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

The complaint is against USD #434, Santa Fe Trail Public Schools. USD #434 contracts with the Three Lakes Educational Cooperative (TLEC) to provide special education and related services to students in the district. In the remainder of the report, “USD #434,” “the “school,” the “district”, and the “local education agency (LEA)” shall refer to these responsible public agencies.

The Kansas State Department of Education (KSDE) allows approximately 30 days to complete the investigation of a child complaint and issue a report from the date a complaint is delivered to both the KSDE and to the school district. In this case, the KSDE initially received the complaint on February 20, 2023 and the investigation report is being issued on March 22, 2023.

**Investigation of Complaint**

Nancy Thomas, Complaint Investigator, contacted the complainant by telephone on February 24, 2023 to clarify the issues of the complaint. The Complaint Investigator interviewed the mother by telephone on February 17, 2023.

USD #434 made the following school district staff available for telephone interview on March 9, 2023:

- Caroline Green, Director of Special Education
- Faith Flory, Deputy Superintendent
- Austin Hershberger, Assistant Principal
- Jody Testa, Principal
- Michelle Heiman, Teacher Mentor / Special Education Coordinator
- Amanda Lattimer, Sixth Grade Social Studies Teacher
- Cyndee Washington, Sixth Grade Science Teacher
• Ali Vandevord, Sixth Grade Math Teacher
• Melanie Wallace, 6th Grade English Language Arts Teacher

In completing this investigation, the Complaint Investigator reviewed the following resources and documentation provided by the complainants and the district:

- Reevaluation Eligibility Report dated January 14, 2022
- Individualized Education Program (IEP) dated January 14, 2022
- IEP dated January 14, 2022 and amended on August 5, 2022
- Email written by Cyndee Washington, Sixth Grade Science Teacher, to the parent dated September 13, 2022 at 2:19 p.m.
- Email written by the parent to Ms. Washington; Michelle Heiman, Mentor Teacher / Special Education Coordinator; and Jodi Testa, Principal; dated September 13, 2022 at 4:49 p.m.
- Email written by Ms. Heiman to the parent dated September 14, 2022 at 1:31 p.m.
- Email written by Ali Vandevord, Sixth Grade Math Teacher, to the parent on September 28, 2022 at 3:37 p.m.
- Parent’s notes of a meeting with Ms. Testa, and Austin Hershberger, Assistant Principal, dated September 29, 2022
- Email written by the parent to Jim Lentz, Superintendent, dated October 5, 2022 at 11:39 a.m.
- IEP dated January 14, 2022 and amended again on October 10, 2022
- Children’s Mercy Hospital Neuropsychological Report written by Amanda Strasser, Ph.D. and Paul Glasier, Ph.D., ABPP, Board Certified in Clinical Neuropsychology, dated December 1, 2022
- Emails between Kelly Courtney, Physical Therapist at TLEC, and the parent dated December 5, 2022 at 10:06 a.m., 11:29 a.m., 11:38 a.m., and 6:44 p.m.
- Letter of Medical Necessity for a Paraprofessional written by Thuy-Tien Dang, APRN, FNP-C at Pediatric Physical Medicine and Rehabilitation Clinic at Children’s Mercy Hospital dated December 7, 2022
- Emails between Ms. Courtney and the parent dated December 8, 2022 at 12:34 p.m., 2:37 p.m., 3:30 p.m., and 3:37 p.m.
- Email written by the parent to Ms. Heiman dated December 8, 2022 at 2:43 p.m.
- Email written by Ms. Heiman to the parent on December 12, 2022 at 10:20 a.m.
- Staffing Record dated December 19, 2022
- Office Behavior Referral dated January 6, 2023
- Email written by the parent to Ms. Testa dated January 9, 2023 at 9:38 a.m.
- IEP dated January 10, 2023
This investigation involves a twelve-year-old student currently enrolled in the sixth grade at the Carbondale Attendance Center in USD #434. The student was initially evaluated and found eligible under the exceptionality categories of Specific Learning Disability and Orthopedic Impairment on March 28, 2018 while in the first grade. The most recent reevaluation with additional assessments in the areas of motor and academics was conducted in fifth grade on January 14, 2022. Testing showed that he is currently reading near the second grade level. It was determined that he continued to be eligible for special education and related services
The student is diagnosed with Myofibrillar Myopathy type 6 and is followed regularly at Children's Mercy Hospital. Information from Children's Mercy Hospital states:

This is a rare disorder characterized by toe walking in early childhood with rapidly progressive muscle weakness starting in late childhood. Individuals with this kind of myofibrillar myopathy may have facial or neck weakness, develop respiratory insufficiency, cardiomyopathy, and skeletal deformities (joint contractures, scoliosis, rigid spine) related to muscle weakness. Most patients are severely affected by the second decade and need cardiac transplant, ventilation, and/or a wheelchair. There may also be peripheral neuropathy and sensory involvement. Currently, there is no cure for BAG3-related disorders and treatment is supportive.

A neuropsychological evaluation was completed at Children's Mercy Hospital on December 1, 2022 and the parent shared its recommendations with USD 434 in an email dated December 8, 2022. The district responded by sharing the information with the IEP team and then reviewing the information and considering the recommendations at IEP team meetings held on December 19, 2022 and January 10, 2023 for the purpose of reviewing and revising the student's IEP.

**Issues**

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)).

Based upon the written complaint and an interview, the parents raised two issues that were investigated.

**ISSUE ONE**: The USD #434, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP during the 2022-23 school year, specifically the accommodations for providing copies of teacher notes; frequent breaks and positive reinforcement; extra cues and prompts/repetition of directions; and access to headphones, audiobooks, and text-to-speech software.
Positions of the Parties

The parent reported the student's sixth grade general education teachers did not regularly provide the accommodations listed in the student's IEPs during the 2022-23 school year. She indicated her concerns about this issue were shared on multiple occasions with the teachers and building administration, the special education cooperative administration, and the USD #434 superintendent. Each time, she was assured the IEP accommodations will be provided; however, she discovered this was not the case when the student is either injured while at school or is disciplined because an accommodation is not provided.

The parent believes the district is penalizing the student for the teachers not implementing the IEP and providing the necessary accommodations when needed or when requested by the student. When accommodations are not provided, the student becomes frustrated and “shuts down” which ultimately results in behavioral issues in the classroom. The student is then disciplined and loses “behavior points” which will make it almost impossible for the student to earn the required amount of points to attend an end-of-year field trip.

The district indicated the accommodations listed in the student's IEP were “provided on a fairly consistent basis.” School staff acknowledged two specific instances when the required accommodations were not provided.

The first instance occurred at the end of January 2023 when the student had been absent from school. When he returned, he requested a copy of the social studies teacher's notes from the time that he had missed. She did not provide copies but instead told him to get a copy of one of the other student's notes since they were only fill-in-the-blank notes.

The second instance occurred on February 13, 2023 when a substitute teacher was teaching the English Language Arts class. The student requested to use the headphones so that he could listen to the reading passage but the substitute refused his request, which resulted in the student becoming frustrated and being rude to the substitute teacher. The student was ultimately disciplined and docked behavior points.

The district indicated it has held several IEP team meetings to review and clarify the required accommodations with the general education teachers during the 2022-23 school year. The district is also planning to conduct training for all of the general educators and special educators at the Carbondale Attendance Center regarding the implementation of IEP accommodations by the end of the 2022-23 school year.

Findings of the Investigation

The following findings are based upon a review of documentation and interviews with the parent and staff in USD #434.
There have been three IEPs in effect for the student during the 2022-23 school year. The first IEP was in effect starting August 18, 2022 through October 10, 2022. It was developed on January 14, 2022 and amended on August 5, 2022. This IEP required the following accommodations be provided for the student:

- Preferential seating in the general and special education classrooms in order to reduce distractibility and close monitoring of the teacher to ensure he is able to read/comprehend
- Allow additional time for reading in general and special education settings if he uses his time wisely during group and independent reading activities.
- Extra cues and prompts to reduce distractibility and enhance productivity in the classroom setting
- Read text aloud or use text-to-speech
- Shortened assignments to reduce frustration/stress during reading, spelling, or activities
- Additional time to transition between classes, use of elevator, and breaks for fatigue

The second IEP was in effect October 10, 2022 through January 10, 2023. This IEP included all of the accommodations from the previous IEP and added the following accommodation:

- Separate, quiet, or individual setting to complete independent work for Reading, Math, Writing, Science, and Social Studies to decrease distractions and provide more individualized support as often as needed

The third IEP in effect during the 2022-23 school year was developed on January 10, 2023. This IEP required the following accommodations be provided in the general and special education settings:

- Instructional Accommodations
  - Additional time
  - Separate / quiet / individual setting
  - Redirection and reminders
  - Extra cues and prompts
  - Frequent / immediate feedback
  - Scribe
  - Repetition of directions
  - Provide student with copy of notes
  - Read text aloud to student
  - Reduce paper/pencil tasks
  - Additional time for transitions (in all settings (including non-academic))

- Program Accommodations
  - Altered/modified assignments /assessments
  - Chunk assignments/assessments
- Limit amount of required reading
- Spelling not penalized

- Social/Emotional Accommodations
  - Check for understanding
  - Positive reinforcement (verbal and non-verbal)
  - Preferential locker
  - Preferential seating
  - Fidgets
  - Headphones
  - Frequent breaks
  - No penalty due to medical appointments / breaks

The district acknowledged and interview and documentation show that the required accommodations for copies of notes and use of headphones were not provided on at least two separate occasions as noted previously.

An email exchange between the mother and Ms. Lattimer on February 2, 2023 noted that the student was not provided with copies of the notes by either a student or the teacher. Ms. Lattimer stated, “I did ask the student to get a copy of the notes from a peer at the table to fill in the missing parts. I did not realize that he did not get those. I will be sure he has those tomorrow morning.”

The Office Behavior Referral dated February 13, 2023 noted that the substitute teacher from Mrs. Wallace’s classroom sent the student to the office “for, getting headphones that weren’t needed.” This form notes, “This drops the student 4 points for the Reward Trip – Parents will need to know.”

The parent reported that she spoke to the assistant principal, Mr. Hershberger, on February 14, 2023 regarding this office referral. She was informed the student would not be able to go to the awards trip due to his disrespect to a substitute teacher; however, he could earn the trip back by choosing to eat lunch separate from his peers. The mother stated:

The student went to get headphones and was told he did not need them, the student was reported to be disrespectful. I asked Austin [Mr. Hershberger] if the subs were aware of the student’s modifications and accommodations, Austin stated there was a book that goes over any needs of each child . . . I called the student to see what happened from his point of view. The student said they had a reading assignment and he wanted to use the text to read option so he went to get the headphones so it would not disrupt the other kids in the classroom. The teacher told him the other kids do not need the headphones so he does not either. The student got mad and the teacher sent him to the office. He then
went to Mr. Hendee’s room and finished the assignment with the headphones on.

In addition, the parent reported multiple instances when the student was questioned by his general education teachers when he requested to go to the special education classroom to complete his independent work. The mother sent an email to Ms. Heiman on January 30, 2023 which stated:

The student has mentioned that in a particular class he had requested help from a teacher to help with his assignment. The student was told he would need to try and figure it out himself and when the student asked to go to Mr. Hendee [the special education teacher] for help with the assignment he was denied and asked from the teacher ‘what do you even do down there?’

Applicable Regulations and Conclusions

Federal regulations implementing the IDEA at 34 C.F.R. 300.323(c)(2) require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child’s IEP. In addition, state regulations implementing the Kansas Special Education for Exceptional Children Act at K.A.R. 91-40-19(a) require each school district, teacher, and related services provider to provide special education and related services to the child in accordance with the child’s IEP.

Federal regulations implementing the IDEA at 34 C.F.R. 300.320(a)(4) require school districts to include a statement of the individualized program modifications or supports for school personnel that will be provided to enable the student to advance appropriately toward attaining the annual IEP goals; to be involved in an make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and nondisabled children.

In this case, the parent alleged USD #434 failed to provide the accommodations required by the student’s IEPs during the 2022-23 school year. The parent specifically reported three of the accommodations included in the January 10, 2023 IEP were not provided. Documentation and interviews support the parent’s position in regards to the student being provided copies of notes, using headphones for reading assignments, and completing independent assignments in a separate setting.

Based on the foregoing, a violation of the IDEA requirements for implementing the student’s IEP, specifically the accommodations, is substantiated.
Issue Two:

**ISSUE TWO:** The USD #434, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to respond appropriately to the parent’s request for a paraprofessional and home/school communication during the past 12 months.

**Positions of the Parties**

The complainant reported that she requested a paraprofessional be assigned to the student for safety reasons due to his medical diagnosis in numerous phone calls and emails to USD #434 staff during the past 12 months; however, these requests have never been acted upon. The mother indicated the district has refused to provide this extra support which has resulted in the student being injured when he fell while at school. The mother noted that when this incident occurred, she was not informed and only learned that the student’s wrist had been fractured after taking the student to the emergency room that same evening. She is upset that the district has still not responded to her requests for paraprofessional support and a communication plan in a timely manner.

The district acknowledged the student was injured when he fell in the PE class but that medical care was provided by the school nurse. The student was checked on throughout the school day and provided ice packs when he complained of his wrist hurting. The district noted that the parent did request a paraprofessional be assigned to help the student transition throughout the school building via wheelchair; however, this was not necessary because his peers were able to assist the student by pushing his wheelchair in the hallways during transition times. The district noted that several IEP team meetings have been held to address concerns since the parent provided additional medical documentation at the beginning of December, 2022, the most recent meeting being held on March 10, 2023.

USD #434 acknowledged that appropriate prior written notice (PWN) refusing her requests for a paraprofessional were not provided during the 2022-23 school year and that plans are in place to provide professional development on this topic with all special education staff.

**Findings of the Investigation**

The following findings are based upon a review of documentation and interviews with the parent and staff in USD #434.

Documentation and interviews found the student fractured his wrist from a fall in the PE class on September 28, 2022. The mother reported that she went to speak to the school in regards to what happened and why she was not notified and stated:
I spoke with Ms. Testa and Mr. Hershberger in regards to the incident and special accommodations due the student’s physical limitations prior to this incident and now that he is unable to use his right hand and will be utilizing his wheelchair to help minimize the risks of falls. Ms. Testa asked if we had a doctor’s note in regards to him not being able to use his hand. I had to show her he was wrapped from fingertips to elbow and could not use both hands to maneuver his wheelchair. She suggested having another student push the student in the wheelchair, which I do not agree with. The school keeps trying to have other kids help my son when I feel this is an adult aid needed task. I made the request since 09/2021 that any falls or incidents be reported to me so I could document this for his medical team.

The district acknowledged and the documentation and interviews found the parent made multiple requests for paraprofessional support for the student as far back as March 17, 2022 and that the district did not provide a paraprofessional for the student based on these requests.

On December 8, 2022, the mother sent an email to Ms. Heiman that stated:

I had requested a paraprofessional in the past to help assist my son throughout the school day but the request had been denied. I have attached a letter of medical necessity for a paraprofessional and would like this added to the student’s IEP plan. I know we have a meeting on the 20th but feel this needs to be implemented sooner than later.

A copy of the letter of necessity dated December 7, 2022 from the nurse practitioner in the Pediatric Physical Medicine and Rehabilitation Clinic at Children’s Mercy Hospital was attached to the email. The letter stated:

The student has had increased muscle weakness and declined in walking. He is tired easily, has low energy and endurance. Currently he crawls around at home and mainly uses wheels in community and school. His walking is limited to very short distances, it’s difficult for him to walk due to severe ankle contractures, walking on high toes causing severe pain. He is at high risk for falls and injury. He is in the process to schedule ankle surgery. With limitation of mobility, it is a medical necessity for him to have a para to help him with mobility within school and supervise him when he is going to the restroom to prevent falls, injury, long hospitalization and missing school.
Ms. Heiman responded by email on December 9, 2022 indicating that she was working with administration and team members to address the parent’s concerns. She followed up with an email to the mother on December 12, 2022 stating:

I just wanted to update you on what we are doing right now to help address your concerns. I have reviewed the portion of the Neurological evaluation that you shared with us and I am working on entering the accommodation and modification recommendations into the IEP. Jody [Ms. Testa] is ensuring that the student’s teachers have a copy of the results so they can read through them and have a good understanding of the results. I have reached out to our Occupational Therapist and shared the report regarding his fine motor needs and the fatigue he may be having. We are looking at the bathroom facilities and other areas in the school he accesses as well as the structure of his day to determine options for reducing fatigue throughout his day and ensuring his continued safety . . . Kelly Courtney, our Physical Therapist, has shared with us her findings on her visit with the student last week as was please that he maintained good strength and the ability to move around the school by walking and using his wheelchair. I will look forward to meeting as a team next Tuesday morning at 7:45 to discuss everything further.

Documentation and interview found that an IEP team meeting was held on December 19, 202 with written input from the student’s general education teachers. Following the meeting, the following recommendations were made: 1) reschedule the meeting “so that general education teachers can participate” 2) Continue special education and related services at current levels, and 3) include additional accommodations/modifications recommended from the medical reports.

Another IEP team meeting was held on January 10, 2023 with Ms. Washington, Ms. Lattimer, and Ms. Wallace, his general education teachers, in attendance. As a result of this IEP team meeting, the parent was provided with PWN proposing an increase in special education support from 25 minutes daily for reading to 81 minutes per day for reading, work completion, and breaks as well as continuing the 75 minutes daily of inclusion support in English, science, and social studies classes. The PWN noted that it is “important for the student to have inclusion support for independent work times in Language Arts, Science, and Social Studies”. However, the PWN did not specifically address the mother’s request for a paraprofessional. The mother provided written consent for the proposed changes on January 19, 2023.

Following the filing of this complaint on February 20, 2023, Mr. Lenz, Ms. Testa, and Ms. Green met with the complainant regarding her concerns on February 27, 2023. On March 1, 2023, the Three Lakes Advisory Team reviewed how to document parent requests and to follow-up with appropriate written responses in a timely manner. In addition, USD #434 is planning to
provide both general and special education staff at Carbondale Attendance Center with professional development in regards to responding appropriately to parent requests for IEP services.

USD #434 indicated the parent's requests for a paraprofessional and clarification for the method and frequency of communication were specifically discussed at the March 10, 2023 IEP team meeting. The mother confirmed these issues were discussed at this IEP team meeting and that USD #434 had provided her with a draft copy of the IEP and a PWN proposing the following changes to the student's current IEP:

- Increase daily inclusion support in the general education setting from 75 minutes daily to 216 minutes daily for Math, English, Science and Social Studies
- Add 30 minutes per week of social work services to address a new social/emotional goal
- Provide annual professional development to staff working with the student regarding his accommodations and responding to parent requests
- Use a Substitute Binder that includes all accommodations and the contact information of special education case manager and back-up staff
- Added clarifying details to the accommodations, modifications and assistive technology
- Assigning a staff member to push the student's wheelchair in the school setting when he needs assistance
- Added communication from the school nurse on the same day via phone call or email regarding any visit to the nurse’s office

The mother indicated that she has not yet provided written consent for the material change in services proposed in the PWN.

**Applicable Regulations and Conclusions**

Federal regulations implementing the IDEA at 34 C.F.R. 300.503(a) require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE (free appropriate public education) to a child who has or is suspected of having a disability. In Kansas, 15 school days is considered a “reasonable amount of time” by the Kansas Department of Education.

In this case, the parent's first concern was related to not being informed when the student fell at school on September 28, 2022 causing injury to his wrist. The mother indicated that she had previously requested to be contacted when the student had any accident at school in September 2021 in order to keep his health team up-to-date regarding balance and endurance. However, it is unclear if this was an IEP team meeting or a parent/staff conference; regardless, this date falls beyond the 12 months allowed for the investigation of allegations. Unless specified in the IEP, staff communication with parents regarding health issues is
governed by state, local and school board policies, procedures, and practices. Contact with the parent for visits to the nurse was not required by any of the IEPs in effect during the 2022-23 school year until March 10, 2023.

However, interviews and documentation support a finding that the parent requested paraprofessional support on multiple occasions during the past 12 months and that USD #434 failed to respond appropriately to the parent’s request for paraprofessional support. The district acknowledged concerns with current practices related to responding to parent requests and proposed providing professional development for the TLEC staff as well as the staff at Carbondale Attendance Center during the 2022-23 school year.

Based on the foregoing, a violation of special education statutes and regulations is substantiated for failing to respond to parent requests during the 2022-23 school year.

**Corrective Action**

Information gathered in the course of this investigation has substantiated noncompliance with special education statutes and regulations. Violations have occurred in the following areas:

A. Federal regulations implementing the IDEA at 34 C.F.R. 300.323(c)(2) which require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child’s IEP. In addition, state regulations implementing the Kansas Special Education for Exceptional Children Act at K.A.R. 91-40-19(a) require each school district, teacher, and related services provider to provide special education and related services to the child in accordance with the child’s IEP.

In this case, interviews and documentation found the USD #434 failed to implement the individualized accommodations required by the student’s IEP, specifically for providing copies of notes, using headphones for reading assignments, and completing independent assignments in a separate setting during the 2022-23 school year.

B. Federal regulations implementing the IDEA at 34 C.F.R. 300.503(a) which require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE (free appropriate public education) to a child who has or is suspected of having a disability.

In this case, interviews and documentation found that USD #434 failed to respond appropriately to multiple parent requests for a paraprofessional as far back as March 17, 2022. It is noted that while USD #434 did respond to the parent’s most request for a paraprofessional for safety/mobility on December 8, 2022 within 15-school days of the request, the PWN did not specifically address the parent’s request for a paraprofessional,
instead adding additional supports in the special education classroom from 25 minutes per day to 81 minutes per school day.

Based on the foregoing, USD #434 is directed to take the following actions:

1) Within 30 calendar days of the date of this report, USD #434 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will:
   a) Comply with federal regulations implementing the IDEA at 34 C.F.R. 300.323(c)(2) and state regulation implementing the Kansas Special Education for Exceptional Children Act at K.A.R. 91-40-19(a) which both require school districts to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.
   b) Comply with federal regulations implementing the IDEA at 34 C.F.R. 300.503(a) which require school districts to provide parents with prior written notice a reasonable time before they propose or refuse to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE (free appropriate public education) to a child who has or is suspected of having a disability.

2) No later than May 15, 2023, USD #434 shall conduct a training for the special education staff, school psychologist, social worker, and administrators at the Carbondale Attendance Center regarding the IDEA requirements related to individualized accommodations and modifications for students with disabilities and the duty to implement them as specified in an IEP. In addition, this training will include the requirements for responding appropriately to a parent request. No later than five days after the completion of the training, USD #434 will provide SETS with a copy of the sign-in sheet documenting who received this training as well as the name and credentials of the person who provided the training. In addition, USD #434 will provide SETS with any handouts and/or a copy of the presentation.

3) No later than April 1, 2023, USD #434 shall review the student's discipline record to ascertain when point were deducted based on any incident where the antecedent was the failure of school staff to provide the accommodations listed in the IEP in effect at the time of the incident including, but not limited to, February 13, 2023. All of these discipline points shall be returned to the student's account for earning the award trip on April 19, 2023.

4) No individual corrective action is ordered regarding the failure to respond appropriately to the parent's request for a paraprofessional in light of the IEP team meeting held on March 10, 2023 and the subsequent draft IEP and PWN which address the parent's request for a paraprofessional and a communication system.
5) Further, USD #434 shall, within 10 calendar days of the date of this report, submit to Special Education and Title Services one of the following:
   a) a statement verifying acceptance of the corrective action or actions specified in this report;
   b) a written request for an extension of time within which to complete one or more of the corrective actions specified in the report together with justification for the request; or
   c) a written notice of appeal. Any such appeal shall be in accordance with K.A.R. 91-40-51(f) as described below.

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), which can be found at the end of this report.

Nancy Thomas, M.Ed., Complaint Investigator
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)