Special Education Teacher suggested using a larger water bottle to hold all of the water the Student is allowed for the day. They stated they could portion it out to the Student throughout the day to limit and track the amount of water the Student drinks.

- d. The Complainant responded to the Special Education Provider's email on September 19, 2024, stating, using the larger water bottle "sounds like a good idea to try."
2. On October 2, 2024, the Complainant emailed the Special Education Provider to state the Student had exited the bus holding a sweatshirt and a T-shirt, which was against the Student's plan not to have access to clothing. The Complainant stated the Student was agitated because of the clothing and "tore up [their] parents' house, destroyed and shredded clothing, tired [sic] to destroy and throw away all of their parents' clothing, and was up ALL night." The Student had become physically aggressive with their Parents and had to be picked up early because the Student had been "violent and destructive over [their] obsession with clothing and destroying it to make trash." The Complainant stated they had made multiple requests for a meeting about these issues and stated there had been no meeting scheduled and the paraprofessional was still letting the Student access their backpack and was not following the Student's IEP. The Complainant sent an additional email to the Special Education Provider asking for a copy of the Student's most recent IEP.
3. An annual IEP dated December 17, 2024, included the following:
 - a. The Student struggled to use oral language to express their basic needs and wants, request information, and communicate what they know. The Student struggled with managing and regulating their emotions, behaviors, and social situations. The Student demonstrated anxious behaviors, OCD tendencies, and had a PICA and Disruptive Mood Dysregulation Disorder.
 - b. Transition goals were listed in the areas of education and training, employment, and independent living skills. Academic and Functional goals were listed in the areas of math, English language arts, communication, fine motor, emotional regulation, social skills, spelling, daily living skills, and personal hygiene habits.
 - c. The BIP was included in the IEP and was dated May 24, 2024. The plan indicated the following:
 - i. Problem behaviors included hitting, kicking, pushing, headbutting, grabbing, eating inedible objects, property destruction, tackling staff, pulling hair, biting, pinching, slapping, peeing on staff, smearing feces, tearing clothing, eloping, picking scabs, eating too fast, swallowing food whole, overeating, and overdrinking, leading to vomiting.
 - ii. Precursor behaviors included anxious sounds, face scrunching, hitting the table, grabbing the staff's hand, forceful high-fives, restlessness, requests to go to the preferred area, noticing holes or imperfections in clothing, and seeing clothing or laundry items.
 - iii. Antecedents included being hungry, a change in staffing, sensory needs not met, non-preferred tasks, new tasks, a change in routine,

- unclear expectations, unstructured time, being told 'no', hearing staff discuss bathroom or laundry, and being uncomfortable in clothes.
- iv. The function of behavior was described as an attempt to avoid tasks, activities, or environments, or to gain a preferred activity.
 - v. Replacement behaviors were listed and indicated staff "should refer [the Student] to the icons on [the Student's] desk for break, calm down room, help, and then immediately provide what [they] requests [sic]."
 - vi. Proactive strategies included ensuring the Student had "access to two staff members who are trained in de-escalation strategies and who are familiar with [the Student's] routines and behavior plan" and ensuring the Student had "access to two staff members who know how to access help for emergent situations, such as knowing the number for the office and knowing the location of the intercom button" and ensuring staff are "aware of the PRN [as needed] medication that the nurse keeps available to [the Student]." Additional strategies included keeping the Student stimulated and engaged in learning activities, pre-teaching routines, familiarizing the Student with staff, offering choices, social stories, reinforcement with "thumbs-up and verbal praise rather than tangible items and rather than physical hand shakes, bumps, or high-fives," and using social reinforcement for transitioning onto the bus. According to the document, "a copy of BIP will be on the bus."
 - vii. Reactive strategies included alerting the nurse at the first sign of aggressive behaviors to administer PRN medication. The BIP stated, "This should be a known procedure by [the Student's] staff, administration, and the nursing staff." Additional strategies included directing the Student to the calm space, reminding the Student of expectations, changing their activity, offering breaks, and the use of seclusion when the Student was being unsafe.
 - viii. Staff trainings included adding necessary staff training in the IEP, training on the procedure for the PRN medication, staff members who were trained in CPI to oversee de-escalation, new staff would receive training on de-escalation strategies, new staff would be trained on strategies the Student responds best to, and staff would have access to the Student's BIP.
- d. The IEP team determined Extended School Year Services (ESY) would be necessary for the Student.
 - e. The following accommodations were listed:
 - i. Allow frequent breaks (as needed, while or after completing a work session), reinforcement system, Positive Behavior Supports System (PBIS), visual schedule, other mini schedules, alert student to transitions, other scheduled sensory movement breaks (twice a day for

- 15 minutes), and other supervision (for safety, in the restroom, transitions, and classroom).
- f. Support for school personnel included indirect occupational therapy.
 - g. The IEP team determined transportation services were required.
 - i. The IEP indicated the Student required a one-on-one bus aide, safety vest/harness, fewer people aboard the bus, and preferential seating (not by the window, aisle seat, not seated next to other students).
 - ii. The IEP indicated the bus personnel needed training in de-escalation and CPI in order to provide services to the Student.
 - h. Service providers on the IEP included the special education classroom teacher, the school nurse, an instructional facilitator, an occupational therapist, and a speech and language pathologist. Services indicated they would be provided outside of regular education classrooms, programs, and other locations.
 - i. “[The Student] will have a 1-on-1 non-instructional behavior technician during non-instructional time. In addition, [the Student] will have another adult in the classroom (or restroom, hallway, transition areas, etc.) during non-instructional time.”
 - j. The IEP indicated via a checkbox, “parent rights have been provided this school year to both parents (or educational decisionmaker) ... in native language.”
 - k. The service delivery statement indicated:
 - i. The Student will have “a 1-on-1 instructional behavior technician” with an additional “adult in the classroom (or restroom, hallway, transition areas, etc.) during instructional time.”
 - ii. The Student will have “a 1-on-1 non-instructional behavior technician” with “another adult in the classroom (or restroom, hallway, transition areas, etc.) during non-instructional time”
 - iii. The Student will have a 1-on-1 bus aide for transportation to and from school.
4. On December 17, 2024 a PWN indicated the IEP team met to review data to determine whether any changes or modifications to the special education and related services were needed to enable the Student to meet their goals as set in the IEP and to participate, as appropriate, in the general education setting. The document stated the LEA refused to initiate or change the provision of special education services and listed inclusion support, direct services for Speech, nursing, and OT, indirect services for OT and autism support, attendant care, and specialized transportation. It also described the need for a 1-on-1 “instructional behavioral technician” and a 1-on-1 “non-instructional behavior technician.” In addition, the PWN indicated the Student would have inclusion services for three elective periods.

The Complainant signed their consent on the attached Request for Consent for Special Education Action form on March 7, 2025.

5. On January 14, 2025, the Student's daily schedule indicated:
 - a. The Student ate biscuits and gravy, a Trix bar, a muffin, milk, apple juice, yogurt, a Pop-Tart, and an apple for breakfast.
 - b. The Student ate refried beans, a banana, peaches, carrots, green pepper, crisritos, milk, ranch, and salsa for lunch.
 - c. The Student had two walks, two breaks, and three trips to the bathroom.
 - d. No Antecedent, Behavior, Consequence (ABC) data was provided for the day.
6. On January 15, 2025, the Student's daily schedule indicated:
 - a. The Student ate biscuits and gravy, yogurt, milk, a Trix bar, a muffin, apple juice, a Pop-Tart, and an apple for breakfast.
 - b. The Student ate orange chicken, chicken nachos, milk, sidekick icee, carrots, bell peppers with ranch, broccoli, and applesauce for lunch.
 - c. The Student had two walks, one break, and five trips to the bathroom.
 - d. No ABC data was provided for the day.
7. On January 16, 2025, the Student's daily schedule indicated:
 - a. The Student ate biscuits and gravy, apple juice, a Trix bar, milk, a muffin, an apple, a Pop-Tart, and yogurt for breakfast.
 - b. The Student ate goulash, pears, potato salad, garlic bread, cucumber, carrots, ranch, and milk for lunch.
8. On January 27, 2025, the Complainant emailed the Special Education Provider to request a copy of the Student's most recent IEP.
9. On January 28, 2025, an ABC data document described an incident at 2:10 P.M. during a science activity, which lasted 10 to 15 minutes and was rated medium intensity. The Student was denied an activity or item, and they responded with crying/whining/yelling/screaming, headbutting, and by hitting their head on the floor or wall. The form noted the Student was removed from the activity/ location and was offered a calming spot.
10. On January 30, 2025, the Complainant emailed the Special Education Provider stating they left them a voice message requesting the IEP be emailed that day.
11. On January 31, 2025, the Complainant emailed the Special Education Provider and the Assistant Principal, stating they did not receive the IEP after speaking with the Special Education Provider the previous day. They asked the Assistant Principal if they could get the IEP emailed to them, "since there seems to be computer difficulties" by the Special Education Provider. On February 2, 2025, the Assistant Principal emailed the IEP to the Complainant.
12. On February 7, 2025, an ABC data document indicated an incident at 2:00 P.M. during a transition that lasted one to five minutes and was rated medium intensity.

- During a transition, the Student demonstrated crying, whining, and hitting. The staff provided redirection, removal from the activity, and a calming space.
13. According to a staffing transition plan, for the week of February 28 through March 6, [2025], staff would observe Behavior Technician 1 with a “gradual release” occurring with feedback. The plan listed the Student’s needs, which included “intentionality, consistency, and programming. It added staff need to be able to “observe, ask questions, and gradually take over programming to make sure the level of support remains.” It stated the team was using Behavior Skills Training.
 14. According to a staffing transition plan, for the week of March 7 through March 10, 2025, other staff would work with the Student while the Behavior Technician 1 observed and provided feedback and support. The plan stated staff would be “responsible for all facets of programming and data collection” while being able to ask questions. The plan stated Behavior Technician 1 would be assessing “fidelity levels, as staff need to maintain a high level of programmatic fidelity to ensure student success.”
 15. According to a staffing transition plan, on March 11, [2025], Behavior Technician 1 would work with other students but be available if the new staff had questions about the Student.
 16. On March 7, 2025, the Complainant emailed the Special Education Provider to address concerns around the Student’s behavior. They stated they were informed the Student was aggressive on the bus on Wednesday, and did not receive a report about it. They also stated they were informed the Student had been running from Behavior Technician 2, crying, yelling, and “regressing in [their] behavior and they had not received any documentation for that either. The Complainant stated they were concerned about the “lack of communication regarding [the Student’s] IEP, [the Student’s] experiences in the classroom and on the bus, and [their] behavioral support.” They stated they did not believe they were receiving “accurate or timely information,” and requested a clear line of communication moving forward.
 17. On March 27, 2025, the Special Education Provider emailed the Complainant to provide them with details about an incident. The email stated the Student was triggered when another student touched the Student’s iPad, but quickly regulated themselves. The Student again showed signs of dysregulation when their timer finished, but class hadn’t begun yet. Behavior Technician 2 helped the Student do deep breathing and set a new timer for five minutes. When the Student was asked to get supplies, but the new timer hadn’t gone off yet, they clenched their jaw. Behavior Technician 2 moved the Student to the quiet room. The Student got agitated and hit, pulled the Behavior Technician 2’s beard, tried to run, and tried to head butt the walls. When they got to the safe room, the Nurse came and administered PRN. Behavior Technician 2 helped the Student with deep breathing. Behavior Technician 3 helped the Student take a deep breath. At around 2:40 P.M., the team determined the Student would be calm enough to ride the bus, and they helped the Student complete their end-of-day routine, which they followed with no

- issues. The Special Education teacher spoke to the bus driver, and there were no issues around getting the Student on the bus and “strapped in.”
18. On March 28, 2025, the Special Education Provider emailed the Complainant with suggestions for support. They stated the team decided to increase the ‘wait’ timer to seven minutes at the start of class to allow the Special Education Teacher to get started. They agreed not to remove the Student at the first signs of escalated behavior, only after the Student has demonstrated aggression, and to remove students from table groups if the Student appears to escalate to violence. They asked if the Complainant wanted them to try ‘tricking’ the Student into “all done” if it appears the Student is going to escalate.
19. On March 31, 2025, the Complainant emailed the Special Education Provider stating:
- a. They agreed the Student “should not be removed from class at the first sign of [them] getting upset” because that would escalate the Student further.
 - b. They stated a PRN could help at the first sign of any agitation.
 - c. They did not see in the report where the team used the Student’s iPad to allow them to communicate what they were upset about.
 - d. They reiterated the importance of keeping the Student from handling or making trash.
 - e. The Student should not be allowed to throw items they broke or destroyed, adding “this can make it harder for others to redirect [the Student] effectively.”
 - f. The Student should not be “allowed to get as much food as [the Student] wants.” They shared, “[the Student] may begin to feel like [they’re] more in control than [they] should be.”
 - g. They noticed the Student had tears in their clothing and broken pieces on their iPad, indicating the Student was “engaging in behavior [the Student] knows is outside of expectations,” adding these behaviors could be signals that more significant behaviors were coming.
 - h. They were seeing a “noticeable increase in the amount of urine in the bed-wetting during the school week.” They added the Student’s sheets, blankets, clothing, pillow, and diaper had been getting completely soaked. The Complainant reiterated that it was something addressed in the IEP and stated if it wasn’t being followed could be “contributing to both physical and behavioral issues.”
 - i. They asked to have the Student’s IEP and BIP followed “precisely and consistently.”
 - j. They recommended administering a PRN at the first sign of agitation, before the Student becomes aggressive, and added, if the Student needed seclusion, to limit the number of staff present, limit the talking, and remove items like the iPad, glasses, and headphones right away.

- k. The staff staying with the Student should remain calm and “use simple, supportive language to help [them] de-escalate.”
 - l. Removing items is an incentive for the Student because they will want them back, and they require safe behavior to get the items back.
20. On April 7, 2025, the Complainant emailed the Special Education Provider to follow up on issues the Student was experiencing at home. The Complainant asked for the Student’s routine at school, including their bathroom schedule, how often they take breaks, and when and how much the Student is drinking at school. The Complainant stated they had noticed an increase in the Student’s bathroom use after school, including large amounts of urine, and increased behavior issues around bathroom use. The Complainant added they heard Behavior Technician 2 had told the Student they could have more snacks when they got home, after the Student had asked for snacks while getting on the bus. The Complainant expressed feeling that the “IEP might not be followed consistently, particularly regarding structured eating, drinking, and bathroom routines. They asked the Special Education Provider to check with the paraprofessionals to confirm the Student’s current daily routine.
21. On April 9, 2025, the Student’s daily schedule indicated:
- a. The Student ate biscuits and gravy, an apple, a Pop-Tart, yogurt, milk, and juice for breakfast.
 - b. The Student ate pulled pork, potato salad, fruit, beans, veggies, and protein milk for lunch.
 - c. The Student had three walks, three breaks, and three trips to the bathroom.
 - d. ABC data indicated a low-intensity incident at 12:00 P.M. during an art activity. According to the report, the Student was given a direction, task, and activity. They responded with refusal and destruction of property, tearing up their artwork. The consequences were redirection, and the duration was less than one minute.
22. On April 16, 2025, the Complainant emailed the Special Education Provider to follow up about previous emails. They stated they had heard the Student was kicking and headbutting the Bus Paraprofessional and another paraprofessional on the bus, and the Complainant had not received any documentation or an incident report. They asked for more details from that event and asked to have these events formally documented to better understand the Student’s needs.

The Complainant described receiving ABC data which listed mild behavior and a headbutt, but stated they had been told the Student had another, more significant behavioral event in which they eloped, punched a paraprofessional, headbutted Behavior Technician 2, and the room had to be cleared. The Complainant asked for confirmation and documentation of this event.

The Complainant asked to review the Student’s drinking and bathroom schedule

and wanted to know how often [the Student] is drinking, how much they were drinking, and how often they were going to the bathroom. The Complainant reminded the Special Education Provider the Student “should not have unlimited access to food or drink.”

23. On April 16, 2025, the Student’s daily schedule indicated:
 - a. The Student ate biscuits and gravy, a Nutrigrain bar, an apple, yogurt, a Pop-Tart, milk, and cherry juice for breakfast.
 - b. The Student ate potato salad, beans, a chicken sandwich, fries, apple sauce, veggies, and milk for lunch.
 - c. The Student had three walks, two breaks, and two trips to the bathroom.
 - d. ABC data indicated a low-intensity incident at 11:00 A.M. during occupational therapy, which lasted less than one minute. The notes stated, “OT gone.” The behavior indicated the headbutting occurred, and the consequence was the redirection of the Student.
24. On April 23, 2025, the Student’s daily schedule indicated:
 - a. The Student ate breakfast crisпитos, a Trix bar, a Pop-Tart, an apple, yogurt, grape juice, and milk for breakfast.
 - b. The Student ate nuggets and potatoes, a dinner roll, grapes, applesauce, strawberry frozen juice, veggies with ranch, and milk for lunch.
 - c. The Student had two walks, four breaks, and three trips to the bathroom.
 - d. ABC data indicated a medium-intensity incident at 2:00 P.M. during science, which lasted 1-5 minutes. The Student was in a transition and was given a direction, task, or activity. The Student responded with refusal, crying/whining/yelling/screaming, and headbutting. The consequences were redirection and “keeping the demand.”
25. On April 24, 2025, a note from the Student’s pediatrician described the Student’s dietary needs, stating the Student needed to continue “a high protein diet with plenty of fruits and vegetables, while limiting sweets and fried foods.” The note also indicated the need to “avoid food and drinks as a behavior management tool” to maintain a healthy body mass index (BMI). A Medical Statement to Request Meal Modification dated April 24, 2025, added specific foods that should be avoided. These included processed foods, high-fat foods such as ranch dip and heavy dressings, sugary foods like Pop-Tarts and snack cakes, and potato salad. Replacement foods listed included whole grains, whole fruits and vegetables, and unsweetened Greek yogurt. The statement addressed preventing the Student from self-serving to maintain portion control. The statement specified food should not be used as a motivator and should not be used to avoid aggression. Staff was directed to coordinate with nutrition services to “ensure consistency with medical recommendations.
26. On April 24, 2025, the Student’s daily schedule indicated:

- a. The Student ate biscuits and gravy, potatoes, a Trix bar, a Pop-Tart, grape juice, an apple, and milk for breakfast.
 - b. The Student ate potato salad, a hamburger with ketchup, fruit, baked beans, sunchips, veggies with ranch, and milk for lunch.
 - c. The Student had four walks, four breaks, and three trips to the bathroom.
 - d. ABC data indicated no incidents.
27. On April 25, 2025, the Complainant emailed the Special Education Provider and requested to speak with them by phone or in person regarding the Student's care at school. The Complainant indicated this was a follow-up email, and previous emails had been sent with no response. The Complainant indicated they attached a doctor's note describing the Student's health needs. The Complainant stated they were concerned with how food and drink were being managed in relation to the Student's IEP. In addition, the Complainant stated they were informed about an incident on the bus in which the Student engaged in headbanging and hitting, and stated they had not received documentation or an incident report. The Complainant added there was a second incident on the bus where the Student had aggressive behaviors, and the Complainant did not receive any "written communication" about it.
28. On April 25, 2025, the Student's daily schedule indicated:
 - a. The Student ate biscuits and gravy, a Trix bar, a Pop-Tart, an apple, yogurt, mango juice, and milk for breakfast.
 - b. The Student ate potato salad, chips, a rib sandwich, mixed fruit, veggies, beans, and a shake for lunch.
 - c. The Student had two walks, four breaks, and three trips to the bathroom.
 - d. ABC data indicated no incidents.
29. On April 28, 2025, the Student's daily schedule indicated:
 - a. The Student ate eggs, biscuits and gravy, a Pop-Tart, a Trix bar, an apple, yogurt, grape juice, and milk for breakfast.
 - b. The Student ate potato salad, pulled pork sandwich, fries, applesauce, lemon frozen juice, veggies with ranch, and a protein shake for lunch.
 - c. The Student had three walks, four breaks, and three trips to the bathroom.
 - d. ABC data indicated no incidents.
30. On April 29, 2025, the Complainant emailed the Special Education Provider and the Assistant Principal and requested updating the Student's IEP to "more clearly state that [the Student] is to have a modified and accommodated breakfast, lunch, and food and drink plan and schedule." The email also described the foods the Student had been allowed to have, which included biscuits and gravy, potato salad, Pop-Tarts, fries, fruit juice, and chips. The Complainant asserted the "amount and type of food is excessive and not appropriate for [the Student]." The Complainant added the Student was not supposed to consume processed foods or fruits in juice form.

The Complainant asked for a strict food plan and a scheduled bathroom and drinking plan. They added the Student required clear limits around food, drink, and bathroom use for behavior management.

31. On April 29, 2025, the Assistant Principal emailed the Complainant and stated that since the Special Education Provider was out for a few days, they would “connect with [the Student’s] support staff to review their current procedures” adding their goal was to “ensure any necessary adjustments are made so they align more closely with [the Student’s] food plan.”

Also on April 29, 2025, the Complainant emailed the Assistant Director to ask for assistance with the Student’s food plan. They stated they needed “help getting [the Student’s] IEP updated to more clearly state that [they] [are] to have a modified and accommodated breakfast, lunch, and food and drink plan and schedule throughout the day.” They added a detailed report of the food the Student had been provided for their meals at school, which included processed foods and fruit in juice form, and stated, “This amount and type of food is excessive and not appropriate for [the Student].”

32. On April 29, 2025, the Student’s daily schedule indicated:
- a. The Student ate a waffle with syrup, a Pop-Tart, grape juice, a Trix bar, an apple, yogurt, and milk for breakfast.
 - b. The Student ate beans, a chicken quesadilla, a banana, applesauce, veggies with ranch, and milk for lunch.
 - c. The Student had three walks, five breaks, and three trips to the bathroom.
 - d. ABC data indicated no incidents.
33. On April 30, 2025, the Student’s daily schedule indicated:
- a. The Student ate biscuits and gravy, an apple, a Twix bar, a Pop-Tart, yogurt, grape juice, and milk for breakfast.
 - b. The Student ate chips and taco meat, refried beans, apple sauce, frozen lemon juice, chocolate protein milk, and veggies with ranch for lunch.
 - c. The Student had three walks, four breaks, and two trips to the bathroom.
 - d. ABC data indicated an incident at 11:12 A.M. during occupational therapy, which lasted less than a minute and was low intensity. The Student was given a direction/task/activity, and they responded by hitting. The consequence was redirection and de-escalation.
34. On May 1, 2025, the Student’s daily schedule indicated:
- a. The Student ate biscuits and gravy, an apple, yogurt, a Pop-Tart, cranberry juice, and milk for breakfast.
 - b. The Student ate a chicken sandwich, potato salad, beans, and milk for lunch.
 - c. The Student had two walks, five breaks, and one trip to the bathroom.
 - d. ABC data indicated no incidents.

35. On May 2, 2025, the Student's daily schedule indicated:
- a. The Student ate a donut, an apple, yogurt, apple juice, and milk for breakfast.
 - b. The Student ate a chicken quesadilla, potato salad, fruit, veggies, and milk for lunch.
 - c. The Student had four walks, five breaks, and four trips to the bathroom.
 - d. ABC data indicated no incidents.
36. On May 5, 2025, an Emergency Safety Interventions (ESI) Report and Parent Notification was completed to document a restraint that began at 9:30 A.M. and lasted for two minutes. The Student engaged in physical aggression after they eloped into a potentially dangerous area and did not respond to directives. According to the notes, the Student struck the Behavior Technician 2 many times before running ahead of them. The Student pushed another student in their head and then hit a second student. Behavior Technician 2 then wrapped their arms around the Student, and they "both went down to the ground slowly." Behavior Technician 2 put their hands on the Student's legs until they calmed, and all students had left the area.

According to the ESI Documentation Log, the Student needed to use the restroom while on their scheduled walk during the second hour. The Student was in a hurry, and the Behavior Technician 2 had to put their arm out to stop the Student from walking in front of a vehicle at the "cross stop." The Student was very upset and hit, scratched, and pulled the Behavior Technician 2's beard. Behavior Technician 2 used de-escalation strategies, but the Student reengaged when Behavior Technician 2 wouldn't let the Student use the restroom because there were too many other students in the hall. The Student ran from Behavior Technician 2, hit Student 1, and then hit Student 2, before Behavior Technician 2 restrained the Student.

37. On May 5, 2025, the Student's daily schedule indicated:
- a. The Student ate biscuits and gravy, an apple, a Pop-Tarts, milk, yogurt, and juice for breakfast.
 - b. The Student ate potato salad, baked beans, a cheeseburger, an icy, applesauce, and veggies for lunch.
 - c. The Student had four walks, five breaks, and three trips to the bathroom.
 - d. ABC data indicated a high-intensity incident at 9:50 A.M. during an outside walk. The Student was given a correction while transitioning. The form indicates "other: car." The Student was crying/whining/yelling/screaming, scratching, hitting, and kicking, running away, headbutting, and hitting their head on the floor/wall. Consequences were redirection, physical prompt, verbal reprimand, calming spot, and "other: time-out." The duration was 10-15 minutes.
 - e. ABC data indicated a low-intensity incident at 2:20 P.M. during the time with the nurse. The Student was in a transition. The Student refused by walking

backward and freezing to avoid entering the room. Consequences were redirection, ignoring the problem behavior, and maintaining the demand. The duration was one to five minutes.

38. On May 6, 2025, the Student's daily schedule indicated:
 - a. The Student ate biscuits and gravy, a Pop-Tart, an apple, grape juice, and milk for breakfast.
 - b. The Student ate a chicken sandwich, milk, apple sauce, raspberry icee, baked beans, potato salad, and veggies with ranch for lunch.
 - c. The Student had four walks, five breaks, and three trips to the bathroom.
 - d. ABC data indicated no incidents.
39. On May 7, 2025, the Student's daily schedule indicated:
 - a. The Student ate a breakfast wrap, yogurt, a Pop-Tart, an apple, grape juice, and milk for breakfast.
 - b. The Student ate crispitos, beans, apple sauce, icey, veggies, and milk for lunch.
 - c. The Student had three walks, five breaks, and three trips to the bathroom.
 - d. ABC data indicated no incidents.
40. On May 8, 2025, the Student's daily schedule indicated:
 - a. The Student ate biscuits and gravy, yogurt, an apple, a Pop-Tart, grape juice, and milk for breakfast.
 - b. The Student ate chips and queso, apple sauce, kiwi-strawberry icee, veggies with ranch, and milk for lunch.
 - c. The Student had three walks, five breaks, and two trips to the bathroom.
 - d. ABC data indicated no incidents.
41. On May 9th, 2025, the Complainant forwarded an email to the Food Service Manager with the Student's doctor's note stating it was sent before they were aware Behavior Technician 2 was charging a la carte items to the Student's account. The Complainant requested blocking the Student's access and providing a specialized meal plan.
42. On May 9th, 2025, the Complainant emailed the Executive Director of Learning Services, the Director of Transportation, and the Director of Food Services and filed a formal complaint and requested immediate action. They stated the Student's IEP was not being followed and had led to behavioral escalation, medical concerns, and significant disruption in their learning. The Complainant formally requested a FBA be conducted. In addition, they requested an IEP meeting to review and amend "as necessary to support the structure [the Student] clearly needs."

The Complainant stated their food account had a negative balance due to the Student charging a la carte food. The Complainant reiterated the Student had medical documentation and stated they had "been assured this would be enforced

with a specialized diet and accommodations.” The Complainant explained the Student did not have the capacity to make informed decisions about their food and beverage consumption or charging food, stating “these repeated, unauthorized food purchases reflect a broader breakdown in communication and supervision.”

The Complainant stated the Student missed their 7th hour class with no explanation and stated the Student came home with food on their face, scratches, bruises, and in different clothes than what they were sent to school in. They stated they did not receive a written explanation, only a voicemail stating the Student had been given a PRN. The Complainant added the Student had picked at their scratches and had visible blood and no first aid was administered.

The Complainant stated staff appeared to be avoiding setting limits with the Student, which caused the Student to become aggressive and unsafe. They stated the Student had been obsessing about food and snacks and started to gain weight again, “which puts [the Student] at medical risk.”

The Complainant stated they felt “the expectations and boundaries [they had] clearly communicated [were] not being honored.” They requested the “[LEA] ensure full compliance with state and federal laws.” The Complainant requested a written response “as soon as possible.”

43. In an undated email, the Executive Director of Learning Services emailed the Complainant to state they were researching the concerns they identified and were developing a plan to move forward. The Executive Director of Learning Services stated the Assistant Director was leading the process, and they would provide a written response by the end of the day on May 20, 2025. They stated the response would include the next steps for the Student.
44. On May 9, 2025, the Executive Director of Learning Services emailed the Complainant to acknowledge receipt of their email. They proposed a meeting to “engage in dialogue.” They asked the Complainant to call them to set up a meeting.
45. On May 12, 2025, the Student’s daily schedule indicated:
 - a. The Student ate a bagel and eggs, yogurt, an apple, a Pop-Tart, cherry juice, and milk for breakfast.
 - b. The Student ate orange chicken and rice, grapes, watermelon, chocolate protein milk, and veggies with ranch for lunch.
 - c. The Student had three walks, six breaks, and three trips to the bathroom.
 - d. ABC data indicated no incidents.
46. On May 13, 2025, the Complainant emailed the Executive Director of Learning Services and stated they didn’t need a meeting to “go over concerns [they had] already clearly communicated.” The Complainant requested they instead complete a thorough internal review. They requested the Executive Director of Learning Services review emails the Complainant sent during the school year, adding “these

issues have been ongoing.” The Complainant stated they were asking for a written response outlining “how the situation is going to be addressed,” and added, “If an IEP meeting is more appropriate than an amendment, I’m open to that.” The Complainant stated, “an FBA is also necessary and should be initiated as soon as possible.”

On May 13, 2025, the Complainant emailed the Food Service Manager to discuss the Student’s meal plan, including asking for no added sugar foods for the Student, including fruit juice and Pop-Tarts, and regular yogurt. The Complainant asked to continue to improve the Student’s food options and stated they need to stay between 450 to 600 calories for breakfast and 750-850 calories for lunch. The Food Service Manager emailed the Complainant back, stating they would share the information with the Student’s paraprofessional.

47. On May 13, 2025, the Student’s daily schedule indicated:
 - a. The Student ate a bagel and egg, yogurt, an orange, cherry juice, and milk for breakfast.
 - b. The Student ate chicken and fries, sugar-free fruit salad, veggies with ranch, and milk for lunch.
 - c. The Student had two walks, four breaks, and two trips to the bathroom.
 - d. ABC data indicated no incidents.
48. On May 13 [sic], 2025 (duplicate date), the Student’s daily schedule indicated:
 - a. The Student ate a bagel and eggs, an apple, yogurt, grape juice, and milk for breakfast.
 - b. The Student ate a walking taco, applesauce, 2 slices of cucumber, 5 baby carrots and ranch, and milk for lunch.
 - c. The Student had three walks, six breaks, and three trips to the bathroom.
 - d. ABC data indicated no incidents.
49. On May 14, 2025, the Special Education Provider emailed the Complainant to say the Complainant was right to be “irritated” about the lack of communication and asked if they could call them that afternoon. They stated the Complainant’s email to the Executive Director of Learning Services had valid concerns and was “completely a result of [the Special Education Provider’s] lack of communication.” The Special Education Provider stated they had “tightened things back up” after they were made aware of the food situation.
50. On May 15, 2025, the Student’s daily schedule indicated:
 - a. The Student ate a bagel and eggs, yogurt, an orange, cherry juice, and milk for breakfast.
 - b. The Student ate potato salad, fruit salad, a chicken sandwich, tots, and veggies for lunch.
 - c. The Student had three walks, four breaks, and three trips to the bathroom.

- d. ABC data indicated no incidents.
51. On May 16, 2025, the Complainant emailed the Special Education Provider to state they felt the past events were “signs of a deeper breakdown in accountability, oversight, and follow-through.”
- a. They added because the Student was non-verbal and unable to advocate for themselves, the support they were receiving was not sufficient.
 - b. The Complainant described a lack of training, citing Behavior Technician 2 allowed the Student to make extra charges to their student food account.
 - c. They added a lack of boundaries and accountability impacted the Student having access to “consistent educational or therapeutic support required in [their] IEP.”
 - d. The Complainant stated they wanted to revisit the Student’s FBA and IEP to address “concerning patterns.”
52. The Complainant confirmed they spoke with the Food Service Manager in regards to the Student’s dietary needs, which included no fruit juice, only whole fruit, and Greek yogurt with no added sugar. The Complainant stated they were told it was up to staff to ensure the Student’s meal plan was being followed. The Complainant stated they had not received any documentation in regard to the May 5, 2025, incident. They asked the Special Education Provider why the Student was wearing different clothes, and whether the Student had an accident.

The Complainant addressed the issues with the bus and the Student becoming physically aggressive, including banging their head on the window, with no incident report or documentation.

The Complainant addressed the Special Education Provider’s apology stating, “more than words, I need to see meaningful, lasting changes.” They added they are seeing “not just academic decline, but deterioration in life skills and behavior that jeopardizes [the Student’s] health, safety, and long-term ability to live in the community.”

The Complainant requested a concrete plan for how the issues would be addressed, including “immediate changes to [the Student’s] daily structure, implementation of [their] IEP, staff training and oversight, food accommodations, transportation safety, and full documentation of all major incidents, including May 5 and the recent bus events.”

53. On May 16, 2025, the Special Education Provider emailed the Complainant to let them know they would be able to remove the charges to the food account.

The Special Education Provider stated they met with Behavior Technician 2, Behavior Technician 3, and the Head Principal to talk about what happened with the Student and make sure they were doing what they needed to be doing. The Special

Education Provider stated the previous staff who had worked with the Student didn't write down all the things the Student needed to be successful, and the new staff didn't know. They stated that was why the Behavior Technician 2 would let the Student scoop their own potato salad and allowed the Student to take a heaping scoop.

On May 20, 2025, the Assistant Director emailed the Complainant to discuss options for their requests for an FBA. The Assistant Director stated there were a couple of options: conducting the FBA over the summer during ESY, noting transportation would look similar to the regular school year, but the classroom would be different as there would be no regular education students present. The Assistant Director shared, "The issues related to the Student's food service accounts, staff training, and school-to-home communication have been addressed." They added the area they felt needed clarity was in the IEP around the BIP or accommodations related to breakfast and lunch. The Assistant Director offered to meet to discuss changes at a team meeting after the FBA was complete or prior to ESY starting.

On May 20, 2025, the Special Education Provider emailed the Complainant to discuss an unannounced lockdown. They stated they got permission to have extra staff with the Student and allowed the Student to use the swing while they "waited it out." The Special Education Provider stated the Student transitioned with them and continued their normal routine without any escalations. The Special Education Provider sent an additional email to the Complainant responding to the Complainant's email from May 16, 2025. The Special Education Provider stated they were "committed" to ensuring "communication from me is no longer a missing piece." They added if the Complainant wanted to "talk live or meet this week," they were open and would welcome it.

54. On May 22, 2025, the Student's daily schedule indicated:
 - a. The Student ate an egg, a bagel, an orange, yogurt, milk, and juice for breakfast.
 - b. The Student ate potato salad, a hamburger, Sun Chips, veggies, applesauce, and a protein shake for lunch.
 - c. The Student had three walks, six breaks, and three trips to the bathroom.
 - d. No ABC data was provided.
55. On May 27, 2025, the Complainant emailed the Assistant Director to request a meeting once summer school started on June 2, 2025. They stated they wanted to go over "everything (all the emails)" with them. The Assistant Director replied to the Complainant's email with the dates they had available.
56. On May 28, 2025, the Complainant emailed the Assistant Director and agreed to have the FBA begin during the summer, but asked that it continue into the school year. The Complainant indicated there were issues with summer transportation and

- regular school year transportation. They stated concerns with timing, extended wait times, behaviors on the bus, and the transition between middle school and high school. They added they did not believe “the ongoing issues at school involving [the Student]” had been addressed.
57. On June 2, 2025, the Complainant emailed the Special Education Provider to request the meal modification form for ESY, stating they had already sent multiple emails and the doctor’s note, and the meals had not reflected the Student’s food requirements. The Special Education Provider emailed the Complainant in regards to the meals during ESY, stating it was the same for all students and contained a Pop-Tart, an apple, and milk for breakfast, and the lunch that day was a hamburger, a whole orange, and a bag of carrots. The Special Education Provider stated they would try to find out who provided the meal service, as it was different for ESY.
58. On June 4, 2025, in a PWN for Evaluation or Reevaluation, the LEA proposed “conducting a reevaluation,” which required parental consent. The document stated it would focus on an FBA, which included observations both in the classroom and transportation settings during ESY. The form stated new data would come from those familiar with the Student and included staff and the Complainant. Other data would come from records such as the most recent evaluation report, IEP, and the doctor’s notes. evaluation was “not intended to be the Student’s triennial reevaluation, nor will it alter [their] 3-year reevaluation due date.” The purpose was to inform the team of “potential updates to [their] [BIP], as well as to guide potential updates to [their] IEP”. The Complainant provided electronic consent on June 6, 2025.
59. On June 18, 2025, the Student’s daily schedule indicated:
- The Student ate a muffin, apple juice, and milk for breakfast.
 - The Student ate half a corn, a burrito, a banana, and a protein shake for lunch.
 - The Student had two walks, five breaks, and one trip to the bathroom.
 - No ABC data was provided.
60. On June 19, 2025, the Student’s daily schedule indicated:
- The Student ate a muffin, fruit, milk, juice, and a banana for breakfast.
 - The Student ate a ham and cheese sandwich, lettuce, an apple, and a protein shake for lunch.
 - The Student had two walks, five breaks, and one trip to the bathroom.
 - No ABC data was provided.
61. On June 23, 2025, the Student’s daily schedule indicated:
- The Student ate a banana, a muffin, and milk for breakfast.
 - The Student ate a chicken sandwich, grapes, veggies, and a protein shake for lunch.
 - The Student had two walks, four breaks, and one trip to the bathroom.

- d. No ABC data was provided.
- 62. On June 24, 2025, the Student's daily schedule indicated:
 - a. The Student ate a Nutrigrain bar, an orange, and milk for breakfast.
 - b. The Student ate a chicken wrap, veggies, an apple, and a protein shake for lunch.
 - c. The Student had two walks, five breaks, and one trip to the bathroom.
 - d. No ABC data was provided.
- 63. On June 25, 2025, the Student's daily schedule indicated:
 - a. The Student ate an apple, a muffin, and milk for breakfast.
 - b. The Student ate a hot dog, veggies, a banana, and milk for lunch.
 - c. The Student had two walks, five breaks, and one trip to the bathroom.
 - d. No ABC data was provided.
- 64. On June 26, 2025, the Student's daily schedule indicated:
 - a. The Student ate a banana, a muffin, and milk for breakfast.
 - b. The Student ate a ham and cheese sandwich, carrots, grapes, and milk for lunch.
 - c. The Student had two walks, five breaks, and one trip to the bathroom.
 - d. No ABC data was provided.
- 65. On July 3, 2025, an FBA was developed, which stated, "The observer saw so few exhibited problem behaviors over the duration of the observations that a typical FBA format of observations and report was determined to not be applicable at this time." The report indicated the Student "appeared to thrive throughout [their] time at ESY, and ultimately benefitted greatly from adhering to [their] daily schedule and working with adults whom [they] had a strong relationship with." The problem behaviors that were identified included the Student throwing their head back while seated, slamming their fists down on their desk, using a "closed-fist punching motion into the behavior technician's hand" in response to a high-five/fist bump, and slamming their fist on the behavior technician's arm while the Student was seated at their desk. The Student was observed consistently transitioning on and off the bus, and sitting quietly during the bus drive to and from the school building without incident.

According to the observer, the problem behaviors that occurred were brief moments of frustration or dysregulation and were mitigated quickly due to the behavior technicians' knowledge of how to respond and due to the Student's ability to self-correct their own behavior. The report indicated because the problem behaviors were infrequent and a formal FBA was not warranted, there were no behavior intensities included in the report. The report stated the ESY environment was structured with limited exposure to peers that could potentially become distracted by the Student's behaviors. Regarding the incidents where the Student

used a closed fist to punch a desk or the behavior technician's hand and arm, the observer stated there was not enough force to have caused bodily harm to the Student or to staff.

The report described fist-bumps and high-fives being used frequently throughout ESY as a positive reinforcement, "which [the Student] typically responded well to." The harder-than-necessary punch from the Student on one occasion was described as occurring due to the Student being "somewhat frustrated by something earlier in the day." Circumstances that appeared to come before behaviors included handwritten tasks with paper and pencil, disruption of the Student's routine, presence of new or unfamiliar staff, and unresponsiveness to the Student's communication attempts. Positive behavior supports that were attempted included timed sensory swing breaks, the use of noise cancelling headphones, one-to-one adult support for proximity, modeling, and prompting for emotional support and immediate feedback, frequent use of positive reinforcement such as high-fives, fist-bumps, positive verbal praise, and puzzle activities, use of visual communication aids, scented hand sanitizer, a consistent daily schedule, a low demand setting, regular opportunities for movement, flexible staff responses, alternate routes, offer choices, and clear and simple directions.

The Report indicated the Student's behavior had "minimal observable negative impact on [their] learning." The Student consistently transitioned smoothly between activities, followed adult directions, and engaged in both academic and therapeutic tasks with appropriate support. The Student accessed instruction in reading, math, fine motor, and communication with "high levels of compliance and participation." According to the report, while there were isolated incidents, they were brief, the Student was easily redirected, and they did not interfere with task completion or instructional time.

The hypothesis described the Student engaged "in sudden, low-level physical aggression ... to escape or avoid tasks, activities, or environments when unexpected changes in routine, adult interactions, or shift in attention occur during seated work tasks."

66. On July 15, 2025, the Assistant Director emailed the Complainant and stated the FBA had been completed based on observations on the bus and in the classroom during ESY. The Assistant Director asked the Complainant if they wanted to meet to review the report together or if they preferred reviewing the report independently without a meeting. On August 11, 2025, the Complainant replied to the Assistant Director, they would like to see the report first.
67. On August 5, 2025, an Advanced De-Escalation Skills presentation developed by the Assistant Director of Student Support Programs provided information on the science behind behaviors, de-escalation strategies, do's and don't's for adults,

- behaviors on the bus, and when to use ESI. According to the Behavior Technician 2's timecard, they attended work on the day of the presentation.
68. On August 11, 2025, the Complainant emailed the Assistant Director, the Food Service Manager, and the Assistant Principal of Student Services regarding the Student's Food Accommodation Plan. The Complainant asked to be given the specialized menu options for the Student, which included "whole grains, meat, whole fruits, and whole vegetables." The Complainant indicated they wanted to plan the breakfast and lunch options for the Student. In addition, the Complainant asserted they wanted to ensure the paraprofessionals were trained to avoid allowing the Student to charge additional food to their account or allowing the Student to self-serve large portions of food.
 69. On August 12, 2025, the Complainant emailed the Special Education Provider and Assistant Principal of Student Services to follow up on the June 4, 2025, meeting and the changes they discussed for the Student's IEP. The Complainant indicated they knew the Special Education Provider "took notes on items to add or modify" and indicated they had not received anything in writing that confirmed the changes were being implemented. The Complainant wanted to "ensure the updates have been made and that [the Student] has a solid food plan and accommodations in place."
 70. On August 14, 2025, the Complainant emailed the Assistant Principal of Student Services to state the food plan was "still not being followed," stating the Student had items such as "juice, muffins, and Pop-Tarts." They added the Student should be on a high-protein menu with whole fruits, vegetables, and whole grains. The Complainant stated they had repeatedly asked for menu options from the "lunch lady supervisor" and had received no response.
 71. On August 18, 2025, the Complainant emailed the Special Education Provider and Assistant Principal of Student Services to follow up in regards to a meeting on June 4, 2025, where they discussed the Student's IEP needing a meal modification based on a medical note from the Student's pediatrician. In addition, the Complainant requested the Special Education Provider send a copy of what was submitted to the Assistant Principal of Student Services and to copy the Complainant. The Complainant wanted confirmation the Assistant Principal of Student Services received it and the School had it on file. The Complainant also asked to have the documentation sent to the Assistant Director to "ensure everything was officially recorded and the IEP accommodations were made."
 72. On August 19, 2025, the Complainant emailed the Assistant Director and requested the following items:
 - a. The name of the School Psychologist who observed the Student, the author of the report, and the specific time the Student was observed getting on and off the bus.
 - b. A full FBA be completed during the regular school year, both at school and on the bus.

- c. Clarification about the use of the swing for over 60 minutes and whether the Positive BIP was “reviewed and followed to fidelity.”
 - d. Why the FBA treated high fives and fist bumps as positive reinforcements when the Student’s plan “makes it clear these should not occur.”
 - e. The Complainant questioned whether the Student’s plan was being followed when the report indicated the Student avoided work “by saying ‘bye,’” ran off the bus into the lunchroom, and was given low demands and allowed to do what they want.
73. On August 19, 2025, the Complainant emailed the Assistant Principal of Student Services and the Special Education Provider to state they were made aware Behavior Technician 2 was “using fist bumps and high-fives as a form of positive reinforcement” with the Student during summer school. The Complainant clarified that according to the Student’s BIP, any type of skin-to-skin contact is considered a “precursor behavior that can escalate into aggression.” They added, according to the plan, these actions were “not allowed.” The Complainant stated part of the FBA “recently documented this as if it were acceptable,” when it should not be. The Complainant requested the Behavior Technician 2 “receive proper training and immediately discontinue the use of fist bumps and high-fives.” The Complainant expressed, “What may appear to be positive reinforcement actually increases the risk of aggression and undermines the safeguards in [the Student’s plan].” The Complainant asked that this be addressed promptly.
74. On August 20, 2025, the Assistant Principal of Student Services emailed the Complainant and stated they were told by the Special Education Provider that a teacher who was working summer school, but not directly assigned to the Student, was the one who was giving the Student fist bumps and high fives as a way to build a relationship with the Student. The Assistant Principal of Student Services stated they and the Special Education Provider would “reemphasize this as part of the behavior plan” and address it with “anyone who might interact with [the Student].”
75. On August 20, 2025, the Complainant emailed the Assistant Director to request an Independent Educational Evaluation (IEE) for a second FBA. They requested the evaluators’ contact information before the evaluation so they could review the Student’s IEP, BIP, and interventions.
76. On August 21, 2025, the Complainant emailed the Assistant Principal of Student Services and copied the Assistant Director and the Special Education Provider, stating the information provided did not match the report. The Complainant described the report as showing “the behavior technician initiated high fives and fist bumps with [the Student] throughout summer school during class, not at dismissal.” The Complainant stated the report indicated this was used “consistently by the behavior technician multiple times a day.” The Complainant indicated they were concerned that the Assistant Principal of Student Services’ response did not reflect what was in the report and stated they did not feel their concerns were taken seriously.

77. On August 22, 2025, the Complainant emailed the Special Education Provider and the Assistant Principal of Student Services to ask who would be conducting the FBA. The Complainant indicated they had asked for an “independent person not affiliated with the school.” The Complainant stated they were “especially troubled by the May 5 incident,” given they were still not aware of where the Student was that day. The Complainant described the event as the Student “almost got hit by a car and was either restrained or tackled by [the Student’s] behavior tech[nician],” who was not CPI trained. The Complainant indicated the Student had bruises. They stated no one had come forward to fully resolve the matter with them. The Complainant reported that on August 20, 2025, the Bus Paraprofessional allowed the Student to remove their shoes and pick at their socks. The Student hit the Bus Paraprofessional and became physically aggressive with themselves on the bus. The Complainant requested the bus footage be reviewed from August 20 to August 22, 2025, to determine if the reports were accurate. The Complainant shared they did not receive data indicating this had happened.

On August 22, 2025, the Assistant Director emailed the Complainant, indicating they received the Complainant’s request for an Independent Educational Evaluation (IEE) and stated an IEE “becomes an option following an initial evaluation or reevaluation.” They added the FBA that was conducted during ESY was “not a reevaluation ... and was conducted for the purpose of informing the IEP team of potential updates to [the Student’s] BIP ... and IEP Accommodations.” The Assistant Director confirmed the Complainant had asked for specific information regarding behaviors in the classroom as well as on the bus, and had agreed to do an assessment during ESY, which was completed. The Assistant Director stated they would complete an additional assessment in the classroom environment once school started. They also stated a school psychologist who was employed with the LEA but not assigned to the School would be conducting the FBA.

The Assistant Director stated, “In the report, it is mentioned that [the Student] was seated in the sensory swing at 10:15 a.m. on 6/11 (a little over an hour after [the Student’s] frustration escalation during handwriting)” and added they do not see where it stated the Student was in the swing for over an hour. The Assistant Director clarified the report had stated the “sensory swing break occurred an hour after an escalated incident.” The Assistant Director informed the Complainant they would be receiving a new PWN that would give them consent to begin the new FBA.

78. On August 23, 2025, the Complainant emailed the Assistant Director with a request to review video footage involving the Student on May 5, 2025.
79. On August 25, 2025, the Complainant emailed the Assistant Director to inquire about the Student being released early to board the bus. The Complainant added the Student engaged in behaviors that included “screaming for treats and banging [their] head against the bus window with such force that it was believed [they] could have seriously injured [themselves].” The Complaint stated they were worried staff

were bribing the Student with snacks to get on the bus. The Complainant asked for the video to be reviewed from that day, as well as footage from the previous week.

The Complainant sent an additional email to the Assistant Director to confirm they had received the medical statement requesting a meal modification. They stated the form was given to the Special Education Provider on June 4, 2025, so it could be initiated prior to ESY beginning.

80. On August 25, 2025, the Assistant Director emailed the Complainant stating they were working with the transportation department to review the bus video for the dates from the previous email and the latest email. They stated they were working to assign a staff member for the FBA and stated they would introduce them to the Complainant once they know who it will be.
81. On August 26, 2025, the Assistant Director emailed the Complainant to state they had begun reviewing the video footage from the dates the Complainant requested in August, and would complete their review the following day. They stated the requested video footage from the May 5 incident was “no longer available” due to the LEA retaining video records for a set period of time, and “that retention window has now passed.” They added the timeframe for submitting a concern about the incident had also lapsed. They stated if the Complainant wanted to continue a conversation about the incident, they should let them know. In an additional email, the Assistant Director emailed the Complainant to confirm they had received the meal modification form.
82. On August 27, 2025, the Complainant emailed the Assistant Director stating they had already notified a school staff member, the Executive Director of Learning Services, on May 9, 2025, and added it was not “accurate to say that I missed my deadline for voicing concern,” since they “never received the answers” they needed. The Complaint requested the policy the LEA was using that indicated the Complainant missed a deadline.

The Complainant sent an additional email to the Assistant Director requesting that video footage from the bus be reviewed for August 27, 2025, for both the morning and afternoon routes involving the Student. The Complainant stated, “It was reported that [the Student] was biting [their] fingers during both rides.” In addition, the Complainant stated they heard the Student “head-butted and struck [their] head backwards on the seat 14 times, hit [the Bus Paraprofessional] four times, and kicked [the Bus Paraprofessional] twice.” The Complainant sent another email to the Assistant Director asking for a copy of the completed meal modification form for the Student.

83. On August 27, 2025, the Assistant Director emailed the Complainant, stating when the Complainant had emailed on May 9, they had requested a written response rather than a meeting, as well as an FBA. The Assistant Director indicated they provided a written response on May 20, and the FBA was initiated shortly

thereafter. The Assistant Director referenced board policy GAAF and Kansas Administrative Regulations. They added the school psychologist would be contacting them soon for consent to complete the FBA.

The Assistant Director sent an additional email to share the information they received from the bus video footage for the Student from August 20 through August 22, 2025. They stated there were no shoe removals and no altercations with bus support on August 20, 2025. On August 21, 2025, the Student removed their shoes 4 times and rested their hand on their foot, but did not pick at their foot during the morning route. The Student did not remove their shoes or engage in an altercation with bus support during the afternoon route. On August 22, 2025, the Student had no issues on the morning route but displayed physical behavior toward the support staff member while they were getting buckled into their harness. The Assistant Director stated the staff member “followed the behavior plan in regards to responding to aggressive behavior on the bus.” The Student stopped the aggressive behavior “immediately,” and no other issues occurred for the duration of the route. There were no issues on the August 25, 2025, morning and afternoon routes.

84. On August 28, 2025, the Assistant Director emailed the Complainant stating the meal modification form they have on file “is sufficient for ensuring all individuals working with [the Student] have clarity and direction regarding [the Student’s] nutrition.” The Assistant Director sent an additional email to the Complainant in regards to the information they received from the bus video from August 27, [2025] that the Complainant had requested. The email stated the Student put their finger in their mouth on occasion on the morning route, and the Student became upset and engaged in hitting and head-banging behaviors on the afternoon route. Staff provided “reminders and reassurance and followed the behavior plan, and once the bus was headed home, [the Student] calmed and no further incidents occurred.” The Assistant Director sent another email to the Complainant confirming receipt of the Complainant’s email requesting additional bus footage and letting the Complainant know they would be moving forward with the FBA.
85. On September 2, 2025, the Complainant emailed the Special Education Provider a “potato salad” PDF and the Student’s food plan accommodations form and doctor’s note PDF.

On September 2, 2025, the Complainant emailed the Assistant Principal of Student Services, the Special Education Provider, and the School Psychologist. Their email stated they had attached the three-page accommodation form that they had submitted to the Special Education Provider on June 4, 2025, plus two doctor notes. The email claims the Special Education Provider only had the doctor’s note on file and not the full form. The Complainant stated the form clearly states the Student should not be given potato salad, and added lunch records showed the Student was served potato salad on Friday. The Complainant added they have repeatedly

asked the lunch staff to provide breakfast and lunch options so the Complainant could choose ahead of time, but had not received those options.

86. On September 8, 2025, the Student's daily schedule indicated:
 - a. The Student ate a breakfast bagel, an orange slice, and milk for breakfast.
 - b. The Student ate chicken fried chicken, mashed potatoes, veggies, and milk for lunch.
 - c. The Student had one walk, seven breaks, and four trips to the bathroom.
 - d. ABC data indicated no incidents.
87. On September 8, 2025, the School Psychologist scheduled a virtual meeting with the Complainant to discuss the Student's "school needs and help develop the best path forward for this FBA." They agreed on meeting on September 10, 2025, at 12:00 P.M.
88. On September 10, 2025, the Complainant emailed the Special Education Provider, stating on Friday, the Student had gotten into their backpack while on the bus and had a pill bottle in their hand when the Student got off the bus. They added the Student was "agitated getting off the bus" because there were three pill bottles in their backpack, and the Student thought the bottles needed to stay at school. The Complainant clarified the importance of not allowing the Student to have access to their backpack on the bus or access to medications inside the backpack. The Complainant asked to have it added to the Student's IEP. They also asked to have the Student's diagnosis of PICA added to their IEP because of the dangers of the Student eating medications. The Complainant stated the backpack should be with the bus driver or the paraeducator, and they should be the ones to provide the Student with their AAC device and books while on the bus.
89. A September 10, 2025 form titled, IEP Fidelity & Support System for [the Student] listed the purpose of the form, weekly staff actions, administrator oversight, parent communication, training cycles, and flow of support. The form also described actions through an 8-week training calendar, which showed the school psychologist as facilitator. The form described a "weekly IEP Fidelity Staff Check-In" in which staff members would determine if IEP accommodations were implemented as written, if progress monitoring occurred, any barriers identified and communicated to the case manager, and if team training occurred. The form also identified how and when communication would be provided to parents, and by whom.
90. According to an undated student schedule, on Monday, Tuesday, Thursday, and Friday, period 7 began at 2:14 P.M. and ended at 3:02 P.M. The schedule indicated on Wednesday, period 7 began at 1:49 P.M. and ended at 2:38 P.M. The schedule listed on early release days, period 7 began at 12:54 P.M. and ended at 1:32 P.M.
91. According to a Student Activity Report for the 2024-25 school year, the Student was scanned entering the bus before the end of the school day for 100 days throughout the school year. The earliest time scan was documented at 2:55 P.M.

92. A transportation report for the 2024-25 school year indicated the afternoon bus pick-up time for the Student was 3:08 P.M.
93. According to a Student Period Attendance Detail report generated on September 24, 2025, for all terms for grade 9, the Student had three tardies and was absent one day.

Food Service Manager Interview

94. In an interview with the Investigator and the Director of Secondary Special Education Services, the Food Service Manager spoke about their role in preparing the Students' meals. They stated by school rules, all meals offered, whether specialized or not, are low-sodium and low-sugar. They stated they take even greater care with the Student's meals.
95. The Food Service Manager stated the Complainant requested a high-protein diet for the Student, adding the Student's meals must be prepared specifically for the Student. They stated the kitchen made fresh chicken especially for the Student, and the bulk of the Student's meals consisted of ground beef, chicken, eggs, bagels, and fresh fruits and vegetables. The Food Service Manager stated the Student is only given "white" milk. "Breakfast is limited for us because we are a grab-and-go breakfast, so we are making [the Student's] stuff special for them every morning."
96. The Food Service Manager was not able to recall whether a food plan was provided to the Complainant. The Director of Secondary Special Education stated a food plan was given to the LEA by the Complainant and was signed by the Student's doctors.
97. The Food Service Manager stated at the beginning of the year, a paraprofessional was getting food for the Student, and the Complainant complained the Student was either getting too much food or the food plan was not being followed. After the concern from the Complainant, the Food Service Manager began packaging the Student's meals specifically for them.
98. The Food Service Manager stated the 2025-26 school year is the first year they have been tasked with providing meals to the Student.

Behavior Technician 2 Interview

99. In an interview with the Investigator and the Director of Secondary Special Education Services, Behavior Technician 2 shared on May 5, 2025, they took the Student on a walk on the school's track, which is across a frontage road from the main campus. At the end of the walk, the Student reentered the main campus to use the restroom. Behavior Technician 2 shared the purpose of daily walks with the Student was "to get some morning movement in to get 'em woken up for the day," adding, "second hour is a high intensity learning." Behavior Technician 2 stated they took a 10/15 minute walk before they went into the weight room because the Student struggled with weight training.
100. Behavior Technician 2 described the "struggles" with weight training as "fine motor skills, [their] ability to lift [their] arms the way demonstrated." Behavior Technician 2

stated they “do a lot of shoulder exercises and sometimes [the Student] gets frustrated with those. So to preempt that, we calm down with a walk.”

Special Education Provider Interview

101. In an interview with the Investigator and the Director of Secondary Special Education, the Special Education Provider stated they were a special education teacher at the School as well as the special education department chair.
102. When asked about a schedule from May 13, 2025, the Special Education Provider stated it was a daily schedule for the Student. When asked about a second differing daily schedule with the same date, May 13, 2025, the Special Education Provider stated, “I can't tell you why they both are the same date.” The Special Education Provider shared that it may be a simple error of staff miswriting the date.
103. The Special Education Provider stated “PRN” medication was given to the school by the Complainant to be used as a “preventative measure” when the Student may be “potentially violent.” However, according to the Special Education Provider, school policy prevents special education staff from administering the medication without approval from the Complainant and the School Nurse. They stated “We have to get permission, but if the nurse makes a decision that it needs to happen, then we call [the Complainant] and let [them] know and we provide it.” The Special Education Provider stated they “try not to use any PRN at all unless absolutely necessary,” adding that was school policy. The Special Education Provider stated the medication was used when a student was escalated and already violent, and was used to keep the Student, other kids, and staff safe.
104. The Special Education Provider stated the Complainant asked staff to give the “PRN” preemptively, but they made a decision, along with Behavior Technician 1, to follow school policy, which was to wait until the medication was medically necessary for safety purposes. The School Nurse made the determination according to the Student’s individualized health plan.

Director of Secondary Special Education Interview

105. In an interview with the Investigator, the Director of Secondary Special Education provided clarifying information about various LEA staff. They stated school begins at 7:58 A.M. and concludes at 3:02 P.M. Central Time. The Director of Secondary Special Education stated September 18, 2024 and October 2, 2024, were early release days for the LEA. They stated there were regular early release days throughout the school year.
106. Regarding an email from August 27, 2025, about concerns over the Student’s safety on the bus, the Director of Secondary Special Education stated, “... the staff member addressed the behavior that was occurring and clarified to the Student that they were going home.” They stated the behaviors, then stopped. They stated this was consistent with what was in [the Student’s] behavior plan.

Complainant Interview

107. In an interview with the Investigator, the Complainant stated they had educational power of attorney for the Student, and the Student lived with them in a private placement.
108. The Complainant recalled a conversation they had with the bus staff on September 30, 2025, in which the bus staff informed the Complainant they did not have a physical copy of the Student's BIP, and the bus staff believed they were not legally allowed to have a physical copy on the bus. The bus staff told the Complainant they could look it up on their cell phones if needed. The Complainant stated the Student's IEP said it's supposed to be on the bus. The Complainant believed the bus staff had not read the IEP or BIP because they did not know a physical copy of the BIP was required on the bus.
109. The Complainant described a previous meeting with the Special Education Provider on June 4, 2025, stating the Complainant verified with the Special Education Provider the BIP wasn't being followed because staff were afraid of getting hit. The Complainant added staff didn't "want to tell [the Student] no" and deny them access to food, water, or trash. The Complainant reiterated the Student needed a BIP because they had "severe behaviors that get in the way of [their] education and are harmful to [themselves] and to others."
110. The Complainant stated that they were receiving information about behavior incidents on the bus from other students, not the LEA. They stated they had to request information about incidents, but believed they were supposed to be automatically informed anytime there was an incident. They stated they had requested video footage from the bus several times and were frequently told by the LEA the cameras were not operational during the incidents. The Complainant described an incident when the Student came home with an injury, and on that occasion, the LEA was able to review the cameras and verify the incident.
111. The Complainant recalled the June 4, 2025, meeting was convened after the Student was "... hit by a car and they didn't let me know and I had to file an internal complaint" The Complainant reported they felt the Student should not be allowed in the cafeteria or outside because the Student was not listening to the staff. The Complainant stated, "[The Student was] supposed to be on a bathroom schedule and a water schedule." The Complainant believed the Student's plan was not being followed when the Student was allowed to drink water and use the bathroom "all day long."
112. At the June 4, 2025, meeting, the Complainant provided an LEA "medical accommodation" form, which included a food plan signed by a doctor. The Complainant recalled these changes were not made to the IEP.
113. The Complainant stated food was a trigger for the Student's behaviors. The Complainant reported that "in April or May [2025]" they received a \$45 charge on the Student's food service account. When they inquired about the high charges, the

Complainant was informed a paraprofessional allowed the Student to “charge excessive amounts of food” to their account. The Complainant realized the BIP was not being followed, and that explained some of the Student’s behaviors. The Complainant reached out to the Student’s doctor to create an official food plan, which was provided on the “medical accommodation” form submitted on June 4, 2025.

114. The Complainant described an event on May 5, 2025 they were not sufficiently informed of by the LEA. The Student was outside with Behavior Technician 2. The Student needed to use the restroom and ran away from Behavior Technician 2. According to the Complainant, the Student was hitting other people and was restrained. They stated the Student came home with bruises and a different pair of clothes on. The Complainant stated they got a phone call informing them the staff had to give the Student a PRN, and they were told, “everything’s fine.” The Complainant added, they didn’t get any paperwork sent home other than the Student’s daily schedule “with the A, B, C data.” The Complainant shared they had “still never gotten an answer other than them telling me that I had missed a deadline” to review the video, which was 30 days.
115. The Complainant believed the school was regularly releasing the Student early from instruction because the Student received breakfast at the School. The Complainant clarified breakfast was not instructional time.

Positions of the Parties, Applicable Regulations, and Conclusions

Issue One

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, implemented the Student's IEP, which included supports identified in the Student's Behavior Support Plan and Medical Plan. K.A.R. 91-40-16(b)(3), K.A.R. 91-40-19; 34 CFR §300.323.

According to K.A.R. 91-40-16(b)(3)(5)(B) and 34 CFR §300.323, each agency shall ensure that an IEP is in effect for each exceptional child at the beginning of each school year. Each teacher and provider is informed of the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

According to K.A.R. 91-40-19, each agency, teacher, and related services provider shall provide special education and related services to an exceptional child in accordance with the child's IEP and shall make a good faith effort to assist the child to achieve the goals and objectives stated in the IEP.

The Complainant alleged that in April 2025, they reached out to the LEA to report that staff working with the Student, including transportation/bus staff, were not familiar with the Student’s IEP and could not implement it.

The LEA denied they were in violation of implementing the Student's IEP, which included supports identified in the Student's Behavior Support Plan and Medical Plan. They responded the Student did not have a health care plan attached to their IEP, and the Special Factors section indicated the Student did not have a documented health condition that impacted their education. The LEA indicated the Student did have a separate health care plan that was managed by the school nurse and updated annually.

The LEA confirmed they implemented the Student's IEP, including both their medical support and BIP, during the complaint window. Medical support was provided with fidelity and documented through logs and nurse communications. Behavioral supports were implemented with fidelity, with one corrective instance regarding reinforcers (high-fives/fist bumps) promptly remedied once raised. The LEA maintains that the IEP was implemented as written, with responsive communication and documentation of both medical and behavioral supports.

The continuous use of physical contact (fist bumps and high fives) during the ESY directly defied the BIP, which mandated reinforcement consisting only of "thumbs up and verbal praise rather than tangible items and rather than physical handshakes, bumps, high-5, etc." The Student's BIP was violated when the Student exited the bus with a sweatshirt and t-shirt, which should have been stored in a "teacher area" inaccessible to the Student. This incident escalated the Student's agitation, resulting in destructive behavior at home and the loss of nighttime visitation access.

The BIP required staff to contact the nurse for administration of PRN medication "at first indication of aggressive behaviors, such as head banging and whining," as a known, proactive procedure. However, the Special Education Provider stated school policy was to "try not to use any PRN at all unless absolutely necessary" and to wait until the Student was escalated, already violent, and the medication was "medically necessary for safety purposes." While the School Nurse made the final determination per the Student's individualized health plan, this failure to follow the BIP's proactive measure was a direct violation. The BIP's proactive strategies—ensuring the Student had "access to two staff members who know how to access help for emergent situations" and are "aware of the PRN medication"—were undermined by the staff's stated policy of withholding the PRN medication until a crisis point.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is **substantiated*** that the LEA failed to fully implement the Student's IEP, specifically the supports outlined in their BIP and Medical Plan, resulting in a material failure to implement the Student's IEP.

Issue Two

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, limited the Complainant's right to ask for revisions of their child's IEP.

K.A.R. 91-40-16(a), K.A.R. 91-40-19(c), K.S.A. 72-3429(f)(2); 34 CFR § 300.324.

According to K.A.R. 91-40-16(a), each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency.

According to K.A.R. 91-40-19(c), nothing in this regulation shall limit a parent's right to ask for revisions of the child's IEP.

According to K.S.A. 72-3429(f)(2), each agency shall ensure that the IEP team: revises the IEP, as appropriate, to address information about the child provided by the parents; the child's anticipated needs; or other matters.

According to 34 CFR § 300.324, in making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting or by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

The Complainant alleged the LEA failed to meet and update the Student's IEP after a serious incident. The Complainant requested an IEP meeting on May 9, 2025, and no meeting was held.

The LEA denied they were in violation of limiting the Complainant's right to ask for revisions of the Student's IEP. They responded regular IEP meetings were held for the Student. They stated the LEA responded to the Complainant's concerns and requests for revisions with emails, phone calls, or by offering meetings. The LEA stated they did not limit the Complainant's right to request revisions of the Student's IEP, adding in some cases, the Complainant declined offered meetings, preferring email correspondence or document review.

In April 2025, the Complainant requested an IEP amendment to include a "modified and accommodated breakfast, lunch, and food and drink plan and schedule," arguing the current food and juice were "excessive and not appropriate." They also requested a scheduled bathroom and drinking plan for behavior management. The Complainant sought official support, submitting a doctor-signed "medical accommodation" form for a food plan in June 2025.

The LEA responded by offering a FBA be completed during ESY to inform "potential updates to [the Student's] BIP... and IEP Accommodations." While this process was initiated and the parent consented to the reevaluation (FBA), the LEA did not act on the specific requested revisions.

The Complainant repeatedly followed up in August 2025 to confirm the medical food plan and accommodations had been integrated into the IEP. The LEA continued to focus on further assessment, stating they would complete an "additional assessment" and issue a new PWN for a new FBA, rather than making the requested revisions.

On September 10, 2025, the Complainant also requested the Student's diagnosis of PICA be added to the IEP due to the danger of the Student eating medications, another specific request that was not addressed.

The LEA processed the Complainant's request for revision by initiating an FBA to gather data as required by K.S.A. 72-3429(f)(2), but failed to actually revise the IEP to address the parent's specific concerns regarding the food plan, drinking/bathroom schedule, or the PICA diagnosis.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is substantiated* that the LEA failed to review or revise the IEP after multiple requests from the Complainant. Additionally, the LEA failed to ensure the IEP team revised the IEP, as appropriate, to address information about the Student provided by the Complainant when they failed to add the requested accommodations and modifications.

Issue Three

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the Complainant with a copy of the procedural safeguards at least one time during the school year and upon the request of the Complainant. K.A.R. 91-40-26(d); 34 CFR § 300.504.

According to K.A.R. 91-40-26(d) and 34 CFR § 300.504, The agency shall be required to provide a parent with a copy of the procedural safeguards available to parents only one time during each school year, except that a copy shall also be provided to the parent in accordance with the discipline procedures in 300.507; and at any time, upon request of the parent.

The Complainant alleged the LEA failed to provide them with procedural safeguards and Parent Rights.

The LEA denied they were in violation of providing the Complainant with a copy of the procedural safeguards at least one time during the school year and upon the Complainant's request. The LEA notes, the IEP dated December 17, 2025, documented the Parents were provided with a copy of the procedural safeguards. The LEA stated the Complainant was provided a second copy of the procedural safeguards following an ESI incident on May 5, 2025, adding the documents were sent home in the Student's backpack and a phone call was made to the Complainant to notify them. The LEA reported they provided the Complainant with the procedural safeguards as required by law, both through the annual IEP process and again following the ESI incident, with no record of further requests being made.

The annual IEP dated December 17, 2024, indicated via a checkbox, parent rights had been provided during the school year to both parents (or educational decision makers). No other requests were made by the Complainant for procedural safeguards.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is unsubstantiated* that the LEA failed to provide the Complainant with a copy of the procedural safeguards one time per year and upon the Complainant's request.

Issue Four

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided IEP access to each regular education teacher, special education teacher, related service provider, and other service providers who are responsible for its implementation. K.A.R. 91-40-16 (4); 34 CFR § 300.321.

According to K.A.R. 91-40-16 (4) and 34 CFR § 300.321, each agency must ensure the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. The public agency must ensure the IEP Team for each child with a disability includes, at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate.

The Complainant alleged they were told by the Student's IEP team and bus drivers they did not know the supports in the IEP or even that the Student had an IEP. The Complainant did not receive documentation that confirmed staff were trained to implement the Student's IEP.

The LEA denied they were in violation of providing IEP access to each regular education teacher, special education teacher, related service provider, and other service providers who are responsible for its implementation. The LEA responded that the LEA ensured general education teachers, special education teachers, related service providers, and classified support staff had access to the Student's IEP and the information necessary to implement it through staff training during pre-service days, professional development (PD) sessions, and special education Team meetings.

Bus personnel informed the Complainant they did not have a physical copy of the BIP on the bus, violating the BIP's specific requirement that "A copy of the BIP will be on the bus." The staff also incorrectly stated they were "not legally allowed" to have a copy, suggesting a lack of training or proper information dissemination.

A Special Education Provider attributed instances of food-related non-compliance (e.g., a Behavior Technician allowing excessive food scooping) to the fact that previous staff "didn't write down all the things the Student needed to be successful and the new staff didn't know." This directly indicates that new or current staff were not provided adequate access to the IEP

and BIP, which listed problem behaviors related to overeating and over-drinking that could lead to vomiting and choking.

During ESY, Behavior Technician 2 violated a core safeguard in the BIP by using fist bumps and high-fives as positive feedback. The BIP clearly stated staff should use "thumbs up and verbal praise rather than tangible items and rather than physical handshakes, bumps, high-5, etc." Subsequent FBA updates confirmed this repeated violation, demonstrating staff's lack of knowledge or failure to adhere to the plan.

The Complainant reported staff failed to follow the BIP's limitations on food and water because they were "afraid of getting hit" and did not want to tell the Student "no." This suggests staff were either unfamiliar with the BIP's de-escalation/behavior management strategies or untrained on how to implement them for the Student's specific needs.

Based on the foregoing, according to IDEA and Kansas special education regulations, *it is substantiated* that the LEA failed to ensure the Student's IEP and BIP were fully accessible and understood by all service providers responsible for implementation.

Issue Five

Whether USD #437, in accordance with state and federal regulations implementing the IDEA, provided the LRE for the Student, including non-academic and extracurricular services and activities, such as meals, recess periods, and other non-academic services and activities, to the maximum extent appropriate to the needs of the Student. K.A.R. 91-40-21, K.S.A. 72-3420, 34 CFR § 300.114

According to K.A.R. 91-40-21 and 34 CFR § 300.114 each agency shall ensure that the children with disabilities served by the agency are educated in the LRE. Each agency shall ensure that a continuum of alternative educational placements is available to meet the needs of children with disabilities. These alternative educational placements shall meet the following criteria: include instruction in regular classes, special classes, and special schools; and make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement.

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

The Complainant alleged the LEA was unable to determine the Student's location when the Student was not in attendance at their 7th-period class. The Complainant alleged the Student was released early daily and lost instructional time and access to a FAPE.

The LEA denied they were in violation of providing the LRE for the Student, including non-academic and extracurricular services and activities, such as meals, recess periods, and other non-academic services and activities, to the maximum extent appropriate to the needs of the Student. The LEA responded they considered and provided access to the LRE to the maximum extent appropriate to the Student's needs. The Student participated in general education classes, lunch, passing periods, and advisory with peer interaction and adult support. They added, the IEP team considered additional restrictions and determined the current inclusion was beneficial.

Due to staff failure to implement the Student's specialized food plan and limits, the Food Service Manager began packaging the Student's meals specifically for them to eat in the special education classroom. This practice indicates the Student was not participating in the typical cafeteria meal service with non-disabled peers. The Student's BIP required the Student to have attendant care in the inclusion environment for lunch and passing time (64 minutes, 5 days a week). The restrictions were severe enough that the Complainant stated they felt the Student should not be allowed in the cafeteria or outside because the Student was not following staff directions, underscoring the severity of the limitations placed on the Student's participation in non-academic activities.

The Student Activity Report showed the Student was scanned entering the bus before the end of the school day for 100 days during the 2024-25 school year, which indicated frequent and regular early removal from instruction/school environment, as early as 7 minutes prior to the end of the school day. The Student's daily schedule indicated their 7th hour class for the 24-25 school year was science, and it stated they would "leave classroom for bus at 3:02," which confirmed the Student's plan was to remain in class until the end of the school day. School Records indicate school ends at 3:02 daily except for early release days and Wednesdays. The frequency of early release from class demonstrated a consistent and cumulative removal from educational access throughout the school year, limiting the Student's access to FAPE.

Based on the foregoing, according to IDEA and Kansas special education regulations *it is substantiated* that the LEA failed to ensure the LRE for the Student by imposing extreme restrictions on non-academic activities, specifically during mealtimes by limiting access to non-disabled peers. Further, it is substantiated that the LEA failed to provide a FAPE when the Student was dismissed early from class regularly over an extended period of time.

Additional Finding

During the course of the investigation, the Investigator found the LEA failed to provide the Complainant with a PWN indicating whether the LEA was initiating or refusing requested changes by the Complainant for IEP accommodations and modifications to the Student's IEP.

According to K.A.R. 90-40-26 and 34 CFR 300.503(a)(b), written notice must be given to the parents of a child with a disability a reasonable time before the public agency refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The notice must include a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action, a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, the means by which a copy of a description of the procedural safeguards can be obtained, sources for parents to contact to obtain assistance in understanding the provisions of this part, a description of other options that the IEP Team considered and the reasons why those options were rejected; and a description of other factors that are relevant to the agency's proposal or refusal.

The LEA responded, while PWN or Notices of Meeting (NOM) were not consistently issued for every interaction, the LEA maintained robust communication and offered opportunities for revisions in compliance with IDEA.

Based on the foregoing, according to IDEA and Kansas special education regulations, the LEA failed to provide a PWN accepting or declining requested changes by the Complainant regarding the Student's IEP accommodations related to their food accommodations plan from their pediatrician, the addition of a scheduled bathroom break and water schedule, and accommodations for the PICA diagnosis.

Corrective Action

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. Violations occurred in the following areas:

- A. State and federal regulations at K.A.R. 91-40-16(b)(3), K.A.R. 91-40-19, and 34 CFR §300.323 specify the public agency must have in effect, for each child within its jurisdiction, an IEP, and each teacher and provider is informed of the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. In addition, each agency, teacher, and related services provider shall provide special education and related services to an exceptional child in accordance with the child's IEP

In this case, the evidence supports the finding that USD # 437 did not fully implement the Student's IEP, specifically the supports outlined in their BIP and Medical Plan. Documentation from the LEA, the Complainant, and Interviews document this.

- B. State and federal regulations at K.A.R. 91-40-16(a), K.A.R. 91-40-19(c), K.S.A. 72-3429(f)(2), and 34 CFR § 300.324 specify that each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency. Each agency shall ensure that the IEP team: revises the IEP, as appropriate, to address information about the child provided by the parents; the child's anticipated needs; or other matters.

In this case, the evidence supports the finding that USD #437 did not revise the Student's IEP with information provided by the Complainant according to documentation, interviews, and the LEA Response letter.

- C. State and federal regulations at K.A.R. 91-40-16 (4) and 34 CFR § 300.321 specifies each agency shall be responsible for ensuring the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. In addition, each teacher and provider is informed of the individual's specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

In this case, the evidence supports the finding that USD # 437 did not ensure the Student's IEP and BIP were fully accessible and understood by all service providers responsible for implementation through documentation, Interviews, and the LEA Response letter.

- D. State and federal regulations at K.A.R. 91-40-21, K.S.A. 72-3420, and 34 CFR § 300.114 specify that each agency shall ensure that the children with disabilities served by the agency are educated in the LRE.

In this case, the evidence supports the finding that USD #437 did not ensure the LRE for the Student by imposing extreme restrictions on non-academic activities, specifically during mealtimes by limiting access to non-disabled peers through documentation, interviews, and the LEA Response letter.

Additionally, the Student was dismissed early from class regularly over an extended period of time throughout the school year limiting the Student's access to instructional minutes.

- E. State and federal regulations at K.A.R. 90-40-26 and 34 CFR 300.503(a)(b) specify that written notice must be given to the parents of a child with a disability a reasonable time before the public agency refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

In this case, the evidence supports the finding that USD # 437 did not provide required PWNs through documentation, interviews, and the LEA Response letter.

Based on the foregoing, USD # 437 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #437 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with state and federal regulations implementing the IDEA at 34 CFR §300.323 and K.A.R. 91-40-16(b)(3), K.A.R. 91-40-19 by ensuring each teacher and provider is informed of the specific accommodations, modifications, and supports that must be provided for the Student in accordance with their IEP. In addition, each agency, teacher, and related services provider shall provide special education and related services to the Student in accordance with the Student's IEP through direct training by the LEA.
2. Within 15 calendar days of the date of this report, USD #437 shall submit a written statement of assurance to SETS stating that it will comply with state and federal regulations implementing the IDEA at K.A.R. 91-40-16(a), K.A.R. 91-40-19(c), K.S.A. 72-3429(f)(2) and 34 CFR § 300.324 and will hold an IEP meeting to review and revise the Student's IEP and behavior plan and will consider the Complainant's request to add accommodations/modifications to the Student's IEP that address their food plan needs, accommodations for drinking and bathroom use, and accommodations that support the Student's diagnosis of PICA.
3. Within 15 calendar days of the date of this report, USD #437 shall submit a written statement of assurance to SETS stating that it will comply with state and federal regulations implementing the IDEA at K.A.R. 91-40-1(z)(1)(2)(3) and K.A.R. 91-40-2(a)(1) and will ensure the Student attends school for the duration of the day unless explicitly stated in the Student's IEP and agreed to by the IEP team.
4. Further, by January 11, 2026, USD #437 will complete the following: (1) submit a written statement of assurance to SETS that the LEA's practices and procedures for reviewing and revising IEPs and staff training on IEP implementation including accommodations, modifications, and BIPs have been reviewed and revised as appropriate to be responsive and compliant with IEP procedures of the (IDEA and the Kansas Special Education for Exceptional Children Act.

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)