



Kansas State Department of Education

120 S.E. 10th Avenue
Topeka, Kansas 66612-1182

TO: Special Education Directors

FROM: Bruce Passman, Student Support Services Team Leader 

DATE: January 8, 2002

RE: "Reasonable Time" to respond to parent request for evaluation

I thought I would share with each of you the results of a recent complaint made to the Kansas State Department of Education (KSDE). In the complaint, the parents alleged that they had made a written request to the school district for a special education evaluation of their child and that the school district responded with a letter indicating that it would be several months before the evaluation would begin. The school district's letter to the parents did not include a notice and consent for evaluation form.

The KSDE complaint report indicated that a parent's written request for an evaluation did not constitute "consent" for an evaluation. Thus, the 60 school-day timeline, in Kansas regulation 91-40-8(h), for completing an evaluation, determining eligibility, developing an IEP and implementing the IEP had not started at the time the complaint was filed.

However, the complaint report stated that the school district was required, under Kansas statute, K.S.A. 72-988(b)(2), to provide the parents with written notice prior to making a proposal, or refusing a parent's proposal, to initiate or change the identification, evaluation, or educational placement, or the provision of a free appropriate public education (FAPE) to a child with an exceptionality. The finding in the report was that the school district's letter to the parents did not constitute notice to the parents of the school district's proposal to evaluate their child because it did not provide the parents with a notice and consent form. The school district's letter also did not notify the parents of a refusal to evaluate their child. Although the statute requires that the school district provide written notice of its proposals or its refusals of parental proposals, it does not specify the time in which the school district must provide such notice to the parents.

The report cited a Kansas Supreme court case stating that when a statute requires notice, but does not fix a time in which the notice must be given, the notice must be given within a "reasonable" time. The court added that a reasonable time is to be determined by the court under the circumstances in each particular case. After reviewing special education laws and regulations regarding time-lines, the conclusion in the complaint report stated that, because there were no unusual circumstances related to the facts of this particular complaint, a reasonable time in which to provide notice would have been 15 school days.

I wanted to apprise you of the conclusions contained in this report. Complaint conclusions will be fairly consistent regarding this matter. We are instructing our complaint investigators that when the school district is required to provide parents with a written notice of the district's proposal or the district's refusal of a parent's proposal (whether oral or written) under K.S.A. 72-988(b)(2) (regarding the initiation, or a change of, identification, evaluation, placement or the provision of FAPE to a child with an exceptionality), unless there is some unusual circumstance, a reasonable time in which to provide such notice to the parents is 15 school days.