KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #383 (MANHATTAN-OGDEN PUBLIC SCHOOLS)
ON AUGUST 18, 2026

DATE OF REPORT: SEPTEMBER 21, 2026

This report is in response to a complaint filed with our office, on behalf of ------- , by his parents, ------- and -------. For the remainder of this report ------- will be referred to as "the Student," the father will be referred to as "the Father," will be referred to as "the Mother," and the two will be referred to collectively as "the Parents." The School and Local Education Agency staff, Dr. Felicity Post (Interim Director of Special Education) and Caroline Holt (Secondary Special Education Coordinator) will be referred to as the "District".

The complaint is against USD #383 . In the remainder of the report USD # 383 will be referred to as the local education agency "LEA." The LEA staff will be referred to as the Special Education Director or the Secondary Special Education Coordinator.

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a complaint from the date in which it was filed. A complaint is considered filed on the date in which it was received by KSDE. In this case, KSDE initially received the complaint on August 18, 2026.

Investigation of Complaint

K.A.R. § 91-40-5(c)(5) requires that the complaint investigation include "[a] discussion with the complainant during which additional information may be gathered and specific allegations of noncompliance identified, verified, and recorded." , Lori Noto, complaint investigator, held this initial discussion by phone with the Mother and Father on August 23, 2026, gathering additional information and verifying the specific allegations to be investigated. The complaint investigator provided the specific allegations to be investigated to the complainant via Egnyte on August 24, 2026, an email indicating that the investigation plan was posted was sent to the complainant on August 24, 2926. The complainant did not dispute how the complaint investigator framed the issues to be investigated. The complainant also provided documentation for the complaint investigator to consider as part of the investigation and the complainant and investigator exchanged multiple emails. The LEA special education director, LEA special education coordinator and the investigators (Lori Noto and Donna Wickham) had an initial call on August 31, 2026 ,and the LEA provided the investigators with a response to the issues the investigators identified, as well as all documentation and data the investigators requested.

The investigators interviewed the District on September 8, 2026, and the Parents on September 9, 2026.

Evidence Reviewed

In completing this investigation, the complaint investigators (Lori Noto and Donna Wickham), reviewed all evidence provided by the Local Education Agency and the Complaintants. The following materials were used as the basis of the findings and conclusions of the investigation:

- October 23, 2023 – Individualized Education Program (IEP) dated, last signed IEP
- October 23, 2023 – Prior Written Notice (PWN) dated and signed
- April 30, 2025 – Individual Educational Evaluation conducted by Kelli Nelson of Bedford-Nelson Individual Educational Evaluation, Manhattan, KS
- May 5, 2025- email to schedule May 15, 2025, meeting to review IEE
- May 6, 2025 – PWN dated and sent in an email to discuss IEE (unsigned)
- May 15, 2025 – Staffing summary
- May 15, 2025 – PWN dated to discuss possible changes to IEP and annual review (unsigned)
- May 16, 2025 – PWN dated for the August meeting to discuss possible changes to IEP (unsigned)
- May 16, 2025 –Notice of Meeting (NOM) given in May for August meeting (unsigned)
- August 11, 2025 – RWA dated stating services will be provided at public school site
- August 18, 2025 – Staffing summary
- August 22, 2025 – Ready, Willing, and Able Letter stating parents refused services at the public school
- September 10, 2025 – PWN dated, change in speech service hours (PWN for speech signed; unsigned change in placement)
- August 17–18, 2026 – Complaint dated August 17, 2026, received and opened by KSDE on August 18, 2026
- August 23, 2026 – initial conversation with parents to confirm the issues in the complaint
- August 31, 2026 – initial conversation with the LEA to confirm basic information for the issues
- September 1, 2026 – LEA response to complaint uploaded to Egnyte
- September 8, 2026 – conversation with the LEA to clarify information such as dates of the meetings and the current supports being provided
- September 9, 2026 – follow-up conversation with Parents to confirm their position with regards to the IEP, the IEE and his current level of services
- September 9, 2026 – Parents provided additional evidence past the cut-off date of September 3, 2026 (not reviewed for report)

Kansas regulations require that a complaint "allege a violation that occurred not more than one year before the date the complaint is received . . . ." K.A.R. § 91-40-51(b)(1). Therefore, this complaint investigator did not consider any information either party submitted dated prior to August 18, 2025, except for the IEP dated October 23, 2023, since it is the last IEP that the parents signed the PWN ,so it is the current IEP of record.

The parents also provided a great deal of information that was not pertinent to the issues investigated in this complaint. The investigator only lists above the information directly related to the issues within this complaint and used in this investigation. The parents provided additional information after the September 3, 2026, evidence submission deadline. The parents were informed during the September 9, 2026, that the information they planned to upload would not be used for this investigation.

Background Information

The subject of this complaint was a student who was to start 7th grade for the 2025-2026 school year. He is eligible for special education services with Autism Spectrum Disorder as his primary disability, Other Health Impairment due to Attention Deficit Hyperactivity Disorder as a secondary diagnosis and a medical diagnosis of Maturity-Onset Diabetes of the Young. For the 2025-2026 school year the student attended 7th grade at Manhattan Catholic School with speech services from USD 383. The parents did not sign the IEP presented for 2025-2026, so no special education supports were provided. Additionally, they did not sign the IEP developed for the 2024-2025 school year, the last signed IEP was for the 2023-2024 school year. They did consent to a reduction in his direct speech therapy hours for the 2025-2026 school year. This was the only service provided through the district for the 2025-2026 school year.

Issues Investigated

In the written complaint and the complaint investigator's discussion with the complainant, the parents allege two issues upon which this investigation will focus:

Based an initial phone call with the parents the following issues were investigated as they relate to state and federal regulations implementing the IDEA.

1. ISSUE ONE: Did the Local Education Agency consider the Independent Educational Evaluation in the development of the IEP for the 2025-2026 academic year?
2. ISSUE TWO: Did the Local Education Agency develop an IEP that meets the needs of the student according to IDEA and KS regulations?

Issue One

Did the Local Educational Agency consider the Independent Educational Evaluation in the development of the IEP for the 2025-2026 academic year?

Applicable Law

The Individuals with Disabilities Education Act (IDEA) the primary rule governing the consideration of an Independent Educational Evaluation (IEE), 34 C.F.R. § 300.502(c) states that if a parent shares an IEE with the District (whether funded at public expense or privately), the results of the evaluation must be considered by the District, provided that it meets expected standards, in any decision made with respect to the provision of a Free Appropriate Public Education (FAPE) to the child.

The parents of a child with a disability are provided through the procedural safeguards an opportunity to examine all records, to participate in meetings with regards to identification, evaluation and educational placement of the child and the provision of FAPE to the child and right to obtain an independent educational evaluation of the child [Federal Statute: 20 U.S.C. § 1415(b)(10), K.S.A. 72-3430, KAR 91-40-29 (b)(1)(A)].

Jacobs v. Salt Lake City School District (10th Cir 2025) ruled that school districts violate IDEA when they make administrative or categorical decisions about placement and service delivery rather than making individualized determinations tailored to the specific student's needs. Additionally, L.B. v. Nebo School District (10th Cir 2004) and Garcia v. Board of Education (10th Cir 2008) found that failing to provide a Prior Written Notice (PWN) for key evaluation discussions or failing to meaningfully incorporate independent evaluations (IEEs) deny parents their statutory role as equal participants in the IEP team.

Parent Position

Based upon the written complaint, the parents made the following allegation: the LEA did not take into consideration the Independent Educational Evaluation in the development of the IEP in August 2025. "An independent Educational Evaluation (IEE) was requested because the parents disagrees with the evaluation obtained by the agency and to the January 15, 2024, proposed revision of the child's IEP, which proposed the reduction of special education services for academic and behavior support of 280 minutes daily to 40 minutes of unknown special education services". The IEE was conducted by Kelli Nelson of Bedford-Nelson Independent Educational Evaluations and presented to the IEP team on May 15, 2025. Dr. Nelson (the LEA's Director of Special Education at that time) who was at the meeting suggested that the team reconvene on August 18, 2025, to discuss the draft IEP revisions and the IEE results. "Dr. Nelson gave an impression during the meeting (May 15, 2025) that they will consider the IEE results in revising the 'students' IEP". The IEP team met on August 18, 2025, but there was not a discussion of the IEE, and the findings were not considered in the draft IEP.

Local Education Agency Position

The LEA response stated that "USD 383 appropriately considered the IEE completed by Kelli Nelson and incorporated relevant findings and recommendations into its educational planning for 'student'". The evaluation was considered as one of the sources for developing his services and supports.

The August 18, 2025, meeting with the parents ended before the team had the opportunity to explain the relationship between the IEE recommendations, the information reviewed by the team, the proposed services, and the proposed accommodations and modifications. The parents chose to leave the meeting before all the information was shared. Dr. Felicity Post commented during the August 31, 2026, phone call with the investigators that the IEE was addressed though this may not have been explicit in the documentation.

Analysis: Findings of Fact

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

1. There were four recommendations from the IEE, the student: 1) will continue to receive services under the autism category; 2) receive inclusion support in core classes where attention is needed along with reading comprehension and problem solving; and 3) be considered for resource time to assist with organization and accurate task completion. The fourth recommendation is for the IEP team to determine the exact amount of support services time he needs to address the recommendations according to the school schedule and class demands. The evaluator (Kelli Nelson) stated that he struggles across multiple environments, home and school, putting into question whether his reading comprehension and math problem solving deficits are true deficits or if they are performance issues attributed to his attentional difficulties (staffing summary from May 15, 2025, meeting). The IEE was noted in the IEP document and attached, KSDE was consulted to verify this procedure (LEA documents and phone conversation with LEA staff, August 31, 2026).
2. There was no PWN for the May 15, 2025, meeting during which the IEE was discussed with the previous Director of Special Education, Dr. Jessica Nelson, and the IEP team including the parents along with the IEE evaluator Kellie Nelson and the ABA therapist.
3. The staffing summary from the May 15, 2025, meeting contains information about the parents' concerns, district position and input from the IEE evaluator. The parents emphasized "that reading comprehension, difficulty focusing, and information retention are their primary concerns, as these issues are what are directly impacting his learning." The school district does not see the same concerns. The evaluator (Kelli Nelson) noted that "the larger longer tasks will be where he needs support". English language arts and math are the most likely classes where he will need support.
4. The reading and math recommendations are addressed in two of the goals in the August 18, 2026, Draft IEP. Goal #1.1 focuses on multi-step math problems and Goal

#3.1 addresses reading comprehension. The recommendation for resource room supports was not embedded into the IEP but part of the planned discussion for the meeting and how his time could be scheduled during time at the public school to address his special education support needs (LEA response to complaint). Mother re-iterated concerns from the May 15, 2025, meeting that he has issues with attention, focus and retention. The staffing summary notes that he would receive 30 minutes of special education supports in the general education classroom for reading instruction during independent work and 42 minutes of special education support for math.

5. The PWN for the August 18, 2025, meeting was not signed since the parents disagreed with the initial discussion and stated that they did not feel the district was following the recommendations from the IEE. The Notice of Meeting (NOM) that was given in May for the August 18, 2025, meeting was also not signed.
6. There were two formal notices that the LEA is ready, willing and able to provide the student services. The letter dated August 11, 2025, states that his direct special education supports including accommodations and modifications would be provided at the public -school site. The location is noted to be necessary to "ensure supports are delivered by appropriately licensed staff and in a setting that complies with IDEA and Kansas special education requirements". The letter dated August 22, 2025, addresses the parents' refusal to consent to the services being provided at the public school. The letter includes the option to reverse this decision, "should you wish for your child to begin receiving agreed upon accommodations and modifications as well as special education services outlined in their IEP" to contact the Assistant Director of Special Education , Dr. Felicity Post.

Conclusion

Federal and state special education regulations establish clear requirements for how a Local Education Agency (LEA) must address and evaluate an Independent Educational Evaluation (IEE) provided by parents during the development of an Individualized Education Program (IEP).

While these federal and state laws mandate that the school district carefully document and consider the recommendations and findings of an outside private evaluation, the Kansas Special Education Process Handbook clarifies a crucial distinction:

1. The LEA is not legally obligated to implement the specific recommendations made by an outside evaluation team.
2. The IEP team must work collaboratively, and while parental input is essential, the school district retains the responsibility to design the IEP's final goals and services to ensure the student receives FAPE

In special education law, the requirement that an Independent Educational Evaluation (IEE) "must be considered" (or "shall be considered") by a school district has a very specific legal meaning. It establishes a standard of meaningful procedural review rather than a mandate to adopt outside findings.

The legal scope of this phrase breaks down into several key principles established by federal regulations, Kansas state laws, and relevant court cases:

Good Fatih Review, Not Mandatory Implementation

1. The LEA reviewed and considered the findings of the IEE. Two of the goals in the August 18, 2025 , Draft IEP address recommendations. Other approaches to support the Student's focus and attention are noted in the modifications and accommodations.
2. Consideration vs. Incorporation: Courts have continually affirmed that special education law "requires that parental input be considered—not that all parental concerns and input must be incorporated into the IEP". The staffing summaries from the May 15, 2025, and August 18, 2025 ,meetings note parental input and concerns. The August 18, 2025, meeting was abruptly ended since the parents left before the LEA staff could describe how they proposed using the IEE recommendations in the Draft IEP. The absence of signed PWNs for the May 15, 2025, and August 18, 2025, create a gap in the documentation. There was no PWN offered for the May 15, 2025, meeting and the parents left the August 18, 2025, meeting before it was completed and did not sign the PWN.
3. In Kansas, the legal and procedural definition of "consideration" regarding an Independent Educational Evaluation (IEE) or parent-provided private evaluation is established through a combination of Kansas statutes, administrative regulations, and binding Tenth Circuit case law. IEP decisions are reached by team consensus, and the district is not required to agree to everything a parent or private evaluator requests. If a school district disagrees with an outside recommendation, this does not mean the recommendation was not considered; it simply means the proposed option was not chosen. (K.S.A. 72-3429(d)(2))
4. Rather than requiring schools to blindly adopt outside recommendations, Kansas law outlines a structured framework for what constitutes lawful and meaningful "consideration":

The Statutory and Regulatory Mandates

1. Under Kansas special education regulations (K.A.R. 91-40-12(e)) and federal regulations (34 C.F.R. § 300.502(c)(1)), if a parent obtains an IEE at public expense or shares a privately funded evaluation that meets agency criteria, the results must be considered by the school district in any decision made with respect to providing a Free Appropriate Public Education (FAPE) to the child.
2. Under the Tenth Circuit's Systema standard, because substantive compliance is restricted to the written IEP document itself, a district must visibly reflect its consideration of the evaluation within the finalized written offer (L.B. v. Nebo School District, 10th Cir 2024, Jacobs v. Salt Lake City School District 10th Cir 2025). Merely mentioning that an evaluation occurred (e.g., writing a perfunctory sentence like "An IEE was completed") without integrating its data into the student's Present Levels (PLAAFPs) or issuing a Prior Written Notice (PWN) that explains why the evaluator's

specific recommendations were accepted or rejected, fails the legal standard for appropriate consideration.

The LEA noted that the IEE was attached to the Draft IEP dated August 18, 2025, as well as being discussed at a meeting on May 15, 2025. There was no PWN for the May 15, 2025, meeting. There are staffing summary notes that document that the IEE was reviewed by the evaluator with the IEP team. The parents left the August 18, 2025, meeting before it was finished, they did not sign the PWN and did not hear how the LEA was planning to embed the IEE into the IEP.

The LEA identifies that the staffing summaries could have contained more specific and detailed language regarding the recommendations from the IEE and how they would be used to develop the IEP.

Issue Two

Did the Local Education Agency Develop an IEP that meets the needs of the student according to IDEA and KS regulations?

Parent Position

Based upon the written complaint, the parents made the following allegations:

1. The LEA did not consider the impact of a drastic reduction in minutes of inclusion support when developing the IEP.
2. The LEA offered services at the public-school location, the student does not adjust well to changes in environment and will be confused in a different school environment.
3. The parents noted the USD 383 special education staff introduced a draft IEP to the IEP team on 10/15/2024. This draft was the impetus for the request for an IEE. The complaint stated "the 280 minutes per day of special education direct services for academic and behavioral assistance (paraeducator/paraprofessional support) have been eradicated from 'Student's' IEP. Instead, accommodation and 40 minutes of unspecified special education services are proposed in the draft IEP". The parents did not sign the PWN since this reduction constituted a significant material change to the IEP services. An IEE was requested on December 3, 2024, and completed on April 30, 2025.

Local Education Agency Position

The LEA responded that they "considered information from the student's evaluations, classroom performance, teacher and service provider observations, progress toward previous goals, parent input, and other relevant educational data when developing the IEP". A review of the student's present level of functioning was used to identify the educational needs. Goals and special education services were determined from this information along with supplementary aids and services, accommodations, and modifications to address those needs.

The LEA noted in responding to the number of special education support hours, "KSDE's current guidance specifically cautions that providing too much support can create dependence and that the team must determine the type and amount of support necessary for the student to be successful and increasingly independent". The LEA also stated that the student's individual needs and the relationship between those needs, the student's disability, the curriculum in the general education setting, and the support services proposed were taken into consideration when developing the Draft IEP.

The LEA "acknowledges that parent concerns were summarized in the written IEP rather than documented in extensive detail. However, "the brevity of the written summary does not mean that the parents' concerns were ignored or excluded from the IEP process".

Applicable Law

The development of the Individualized Education Program (IEP) is governed by Section 614(d) of the Individuals with Disabilities Education Act (IDEA). In the United States Code (U.S.C.), this statute is codified under 20 U.S.C. § 1414(d).

Key Provisions of 20 U.S.C. § 1414(d), Kansas statute (K.S.A. 72-3429), Supreme Court Rulings, and Tenth Circuit Court decisions

1. Development of IEP (§ 1414(d)(3)): Details the specific factors the IEP team must consider during development, such as the child's strengths, parent concerns, evaluation results, and academic/functional needs.
2. Kansas statute (K.S.A. 72-3429) matches IDEA apart from the starting age for a transition plan at 14 instead of the federal age expectation at age 16.
3. Endrew F. V. Douglas County School District RE-1 (U.S. 2017) In order to provide FAPE a school district must offer an IEP "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances".

Analysis: Findings of Fact

IEP requirement	Evidence Date	Data source
Includes PLAAFPs (Present Levels of Academic Achievement and Functional Performance) detailing how the student's disability affects their involvement and progress in the general curriculum	10/15/24 4/30/25 Comparison	District re-evaluation with the KTEA3 scored Reading Comprehension at SS 104 (average) Reading Composite at SS103 (Average)and Math at SS87.(Below Average) The IEE used the WIAT- 4th ed and found Reading Comprehension at SS 82(Below Average), Reading Composite SS 90 (Low Average) and Math Composite SS 90 (Low average) Since two different tests were used there is not the possibility of a true comparison. However, the variation is not dramatically different given the scales. The change in reading comprehension could be attributed to external factors such as fatigue, attention, testing format changes or illness.
Measurable annual goals	8/18/2025 9/1/26	There are 3 goals on the Draft IEP - A multi-step math problem solving goal - Speech goal focused on /r? & /Th/ - ELA goal focused on answering comprehension questions, retell, identification of main idea and making inferences LEA response – notes that the "IEE results reflected average to above-average performance in many areas, with a relative weakness in mathematics" The LEA proposed targeted special education support during mathematics and English language arts especially when he is expected to complete independent work. "The LEA also considered the evaluator's recommendations regarding accommodations and supplementary supports". The Draft IEP contained accommodations and modifications addressing the IEE identified areas: assessments in small group and/or separate quiet location; frequent checks for understanding or review; check-in check-out with teacher; graphic organizers and sentence starters; preferential seating near teacher; written steps for assignments with multiple steps; shortened assignments when appropriate; speech-to-text; written steps for solving mathematics equations; simple, one-step directions; guided notes; prompting to pack up at the end of class; and use of math reference card during mathematics assessments.

IEP requirement	Evidence Date	Data source
Services	9/1/26	LEA response – the IEE recommended that he continue to receive services under the eligibility category of Autism. The LEA agreed and did not propose a change in eligibility.
	8/18/25	Draft IEP - Speech Language (SLP)-20 min indirect services monthly, 30 min outside of reg. ed 3 out of 4 weeks when school is in session - Special Education – 20 min extracurricular daily - Special Education – 30 min in reg ed class daily during English language arts - Special Education – 42 min in reg ed class daily during mathematics - Parents did not sign PWN
	8/11/25	RWA stating that services would be provided at the public school
	8/28/25	RWA stating the parents had an option to reverse their decision to not have the services at the public school
	9/10/25	Material change in services reducing SLP minutes, mother agreed
Accommodations and modifications	8/15/25	Draft IEP - Small group quiet space assessments - Check for understanding - Check out - Encourage self-correction of r & th sounds - Graphic organizers & sentence starters - Modify weight of course components - Preferential seating - List of steps to complete assignments - Shortened writing assignments - Steps to solve math equations - Provide simple one step directions - Guided notes or teacher notes - Prompt to pack up last 2 min of class - Note card for math assessments

IEP requirement	Evidence Date	Data source
Consider strengths of the child	8/18/25	The IEP has what the student thinks are his strengths listed in the section "describe the student's strengths" – this is not reflective of what is demonstrated through assessments or teacher observation. Mother indicates that he is a hard worker, has a positive attitude, enjoys learning about different places and trivia. Strengths noted in the Draft IEP - Speech – moderate deficits in receptive-expressive language which impacts grammar, vocabulary and flexible use of language - Adaptive Behavior – Can care for his personal needs while in the school setting like his typical peers - From his triennial (Oct 2024) – performs in the average range on the Reading Composite and within the average range on the Written Language on the Kaufman Test of Educational Achievement, Third edition - Interpersonal skills are improving. He understands social norms and accepts guidance from teachers or peers
Concerns of the parents for enhancing their child's education	5/15/25 8/18/25	Parents were not provided a PWN for the May 15, 2025, meeting to discuss the IEE. No signed PWN for the August 18, 2025, meeting since the parents left before the meeting was over. -Objected to the reduction in service minutes from 280 to 40 minutes/day -State the LEA ignored the recommendations in the IEE And failed to update the present levels/goals accordingly -argue that attention, focus, and memory retention are the primary root caused driving academic issues -feel omitted as equal partners -feel the provision of the special ed supports at the local public school is not good for the student, he has difficulty with transitioning, and the school is much bigger than his current school
Results of the initial or most recent evaluation of the child		See first box
Academic, developmental, and functional needs of the child	4/30/25	See first box IEE recommends resource room supports for organization and accurate assignment completion – not in the IEP -parents left the 8/18/25 meeting discussing the Draft IEP, so this was not discussed.

IEP requirement	Evidence Date	Data source
Reasonably calculated to enable a child to make progress appropriate considering the child's circumstances		The goals are focused at increasing his skills and potentially to improve his independent skills

Conclusion

The Draft Individual Education Program (IEP) (August 18, 2025) for this student includes:

1. A statement of the student's present levels of academic and functional performance. The impact of the student's disability on his progress and participation in the general education curriculum has been document. Since the student attends a private Catholic school, he has not taken the Kansas State Assessments. For assessments within his current school, he is provided small group assessment or assessment in a quiet environment.
2. A statement of measurable annual goals, including academic and functional goals. The goals for English language arts and mathematics are aligned with his triennial testing (October 2024) and the IEE. The speech and language goals are appropriate given the assessment data from the school district Speech and Language Pathologist (SLP) and the SLP he works with outside of the school environment. There are no direct goals for attention, focus or retention which are stated concerns of the family. Accommodations and Modifications in the Draft IEP include strategies to assist in these areas but do not have any data collection to track the impact.
3. A description of how the student's progress toward meeting the annual goals is noted as progress notes on the same schedule as the general education students.
4. The accommodations and modifications appropriate to the student's educational needs are listed in the IEP. The accommodations and modifications are in alignment with the IEE and the triennial assessment data. The proposed accommodations and modifications will be provided in the general education environment and provide the student with the ability to make progress in the general education environment.
5. The student will participate in the general education environment 100% of the time. The IEE recommended consideration of resource room time to assist with organization and accurate task completion, this was not incorporated into the IEP due to the parents' disagreement with the IEP.
6. The student will not be taking any alternative state assessments.
7. The anticipated beginning of the services was the 2025-2026 school year, the special education supports were not implemented due to the parents' refusal to sign the PWN dated August 18, 2025.

Whether a Local Education Agency (LEA) has developed an Individualized Education Program (IEP) that meets the unique academic, functional, and environmental needs of a student is governed by a combination of federal Individuals with Disabilities Education Act (IDEA) regulations, Kansas state statutes and administrative regulations, and established case law.

1. Federal Mandate: The core purpose of the IDEA is to ensure that children with disabilities have access to a FAPE that emphasizes special education and related services designed to meet their unique needs. FAPE is legally defined as services provided at public expense, under public supervision, and in conformity with an IEP.
    a. The IEP provides for direct special education supports within the general education setting. The LEA has indicated that the services would be provided at the local public school.
2. Kansas Standard: Kansas administrative regulations define an IEP as a written statement that "describes the unique educational needs of the child and the manner in which those needs are to be met".
    a. The IEP and the attached IEE describe the unique need of the students and how the needs would be addressed.

       Substantive Standard (The Endrew F. Rule): To meet the student's needs and satisfy FAPE, the IEP cannot be a form document or offer trivial benefit. The United States Supreme Court has ruled that an LEA must offer an educational program "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances". This is also noted in the Tenth Circuit Progress Rule: The Tenth Circuit (which has jurisdiction over Kansas) has established that an LEA is legally prohibited from ignoring an IEP that is clearly failing, nor can it continue to implement year after year, without meaningful change, an IEP that fails to confer educational benefits.
    b. The IEP goals are consistent with goals from previous year's IEPS. Based on testing reading and math are areas of academic difficulty for the student.
3. Least Restrictive Environment (LRE) & Placement

Determining where and how services are delivered is central to meeting a student's needs, particularly when adjusting service minutes or school locations.

1. LRE Mandate: School districts are required to ensure that, to the maximum extent appropriate, children with disabilities are educated with children who are not disabled. Removal to special classes or separate environments must only occur when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
    a. The LEA has proposed that the student would receive direct educational services in a general education classroom at the local public school.
2. Placement Decisions: Placement decisions must be determined at least annually, be based directly on the student's IEP, and be provided as close as possible to the child's

home. In selecting the LRE, the district must carefully consider any potential harmful effect on the child or on the quality of services needed.

   a. The student attends a private parochial school, proposed special education supports would be provided at the closest age-appropriate public school. Transportation would be at the districts expense.

3. The Tenth Circuit LRE Test (Daniel R.R.): To determine if a placement satisfies LRE, courts in Kansas apply a two-part inquiry:
   (1) Can education in the regular classroom, with the use of supplementary aids and services, be achieved satisfactorily? (Factor considerations include the school's accommodation efforts, a comparison of academic benefits in both settings, the child's overall experience, and the effect on the regular classroom).
      i. The student was successful in the general education setting, and the IEP was proposing that services continue in the general education setting.
   (2) If regular classroom placement is not satisfactory, has the school district mainstreamed the child to the maximum extent appropriate?
      i. N/A
4. Kansas Consent Protections Against Service Reductions

Kansas provides exceptional procedural safeguards regarding modifications to IEP services that go beyond federal minimums. This is directly applicable when a district proposes a massive reduction in support minutes.

1. Material Change in Services: Legally defined in Kansas as an increase or decrease of 25% or more of the duration or frequency of a special education service, related service, or supplementary aid specified in the IEP.
   a. There was a substantial reduction in the direct special education support hours in the Draft IEP (August 18, 2025) from 280 minutes (the last signed PWN) to 70 minutes. This was one of the parents' concerns and part of the reason they did not sign the PWN.
2. Substantial Change in Placement: Defined as the movement of a student, for more than 25% of the school day, from a less restrictive environment to a more restrictive environment (or vice versa).
   a. There is not a change in placement since the services would be provided in the general education classroom. There is a change in location from the private parochial school to the local public school.
3. Mandatory Written Consent: School districts in Kansas must obtain written parental consent before implementing any material change in services or substantial change in placement. Unilateral reductions or location changes that exceed these 25% thresholds without parental consent are explicit violations of Kansas law.
   a. The parents did not provide consent. The district issued two Ready, Willing and Able letters (August 11, 2025, and August 28, 2025). The first clarified that the services were available at the public school. The second letter gave the parents

the option to change their decision to refuse the services offered at the public school.

4. The Two-Part Adequacy Test (Rowley): Originally established in Board of Education v. Rowley, 458 U.S. 176 (1982), courts assess: (1) Did the state comply with the procedures of the Act? (2) Is the IEP developed through those procedures reasonably calculated to enable the child to receive educational benefits?
    a. The services being offered at the public-school setting would provide the option for resource room supports for organization and adequate completion of assignments. Additionally, a special education teacher would be available for consultation with the general education teacher and supervision of a paraprofessional support.
5. The "Snapshot" Rule (O'Toole): In O'Toole v. Olathe District Schools, 144 F.3d 692 (10th Cir. 1998) (the controlling Tenth Circuit precedent for Kansas), the court clarified that the adequacy of an IEP must be judged as of the time it was offered, evaluating what was objectively reasonable at its creation rather than in hindsight ("Monday Morning Quarterbacking").
    a. The IEP was written in August 2025 based on an IEE from April 2025 and a triennial evaluation done in the fall 2024. It would be beneficial to determine if the supports offered and the goals are still appropriate at this time.
6. The Duty to Modify a Failing IEP: Also established under Tenth Circuit precedent (O'Toole), a school district is not permitted to ignore the fact that an IEP is clearly failing, nor can it continue to implement an IEP year after year without change if the plan fails to confer educational benefits on the student.
    a. The IEP was not failing; the family was not in agreement with the location where the services would be provided.

The LEA is compliant with IDEA and Kansas State Statutes, based on the findings of fact listed above. Therefore, there is no expected corrective action. It is however, recommended that the LEA follow through with their stated commitment to be more detailed in their notations regarding parent input and assessment data especially IEEs. Additionally, attention to providing a Prior Written Notice for meetings needs to be addressed.

Summary of Conclusions and Corrective Action

Issue One: This investigation found no violations and there is no corrective action.

Issue Two: This investigation found no violations and there is no corrective action.

Lori A. Noto

Lori A. Noto, 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)