KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #229
ON JULY 7, 2026

DATE OF REPORT: AUGUST 14, 2026

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

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

In this case, the complaint is against USD # 229 (Blue Valley Public Schools) which contracts with staff to meet the requirements of the IDEA. This responsible public agencies will be referred to as "the local education agency (LEA)" In the remainder of the report.

In the remainder of the report, the LEA staff will be referred to as follows:

- Chris Legleiter, Principal
- Jessica Meissner, Special Education Teacher, Case Manager
- Nicole Orrick, Assistant Principal 1
- Shawn Stelter, Technology Teacher
- Jennifer Hoggatt, Learning Resource Teacher
- Chris Huggard, Assistant Principal 2
- Barret Koch, School Psychologist
- Carrie Morris, ELA Teacher
- Chris Legleiter, Principal
- Ashley Enz, Director of Special Education

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint and allow for an appeal process from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE and the LEA. In this case the complainant signed the complaint on July 7, 2026 and KSDE assigned the case on July 16, 2026.

Evidence Reviewed

The investigator interviewed the following staff from the LEA on July 31, 2026.

- Chris Legleiter, Principal at Aubry Bend for the 2025-26 school year
- Jessica Meissner, Special Education Teacher
- Nicole Orrick, Assistant Principal at Aubry Bend
- Chris Huggard, Assistant Principal at Aubry Bend
- Barret Koch, School Psychologist at Aubry Bend for the 2025-26 school year
- Ashley Enz, Executive Director of Special Education
- Melissa Hillman, Chief Legal Officer
- Scott Roberts Executive Director of Administration

The LEA provided responses to written clarification questions on August 7, 11, and 12, 2026. The complainant was interviewed by telephone on August 5, 2026 during the investigation process and additional clarifications were provided to the investigator on August 12, 2026.

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

1. IEP and Positive Behavior Support Plan dated May 9, 2025.
2. Prior Written Report for Identification Initial Services, Placement, Change in Services, Change of Placement, and Request for Consent for May 2025 IEP, parent signed consent on May 22, 2025.
3. Progress Reports dated October 10, 2025, December 19, 2025, March 13, 2026.
4. Email from learning resource teacher to ELA teacher dated December 2, 2025 1:48 p.m. describing that student missed class and was distracted in catching up resulting in the student being anxious about the ELA grade and that the student may report to the resource room and may benefit from a "notecards of love" as a visual reminder of the to do list.
5. Email exchange between complainant and assistant principal 1 dated December 2, 2025 at 3:51 p.m. and December 4, 2025 at 2:14 p.m. agreeing that the two parties have not talked yet about the December 2, 2025 incident.
6. Safe School Report made by the student on December 2, 2025 at 1:50 p.m. in response to the December 2, 2025 incident reporting, “I was walking into 9th hour and then two of my friends told me that [ELA teacher] had leaked an email that was basically talking about my disabilities and [ELA teacher] talking about my grades and my attendance and me being ‘bad’ so basically [ELA teacher] leaked my information and I feel like it was on purpose.”
7. Side-by-side comparison of December 2, 2025 incident.

8. Statement of Facts: December 2, 2025 Classroom Exposure of the "[Student] Heads Up" Email, the Same-Day Reports to Building Administration, and the December 4, 2025 Follow-Up.
9. Email exchange between complainant and assistant principal 1 dated between December 4, 2025 at 3:05 p.m. and at December 5, 2025 8:09 a.m. agreeing that the December 2, 2025 circumstances from December 2, 2025 were settled as the student wished to move forward and not talk about the incident any further to which the parents agreed to the child's request.
10. Email exchange between the complainant and special education case manager dated between January 5, 2026 at 6:33 a.m. and January 6, 2026 at 3:11 p.m. discussing if the student could be enrolled in year-long physical education for Quarter 3 as previously discussed during 5th grade IEP and learning there were not open slots for the student to enroll.
11. Email from the special education case manager to the technology teacher and other classroom teachers dated January 6, 2026 9:29 a.m. communicating that the student is not to have access to a Chromebook, use a peer's Chromebook or borrow one from the office. Specific to the technology teacher the special education case manager stated that the student is to be located near to the teacher to keep an extra eye on the computer use.
12. Email from the computer teacher to special education case manager, dated January 13, 2026 at 8:21 a.m. outlining misuse of Chromebook and how to implement the IEP accommodations in the class.
13. Email from assistant principal 1 to technology teacher and special education case manager dated January 13, 2026 6:44 p.m. communicating that the student is to work in student services tomorrow (January 14, 2026) during first hour and is only allowed to work on assignments via paper and pencil. The student is not allowed accept to the Chromebook or cell phone. It was further communicated that a decision about first hour placement would be made soon thereafter.
14. Email from assistant vice principal 1 to student's teachers dated January 16, 2026 9:18 a.m. informing the student's change of schedule to independent study from technology class for first hour and establishing how to gather student work for that time.
15. Email exchange between complainant and assistant principal 1 dated between January 20, 2026 at 1:15 p.m. and January 21, 2026 at 6:39 p.m. outlining the additional support of a planner for the first hour independent study with the parent stating that the move from technology class to the independent study was the equivalent of a "school detention" and requesting the removal of the planner. The complainant and assistant principal 1 agreed to talk on the phone on January 22, 2026.
16. Email from school psychologist to student's teachers dated January 29, 2026 at 8:07 a.m. sharing three goals that student and school psychologist agreed to as return to school. The student agreed that the goals could be shared with teachers.

17. Email exchange between complainant and assistant principal 2 dated between March 9, 2026 at 10:08 a.m. and March 10, 2026 at 10:41 a.m. notifying school that student was being bullied/teased in the lunchroom by a classmate that was a previous friend and asking for extra supervision.
18. Email from complainant to principal dated April 1, 2026 at 12:58 p.m. formally requesting a change of school or move to online school citing ongoing bullying as the reason.
19. Email from school psychologist to parents dated April 3, 2026 at 8:31 a.m. acknowledging decisions from April 2, 2026 meeting for the student to transfer to virtual school and withdraw from special education services in the LEA.
20. Ready Willing and Able letter to parents dated April 3, 2026.
21. Letter to investigation with additional information from complainant dated July 27, 2026.
22. Email from director of special education to investigator dated August 8, 2026 at 7:04 a.m. responding to requests for documentation regarding enrolling the student in first hour electives and strategies attempted for the student to remain in the first hour technology class.
23. District response dated July 28, 2026.
24. Email from director of special education to investigator dated August 8, 2026 at 7:04 a.m. responding to clarification questions regarding how independent study was selected over other class electives.
25. Email from complainant to investigator dated August 12, 2026 at 10:12 a.m. providing additional evidence including two versions of the student's classroom schedule, a copy of the Independent Study's instructor KSDE professional license, and a KORA request and response.
26. Student schedule for the 2025-26 school year.
27. Student discipline profile and records for the 2025-26 school year.
28. Student attendance records for the 2025-26 school year.
29. Student transcript.

Background Information

The student was 13 years old enrolled in the seventh grade at the Middle School during the 2025-26 school year receiving special education services and support under the exceptionality categories of Other Health Impaired for executive functioning and impulse control goals according to the most recent May 2024 evaluation report. The IEP Team reviewed and revised the student's IEP and developed a positive behavior support plan on May 9, 2025 to address Chromebook misuse, inappropriate language, and inappropriate physical contact with others. The student received 100 minutes daily in core classes (25 minutes per core class) to support with behavior management. On April 3, 2026 the LEA sent a Ready, Willing, and Able letter to

the family regarding the student's withdrawal from special education services and transfer to a virtual school program to complete seventh grade on April 6, 2026.

Issues Investigated

Based on the written complaint, five issues related to the Individuals with Disabilities Act (IDEA) were identified and investigated.

Issue One

Did USD #229 follow appropriate procedures in January 2026 when changing the student's class schedule resulting in a change of special education services and placement?

Applicable Law

According to 34 C.F.R. §300.324(b)(ii) the IEP team must be reconvened to review and revise the IEP to address any lack of expected progress toward annual goals or in the general education curriculum, the results of any reevaluations, information provided by the parents, or the child's anticipated needs.

Federal regulations at 34 C.F.R. §300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, educational placement, or the provision of FAPE to the student.

In addition, Kansas state regulations at K.A.R. §91-40-27(a)(3) require school districts to obtain parent consent before making a substantial change in placement. "Substantial change in placement" is defined at K.A.R. 91-40-1(sss) as the movement of an exceptional child for more than 25% of the child's school day from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

Federal regulations at 34 C.F.R. § 300.530 describe the authority of school personnel to consider on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.

Parent Position

In the letter of complaint, the parent alleged that at the "start of the third quarter in January 2026, [Student] was placed in a first-hour technology class; [student's] last confirmed day in that class was Friday, January 9, 2026, and the removal took effect Monday, January 12, 2026, when [Assistant Principal 1] removed [student] from the class and placed [student] in an unstructured arrangement — sitting in the administrative office during first hour —for the remainder of the third and fourth quarters.[BD1.1] No IEP team meeting was convened before or after the change. No prior written notice was provided. The family was never presented with

a written description of the change, the basis for it, or their procedural safeguards; no name or label for the arrangement was communicated to them at the time, and the family first heard it called "independent study" from [Principal] at the March 24, 2026 reentry meeting, more than ten weeks after the removal took effect. When [Assistant Principal 1] additionally sought to have [student] sign a "homework" sheet after each class, [student's] father objected in writing that [student] was already serving what [father] considered 'an in school detention every day 1st hour"; [Assistant Principal 1's] written response dismissed [that] account — "the perspective [student] shares at home doesn't always match what we observe and document here at school.' Although the homework-sheet measure was not imposed following a subsequent meeting, the removal itself continued unchanged, and the objection produced no IEP meeting, no prior written notice, and no review of the placement. This unilateral change to the educational placement and services of a student with an IEP, without prior written notice or IEP team involvement, violated 34 C.F.R. § 300.503 and the corresponding Kansas requirements. The arrangement continued daily until [Student's] transition to online schooling became official on April 6, 2026."

Local Education Administration Position

The LEA responded in the July 28, 206 response that "the actions described in the complaint resulted in a change of educational placement, and KSDE lacks jurisdiction over the general education matter. [Student's] schedule was modified during the spring 2026 semester changing [student's] first hour from the elective class of technology to independent study[BD2.1] as noted in [student's] schedule because [Student] was misusing [student's] Chromebook in technology. [Student's] Positive Behavior Support Plan ("PBSP") provides for Chromebook support and monitoring, which was proving difficult in Technology class." The response continues by stating, "[Student's] IEP states that [student] will 'receive special education adult support in the general education classroom for 100 minutes daily (25 minutes per each core class)' and 'specialized instruction in the resource classroom for 25 minutes daily.' No portion of the IEP requires [Student] to attend the general education technology elective class noted in the complaint. The student was offered other general education elective classes as alternatives, and [student] declined those options, so an independent study elective was provided instead."

Analysis: Findings of Fact

The following findings of fact are based on interviews, clarifications, and a review of documentation.

1. The school staff clarified to the investigator that the IEP and PBSP refer to Chromebook, but the student used other forms of technology during the school day for instructional use and device use is a more appropriate description for the student during the 2025-26 school year.

2. The school staff explained that during the spring of the preceding year, counselors do presentations to all the students about enrollment. Slides from those presentations are sent to the families along with a Google form to identify elective preferences. Once received the counselors create a master schedule to try to match the student's elective choices. They stated that schedule changes for electives and core classes differ.
3. The parent and school agree that the student identified technology as a preferred elective and was enrolled in technology class during first hour. The complainant stated to the investigator that the student had been successfully enrolled in a technology class during sixth grade. The student's schedule for the 2025-26 school year printed on July 24, 2026 lists the student as enrolled in independent study.
4. An email from the student's special education case manager was sent the technology teacher and other Quarter 3 classroom teachers on January 6, 2026 at 9:29 a.m. documenting that at the beginning of Quarter 3 the student was not to have access to a Chromebook, use a peer's Chromebook or borrow one from the office. The special education case manager further directed the technology teacher that the student is to be located near the teacher to keep an extra eye on computer use.
5. The technology teacher emailed the student's special education case manager on January 13, 2026 summarizing the following concern about the student's ongoing misuse of the Chromebook during first hour technology class stating that the accommodation of paper and pencil was not an appropriate accommodation in the technology class. The teacher wrote, "[Student] once again violated my classroom rules regarding hidden tabs with games open on them while we are doing coursework. [Student] was removed from my class last week for this violation and promised [student] would comply with the rules. I was absent yesterday so was not here to monitor [student] but 15 minutes into our worktime today, [student] was playing Minecraft (sic) hidden behind [student's] work window. Knowing what I know about [student's] issues and impulsivity with technology and not being able to comply with the rules, I feel we are setting [student] up for failure by keeping [student] in this class." The school staff stated to the investigator that the student was not only misusing the technology, but becoming disrespectful to school staff, stating a refusal to put away the Chromebook. Later that day the assistant principal 1 emailed the technology teacher and special education case manager that the student is to work in student services tomorrow (January 14, 2026) during first hour and was only allowed to work on assignments via paper and pencil. [BD3.1]
6. The assistant principal 1 stated to the investigator that following the student's ongoing misuse of technology it was determined that the administration team meet to figure out what would be in the best interest of the student. The assistant principal 1, reported meeting with the principal and assistant principal 2 met and then notifying the student's teachers of the schedule change and having a phone conversation with the complainant.

7. According to the 2025-26 school year discipline referral and incident reports no reports were made for computer misuse. Nor discipline referrals were made during Quarter 3 while the student was in the technology class.
8. The complainant had stated to the investigator that any elective would have been preferential to an independent study that resulted in helping out in the office rather than learning new information in a class. The complainant further expressed to the investigator that part of the misuse with the Chromebook was due to the assignments being easily completed by the student and the student not being told to close the computer screen when the assignment was complete.
9. The director of special education replied to the investigator in an email on August 8, 2026 in regard to the complainant's concern that the student was placed in an independent study rather than consider a different elective. The director of special education stated that the school staff had an individual conversation with the student discussing theatre during first hour. They further reported that assistant principal 1 shared with the student that the student would have more elective options if additional schedule changes were made as more elective options were available later in the school day, but the student stated that preferred classmates were in the current class periods and did not want to change. The student then opted for independent study over theatre[BD4.1].
10. On January 13, 2026 the assistant principal 1 an email documented that the student's teachers that the student would be reassigned from technology class to an independent study, establishing procedures for teachers notifying the work to be completed during that time.
11. A January 20, 2026 email exchange shows that the complainant and assistant principal 1 disagreed on the proposal for a notebook planner during first hour and that the complainant viewed the removal from the technology class to independent study as the equivalent of "school detention".

Conclusion

The conclusion addresses the complainant's two allegations. First that the IEP team needed to be reconvened prior to the schedule change since the LEA changed the student's placement and second that a disciplinary change of placement occurred due to the student being assigned to an independent study in the office in place of the technology class.

Federal regulations at 34 C.F.R. §300.324(b)(ii) states that the IEP team must be reconvened to address any lack of expected progress toward annual goals or in the general education curriculum, the results of any reevaluations, information provided by the parents, or the child's anticipated needs. In this case, the IEP specifically addresses services for core classes only. No services are allocated in the case of electives. Therefore it is found that the LEA had no obligation to call an IEP meeting prior to changing the student's schedule, issue a prior written notice or provide procedural safeguards in this instance. It is acknowledged that the family was frustrated with the communication, transparency and their lack of a role in this schedule

change, however the change of schedule does not fall under IDEA or Kansas special education regulations.

Second, the complainant alleged that the schedule change from the technology class to the independent study occurring in the main office was the equivalent of a disciplinary removal since the student's removal was due to a behavior identified in the student's IEP and PBSP.[BD5.1] Federal regulations at 34 C.F.R. §300.530 address a change in placement when a child with a disability violates a code of student conduct. In this case there were no discipline referrals associated with a code of conduct violation so 34 C.F.R. §300.530 does not apply.

Based on the foregoing, the *LEA is found IN compliance* with following federal regulations implementing the IDEA at 34 C.F.R. §300.324(b)(ii) and C.F.R. §300.530 when changing the student's class schedule during the 2025-26 school year.

Issue Two

Did USD #229 implement the student's positive behavior support plan in regard to Chromebook use during the 2025-26 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Parent Position

In the letter of complaint, the complainant alleged that the Chromebook misuse that "triggered" the January removal from the first period Technology class is "expressly identified as a target behavior in [Student's] May 8, 2025 PBSP. The PBSP existed precisely to prescribe the interventions and supports for this behavior. Rather than implement the plan, the District responded to the target behavior by excluding [Student] from instruction for two quarters. Responding to a PBSP identified behavior with exclusion instead of the plan's interventions is a failure to implement the IEP and PBSP as written."

Local Education Administration Position

The LEA responded on July 28, 2026 that the student's PBSP was implemented consistently with regard to Chromebook usage, asserting that the Chromebook was stored in the office or the special education teacher's office. A staff member or the student under staff supervision retrieved a specific Chromebook only when necessary for a class, and then it was returned. Further, the student was supervised visually when using the Chromebook. "Although the PBSP

outlines general proactive strategies for all targeted behaviors and reinforcement for when [Student] appropriately engages with technology and peers, it does not provide specific response strategies for misuse outside the student code of conduct."

Analysis: Findings of Fact

The findings of Issue One is incorporated herein by reference. The following findings of fact are based on interviews, clarifications, and a review of documentation.

1. The LEA and Complainant agree that this issue was specific to implementation of the PBSP regarding Chromebook usage during the first hour Technology class. The special education director verified that the student's first day in the Technology class was January 6, 2026 and last day was January 16, 2026 with the student starting in the Independent Study beginning January 20, 2026.
2. The PBSP dated May 8, 2025 defines Chromebook misuse as using the Chromebook for non-educational purposes, citing examples as "playing games, getting around Security (sic), telling others how to get around Security (sic), logging out of lockdown browser, shopping, erasing peer's work on collaborative document" with non-examples including "staying on lockdown browser, playing an educational game teacher has approved" The Expectations, Modifications, and Accommodations in the plan include: Paper/pencil assignments for majority of classroom assignments; Chromebook usage is only allowed for Amplify, I-Ready, or any assignments that can only be completed on the Chromebook. Adult supervision at all times while on Chromebook and the Chromebook is to be kept in the office. Self-Regulation instruction in the plan includes that interventions are to be tailored to engaging in expected behaviors, Chromebook usage, and impulse control.
3. The email from the special education case manager to the student's Quarter 3 teachers on January 6, 2026 documented that the portions of the student's PBSP plan specific to Chromebook usage were provided to all teachers.
4. Email exchanges occurring between January 6, 2026 and January 13, 2026 document that the technology teacher and special education case manager discussed the appropriate implementation of the Chromebook usage portion of the PBSP since paper and pencil were not appropriate for the class. Further, email conversations focused on supervision of the student's Chromebook usage while in the technology class.
5. The school staff stated to the investigator that the special education case manager spoke with the student at the start of the semester, hoping to set the student up for success by reminding the student of what is expected in regard to Chromebook use and how to consider that in technology class and other classes. The principal also stated that the technology teacher reached out to the parents about talking with the student about the Chromebook misuse at home as well. The principal stated that in spite of these proactive and early intervention efforts the student continued to misuse the technology.

Conclusion

The IDEA and Kansas regulations guiding IEP and the PBSP implementation generally address the documentation of special education minutes, related services minutes, providing accommodations, implementing the FBA/BIP, that the IEP is provided to staff, and documentation of student progress. In this case the investigation of this issue is specific to the PBSP implementation during the student's enrollment in the technology class.

It is found that the contents of the PBSP was provided via email on January 6, 2026 to the technology teacher who discussed the plan contents, student's accommodations from the IEP and experiences with Chromebook use/misuse with enough specificity that the technology teacher was implementing the plan on a daily basis. The student was not in the class long enough to properly evaluate progress and there were no service minutes related to the implementation of the PBSP.

The following expectations, modifications, and accommodations were outlined in the student's PBSP:

1. Paper/pencil assignments for majority of classroom assignments. Documentation in emails showed that the special education case manager and technology teacher agreed this aspect of the plan was not applicable to the curriculum and pedagogy of this class.
2. Chromebook usage is only allowed for Amplify, I-Ready, or any assignments that can only be completed on the Chromebook. Again the emails between the special education case manager and technology teacher agreed that the Chromebook was integral and required for the student to participate in this class.
3. Adult supervision at all times while on Chromebook and the Chromebook is to be kept in the office. Email exchanges between the special education case manager and technology teacher showed that the technology teacher understood and reported on adult supervision during the technology class and due to the nature of the class the student needed and had access to the Chromebook for the duration of the class during the time the student was enrolled. The interview with the school staff revealed that the student was supervised, but the student was still finding ways to misuse the technology.
4. Self-Regulation instruction in the plan includes that interventions are to be tailored to engaging in expected behaviors, Chromebook usage, and impulse control. The implementation of this is documented through interview with the special education case manager who indicated that a discussion occurred at the start of Quarter 3 reminding the student of what is expected in regard to Chromebook use and how to consider that in technology class and other classes. The emails between the special education case manager and technology teacher further document that they discussed strategies for Chromebook usage and planning to engage with the technology properly.

Based on the foregoing, the ***LEA is found IN compliance*** with following federal regulations implementing the IDEA at 34 C.F.R. §300.323(c)(2) and Kansas regulations at K.A.R. §91-40-16(b)(2) with implementing the student's positive behavior support plan during the 2025-26 school year.

Issue Three

Did USD #229 follow appropriate procedures when disciplining the student during the 2025-26 school year, specifically by assigning an out-of-school suspension of December 12, 2025 followed by the subsequent removal from the first hour Technology class to an unstructured in-school suspension setting during the second semester?

Applicable Law

According to the Kansas Special Education Process Manual, page 193 "When a child with a disability violates a school's code of conduct, that behavior could result in suspension or expulsion. Such removals from school are subject to the disciplinary provisions of special education law." On page 196 the Manual states that "School officials may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement." (34 C.F.R. §300.536)

Specifically, 34 C.F.R. §300.536 clarifies disciplinary placement as referring to situations where a student with a disability is removed from his or her current educational placement because of behavior that violates a code of student conduct. According to 34 C.F.R. § 300.536(a) a disciplinary removal is considered a change of placement if the student is removed for more than 10 consecutive school days or has a series of removals that total more than 10 school days in a school year and constitute a pattern. Once there is a change of placement, IDEA's additional protections apply.

Federal regulations at 34 C.F.R. §300.530(e)(1) and state statute at K.S.A. 72-3433(d)(2),(e)(1) describe in the instance of behavioral incident(s) as soon as practical, but not later than 10 school days after the date on which the decision is made to change the placement of a child with a disability because of a violation of a student code of conduct, the MDR team, consisting of the LEA, relevant IEP team members, and the parent must review all relevant information in the student's file and determine whether the student's conduct was caused by, or had a direct and substantial relationship to, the child's IDEA-qualifying disability; or the direct result of the LEA's failure to implement the IEP. If either condition is met, the conduct is deemed a manifestation of the disability. Federal courts have emphasized that the MDR inquiry is tied specifically to the student's IDEA-qualifying disability and may not be expanded to consider non-qualifying diagnoses or generalized assumptions about disability categories.

The Kansas Special Education Process Manual further explains on page 211 "A manifestation determination review is only required in two instances: (1) the suspension is for more than 10

consecutive school days (including placement in an interim alternative educational setting for possession of weapons or drugs or for infliction of serious bodily injury); or (2) the suspension is for less than 10 consecutive school days, but constitutes a pattern of removals that result in a change in placement. A pattern of removals that results in a change of placement occurs when all of the following are present: (1) the removals in a school year cumulate to more than 10 school days; (2) each incident of misconduct involves substantially the same behavior; and (3) there are other factors present that indicate a pattern of removals, such as the length of each suspension, the total amount of time the child is suspended and the proximity of the suspensions to one another. Accordingly, short-term suspensions beyond the 11th cumulative day of suspension may continue to be imposed without a manifestation determination as long as all of the components of a pattern of removals are not present. However, educational services, although in another setting, are required for all suspensions beyond the 11th cumulative day.

In the case of a disciplinary change of placement federal regulations at 34 C.F.R. §300.530(c) states that if the disciplinary change in placement would exceed 10 consecutive school days, and the behavior that was the violation of the school code is determined not to be a manifestation of the child's disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities.

Parent Position

In the letter of complaint, the parent alleged that on December 12, 2025, assistant principal 2 issued a one-day of OSS, citing a week of accumulated behavior. Beginning during January 2026 the student was additionally removed from the Technology class every school day and reassigned to report to the main office for either independent study or to assist the staff in assisting the administrative staff to complete office tasks. The complainant alleges that the LEA never considered and thus never analyzed whether the daily first-hour exclusion from the Technology class "constituted a disciplinary removal; never assessed whether the cumulative removals amounted to a pattern constituting a change of placement; and never convened a manifestation determination review —despite the fact that the behaviors cited (impulsivity-related conduct and Chromebook misuse) are directly connected to the student's identified disability and are addressed in [student's] IEP goals and PBSP."

Local Education Administration Position

The LEA responded that they followed appropriate procedures when disciplining the student when assigning a one-day out-of-school suspension (OSS) on December 12, 2025. At the time of the December 12, 2025 OSS the student had a total of two days of OSS thus far during the 2025-26 school year so the need for a Manifestation Determination Review was not triggered. Later the student's move from the 1st hour Technology elective to Independent Study elective

was not punitive and does not meet the standard of an in-school suspension or a disciplinary change of placement so the need for a Manifestation Determination Review was not triggered.

Analysis: Findings of Fact

The findings of Issues One and Two are incorporated herein by reference. The following findings of fact are based on interviews, clarifications, and a review of documentation.

1. The discipline records document that on August 25, 2025 the student had a conference with the principal for disruptive conduct and was not provided any other consequence. On December 8, 2025 the student was given after-school detention for disruptive conduct. On December 10, 2025 the student was given one day of in-school suspension (ISS) for disruptive conduct. On December 12, 2025 and January 28, 2026 the student was given one day of out of school suspension (OSS) each for disruptive conduct. On March 10, 2026 the student was given two days of OSS for disruptive conduct.

Conclusion

The discipline records document that the student had not been suspended for ten days. The findings of Issue One concluded that the LEA's change from the first hour Technology class to an Independent Study did not constitute a disciplinary change of placement and thus do not count toward or contribute to a pattern of behavior and thus are not applicable

Based on the foregoing, the *LEA is found IN compliance* with following federal regulations implementing the IDEA at 34 C.F.R. §300.536 and 34 C.F.R. §300.530(c) when disciplining the student during the 2025-26 school year.[BD6.1]

Issue Four

Did USD #229 provide the student with a free appropriate public education (FAPE) when the district failed to reconvene the IEP Team to address repeated reports of the student being bullied during the past 12 months?

Applicable Law

Kansas statute and federal regulation specifies several occasions for convening an IEP meeting. 34 C.F.R. §300.324(b)(1)(i)–(ii) and K.S.A 72-3429 states that an IEP meeting should be convened whenever the child's needs change, progress is not as expected, or new information arises.

Although the IDEA regulations do not specifically address bullying the August 20, 2013 Dear Colleague letter from the US Department of Education, Office of Special Education and Rehabilitation Services specifically clarifies that "bullying of a student with a disability that results in the student not receiving meaningful educational benefit constitutes a denial of free appropriate public education (FAPE) under the IDEA that must be remedied." Further, the letter states that schools

have an obligation to ensure that a student with a disability who is a target of bullying behavior continues to receive FAPE in accordance with his or her IEP. The school should, as part of its appropriate response to the bullying, convene the IEP Team to determine whether, as a result of the effects of the bullying, the student's needs have changed such that the IEP is no longer designed to provide meaningful educational benefit. If the IEP is no longer designed to provide a meaningful educational benefit to the student, the IEP Team must then determine to what extent additional or different special education or related services are needed to address the student's individual needs; and revise the IEP accordingly. Additionally, parents have the right to request an IEP Team meeting at any time, and public agencies generally must grant a parental request for an IEP Team meeting where a student's needs may have changed as a result of bullying. The IEP placement team (usually the same as the IEP Team) should exercise caution when considering a change in the placement or the location of services provided to the student with a disability who was the target of the bullying behavior and should keep the student in the original placement unless the student can no longer receive FAPE in the current LRE placement. While it may be appropriate to consider whether to change the placement of the child who was the target of the bullying behavior, placement teams should be aware that certain changes to the education program of a student with a disability (e.g., placement in a more restrictive "protected" setting to avoid bullying behavior) may constitute a denial of the IDEA's requirement that the school provide FAPE in the FRE. Moreover, schools may not attempt to resolve the bullying situation by unilaterally changing the frequency, duration, intensity, placement, or location of the student's special education and related services.

Kansas statute at K.S.A. 72-6147 defines bullying as any intentional gesture or any intentional written, verbal, electronic, or physical act or threat made by a student, staff member, or parent towards a student or staff member. To be considered bullying, the action must be sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment. Additionally, it must be an action that a reasonable person knows or should know will have the effect of 1) harming a student or staff member, either physically or mentally, 2) damaging a student's or staff member's property, or 3) placing them in reasonable fear of harm to themselves or damage to their property.

Parent Position

In the letter of complaint the parent alleged that the LEA had documented knowledge of sustained peer harassment of the student dating back to before the twelve month investigation period. During the 2025-26 school year the complainant asserts the following incidents 1) a December 2025 classroom incident by peers that was reported to a teacher, 2) a December 2025 incident perpetrated by a teacher when accidentally projecting an email about the student to the classroom and 3) a March, 2026 lunchroom incident. The complainant further reported that at a March 24, 2026 meeting where bullying incidents were discussed the student's special education case manager recalled connecting that the student's requests to

skip lunch and sit in the classroom because of a "stomach ache." Likely connected to the bullying incidents being discussed. The parent alleged that although bullying incidents have been occurring since the 2024-25 school year the LEA did not convene the IEP team to address the effect of the harassment on receipt of FAPE, consider whether the IEP or PBSP required revision in light of the bullying, or document any plan to protect the student. Instead, the principal told the family the situation "did not fit the definition of bullying,".

Local Education Administration Position

The LEA stated in their response to the complaint that the "school team does not have documentation indicating the parent requested an IEP meeting nor repeatedly reported bullying; however, school administration repeatedly engaged with the complainant to attempt to find additional supports and consequences that would foster 'meaningful change' in the student's behavior surrounding technology use and interactions with peers. The LEA contends that the student received a FAPE during the 2025-26 school year, continued to make progress in classes, and the school team was responsive within the same quarter when struggling with general education conduct expectations by providing additional documented interventions." The LEA asserted that allegations of bullying were not brought forward to the school until after parents decided to enroll the student in virtual school when they emailed the principal of their decision.

Analysis: Findings of Fact

The findings of Issues One through Three are incorporated herein by reference. The following findings of fact are based on interviews, clarifications, and a review of documentation.

1. The complainant identified in the complaint and during the interview with the investigator four separate incidents of bullying. 1) an incident that occurred during May 2025 and thus outside the investigation window. 2) an incident of classmate(s) taunting the student during December 2025 regarding the student's dog. 3) an incident whereby a teacher shared an email between the teacher and another teacher on an overhead projector and visible on a laptop identifying the student, the student as having a disability and behaviors during December 2025. 4) an incident of classmates putting along food on the student during lunch during March 2026.
2. The December 2, 2025 incident of the teacher sharing personally identifying information about the student leading to classmates taunting/harassing the student was documented through a series of email exchanges. The December 2, 2025 email from the learning resource teacher to the ELA teacher described the student's behavior and effects of behavior from having missed a class. This email is the one that was displayed in the classroom resulting in classmates approaching the student and the student self-reporting bullying on December 2, 2025 at 1:50 p.m. The parent reported picking up the student who was upset and after hearing about the incident called assistant principal 1 who had not yet talked about the incident on December 4, 2025 according to an email exchange. The complainant expressed frustration with how and

when the information about the incident was provided in a side-by-side comparison and statement of facts surrounding information between LEA staff and shared with the family about the incident. The complainant stated that the student was sent out of the class when questioning the teacher about sharing private information. Finally, an email exchange between the complainant and assistant principal 1 documented that the parties had talked and the student wished to drop everything and not talk about it any further. The family stated they were fine with the student's decision. The complainant stated that this incident did not trigger the school to call an IEP team meeting.

3. The LEA reported to the investigator that following the report of the December 2, 2025 incident was investigated and the parents were involved in discovering the facts. The LEA acknowledged that a staff member disclosed personally identifying information about the student on December 2, 2025 and this error has been addressed through the school and LEA as a personnel matter.
4. An email exchange between assistant principal 2, and the complainant on March 9, 2026 "indicated that the parent wanted to bring awareness to the need for additional supervision in the lunch room" to which the assistant principal responded by encouraging the student to report any such incidents.
5. The IEP and PWN dated May 9, 2025 does not include any reference to services, placement or accommodations related to bullying.
6. Neither the LEA nor complainant requested an IEP meeting to discuss instances of the student being bullied during the 2025-26 school year according to interviews with each party or documentation.
7. The 2025-26 attendance records do not indicate a change in attendance habits during the periods of reported bullying.
8. The student's transcript shows that the student's grade had some variance, between grade assignments (e.g., B to A, B to C)
9. The student's progress reports during the 2025-26 school year reporting the student's IEP goal mastery showed that the student was not on track to master the goal by the end of the IEP annual review.
10. An email from the complainant to the principal dated April 1, 2026 at 8:31 documents that a formal request to change schools or move to online school writing, "We are writing to formally request a change in schooling for [Student] for the remainder of [student's] seventh-grade year. As you are aware, [Student] has been experiencing ongoing bullying at [school]. Despite our efforts to address this matter, the situation has unfortunately continued."
11. The complainant and LEA reported to the investigator that a meeting occurred at the school to discuss the complainant's request to change schools or move to online school on April 2, 2026. Both agreed during the investigation and in an email exchange that the meeting went well. An agreement was reached for the student to attend a virtual online school and the LEA facilitated that transition. The family withdrew the student

from special education services to which the LEA provided a Ready Willing Able letter dated April 3, 2026.

Conclusion

The complainant alleged that the LEA should have reconvened an IEP meeting in response to ongoing bullying of the student that led to the student's denial of FAPE and caused the parents to remove the student from the school and enroll the student in an online school and withdraw from special education services. According to 34 C.F.R. §300.324(b)(1)(i)–(ii) three conditions trigger the LEA to reconvene an IEP team meeting and in this case new information - ongoing bullying was the circumstance that the complainant alleged should have triggered the LEA to reconvene the IEP team to discuss special education services to ensure the student receive FAPE.

Kansas law defines bullying to guide LEAs to respond. Bullying is defined as the intentional gesture or any intentional written, verbal, electronic, or physical act or threat made by a student or staff member toward a student AND needs to be sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment that would, according to the August 20, 2013 Dear Colleague letter prevent the child from receiving a free and appropriate public education. The investigator does not find that the totality of these incidents were sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment that would have triggered the IEP team to reconvene to consider a change in the student's special education services to provide a FAPE. In addition the student's attendance or grades were not impacted around the times of the incidents and although student progress was not as expected the investigator does not find that this one indicator was enough to trigger that the LEA should have reconvened the IEP team to discuss amending the IEP to ensure the student was able to receive a FAPE.

Based on the foregoing, the *LEA is found IN compliance* with following federal regulations implementing the IDEA at 34 C.F.R. §300.324(b)(1)(i)-(ii).

Issue Five

Did USD #229 fail to implement the student's IEP during the 2025-26 school year, specifically by not enrolling the student in a physical education (PE) class during the second semester of the 2025-26 school year?

Applicable Law

Federal regulations at 34 C.F.R. §300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. K.A.R. §91-40-16(b)(2) further specifies those services for which written consent has been granted as specified by law are

implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

Parent Position

In the letter of complaint, the parent alleged that "During IEP development, District administration recommended, and the family understood the team to have adopted, year-round physical education for [Student]. For the second semester of 2025– 2026, [Student] was not scheduled into PE. On January 6, 2026, the IEP case manager acknowledged in writing: 'I apologize for [Student] not getting signed up for all year PE due to my mistake when enrolling [student] for classes this year," while stating all seventh-grade PE classes were at capacity. The complainant does not contend that the written IEP document mandates year-round PE; [complainant] contends that a service the team discussed and administration recommended was lost to an admitted enrollment error and never remedied, and [complainant] requests that KSDE examine whether the IEP as implemented reflected the team's decisions and whether the error should have prompted team review rather than a capacity-based refusal."

Local Education Administration Position

The LEA responded in their July 28, 2026 response, "To be clear, there is no PE requirement established in [Student's] IEP. Generally, students do not attend PE both semesters. In any event, this is not a special education issue for which KSDE has jurisdiction. Enrollment in PE for an additional semester was not noted as necessary for [Student] to receive a FAPE in [student's] IEP. No IEP related documents indicate this schedule preference as necessary for the delivery of FAPE. The student does not require adapted or specially designed PE per the IEP. Although the special education teacher did offer to help get [Student] enrolled in the year-long PE class, this was not a special education action. Even though PE wasn't required for [Student's] general education or special education second semester, when it was discovered [Student] wasn't enrolled in PE second semester, the class was already full and [student] was unable to be enrolled.

Analysis: Findings of Fact

The findings of Issues One through Four are incorporated herein by reference. The following findings of fact are based on interviews, clarifications, and a review of documentation.

1. The student's IEP and PWN dated May 9, 2025 does not state the student should be enrolled in physical education for all duration of the 2025-26 school year.
2. The complainant reported to the investigator that in fifth grade the IEP team discussed and determined that physical activity was important for the student's regulation and a good way for the student to work out extra energy to remain focused during classes, reporting that the student's current case manager was in attendance at the fifth grade IEP. The complainant further reported that the student had physical education during all of sixth grade year and it contributed to a successful school year.

3. The email exchange between the complainant and the student's case manager prior to the start of the second semester documents that the student's parent discovered that physical education was not on the student's class schedule and requested the student be placed in physical education per the previous discussions in past IEP meetings. "Looked at [Students] 2nd semester schedule and noticed [student] does not have PE, it was my understanding [student] was going to have PE both semesters like [student] did last year." "How was this missed? We specifically discussed this when setting up [student's] IEP. PE year round was at the recommendation of [LEA] Administration." The email exchange further documents that the special education teacher reported that all physical education classes were full and apologized that the student could not be enrolled. "I have reached out to administration and counselors to look into [Student] continuing to be in PE for the second semester." and "I was unable to find a PE class that was open for [Student] to be able to attend for 2nd semester. I worked closely with the counselors to try to find a solution, however, all the PE classes for 7th grade are at capacity. I apologize for [Student] not getting signed up for all year PE due to my mistake when enrolling [student] for classes this year."
4. The complainant contends that the special education teacher's apology was an acknowledgement that the LEA had erred in not following through with a special education decision in providing the student physical education during second semester. The LEA contends that the special education teacher responded to a parent request by trying to change the student's schedule but because physical education was not a special education service the schedule change could not be completed because all of the physical education classes were full and was simply apologizing that the parent request could not be fulfilled.

Conclusion

In this case, the decision that the student would sign up for physical education year round was made during the initial IEP development and due to the continuity of the student's current case manager was carried forward through 6th grade, but for whatever reason it was overlooked during 7th grade second semester. The investigator is not able to consider the IEP team decisions from 5th or 6th grade, but only able to examine the IEP decisions made from the past twelve months. The IEP in effect during the 2025-26 school year does not indicate that the student is to be enrolled in physical education for the duration of the school year.

As a result, the ***LEA is found IN compliance*** with following federal regulations implementing the IDEA at 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) by not enrolling the student in a physical education (PE) class during the second semester of the 2025-26 school year.

Summary of Conclusions/Corrective Action

Issue One: Based on interviews and a review of documentation, violations of IDEA regulations at 34 C.F.R. §300.324(b)(ii), 34 34 C.F.R. §300.503(a), K.A.R. §91-40-27(a)(3), 34 C.F.R. §300.530 were not found and no corrective action is needed.

Issue Two: Based on interviews and a review of documentation, violations of IDEA regulations at 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) were not found and no corrective action is needed.

Issue Three: Based on interviews and a review of documentation, violations of IDEA regulations at 34 C.F.R. §300.536, 34 C.F.R. §300.530(c) and (e)(1), and K.S.A. 72-3433(d)(2) and (e)(1) were not found and no corrective action is needed.

Issue Four: Based on interviews and a review of documentation, violations of IDEA regulations at 34 C.F.R. §300.324(b)(1)(i)-(ii), K.S.A. 72-6147 and August 20, 2013 Dear Colleague letter from the USDOE, OSERS was not found and no corrective action is needed.

Issue Five: Based on interviews and a review of documentation, violations of IDEA regulations at 34 C.F.R. §300.323(c)(2) and K.A.R. §91-40-16(b)(2) were not found and no corrective action

Donna Wickham

Donna Wickham, Ph.D., Complaint Investigator

Destruction of Records

In compliance with federal regulations, at 34 C.F.R. 300.624, notice is provided to both parties that, within 60 days of the date of a final decision, any personally identifiable information of any student obtained by the investigator in this investigation will be considered no longer needed to provide educational services to any such student and may be destroyed by the investigator. Any personally identifiable information regarding this complaint held by the Kansas State Department of Education will be deemed no longer needed to provide educational services to the above-named student six years after the date of the final decision and may be destroyed by the department at that time. After expiration of these timelines, a parent may request destruction of the information obtained in this complaint. If such a request is made, the information will be destroyed.

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)