

**COMPLAINT INVESTIGATION  
LYON COUNTY SCHOOL DISTRICT  
(#LY061610)**

**INTRODUCTION**

On 6/16/10, the Nevada Superintendent of Public Instruction received a complaint dated 6/16/10 from a parent alleging a violation in the special education program of a student with disabilities attending Lyon County School District (LCSD). An investigation team was appointed to examine the allegation that the district provided a volunteer for the student on 5/18/10 and 5/20/10 who was not qualified to be an instructional aide for the student because she was a volunteer and was not certified in CPR/ First Aid as required by the student's individualized educational program (IEP).

Under the provisions of 34 CFR §300.152(b) which permits the extension of the 60 day timeline for the completion of a complaint investigation report due to exceptional circumstances, the Nevada Department of Education (NDE) extended the timeline for the completion of the complaint investigation due to the unavailability during the summer months of the LCSD personnel who could access necessary documents and provide input to the investigation team. The parent and the district were notified of this extension in letters dated July 7, 2010.

**COMPLAINT ISSUE**

The allegation articulated in the complaint, and further clarified by a review of documents and interviews, raised the following issue under the jurisdiction of the NDE:

Issue: Whether LCSD complied with federal and state requirements to implement the student's IEP, specifically with regard to providing a qualified instructional assistant on 5/18/10 and 5/20/10.

**PERSONS PROVIDING INFORMATION**

The investigation team reviewed information from the following people:

- Parent
- LCSD Director of Special Services (special services director)
- Principal
- Regular education teacher
- Instructional assistant

**DOCUMENTS REVIEWED**

The documents reviewed by the investigation team included the following:

1. 12/4/09 annual IEP
2. 2/26/10 and 3/31/10 IEP revisions
3. Daily logs for 2009/2010 school year from 8/24/09—1/13/10
4. ParaPro Assessment results dated 8/18/06
5. In-service certificates

The investigation team also reviewed the following material:

- Nevada Administrative Code (NAC), Chapter 388
- IDEA Regulations, 34 CFR Part 300

**FINDINGS OF FACT**

This investigation involved a first grade elementary school student eligible to receive special education services under the category of Other Health Impairment. A review of documents, as well as information

collected from the parent, the special services director, the principal, the regular education teacher and the instructional assistant revealed the following facts:

The student had a 12/4/09 annual IEP, with revisions dated 2/26/10 and 3/31/10. The 3/31/10 IEP revision stated that the student would have 1:1 adult support during structured and unstructured times. There was no mention of any specific certifications in CPR/First Aid that were required for the person(s) providing the 1:1 adult support to the student.

On 5/18/10 the student attended school from 8:00 to 11:00 a.m. On 5/20/10 the student attended school from approximately 8:00 to 8:15 a.m. when he went home because he was feeling unwell. While the student was in school on 5/18/10 and 5/20/10, 1:1 adult support was provided to him during both structured and unstructured times in the classroom by a person employed by LCSD as a district-wide substitute instructional assistant since 9/20/07, going to the different schools as needed. LCSD requires instructional assistants to meet Title 1 "highly qualified" requirements to work with students. Instructional assistants can meet the highly qualified requirements by successfully passing the Praxis Parapro Assessment. The instructional assistant successfully completed the Praxis Parapro Assessment on 8/18/06. In addition, the instructional assistant participated in in-service training to prepare her to meet the requirements of her job. Separate from her assignment as an instructional assistant to the student on 5/18/10 and 5/20/10, the instructional assistant did serve as a volunteer foster grandmother in the student's class when she was not employed as a substitute instructional assistant.

### **CONCLUSIONS OF LAW AND REASONS**

Issue: Whether LCSD complied with federal and state requirements to implement the student's IEP, specifically with regard to providing a qualified instructional assistant on 5/18/10 and 5/20/10.

This complaint involved an allegation that the district provided a volunteer for the student on 5/18/10 and 5/20/10, who was not qualified to be an instructional assistant for the student because she was a volunteer and was not certified in CPR/ First Aid.

NAC §388.281.6(g) requires that the school district shall "provide the services and instruction deemed necessary for the pupil by the [IEP] committee."

NAC §388.171 requires that "the public agency shall appropriately and adequately prepare and train all personnel...including...paraprofessionals, to ensure that the personnel have the content knowledge and skills necessary to serve pupils with disabilities".

In this case, the IEP required that the student have 1:1 adult support during structured and unstructured times. The IEP did not require that the 1:1 adult support be provided by an individual with specific certification in First Aid/CPR.

The student was provided with 1:1 adult support as required by the IEP on 5/18/10 and 5/20/10. The instructional assistant providing the 1:1 adult support had the content knowledge and skills necessary to serve the student as evidenced by her passing the Praxis Parapro assessment and her participation in in-service training.

*Therefore, the investigation team concluded that LCSD complied with state requirements to implement the student's IEP, specifically with regard to providing a qualified instructional assistant on 5/18/10 and 5/20/10.*