

**COMPLAINT INVESTIGATION
CLARK COUNTY SCHOOL DISTRICT
AND
NEVADA DEPARTMENT OF EDUCATION
(#CL031210)**

INTRODUCTION

On 3/12/10, the Nevada Superintendent of Public Instruction received a complaint dated 03/10/10 from an attorney on behalf of Spring Mountain Treatment Center (SMTC), a private psychiatric facility located in Clark County School District (CCSD). The complaint alleged violations of the obligations of CCSD to provide special education services to the school-age patients at SMTC and violations of the general supervision responsibilities of the Nevada Department of Education (NDE). An investigation team was appointed to examine the allegations that CCSD and the NDE had: 1) failed to meet their Child Find responsibilities with respect to parentally-placed patients by not consulting with private school officials, not conducting Child Find activities and not developing individual service plans for school-age patients at SMTC; and 2) failed to identify children with disabilities and provide special education and related services to children with disabilities who were 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.

Subsequent to the filing of the complaint, SMTC requested that the issues in this complaint be expanded to include allegations of noncompliance with regard to home school districts other than CCSD. SMTC was notified that NDE's jurisdiction is limited to public educational agencies in the State of Nevada. In addition, based on the absence of notice to the other identified Nevada local educational agencies and the stage of the investigation with regard to the original complaint, the NDE did not accept the requested inclusion of the other local educational agencies (34 C.F.R § 300.153(d)). The complainant was informed of the procedures to file a new State complaint if so desired.

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 3/12/09 - 3/12/10:

CCSD Issues

Issue One: Whether CCSD complied with federal and state requirements with regard to school-age parentally-placed patients at SMTC with respect to Child Find (identifying, locating and evaluating students) and the provision of services, specifically consulting with private school representatives and representatives of parents of parentally-placed private school children, and determining equitable services.

Issue Two: Whether CCSD complied with federal and state Child Find requirements with regard to identifying, locating and evaluating students with disabilities who were residents of CCSD and who were patients at SMTC.

Issue Three: Whether CCSD complied with federal and state requirements to provide a free appropriate public education (FAPE) to students who were residents of CCSD and who were patients at SMTC.

NDE Issues

Issue Four: Whether the NDE complied with federal and state requirements and met its general supervision responsibilities to ensure that CCSD 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 the parentally-placed private school children, and determining equitable services.

Issue Five: 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 CCSD took measures to comply with Child Find requirements for students who were residents of CCSD and who were patients at SMTC.

Issue Six: Whether the NDE complied with federal and state requirements with respect to its general supervision responsibilities to ensure that CCSD complied with its obligation to make FAPE available to the students who were residents of CCSD and who were patients at SMTC.

PERSONS PROVIDING INFORMATION

The investigation team reviewed information from the following people:

- SMTC attorney
- SMTC chief executive officer (executive officer)
- SMTC manager of education (principal)
- CCSD compliance and monitoring officer
- CCSD compliance monitor
- CCSD director of wrap-around services
- CCSD coordinator of Child Find services
- The NDE Director of Special Education, Elementary and Secondary Education, and School Improvement Programs

DOCUMENTS REVIEWED

The documents reviewed by the investigation team included the following:

- List of residential students with IEPs enrolled at SMTC and their IEPs
- SMTC Private School License
- 4/29/10 letter to complaint investigation team from SMTC attorney
- SMTC calendar

- Correspondence between CCSD and SMTC representatives dated 1/13/09, 2/2/09, 2/23/09 and 4/7/09
- Correspondence between SMTC and the NDE Superintendent of Schools dated 7/30/09, 9/11/09, 11/19/09 and 1/26/10
- SMTC list of numbers of school-age residents of CCSD and other Nevada patients in the acute, partial hospitalization and residential programs between 3/12/09 and 3/12/10
- Sample requests from SMTC for school records
- CCSD Child Find Project Procedures Manual
- CCSD FAST FAQs regarding Child Find
- CCSD Back to School Reporter Newsletter (Newsletter)
- CCSD Technical Support Document for Private/Home School Services, Charter School Services for Students with Disabilities
- CCSD Fast FAQs regarding private/home school services
- CCSD 10/13/09 letter to private school representatives
- Written affirmations between CCSD and SMTC staff
- CCSD power point presentation for 11/10/09 Private and Home School Meeting
- CCSD notes and summary of 11/10/09 Private and Home School Meeting
- Signature sheets at CCSD 11/10/09 Private and Home School Meeting
- Annual Performance Report with respect to findings of non-compliance for CCSD.
- 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.

The investigation team also reviewed the following material:

- Nevada Administrative Code (NAC), Chapter 388
- Individuals with Disabilities Education Act (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 3/12/09 and 3/12/10. A review of documents, as well as information collected from CCSD, SMTC and the NDE revealed the following facts.

SMTC operated three programs, relevant to this complaint, for school-age patients: 1) acute; 2) partial hospitalization; and 3) residential. CCSD did not refer or place any students at SMTC.

SMTC is a for-profit treatment center located in CCSD. SMTC holds a Nevada private school license (document) and operates its own school (SM School) that also holds a for-profit status.

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 remained enrolled in their home schools. SMTC had a total of 843 acute patients, 810 who were CCSD residents,

20 who were residents of other school districts in Nevada; and 15 who were out-of-state residents.

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 remained enrolled in their home schools. SMTC had 142 partial hospitalization patients, all of whom were CCSD residents.

It was the executive officer's belief that all of the school-age patients at SMTC, by virtue of having been determined to be a danger to themselves or others, qualified to meet the criteria of seriously emotionally disturbed and therefore qualified for special education. It was also the executive officer's belief that because CCSD was aware that there were school-age patients at SMTC, it should have triggered action on CCSD's part to come to SMTC, to conduct Child Find activities, and to then subsequently provide special education services to those patients as well as to those patients who already had IEPs.

In a 1/26/10 letter to the NDE superintendent of public instruction, one of SMTC's attorneys stated "Spring Mountain concedes that the majority of its clients do not qualify to receive special education and related services under IDEA".

On the next school day following the admittance of acute and partial hospitalization patients to the SMTC the principal notified CCSD homebound offices of such admittances, and again notified CCSD when the patients were discharged.

Residential patients attended SMTC for an average of 6 months. SMTC had 73 residential patients, 47 of whom were CCSD residents, 24 of whom were residents of other school districts in Nevada; and 2 of whom were out-of-state residents. The residential students were withdrawn from their home schools and enrolled in the SM school. The principal requested and received the students' records from their home schools. CCSD home schools did not receive notification from the principal as to how long the patients would be at SMTC or at the SM school.

Along with the records, the principal received IEPs for 6 of the patients who were CCSD residents and for 2 of the patients who were residents of other Nevada school districts. Of the 6 CCSD patients with IEPs, 3 were parentally-placed. There was no other evidence of patients placed at SMTC during this time period who were determined to be eligible as students with disabilities by a local educational agency.

No specific patient, whether in a program of acute, partial hospitalization or residential, was referred to CCSD by a parent or SMTC for identification or evaluation as a child with a suspected disability. None of the residential students who were CCSD residents and had IEPs were referred to CCSD by a parent or SMTC for a reevaluation.

No activities to identify or evaluate any specific SMTC patients were undertaken by CCSD and no services were provided by CCSD to the patients who had IEPs while they were enrolled at SM school.

CCSD has Child Find policies for students residing in its jurisdiction described in its Child Find Project Procedures Manual. In addition, CCSD sent out a "Back to School Reporter" (newsletter) by U.S. mail at the beginning of the school year in 2008/2009 and 2009/2010 to all parents

whose children were enrolled in CCSD and had additional copies of the newsletter available in all its schools. The newsletter included an article entitled *Extending access to family services* that described the Child Find Process and gave a contact phone number for additional information.

CCSD also has a Technical Support Document for Private/Home School Services, Charter School Services, for Students with Disabilities that addresses procedures applicable to students with disabilities who have been placed in private schools by their parents (parentally-placed children).

CCSD invited private school representatives to annual meetings to provide consultation between agencies. A representative of SM school attended at least one meeting in the 2008/2009 school year and at least two meetings in the 2009/2010 school year. At each meeting the presentation included information about Child Find.

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. The NDE also provided technical assistance to CCSD 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 addition, the NDE facilitated a meeting with CCSD and SMTC in September 2009 regarding the issue of educational services for patients at SMTC.

In order to receive their proportionate share of funding, CCSD 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 CCSD, identification, location, and evaluation of all children with disabilities residing in CCSD, including children in private school, and children unilaterally placed in private schools located in CCSD. 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 CCSD 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 CCSD during the applicable time period of this complaint, the NDE found that CCSD was 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 - CLARK COUNTY SCHOOL DISTRICT

Issue One: Whether CCSD complied with federal and state requirements with regard to school-age parentally-placed patients at SMTC with respect to Child Find (identifying, locating and evaluating students) and the provision of services, specifically consulting with private school representatives and representatives of parents of parentally-placed private school children, to determine equitable services.

This complaint concerned allegations that CCSD, with respect to parentally-placed private school patients at SMTC, failed to conduct Child Find activities, and to provide services to children with disabilities, specifically consulting with private school representatives and representatives of parents of parentally-placed private school children and determining equitable services.

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).

In order to determine whether these provisions of the IDEA apply to the school-age patients at SMTC, it is necessary to examine the relevant definitions in the IDEA. The term "parentally-placed private school children" is defined as "...children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in §300.13 or secondary school in §300.36..." (34 C.F.R. §300.130).

"Elementary school means a **nonprofit** (emphasis added) institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under State law." (34 C.F.R. §300.13) **"Secondary school** means a **nonprofit** (emphasis added) institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12" (34 C.F.R. §300.36).

Because both definitions require that the schools be nonprofit, children with disabilities placed by their parents in for-profit private schools are not included in the definition of "parentally-placed private school children with disabilities." Therefore, they would not be included in the proportionate share calculation or be eligible for equitable services under 34 C.F.R. §§300.130-300.144." (49 IDELR 163 (OSEP 2007)) Consequently, the Child Find requirements applicable to parentally-placed children with disabilities in Title 34 C.F.R. §300.131 would also not apply.

In this case, there were parentally-placed school-age children who were patients at SMTC. However, SMTC, including its school, is a for-profit entity. The requirements in the provisions of the IDEA regarding parentally-placed private school children with disabilities (34 C.F.R. §§300.130-300.144) therefore did not apply to the students who were patients at SMTC who **might have been or were determined to be** students with disabilities. As such, CCSD had no obligation under the IDEA or the NAC to conduct Child Find or include the children in the determination of equitable services or provide any other services to these parentally-placed children as they would have, if the SM school been non-profit.

Therefore, the investigation team concluded that CCSD complied with federal and state requirements with regard to school-age parentally-placed patients at SMTC with respect to Child Find (identifying, locating and evaluating students) and with regard to the provision of services.

Issue Two: Whether CCSD complied with federal and state Child Find requirements with regard to identifying, locating and evaluating students with disabilities who were residents of CCSD and who were patients at SMTC.

This complaint concerned an allegation that CCSD failed to identify, locate, and evaluate students with disabilities who were 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 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) § 300.111 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 CCSD 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. This obligation includes the identification, location, and evaluation of children with disabilities who reside in CCSD, 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 IDELR 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. (As indicated in the introduction of this report, this complaint addresses only the named local educational agency, which is CCSD.)

In this case, CCSD undertook the following measures to conduct Child Find for children with disabilities residing in CCSD including: 1) sending out, to all parents whose children were enrolled in CCSD at the beginning of each school year, a newsletter describing Child Find and providing a contact phone number, and 2) conducting meetings at least annually with private school staff, including staff from SMTC, to explain, among other things, Child Find and to inform attendees of the process for referring their patients to Child Find.

Other than the six CCSD resident students with IEPs, there were conflicting beliefs among the SMTC representatives regarding how many of its patients might qualify to receive special education and related services under the IDEA. In order to be eligible under the IDEA, a student must have one of the enumerated disabilities and, because of that disability, need special education and related services (34 C.F.R. §300.8). This determination of eligibility must be made by a group of qualified professionals and the parent of the child (34 C.F.R. §300.306(a)(1)). A medical diagnosis and determination that a student was a danger to himself or others would not establish the student's eligibility (24 IDELR 177 (OSEP, 1996)).

Consequently, the investigation team determined that given the absence of any parental or agency referrals for evaluation or other evidence of suspicion that any individual patient might have been a student with disabilities under the IDEA during their hospitalization at SMTC, it was reasonable that CCSD did not independently suspect that individual patients who were residents of CCSD might be students with disabilities in need of special education. Accordingly, the CCSD was not required to implement additional Child Find activities for any or all of the individual patients at SMTC during their stay.

Therefore, the investigation team concluded that CCSD complied with state and federal requirements with regard to identifying, locating, and evaluating children who were residents of CCSD, and who were patients at SMTC.

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

This complaint concerned an allegation that CCSD failed to provide special education and related services to school-age 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....”

As discussed above, Nevada law and regulation allocates the responsibility for making FAPE available to the local educational agency where the student resides (NAC §388.215). There were six patients with IEPs at SMTC who were residents of CCSD during the period of the complaint, three of whom were placed by their parents. None of the students were placed in or referred to SMTC by CCSD 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).

In this case, all six of the students with disabilities with IEPs were withdrawn from CCSD when they became patients at SMTC; that is, they did not remain enrolled in CCSD. There was no evidence that the placing parents or other agencies intended these students to return to CCSD during their periods of hospitalization at SMTC. As such, CCSD was not responsible for the provision of FAPE to the six CCSD resident students with disabilities during the period of withdrawal at issue in this complaint (47 IDELR 197 (OSEP 2007)). However, it is important to note that upon his/her re-enrollment in the CCSD the CCSD would be responsible for making FAPE available to an eligible resident student with disabilities who had withdrawn from CCSD (53 IDELR 97 (OSEP 2009)).

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

PART II - NEVADA DEPARTMENT OF EDUCATION

General Provisions of Law Applicable to State Education Agencies

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). (3) In carrying out this part with respect to homeless children, the requirements of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*) are met”.

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 and met its general supervision responsibilities to ensure that CCSD 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 the parentally-placed private school children, and determining equitable services.

This complaint concerned an allegation that the NDE, with respect to parentally-placed patients at SMTC, did not provide the required supervision to ensure that CCSD complied with Child Find requirements and the provision of services including consultation with private school representatives and representatives of parents of the parentally-placed private school children, and in determining equitable services.

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, CCSD 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 CCSD. 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 CCSD, 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 CCSD, and enforce compliance with these same requirements in the IDEA. The NDE monitored local educational agencies' compliance with the IDEA, Part B, including CCSD, during this time period in accordance with the monitoring plan that was submitted to and accepted by OSEP.

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

In accordance with its general supervision responsibilities, the NDE also provided technical assistance to CCSD 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 addition, specific to the allegations in this complaint, the NDE facilitated a meeting with CCSD and SMTC in September 2009 regarding the provisions of educational services for school-age patients at SMTC.

In this case, the NDE had policies and procedures, provided technical assistance, and monitored and enforced compliance to ensure CCSD met the requirements regarding parentally-placed private school children with disabilities who were patients at SMTC. As discussed above, although some children were parentally-placed in the SM school and the school provides elementary and secondary education, SM school is a for-profit school. As such, the NDE did not have any further obligation to monitor, enforce or otherwise ensure CCSD'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 CCSD took measures, with respect to parentally-placed children at SMTC, to comply with Child Find requirements and the provision of services.

Issue Five: 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 CCSD took measures to comply with Child Find requirements for students who were residents of CCSD and who were patients at SMTC.

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

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, CCSD 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 CCSD, 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.

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 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 discussed in Issue Four, the NDE did monitor and ensure compliance to ensure CCSD conducted Child Find activities so that all children with disabilities residing in the CCSD, including residents in private schools, who were in need of special education and related services, were identified, located, and evaluated.

There was no documentation of any noncompliance identified through monitoring CCSD with respect to Child Find for patients at SMTC who were suspected to be children with disabilities and who were residents of CCSD. In accordance with the above discussion and finding of compliance of CCSD, the NDE did not have any further obligation to monitor, enforce, or otherwise ensure CCSD's compliance with the requirements under the IDEA or the NAC with regard to Child Find for students who were residents of CCSD and who were patients at SMTC.

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 and, with respect to its general supervision responsibilities, ensured that CCSD took measures to comply with Child Find requirements for students who were residents of CCSD and who were patients at SMTC.

Issue Six: Whether the NDE complied with federal and state requirements with respect to its

general supervision responsibilities to ensure that CCSD complied with its obligation to make FAPE available to the students who were residents of CCSD and patients at SMTC.

This complaint concerned an allegation that the NDE did not provide the required supervision to ensure that CCSD complied with its obligation to make FAPE available to its school-age patients.

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 monitor and enforce these requirements in the IDEA Part B.

As a condition of assistance under the IDEA, CCSD 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 CCSD. 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 CCSD made FAPE available to all eligible children with disabilities in mandated age ranges residing in the CCSD, including school-aged patients in private schools.

There was no documentation of any noncompliance identified through monitoring of CCSD with respect to the provision of FAPE for patients at SMTC who were children with disabilities and who were residents of CCSD. In accordance with the above discussion and findings of compliance of CCSD, the NDE did not have any further obligation to monitor, enforce, or otherwise ensure CCSD'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, residents of CCSD, and withdrawn from CCSD 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 CCSD complied with its obligation to make FAPE available to school-age patients at SMTC who resided in CCSD.