

**COMPLAINT INVESTIGATION  
LYON COUNTY SCHOOL DISTRICT  
(#LY031611)  
Report Issued on 5/12/11**

**INTRODUCTION**

On 3/16/11, the Nevada Superintendent of Public Instruction received a complaint dated 3/16/11 from a parent alleging a violation in the special education program of a student with disabilities attending the Lyon County School District (LCSD). An investigation team was appointed to examine the allegation that the LCSD failed to implement the student's behavior plan on March 7, 2011, because the principal did not follow the student's behavior plan by failing to remove the student when his behavior failed to de-escalate within fifteen minutes and failing to call the parent prior to any disciplinary action being taken.

**COMPLAINT ISSUE**

The allegations articulated in this complaint raised the following issue under the jurisdiction of the Nevada Department of Education (NDE):

Issue: Whether the LCSD complied with federal and state requirements to implement the student's behavior plan, specifically with regard to disciplinary action by the principal, removal of the student from the classroom, and parent contact, for an incident that occurred on 3/7/11.

**PERSONS PROVIDING INFORMATION**

The investigation team reviewed information from the following people:

- Parent
- Principal of student's school
- Paraprofessional

**DOCUMENTS REVIEWED**

The investigation team reviewed the following documents:

- 1/14/11 Positive Behavior Support Plan (behavior plan)
- Daily notes for 3/7/11 and 3/8/11 (daily log notes)
- LCSD correspondence to parent dated 3/15/11
- Student discipline report completed by paraprofessional and principal (discipline report)
- Discipline log maintained by school staff for the school (school discipline log)

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 a 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 student's behavior plan listed two problem behavior areas as follows: 1) verbal or physical aggression toward other students or staff and 2) refusal to do work. There were three separate consequences for continued demonstration of problem behavior(s) that were listed as follows: 1) "remove if over-stimulated from specials or classroom if can't de-escalate within 15 minutes and call home"; 2) "follow school disciplinary actions and call parent to inform of incident"; and 3) "implement school disciplinary plan as behavior escalates".

On 3/7/11, the student refused to do his work and was disrespectful to the paraprofessional when she attempted to redirect him to complete his work. The student's paraprofessional reported that after her attempts to redirect the student failed (i.e., he continued to refuse to do his work and continued to be disrespectful to her), she took him to the principal's office.

The school disciplinary allows for the following actions: 1) a staff member brings a student to the office, fills out a discipline report describing the problem behavior(s) and the principal determines the actions to be taken or 2) a staff member leaves the student in the classroom, fills out a discipline report and sends it to the principal, who then determines the actions to be taken. Once the principal has determined the disciplinary action(s) to be taken and records those action(s) in the discipline report, the parent(s) are called and a copy of the report is sent home in the mail.

On the discipline report for this incident, the paraprofessional described the student's disrespectful response when she requested he do his work and his refusal to do the requested work. On 3/7/11, the principal determined the actions to be taken in response to the student's refusal, which were that the student would spend lunch and lunch recess at a quiet table. The principal then phoned the parent to tell her what happened and that she would receive a copy of the discipline report in the mail. Accordingly, the discipline report was completed by the principal and then sent home on 3/8/11.

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

Issue: Whether the LCSD complied with federal and state requirements to implement the student's behavior plan, specifically with regard to disciplinary action by the principal, removal of the student from the classroom, and parent contact, for an incident that occurred on 3/7/11.

This complaint concerned an allegation that the LCSD failed to implement the student's behavior plan on 3/7/11 because when the student's behavior could not be de-escalated within 15 minutes the student should have been removed from the classroom and the parent called prior to any disciplinary action taken.

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."

In this case, the behavior plan had several consequences for continued student demonstration of problem behavior(s). It required that the LCSD remove the student from the classroom or specials if he were over-stimulated and his behaviors could not be de-escalated within fifteen minutes, and that the parent be called when this occurred. The complaint investigation team determined that there was no evidence that the student was over-stimulated on 3/7/11, but rather was refusing to do work and being disrespectful to the paraprofessional when she asked him to do his work. Because he was not over-stimulated, there was no requirement that the first consequence of the behavior plan be applied.

A second consequence for student demonstration of problem behavior(s) was to follow school disciplinary actions and to call the parent. The LCSD followed school disciplinary actions when the paraprofessional brought the student to the principal's office, the principal determined the consequences, the parent was phoned to report the incident, and the discipline report was completed and sent home.

*Therefore, the investigation team concluded that LCSD complied with federal and state law with respect to implementing the student's behavior plan, specifically with regard to disciplinary action by the principal, removal of the student from the classroom, and parent contact, for an incident that occurred on 3/7/11.*