

**COMPLAINT INVESTIGATION
LYON COUNTY SCHOOL DISTRICT
(#LY021611)**

Report Issued on 4/15/11

INTRODUCTION

On 2/16/11 and 2/17/11, the Nevada Superintendent of Public Instruction received complaints dated 2/16/11 and 2/17/11 respectively that were consolidated by the Nevada Department of Education (NDE) into one complaint. Hereinafter, "Complaint" will reference both the 2/16/11 and 2/17/11 complaints. Prior to the filing of this Complaint, the parent submitted a request dated 1/19/11 that some allegations be investigated. The parent was informed by the NDE that there are requirements to follow in order for a state special education complaint to be accepted for investigation and that these requirements could be found in the Nevada Administrative Code (NAC) §388.318(3). The 1/19/11 request did not meet the requirements of NAC §388.318(3). However, the 2/16/11 and 2/17/11 requests did meet the requirements and investigated herein.

This Complaint concerned allegations that the Lyon County School District (LCSD) violated the student's 1/14/11 individualized educational program (IEP). An investigation team was appointed to examine the allegations that the LCSD failed to implement the IEP because: 1) when the student reported a bruise to the teacher, she discounted it, did not take him to the school nurse and did not record it in the student's daily notes and 2) the person to whom the student's book bag was given when he got on the school bus was not a paraprofessional.

COMPLAINT ISSUES

The allegations articulated in this Complaint, and further clarified by interviews and a review of documents, raised the following issue under the jurisdiction of the NDE for the time period 1/14/11 – 2/17/11:

- Issue: Whether the LCSD complied with state requirements to implement the student's IEP, specifically to provide supplementary aids and services with respect to:
- A. Reporting an incident in the daily notes; and
 - B. Providing a qualified paraprofessional on the bus to whom the student's backpack could be given.

PERSONS PROVIDING INFORMATION

The investigation team reviewed information received from the following people:

- Parent
- Advocate
- LCSD Student Support Services Director
- Principal of student's school
- Student's classroom teacher

- Student's special education teacher
- Student's classroom paraprofessional (instructional aide)
- Special needs bus aide (bus aide)

DOCUMENTS REVIEWED

The documents reviewed by the investigation team included the following:

- IEP
- Student's daily notes dated 2/14/11 - 2/17/11
- 2/25/11 report from principal concerning incident in question
- LCSD job description for Special Education Paraprofessionals
- LCSD job description for Special Needs Bus Aide
- August 2010 Agenda for In-Service Training for Transportation Department
- Letter to LCSD from parent dated 2/22/11
- LCSD letter to parent dated 2/25/11
- Emails from advocate to the LCSD dated 1/20/11, 1/21/11, 1/22/11, 1/24/11, and 2/17/11
- Emails from the parent to the LCSD dated 1/19/11 and 2/16/11
- Emails from the LCSD to the parent or advocate dated 1/20/11, 1/24/11, and 2/16/11

The investigation team also reviewed the following authorities:

- Nevada Administrative Code (NAC), Chapter 388
- Individuals with Disabilities Education Act (IDEA) Regulations, 34 C.F.R. Part 300

FINDINGS OF FACT

This investigation involved an LCSD elementary school student eligible for special education services under the category "other health impairment". A review of the information received revealed the facts set forth below.

The IEP states in the Supplementary Aids and Services section that "Daily notes and behavior log to and from school. Notebook to go with him to specials and therapy settings/note time of incident". The complaint investigation team learned that the behavior log is a compilation of the daily notes and does not contain any additional information and that the notebook referenced in the Supplementary Aids and Services is the same as the behavior log. Hereinafter, references to the notebook, behavior log and daily notes are referred to as daily notes. Copies of the daily notes are sent home to the parent at the end of each school day.

The parent and advocate reported to LCSD that the student had received a bruise on his leg (bruise) that was ignored by the student's teacher and not noted in the student's daily notes. The parent stated in the complaint that the bruise was received on 2/16/11 and had also stated in a 2/22/11 letter to the LCSD that the bruise was received on 2/15/11. The advocate reported in a 2/17/11 email to the LCSD that the student received the bruise on 2/14/11 when another pupil kicked him while he [the student] had a time-out in the classroom.

The classroom teacher, the special education teacher and the instructional aide reported that from 2/14/11—2/16/11 they did not observe “an incident” and further: 1) the student did not report to them that he had a bruise; 2) the student did not show them a bruise; 3) they did not see a bruise on the student and 4) the student did not have a time-out. There were no entries in the daily logs from 2/14/11–2/16/11 mentioning a bruise.

The principal interviewed the student on 2/25/11 about the bruise, with the school nurse and the instructional aide present the entire time. The student, when asked, showed the three of them the bruise and said that he thought he got the bruise on the same day as the Valentine’s party during afternoon recess when he and another student were playing on the grass and the student kicked him while they were playing “super hero”. The student also stated that he did not report the kick to anyone, that it did not hurt and that he didn’t know there was a bruise. The student’s class did not have afternoon recess on the day of the Valentine’s party.

The IEP states in the Supplementary Aids and Services section that “Backpack be given to paraprofessional on bus”. There was a special needs school bus aide on the bus every day the student rode the bus. The LCSD has requirements for Title I paraprofessionals who work in the classrooms and separate requirements for paraprofessionals who work as special needs bus aides. Requirements for paraprofessionals who work as special needs bus aides include, but are not limited to, maintaining certification in first aid, CPR and CPI (Crisis Prevention Intervention) and having specific skills to assist special needs students. The bus aide met all the LCSD paraprofessional requirements to serve as a special needs bus aide. In-service training, which was attended by the bus aide, was held for special needs bus aides and other transportation personnel on 8/17/10 and 8/11/10.

CONCLUSIONS OF LAW AND REASONS

Issue: Whether the LCSD complied with state requirements to implement the student’s IEP, specifically to provide supplementary aids and services with respect to:

- A. Reporting an incident in the daily notes; and
- B. Providing a qualified paraprofessional on the bus to whom the student’s backpack could be given.

This Complaint concerned allegations that: 1) when the student reported he had sustained a bruise on 2/14/11, 2/15/11 or 2/16/11, the teacher discounted it and did not note it in the daily notes and 2) the LCSD did not have a paraprofessional on the school bus to whom the student’s backpack could be given.

State regulations at NAC §388.281(6)(g) require that the school district shall “provide the services and instruction deemed necessary for the pupil by the [IEP] committee.”

State regulations at NAC §388.171(2) state that the district shall “...appropriately and adequately prepare and train all personnel...to ensure that the personnel have the content knowledge and skills necessary to serve pupils with disabilities”.

In this case, with respect to Issue A, the complaint investigation team concluded, based on the daily notes, the reports by the LCSD staff and the student himself that the student had not reported the bruise to the LCSD staff on 2/14/11, 2/15/11 or 2/16/11, nor had the LCSD staff observed any bruise. While the LCSD was required to report in the daily notes any incident that occurred, it was not required to report an incident of which it had no knowledge.

With respect to Issue B, the LCSD provided the bus aide. The bus aide was a paraprofessional who met the LCSD requirements to serve as a special needs bus aide. The LCSD was required to ensure that it appropriately and adequately prepared and trained the bus aide. The complaint investigation team determined that the LCSD appropriately and adequately prepared and trained the paraprofessional who met the LCSD requirements to serve as a special needs bus aide.

Therefore, the investigation team concluded that LCSD complied with state requirements to implement the student's IEP with respect to its obligation to report an incident in the daily notes and with respect to providing a qualified paraprofessional on the bus to whom the student's backpack could be given.