

2012 Kansas Statutes

72-974. Appeal and review; procedure; review officers, appointment and duties; federal court actions. (a) Written notice of the result of any hearing provided for under this act shall be given to the agency providing for the hearing and shall be sent by certified mail to the parent, or attorney of the child within 24 hours after the result is determined. Such decision, after deletion of any personally identifiable information contained therein, shall be transmitted to the state board which shall make the decision available to the state advisory council for special education and to the public upon request.

(b) (1) Any party to a due process hearing provided for under this act may appeal the decision to the state board by filing a written notice of appeal with the commissioner of education not later than 30 calendar days after the date of the postmark on the written notice specified in subsection (a). A review officer appointed by the state board shall conduct an impartial review of the decision. The review officer shall render a decision not later than 20 calendar days after the notice of appeal is filed. The review officer shall: (A) Examine the record of the hearing; (B) determine whether the procedures at the hearing were in accordance with the requirements of due process; (C) afford the parties an opportunity for oral or written argument, or both, at the discretion of the review officer; (D) seek additional evidence if necessary; (E) render an independent decision on any such appeal not later than five days after completion of the review; and (F) send the decision on any such appeal to the parties and to the state board.

(2) For the purpose of reviewing any hearing and decision under provision (1), the state board may appoint one or more review officers. Any such appointment may apply to a review of a particular hearing or to reviewing a set or class of hearings as specified by the state board in making the appointment.

(c) Subject to the provisions of subsection (e), any action of a review officer pursuant to this section is subject to review in accordance with the Kansas judicial review act or to an action in federal court as allowed by the federal law.

(d) Consistent with state court actions, any action in federal court shall be filed within 30 days after service of the review officer's decision.

(e) In any action brought under subsection (c), the court:

(1) Shall receive the records of the administrative proceedings;

(2) if it deems necessary, shall hear additional evidence at the request of a party;

(3) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate; and

(4) in accordance with the federal law, may award attorneys' fees to the prevailing party in any due process hearing or judicial action brought in accordance with this act.

History: L. 1974, ch. 290, § 15; L. 1974, ch. 291, § 1; L. 1977, ch. 241, § 3; L. 1978, ch. 286, § 3; L. 1978, ch. 287, § 1; L. 1980, ch. 216, § 4; L. 1982, ch. 292, § 2; L. 1986, ch. 318, § 128; L. 1991, ch. 218, § 5; L. 1993, ch. 63, § 1; L. 1999, ch. 116, § 22; L. 2005, ch. 171, § 10; L. 2010, ch. 17, § 177; July 1.