

COMPLAINT INVESTIGATION
CLARK COUNTY SCHOOL DISTRICT
(#CL040518)

Report Issued on June 1, 2018

INTRODUCTION

On April 5, 2018, the Nevada Superintendent of Public Instruction received a Complaint dated March 9, 2018 from a Parent alleging violations in the special education program of a student with a disability attending school in the Clark County School District (CCSD). The Parent alleged violations of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et seq.; 34 C.F.R. Part 300, and the Nevada Revised Statutes and the Nevada Administrative Code (NAC) for special education programs, specifically with regard to the CCSD's failure to have her child's Individualized Education Program (IEP) looked at and modified to make necessary changes to support the student's disability upon her request in December 2017.

On April 23, 2018, the Parent indicated in an email to the Nevada Department of Education (NDE) that there were continuing concerns regarding the student's educational program and expressed a lack of understanding regarding the State Complaint process. On April 25, 2018, the NDE responded with an explanation of the opportunity to respond to the Complaint; the process if the Parent desired to amend the current Complaint; and where the Parent could obtain additional information on the State Complaint process, including, if the Parent elected to provide information or clarification regarding this Complaint orally, discussing the Complaint investigation process with the Independent Investigator. In the interview with the Parent on April 30, 2018, the Independent Investigator provided an explanation to the Parent regarding the scope of the investigation and the process to file a Complaint if the Parent elected to request an amendment of the current Complaint or to file a new Complaint. At the date of this Report, no additional Complaint had been filed by the Parent.

All documents submitted by the Parent and the CCSD relevant to the issues in the Complaint were reviewed in their entirety in this investigation. The Complaint Investigation Team also received, collected and reviewed additional information as needed during the investigation, including requested documentation from the Parent relating to the Parental request for an IEP meeting. The Findings of Fact in this Report cite the source of the information determined necessary to resolve the issues in this Complaint.

COMPLAINT ISSUES

The allegations in the Complaint, further clarified during the investigation, raised the following issue under the jurisdiction of the NDE.

Issue:

Whether the CCSD complied with the IDEA and the NAC, Chapter 388, and either provided a

Prior Written Notice (PWN) or convened the student's IEP Team upon the Parent's request(s) in December 2017 to review and revise the student's IEP to meet the student's educational needs resulting from the student's disability.

FINDINGS OF FACT (FOF)

1. In December 2017, the student had an April 21, 2017 annual IEP in effect that was revised on April 28, 2017. The student's IEP was revised again on March 9, 2018, and March 22, 2018. On April 20, 2018, subsequent to the filing of this Complaint, the student's IEP Team developed the student's annual IEP. (Student's 2016/2017 and 2017/2018 School Year IEPs and Meeting Notices)
2. By April 28, 2018, the student had been referred to the Dean's office 17 times for behavioral incidents in the 2017/2018 school year. The student had a suspension for an alleged infraction that began March 7, 2018 for a duration through March 22, 2018 and the student's placement was changed to an Alternative Instructional Arrangement from March 13, 2018 through March 22, 2018. The Manifestation Determination conducted on March 22, 2018 resulted in a determination that the conduct in question was caused by or had a direct and substantial relationship to the student's disability. Commencing March 23, 2018, the student was scheduled to be in a Temporary Educational Program through the end of the 2017/2018 school year. (April 28, 2017 IEP, March 22, 2018 Manifestation Determination Summary, 2017/2018 School Calendar, Student Period Attendance Detail – 2017/2018)
3. The Parent alleged in the Complaint that in December 2017 she requested several times that the student's IEP be looked at and be modified to make necessary changes to support the student's disability and had emails to support this allegation. (Complaint)
4. The Complaint Investigation Team requested documentation from the Parent and the CCSD of the Parent's written request for an IEP meeting in December 2017 and CCSD's response to such request. The CCSD did not provide any documentation of the Parent's written or, even, oral request for an IEP meeting in December 2017 or otherwise respond to the Complaint Investigation Team's request for this documentation. (Complaint April 12, 2018 Issue Letters, Review of Documents)
5. In an interview with the Parent in the course of the investigation, the Parent indicated that she did request that the CCSD and the Parent "get on the same page" and set up a meeting for that purpose and "plan" for the student. The Parent did submit December 20, 2017 email correspondence from the CCSD to teachers and staff instructing them to follow the student's accommodations as outlined in the student's IEP and instructing the teachers to call or email the Parent before the end of the week to inform the Parent of how the student was doing and how accommodations were being handled in class. The email correspondence also instructed them to plan for a Parent/Teacher Conference on January 10, 2018 to update the Parent on the student's performance in their classes. (December 20, 2017 CCSD Email Correspondence)

6. The Parent also submitted copies of email correspondence between the Parent and the CCSD in January 2018 reflecting a conversation regarding the Parent's concerns and a possible school visitation so the Parent could figure out a plan to help the student achieve in school or, alternatively, to have the resource teacher get in touch with the Parent for that purpose. The CCSD responded that the Parent would be put in contact with the resource teacher; the assistant principal had been asked to follow-up with the student's behavior plan to see if it was current; and both the resource teacher and the assistant principal would call the Parent; and "[L]et's start there". (January 2018 Email Correspondence between the CCSD and the Parent)

CONCLUSION OF LAW

Issue:

Whether the CCSD complied with the IDEA and the NAC, Chapter 388, and either provided a PWN or convened the student's IEP Team upon the Parent's request(s) in December 2017 to review and revise the student's IEP to meet the student's educational needs resulting from the student's disability.

Pursuant to the IDEA, 34 C.F.R. §300.324(b)(1), and NAC §388.281(6)(a), each public agency must ensure that the IEP Team reviews a student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved and revise it, as appropriate. If the Parent requested an IEP meeting in December 2017, the CCSD was required to either convene the student's IEP Team to review the student's IEP or provide the Parent with a PWN on its refusal to change the provision of a free appropriate public education to the student. (34 C.F.R. 300.503; NAC §388.300(8))

The Parent's Complaint alleges that CCSD failed to convene an IEP Team meeting to review the student's IEP after the Parent made a request to this effect in December 2017. Based on the Complaint and the interview with the Parent, the Parent believes she requested an IEP meeting to review and revise the student's IEP in December 2017. The Parent did provide documentation of correspondence from the CCSD to teachers and staff regarding implementation of the student's IEP; providing information to the Parent; and scheduling a Parent/Teacher conference. (FOFs #5, #6) However, no documentation was provided in the course of the investigation of this Complaint by either the CCSD or the Parent of a Parental request for an IEP meeting in December 2017. (FOFs #3-#6)

The Complaint Investigation Team has independently reviewed and weighed the evidence and finds that, given the absence of any documentation of the Parent's request for an IEP meeting in December 2017, there is insufficient information to make a determination as to the probable truth of the matter.¹

¹ This conclusion neither precludes the student's IEP Team's prospective review and/or revision of the student's IEP nor precludes the Parent's and/or CCSD's timely access to appropriate dispute resolution procedures to resolve any disagreement regarding meeting the student's educational needs resulting from the student's disability or alleged noncompliance in that regard.

Therefore, there is insufficient information to make a determination whether the CCSD complied with the IDEA and the NAC, Chapter 388, and either provided a PWN or convened the student's IEP Team upon the Parent's request(s) in December 2017 to review and revise the student's IEP to meet the student's educational needs resulting from the student's disability.