

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #435
ON JULY 10, 2024

DATE OF REPORT: AUGUST 10, 2024

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 ----- may be referred to as the “complainant”, “parent”, or “mother”.

The complaint is against USD #435 (Abilene Public Schools) who contracts with the Central Kansas Cooperative in Education (CKCIE) to provide special education services to students enrolled in the school district. In the remainder of the report, both of these responsible public agencies may also be referred to as “the district”, “the local education agency (LEA)”, or “the school”.

The Kansas State Department of Education (KSDE) allows for a 60-day timeline to investigate a complaint from the date on which it was filed. A complaint is considered filed on the date on which it was received by KSDE. In this case, the KSDE initially received the complaint on July 10, 2024.

Evidence Reviewed

During the investigation, the Complaint Investigator, Nancy Thomas, reviewed all the documentation provided by both the complainant and the district.

The complainant was interviewed by telephone on July 25, 2024 as part of this investigation. The following USD #435 staff were also interviewed on July 25, 2024:

- Shelia Mortimer, CKCIE Special Education Coordinator
- Christine Prater, General Education Science Teacher
- Greg Brown, USD #435 Superintendent
- Gary Frederking, Special Education Teacher
- Dawn Gentry, Speech/Language Pathologist
- Laura Relph, General Education Literature Teacher
- Jenna Delay, Abilene Middle School Principal
- Sarah Loquist, CKCIE General Counsel

The following written documentation was used in consideration of the issue:

1. Individualized Education Program (IEP) for the student dated April 6, 2023

2. Emails dated September 13, 2023 through June 22, 2024 between the parent and various school district staff regarding absences, make-up work, and educational concerns during the 2023-24 school year
3. Medical Excusal Letters for the student dated between October 11, 2023 and April 26, 2024
4. Truancy Referral for the student dated February 23, 2024
5. Notification of Meeting (NOM) dated March 26, 2024
6. IEP for the student dated April 3, 2024
7. Notes from the April 3, 2024 IEP team meeting, handwritten by Dr. Delay
8. PWN for Identification, Special Education and Related Services, Educational Placement, Change in Services, Change in Placement, and/or Request for Consent dated April 3, 2024
9. Reevaluation Not Needed – Waiver Request dated April 3, 2024
10. Notes from a parent/student/principal meeting held on May 2, 2024, handwritten by Dr. Delay
11. Email dated May 8, 2024 at 12:39 PM written by the parent to Dr. Delay
12. NOM dated May 10, 2024
13. Conference Summary of the May 15, 2024 IEP team meeting
14. PWN for Evaluation or Reevaluation and Request for Consent dated May 15, 2024
15. IEP Goal Progress Reports for the 2023-24 school year
16. Report Card / Attendance Record for the 2023-24 school year
17. School Board Policy AED titled “School Year and Learning Opportunities”
18. School Board Policy JFB titled "Promotion and Retention”
19. Letter dated July 22, 2024 written by Ms. Mortimer to the parent
20. USD #435 Response to the Allegations dated July 24, 2024 written by Ms. Loquist

Background Information

The student is a 13-year-old young man who was enrolled in the seventh grade in USD #435 during the 2023-24 school year at Abilene Middle School. The student was initially determined eligible for special education in 2015 and his most recent reevaluation was conducted on May 9, 2021, at which time the student was determined to continue eligibility for special education services under the exceptionality category of Speech Impairment. Documentation shows the required three-year reevaluation was waived during the April 3, 2024 IEP team meeting and that the student continues to receive speech therapy to address articulation errors for the phoneme /r/ in conversational speech.

The parent reports and the district staff acknowledged the student has multiple medical diagnoses including Autism Spectrum Disorder (ASD), Attention Deficit Hyperactivity Disorder (ADHD), and gastrointestinal (GI) problems. The parent stated that the student is also diagnosed with Spina Bifida, scoliosis, Sensory Processing Disorder, Oppositional Defiant Disorder (ODD) and Disruptive Impulse Control Disorder (DIDC). However, the district staff indicated the parent has not provided any written documentation of these diagnoses and

noted that they have requested, but not yet received, written consent for release of information to confirm and gather additional information regarding the impact of these diagnoses on the student's education.

Issues Investigated

Based on the written complaint, three issues were identified and investigated.

Issue One

USD #435, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parent with appropriate notification of the May 16, 2024 IEP team meeting, specifically by not listing the names or positions of all of the participants invited to the IEP team meeting.

Applicable Law

Federal regulations at 34 C.F.R. 300.322(b)(1)(i) require that the district provide the parent with notification of the IEP team meeting indicating the purpose, time, and location of the meeting and who will be in attendance.

Kansas regulations at K.A.R. 91-40-17(b) allow the district to use either the names and/or the titles or positions of the persons who will attend on behalf of the school. The school is to notify the parents about who will be in attendance at an IEP team meeting, however, individuals may be indicated by position only. The school may elect to identify participants by name, but they have no obligation to do so.

Analysis: Findings of Fact

The parent reported that she requested an IEP team meeting at the end of the school year to discuss concerns with multiple absences due to health issues and the district's decision to retain the student in 7th grade for the 2024-25 school year. She indicated that this meeting was held on May 16, 2024 and that she was unaware that all of the student's general education teachers would be in attendance at the IEP meeting in addition to the required IEP team members and the two persons working with the student from The Family Initiative (TFI) who she had invited to the meeting because they had expertise and knowledge about the student. The parent stated that she felt "blind-sided and overwhelmed" by having 17 people in her son's IEP team meeting on that date.

The district reported and documentation showed that the parent requested an IEP team meeting on May 8, 2024 and the meeting was actually held on May 15, 2024. The parent acknowledged that she was aware of the purpose, location, and time of the IEP team meeting and that she attended and participated in the IEP team meeting for the student.

Documentation showed that a Notification of Meeting (NOM) dated May 10, 2024 was emailed to the parent stating “As required by federal and state law, in addition to you, we will have the following people at our meeting:” The NOM then listed who would be invited to the May 15, 2024 IEP team meeting including: “a general education teacher(s) of your child; a special education teacher(s) of your child; a school representative(s); a person who can interpret the instructional implications of evaluation results; the student for transition purposes; and any other person(s) who can help explain the evaluation results or who have special knowledge or expertise regarding your child or services that may be needed”. This statement is followed by a section titled “TEAM MEMBERS / POSITION” which was left blank.

The district provided copies of previous NOMs showing the district’s practice is to only list the positions of the people who will be attending the scheduled IEP team meeting and not list the names of each person.

Conclusion

Federal regulations require that parents are informed of who will be attending a student’s IEP team meeting. Kansas state regulations allow for school districts to list the names of the persons and/or the positions of the persons who will be attending the student’s IEP team meeting. There is no obligation for the district to identify the IEP team participants by name.

However, the district should be cautious of lumping a group of people under some general title such as “any other person(s) who can help explain the evaluation results or who have special knowledge or expertise regarding your child or services that may be needed”. That kind of lumping of “any other person(s)” can result in exactly what happened here: where the parent feels “blind-sided and overwhelmed” by the number of people at the meeting. This IDEA notice requirement was intended to ensure that parents would not be subjected to this kind of surprise at IEP meetings. When not using names, the district must at least notify parents of the titles of those who will be invited, such as school psychologist, speech therapist, school counselor, special education director, assistant special education director, school attorney, county sheriff, etc. There should be no surprise guests for parents walking into these meetings. That is the purpose of this part of the notice requirement.

In this case, the NOM did not rely on the “any other person(s)” statement. The NOM stated that “a general education teacher(s) of your child” would attend the meeting. While this description did not specifically inform the parent that every general education teacher of her child was going to be invited, the use of the plural “teacher(s)” did adequately notify the parent that she could expect that multiple general education teachers could be invited.

In this case, the LEA provided the parent with a written NOM on May 10, 2024 listing the positions of the persons invited to the May 15, 2024 IEP team meeting. While there may have been some confusion on the part of the parent as to who would be attending because the ambiguous “teacher(s)” and the section of the NOM titled “TEAM MEMBERS / POSITION” being

left blank, the district did meet the compliance requirement to list the positions of the persons who would be attending the by stating “a general education teacher(s) of the student” would be attending the IEP team meeting in addition to the parent. Based on the foregoing, the district is found to be *in compliance* for this issue.

Issue Two

USD #435, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the parent with appropriate prior written notice following the May 16, 2024 IEP team meeting addressing the actions refused by the district.

Applicable Law

Federal regulations at 34 C.F.R. 300.503(a) requires 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.

It is noted that the IDEA does not address grade placement or retention of a student with a disability. Instead, this authority is granted to local school boards by the state of Kansas and described in local school board policy. For this reason, the decision to retain the student will not be addressed in this investigation other than as a parent request for a re-consideration of the decision made at the May 15, 2024 IEP team meeting.

Analysis: Findings of Fact

As noted in Issue One, the date of the IEP meeting was May 15, 2024.

The parent reported that she requested another IEP team meeting be held so soon following the April 3, 2024 IEP team meeting because of the Middle School Principal’s unilateral decision to retain the student in 7th grade due to absences during the second semester. She indicated that she also requested that the student be reevaluated to determine eligibility for special education services under the exceptionality category of Other Health Impaired (OHI) as well as the development of a behavior intervention plan (BIP) to address the student’s significant absences during the second semester.

The parent indicated she did not have any notes from the May 15, 2024 IEP team meeting and that she would contact the two persons from TFI who had also attended the IEP team meeting and provide any notes they took. No additional documentation has been received from the parent in regards to May 15, 2024 IEP team meeting notes to date.

The Conference Summary of the May 15, 2024 IEP team meeting showed that the IEP team discussed the parent’s request for a reevaluation for possible eligibility under the exceptionality category of OHI. The notes reflect that the IEP team agreed that a reevaluation was necessary and proposed gathering additional information in the areas of Health,

Academic, Social/Emotional/Behavioral as well as conducting a functional behavioral assessment (FBA) in order to gather the necessary data to develop a BIP, if determined necessary.

The Conference Summary also showed that the retention decision was discussed and the parent advised that this was an issue that fell under USD #435 School Board Policy. It is noted the parent subsequently requested and was granted a hearing with members of the USD #435 Board of Education to consider reversing the building administrator's recommendation for retention per the school board policy.

The district provided a copy of a Prior Written Notice (PWN) for Evaluation or Reevaluation and Request for Consent dated May 15, 2024 and the CKCIE Coordinator reported this notice was provided to the parent along with multiple Release of Information forms for various health agencies at the conclusion of the IEP team meeting. District staff reported that no response was received from the parent and that the CKCIE Coordinator wrote a letter to the parent dated July 20, 2024 which summarized the May 15, 2024 IEP team meeting and again requested consent for the proposed reevaluation. Documentation shows the PWN was emailed and mailed to the parent again on July 22, 2024. The parent was unsure if she had originally received the PWN at the IEP team meeting but acknowledged receiving the emailed copy.

Conclusion

Federal regulations require that districts provide prior written notice of any decisions proposed or refused related to the identification, evaluation, educational placement, or the provision of FAPE to the student.

In this case, the parent requested the district consider a reevaluation of the student for the exceptionality category of OHI, the development of a BIP to address attendance concerns, and re-consideration of the retention decision at the May 15, 2024 IEP team meeting. Documentation showed these topics were discussed by the IEP team, including the parent, and that the district provided the parent with PWN requesting consent to conduct a reevaluation and FBA of the student in order to gather additional data to determine eligibility for the exceptionality category of OHI and the development of a BIP, if necessary, following the IEP team meeting on May 15, 2024. When consent had not been provided, the district staff provided the parent with additional information and another copy of the PWN requesting consent to conduct the reevaluation.

It is noted that the parent's request for reconsideration of the retention decision was not included in the PWN; however, retention does not fall under the jurisdiction of the IDEA. Accordingly, the IEP team refused to address the issue by taking no action, neither refusing nor accepting the parent's proposal. While the district might have included the rationale for the refusal to address the issue of retention at the IEP team meeting or in a PWN to clarify this

issue for the parent, it was not required and subsequent actions taken by the parent reflect an understanding of School Board Policy JFB titled "Promotion and Retention".

Based on the foregoing, USD #435 is found to be in compliance with the requirement to provide the parent with appropriate prior written notice following the May 15, 2024 IEP team meeting.

Issue Three

USD #435, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by not providing the required special education services during the 2024 extended school year.

Applicable Law

Federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that the special education and related services are made available to the child in accordance with the child's IEP. In addition, federal regulations at 34 C.F.R. 300.106(b) require that the IEP team must consider the need for extended school year services in order to provide a free appropriate public education (FAPE) to each student with a disability.

Federal regulations implementing the IDEA at 34 C.F.R. 300.324(b)(1) also require school districts to review and revise, if needed, a student's IEP periodically, but not less than annually. In addition, the LEA must reconvene a student's IEP team to address any lack of expected progress toward the annual goals and in the general education curriculum; to consider the results of any reevaluation; and to consider any information about the student provided by the parents.

Federal regulations implementing the IDEA at 34 C.F.R. 300.303(b)(2) require that a reevaluation of the student with a disability be conducted at least once every three years unless the parent and the district agree that a reevaluation is unnecessary. In addition, federal regulations implementing the IDEA at 34 C.F.R. 300.304(b)(6) require that any special education evaluation be sufficiently comprehensive to identify all of the child's special education and related service needs.

Finally, federal regulations at 34 C.F.R. 300.327 require that, consistent with 34 C.F.R. 300.501(c), each public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

Analysis: Findings of Fact

The findings of Issue Two are incorporated herein by reference.

During the 2023-24 school year, the student had two IEPs in effect. The first was developed on April 6, 2023 at the end of the 2022-23 school year and the second was developed on April 3,

2024 at the end of the 2023-24 school year. Both IEPs required 20 minutes per week of speech therapy during the 2023-24 school year. Neither IEP required extended school year (ESY) services.

The parent reported and the district acknowledged that the student missed the majority of second semester due to medical and mental health issues and that the parent provided multiple medical excusals to the district and made efforts to get the student to school including calling the police for assistance. Both parties stated that school district staff also assisted in attempting to get the student to school by going to the student's home as well as providing 1-1 assistance between the car and the school entrance on several occasions.

The second semester grade card showed the student failed all 7th grade classes and missed a total of 62 school days during that time frame.

IEP goal progress report for the third quarter indicated the student was not making progress towards his IEP goal and stated, "Student has been absent since last report. No new data to report."

The annual IEP team meeting was held on April 3, 2024. Documentation and interviews showed that the IEP team waived the required three-year reevaluation and continued eligibility and special education services for a Speech Impairment. Handwritten notes from the meeting kept by the Middle School Principal stated that the student had recently been hospitalized and his medications updated but that he was able to return to school with no restrictions after the parent kept him home for one week.

The IEP goal progress report for fourth quarter indicated the student was making progress towards his IEP goal and stated, "Student has frequent absences since his last IEP. No new data to report at this time."

The parent indicated the district reported her for truancy during the third quarter and then determined the student would be retained in the 7th grade for the next school year. She was informed of the retention decision at a meeting with the Middle School Principal on May 2, 2024. The parent stated that she was told to return the student's computer and to keep the student home for the remainder of the school year because there was no way he would be able to pass the 7th grade at this point.

Handwritten notes from the Middle School Principal dated May 2, 2024 stated:

- Discussed attendance and explained that he hasn't attended more than 11 days this semester, so we have to retain.
- Mom/student asked about summer school but understands it's not an option because of lack of exposure to curriculum.
- Asked student about why he isn't into school – bullying? issues with teachers? issues with peers? Student said only issue is he doesn't want to wake up early because he is up late on game.

Attendance records show the student's attendance was not marked beginning May 3, 2024; previously, the student's attendance was recorded as "U" when the student was absent.

The parent requested an IEP team meeting on May 8, 2024 which was held on May 15, 2024, which was two days prior to the last day of the school year and nine school days following the May 2, 2024 meeting between the parent, student, and Middle School Principal.

At that meeting, the district offered a plan to allow the student to attend summer school to complete assignments to show mastery of the 7th grade standards in an effort to avoid retention and the parent reported she decided to start the student back in school at the beginning of summer school. The parent reported the student was assigned to work in the principal's office with no teacher assistance during summer school, and the student did not complete the assigned work.

Documentation showed that the parent requested and the district proposed a reevaluation of the student during the May 15, 2024 IEP team meeting to determine if the student met the eligibility criteria for an exceptionality in the area of OHI and needed special education services including a BIP to address the significant number of absences from school.

The parent reported that she has subsequently requested for the student to transfer to USD #473 for the 2024-25 school year.

Conclusion

Federal regulations at 34 C.F.R. 300.106(b) require that the IEP team must consider the need for extended school year (ESY) services to provide a student with FAPE. In this case, there is documentation to support that ESY was considered at the April 3, 2024 IEP team meeting and a determination made by the IEP team that speech therapy services were not necessary during the summer for the student to address the /r/ phoneme in conversational speech.

It is noted that the parent's original allegation specifically stated that services were not provided to the student during ESY. Based on interviews during the investigation, it appears that the parent confused ESY services for speech therapy with the district's plan to allow the student to demonstrate mastery of 7th grade standards during summer school. The IDEA does not address the provision of general education summer school nor of grade placement / retention and both issues fall under the jurisdiction of school board policy and, as such, no findings related to these allegations will be made in this report.

However, federal regulations at 34 C.F.R. 300.323(c)(2) require school districts to ensure that the special education and related services are made available to the child in accordance with the child's IEP and federal regulations at 34 C.F.R. 300.324(b)(1) require school districts to reconvene a student's IEP team to address any lack of expected progress toward the annual goals and in the general education curriculum.

In this case, IEP goal progress reports for the third and fourth quarters of the 2023-24 school year both reflect that there was no new data to report during both reporting periods. In addition, the grade card showed the student had failed all 7th grade classes during this period and had been absent the majority of the second semester due to medical and mental health issues.

The district reported it was ready, willing, and able to provide the student with the 20 minutes per week of speech therapy during the third and fourth quarters of the 2023-24 school year and that the lack of services and data collection was the result of student absences rather than any failure on the part of the district.

Interviews and documentation show that the student's IEP team was reconvened on April 3, 2024 and again on May 15, 2024 to review and revise the IEP. In both instances, documentation showed the medical diagnoses and student absences were considered in the development of the IEP at each meeting and the parent was provided with PWN continuing the 20 minutes per week of speech therapy on April 3, 2024 and again on May 15, 2024. Based on the foregoing, it appears the district followed the appropriate procedures required by the IDEA and noncompliance is not identified for failing to implement the student's IEP or for failing to reconvene the student's IEP due to lack of progress towards IEP goals.

It is also noted that federal regulations at 34 C.F.R. 300.303(b)(2) require that a reevaluation of the student with a disability be conducted at least once every three years unless the parent and the district agree that a reevaluation is unnecessary. In addition, federal regulations implementing the IDEA at 34 C.F.R. 300.304(b)(6) require that any special education evaluation be sufficiently comprehensive to identify all the child's special education and related service needs.

In this case, IEP goal progress report for the third quarter of the 2023-24 school year reflected that there was no new data to report during this reporting period because of student absences and the grade card showed the student had failed all 7th grade classes during third quarter as well. However, while the district was aware of multiple medical issues that may have been contributing to these concerns, the parent and district agreed to waive the three-year reevaluation of the student at the April 3, 2024 IEP team meeting and to continue eligibility under the category of Speech Impairment after consideration of the student's most recent hospitalization, change of medication, and release to return to school with no restrictions as documented in the handwritten meeting notes as well as the PWN.

On May 15, the parent requested and the district agreed to conduct a reevaluation of the student to determine eligibility and the need for special education and related services under the suspected exceptionality category of OHI. Documentation shows the district provided the parent with appropriate prior written notice to conduct the proposed reevaluation. Based on the foregoing, noncompliance is not identified in regards to conducting a reevaluation at least

once every three years and to determine all of the special education and related service needs of the student.

Finally, federal regulations at 34 C.F.R. 300.327 require that parents be included in any decision to change the educational placement of the student and be provided with appropriate PWN describing any such proposed changes.

In this case, the parent reported the Middle School Principal told her to not send the student to school at the May 2, 2024 meeting, which was held to discuss retention. The Middle School Principal reported and notes do not reflect this statement being made during the meeting.

While It is unclear what was actually said at the meeting, it is obvious that the parent believed the student was no longer allowed to return to school for the remainder of the 2023-24 school year because of the decision to retain the student in 7th grade due to excessive absences as evidenced by the student's lack of attendance after May 2, 2024 and the parent's subsequent request for an IEP team meeting to discuss a reevaluation for an eligibility determination under the exceptionality category of OHI, to discuss the need for a BIP to address the significant absences, and the request to reconsider the retention decision.

Documentation and interviews showed the district appropriately responded and conducted an IEP team meeting on May 15, 2024 to address the parent's requests and clarified that the student was allowed to attend summer school in an effort to avoid retention. While a finding of noncompliance is not identified for parent's perception that the Middle School Principal unilaterally changed the placement of the student at the May 2, 2024 meeting because of the decision to retain the student in accordance to School Board Policy JFB, it is recommended that training, or at least additional information, be provided to administrators in USD #435 regarding any decisions that might impact the educational placement of students with disabilities and the requirement that placement decisions are made by the IEP team, including the parent, in order to avoid future misunderstandings with parents.

Summary of Conclusions/Corrective Action

1. ISSUE ONE: A violation of federal regulations at 34 C.F.R. 300.322(b)(1)(i) and Kansas regulations at K.A.R. 91-40-17(b) *was not found* because the district provided the parent with a NOM for the May 15, 2024 IEP team stating the positions of the persons who would be in attendance.
2. ISSUE TWO: A violation of federal regulations at 34 C.F.R. 300.503(a) *was not found* because the district did provide the parent with appropriate PWN regarding issues that fell under the jurisdiction of the IDEA and not local school board policy, specifically retention.
3. ISSUE THREE: A violation of federal regulations at 34 C.F.R. 300.106(b) *is not substantiated* because the IEP team did consider the need for ESY services for the student during the 2023-24 school year. In addition, a violation of federal regulations at

34 C.F.R. 300. 323(c)(2) and 34 C.F.R. 300.324(b)(1) is not substantiated because the lack of services provided to the student was the result of student absences not the district's failure to have services available and the IEP team was reconvened on April 3, 2024 and again on May 15, 2024 to address absences of the student. A violation of federal regulations at 34 C.F.R. 300. 303(b)(2) and 34 C.F.R. 300.304(b)(6) is also not substantiated because the district considered and determined the required three-year reevaluation was not necessary at the April 3, 2024 IEP team meeting but subsequently determined a reevaluation was necessary at the May 15, 2024 IEP team meeting a provided the parent with appropriate PWN to gather additional data to determine eligibility for the category of OHI and to determine the need for any special education services including a BIP. Finally, a violation of federal regulations at 34 C.F.R. 300.327 is not substantiated because it is unclear whether the Middle School Principal actually told the parent not to send the student to school for the remainder of the school year because of the decision to retain the student in accordance with School Board Policy JFB or if this was just the parent's interpretation of the discussion following the May 2, 2024 retention meeting. Regardless, this issue was clarified with the parent at the IEP team meeting held on May 15, 2024 and, while noncompliance was not identified, it is recommended that USD #435 provide additional training and/or information to school administrators regarding careful communication with parents in regards to any decisions that might impact the educational placement of students with disabilities and the requirement that placement decisions are made by the IEP team, including the parent, in order to avoid future misunderstandings with parents.

Investigator

Nancy Thomas

Nancy Thomas, M.Ed., Complaint Investigator

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal with the State Commissioner of Education, ATTN: Special Education and Title Services, Landon State Office Building, 900 SW Jackson Street, Suite 620, Topeka, KS 66612-1212. The notice of appeal may also be filed by email to formalcomplaints@ksde.org 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)