

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #500
KANSAS CITY PUBLIC SCHOOLS
ON MARCH 11, 2024

DATE OF REPORT APRIL 10, 2024

This report is in response to a complaint filed with our office by -----, mother, on behalf of her son, ----- . In the remainder of this report, ----- will be referred to as “the student” and ----- will be referred to as “the mother” or the “the parent.”

The complaint is against USD #500 (Kansas City Kansas Public Schools). In the remainder of the report, USD #500 may be referred to as the “school,” the “district” or the “local education agency (LEA).”

The Kansas State Department of Education (KSDE) received the complaint on March 11, 2024. The KSDE allows for a 30-day timeline to investigate the child complaint, which ends on April 20, 2024.

Investigation of Complaint

Gwen Beegle, Complaint Investigator, interviewed the parent by telephone on March 13, 2024, to clarify the issues of the complaint as part of the investigation. During the investigation, the Complaint Investigator reviewed all evidence and documentation, which was provided by both the district and the complainant(s). The following persons were interviewed regarding this complaint: Kacie Inderhees (Infant Toddler Provider-IT Provider) March 18, 2024; Katie Brooks (Evaluator, Special Educator) April 1, 2024; Angel Spann (KCK Early Childhood Coordinator) April 1, 2024; and Keri Schreiber (Early Childhood Speech Language Pathologist) April 1, 2024. The parent was interviewed using a language interpreter on April 3, 2024.

The following documentation and information were used in consideration of the issue(s), with documents listed first.

1. Teaching License Justine Neuman in Early Childhood (PreK-3), Early Childhood Unified (B-K) and English for Speakers of other Languages (PreK-12) dated August 15, 2020 through August 15, 2025.
2. Children’s Mercy Audiogram for the student dated May 19, 2023
3. IFSP dated September 13, 2023 including transition to Part B plan
4. Part C to B Referral dated November 3, 2023

5. Prior Written Notice Intent to Evaluate Infant and Toddler in English dated November 16, 2023
6. Prior Written Notice for Evaluation and Request for Consent dated January 11, 2024 with parent signature giving consent on the same date
7. Prior Written Notice Intent to Evaluate Infant and Toddler in English dated January 12, 2024
8. Proprio Call Log dated February 23, 2024 at 9:04 a.m.
9. Early Childhood Application for Enrollment dated February 26, 2024
10. Prior Written Notice in Spanish for identification, initial services, and placement and request for consent dated February 23, 2024 for a meeting on March 4, 2024 with both consent and no consent marked and signed by parent on March 4, 2024
11. Notice of Meeting in Spanish dated February 23, 2024 for a meeting on illegible date at 9:00 am, signed by the parent on February 23, 2024 waiving 10 day notice
12. Student evaluation- Eligibility Report (Spanish and English versions) dated March 4, 2024 with eligibility affirmed and signed by parent on March 4, 2024
13. Draft IEP dated March 4, 2024
14. IEP Meeting Notes and Summary in English dated March 4, 2024 with parent signature indicating receipt and understanding of parental rights and with meeting notes in Spanish
15. Procedural Safeguard Notice, signed and dated by the parent on March 4, 2024 (English)
16. Notice of Meeting in Spanish dated March 4, 2024 for a meeting on March 6, 2024 signed by the parent on March 4, 2024 waiving 10 day notice
17. Proprio Call Log dated March 4, 2024 at 9:04 a.m.
18. IEP Meeting Summary, dated March 7, 2024, Spanish
19. Prior Written Notice in English dated March 7, 2024 for initial services and placement unsigned by parent
20. Prior Written Notice in Spanish dated March 7, 2024 for initial services and placement unsigned by parent
21. March 7, 2024 [Student Name] Meeting Notes by District Speech Language Pathologist

Emails

22. Email exchange between Kacie Inderhees (Infant and Toddler Service Provider) and Robin Larson-Molson (KCK School Psychologist) beginning October 11, 2023 at 9:59 a.m. and ending October 20, 2023 at 1:12 p.m.
23. Calendar invitation confirmation from Robin Larson-Molson to Kacie Inderheese dated October 20, 2023 at 1:38 p.m.
24. Email exchange between Angie Sublet (District Audiologist) and Kacie Inderhees beginning October 19, 2023 at 4:09 p.m. and ending October 19, 2023 at 4:21 p.m.

25. Email exchange from Jorjann Kline (Intake Coordinator) to Angel Spann (KCK Early Childhood Coordinator) and Kacie Inderheese dated November 3, 2023 at 3:39 p.m.
26. Email from Ja'Kyta Lawrie (Special Education Director) to Debbie Lair (Infant and Toddler Coordinator), Angel Spann and Brenda Tantow (KCK Part C to B Team) dated November 3, 2023 at 3:48 p.m.
27. Email exchange between Kacie Inderhees and Ja'Kyta Lawrie, Angel Spann, Brenda Tantow and Debbie Lair, beginning November 6, 2023 at 11:05 a.m. and ending November 6 at 5:51 p.m.
28. Email exchange between Kacie Inderhees and Robin Larson-Molson beginning November 15, 2023 at unknown time and ending November 15 at 8:59 a.m.
29. Email exchange between Kacie Inderhees, Debbie Lair, and Erin Schuweiler (Kansas School for the Deaf - KSD) beginning November 15, 2023 at 12:04 p.m. and ending November 16, 2023 at 9:42 a.m.
30. Email from Stormy Dellolio (Facilitator) to Eshauna Davis (KCK School Psychologist) and the parent dated January 5, 2024 at 4:37 p.m.
31. Email from Kacie Inderhees to Brenda Tantow dated February 9, 2024 at 11:46 a.m.
32. Email exchange between Melinda Bridgewater (Speech Language Pathologist C2B team SLP diagnostician), and Kacie Inderhees beginning February 23, 2023 at 11:03 a.m. and ending at 12:04 p.m.
33. Email exchange between Angie Sublet, Kathryn Brooks (Evaluator), Melinda Bridgewater, and Justine Newman (Preschool Teacher for the Deaf and Hard of Hearing) beginning February 23, 2023 at 1:47 p.m. and ending February 25, 2023 at 8:14 p.m.
34. Email exchange between Kacie Inderhees and Kathryn Brooks beginning February 28, 2024 at 8:41 a.m. and ending at 8:57 a.m.
35. Email from Melinda Bridgewater to Kerri Schreiber (KCK Early Childhood Speech Language Therapist) dated March 4, 2023 at 10:22 a.m.
36. Email exchange between Kacie Inderhees and Angie Sublet, Kathryn Brooks, Melinda Bridgewater, Heather Turi (KCK Early Childhood Center-KCK ECC Principal), Justine Newman, and Kerri Schreiber beginning March 4, 2024 at 1:44 p.m. and ending March 7, 2024 at 12:06 p.m.
37. Email from Angie Sublet to Rebecca (SPED admin) dated March 4, 2024 at 3:14 p.m.

Background Information

The student is 3 years old and attended Project Eagle for infant and toddler services. His evaluation stated that he was automatically eligible for services due to established risk for developmental delay as a result of being diagnosed with unilateral conductive hearing loss in the right ear that is moderate-severe. The student has worn a bone-anchored hearing aid since age 6 months to amplify sound in the affected ear and has no hearing loss in the other ear. The student was evaluated and found eligible for Part C services in 2021 due to his hearing loss and delays in communication, social emotional development and cognition. His

Part B evaluation dated March 4, 2024, found him eligible in the primary disability area of hearing impairment with a secondary disability in speech and language and additional needs identified in the social emotional domain. The student's family speaks Spanish in the home, and the student has been exposed to sign language since he was 7 months old. The student has some words in Spanish and in English, along with some sign language development.

The Individuals with Disabilities Education Act (IDEA) and Kansas Special Education for Exceptional Children Act give KSDE jurisdiction to investigate allegations of noncompliance with special education laws that occurred not more than one year from the date the complaint is received by KSDE (34 C.F.R. 300.153(c); K.A.R. 91-40-51(b)(1)).

Issues Investigated

Based upon the written complaint and an interview, the following eight issues were identified.

ISSUE ONE: The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to afford procedural safeguards for parental participation, specifically to (a) provide parental rights document, (b) provide prior written notice in the parent's native language (c) provide 10 day notice of meetings, (d) notify the parent of IEP meetings, (e) provide full translation at meetings, and (f) respond to a parental request for a meeting in a timely way. (page 6)

ISSUE TWO: The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to respond to the Part C referral of a potentially eligible child in a timely way. (page 13)

ISSUE THREE: The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide a district representative at the student's transition conference. (page 15)

ISSUE FOUR: The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to complete a comprehensive special education evaluation for a child with a suspected disability, specifically by (a) evaluating the child in the native language of the home, (b) including parental input into the evaluation and evaluation process, and (c) considering outside evaluations and reports. (page 17)

ISSUE FIVE: The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to convene an IEP team required to complete the IEP, including a representative for the school for the deaf as requested by the parent (page 20)

ISSUE SIX: The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to properly develop the

student's IEP, specifically by predetermining the student's placement and failing to consider other continuum options (page 22).

ISSUE SEVEN: The USD #500, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide FAPE by having an IEP in place at the time of the child's third birthday (page 25)

ISSUE EIGHT: The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide appropriately trained staff to meet the unique needs of the student (page 27)

Issue One

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to afford procedural safeguards for parental participation, specifically to (a) provide parental rights document, (b) provide prior written notice in the parent's native language (c) provide 10 day notice of meetings, (d) notify the parent of IEP meetings, (e) full translation at meetings, and (f) respond to a parental request for a meeting in a timely way.

Applicable Statutes and Regulations

According to the Kansas Early Childhood Transition from IDEA Part C to Part B (2018), the Notice of Procedural Safeguards, Parent's Rights, must be given to parents upon initial referral or parent request for evaluation. When an LEA receives a Part C referral, it has a reasonable time in which to provide parents with the notice of procedural safeguards. KSDE interprets a reasonable time to be within 15 school days unless there is a reasonable justification for further delay.

Federal regulations at 34 C.F.R. 300.322 (a) require that parents be given the opportunity to participate in all IEP meetings. Districts must ensure that parents are part of any group that makes decisions on educational placement of the parent's child (34 C.F.R. 300.327). The school must provide notice of an IEP team meeting to the parents for the initial IEP team meeting and any subsequent IEP team meetings and the notice must be provided in writing at least 10 calendar days prior to the meeting (K.A.R. 91-40-17(a)(2)) Additionally, federal regulations at 34 CFR 300.322(b) require that the parent be informed of the purpose, location and attendees at the meeting and 34 CFR 300.322(e) require that the public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents whose native language is other than English. Prior written notice must be provided in the parent's native language (34 C.F.R. 300.503(c)(2)). Finally, 34 CFR 300.9(a) requires that the parent has been fully informed of all information relevant to the activity for which consent is sought in his or her native language.

Parents can request that an IEP meeting be held, and KSA 72-3429 (f)(2)(C) requires that the district convene an IEP meeting to address information about the child provided by the parents. KSDE interprets a reasonable time to respond to a parental request for a meeting to be within 15 school days unless there is a reasonable justification for further delay.

Positions of the Parties

The parent alleged that the district did not acknowledge the student's referral from Part C to Part B by sending a copy of the parental rights or providing prior written notice for permission to evaluate the student in the parent's native language, requiring her to have another family member translate it so she could give permission for comprehensive evaluation. The parent alleged that the district failed to send a representative to a transition meeting on November 15, 2023 despite confirming their attendance. The parent alleged that she was notified on February 23, 2024 for a meeting on March 4, 2024, but the IEP could not be completed at that time. The parent alleged that the district rescheduled then canceled an IEP meeting on March 6, 2024, and then scheduled another meeting on March 7, 2024. The district failed to directly notify the parent of the March 6 and March 7, 2024 dates or provide 10 day notice. The parent alleged that at the IEP meeting the school team did not pause in their discussions for the interpreter to translate parts of the discussion, and that a district staff told the interpreter "no need to interpret that" after making a statement. Finally, the parent alleged that she visited the early childhood office and the district office attempting to enroll her child, but she was turned away because she did not have a meeting scheduled.

USD #500 denied any violations relating to the allegations raised in the formal complaint.

Findings of the Investigation

The following findings are based upon a review of documentation and interviews with the parent, LEA staff in USD #500 and other persons listed above.

The district and parent agree that the district received the Part C to Part B referral on November 3, 2023.

The district reported and documentation showed that no information on the referral indicated that the family's native language was Spanish. The district provided a copy of a Prior Written Notice (PWN) of Intent to Evaluate the student dated November 16, 2023, mailed to the parent on the same date. In an interview, the parent reported that she did not receive this notice.

Emails between the infant toddler (IT) provider and the district's school psychologist October 19-20, 2023, showed that the school psychologist was aware that the family needed an interpreter for the transition conference, which would be provided by Part C. These emails also showed that the IT provider told the school psychologist that the family was interested in a placement at the school for the deaf (KSD) and that the school psychologist accepted the invitation to the transition conference which included the time and location of the meeting.

Emails from the same period showed that the school psychologist alerted the IT provider that the district would reach out to initiate the evaluation at least 30 days before the student's third birthday.

The parent and district agree that the school psychologist did not attend the transition conference, sending an email after the start of the meeting that she could attend only by teleconference media. The parent and the district agree that the transition conference was held without Part B presence, at least 90 days before the student's 3rd birthday.

The district reported that it contacted the parent on January 5, 2024 to explain the evaluation process. The district provided a copy of the follow up email to the parent dated January 5, 2024 showing parental rights documents in English and Spanish attachments along with a request for a social history of the student. The district reported that the parent replied to this email returning the completed social history forms in both languages. The parent reported that she replied to the social history as well as she could as it was provided in English. A second PWN of Intent to Evaluate the student dated January 12, 2024 showed documentation that it was mailed to the parent on the same date.

Prior Written Notice for Evaluation and Request for Consent was provided in English on January 11, 2024 with consent signed by the parent on the same date, 60 days before the student's third birthday.

Emails on February 25, 2024 showed that the audiologist, evaluator, and speech language therapist on the district's evaluation team shared a copy of the IFSP for discussion.

The district reported that the evaluation team met with the parent on February 23, 2024 to work with the child and interview the parent. The evaluation team arranged to observe the student and interview the student's teachers on February 27, 2024 in his current placement as part of the evaluation.

At the time of the evaluation, the evaluation team explained the location of the KCK-ECC classroom for deaf and hard of hearing students and described the services that could be provided to the student in that program. The evaluation team believed that the parent was positive about this placement and scheduled the staffing to occur in that location, to occur on March 4, 2024, 5 days before the student's third birthday. According to the evaluator, the parent did not mention the KSD placement at the time of the evaluation.

The district provided two notices of meetings, the first dated February 23, 2024 for a meeting on March 4, 2024 and the second on March 4, 2024 for a meeting on March 6, 2024. On both documents, the parent waived 10 day notice. The district evaluator explained that she had shown and explained the notice of meeting to the parent on the day of the evaluation, February 23, 2024, but she did not have the Spanish language version printed. While the Spanish version was being printed, the parent left and so she was not able to have the NOM signed till March 4, 2024.

The IEP Meeting Notes and Summary in English dated March 4, 2024 included the parent's signature with two options checked, indicating the parent's receipt and understanding of parental rights in her native language. Prior Written Notice for Identification, Initial Services and Placement in Spanish dated February 23, 2024 was marked as delivered on March 4, 2024. Both consent and no consent were checked with the parental signature on March 4, 2024. In an interview, the parent said that she intended to say no consent to the district because she believed they did not understand the needs of her son and she thought KSD provided more educational opportunities.

The district reported and documents showed that the student's evaluation and eligibility were the topics of the March 4, 2024 meeting, and that the student's primary disability was determined to be hard of hearing with a secondary disability of speech language delay. At the March 4, 2024 meeting the evaluator and district attendees became aware that the parent wanted to discuss KSD as a placement rather than the district's classroom and school. The March 4, 2024 IEP meeting notes state: "The team will meet again on March 6 at 8:00 a.m., to write the IEP, since the parents show a preference for the KSD and the KSD representative did not attend this meeting. The KSD representative is available at this time."

The district reported that the IT provider agreed to contact KSD, and the IEP meeting was rescheduled on March 7, 2024 due to KSD not being available on March 6 at the same time as district staff. The meeting was held on March 7, 2024 to allow for district, KSD, parent and IT provider participation, before the student's third birthday. The parent reported that the district did not inform her of the changed time of the meeting. The interview with the IT provider verified that she informed the parent that the March 6, 2024 meeting would be held on March 7, 2024. Documents showed that the parent attended the IEP meeting on March 7, 2024.

The parent reported in the written complaint that during the March 7, 2024 IEP meeting, the Early Childhood Coordinator told the interpreter, "no need to interpret that" after making a statement and that during the meeting the discussion did not pause to allow translation for parts of the discussion. The district disputed this, clarifying that the Early Childhood Coordinator had asked a side question of the IT provider in reference to accurately transferring her handwritten notes into the typed meeting summary, which was then translated to the whole group in its entirety. During an interview the Early Childhood Coordinator reported that the translator was available and all aspects of the meeting were translated for the parent.

Personal notes of the March 7, 2024 meeting by the district's early childhood speech language pathologist showed that the district provided a translator by telephone rather than having the parent's adult son to translate during the meeting and that some untranslated exchanges between the IT provider and the parent were made in Spanish during the meeting. The notes also reported that the district's staff verified the parental concerns after the side conversations had occurred. The notes showed a disagreement between the district staff, the IT provider and the KSD representative about whether the district was obligated to provide transportation to

KSD. In an interview, the Early Childhood Coordinator added that the parties in the meeting were very engaged in the discussion throughout the meeting, showing that the translation was effective.

The parent reported that she visited the two locations in the district in order to enroll her son on February 19 and February 20, 2024. The district reported that the parent visited the ECC office on February 26, 2024 to complete an application for enrollment in the program, which is typical for all parents wishing to enroll children. In an interview, the parent stated that she spoke to the receptionist and she did not ask for an IEP meeting at that time because she had shared information with the district already and she thought the district was aware of what was needed.

Conclusion

In summary, the parent's procedural due process rights during the Part C to B transition, Part B evaluation, and IEP development process were largely provided, with regard to the elements of the complaint: (a) the parent's rights were provided via email in Spanish and English in response to the Part B referral by January 5, 2024 and the parent acknowledged receipt of the rights in writing on March 4, 2024, (b) prior written notices for intent to evaluate were mailed and consent for evaluation secured in time for the evaluation to be completed prior to the student's third birthday, (c) two notices of meetings were provided with 10 day notice waived with parental signatures, and (d) language translation was provided at each meeting.

However, the failure of the Part B representative to attend the transition conference caused a communication interruption that led to two errors, the provision of the PWN-E in English rather than Spanish and the evaluation team's lack of awareness that the IT provider had conveyed the family's interest in KSD placement. The parent was able to reply to the PWN-E promptly, although it was provided in English. Failing to know that the parent wanted KSD present caused a rescheduling of the staffing meeting, for March 6 and then March 7, 2024, leading to a subsequent error in communicating the time and location of the March 7 meeting to the parent. Although inconvenienced, the parent was able to attend, to be informed and to participate in the evaluation, eligibility, and IEP development process despite the district's errors. Further, when the parent visited the district office, she completed an application for school enrollment but she did not ask for a meeting to be scheduled. While it might have been good service for the office reception to recognize that an IEP meeting was needed and speak to the required special education process, the parent did not indicate that she wanted an IEP meeting scheduled and so no parental request for a meeting was received by the district at that time.

Based on the foregoing, a violation of special education statutes and regulations is ***substantiated*** for failing to provide the January 11, 2024 PWN-E in the parent's native language (34 C.F.R. 300.503(c)(3)) and for failing to provide proper notice of meeting for the March 7,

2024 IEP meeting (34 C.F.R. 300.322(b) and K.A.R. 91-40-17(a)(2)). A violation is not substantiated for failing to provide parental rights, providing full translation at meetings, failing to provide 10 day notice at the March 4, 2024 meeting, and for failing to respond to a parental request for a meeting.

Issue Two

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to respond to the Part C referral of a potentially eligible child in a timely way.

Applicable Statutes and Regulations

Upon referral for an initial evaluation, regardless of the source, the first action the school must take is to provide the parents, or the adult student, a copy of the Parent Rights Notice (procedural safeguards) available to them (K.S.A. 72- 3430(e); 34 C.F.R. 300.503). Whenever a child has been referred for an evaluation, the school must provide Prior Written Notice to the parents that describe any evaluation procedures the school proposes to conduct (K.S.A. 72- 3430(b)(2); 34 C.F.R. 300.304(a)). Schools are required to respond to a request for an evaluation in a timely way with Prior Written Notice; in Kansas this is within 15 school days. From the time the parent gives consent for an evaluation, the evaluation must be completed, eligibility determined and initial services begun in 60 days (34C.F.R. 300.301(c)(1)).

Positions of the Parties

The parent alleged that the referral for special education for the student was sent to the school district from infant toddler services on November 3, 2023 and that the district did not respond to it in a timely way. The parent stated that when she did receive information from the district, it was in English causing her to ask a family member to translate it for her before she signed and returned the document. The parent stated that the evaluation conference was not scheduled till February 23, 2024 to be held on March 4, 2024 despite the district's knowledge of the student and his March 8 birthday. Due to these delays, her child is now without services.

USD #500 responded that USD #500 denied any violations relating to the allegations raised in the formal complaint.

Findings of the Investigation

The following findings are based upon a review of documentation and interviews with the parent and LEA staff in USD #500.

The findings of Issue One are incorporated herein by reference.

As stated previously, the Part C to B referral was made to the district on November 3, 2023. The district reported and provided documentation that showed that a Prior Written Notice with

Intent to Evaluate was written and mailed to the parent on November 16, 2024. The Prior Written Notice with Intent to Evaluate stated that, "Requesting consent for evaluation at this time was considered, but rejected because the team would like to request consent within 60 school days of the child's third birthday. The team will present a prior written notice and request for consent prior to starting the evaluation." The parent reported that she did not receive this notice by mail. The district provided documentation that indicated that the same PWN with intent to evaluation was mailed again on January 12, 2024.

The district reported that it contacted the parent on January 5, 2024 to explain the evaluation process. The district provided a copy of the follow up email sent to the parent dated January 5, 2024 showing parental rights documents in English and Spanish attachments along with a request for a social history of the student. The district reported that the parent replied to this email returning the completed social history in both languages.

Prior Written Notice for Evaluation and Request for Consent was provided in English on January 11, 2024 with consent given and signed by the parent on the same date, 60 days before the student's third birthday. The district reported and the evaluation document showed that the student's Part B evaluation was initiated with a meeting with parents and direct interaction with the student on February 23, 2024, followed by observation of the student in his current placement and interviews with his teachers on February 27, 2024 and an evaluation and eligibility meeting held on March 4, 2024. The student's evaluation shows eligibility affirmed and signed by the parent on March 4, 2024. The district reported and documentation showed that the district offered a draft IEP one day prior to the student's third birthday on March 7, 2024, and the PWN of the same date showed that the parent declined to consent for this Part B placement's initiation. The parent confirmed in an interview that the district had offered this placement and IEP at the March 7, 2024 meeting.

Conclusions

In this instance, the district reported responding by mail to the Part B referral with a PWN with intent to evaluate, which stated that the evaluation consent would be sought within 60 days of the child's third birthday, when services would need to be in place. The district reported sending this PWN in November within 15 days of the Part B referral and again in January, 2024. It is noted that the parent did not report receiving this PWN and the conditions of its delivery cannot be determined. The district sought and acquired consent on January 11, 2024 and completed the evaluation and eligibility determination on March 4, 2024, offering a district placement on March 7, 2024. Based on the foregoing, a violation of special education statutes and regulations *is not substantiated* for failure to respond to the Part C referral of a potentially eligible child in a timely way.

Issue Three

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide a district representative at the student's transition conference.

Applicable Statutes and Regulations

For children transferring from IDEA Part C to Part B services, the school is required to ensure that: (a) the parents are provided with a copy of the Parent Rights Notice (procedural safeguards) (b) eligibility is determined according to Part B requirements through an initial evaluation; (c) if eligible, an IEP or IFSP is in effect by the child's 3rd birthday; (d) if a child's 3rd birthday occurs during the summer, the child's IEP team determines the date when services will begin, but not later than the beginning of the school year following the 3rd birthday; and (e) a representative of the district will participate in transition planning conferences arranged by the Part C program (K.A.R. 91-40-2(b); 34 C.F.R.300.124(c)).

This regulation does not require LEA staff members to attend these conferences in person. Staff members may participate in conferences through alternative methods, such as telephone conference calls or other means of technology (e.g., zoom meetings). If the LEA is unable to send a representative to the transition conference, the Part C Program is still responsible for convening a timely transition conference and conveying the information required by the Part B program to the parent.

Positions of the Parties

The parent stated that the infant toddler (IT) provider scheduled a transition conference with the school on November 8, 2024 for a meeting on November 15, 2023 and when the parent and IT provider came to the meeting at the school, the district failed to provide a representative.

USD #500 replied that USD #500 denied any violations relating to the allegations raised in the formal complaint. The district responded that, when the Part B representative alerted the IT provider via email that she could not attend in person, the IT provider should have rescheduled the transition conference.

Findings of the Investigation

The following findings are based upon a review of documentation and interviews with the parent, the infant toddler service provider and district staff in USD #500.

The findings of Issue One and Issue Two are incorporated herein by reference.

In mid-October, 2023, the IT provider alerted the district to the need to schedule a transition planning conference before the student whose third birthday was March 8, 2024, necessitating the meeting to fall before December 9, 2024. Via email, the IT provider confirmed that a district

school psychologist was available and would attend a transition planning conference as the Part B representative on November 15, 2023 at 8:30 a.m. After the start of the meeting, at 8:44 a.m., the Part B representative emailed to report that she could not attend the meeting in person but could attend on Teams or Google. The transition planning meeting proceeded in person with the parent, infant toddler service provider, and KSD representative in attendance. After the meeting, the infant toddler service provider informed the district Infant and Toddler Coordinator that the Part B representative had not attended and they sent an email after the meeting began. On February 9, 2024, the IT provider emailed a member of the district's Part C to B team to remind the district that the student was in transition to Part B.

On November 3, 2023, an email from the Special Education Director to the Part C Coordinator showed that the Part B program requested alterations in the Part C to Part B referral process, to include providing IFSPs along with referrals and to designate Part B administrators to receive all referrals. These administrators would be "prepared to discuss continuum of services for part B and provide procedural safeguards to parents at that meeting and answer questions."

Conclusions

Based on the foregoing, a violation of special education statutes and regulations *is substantiated* for failing to provide a district representative at the student's transition conference. It is noted that the Part C provider was aware of the Part B school psychologist's email and could have rescheduled the transition conference or connected the school psychologist electronically but declined to do so because of their late notice. It is noted that this meeting occurred during the first weeks of implementing the new KCK process designed to prevent such errors in the future.

Issue Four

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to complete a comprehensive special education evaluation for a child with a suspected disability, specifically by (a) evaluating the child in the native language of the home, (b) including parental input, and (c) considering outside evaluations and reports.

Applicable Statutes and Regulations

Federal statutes and regulations at 34 CFR 300.324(a) require that in developing the child's IEP, the IEP team shall consider the following: the strengths of the child, the concerns of the parents, the results of the child's evaluation, the academic and functional needs of the child, the use of positive behavior interventions and supports if the child's behavior impedes learning, the need for braille or the impact of limited English proficiency, the child's communication needs, and the need for assistive technology.

The initial evaluation must include a variety of assessment tools and strategies to gather relevant information provided by the parent, that may assist in determining whether the child is an exceptional child, the educational needs of the child, and the content of the child's IEP (K.S.A. 72-3428(b)(1); 34 C.F.R. 300.304(b)(ii)).

Additionally, according to 34 C.F.R. 300.304 (c)(1) and K.S.A. 72-3428(c) (1) (A) and (B) the assessments are to be selected and administered so as not to be discriminatory on a racial or cultural basis and to be provided and administered in the native language or other mode of communication and form most likely to yield accurate information on what the child knows and is able to do academically, developmentally, and functionally.

Positions of the Parties

The parent alleged that the evaluation took place in late February and that the district did not consider outside evaluations and reports when drafting the IEP. The parent alleged that no discussion was afforded at the evaluation meeting, and the persons present at the meeting had not completed the student's evaluation. The parent stated that the district stated that KSD was not invited or needed at the meeting, yet KSD had been in the home with services since the student was 7 months old. The parent alleged that her input was not considered or wanted. The parent alleged that only English was assessed, although the student is in a Spanish speaking home and has exposure to sign with a clinician from KSD from the age of 7 months.

USD #500 replied that USD #500 denied any violations relating to the allegations raised in the formal complaint.

Findings of the Investigation

The following findings are based upon a review of documentation and interviews with the parent and LEA staff in USD #500.

The findings of Issue One, Issue Two and Issue Three are incorporated herein by reference.

In an interview, the IT provider reported that the parent believed that the school's evaluator asked about the child's communication in Spanish and sign, but did not directly assess him in those means of communication. The IT provider reported that the draft IEP goals were not based on accurate baseline information regarding the student's current receptive language across all languages.

The district reported that the district's evaluation team met with the parents and child on February 23, 2024 for the evaluation. Because the child was crying and the interpreter had not yet arrived, the evaluator interviewed the parent with the assessment checklist while the father took the child for a walk. The district evaluation team gave time for the parents to calm the student and then worked with the child in the evaluation room to complete the interaction and

observational portion of the assessment with an in-person translator present for the evaluation.

The evaluation team reported some discrepancies between their observations and the parent's report of student skills, and the evaluation team acquired permission and arranged to observe the student and interview the student's teachers on February 27, 2024 in his current placement to continue the evaluation. The evaluation team collected current data reports from the parent during the parent interview and from the student's teachers on February 27, 2024 when the additional observations and teacher interviews were held. In an interview, the parent reported giving the district a report from KSD. The district reported using the Children's Mercy audiology report, current Part C reports and the IFSP as additional data sources for the evaluation. The district reported that these were considered as part of the evaluation and determination of the student's needs for the draft Part B IEP prepared by the evaluation team and subsequently proposed by the district. The district reported that the IEP Goal 1 skill level was not completed as it was a draft to be discussed at the IEP development meeting.

At the time of the evaluation on February 23, 2024, the evaluation team explained the location of the KCK-ECC classroom for deaf and hard of hearing students and described the services that could be provided to the student in that program and school. The evaluation team believed that the parent was positive about this placement and scheduled the staffing to occur in that location, to occur on March 4, 2024, 5 days before the student's third birthday. According to the evaluator, the parent did not mention the KSD placement at the time of the evaluation.

The parent and IT provider reported that the evaluation discussed at the March 7, 2024 meeting did not consider the reports from KSD or allow KSD to be represented in the March 4, 2024 evaluation/eligibility meeting despite the IT provider providing the information that the parent wanted KSD involvement and consideration of their reports and possible placement. The district reported that the IFSP and additional material provided by the parent and current services were sources for the evaluation which was discussed and affirmed along with eligibility on March 4, 2024, with the present levels of performance reviewed at the March 7, 2024 meeting. The district reported and documentation showed that KSD was present at the March 7, 2024 meeting which was rescheduled to ensure KSD participation and that KSD was discussed as a placement option during the IEP meeting. The parent agreed that a brief discussion of KSD and its process for developing IEPs occurred at the March 7, 2024 meeting.

Conclusions

In this case, the district was tasked to evaluate a child with trilingual language development, in Spanish, English, and sign language. The district's evaluation team reported using the information provided to them by the parent, interviews and reports from the current school placement, the IFSP which included the student's history of services and development, the

Children's Mercy audiology report, along with new assessments via parent interview and student observation as part of its comprehensive evaluation, using language interpretation during the direct interaction with the child. It is noted that the March 4, 2024 meeting did not include KSD representation. However, KSD was present and given an opportunity to give input at the March 7, 2024 meeting scheduled specifically so they could participate.

Based on the foregoing, a violation of special education statutes and regulations *is not substantiated* for failing to complete a comprehensive special education evaluation for a child with a suspected disability, specifically by (a) evaluating the child in the native language of the home, (b) including parental input, and (c) considering outside evaluations and reports.

Issue Five

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to convene an IEP team required to complete the IEP, including a representative for the school for the deaf as requested by the parent

Applicable Statutes and Regulations

Federal regulations implementing the IDEA at 34 C.F.R.300.321(a) and state statutes at K.S.A. 72-3404(u)(4)(A)-(B) state that the IEP team must include the following members: the parents of the child, a regular education teacher of the child if the child is or may be participating in the regular education environment, a special education teacher or provider, a representative of the public agency who is qualified to provide or supervise specially designed instruction, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the public agency, an individual who can interpret the instructional implications of evaluation results, at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and when appropriate, the child with a disability.

Positions of the Parties

The parent alleged that she informed the district in three ways that she wanted a representative from the school for the deaf involved in the student's transition from infant toddler services. Because the district failed to invite a KSD representative, the IEP could not be completed at the March 4, 2024 meeting convened by the district.

USD #500 replied that USD #500 denied any violations relating to the allegations raised in the formal complaint.

Findings of the Investigation

The following findings are based upon a review of documentation and interviews with the parent and LEA staff in USD #500.

The findings of Issue One, Issue Two, Issue Three and Issue Four are incorporated herein by reference.

The student's IFSP transition plan section listed the IT provider, a KSD representative, and the student's adult brother in addition to Part B and the parent as persons the family would like to attend the IEP meeting.

At the March 4, 2024 IEP meeting convened by the district, the meeting notes signatures show that the following persons attended: the parent, the IT provider at the request of the parent, the special education teacher/evaluator, the principal of the KCK-ECC program who served as the LEA representative, the Speech Language Pathologist (SLP) of the evaluation team, and the district's audiologist. Evaluation and eligibility were discussed at the March 4, 2024 meeting, according to meeting minutes, the PWN dated and the student's evaluation report. At the March 7, 2024 IEP meeting, the following persons attended: the parents, the student's adult brother, a representative from KSD, the KCK ECSE-DHH teacher, the KCK early childhood SLP and the KCK Early Childhood Coordinator who served as the LEA representative.

Conclusions

In this case, at each of the two IEP meetings, the district invited an IEP team that included required members (34 C.F.R. 300.321(a)) along with the IT provider (Part C service coordinator) that the parent wanted to be included, as required by 34 C.F.R. 300.321(f). At the March 4, 2024 meeting when the district's evaluation team became aware that the parent wanted KSD present, a second meeting was scheduled to accommodate the possibility of KSD placement, again including the required IEP team members and the IT provider along with the KSD representative as requested by the parent during the March 4, 2024 meeting. Again, the second meeting included the IEP team members required by IDEA, with staff present who could explain the services that could be provided in the KCK ECC deaf and hard of hearing classroom and early childhood school. It is unfortunate that the district school psychologist originally communicating with the IT service coordinator did not convey the family's wish for KSD involvement in the Part C to B transition. However, the district met its responsibility to convene an evaluation- eligibility and an IEP team that met the requirements of IDEA.

Based on the foregoing, a violation of special education statutes and regulations *is not substantiated* for failure to convene an IEP team required to complete the IEP, including a representative for the school for the deaf as requested by the parent.

Issue Six

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to properly develop the student's IEP, specifically by predetermining the student's placement and failing to consider other continuum options.

Applicable Statutes and Regulations

Federal regulations implementing the IDEA at 34 C.F.R. 300.115(a)(b) and state regulations a K.A.R. 91-40-21(a)(b), each agency must ensure that children with disabilities are educated in the least restrictive environment and must maintain a continuum of alternative educational placements is available, including regular classes, special classes, special schools, home and hospital instruction. In determining the placement of a child with a disability, including a preschool child, K.A.R. 91-40-21(c) the decision must be made by a group of persons including the child's parent and others knowledgeable about the child, the meaning of evaluation data, and the placement options. This group may be the student's IEP team.

Positions of the Parties

The parent stated that the general feeling within the IEP meeting was that a decision had been predetermined and no other continuum of placement options were discussed. The parent alleged that the school district at no point accommodated her wishes or communicated to her clearly about her options. The parent alleged that she made it clear from the beginning that she wanted KSD involved in this IEP because she had been working with them for years. She alleged that it violated her rights not to have this considered.

USD #500 replied that USD #500 denied any violations relating to the allegations raised in the formal complaint.

Findings of the Investigation

The following findings are based upon a review of documentation and interviews with the parent and LEA staff in USD #500.

The findings of Issue One, Issue Two, Issue Three, Issue Four and Issue Five are incorporated herein by reference.

At the March 4, 2024 meeting the evaluator and district attendees became aware that the parent wanted to discuss KSD as a placement as an alternative to the district's EC deaf and hard of hearing classroom and general education early childhood center. At that point, the evaluator suggested completing only the evaluation and eligibility determination on March 4, 2024. The March 4, 2024 IEP meeting notes state: "The team will meet again on March 6 at 8:00 a.m. to write the IEP, since the parents show a preference for the KSD and the KSD representative did not attend this meeting. The KSD representative is available at this time."

The meeting was rescheduled for March 7, 2024 to allow for district, KSD, parent and IT provider participation before the student's third birthday.

In an interview, the KCK Early Childhood Coordinator stated that, during the March 7, 2024 IEP meeting, KSD had the opportunity to describe the KSD program, which was a full day program. Meeting minutes and the PWN dated March 7, 2024 showed that the district offered a placement in the KCK - ECC deaf and hard of hearing classroom within the district. Interviews with district staff uniformly stated that the administrative, evaluation and program staff believed that the student could be successfully educated within the district, and that the district was willing to work with KSD if needed to meet a student's educational needs as it had in past instances. Personal notes of the March 7, 2024 meeting showed a disagreement about whether the district was obligated to provide transportation to KSD, with the IT provider and KSD representative asserting that the district needed to provide transportation and the district asserting that KCK could provide FAPE to the student in the district and therefore the transportation related service would be provided only to the district program. Interviews with district staff showed that the staff recognized that the parent was concerned about her work schedule and the half day KCK ECC program, and in response the district staff explained that KCK could provide transportation to a child care provider rather than the home, if desired. Interviews, meeting minutes, and the March 7, 2024 PWN showed that the district stated that, because an offer of FAPE had been provided in the district and rejected by the parent, transportation to KSD was not provided as a related service. District staff, when interviewed, stated that KSD completes its own IEP when students attend there. When the parent declined to sign the PWN to initiate special education services in the district, no further action was taken to refine the district's draft IEP goals and services at the IEP meeting. District staff reported providing a paper copy of the March 7, 2024 PWN along with the special education director's phone number to the parent at the conclusion of the meeting.

Conclusions

In this case, the district properly reconvened an IEP meeting to include KSD when this was requested by the parent or the IT provider during the first meeting which completed the evaluation and established eligibility. The district provided the opportunity for KSD to be discussed as a placement option. The district made an offer of FAPE within the district, based on the expertise of the district's evaluation and EC program staff and the previous interactions with the parent. District staff expressed their conviction that the district could offer a successful educational plan for the student, alongside their understanding that they did work successfully with the school for the deaf when they believed it necessary. The district provided the PWN and contact information at the close of the March 7, 2024 IEP meeting so that the parent could later contact the district regarding services. Based on the foregoing, a violation of special education statutes and regulations *is not substantiated* for failure to properly develop

the student's IEP, specifically by predetermining the student's placement and failing to consider other continuum options.

Issue Seven

The USD #500, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide FAPE by having an IEP in place at the time of the child's third birthday

Applicable Statutes and Regulations

For children transferring from IDEA Part C to Part B services, the school is required to ensure that if eligible, an IEP or IFSP is in effect by the child's 3rd birthday, unless a child's 3rd birthday occurs during the summer, in which case the child's IEP team determines the date when services will begin, but not later than the beginning of the school year following the 3rd birthday (K.A.R. 91-40-2(b)(1)(2)).

Positions of the Parties

The parent's complaint stated: "My child should have had an IEP in place by his third birthday. Due to KCKPS's delay in communicating with me and acknowledging my wishes, my child does not have an IEP in place for his third birthday. I did not decline the IEP to be difficult. I did it because I feel having Kansas School for the Deaf as a part of his process is important to making the best decisions for his future." The parent alleged, "As of right now my son is receiving no services because the services for him only lasted from 6 months to 3 years old from the school he attended named Educare Kansas City with Project Eagle. His time with Educare is almost up, that's why I've been trying to figure out which school to enroll for my son to attend next."

USD #500 replied that USD #500 denied any violations relating to the allegations raised in the formal complaint.

Findings of the Investigation

The following findings are based upon a review of documentation and interviews with the parent and LEA staff in USD #500.

The findings of Issue One, Issue Two, Issue Three, Issue Four, Issue Five and Issue Six are incorporated herein by reference.

After the student's referral from Part C, the district provided a Part B evaluation that led to a determination that the student was eligible for special education and related services upon his third birthday. One day prior to his birthday, the district offered the parent placement in the KCK - ECC deaf and hard of hearing classroom with a draft IEP dated March 4, 2024. The March 4, 2024 PWN showed that the parent did not consent to the district's IEP with

placement in the deaf and hard of hearing classroom; this was clarified in an interview with the parent.

The parent did not accept the district's offer of placement at the March 7, 2024 IEP meeting; the district provided PWN dated March 7, 2024 that stated: "The action proposed was to provide Gael special education services at his neighborhood attendance area for early childhood. The following proposal was made: 75 min. four days a week special education services, 15 min. a quarter for audiology, speech and language 15 min. 2 days a week, & special transportation, K-time is 150 min 2 days a week and 135 min. 2 days a week. The action at this time was refused by the parent. She prefers to have her child attend a full day program which is offered at KSD. The option to attend KCK ECC with an ECSE teacher to support was considered but rejected due to the program being half day versus a full day, which would be the parent's preference. The option to give bus transportation from the district to KSD was rejected because FAPE can be provided in the district."

An interview with the parent indicated that KSD had not initiated an IEP process with the parent after the March 7, 2024 IEP meeting.

Conclusions

In this case, the student was determined to be eligible for services, the district offered a draft IEP with in-district placement which was rejected by the parent at the second IEP meeting. It is noted that time constraints prevented further negotiations before the child's third birthday when a disagreement between the parties was not resolved. However, the parent has the absolute authority to consent for services to be initiated, and the district properly provided prior written notice indicating that the services would not be initiated without parental consent.

Based on the foregoing, a violation of special education statutes and regulations *is not substantiated* for failure to provide FAPE by having an IEP in place at the time of the child's third birthday.

Issue Eight

The USD #500 in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide appropriately trained staff to meet the unique needs of the student

Applicable Statutes and Regulations

Federal regulations at 34 C.F.R. 300.156(a) require public agencies to ensure that children with disabilities are provided special education and related services by appropriately and adequately prepared and trained personnel who have the content knowledge and skills to serve children with disabilities.

Federal regulations at 34 C.F.R. 300.156(c) require that each special education teacher providing special education services has obtained full State certification as a special education teacher (including certification obtained through an alternate route to certification as a special educator), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, and holds at least a bachelor's degree.

Positions of the Parties

The parent alleged that the district did not have properly prepared staff to provide services to their child.

USD #500 replied that USD #500 denied any violations relating to the allegations raised in the formal complaint.

Findings of the Investigation

The findings of Issue One, Issue Two, Issue Three, Issue Four, Issue Five, Issue Six and Issue Seven are incorporated herein by reference.

The district reported that the teacher in the KCK ECC deaf and hard of hearing classroom had served the district for several years, first as the general education teacher in the deaf and hard of hearing classroom, and now as the special education teacher in that classroom, which now uses a reverse mainstream model to develop a multimodal mode of communication, including both sign and spoken language.

The district provided a copy of the teacher's licensure, showing that the teacher holds current endorsements in: Early Childhood Education (PRK-3), Early Childhood Unified (B-K) and English for Speakers of Other Languages (PRK-12).

In interviews, the district reported that the teacher is fluent in sign language for preschool aged students, is familiar with typical equipment, and provides needed accommodations and modifications in the classroom. The district reported that the teacher has been successful with children who had hearing losses similar to those exhibited by the student during the evaluation.

Conclusions

In this case, the teacher holds the credentials to properly teach in the classroom and has additional experiences teaching students with hearing impairment in the district. Based on the foregoing, a violation of special education statutes and regulations is not substantiated for failure to provide appropriately trained staff to meet the unique needs of the student.

Corrective Actions

No corrective actions are required for Issues Two, Four, Five, Six, Seven and Eight. Violations were found in Issue One and Three and corrective actions are required.

1. ISSUE ONE: A violation of 34 CFR 300.322(b) to inform parents of meeting, K.A.R. 91-40-17(a)(2) 10 day notice of meeting, 34 CFR 300.503(c)(2) provide notice in native language was found, based on facts listed above. Corrective actions are required (as follows):
 - a. CORRECTIVE ACTIONS
 - i. By May 10, 2024, USD #500 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal regulations at 34 C.F.R. 300.322(b), K.A.R. 91-40-17(a)(2) that require proper notice to be given to parents of IEP meetings and with 34 CFR 300.503(c)(2) which require that the district provide prior written notice in the parent's native language.
 - ii. By May 10, 2024, USD #500 shall provide a copy of the previously signed Prior Written Notice to Evaluate in Spanish to the parent.
2. ISSUE THREE: A violation of 34 C.F.R.300.124(c) was found, based on facts listed above. Corrective actions are required (as follows):
 - a. CORRECTIVE ACTIONS
 - i. By May 10, 2024, USD #500 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will comply with federal regulations at 34 C.F.R.300.124(c) which require that a Part B representative attend the transition planning conference.
 - ii. By May 10, 2024, USD #500 shall submit a copy of the revised Part C to B transition procedure to SETS, along with evidence that it has met with the Infant and Toddler Coordinator and any other persons it believes important to clarify roles in the Part C to Part B process in the district and ensure a smooth transition process for families.

Investigator

Gwen Beegle

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)