KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #437
ON March 15, 2023

DATE OF REPORT April 14, 2023

KANSAS STATE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND TITLE SERVICES

This report is in response to a complaint filed with our office on behalf of the student by 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 parent” or “the complainant.”

The complaint is against USD #437 (Auburn Washburn Public Schools). In the remainder of the report, USD #437 will be referred to as the “school,” the “district” or the “local education agency (LEA).”

The Kansas State Department of Education (KSDE) allows for a 30-day timeline to investigate a child complaint and a complaint is considered to be filed on the date it is delivered to both the KSDE and to the school district.

Investigation of Complaint

Doug Tressler, Complaint Investigator, interviewed the parent by telephone on April 11, 2023.

USD #437 made the following school staff available for a telephone interview on April 6, 2023:

- Kevin Raley, Director of Special Education
- Jamie Callaghan, Executive Director of Learning Services
- Chris Appuhn, Principal Tallgrass Learning Center
- Whitney Ellis, Social Worker/ Behavior Specialist
- Errin Bennett, School Psychologist
• James Bauck, Special Education Teacher

In completing this investigation, the Complaint Investigator reviewed documentation provided by both the parent and the LEA. The following materials were used as the basis of the findings and conclusions of the investigation:

• Prior Written Notice (PWN) Change of placement dated 3.6.2023
• Notice of Meeting (NOM) for 3.27.2023 dated 3.23.2023
• Manifestation Determination Review (MDR) dated 2.9.2023
• Notice of Meeting (NOM) dated 02.7.2023 for MDR
• Notice of Extended Term Suspension dated 2.7.2023
• Notice of Short-Term Suspension dated 1/31/2023
• Individualized Education Program (IEP) dated 9.29.2022
• Prior Written Notice (PWN) USD #437 dated 9.29.2022 for 9.29.2022 IEP.
• Behavior Intervention Plan included in 9.29.2022 IEP.
• Behavior Log dated 9.2.2022-1.31.2023
• Communication log 8.12.22-3.28.23
• Previous USD 437 IEP dated 10.5.2021 initiated upon return from JDC501.
• Email dated 10.26.22; Whitney Ellis to Parent addressing behavior and attendance.
• Email dated 3.2.2023 Parent to School regarding Special Ed services during suspension.

Background Information

This investigation involves a student who is eligible for special education and related services under the exceptionality category of Other Health Impaired (ADHD) and Specific Learning Disability. The student lives with the student's mother. The student has received special education and related services since the student's enrollment into the district.

Issues

The Individuals with Disabilities Education Act (IDEA) and Kansas Special Education for Exceptional Children Act gives 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)).

In the complaint, the parent listed two issues. However, under the first issue, the parent identified two separate concerns. For clarity, those concerns are identified separately.
below as Issue One and Issue Two. The parent’s other listed issue will be identified as Issue Three.

**ISSUE ONE**: The USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student’s IEP.

**Parents Position**

It is the position of the parent that the schools repeated failure to implement the IEP led to the student's lack of progress and expulsion.

**Districts Position**

It is the position of the district that the student's expulsion was due to behavior without a direct and substantial relationship to the student's disability and that the conduct in question was not a result of the school’s failure to implement the IEP.

**Applicable Statutes and Regulations**

K.A.R. 91-40-51, Kansas regulations state that, in filing a formal complaint, a parent must allege that the district has violated a special education law or regulation.

Federal regulations implementing the IDEA at 34 C.F.R. 300.101(a), require a free appropriate education (FAPE) be provided to students with disabilities who are ages three through 21. Federal regulations implementing the IDEA at 34 C.F.R. 300.17(d) define FAPE as providing special education and related services in conformity with the IEP.

Once the IEP is developed, IEP Teams must: (1) review the child’s IEP periodically, but not less than annually, to determine whether the child's annual goals are being achieved and revise the IEP, as appropriate, to address any lack of expected progress towards the annual goals in the child’s IEP and in the general education curriculum, the child’s anticipated needs, or other matters. (34 CFR §300.324(b)(1)(i)-(ii)(A); 34 CFR §300.324(b)(1)(ii)(D)-(E)). As soon as practical, but not later than 10 school days after the date on which the decision is made to change the placement of a child with a disability because of a violation of a student code of conduct, the representative of the school, the parent, and other relevant members of the child’s IEP team, as determined by the parent and the school, must meet to review (K.S.A. 72-3433(d)(2)).
• all of the relevant information in the child's file,
• the child's IEP,
• any teacher observations, and
• any relevant information provided by the parent. (K.S.A. 72-3433(e)(1)).

Based on its review of all the relevant information, the group must determine if the conduct in question was:

a. caused by, or had a direct and substantial relationship to the child's disability; or
b. the direct result of the school's failure to implement the child's IEP.) (K.S.A. 72-3433(e)(2)(A)-(B)).

If it is determined by the group that the conduct of a child was a result of either “a” or “b” above, then the conduct must be determined to be a manifestation of the child's disability. (K.S.A. 72-3433(e)(3)).

The school must provide parents with prior written notice of meeting before convening meetings regarding the manifestation determination and the services to be provided during disciplinary removals (K.A.R. 91-40-25). However, the school is required to give only 24 hours prior (written) notice of a meeting to the child's parents (K.A.R. 91-40-38(d)).

If the parent of a child with a disability, the LEA, and the relevant members of the child’s IEP Team cannot reach consensus on whether or not the child’s behavior was a manifestation of the disability, OSEP guidance states the LEA must make the determination and provide the parent with prior written notice pursuant to 34 C.F.R. § 300.503.

The parent of the child with a disability has the right to exercise their procedural safeguards, including by requesting mediation and/or an expedited due process hearing to resolve any disagreement about the manifestation determination. (K.S.A. 3434)(a); K.A.R. 91-40-28(a); 34 -C.F.R. §§ 300.506; and 300.532(a)).

The parent has the right to file a State complaint alleging a violation of IDEA related to the disputed manifestation determination. (34 C.F.R. § 300.153).

Findings of the Investigation
The following findings are based upon a review of documentation and interviews with the parents and LEA staff.

The current IEP for the student was developed on 9.29.2022. Both the mother and biological father participated in the development of the IEP. This IEP includes two goals and requires 390 total minutes per day of special education services; 360 minutes per day in the special education setting; 30 minutes one day per week for Social Work services; and 30 minutes per day transportation as a related service.

The student is in the tenth grade and has 3.5 credits towards graduation.

At the end of the first quarter in SY23-24 October 14, 2022 and at the end of the first semester SY23-24 January 2, 2023 the Special Education teacher indicated that insufficient progress was made on the Math goal and the behavioral goal set in the IEP.

The district did reach out to the parent via email October 26, 2022 to discuss the student’s Quarterly data.

The IEP team was never convened to review the lack of progress demonstrated by the student’s quarterly progress reports.

Based on the MDR record the team members note that ADHD behavior impacted the student’s ability to make progress on the IEP goals and in the regular curriculum.

Based on the MDR record the IEP team recognized that, over time, the student’s primary needs had become more behavioral in nature and during Middle School the primary exceptionality had been changed to indicate Other Health Impairment and Specific Learning Disability (SLD) to the secondary.

Feb 7, 2023, the school recommended Extended Term Suspension for the incident on Jan 31, 2023.

Notice of Extended Term Suspension was sent to the parent on Feb 7, 2023. The hearing, with respect to the recommended extended term suspension, was set for Thursday, Feb 9, 2023, at 11:00 am.

A Manifestation Determination Review meeting was set for Feb 9, 2023, at 9:00 am.

Feb 7, 2023, the School Psychologist for the district called the parent to inform the parent of scheduled MDR. No answer (voice)Mailbox was full.
Feb 8, 2023, at 2:11 pm a Notice of Meeting was emailed to the parent from the district.

Feb 9, 2023, the district attempted to call the parent and allow the parent to participate in the MDR meeting by phone. No answer (voice)mailbox was full.

Feb 9, 2023, the results of the MDR were emailed to the parent.

**Applicable Regulations and Conclusions**

Federal regulations implementing the IDEA at 34 C.F.R. 300.101(a) require a free appropriate education (FAPE) be provided to students with disabilities who are ages three through 21. Federal regulations implementing the IDEA at 34 C.F.R. 300.17(d) define FAPE as providing the special education and related services in conformity with the IEP.

Once the IEP is developed, IEP Teams must: review the child's IEP periodically, but not less than annually, to determine whether the child's annual goals are being achieved and revise the IEP, as appropriate, to address any lack of expected progress towards the annual goals in the child's IEP and in the general education curriculum, the child's anticipated needs, or other matters. (34 CFR §300.324(b)(1)(i)-(ii)(A); 34 CFR §300.324(b)(1)(ii)( (D)-(E)).

The behavioral supports in the IEP are inappropriate for the child. The frequency, scope or duration of the behavioral supports has proven insufficient to prevent behaviors that impede the learning of the child or others, and the consistent application of the child's behavioral supports has not accomplished positive changes in behavior based on the lack of anticipated progress on the 10/14/2022 and 1/2/2023 progress reports, but instead has resulted in behavior that continues to impede, or further impedes, learning for the child or others. As demonstrated by the child's lack of progress documented in the progress reports and listed concerns by IEP team members documented in the MDR.

The student experienced a lack of expected progress as reported by the special education teacher in two separate IEP progress reports toward the annual goals that is related to his disciplinary removals or behavioral supports, the child’s IEP was neither reviewed nor revised as a direct result of the identified lack of progress. As noted in the school’s record of meetings and confirmed by email from the district’s Director of Special Education
If it is determined that the child's behavior is a manifestation of the child's disability the child cannot be subject to a long-term removal for the behavior. However, the school and the parents could agree to another setting. (See Letter to Huefner, OSEP, October 3, 2006 (47 IDELR 228) and 34 C.F.R. 300.532(b)(3)).

The Individual Educational Plan (IEP) is intended to be a plan designed by the IEP team, including the parent, that is reasonably calculated to enable a student to make progress in light of the child's circumstances. The implementation of the IEP is the district's provision of a free and appropriate education, the measure of which is appropriate progress by the child. While the IEP is not a guarantee of a specific educational or functional result for a child, OSEP provided guidance after Endrew F. stating that if insufficient progress is being made by the child, the measure of appropriate implementation of the IEP, in lieu of progress, is the demonstration of the district's ongoing actions to ensure that the child is receiving appropriate interventions, special education and related services and supplementary aids and services and services, and to ensure that the IEP's goals are individualized and ambitious.

The procedural implementation of an IEP requires the district to comply with specific timelines and documentation based on circumstances that impact the child's participation in the educational environment. When a disciplinary action is implemented that constitutes a change in placement the school must conduct a Manifestation Determination Review. The school must provide parents with prior written notice of meeting before convening meetings regarding the manifestation determination and the services to be provided during disciplinary removals (K.A.R. 91-40-25). However, the school is required to give only 24 hours prior (written) notice of a meeting to the child's parents (K.A.R. 91-40-38(d)). Within the complaint of failure to implement the IEP the parent states she was notified on Feb 8 at 2:11 pm of a Manifestation Determination meeting that was scheduled for Feb 9 at 9:00 am to be immediately followed by an Extended Suspension Hearing which resulted in a 186 day removal. In the documentation provided by the district, there were attempts to call the parent within the 24-hour timeframe however, those attempts were unsuccessful. The district did email the notice of meeting on Feb 8 2023, but the required 24 hours for a written notice had already expired.

Based on the districts lack of response to repeated documentation of insufficient progress by the child and the procedural error that denied the parent 24 hours notice for a Manifestation Determination Review, a violation of special education statutes and regulations is substantiated for failing to implement the IEP based on lack of expected
progress towards the annual goals in the child's IEP and in the general education curriculum.

**ISSUE TWO**: The district failed to follow the Behavior Intervention Plan (BIP) developed that was developed as a part of the Individual Educational Plan (IEP) dated 9.29.2023.

**Applicable Statutes and Regulations**

K.A.R. 91-40-51, Kansas regulations state that, in filing a formal complaint, a parent must allege that the district has violated a special education law or regulation.

Federal regulations implementing the IDEA at 34 C.F.R. 300.324(a)(2)(i) require school districts to develop an IEP which includes the consideration of positive behavioral interventions, supports, and other strategies to address any behavior that impedes the learning of the student or the learning of others.

Based on its review of all the relevant information, during a manifestation determination hearing, the group must determine if the conduct in question was:

a. caused by, or had a direct and substantial relationship to the child's disability; or
b. the direct result of the school's failure to implement the child's IEP. (K.S.A. 72-3433(e)(A)-(B)).

If it is determined by the group that the conduct of a child was a result of either “a” or “b” above, then the conduct must be determined to be a manifestation of the child's disability. (K.S.A. 72-3433(e)(3)).

If the parent of a child with a disability, the LEA, and the relevant members of the child's IEP Team cannot reach consensus on whether or not the child's behavior was a manifestation of the disability, OSEP guidance states the LEA must make the determination and provide the parent with prior written notice pursuant to 34 C.F.R. § 300.503.

The parent of the child with a disability has the right to exercise their parental rights, including by requesting mediation and/or an expedited due process hearing to resolve any disagreement about the manifestation determination. (34 C.F.R. §§ 300.506 and 300.532(a)).
Parent’s Position

The parent contends that the district failed to provide one of the accommodations specified in the student’s behavior plan by not providing a separate location or “cool down” as a part of the de-escalation strategies identified in the BIP due to staffing shortages.

District’s Position

It is the position of the district that the student’s behavior intervention plan has been followed with regard to all areas specified in the parent’s complaint.

Findings of the Investigation

The following findings are based upon a review of documentation and interviews with the parents and LEA staff.

The current IEP for the student was developed on 9.29.2022. The IEP included a Behavior Intervention Plan (BIP). This BIP described a range of actions that could be used as interventions to behavior.

The Investigator interviewed members of the student’s IEP team (LEA representative, Sp Ed teacher, School Psychologist, Social Worker and the Parent) all members had a consistent description of the identified interventions specific to the student and how the BIP should be implemented in the instance of a behavioral episode.

The parent reported that the school had not offered the preferred intervention of a “cool down area” defined as a separate place for the student to go when escalated. However, nothing in the BIP indicated that this intervention needed to be used exclusively or as a priority over other interventions. Specifically, the behavioral log indicated that there were occasions where this intervention was applied.

Applicable Regulations and Conclusions

Federal regulations implementing the IDEA at 34 C.F.R. 300.324(a)(2)(i) require school districts to develop an IEP which includes the consideration of positive behavioral interventions, supports, and other strategies to address any behavior that impedes the learning of the student or the learning of others.
If the parent of a child with a disability, the LEA, and the relevant members of the child’s IEP Team cannot reach consensus on whether or not the child’s behavior was a manifestation of the disability, OSEP guidance states the LEA must make the determination and provide the parent with prior written notice pursuant to 34 C.F.R. § 300.503.

Based on the foregoing, the complaint that the school did not implement the BIP is unsubstantiated.

**ISSUE THREE** Failure to provide the student with Special Education Services during the time of expulsion.

**Parents Position**

It is the position of the parent that the school failed to provide appropriate special education services while expelled.

**Districts Position**

It is the position of the district that the student was not enrolled in the district upon release from Juvenile Detention Center (JDC) and therefore remained enrolled as a student of another district.

**Applicable Statutes and Regulations**

At K.A.R. 91-40-51, Kansas regulations state that, in filing a formal complaint, a parent must allege that the district has violated a special education law or regulation.

On the date the decision is made to make a removal that constitutes a change of placement of a child with a disability the school must notify the parents of that decision, and provide the parents with a copy of the procedural safeguards notice (K.S.A. 72-3433(d)(1); 34 C.F.R. 300.530(h)).

A child with a disability who is removed from the child’s current placement when the conduct in question is determined not to be a manifestation of the child’s disability must continue to receive educational services as provided in 34 C.F.R. § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP. (K.S.A. 72-3433(a)-(b); 34 C.F.R. 300.530(d)(1)).
The school must provide parents with prior written notice of meeting before convening meetings regarding the manifestation determination and the services to be provided during disciplinary removals (K.A.R. 91-40-25(a)(1) & (b)(2)). However, the school is required to give only 24 hours prior (written) notice of a meeting to the child’s parents (K.A.R. 91-40-38(d)).

When a disciplinary change of placement occurs, the IEP team, including the parent, determines the special education and related services to be provided during the removal. However, parental consent for the disciplinary change in placement is not required. (K.A.R. 91-40-27(a)(3)).

Further, the child must receive, as determined appropriate by the IEP team, an FBA and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. 34 C.F.R. § 300.530(d)(1).

**Findings of the Investigation**

The following findings are based upon a review of documentation and interviews with the parents and LEA staff.

The student violated the code of conduct on Jan 31, 2023.

The student was allowed to complete the rest of the day on Jan 31, 2023, but was suspended for Feb 1 and 2, 2023.

Feb 3, 2023, the student returned to school but was arrested upon arrival at school due to charges filed by school staff in association with the Jan 31, 2023, incident.

Feb 3, 2023, district enrollment records show the parent called and said that (the student) will no longer be attending the District.

Feb 6, 2023, the district, called the parent to inform the parent about the possibility of an Extended Term Suspension and the requirement for an MDR.

When interviewed the parent indicated she did not dis-enroll (the student) from the district.

Feb 6, 2023, the district received a records request from another district for (the student). The district enrollment records show (the student) as “transfer to a public school in a different district”.

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Feb 7, 2023, the school recommended Extended Term Suspension for the incident on Jan 31, 2023.

Notice of Extended Term Suspension was sent to the parent on Feb 7, 2023. The hearing, with respect to the recommended extended term suspension, was set for Thursday, Feb 9, 2023, at 11:00 am.

A Manifestation Determination Review meeting was set for Feb 9, 2023, at 9:00 am.

Feb 7, 2023, the School Psychologist for the district called the parent to inform the parent of scheduled MDR. No answer (voice)Mailbox was full.

Feb 8, 2023, at 2:11 pm a Notice of Meeting was emailed to the parent from the district.

Feb 9, 2023, the district attempted to call the parent and allow the parent to participate in the MDR meeting by phone. No answer (voice)mailbox was full.

Feb 9, 2023, the results of the MDR were emailed to the parent.

March 2, 2023 the parent emailed the district, to inform them that the student had been released from Juvenile Detention Center in another district, and wanted to know how the school (the district) would be providing special education services while the student was extended term suspended per K.A.R. 91-40-27(a)(3).

March 6, 2023, the district called the parent. District staff were able to reach the parent's husband (student's stepfather) and discussed next steps for the student's services.

March 7, 2023, the district called the parent and discussed Project PLUS as an option for the student. The parent was informed that Spring Break began on March 10 and the student may not be able to begin services until the following week (Monday March 20, 2023).

March 8, 2023 the district emailed the parent to schedule a meeting with project PLUS staff. Requested meeting availability of the parent on either Friday March 10, 2023 or during the week of March 20, 2023. No response from the parent.

March 23, 2023, the district called the parent and emailed. Left message with 3 potential meeting times.

March 23, 2023, the parent responded to email with preferred meeting time.
March 23, 2023, the district confirmed with the parent meeting on March 27, 2023, with Project PLUS staff.

March 27, 2023. The parent met with district staff and Project PLUS staff at Project PLUS campus. Team discussed Project PLUS program, outlined expectations and arranged transportation.

March 29, 2023, the student began attendance at Project PLUS.

The enrollment record and the IEP record indicated the student had been incarcerated at another district’s JDC multiple times. Each time the student had returned from the other district and continued attending the district.

**Applicable Regulations and Conclusions**

A child with a disability who is removed from the child’s current placement when the conduct in question is determined not to be a manifestation of the child’s disability must continue to receive educational services as provided in 34 C.F.R. § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP. (K.S.A. 72-3433(a)-(b); 34 C.F.R. 300.530(d)(1)).

In this case the student was enrolled in another district as a result of a parole violation in conjunction with expulsion from school. Upon completion of the ordered incarceration, the student was returned to the residence located within the district and the parent notified the district. Services were put in place as soon as the child was re-enrolled. Each previous instance of service at JDC indicated re-enrollment upon return suggesting that this was the standard practice of the district.

Based on the parent communication with the school indicating the student was no longer attending the district and the past pattern of placement in a juvenile detention center and subsequent re-enrollment in the district the complaint that the district did not provide special education services while the child was subject to an extended term of suspension is *un*substantiated.
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 at 34 C.F.R.300.324(b)(1)(i) and (ii)(A) which require school districts to review a student's IEP periodically, but at least annually to determine whether the annual goals for the student are being achieved and revise the IEP, if appropriate, in order to address any lack of expected progress toward those annual goals.
   a. In this case, the student's IEP Goal Progress Reports reflected the student was making inadequate progress towards the majority of his IEP goals during the first semester of the 2022-23 school year. However, the district did not reconvene the IEP team to review and revise the student's IEP, as appropriate.

Based on the foregoing, USD #437 is directed to take the following actions:

1. Within 15 calendar days of the date of this report, USD #437 shall submit a written statement of assurance to Special Education and Title Services (SETS) stating that it will:
   a. Comply with federal regulations at 34 C.F.R.300.324(b)(1)(i) and (ii)(A) which require school districts to review a student's IEP periodically, but at least annually to determine whether the annual goals for the student are being achieved and revise the IEP, if appropriate, in order to address any lack of expected progress toward those annual goals.
   b. Comply with the schools requirement to give 24 hours prior (written) notice of a meeting to the child's parents (K.A.R. 91-40-38(d)).

2. Within 15 calendar days of the date of this report, USD #437 USD shall:
   a. Amend the Manifestation Determination Review to indicate that the behavior in question was a failure of USD437 to implement the IEP based on the students identified lack of progress in the general educational curriculum and lack of progress on academic and behavioral goals specified in the IEP.
   b. Rescind the Extended Term Suspension assigned to the student per (34 C.F.R. 300.530(e)) and State statute (K.S.A. 72-3433(e)).

3. No later than 15 School days after the date of this report USD 437 will reconvene the IEP team, including the parents, and seek parental consent to maintain the current placement of the student.
4. No later than 15 School days after the date of this report, USD #437 will
   a. reconvene the IEP team, including the parents, to review and revise the
      student's IEP to address the lack of expected progress toward the annual IEP
      goals. At that meeting, the IEP team, including the parents, must also
      consider whether the student needs additional supports in order to make
      appropriate progress.
   b. USD #437 will provide the parent and SETS with a copy of the resulting IEP
      and any appropriate prior written notice provided to the parent within 10
      business days following the IEP team meeting.

5. Further, USD # 437 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). Due to COVID-19 restrictions, appeals may either be
      emailed to formalcomplaints@ksde.org or mailed to Special Education and
      Title Services, 900 SW Jackson St, Ste. 602, Topeka, KS, 66612.

   **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.

   Doug Tressler
   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)