

**COMPLAINT INVESTIGATION
NYE COUNTY SCHOOL DISTRICT
AND
NEVADA DEPARTMENT OF EDUCATION
(#NY080610)**

INTRODUCTION

On 8/6/10, the Nevada Superintendent of Public Instruction received a complaint dated 8/3/10 from an attorney, on behalf of Spring Mountain Treatment Center (SMTC), a private psychiatric facility located in Las Vegas. The complaint alleged violations of the obligations of Nye County School District (NCSD) to provide special education services to students who were residents of Nye County and were patients at SMTC. An investigation team was appointed to examine the allegations that NCSD had failed to comply with federal and state requirements with respect to its obligations to: 1) fulfill its Child Find responsibilities; 2) provide a free appropriate public education (FAPE) to students who were residents of NCSD and patients at SMTC and 3) provide FAPE to parentally-placed students with disabilities who were residents of NCSD and patients at SMTC.

The complaint also alleged violations of the obligations of the Nevada Department of Education (NDE) to comply with federal and state requirements with respect to its supervisory role. The investigation team was appointed to also examine the allegations that the NDE failed to: 1) ensure that Child Find policies and procedures were in effect and that NCSD complied with those requirements with respect to students who were residents of NCSD and patients at SMTC; 2) ensure that FAPE was provided to students who were residents of NCSD and patients at SMTC; and 3) ensure that NCSD provided educational services to parentally-placed students with disabilities who were residents of NCSD and patients at SMTC.

Two public educational agencies were named in this complaint. In accordance with standard practices, two complaint investigation reports would typically be issued. In this case, the facts and the law are inextricably intertwined with regard to both agencies; therefore, this report addresses all allegations in the complaint as made against both entities and is directed to both agencies accordingly.

SMTC, in its 8/3/10 complaint, also alleged that another Nevada school district failed to provide special education services to students who were its residents and were patients at SMTC. However, SMTC failed to comply with the requirements under the Individuals with Disabilities Education Act (IDEA: 34 C.F.R. Section 300.153) and the Nevada Administrative Code (NAC), Chapter 388, Section 388.318 to provide notice to that school district of the filing of the complaint. SMTC was informed twice of this failure to serve notice to the school district and how to correct this insufficiency. In response to SMTC's request to amend the NCSD complaint to include this school district, the NDE declined to do so due to the timeline of the NCSD complaint and the persistent insufficiency. The SMTC was informed that upon the NDE's receipt of a State Complaint that complied with the requirements of the above cited provisions of Federal and State law, including forwarding a copy of the complaint to the involved local educational agency, the timelines would commence for the investigation of the complaint as a new complaint.

In an 8/16/10 letter to SMTC, the complaint investigation team requested certain documentation be provided by 8/27/10 for NCSD residents who had been patients at SMTC between 8/6/09-8/6/10. Specifically, SMTC was asked to provide information about NCSD residents who were referred for evaluation to determine whether they were students with disabilities or who had Individualized Educational Programs (IEPs) in place at the time of admission. SMTC provided documentation for one student. In a subsequent interview with SMTC, staff stated that there were a number of students who were NCSD residents who had attended SMTC between 8/6/09-8/6/10. The complaint investigation team offered SMTC the opportunity to request an extension so that it could provide that information to the complaint investigation team. SMTC declined that offer stating that the information the complaint investigation team had on the one student was "representative of the interaction SMTC had with NCSD".

COMPLAINT ISSUES

The allegations articulated in the complaint, and further clarified by interviews and a review of documents, raised the following issues under the jurisdiction of the NDE for the time period 8/6/09-8/6/10:

NCSD Issues

- Issue One:** Whether NCSD complied with federal and state Child Find requirements with regard to identifying, locating, and evaluating students with disabilities who were residents of NCSD.
- Issue Two:** Whether NCSD complied with federal and state requirements to provide a FAPE to students who were residents of NCSD and who were also patients at SMTC.
- Issue Three:** Whether NCSD complied with federal and state requirements to provide special education and related services to students with disabilities who resided in NCSD and were parentally-placed patients at SMTC.

NDE Issues

- Issue Four:** Whether the NDE complied with federal and state requirements with regard to having Child Find policies and procedures in effect and, with respect to its general supervision responsibilities, ensured that NCSD took measures to comply with Child Find requirements for students who were residents of NCSD and were also patients at SMTC.
- Issue Five:** Whether the NDE complied with federal and state requirements with respect to its general supervision responsibilities to ensure that NCSD complied with its obligation to make FAPE available to the students who resided in NCSD and who were also patients at SMTC.
- Issue Six:** Whether the NDE complied with federal and state requirements and met its general supervision responsibilities to ensure that NCSD took measures, with respect to parentally-placed school age children at SMTC, to comply with Child

Find requirements and the provision of services, specifically providing consultation with private school representatives and representatives of parents of parentally-placed private school children to determine equitable services.

PERSONS PROVIDING INFORMATION

The investigation team reviewed information from the following people:

- SMTC attorney*
- SMTC chief executive officer (executive officer)*
- Spring Mountain School principal (SM Principal)*
- NCSD Director of Special Education Support Services

*These individuals provided information to the complaint investigation team in the investigation of a prior complaint (#CL032110) for which the same information was necessary as part of the investigation plan.

DOCUMENTS REVIEWED

The documents reviewed by the investigation team included the following:

- Demographic profile of one patient at SMTC who was a resident of Nye County
- SMTC Private School License*
- SMTC request for student records and confirmation of one student withdrawal from NCSD
- 9/9/08 IEP for one resident of NCSD who attended SMTC
- NCSD Policy for "At Risk" Students
- NCSD Child Find advertising samples
- NCSD Child Find responses and follow-ups for 2009/2010
- NCSD Information for NCSD Parents of Home Schooled Children regarding special education services
- NCSD 9/13/09 Memo to NCSD Parents with Home Schooled/Private School Children
- NCSD Blank Sample Services Plan for Home Schooled/Private School Children
- NCSD Special Services Plan for a specific student
- Annual Performance Report with respect to findings of non-compliance for NCSD
- State Performance Plan – monitoring plan
- State Educational Agency IDEA Assurances
- The NDE's technical assistance document on identifying service needs and providing services for students with disabilities in private schools
- Template of required Assurances for LEAs to receive allocated federal flow-through funding from U.S. Department of Education.
- Notice of NCSD's compliance with state standards dated 6/29/09

*This document was previously provided by SMTC to the NDE for the investigation of a prior complaint #CL032110.

The investigation team also reviewed the following authorities:

- NAC, Chapter 388
- IDEA Regulations, 34 C.F.R. Part 300

- U.S. Department of Education, Office of Special Education Programs (OSEP) Policy Letters: 53 IDELR 97 (OSEP 2009), 49 IDELR 163 (OSEP 2007), 48 IDELR 106 (OSEP 2006), 47 IDELR 197 (OSEP 2007), 24 IDELR 177 (OSEP, 1996))

FINDINGS OF FACT

This investigation involved school-age children who were patients at SMTC between 8/6/09 and 8/6/10. A review of documents, as well as information collected from NCSD, SMTC and the NDE revealed the following facts.

SMTC is a for-profit treatment center located in Las Vegas, NV within the Clark County School District. SMTC holds a Nevada private school license (document) and operates its own school (SM School) that also holds a for-profit status. SMTC operated three programs, relevant to this complaint, for school-age patients: 1) acute; 2) partial hospitalization; and 3) residential.

Acute patients resided at SMTC for an average of 7–10 days, though some stayed as long as a month. Acute patients attended the SM School during their stay at SMTC but remain enrolled in their home schools.

Partial hospitalization patients attended the SMTC anywhere from 5 to 30 school days. These patients received treatment at SMTC on weekdays from 9 am – 4 pm. They attended the SM School during their stay at SMTC but remain enrolled in their home schools.

Residential patients attended SMTC for an average of 6 months. The SM principal routinely requested and received students' records from their home schools when the students were placed at SMTC and SM School. The home schools did not receive notification from the principal as to how long the patients would be at SMTC or at the SM School.

There were neither referrals to the NCSD for evaluation/reevaluation for any patients at the SMTC nor any referrals to the NCSD to develop, review and/or revise any IEPs for any students during the applicable time period in this complaint.

There was no documentation provided by SMTC that any students who resided in NCSD were patients at SMTC other than one residential student (residential student) who was placed by the Nye County Juvenile Probation Department (Probation Department). NCSD was not aware of any other of its students being patients at SMTC between 8/06/09–8/6/10.

NCSD was first aware the residential student was a patient at SMTC when it received a request from SMTC on 4/3/09 for the student's records. The student began attending SMTC on 3/31/09 and was released on 8/21/09. The student was withdrawn from NCSD upon her enrollment at SM School.

The residential student had an IEP during the period of time covered by this complaint. However, while in attendance at the SMTC, the student was not re-enrolled in the NCSD and, as noted above, was not referred to the NCSD to review and revise, as appropriate, the student's IEP or for reevaluation. The student did not return to NCSD subsequent to her discharge from SMTC (on 8/28/09 the NCSD received a request for records from a school in Indiana).

NCSO had Child Find procedures in place for students residing in its jurisdiction. The Child Find procedures specify that NCSO will conduct annual Child Find activities to identify, locate and assess children ages 3 through 21 who are not enrolled in any school program. Child Find activities conducted by NCSO between 8/6/09 and 8/6/10 included the following:

1. Advertisements, in both Spanish and English, in its local newspaper informing the community of its responsibility to locate, assess and identify children ages 3–5 who were not enrolled in any school program and who may have some kind of developmental delay(s) and inviting people to contact the NCSO special education office for an initial pre-screening.
2. Notices sent to parents of home-school children and to private schools regarding the availability of special education services to school-age children with a disability in private schools, including children who were home-schooled or parentally-placed in private schools.
3. An invitation to parents, in the NCSO parent/school handbook, which is on the district's website and distributed to parents whose children attend school, that parents contact the school if they are concerned about a student and think he/she might need special education.
4. Child Find screenings conducted at least twice a year. Screenings involved a speech/language pathologist, a school psychologist, a nurse/health aide, a special education teacher, a general education teacher, paraprofessionals, translators and other related service providers as appropriate. Students in private schools, including students who were parentally placed and residing in the jurisdiction, had access to the screenings.
5. Maintaining a Child Find Referral Log for the 22 students identified, located, and evaluated through its Child Find procedures during time period of this complaint.
6. Developing Service Plans for parentally-placed students, and Home-School Students.
7. Implementing established policies and procedures to identify and work with "At Risk" Students in the schools through the establishment and operation of Student Instructional Intervention Team (SIIT)s to implement "Response to Intervention (RTI) strategies and techniques for the success of at-risk students.

The NDE issued a technical assistance document in October 2005 to all local educational agency special education directors regarding Child Find and the provision of services for students with disabilities enrolled by their parents in private schools.

In order to receive their proportionate share of funding, NCSO had to annually assure the NDE that it would meet the obligations established by the IDEA law and regulations, including the provision of FAPE to all students with disabilities residing in NCSO and the identification, location, and evaluation of all children with disabilities residing in NCSO, including children in private school and children unilaterally placed in private schools located in NCSO. In addition, these assurances included the provision of equitable participation of parentally-placed private school children with disabilities. The NDE received these assurances as required from NCSO for the applicable time period.

During the applicable time period of this complaint, the NDE, in its Annual State Application under IDEA Part B to OSEP, provided assurances that FAPE was available to all children with disabilities residing in the State; and the identification, location and evaluation of all children with disabilities residing in the State, including children in private schools and children unilaterally

placed in private schools, were in accordance with the requirements of IDEA, Part B. The assurances also included the provision of equitable participation of parentally-placed private school children with disabilities.

The NDE's State Performance Plan (SPP) which outlines the NDE's monitoring plan for all local educational agencies as part of the Department's general supervision responsibilities was submitted to, and accepted by OSEP for the applicable time period of this complaint, and was implemented in accordance with the plan.

In its compliance monitoring review of NCSD during the applicable time period of this complaint, the NDE found that NCSD was 100% compliant with its obligations with respect to its stated policies and procedures for the identification and evaluation of students suspected of having a disability.

CONCLUSIONS OF LAW AND REASONS

PART I – NYE COUNTY SCHOOL DISTRICT

Issue One: Whether NCSD complied with federal and state Child Find requirements with regard to identifying, locating and evaluating students with disabilities who were residents of NCSD.

This complaint concerned allegations that NCSD, failed to fulfill its obligations with respect to Child Find Activities who were patients at SMTC. (This complaint did not allege a failure to conduct Child Find activities for children ages 0-3.)

State regulations at NAC §388.215 require that "each public agency shall take measures...to ensure that every pupil with a disability who resides within the school district is identified, evaluated ... in the manner appropriate to the unique needs of the pupil."

Federal regulations at 34 C.F.R. §300.111(a)(1)(i) state "Child Find. (a) *General.* (1) The State must have in effect policies and procedures to ensure that— (i) All children with disabilities **residing in the State** (emphasis added), including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services."

There is a Child Find obligation for children residing in NCSD who attend private schools which is independent from the requirement to conduct Child Find and provide equitable services to parentally-placed private school children with disabilities under the IDEA that is discussed in Issue Three. This obligation includes the identification, location, and evaluation of children with disabilities who reside in NCSD, including children attending for-profit private schools who are in need of special education and related services (34 C.F.R. §300.111; NAC §388.215; 49 IDLR 163 (OSEP 2007)).

As set forth in the Child Find sections referenced above, it is residence that creates the duty under the IDEA. (34 C.F.R. §300.111) "Residence is not the location of the school or facility in

the State where the child has been placed. As traditionally interpreted by the Department, a child is a resident of the State in which (1) the parent or guardian legally resides, or (2) the child is a ward of the State" (Emphasis added. 48 IDELR 106 (OSEP 2006)).

Nevada law and regulation regarding residence is consistent with the interpretation of OSEP. In order to effectuate the local educational agencies' reciprocal responsibility to the residents within their local jurisdiction, the NAC §388.215 allocates the responsibility for Child Find to the public agency for the jurisdiction in which the child resides and requires specific measures to identify, evaluate, and serve children with disabilities.

In this case, NCSD had policies and procedures in place to ensure the identification, location and evaluation of children with disabilities, ages 3 through 21 who resided in NCSD. There were no referrals to the NCSD for evaluation/reevaluation or to develop, review and/or revise any IEPs for patients at the SMTC who were residents of the NCSD during the applicable time period in this complaint.

NCSD implemented its Child Find policies and procedures by: 1) advertising, in both Spanish and English, in its local newspaper informing the community of its responsibility to locate, assess and identify children ages 3–5 who were not enrolled in any school program and who may have some kind of developmental delay(s) and inviting people to contact the NCSD special education office for an initial pre-screening; 2) sending notices to parents of home-school children and to private schools regarding what special education services were available to school-age children with a disability in private schools, including children who were home-schooled or parentally-placed in private schools; 3) including an invitation to parents, in the NCSD parent/school handbook — which is on the district's website and distributed to parents whose children attend school — that parents contact the school if they are concerned about a student and think he/she might need special education; 4) conducting Child Find screenings at least twice a year, which included the engagement of a speech/language pathologist, school psychologist, nurse/health aide, special education teacher, general education teacher, paraprofessionals, translators, and/or other related service providers as appropriate. Students in private schools, including students who were parentally placed, residing in the jurisdiction had access to the screenings; 5) maintaining a Child Find Referral Log for the 22 students identified, located and evaluated through its Child Find procedures; 6) developing Service Plans for Home-School Students and Private School students, including those who were parentally-placed, and 7) implementing policies and procedures to identify and work with "At Risk" Students in the schools with its establishment and operation of SIITs.

By establishing the above policies and implementing the above procedures, NCSD met its obligations under Child Find to identify, locate and evaluate school-aged students with disabilities who were residents of NCSD in large part. NCSD also met its obligation under Child Find to locate, identify and evaluate children who were home-schooled or parentally-placed in private schools located within the district.

Therefore, the investigation team concluded that NCSD complied with federal and state requirements with regard to identifying, locating and evaluating students with disabilities who were residents of NCSD.

Issue Two: Whether NCSD complied with federal and state requirements to provide a FAPE to students who were residents of NCSD and who were patients at SMTC.

This complaint concerned an allegation that NCSD failed to provide FAPE to students who resided in NCSD and who were also patients at SMTC.

State regulations at NAC §388.215 require that "each public agency shall take measures...to ensure that every pupil with a disability who resides within the school district is ... served in the manner appropriate to the unique needs of the pupil...."

Nevada law and regulation allocates the responsibility for making FAPE available to the local educational agency where the student resides (NAC §388.215). The residential student was the only patient at SMTC with an IEP who was a resident of NCSD. The residential student was not placed in or referred to SMTC by NCSD as a means of providing special education and related services. Therefore, the provisions in the IDEA regarding private school placements by public agencies do not apply (34 C.F.R. §§300.145 - 300.147).

There was no request that the NCSD develop, review and/or revise, any student's IEP, including the residential student's IEP, during the applicable time period in this complaint and, in fact, the student was withdrawn from NCSD when she became a patient at SMTC and did not re-enroll in the NCSD. There was no evidence that the placing Probation Department (placing agency) or the parents intended the residential student to return to NCSD during or after her period of hospitalization at SMTC. As such, NCSD was not responsible for the provision of FAPE to the residential student during the period of withdrawal at issue in this complaint, 8/6/09–8/21/09 (47 IDELR 197 (OSEP 2007)). However, it is important to note that so long as the student resided in the NCSD and re-enrolled in the NCSD, the NCSD would have been responsible for making FAPE available to her (53 IDELR 97 (OSEP 2009)). In this case, the residential student did not re-enroll at NCSD, but became a student in another state.

Therefore, the investigation team concluded that NCSD complied with state and federal requirements to provide FAPE to the NCSD students with disabilities who were patients at SMTC.

Issue Three: Whether NCSD complied with federal and state requirements to provide special education and related services to students with disabilities who resided in NCSD and were parentally-placed patients at SMTC.

This complaint concerned an allegation that NCSD failed to provide FAPE to students who resided in NCSD and who were also parentally-placed patients at SMTC.

It is well-established that the local educational agency in which a private elementary or secondary school, as defined by the IDEA, is **located** has the obligation to locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private elementary schools and secondary schools located in the school district (34 C.F.R. §300.131). Further, it is clear that students with disabilities who are placed by their parents in private schools must be provided with an opportunity, consistent with their number and location in the state, to participate in the programs of special education and related services funded under IDEA, Part B (34 C.F.R. §§300.130-300.144). However, this opportunity does not afford any parentally-placed private school student who has a disability, with an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school (34 C.F.R. §§300.137 and 300.138). Therefore, pursuant to Title 34 C.F.R. §§300.130-300.144,

there is no obligation to provide FAPE to a parentally-placed student.

In this case, the school was located in the Clark County, not the NCSD. In accordance with Title 34 C.F.R. §§300.130-300.144, it was Clark County School District, not the the NCSD, that was responsible to provide the opportunity for students with disabilities placed by their parents in private non-profit schools located in Clark County School District to participate in its programs of special education and related services. It should be noted that the responsibility of Clark County School District to parentally-placed students at SMTC was the subject of a previous complaint and resulted in a finding of compliance (Decision: #CL032110)).

As a point of clarification, it is also important to note that the student named in this complaint was not parentally-placed, but placed by the Probation Department (34 C.F.R. §300.130) Further, SM School is a for-profit school. Even if a child with disabilities is parentally-placed, if the school is a for-profit private school, the child is not included in the definition of "parentally-placed private school children with disabilities" and would not be eligible for equitable services under 34 C.F.R. §§300.130-300.144. (49 IDELR 163 (OSEP 2007)) Consequently, the service and the Child Find requirements applicable to parentally-placed children with disabilities in the SMTC do not apply.

Therefore, the investigation team concluded that NCSD complied with state and federal requirements to provide FAPE to NCSD students with disabilities who were parentally-placed patients at SMTC.

PART II - NEVADA DEPARTMENT OF EDUCATION

General Provisions of Law Applicable to State Education Agencies (SEA)

Federal regulations at Title 34 C.F.R. §300.149 state "Responsibility for general supervision. (a) The SEA is responsible for ensuring— (1) That the requirements of this part are carried out; and (2) That each educational program for children with disabilities administered within the State, including each program administered by any other State or local agency (but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior)— (i) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the SEA; and (ii) Meets the educational standards of the SEA (including the requirements of this part)..."

Federal regulations at Title 34 C.F.R. §300.600 state "State monitoring and enforcement. (a) The State must monitor the implementation of this part, enforce this part ...and annually report on performance under this part...(d) The State must monitor the LEAs located in the State, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:...(2) State exercise of general supervision, including Child Find..."

Issue Four: Whether the NDE complied with federal and state requirements with regard to having Child Find policies and procedures in effect and, with respect to its general supervision responsibilities, ensured that NCSD took measures to comply with Child Find requirements for students who were residents of NCSD and were also patients at SMTC.

This complaint concerned an allegation that the NDE did not provide the required supervision to ensure that NCSD complied with Child Find requirements to students who were residents of NCSD and patients at SMTC.

Nevada law and regulation regarding residence is consistent with the interpretation of OSEP. In order to effectuate the local educational agencies' reciprocal responsibility to the residents within their local jurisdiction, the NAC §388.215 allocates the responsibility for Child Find to the public agency for the jurisdiction in which the child resides and requires specific measures to identify, evaluate and serve children with disabilities. (As indicated in the introduction of this report, this complaint addresses only the named local educational agency, which is NCSD.)

In accordance with Title 34 C.F.R. §300.111(a), the NDE must have policies and procedures in effect to ensure that all children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated. The NDE established mandatory measures for public educational agencies to identify, evaluate, and serve children with disabilities in accordance with Title 34 C.F.R. §300.111 through the adoption of NAC §388.215.

As a condition of assistance under the IDEA, NCSD annually assured the NDE that it would meet the obligations established by the IDEA law and regulations, including the identification, location and evaluation of all children with disabilities residing in NCSD, including children in private schools. The NDE, in its Annual State Application under IDEA Part B to OSEP, similarly provided this same assurance for the State as a whole.

As determined above, the SM School was located in Clark County, not the NCSD and the NCSD was not the responsible agency for any parentally-placed student at SMTC. Therefore, the NDE did not have any further obligation to monitor, enforce, or otherwise ensure NCSD's compliance with the requirements under the IDEA or the NAC with regard to Child Find for students who were parentally-placed patients at SMTC.

Pursuant to Title 34 C.F.R. §300.600, the NDE was required to monitor and enforce compliance with IDEA, Part B, including compliance with identifying, locating, and evaluating resident children with disabilities in private schools. Based on documentation submitted by the NDE with regard to monitoring and enforcement processes, the NDE did monitor NCSD's Child Find activities so that all children with disabilities residing in the NCSD, including residents in private schools, who were in need of special education and related services, were identified, located, and evaluated.

Therefore, the investigation team concluded that the NDE complied with federal and state requirements with regard to having Child Find policies and procedures in effect to ensure that NCSD complied with federal and state Child Find requirements for students who were residents of NCSD and otherwise met its general education supervision responsibilities in that regard.

Issue Five: Whether the NDE complied with federal and state requirements with respect to its general supervision responsibilities to ensure that NCSD complied with its obligation to make FAPE available to students who resided in NCSD and who were also patients at SMTC.

This complaint concerned an allegation that the NDE did not provide the required supervision to ensure that NCSD complied with its obligation to make FAPE available to residents of NCSD who were patients at SMTC.

In accordance with Title 34 C.F.R. §300.101(b), the NDE must ensure that FAPE is made available to all eligible children with disabilities in mandated age ranges residing in the State of Nevada. In addition, the NDE's responsibility for general supervision under Title 34 C.F.R. §§300.149 and 300.600 requires the State to have policies and procedures, and to monitor and enforce these requirements in the IDEA Part B.

As a condition of assistance under the IDEA, NCSD annually assured the NDE that it would meet the obligations established by the IDEA law and regulations, including the provision of FAPE to all students with disabilities residing in NCSD. The NDE, in its Annual State Application under IDEA Part B to OSEP, similarly provided the same assurance for the State as a whole.

In addition, pursuant to Title 34 C.F.R. §300.600, the NDE was required to monitor and enforce compliance with IDEA, Part B, including the provision of FAPE to all eligible children with disabilities. Based on documentation submitted by the NDE with regard to monitoring and enforcement processes discussed in Issue Four, the NDE did monitor and ensure compliance to ensure NCSD made FAPE available to all eligible children with disabilities in mandated age ranges residing in the NCSD, including school-aged patients in private schools.

There was no documentation of any noncompliance identified through monitoring of NCSD with respect to the provision of FAPE for school-aged children with disabilities who were residents of NCSD and placed in a private school. In accordance with the above discussion and findings of compliance of NCSD in this regard, the NDE did not have any further obligation to monitor, enforce, or otherwise ensure NCSD's compliance with the requirements under the IDEA or the NAC with regard to providing FAPE to children with disabilities who were patients at SMTC, and were residents of NCSD, and who were withdrawn from NCSD during the period of the complaint.

Therefore, the investigation team concluded that the NDE complied with federal and state requirements with respect to its general supervision responsibilities to ensure that NCSD complied with its obligation to make FAPE available to school-age patients at SMTC who resided in NCSD.

Issue Six: Whether the NDE complied with federal and state requirements and met its general supervision responsibilities to ensure that NCSD took measures, with respect to parentally-placed school age children at SMTC, to comply with Child Find requirements and the provision of services, specifically providing consultation with private school representatives and representatives of parents of parentally-placed private school children to determine equitable services.

This complaint concerned an allegation that the NDE did not provide the required supervision to ensure that NCSD provided educational services to students who were residents of NCSD and who were also parentally-placed patients at SMTC.

The NDE's responsibility for general supervision under Title 34 C.F.R. §300.149 requires the State to have policies and procedures in effect to ensure local educational agencies meet the

requirements in the IDEA, Part B, including provisions regarding parentally-placed private school children with disabilities.

As a condition of assistance under the IDEA, NCSD annually assured the NDE that it would meet the obligations established by the IDEA law and regulations, including the identification, location and evaluation of all parentally-placed school-age children with disabilities placed in schools located in NCSD. The NDE, in its Annual State Application under IDEA Part B to OSEP, similarly provided this same assurance for the State as a whole.

The NDE established mandatory measures to ensure all local educational agencies, including NCSD, met the requirements regarding parentally-placed private school children with disabilities through the adoption of NAC §388.219. In addition, the NDE provided a technical assistance document to all local educational agency special education directors regarding their responsibilities to parentally-placed private school children with disabilities under the IDEA and the NAC.

Pursuant to Title 34 C.F.R. §300.600, the NDE was also required to monitor all local educational agencies, including NCSD, and enforce compliance with these same requirements in the IDEA. The NDE monitored local educational agencies' compliance with the IDEA, Part B, including NCSD, during this time period in accordance with the monitoring plan that was submitted to and accepted by OSEP.

In the compliance monitoring review of NCSD during the applicable time period of this complaint, the NDE found that NCSD was compliant with its obligations with respect to its stated policies and procedures for the identification and evaluation of parentally-placed students suspected of having a disability. There was no documentation of any noncompliance identified through monitoring NCSD with respect to parentally-placed students with disabilities placed in private schools located in the NCSD.

In accordance with its general supervision responsibilities, the NDE also provided technical assistance to NCSD special education leadership in meetings in October 2009 and in February 2010, including the provision of services to parentally-placed private school children with disabilities.

In this case, the NDE had policies and procedures, provided technical assistance, and monitored and enforced compliance to ensure NCSD met the requirements regarding parentally-placed private school children with disabilities placed in schools located in NCSD. Applying the discussion above, SM School is not located in the NCSD and, even if the named student at the for-profit school was eligible for services under NAC §388.219, the NCSD was not the responsible local educational agency for parentally-placed students at the SM School. As such, the NDE did not have any further obligation to monitor, enforce or otherwise ensure NCSD's compliance with the requirements under the IDEA or the NAC with regard to parentally-placed school-age school children at SMTC.

Therefore, the investigation team concluded that the NDE complied with federal and state requirements with respect to having Child Find procedures in place and met its general supervision responsibilities to ensure that NCSD took measures, with respect to parentally-placed children at SMTC, to comply with Child Find requirements and the provision of services.