KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #412
ON AUGUST 31, 2026

DATE OF REPORT: SEPTEMBER 28, 2026

This report is in response to a complaint filed with our office, on behalf of -------, by his grandparents/guardians, -------. For the remainder of this report ------- will be referred to as "the Student," the grandfather will be referred to as "the Grandfather," the grandmother will be referred to as "the Grandmother," and the two will be referred to collectively as "the Grandparents/Guardians." The School and Local Education Agency staff, Ms. Amy Ricker (Director of Special Education), Ms. Sharris Werner (Superintendent of Schools and Principal of Hoxie Elementary) and Angela Shepard (Interrelated Special Education Teacher) will be referred to as the "District".

The complaint is against USD #412 In the remainder of the report USD # 412 will be referred to as the local education agency "LEA." The LEA staff will be referred to as the Special Education Director, Superintendent or Special Education Teacher.

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 31, 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 Grandmother and Grandfather on September 3,2026, 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 September 3, 2026, an email indicating that the investigation plan was posted was sent to the complainant on 4, 2026. The complainants requested a minor clarification of the issue to be investigated. Once this clarification was made the investigation plan was compelted and posted to Egnyte on September 4, 2026. 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 investigator (Lori Noto) had an initial call on

September 8, 2026, and the LEA provided the investigator with a response to the issues the investigator identified, as well as all documentation and data the investigator requested.

The investigator interviewed the LEA on September.15, 2026, and the Grandparents/Guardians on September 15, 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:

- February 2026 (no day indicated) – Letter to Principal/Superintendent from Todd Strand
- February 6, 2026 – Letter of Guardianship
- February 6, 2026 – Guardianship clarified and educational decision making
- February 13, 2026 – Parent Square communication between Principal and Guardian/Grandmother
- February 19, 2026 – NOM for March 5, 2026, meeting
- March 4, 2026 – NOM for March 5, 2026, signed
- March 10, 2026 – Draft IEP
- March 26, 2026 – Clarification of IEP
- April 7, 2026 – NOM for April 14, 2026, meeting, signed
- April 7, 2026 – IEP Process and Educational Authority Clarification email
- April 14, 2026 – Email between Grandmother/Guardian and Principal withdrawing him from school
- April 14, 2026 – Parent Square communication between the Principal and Grandmother/Guardian regarding attendance at an IEP meeting
- April 14, 2026 – Notice of Meeting – unsigned, meeting cancelled
- April 17, 2026 – PWN, Material change in services, unsigned
- April 20, 2026 – Ready, Willing and Able Letter written by Special Education Director
- April 24, 2026 – Order Nuc Pro Tunc regarding educational decisions for student
- June 30, 2026 – NOM, signed
- June 30, 2026 – Meeting notes for plan to return to school
- July 13, 2026 – Letter from Christopher Peoples to Principal/Superintendent
- July 27, 2026 – Email to Christopher Peoples from Chase Pumford
- August 13, 2026 – August 24, 2026 – Parent Square communication to arrange an IEP meeting
- August 18, 2026 – IEP from March 10, 2026, updated
- August 24, 2026 – Notice of Meeting
- August 26, 2026 – Notice of Meeting signed
- August 26, 2026 – Team Meeting Notes

- August 26, 2026 – Prior Written Notice for August 26, 2026, meeting, signed
- August 26, 2026 – PWN-E, signed
- August 26, 2026 – Notice of Meeting to Grandparents, Biological Mother and Biological Father
- August 26, 2026 – September 8, 2026 – Parent Square communication regarding a September 17, 2026, meeting
- September 3, 2026 – Initial conversation with the complainants
- September 8, 2026 – Current IEP, unsigned
- September 8, 2026 – Initial conversation with LEA staff, Director of Special Education, Superintendent of Schools and Principal of Hoxie Elementary, and Interrelated Special Education Teacher
- September 11, 2026 – Chronological timeline provided by LEA
- September 11, 2026- LEA response
- September 15, 2026 – Interview with LEA staff Director of Special Education, Superintendent of Schools and Principal of Hoxie Elementary and Angela Interrelated Special Education Teacher
- September 15, 2026 – Interview with Grandparents/Guardians

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 31, 2025.

The Grandparents/Guardians also provided 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.

Background Information

The subject of this complaint is a 5th grade student who attends Hoxie Elementary School for the 2026-2027 school year. He is eligible for special education services under the Specific Learning Disabilities category. The student was receiving services at Hoxie Elementary for the 2025-2026 school year up until April 14, 2026, at which time the Grandparents/Guardians withdrew him from school to home school. The stated reason was "This decision has been made in their (sibling was also withdrawn) best interest, including consideration of their ongoing health needs and educational well-being". He returned to Hoxie Elementary at the beginning of the 2026-2027 school year.

Issues Investigated

Based upon the written complaint and the complaint investigator's discussion with the complainants, the Guardians/Grandparents allege two issues upon which this investigation will focus.

Based on initial phone call with the Guardians/Grandparents 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 guardians as the sole, exclusive and unrestricted educational decision-making and parental authority for the student according to IDEA and KS regulations?
2. ISSUE Two: Did the Local Education Agency provide the biological parent with access to school records/events including IEP meeting, notification of IEP meetings and the IEP document according to IDEA and KS regulations?

Issue One

Did the Local Education Agency consider the guardians as the sole, exclusive and unrestricted educational decision-making and parental authority for the student according to IDEA and KS regulations?

Applicable Law

The Individuals with Disabilities Education Act (IDEA) the under the "Parent" Presumption Rule, 34 C.F.R. § 300.30 states that physical custody or legal guardianship alone does not automatically eliminate the biological parent of their educational decision-making rights however, the biological parent is not considered the required "parent" when a court order has explicitly granted educational decision-making to the legal guardians. The biological parent(s) can participate if the guardian or school invites the individuals who have "knowledge or special expertise regarding the child". The biological parent is automatically presumed to be the parent for IDEA purposes unless a court order explicitly severs or terminates their rights. The Tenth Circuit court regulations note that a specific court order that explicitly transfers educational decision-making rights to a guardian removes the assumption that the biological parent is considered the "parent". This aligns with K.S.A 3404(m), K.S.A. 59-3075, K.S.A. 59-30,136, and K.S.A 59-30,137.

Grandparent/Guardians Position

Based upon the written complaint, the Grandparents parents made the following allegation: the LEA did not take the court documents that grant them sole, exclusive and unrestricted decision-making with regards to the student's educational program (April 24, 2026). They have full power and authority as co-guardians (February 6, 2025). Their primary issue is that the biological parents continue to be invited to IEP meetings and have access to educational communication through Parent Square regarding scheduling of IEP meetings and other activities.

Local Education Agency Position

The LEA response stated "the LEA recognized the grandparents as the individuals with sole, exclusive, and unrestricted authority to make educational decisions for the student pursuant

to the court's order. The corrected April 24, 2026, court order expressly provided that the co-guardians held the sole, exclusive, and unrestricted decision-making and parental rights and authority in all educational decisions concerning the student". The LEA indicates that they have recognized the Guardians/Grandparents as the individuals who can make educational decisions and that they are not giving the biological parent(s) equal or competing authority in making those decisions.

Analysis: Findings of Fact

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

1. The February 6, 2026, letter of guardianship stated that the Guardians/Grandparents have full power and authority. The letter did not specifically state that they have sole educational decision making.
2. February 19, 2026 – Notice of Meeting for March 3, 2026, lists the Guardians/Grandparents and biological parents as the Legal Education Decision-Maker.
3. March 4, 2026, Notice of Meeting has the biological parents as well as the Guardians/Grandparents listed as the Legal Education Decision-Maker.
4. June 30, 2026 - Notice of Meeting has the biological parents as well as the Guardians/Grandparents listed as the Legal Education Decision-Maker.
5. August 20, 2026 – Notice of Meeting has Guardians/Grandparents listed as the Legal Education Decision-Maker and the biological parents listed as IEP members.

Conclusion

Federal and state special education regulations establish clear requirements for how a Local Education Agency (LEA) must ensure that all legally required individuals are provided notification, invitations, and opportunities to participate in IEP meetings.

The Statutory and Regulatory Mandates

1. Under Kansas special education regulations and binding by the Tenth Circuit (K.A.R. 72-3430 (b)(2) and (m) and federal regulations 34 C.F.R. § 300.30), the LEA is required to provide notice and invitations to the biological parents even though they hold no educational decision making. The biological parents would be excluded if their parental rights were severed.
2. The school district did send a Notice of Meeting on June 30, 2026, listing the Guardians/Grandparents and biological parents as the Legal Education Decision-Makers. This was after the April 24, 2026, Order Nuc Pro Tunc regarding educational decisions for student and clarifying the Guardians/Grandparents are the sole legal education decision-makers.
3. The August 20, 2026, Notice of Meeting lists the Guardians/Grandparents as the Legal Educational Decision Makers and the biological parents as IEP team members.

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 continue to ensure that all future meeting notices list the Guardians/Grandparents as the Legal Educational Decision-Makers and the biological parents as IEP team members.

Issue Two

Did the Local Education Agency provide the biological parent with access to school records/events including IEP meetings, notification of IEP meetings and the IEP document according to IDEA and KS regulations?

Grandparent/Guardians Position

Based upon the written complaint and documents submitted they have demonstrated that the biological parents were invited to meetings up through August 20, 2026. Notices of Meetings (February 19, 2026; March 4, 2026; June 20, 2026) listed the Grandparents and the biological parents as the Legal Educational Decision Makers. The Order Nuc Pro Tunc from the court dated April 24, 2026, stated that the Grandparents/Guardians were the "sole, exclusive and unrestricted decision-making and parental rights and authority in all educational decisions regarding the 'student'".

Local Education Agency Position

The LEA "acknowledged that the biological parent continued to receive notice of IEP meetings and remained identified in portions of the student's educational records during the period addressed by the complaint. However, the LEA did not provide the biological parent with educational decision-making that conflicted with the authority granted to the grandparents by the court". The LEA's Director of Special Education sought guidance from Kansas Department of Education and Kansas Association of School Boards regarding the continued provision of PWNs to the biological parents and invitations to IEP meetings. Since the parental rights were not expressly terminated nor the parents prohibited from receiving notice or attending IEP meetings.

Analysis: Findings of Fact

The Individuals with Disabilities Education Act (IDEA) the under the "Parent" Presumption Rule, 34 C.F.R. § 300.30 states that physical custody or legal guardianship alone does not automatically eliminate the biological parent of their educational decision-making rights however, the biological parent is not considered the required "parent" when a court order has explicitly granted educational decision-making to the legal guardians. The presumption under IDEA is that the biological parents are members of the IEP team regardless of their legal status as decision-makers. The biological parent(s) can participate if the guardian or school invites the individuals who have "knowledge or special expertise regarding the child". The biological parent is automatically presumed to be the parent for IDEA purposes unless a court order explicitly

severs or terminates their rights. The Tenth Circuit court regulations note that a specific court order that explicitly transfers educational decision-making rights to a guardian removes the assumption that the biological parent is considered the "parent". This aligns with K.S.A 3404(m), K.S.A. 59-3075, K.S.A. 59-30,136, and K.S.A 59-30,137.

Conclusion

Federal and state special education regulations establish clear requirements for how a Local Education Agency (LEA) must ensure that all legally required individuals are provided notification, invitations, and opportunities to participate in IEP meetings.

The Statutory and Regulatory Mandates

1. Under Kansas special education regulations and binding by the Tenth Circuit (K.A.R. 72-3430 (b)(2) and (m) and federal regulations 34 C.F.R. § 300.30), the LEA is required to provide notice and invitations to the biological parents even though they hold no educational decision making. The biological parents would be excluded if their parental rights were severed.
2. The biological parents were sent a Notice of Meeting on February 19, 2026; March 4, 2026; and June 20, 2026. In the documents had them listed as Legal Education Decision-Makers. The June Notice of Meeting was after the April 24, 2026, Order Nuc Pro Tunc regarding educational decisions for student and clarifying the Guardians/Grandparents are the sole legal education decision-makers.
3. March 10, 2026 – Meeting Notes and IEP state biological mother's participation through Google Meets. She expressed concerns about the student's health and attendance. She also requested that communication from school be done through Parent Square.
4. The August 20, 2026, Notice of Meeting lists the Guardians/Grandparents as the Legal Educational Decision Makers and the biological parents as IEP team members.
5. The mother attended the August 26, 2026, IEP meeting as a team member and participated through a Google meet (meeting notes for August 26, 2026).
6. The August 26, 2026, review of the IEP listed the Guardians/Grandparents as the Legal Educational Decision-Makers and the mother as "mother".
7. The biological parents did not sign any of the Notices of Meetings that they were sent regardless of the role listed (i.e., Legal Education Decision-Maker or IEP member).

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. The biological parents are acknowledged as IEP team members in line with the legal mandates and the Guardians/Grandparents are recognized as the Legal Educational Decision-Makers.

Summary of Conclusions/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.

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)